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Apr 07 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 23-ALJ-22-0429-AP

Appellate Case No. 2024-001608

DeQuincey G. Simmons,

Appellant

v.

South Carolina Department of Employment and Workforce and
Bridgestone Americas Tire Operations, LLC,

Respondents

**RESPONDENTS' RESPONSE IN OPPOSITION TO
APPELLANT'S MOTION TO STAY**

Respondents South Carolina Department of Employment and Workforce (the Department) and Bridgestone Americas Tire Operations (Bridgestone) hereby submit this Response in Opposition to Appellant's Motion to Stay filed on March 28, 2025 ("Motion"). This Court designated Appellant's Motion as a Reply to Appellant's March 11, 2025, motion but the new Motion seeks relief that was not included in Appellant's March 11, 2025, motion. It would be unfairly prejudicial to Respondents if Respondents were not afforded the opportunity to address the issues raised in Appellant's March 28, 2025, filing.

Respondents therefore submit this Response in Opposition to the Motion, and, to the extent this Court's deems Respondents' filing a surreply, Respondents respectfully request leave from this Court to file this response as a surreply.

On March 11, 2025, Appellant filed a Motion to Strike Respondent's Brief and For Sanctions for Procedural Violations and Unjustified Extensions ("Motion to Strike"), which, at least in part, related to Respondents' yet-to-be-filed Initial Brief. On March 12, 2025, Respondents timely filed their Joint Initial Brief and Designation of Matter to be Included in the Record on Appeal. On March 20, 2025, Respondents timely filed their Response to Appellant's Motion to Strike.

On March 28, 2025, Appellant filed a new motion, which is styled as a "Motion to Strike Respondents' Brief, For Sanctions and to Stay Proceedings." In the Motion, Appellant seeks (1) to stay this action pursuant to SCACR 241, (2) sanctions against Respondents for alleged misconduct, and (3) to strike Respondents' Initial Brief pursuant to SCACR 240(g) based upon Respondents alleged misrepresentation of procedural history, untimely filing of their Initial Brief, improper requests for extensions, and unfounded allegations of fabricated case law.

Respondents respectfully submit that Appellant's Motion is manifestly without merit and should be summarily denied.

I. Appellant Misstates the Procedural History of this Appeal.

Appellant argues that this **appeal** "has been plagued by persistent and unjustified delays and proceeds to offer a "fact-based chronology" of events. (Motion at 2). This purported chronology is no such thing. In fact, Appellant's chronology contains numerous

inaccuracies and reveals that Appellant's Motion seeks to relitigate an order issued by the Administrative Law Court, not this Court, which was not raised as an issue on appeal before this Court.

For example, Appellant incorrectly states that on November 2, 2023, this case was "transferred to the Court of Appeals."¹ (Motion at 2). This statement is incorrect. No such transfer occurred. This appeal was commenced on September 23, 2024, when **Appellant** filed his Notice of Appeal in this Court. Appellant's arguments that follow this initial incorrect statement are premised on the incorrect assumption that this action was ever pending in this Court **before** September 23, 2024. Obviously, this action was not pending before this Court before Appellant filed his Notice of Appeal in September of 2024.

Similarly, Appellant incorrectly states that this Court "warned" Respondents via its December 30, 2024, Order. The December 30, 2024, Order contains no such warning. Likewise, Appellant also incorrectly states that Respondents sought a "Second Extension" to file their initial brief on January 27, 2025, and a "Third Extension" to file their initial brief on February 18, 2025. (Motion at 3). Respondents submitted their first extension request to this Court on January 27, 2025, and a second request for extension on February 18, 2025, both of which were timely filed.

Moreover, Appellant's characterization of Respondents' Initial Brief as having been filed "Fifteen Months Late" is completely inaccurate. (Motion at 4). Respondents timely

¹ This inaccuracy plagues Appellant's Motion, and many of his alleged factual statements and arguments in the Motion are false because he relies upon the incorrect assumption that this appeal was pending in this Court **before** September 23, 2024. To be clear, it was not.

filed their Initial Brief and Designation of Matter to be Included in the Record on Appeal on March 12, 2025. Contrary to Appellant's arguments, this appeal has not been pending for fifteen months; thus, Appellant's statement that Respondents' filings are somehow fifteen months late also is wholly false. Respectfully, Appellant's recitation of the procedural history of this appeal is entirely incorrect and thus serves no basis for the relief he seeks in the Motion.

Appellant also incorrectly characterizes filings and orders from the lower courts as filings submitted in this Court. In so doing, Appellant argues that he has suffered prejudice but that a claim also is manifestly without merit. Appellant has suffered no prejudice from any events concerning this appeal. In fact, this appeal has continued even though Appellant failed to timely correct the deficiencies identified by this Court in its deficiency letters. Indeed, Appellant cannot present any conceivable argument that he has suffered any prejudice during the pendency of this litigation.

Simply put, Appellant's Motion is not supported by any facts, is manifestly without merit, and therefore should be summarily dismissed.

II. Appellant Improperly Seeks to Relitigate Orders from the Administrative Law Court Not Raised as an Issue on Appeal in this Action.

