

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Chesterfield County  
Honorable J. Michael Baxley, Circuit Court Judge

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Appellate Case No. 2013-001415

**RECEIVED**

FEB 19 2014

**SC Court of Appeals**

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FRITZ ALLEN TIMMONS,

Appellant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

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**RESPONDENT'S MOTION TO RELAX RULES 208, 209, 210, 211 AND  
FOR AN EXTENSION OF TIME IN WHICH TO FILE  
RESPONDENT'S INITIAL BRIEF OF RESPONDENT, DESIGNATION OF MATTER,  
SUPPLEMENTAL RECORD ON APPEAL AND FINAL BRIEF OF RESPONDENT**

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Pursuant to Rules 240, SCACR, Respondent, by and through undersigned counsel, hereby moves this Honorable Court for an Order Relaxing Rules 208, 209, 210, and 211, SCACR, and for an extension of time in which to file Respondent's Initial Brief, Designation of Matter, any Supplemental Record on Appeal that might be necessary, and the Final Brief of Respondent. In support of the request, Respondent would respectfully show to this Honorable Court as follows:

1. The Criminal Appeals Section of the Attorney General's Office received copies of two Notices to Appellate Defense from this Court indicating that Appellant filed Notice of Appeal in State v. Fritz A. Timmons arising from the Court of Common Pleas and from orders of the

Honorable J. Michael Baxley. The Notices were served on what appeared to the undersigned to be private counsel addresses.

2. On October 24, 2013, the undersigned received a copy of a letter from this Court to Appellant outlining deficiencies in his Initial Brief of Appellant and Designation of Matter in State v. Fritz Allen Timmons. Upon receipt of the letter but not the Initial Brief of Appellant and Designation or Matter or notice from the Solicitor's office that an appeal had been served, the undersigned corresponded with the solicitor's office requesting information about this possible criminal appeal. (See attached letters). The undersigned did not receive a response and began to review the matter independently. The undersigned located Appellant's Notice of Appeal from the order of the decision of the Honorable J. Michael Baxley affirming a decision of Department of Employment and Workforce (DEW). The caption for this appeal was listed by Appellant as State of South Carolina v. Fritz A. Timmons rather than the proper caption below which was Fritz Timmons v. Browns A/S/ RV and Campers. The undersigned was under the mistaken belief that only one appeal was pending and that it arose from the DEW decision. Based upon the confusion created by the caption and the fact that there were apparently two appeals arising from the Court of Common Pleas and orders issued by Judge Baxley respecting Appellant, the undersigned forwarded a letter to this Court and to Appellant advising that the Attorney General's Office did not represent a party to what appeared to be the civil appeal. (See attached letter).

3. By letter dated December 20, 2013, this Court advised Appellant of another deficiency in his appeal. (See attached letter).

4. By letter received by the undersigned on December 30, 2013, Appellant notified the undersigned and this Court that two separate appeals were pending, both arising from the Court of Appeals and from orders issued by Judge Baxley. He clarified that one appeal arises from

Judge Baxley's consideration of his appeal from a DEW ruling and the other was heard by Judge Baxley in his appellate capacity from a magistrate's court criminal proceeding.

5. Upon receipt of Appellant's letter, the undersigned engaged in a number of conversations with the attorney served with the Notice of Appeal in the criminal appeal to determine whether he appeared for the State rather than as a county attorney and, if so, whether he was served with the notice of appeal. The Office of the Attorney General does not appear in appeals arising from cases prosecuted on behalf of county or city entities. The undersigned also ordered the transcript of the criminal appeal heard by Judge Baxley to verify that it was a criminal matter, to determine who appeared at the hearing, and whether the appearance by the prosecutor was made by a county attorney or member of the solicitor's office.

6. The undersigned has verified that the notice of appeal was served on a part-time prosecutor for the Solicitor's Office who appeared at the appeal heard in the Court of Common Pleas arising from magistrate's court convictions for what appear to be violations of State law and county ordinance.

