

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

170705

APPEAL FROM LEXINGTON COUNTY
J. Michael Baxley, Circuit Court Judge

RECEIVED
DEC 17 2013
SC Court of Appeals

Indictment Nos. 2011-GS-32-0242
2011-GS-32-0243
2011-GS-32-0244

EX PARTE:

South Carolina Department of Disabilities
and Special Needs, Appellant.

IN RE:

State of South Carolina, Respondent,

v.

Rocky A. Linkhorn, Respondent.

**MOTION FOR TRANSFER OF CASE
TO SOUTH CAROLINA SUPREME COURT**

The Appellant South Carolina Department of Disabilities and Special Needs (DDSN) hereby moves in accordance with Rule 204(b), SCACR, for certification of this case for the immediate review by the South Carolina Supreme Court.

Rule 204(b), SCACR, provides that "[i]n any case which is pending before the Court of Appeals, the Supreme Court may ... on motion of any party to the case ... certify the case for review by the Supreme Court before it has been determined by the Court of Appeals." Rule 204(b), SCACR, further provides that "[c]ertification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance." See, Rule 204(b), SCACR.

This appeal is appropriate under the standard set out in Rule 204(b) because of the significant public impact and major importance that this case will have. The Appellant DDSN refers the Court to the Petition for Writ of Supersedeas or Stay Pending Appeal that has been filed herewith for a detailed discussion of this case, the Order on appeal, and the vast implications this appeal will have not only for DDSN and the Respondent Rocky Linkhorn but also for numerous current and future clients of DDSN, who are not represented in this litigation but whose state and federal statutory and constitutional rights under the Americans with Disabilities Act (ADA) and the landmark case of *Olmstead v. L.C.*, 527 U.S. 581 (1999), will most probably be infringed by the Order on appeal.

The Appellant DDSN incorporates herein by reference the Petition for Writ of Supersedeas or Stay Pending Appeal filed herewith, the supporting memorandum, the Appendix and affidavits which set forth the bases for this motion and the reasons that certification under Rule 204(b), SCACR is warranted.

Respectfully submitted,

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Columbia, South Carolina

December 17, 2013

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CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Appellant, South Carolina Department of Disabilities and Special Needs, does hereby certify that service of the **Motion for Transfer of Case to South Carolina Supreme Court** in the above-captioned matter was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 17th day of December 2013:

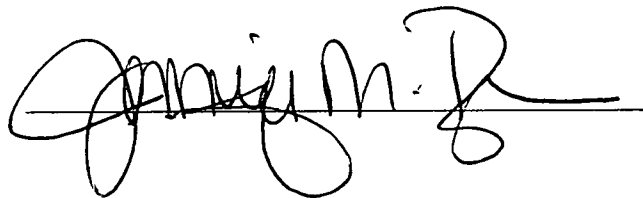
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A handwritten signature in black ink, appearing to read "Monique M. Lee", written over a horizontal line.