Appellant's Motion devotes nearly three pages to Judge Milton Kimpson's March 22, 2024, order pertaining to Respondents' initial non-dispositive motion filed with the Administrative Law Court.² (Motion at 4-6). Yet, Appellant did not appeal Judge

² Notably, Appellant mischaracterizes and misquotes Judge Kimpson's March 22, 2024, a copy of which is attached to this response as **Exhibit A**. In that order, Judge Kimpson expressly held that Respondents' filings were timely and made no reference to any

Kimpson's March 22, 2024, order, and it is not identified as an order appealed to this Court in Appellant's Notice of Appeal. Furthermore, the issues addressed in Judge Kimpson's March 22, 2024, order are not identified as issues on appeal in Appellant's initial brief.

As Respondents noted in their opposition to Appellant's March 11, 2025, motion, this court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal." Rule 240(i), SCACR. Appellant's arguments concerning Judge Kimpson's March 22, 2024, order therefore are improper because they relate to a non-dispositive motion and are entirely unrelated to this case or the issue on appeal for this action. As a result, Appellant's arguments related to Judge Kimpson's March 22, 2024, order are not properly before this Court and raising those issues now is an improper attempt to relitigate issues not presently before this Court.³

III. Respondents Have Not Engaged in Any Misconduct or Sanctionable Conduct.

"favorable decisions" in any other proceedings as Appellant alleges. In fact, the quote which Appellant attributes to the March 22, 2024, order is **not** in that order. Further still, the March 22nd order cannot be construed as resulting in any prejudice towards Appellant. To the contrary, Judge Kimpson held in abeyance any ruling on Respondents' dispositive motion, despite the fact that Appellant **did not** respond to it, to afford the parties an opportunity to brief an issue not raised in the motion which ultimately benefitted Appellant. Thus, Appellant cannot present any conceivable argument that he suffered any prejudice or other adverse effects from the March 22, 2024, order issued by Judge Kimpson.

³ Similarly, Appellant's arguments concerning the holding and/or impact of Judge Kimpson's March 22, 2024, order, are entirely incorrect. The order itself did not demonstrate any bias, violate any procedural rule, ignore Appellant's filings, or violate any due process rights. At bottom, Judge Kimpson's March 22, 2024, order ultimately had no impact on Appellant's claims presented to the Administrative Law Court.

As before, Appellant continues to accuse Respondents of procedural misconduct, improper delay, and gamesmanship.⁴ In his Motion, Appellant accuses Respondents of improperly framing Appellant's arguments as request for rehearing, falsely accusing Appellant of fabricating case law, misrepresenting the procedural timeline for this action, and engaging in an alleged "pattern" of abuse. (Motion at 6-8). None of those arguments have merit.

As outlined in Respondents' March 20, 2025, Return, Appellant improperly sought to re-litigate (and effectively rehear) a non-dispositive Order granting an extension to file Respondents' Joint Initial Brief and the non-dispositive Order denying Appellant's prior request for sanctions. Raising those arguments in the Motion is entirely improper. *See* Section II, *supra*. Similarly, Respondents did not falsely accuse Appellant of fabricating case law. As Respondents' prior Response states, counsel for Respondents could not locate cases cited by Appellant in his prior filings or quotations from the cases cited in his filings. Appellant presents **no evidence** that his citations/quotations were in fact correct.⁵

⁴ Appellant sought sanctions against Respondents – without any justification for doing so – on two occasions with this Court, and those requests were summarily denied. Each time Respondents file a document with this Court, Appellant accuses them of misconduct yet he has **no legitimate claim** that Respondents have engaged in any misconduct.

⁵ Notably, it appears that Appellant has engaged in the same conduct in his March 28, 2025, filing. The citation to *State v. Simmons* on page 4 of Appellant's Motion appears incorrect as Respondent's counsel could not locate a case with that citation. Similarly, Appellant's citation to *In Re Thompson* appears incorrect as that action – which is a disciplinary matter – does not address motions to extend briefing deadlines, the issues which Appellant identifies as having been addressing in the holding from that case.

Respondents also have not falsified the procedural history of this case – Appellant has done so. Indeed, Respondents’ statement concerning the duration of this appeal is entirely correct. Appellant misconstrues the date that this appeal began in this Court. As outlined above, this appeal began in this Court when Appellant filed his Notice of Appeal on September 23, 2024, not before. Thus, Respondents have not misrepresented any procedural history to this Court.

Respondents also have not engaged in any improper conduct or a pattern of abuse. None of Respondents’ filings have been untimely. Each of Respondents filings have been supported by legal authority. As noted in Respondents’ March 20, 2025, filing, this Court was well within its rights to grant extensions to Respondents for filing their Initial Brief and Appellant’s opposition to those requests was manifestly without merit.

Finally, Respondents have not misrepresented any facts, procedural history, or legal authority in this appeal or in any of the proceedings at the Administrative Law Court or elsewhere. At bottom, Appellant’s March 28, 2025, request for sanctions is entirely without merit, and instead, is another blatant attempt by Appellant to attack Respondents and their counsel without any legitimate basis to do so.

Accordingly, Appellant’s (third) request for sanctions also is manifestly without merit and should be summarily dismissed.

