

# IN THE COURT OF APPEALS

STATE OF SOUTH CAROLINA\*\*

**DeQuincey G. Simmons,**  
Appellant,

v.  
**South Carolina Department of Employment and Workforce and  
Bridgestone Americas Tire Operations, LLC,**  
Respondents.

Appellate Case No. **2024-001608**

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## APPELLANT'S RESPONSE IN OPPOSITION

TO RESPONDENTS' JOINT MOTION TO DISMISS\*\*

Appellant **DeQuincey G. Simmons** respectfully submits the following response in opposition to Respondents' Joint Motion to Dismiss filed November 19, 2025. Respondents' motion is factually inaccurate, procedurally improper, and legally unsupported under the South Carolina Appellate Court Rules. The motion should be **denied in full**, and the appeal should proceed.

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### I. INTRODUCTION

Respondents incorrectly assert that Appellant "failed to correct deficiencies" and "made no attempt" to comply with the Court's October 30, 2025 deficiency letter. This statement is **false, misleading**, and directly contradicted by **USPS-certified delivery proof**, attached as Exhibits.

Appellant **timely mailed corrected, bound copies** of both:

1. the **Record on Appeal**, and
2. the **Appellant's Brief**,

to:

- the **South Carolina Court of Appeals**,
- **Respondent Cook** (SCDEW), and
- **Respondent Hepner** (Bridgestone).

All materials were delivered by **October 31, 2025**, well before the Joint Motion was filed.

Respondents' failure to check their own mail or communicate with their own mailroom does not justify dismissal of an entire appeal.

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## II. USPS DELIVERY CONFIRMS APPELLANT FULLY COMPLIED

### A. Delivery to the Court of Appeals (1220 Senate Street)

USPS Tracking No. **42029201376995055136678853029** shows:

- **Delivered:** October 31, 2025
- **Location:** *Front Desk / Reception / Mail Room*
- **Address:** Columbia, SC 29201
- **Time:** 4:24 PM

This proves the Court *received Appellant's corrected bound copies* within the 10-day window.

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### B. Delivery to Attorney Ben Cook (SCDEW)

USPS Tracking No. **42029202859795055136678853029** shows:

- **Delivered:** October 31, 2025
- **Location:** *PO Box / Mail Facility*
- **Address:** Columbia, SC 29202
- **Time:** 7:43 AM

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### C. Delivery to Attorney Ben Hepner (Bridgestone)

USPS Tracking No. **42029601490595055136678853029** shows:

- **Delivered:** October 31, 2025
- **Location:** *Mailbox*



- **Address:** Greenville, SC 29601
  - **Time:** 9:39 AM
- 

### **III. RESPONDENTS' ASSERTION THAT "NO CORRECTIONS WERE MADE" IS FALSE**

Respondents claim Appellant:

- "did not submit any corrected filings," and
- "made no attempt to correct the issues."

This is **directly contradicted** by:

1. The Court's own mailing address showing receipt on October 31, 2025;
2. USPS-certified proof showing **all parties were served**; and
3. Appellant's corrected, bound submissions that comply with Rule 267.

Respondents' statements constitute **misrepresentations** of the factual record.

The Court should reject arguments premised on misinformation.

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### **IV. APPELLANT FULLY COMPLIED WITH THE DEFICIENCY NOTICE**

The Court's October 30, 2025 letter required:

#### **1. A corrected proof of service (Rule 267)**

Appellant served both attorneys individually.

Appellant served the Court.

A corrected Form 7-compliant certificate was included.

#### **2. A Record on Appeal in Form 15 format**

Delivered October 31, 2025.

Bound, properly captioned, and color-coded per Rule 267.

### 3. Designated matters included from all parties

Appellant included all pleadings, exhibits, orders, and motions.

**Every deficiency listed was corrected.**

Respondents' motion does not dispute the **content** of Appellant's corrected filings; it only alleges that nothing was filed — which is disproven.

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## V. RESPONDENTS' MOTION IS PREMATURE AND PROCEDURALLY DEFECTIVE

Respondents filed their Joint Motion on November 19, 2025, without:

- Allowing the Court adequate time to process the physical materials;
- Confirming receipt with the Court's mailroom;
- Contacting Appellant before filing;
- Checking their own internal mail distribution;
- Reviewing actual USPS delivery confirmations.

Respondents filed their motion **in the dark**, based solely on a temporary docket delay — not on fact.

Appellant should not be penalized for delays in Court scanning or staff processing.

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## VI. DISMISSAL IS AN EXTREME REMEDY AND NOT WARRANTED

South Carolina appellate courts repeatedly hold:

**Cases should not be dismissed for curable technical defects where the appellant made a good-faith effort to comply.**

See, e.g.:

- *Ex parted Capital U-Drive-It*, 369 S.C. 1 (Ct. App. 2006)

- *Hollifield v. WLH Enterprises*, 386 S.C. 408 (Ct. App. 2009)

Appellant acted:

- in good faith,
- within the deadline,
- with proof of delivery, and
- in full compliance with the Court's instructions.

Dismissal here would contradict the principles of due process and equal access to justice.

