

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Administrative Law Judge

Appellate Case No. 2025-000554

Atlantic Coast Life Insurance Company
and Southern Atlantic Re, Inc., Respondents

v.

South Carolina Department of Insurance, Appellant

**RESPONDENTS' MEMORANDUM
REGARDING APPEALABILITY OF ORDER**

Respondents submit this memorandum in response to this Court's letter dated March 28, 2025, which directed the parties to address the appealability of the Administrative Law Court ("ALC")'s February 13, 2025 order (the "Order") identified in the Notice of Appeal.

By the terms of the Order, the Appellant ("Appellant" or the "Department") is "permanently enjoined" from enforcing or giving effect to an order of the Director of the Department, dated December 11, 2024, "until a final decision is issued by the Department in this matter." Respondents understand this to be a reference to the pending decision in a separate confidential proceeding before the Department captioned *In the Matter of the Adjusted RBC Reports of Atlantic Coast Life Insurance, a S.C. Domestic Insurer, and SAR, a S.C. Captive Reinsurer*, Dep't of Ins. Docket No. 2024-001 (the "DOI Proceeding").

Respondents do not contest the finality or appealability of the ALC's Order. The Order is a permanent injunction against the Appellant. It concludes the proceeding before the ALC, leaving

nothing further for the ALC to do, and it is final and binding on the parties. Because the DOI Proceeding is a separate proceeding from the proceeding in the ALC, Respondents do not believe it affects the Order's finality.

Nonetheless, in the interests of economy and efficiency, the Court may wish to consider holding this appeal in abeyance pending the outcome of the DOI Proceeding. The DOI Proceeding concerns the correctness of the Adjusted RBC Report that is discussed in the ALC's Order and is significant to the ALC's conclusions. A final decision in DOI Proceeding is likely to substantially affect the issues on this appeal regardless of which party prevails.

We expect that the DOI Proceeding will be completed within a relatively short period, subject to any appeal from the final decision in that proceeding. A hearing in the DOI Proceeding took place on February 18, 2025, under S.C. Code Regs. § 69-31, before the Honorable Justice Kaye Hearn (retired) as the hearing officer designated by the Director. Justice Hearn issued her final report on March 18, 2025. The parties are due to file simultaneous briefs on exceptions to the report by April 28, 2025. *See* S.C. Code Regs. § 69-31(YY). The Director of the Department will thereafter issue the Department's final decision. *See id.* § 69-31(ZZ).

Respondents therefore respectfully request that the Court schedule briefing on this appeal to take place following the conclusion of the DOI Proceeding.

Respectfully submitted,

s/Brandon R. Gottschall
Brandon R. Gottschall (S.C. Bar No. 100621)
Hubbard & Gottschall Law
1320 Main Street
Suite 300
Columbia, SC 29201
Telephone: (864) 280-9840
Email: brg@hglawsc.com

Eric R. Dinallo*
Carl Micarelli*
Robert M. Fettman*
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6000
Email: edinallo@debevoise.com
cmicarelli@debevoise.com
rmfettman@debevoise.com

*Admitted *pro hac vice* by the
Administrative Law Court

**ATTORNEYS FOR ATLANTIC COAST LIFE
INSURANCE AND SOUTHERN ATLANTIC
RE, INC.**

Columbia, South Carolina
April 7, 2025

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**PROOF OF SERVICE OF
RESPONDENTS' MEMORANDUM
REGARDING APPEALABILITY OF ORDER**

I certify that I have served Respondent's Memorandum Regarding Appealability of Order on Counsel for Appellant by emailing, on April 7, 2025, a copy of the Memorandum addressed to its attorneys of record: Gwendolyn Fuller McGriff, Esquire, at gmcgriff@doi.sc.gov; Joseph A. Catalano, Esquire, at jcatalano@mckayfirm.com; and Janet Brooks Holmes, Esquire, at janetholmes1@mac.com.

Respectfully submitted,

s/Brandon R. Gottschall

Brandon R. Gottschall (S.C. Bar No. 100621)

Hubbard & Gottschall Law

1320 Main Street

Suite 300

Columbia, SC 29201

Telephone: (864) 280-9840

Email: brg@hglawsc.com

Eric R. Dinallo*
Carl Micarelli*
Robert M. Fettman*
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6000
Email: edinallo@debevoise.com
cmicarelli@debevoise.com
rmfettman@debevoise.com

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RE, INC.**

Columbia, South Carolina
April 7, 2025