IV. A Stay of this Action is Not Necessary and No Basis Exists to Strike Respondents’ Initial Brief.

Finally, Appellant argues in his new filing that (1) this matter should be stayed pending the resolution of his (baseless) March 28, 2025, Motion and (2) this Court should

strike Respondents' Initial Brief. In support of this request, Appellant argues that a stay and/or striking Respondents' brief is necessary "to protect the integrity of the judicial process," which he apparently contends is necessary due to "improper delays, multiple rule violations, and unjustified extensions." (Motion at 9). As outlined above in Section III, *supra*, no improper delays, rule violations or unjustified extensions have occurred.

Moreover, there has been no detrimental impact to the "integrity of the judicial process," as Appellant eludes. Quite the contrary, this appeal has continued even though Appellant did not timely and adequately correct each deficiency identified by this Court in his prior filings. Thus, no basis exists to stay this action.

Likewise, there is no basis to strike Respondents' Initial Brief. Appellant completely misrepresents the procedural history of this appeal by arguing that Respondent's initial brief was filed "fifteen months late." Respondents' initial brief was timely filed, and it obviously was not fifteen months late for the reasons outlined in Section II, *supra*. Moreover, Appellant falsely claims that any actual or legitimate basis exists to strike Respondents' Initial Brief. To be clear, no such reason exists.

Appellant has not identified any basis to strike Respondents' Initial Brief, nor has he identified any procedural rule which affords him this relief. However, even if Appellant could procedurally seek to strike Respondents' Initial Brief, as outlined above and in Respondents' March 20, 2025, filing, Respondents have not engaged in any of the improper conduct which Appellant has alleged occurred. Moreover, Respondents properly and timely filed their Initial Brief and Designation of Record on Appeal. Thus, there is

simply no conceivable argument that Appellant could offer to this Court to seek to strike Respondents' filings.

Therefore, Appellant's requests to stay this action and strike Respondent's Initial Brief are **both** manifestly without merit and should be summarily dismissed.⁶

V. Conclusion


For all the foregoing reasons, Respondents respectfully request this Court deny Appellant's Motion.

Respectfully Submitted,

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⁶ The remainder of Appellant's March 28, 2025, filing also is manifestly without merit. Pages 11-13 of Appellant's filing do not appear to raise legitimate issues and instead are references to constitutional issues which are not presented as issues on appeal in this case. To be clear, none of Appellant's constitutional rights have been violated, but for the purposes of brevity, Respondents did not address each of those issues individually since Appellant cannot identify any compromise of the judicial process concerning this appeal or violation of his constitutional and further since none of those issues are issue on appeal.

BHepner@littler.com

**Attorney for Respondent
Bridgestone Americas Tire Operations, LLC**

April 7, 2025

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SC Court of Appeals

EXHIBIT A

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Dequincey G. Simmons ,)	Docket No. 23-ALJ-22-0429-AP
)	
Appellant)	
)	
v.)	
)	ORDER
)	
South Carolina Department of Employment Workforce and Bridgestone Americas Tire Operations, LLC,)	
)	
Respondents.)	
)	
)	

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to a Notice of Appeal filed by Dequincey G. Simmons (“Appellant”) on October 23, 2023. Appellant seeks review of a final decision issued by the Appellate Panel of the South Carolina Department of Employment and Workforce (“Department”), which found Appellant ineligible for unemployment insurance (“UI”) benefits on the grounds that he was discharged for cause connected with his employment with Bridgestone Americas Tire Operations, LLC (“Employer” or “Bridgestone”). The Panel’s decision effectively disqualified Appellant from receiving UI benefits for a period of sixteen (16) weeks, effective July 2, 2023, to October 21, 2023.

On December 8, 2023, the Department and Bridgestone (collectively “Respondents”) filed a Joint Motion to Dismiss for Lack of Jurisdiction (“Motion”). Respondents contend the ALC lacks jurisdiction over the appeal because Appellant failed to serve Bridgestone with a copy of his Notice of Appeal¹ as required by subsection 41-35-750 of the South Carolina Code (2021) and SCALC Rule 33. Respondents contend that Appellant’s failure to serve the Notice of Appeal on the employer warrants dismissal of his appeal.

Attached to Respondents’ Motion is a copy of Appellant’s Proof of Service for his Notice of Appeal on the Department, which was dated October 20, 2023. The document, labeled as “Exhibit B” to the Motion, only lists the Department as the recipient being served Appellant’s

1. Pursuant to subsection 41-35-750 of the South Carolina Code (2021), the procedure for obtaining judicial review by the Administrative Law Court from a decision by the Appellate Panel is by filing a “petition”.

Notice of Appeal; the document does not list Bridgestone as a recipient.² Attached to Respondents' Motion are three exhibits labeled A through C. Exhibit C is an Affidavit of Beth Hellmann, a Litigation Paralegal employed by Bridgestone, who states that she is "responsible for receiving, opening, and processing mail addressed to Bridgestone's registered agent in South Carolina and received by its registered agent at 6650 Rivers Avenue, North Charleston, SC 29406." Ms. Hellmann attests that Bridgestone has not received a Notice of Appeal from Appellant by mail or by hand delivery.