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## VII. REQUESTS FOR RELIEF

Appellant respectfully requests that the Court:

1. **DENY Respondents' Joint Motion to Dismiss.**
2. **ACCEPT Appellant's corrected Record on Appeal and Brief as timely filed.**
3. **DIRECT the Clerk to update the docket to reflect receipt of mailed materials.**
4. **ADMONISH Respondents for misrepresenting the factual record.**

(Optional, but justified.)

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## VIII. CONCLUSION

Appellant timely filed **all required materials**, corrected all deficiencies, and served all parties. Respondents' motion relies on incorrect assumptions and inaccurate statements, contradicted by USPS-verified proof.

For these reasons, Appellant respectfully requests that the Court **deny the Joint Motion to Dismiss in its entirety** and allow the appeal to proceed.

Respectfully submitted,

**DeQuincey G. Simmons**  
Appellant  
2503 Hiers Ct.  
Hephzibah, GA 30815

*De Quincey Simmons*  
12/11/2025



Feedback

Your item has been delivered and is available at a PO Box at 7:43 am on October 31, 2025 in COLUMBIA, SC 29202.

### Get More Out of USPS Tracking:

**USPS Tracking Plus<sup>®</sup>**

COLUMBIA, SC 29202  
October 31, 2025, 7:43 am

COLUMBIA, SC 29201  
October 31, 2025, 7:42 am

COLUMBIA SC PROCESSING CENTER  
October 30, 2025, 11:24 am

October 30, 2025, 8:33 am

ATLANTA GA DISTRIBUTION CENTER  
October 30, 2025, 7:22 am

ATLANTA GA DISTRIBUTION CENTER  
October 30, 2025, 6:04 am

AUGUSTA, GA 30909  
October 29, 2025, 6:07 pm

AUGUSTA, GA 30909  
October 29, 2025, 1:59 pm

Hide Tracking History

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less ^



Exhibit(C)

Your item was delivered in or at the mailbox at 9:39 am on October 31, 2025 in GREENVILLE, SC 29601.

**Get More Out of USPS Tracking:**

**USPS Tracking Plus®**

GREENVILLE, SC 29601  
October 31, 2025, 9:39 am

GREENVILLE, SC 29601  
October 31, 2025, 6:10 am

GREENVILLE, SC 29602  
October 31, 2025, 4:14 am

GREENVILLE SC DISTRIBUTION CENTER  
October 30, 2025, 7:33 pm

October 30, 2025, 6:55 pm

October 30, 2025, 4:51 pm

ATLANTA GA DISTRIBUTION CENTER  
October 30, 2025, 2:57 pm

ATLANTA GA DISTRIBUTION CENTER  
October 30, 2025, 6:04 am

Exhibit D

AUGUSTA, GA 30909  
October 29, 2025, 6:07 pm

AUGUSTA, GA 30909  
October 29, 2025, 2:01 pm

Hide Tracking History

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

See More 

X

Your item was delivered to the front desk, reception area, or mail room at 4:24 pm on October 31, 2025 in COLUMBIA, SC 29201.

Get More Out of USPS Tracking:

**USPS Tracking Plus<sup>®</sup>**

COLUMBIA, SC 29201  
October 31, 2025, 4:24 pm

COLUMBIA, SC 29201  
October 31, 2025, 7:07 am

COLUMBIA, SC 29201

- October 31, 2025, 6:56 am
- COLUMBIA SC PROCESSING CENTER  
October 31, 2025, 3:17 am
- October 31, 2025, 2:43 am
- COLUMBIA SC PROCESSING CENTER  
October 31, 2025, 2:38 am
- COLUMBIA SC PROCESSING CENTER  
October 30, 2025, 11:24 am
- October 30, 2025, 8:33 am
- ATLANTA GA DISTRIBUTION CENTER  
October 30, 2025, 7:22 am
- ATLANTA GA DISTRIBUTION CENTER  
October 30, 2025, 6:04 am
- AUGUSTA, GA 30909  
October 29, 2025, 6:07 pm
- AUGUSTA, GA 30909  
October 29, 2025, 2:02 pm
- Hide Tracking History

**What Do USPS Tracking Statuses Mean?** (<https://faq.usps.com/s/article/Where-is-my-package>)

**RECEIVED**

**Dec 01 2025**

**SC Court of Appeals**

# CERTIFICATE OF SERVICE

**Appellate Case No. 2024-001608**

I, **DeQuincey G. Simmons**, hereby certify that on this **1 day of December 2025**, I served a copy of the following document:

**“Appellant’s Response in Opposition to Respondents’ Joint Motion to Dismiss”**

upon all parties of record by placing a true and correct copy in the United States Mail, first-class postage prepaid, properly addressed to:

**Benjamin T. Cook, Esquire**

South Carolina Department of Employment and Workforce  
Post Office Box 8597  
Columbia, SC 29202

**Benjamin T. Hepner, Esquire**

Little Mendelson, P.C.  
110 E Court Street, Suite 201  
Greenville, SC 29601

**Clerk of Court**

South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

I declare under penalty of perjury that the foregoing is true and correct.

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**DeQuincey G. Simmons**

2503 Hiers Ct.  
Hephzibah, GA 30815

*DeQuincey Simmons*  
*12/1/2025*