As of the date of this Order, Appellant has not filed a response to Respondents' Motion. On or about December 11, 2023, Appellant did file, however, a response to the Department's Motion for Extension of Time filed on December 4, 2023, in which Appellant objected to the Department's request for ten (10) additional days to file the Record on Appeal (Record). . Appellant's objection was based on the alleged untimeliness of the Department's request for extension. Contrary to Appellant's argument, the Department's request for extension was timely, inasmuch as the Record was due thirty (30) days after the ALC's November 2, 2023 Notice of Assignment, rendering the Record due on December 4, 2023.³ As such, to the extent still necessary, the Department's Motion for Extension is **GRANTED**.

In pertinent part, subsection 1-23-600(E) of the South Carolina Code (2005 & Supp. 2023), which governs the ALC's appellate authority, provides:

2. The Court does not have an actual copy of the document marked as Exhibit B to Respondents' Motion. Appellant's filings with the Court only include Appellant's Proof of Service on the ALC, which is likewise dated October 20, 2023 - the same date as Appellant's Proof of Service on the Department, as shown in Respondents' Exhibit B. As such, the Court presumes Appellant separately completed Proof of Service form(s) for the parties, and only included his Proof of Service on the ALC in his appeal documents filed with the Court. Although the caption on the Proof of Service lists Bridgestone as a party to this action, the Court has not been provided any indication that Bridgestone was served the Notice of Appeal. Appellant failed to file a reply to the Motion addressing his alleged failure to serve Bridgestone.

3. Pursuant to SCALC Rule 3A regarding computation of time, a prescribed time period begins the day after an action is taken (in this case, the mailing of the Notice of Assignment) and "[t]he last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday'." Here, the thirtieth day after the mailing of the Notice of Assignment was Saturday, December 2, 2023, which means that the last day to file and serve the Motion for Extension of Time was on Monday, December 4, 2023. The accompanying Proof of Service indicates the Motion for Extension of Time was served by mail on Appellant this same day. The date Appellant received the Motion for Extension of Time is not significant.

(E) Review by an administrative law judge of a final decision in a contested case, heard in the appellate jurisdiction of the Administrative Law Court, must be in the same manner as prescribed in Section 1-23-380 for judicial review of final agency decisions with the presiding administrative law judge exercising the same authority as the court of appeals, provided that a party aggrieved by a final decision of an administrative law judge is entitled to judicial review of the decision by the court of appeals pursuant to the provisions of Section 1-23-610.

Id.

The appeals process to the ALC, which is outlined under subsection 1-23-380(1) of the South Carolina Code (2005 & Supp. 2023) provides:

Proceedings for review are instituted by serving and filing notice of appeal as provided in the South Carolina Appellate Court Rules within thirty days after the final decision of the agency or, if a rehearing is requested, within thirty days after the decision is rendered. Copies of the notice of appeal must be served upon the agency and all parties of record.⁴

Id. (Emphasis added.)

Filing a Notice of Appeal and service of the document on all parties is essential to perfecting a valid appeal with this Court. In *Elam v. S.C. Dep't of Transportation*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004), the South Carolina Supreme Court made the following observation:

The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice.

Id.

While the timeliness issue in *Elam* arose under different circumstances, its principle regarding appellate jurisdiction is applicable here where the Appellant allegedly failed to serve Bridgestone with a Notice of Appeal even though the Notice of Appeal was timely filed with the Court, and presumably, the Department. Service of the Notice of Appeal itself on all parties within the appropriate time frame is necessary to perfecting the appeal. At first glance, the Appellant's

4. Rule 203(b)(6) of the South Carolina Appellate Court Rules requires that "the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision." Rule 203(b)(6), SCACR.

failure to properly serve this document on Bridgestone deprives this Court of appellate jurisdiction to hear his appeal.

However, pursuant to subsection 41-35-750 of the South Carolina Code (2021), a procedure exists to affect direct service of only the Department with a Notice of Appeal from a final decision of the Appellate Panel. In pertinent part, this code section provides:

Within thirty days from the date of mailing the department's decision, a party to the proceeding whose benefit rights or whose employer account may be affected by the department's decision may initiate an action in the administrative law court against the department for the review of its decision, in which action every other party to the proceeding before the department must be made a defendant. In this action a petition, which need not be verified but which must state the grounds on which a review is sought, must be served on the executive director or on a person designated by the department within the time specified by this section. Service is considered complete service on all parties, but there must be left with the person served as many copies of the petition as there are defendants, and the department promptly shall mail one copy to each defendant.

Id. (Emphasis added.)

As such, a plain reading of subsection 41-35-750 allows substituted service on the employer by serving the Department with the Notice of Appeal and including sufficient copies of the same so that the Department may furnish a copy of the Notice of Appeal to the employer. If this procedure is employed, “[s]ervice is considered complete service on all parties.”

Ms. Hellmann’s affidavit attests that Bridgestone has “no record of ever being served with a copy of the notice of appeal for that matter [Dequincey G. Simmons v. South Carolina Department of Employment and Workforce and Bridgestone American Tire Operation, LLC, Docket # 23-ALJ-22-0429-AP] either by mail or hand delivery from Dequincey G. Simmons or Bridgestone’s registered agent in South Carolina.” Notably, while Ms. Hellmann’s affidavit can perhaps be read broadly to encompass substituted service under subsection 41-35-750, nothing in her statement addresses whether Appellant’s Notice of Appeal in this matter was received from the Department. Furthermore, Respondents’ Motion does not address the possibility of substituted service under subsection 41-35-750 and is not supported by an affidavit from a Department employee attesting that the Appellant’s submission of his Notice of Appeal to the Department did not include copies for Bridgestone.

Because of this uncertainty, the Court finds it appropriate to hold a final ruling on the Respondents' Motion in abeyance. Respondents shall have an additional fifteen (15) days from the date of this Order to supplement their filing with the Court to address the concerns raised. Appellant may thereafter have fifteen (15) days from the date of Respondent's supplemental filings to respond. The Court will either grant or deny the Respondents' Motion based on these filings (or the absence thereof).

AND IT IS SO ORDERED.

March 22, 2024
Columbia, SC

Milton G. Kimpson, Judge
South Carolina Administrative Law Court

CERTIFICATE OF SERVICE

I, Robert Reid hereby certify that I have on this date served this order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Judicial Law Clerk

March 22, 2024
Columbia, South Carolina

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Apr 07 2025

SC Court of Appeals

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2025, a true and correct copy of the foregoing ***RESPONDENTS' RESPONSE IN OPPOSITION TO APPELLANT'S MOTION TO STAY*** was served via email upon the following counsel of record and by depositing a copy of the filing in the United States Mail, postage prepaid, on the date above, to the parties at their addresses of record:

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/s/ Benjamin T. Hepner
Attorney for Respondent Bridgestone
Americas Tire Operations

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³ Similarly, Appellant's arguments concerning the holding and/or impact of Judge Kimpson's March 22, 2024, order, are entirely incorrect. The order itself did not demonstrate any bias, violate any procedural rule, ignore Appellant's filings, or violate any due process rights. At bottom, Judge Kimpson's March 22, 2024, order ultimately had no impact on Appellant's claims presented to the Administrative Law Court.

As before, Appellant continues to accuse Respondents of procedural misconduct, improper delay, and gamesmanship.⁴ In his Motion, Appellant accuses Respondents of improperly framing Appellant's arguments as request for rehearing, falsely accusing Appellant of fabricating case law, misrepresenting the procedural timeline for this action, and engaging in an alleged "pattern" of abuse. (Motion at 6-8). None of those arguments have merit.

As outlined in Respondents' March 20, 2025, Return, Appellant improperly sought to re-litigate (and effectively rehear) a non-dispositive Order granting an extension to file Respondents' Joint Initial Brief and the non-dispositive Order denying Appellant's prior request for sanctions. Raising those arguments in the Motion is entirely improper. *See* Section II, *supra*. Similarly, Respondents did not falsely accuse Appellant of fabricating case law. As Respondents' prior Response states, counsel for Respondents could not locate cases cited by Appellant in his prior filings or quotations from the cases cited in his filings. Appellant presents **no evidence** that his citations/quotations were in fact correct.⁵

⁴ Appellant sought sanctions against Respondents – without any justification for doing so – on two occasions with this Court, and those requests were summarily denied. Each time Respondents file a document with this Court, Appellant accuses them of misconduct yet he has **no legitimate claim** that Respondents have engaged in any misconduct.

⁵ Notably, it appears that Appellant has engaged in the same conduct in his March 28, 2025, filing. The citation to *State v. Simmons* on page 4 of Appellant's Motion appears incorrect as Respondent's counsel could not locate a case with that citation. Similarly, Appellant's citation to *In Re Thompson* appears incorrect as that action – which is a disciplinary matter – does not address motions to extend briefing deadlines, the issues which Appellant identifies as having been addressing in the holding from that case.

Respondents also have not falsified the procedural history of this case – Appellant has done so. Indeed, Respondents’ statement concerning the duration of this appeal is entirely correct. Appellant misconstrues the date that this appeal began in this Court. As outlined above, this appeal began in this Court when Appellant filed his Notice of Appeal on September 23, 2024, not before. Thus, Respondents have not misrepresented any procedural history to this Court.

Respondents also have not engaged in any improper conduct or a pattern of abuse. None of Respondents’ filings have been untimely. Each of Respondents filings have been supported by legal authority. As noted in Respondents’ March 20, 2025, filing, this Court was well within its rights to grant extensions to Respondents for filing their Initial Brief and Appellant’s opposition to those requests was manifestly without merit.

Finally, Respondents have not misrepresented any facts, procedural history, or legal authority in this appeal or in any of the proceedings at the Administrative Law Court or elsewhere. At bottom, Appellant’s March 28, 2025, request for sanctions is entirely without merit, and instead, is another blatant attempt by Appellant to attack Respondents and their counsel without any legitimate basis to do so.

Accordingly, Appellant’s (third) request for sanctions also is manifestly without merit and should be summarily dismissed.

IV. A Stay of this Action is Not Necessary and No Basis Exists to Strike Respondents’ Initial Brief.

Finally, Appellant argues in his new filing that (1) this matter should be stayed pending the resolution of his (baseless) March 28, 2025, Motion and (2) this Court should

strike Respondents' Initial Brief. In support of this request, Appellant argues that a stay and/or striking Respondents' brief is necessary "to protect the integrity of the judicial process," which he apparently contends is necessary due to "improper delays, multiple rule violations, and unjustified extensions." (Motion at 9). As outlined above in Section III, *supra*, no improper delays, rule violations or unjustified extensions have occurred.

Moreover, there has been no detrimental impact to the "integrity of the judicial process," as Appellant eludes. Quite the contrary, this appeal has continued even though Appellant did not timely and adequately correct each deficiency identified by this Court in his prior filings. Thus, no basis exists to stay this action.

Likewise, there is no basis to strike Respondents' Initial Brief. Appellant completely misrepresents the procedural history of this appeal by arguing that Respondent's initial brief was filed "fifteen months late." Respondents' initial brief was timely filed, and it obviously was not fifteen months late for the reasons outlined in Section II, *supra*. Moreover, Appellant falsely claims that any actual or legitimate basis exists to strike Respondents' Initial Brief. To be clear, no such reason exists.

Appellant has not identified any basis to strike Respondents' Initial Brief, nor has he identified any procedural rule which affords him this relief. However, even if Appellant could procedurally seek to strike Respondents' Initial Brief, as outlined above and in Respondents' March 20, 2025, filing, Respondents have not engaged in **any** of the improper conduct which Appellant has alleged occurred. Moreover, Respondents properly and timely filed their Initial Brief and Designation of Record on Appeal. Thus, there is

simply no conceivable argument that Appellant could offer to this Court to seek to strike Respondents' filings.

Therefore, Appellant's requests to stay this action and strike Respondent's Initial Brief are **both** manifestly without merit and should be summarily dismissed.⁶

V. Conclusion

For all the foregoing reasons, Respondents respectfully request this Court deny Appellant's Motion.

Respectfully Submitted,

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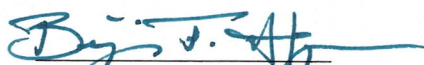
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⁶ The remainder of Appellant's March 28, 2025, filing also is manifestly without merit. Pages 11-13 of Appellant's filing do not appear to raise legitimate issues and instead are references to constitutional issues which are not presented as issues on appeal in this case. To be clear, none of Appellant's constitutional rights have been violated, but for the purposes of brevity, Respondents did not address each of those issues individually since Appellant cannot identify any compromise of the judicial process concerning this appeal or violation of his constitutional and further since none of those issues are issue on appeal.

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**Attorney for Respondent
Bridgestone Americas Tire Operations, LLC**

April 7, 2025

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Apr 07 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 23-ALJ-22-0429-AP

Appellate Case No. 2024-001608

DeQuincey G. Simmons,

Appellant

v.

South Carolina Department of Employment and Workforce and
Bridgestone Americas Tire Operations, LLC,

Respondents

**RESPONDENTS' RESPONSE IN OPPOSITION TO
APPELLANT'S MOTION TO STAY**

Respondents South Carolina Department of Employment and Workforce (the Department) and Bridgestone Americas Tire Operations (Bridgestone) hereby submit this Response in Opposition to Appellant's Motion to Stay filed on March 28, 2025 ("Motion"). This Court designated Appellant's Motion as a Reply to Appellant's March 11, 2025, motion but the new Motion seeks relief that was not included in Appellant's March 11, 2025, motion. It would be unfairly prejudicial to Respondents if Respondents were not afforded the opportunity to address the issues raised in Appellant's March 28, 2025, filing.

Respondents therefore submit this Response in Opposition to the Motion, and, to the extent this Court's deems Respondents' filing a surreply, Respondents respectfully request leave from this Court to file this response as a surreply.

On March 11, 2025, Appellant filed a Motion to Strike Respondent's Brief and For Sanctions for Procedural Violations and Unjustified Extensions ("Motion to Strike"), which, at least in part, related to Respondents' yet-to-be-filed Initial Brief. On March 12, 2025, Respondents timely filed their Joint Initial Brief and Designation of Matter to be Included in the Record on Appeal. On March 20, 2025, Respondents timely filed their Response to Appellant's Motion to Strike.

On March 28, 2025, Appellant filed a new motion, which is styled as a "Motion to Strike Respondents' Brief, For Sanctions and to Stay Proceedings." In the Motion, Appellant seeks (1) to stay this action pursuant to SCACR 241, (2) sanctions against Respondents for alleged misconduct, and (3) to strike Respondents' Initial Brief pursuant to SCACR 240(g) based upon Respondents alleged misrepresentation of procedural history, untimely filing of their Initial Brief, improper requests for extensions, and unfounded allegations of fabricated case law.

Respondents respectfully submit that Appellant's Motion is manifestly without merit and should be summarily denied.

I. Appellant Misstates the Procedural History of this Appeal.

Appellant argues that this **appeal** "has been plagued by persistent and unjustified delays and proceeds to offer a "fact-based chronology" of events. (Motion at 2). This purported chronology is no such thing. In fact, Appellant's chronology contains numerous

inaccuracies and reveals that Appellant's Motion seeks to relitigate an order issued by the Administrative Law Court, not this Court, which was not raised as an issue on appeal before this Court.

For example, Appellant incorrectly states that on November 2, 2023, this case was "transferred to the Court of Appeals."¹ (Motion at 2). This statement is incorrect. No such transfer occurred. This appeal was commenced on September 23, 2024, when **Appellant** filed his Notice of Appeal in this Court. Appellant's arguments that follow this initial incorrect statement are premised on the incorrect assumption that this action was ever pending in this Court **before** September 23, 2024. Obviously, this action was not pending before this Court before Appellant filed his Notice of Appeal in September of 2024.

Similarly, Appellant incorrectly states that this Court "warned" Respondents via its December 30, 2024, Order. The December 30, 2024, Order contains no such warning. Likewise, Appellant also incorrectly states that Respondents sought a "Second Extension" to file their initial brief on January 27, 2025, and a "Third Extension" to file their initial brief on February 18, 2025. (Motion at 3). Respondents submitted their first extension request to this Court on January 27, 2025, and a second request for extension on February 18, 2025, both of which were timely filed.

Moreover, Appellant's characterization of Respondents' Initial Brief as having been filed "Fifteen Months Late" is completely inaccurate. (Motion at 4). Respondents timely

¹ This inaccuracy plagues Appellant's Motion, and many of his alleged factual statements and arguments in the Motion are false because he relies upon the incorrect assumption that this appeal was pending in this Court **before** September 23, 2024. To be clear, it was not.

filed their Initial Brief and Designation of Matter to be Included in the Record on Appeal on March 12, 2025. Contrary to Appellant's arguments, this appeal has not been pending for fifteen months; thus, Appellant's statement that Respondents' filings are somehow fifteen months late also is wholly false. Respectfully, Appellant's recitation of the procedural history of this appeal is entirely incorrect and thus serves no basis for the relief he seeks in the Motion.

Appellant also incorrectly characterizes filings and orders from the lower courts as filings submitted in this Court. In so doing, Appellant argues that he has suffered prejudice but that a claim also is manifestly without merit. Appellant has suffered no prejudice from any events concerning this appeal. In fact, this appeal has continued even though Appellant failed to timely correct the deficiencies identified by this Court in its deficiency letters. Indeed, Appellant cannot present any conceivable argument that he has suffered any prejudice during the pendency of this litigation.

Simply put, Appellant's Motion is not supported by any facts, is manifestly without merit, and therefore should be summarily dismissed.

II. Appellant Improperly Seeks to Relitigate Orders from the Administrative Law Court Not Raised as an Issue on Appeal in this Action.

Appellant's Motion devotes nearly three pages to Judge Milton Kimpson's March 22, 2024, order pertaining to Respondents' initial non-dispositive motion filed with the Administrative Law Court.² (Motion at 4-6). Yet, Appellant did not appeal Judge

² Notably, Appellant mischaracterizes and misquotes Judge Kimpson's March 22, 2024, a copy of which is attached to this response as **Exhibit A**. In that order, Judge Kimpson expressly held that Respondents' filings were timely and made no reference to any

Kimpson's March 22, 2024, order, and it is not identified as an order appealed to this Court in Appellant's Notice of Appeal. Furthermore, the issues addressed in Judge Kimpson's March 22, 2024, order are not identified as issues on appeal in Appellant's initial brief.

As Respondents noted in their opposition to Appellant's March 11, 2025, motion, this court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal." Rule 240(i), SCACR. Appellant's arguments concerning Judge Kimpson's March 22, 2024, order therefore are improper because they relate to a non-dispositive motion and are entirely unrelated to this case or the issue on appeal for this action. As a result, Appellant's arguments related to Judge Kimpson's March 22, 2024, order are not properly before this Court and raising those issues now is an improper attempt to relitigate issues not presently before this Court.³

III. Respondents Have Not Engaged in Any Misconduct or Sanctionable Conduct.

"favorable decisions" in any other proceedings as Appellant alleges. In fact, the quote which Appellant attributes to the March 22, 2024, order is **not** in that order. Further still, the March 22nd order cannot be construed as resulting in any prejudice towards Appellant. To the contrary, Judge Kimpson held in abeyance any ruling on Respondents' dispositive motion, despite the fact that Appellant **did not** respond to it, to afford the parties an opportunity to brief an issue not raised in the motion which ultimately benefitted Appellant. Thus, Appellant cannot present any conceivable argument that he suffered any prejudice or other adverse effects from the March 22, 2024, order issued by Judge Kimpson.

³ Similarly, Appellant's arguments concerning the holding and/or impact of Judge Kimpson's March 22, 2024, order, are entirely incorrect. The order itself did not demonstrate any bias, violate any procedural rule, ignore Appellant's filings, or violate any due process rights. At bottom, Judge Kimpson's March 22, 2024, order ultimately had no impact on Appellant's claims presented to the Administrative Law Court.

As before, Appellant continues to accuse Respondents of procedural misconduct, improper delay, and gamesmanship.⁴ In his Motion, Appellant accuses Respondents of improperly framing Appellant's arguments as request for rehearing, falsely accusing Appellant of fabricating case law, misrepresenting the procedural timeline for this action, and engaging in an alleged "pattern" of abuse. (Motion at 6-8). None of those arguments have merit.

As outlined in Respondents' March 20, 2025, Return, Appellant improperly sought to re-litigate (and effectively rehear) a non-dispositive Order granting an extension to file Respondents' Joint Initial Brief and the non-dispositive Order denying Appellant's prior request for sanctions. Raising those arguments in the Motion is entirely improper. *See* Section II, *supra*. Similarly, Respondents did not falsely accuse Appellant of fabricating case law. As Respondents' prior Response states, counsel for Respondents could not locate cases cited by Appellant in his prior filings or quotations from the cases cited in his filings. Appellant presents **no evidence** that his citations/quotations were in fact correct.⁵

⁴ Appellant sought sanctions against Respondents – without any justification for doing so – on two occasions with this Court, and those requests were summarily denied. Each time Respondents file a document with this Court, Appellant accuses them of misconduct yet he has **no legitimate claim** that Respondents have engaged in any misconduct.

⁵ Notably, it appears that Appellant has engaged in the same conduct in his March 28, 2025, filing. The citation to *State v. Simmons* on page 4 of Appellant's Motion appears incorrect as Respondent's counsel could not locate a case with that citation. Similarly, Appellant's citation to *In Re Thompson* appears incorrect as that action – which is a disciplinary matter – does not address motions to extend briefing deadlines, the issues which Appellant identifies as having been addressing in the holding from that case.

Respondents also have not falsified the procedural history of this case – Appellant has done so. Indeed, Respondents’ statement concerning the duration of this appeal is entirely correct. Appellant misconstrues the date that this appeal began in this Court. As outlined above, this appeal began in this Court when Appellant filed his Notice of Appeal on September 23, 2024, not before. Thus, Respondents have not misrepresented any procedural history to this Court.

Respondents also have not engaged in any improper conduct or a pattern of abuse. None of Respondents’ filings have been untimely. Each of Respondents filings have been supported by legal authority. As noted in Respondents’ March 20, 2025, filing, this Court was well within its rights to grant extensions to Respondents for filing their Initial Brief and Appellant’s opposition to those requests was manifestly without merit.

Finally, Respondents have not misrepresented any facts, procedural history, or legal authority in this appeal or in any of the proceedings at the Administrative Law Court or elsewhere. At bottom, Appellant’s March 28, 2025, request for sanctions is entirely without merit, and instead, is another blatant attempt by Appellant to attack Respondents and their counsel without any legitimate basis to do so.

Accordingly, Appellant’s (third) request for sanctions also is manifestly without merit and should be summarily dismissed.

IV. A Stay of this Action is Not Necessary and No Basis Exists to Strike Respondents’ Initial Brief.

Finally, Appellant argues in his new filing that (1) this matter should be stayed pending the resolution of his (baseless) March 28, 2025, Motion and (2) this Court should

strike Respondents' Initial Brief. In support of this request, Appellant argues that a stay and/or striking Respondents' brief is necessary "to protect the integrity of the judicial process," which he apparently contends is necessary due to "improper delays, multiple rule violations, and unjustified extensions." (Motion at 9). As outlined above in Section III, *supra*, no improper delays, rule violations or unjustified extensions have occurred.

Moreover, there has been no detrimental impact to the "integrity of the judicial process," as Appellant eludes. Quite the contrary, this appeal has continued even though Appellant did not timely and adequately correct each deficiency identified by this Court in his prior filings. Thus, no basis exists to stay this action.

Likewise, there is no basis to strike Respondents' Initial Brief. Appellant completely misrepresents the procedural history of this appeal by arguing that Respondent's initial brief was filed "fifteen months late." Respondents' initial brief was timely filed, and it obviously was not fifteen months late for the reasons outlined in Section II, *supra*. Moreover, Appellant falsely claims that any actual or legitimate basis exists to strike Respondents' Initial Brief. To be clear, no such reason exists.

Appellant has not identified any basis to strike Respondents' Initial Brief, nor has he identified any procedural rule which affords him this relief. However, even if Appellant could procedurally seek to strike Respondents' Initial Brief, as outlined above and in Respondents' March 20, 2025, filing, Respondents have not engaged in any of the improper conduct which Appellant has alleged occurred. Moreover, Respondents properly and timely filed their Initial Brief and Designation of Record on Appeal. Thus, there is

simply no conceivable argument that Appellant could offer to this Court to seek to strike Respondents' filings.

Therefore, Appellant's requests to stay this action and strike Respondent's Initial Brief are **both** manifestly without merit and should be summarily dismissed.⁶

V. Conclusion

For all the foregoing reasons, Respondents respectfully request this Court deny Appellant's Motion.

Respectfully Submitted,

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⁶ The remainder of Appellant's March 28, 2025, filing also is manifestly without merit. Pages 11-13 of Appellant's filing do not appear to raise legitimate issues and instead are references to constitutional issues which are not presented as issues on appeal in this case. To be clear, none of Appellant's constitutional rights have been violated, but for the purposes of brevity, Respondents did not address each of those issues individually since Appellant cannot identify any compromise of the judicial process concerning this appeal or violation of his constitutional and further since none of those issues are issue on appeal.

BHepner@littler.com

**Attorney for Respondent
Bridgestone Americas Tire Operations, LLC**

April 7, 2025

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Apr 07 2025

SC Court of Appeals

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2025, a true and correct copy of the foregoing ***RESPONDENTS' RESPONSE IN OPPOSITION TO APPELLANT'S MOTION TO STAY*** was served via email upon the following counsel of record and by depositing a copy of the filing in the United States Mail, postage prepaid, on the date above, to the parties at their addresses of record:

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