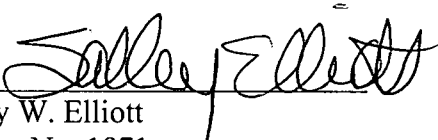
7. The earlier letter from the Office of the Attorney General advising that it did not represent a party to this appeal was mistaken and based upon confusion arising from the two appeals, the incorrectly captioned second appeal, and lack of information. Therefore, Respondent respectfully requests that this Court relax the appellate court rules to permit filing of both an Initial Brief of Respondent and Designation of Matter followed by a Final Brief of Respondent or, at the Court's discretion, to allow Respondent to proceed with filing a Final Brief of Respondent without an Initial Brief of Respondent. Respondent will undertake the responsibility of preparing and filing any Supplemental Record on Appeal that might become necessary due to matter the Respondent might need for the Record on Appeal. Respondent also moves this Court for an extension of time to file and serve the necessary briefs, designation and supplemental

record in order to gather the record presented to Judge Baxley and prepare its responsive brief and supplemental record as necessary and as permitted by the Court.

Respectfully submitted,

ALAN WILSON  
Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

BY:   
Salley W. Elliott  
SC Bar No. 1871

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

February 19, 2014



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OCT 25 2013

ATTORNEY GENERALS

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
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October 24, 2013

Fritz Allen Timmons  
P.O. Box 367  
Hartsville SC 29551

Re: The State v. Fritz A. Timmons.  
Appellate Case No. 2013-001415

Dear Mr. Timmons:

Upon reviewing your initial brief of appellant and designation of matter, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The caption/title does not comply with Rule 267(a), SCACR. Specifically, the title should read as:

The State,

Respondent,

v.

Fritz Allen Timmons,

Appellant.

Very truly yours,

  
CLERK

cc: Adam M. Foard  
Salley W. Elliott



ALAN WILSON  
ATTORNEY GENERAL

October 28, 2013

The Honorable William B. Rogers, Jr.  
Solicitor, Fourth Judicial Circuit  
Post Office Box 616  
Bennettsville, South Carolina 29512

RE: The State v. Fritz A. Timmons  
Appellate Case No. 2013-001415

Dear Solicitor Rogers:

Please find enclosed a letter I received from the South Carolina Court of Appeals indicating that a notice of appeal as well as an initial brief of appellant and designation of matter have been received by the Court in the criminal appeal listed above. Our office has no record that an appeal is pending. Kindly check your records and forward a copy of the notice of appeal, proof of service, indictment and sentence sheet as well the initial brief and designation of matter if you have been served with those documents. Kindly advise to the date of service for the notice of appeal and the initial brief of appellant. Please also advise if you have not been served so that I can move to dismiss the appeal for lack of timely service.

I kindly asked that you expedite your attention to this letter as our due date is fast approaching.

Sincerely,

Salley W. Elliott  
Senior Assistant Deputy Attorney General

SWE/ab



ALAN WILSON  
ATTORNEY GENERAL

November 12, 2013

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: The State v. Fritz A. Timmons  
Appellate Case No. 2013-001415

Dear Ms. Kitchings:

I am in receipt of notice of filing of a Notice of Appeal in the matter listed above. Upon review of the Notice of Appeal, proof of service and the Circuit Court order on appeal, it appears Mr. Timmons is appealing from the Circuit Court order affirming the decision of the South Carolina Department of Employment and Workforce respecting Mr. Timmons' unemployment benefits. This matter in no way relates to an appeal from a criminal conviction. It also appears that Mr. Timmons may have improperly captioned his appeal as The State v. Fritz Timmons when the order from the Circuit Court reveals the caption to be Fritz Timmons v. Brown A/S RV and Campers Inc. It shows Mr. Timmons served counsel for the Department of Employment and Workforce with the Notice of Appeal. Kindly remove the Office of Attorney General as counsel for any party to this appeal.

Sincerely,

Salley W. Elliott  
Senior Assistant Deputy Attorney General

SWE/ab

cc: Robert M. Dudek, Esquire  
Romi Yolanda Robinson, Esquire  
Fritz A. Timmons, pro se

RECEIVED

Dec 24, 2013

DEC 30 2013

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
P.O. Box 11629  
Columbia, SC 29211

ATTORNEY GENERALS  
OFFICE

RE: The State v. Fritz A. Timmons Appellate Case No. 2013-001415 and  
Fritz A. Timmons v. Browns a/s RV and Campers Appellate Case No.  
2013-002356

Dear Jenny Abbott Kitchings

Due to the error brought on by the S.C. Appeals Clerk of Courts office and the S.C. Attorney General's office, to clarify this error, the Appellate Case No. 2013-001415 (The State v. Fritz A. Timmons) stems from court of common pleas Case No. 2013-CP-13-00150 of Chesterfield County and an appeal from magistrate court and is of a criminal case based on civil rights violations by the state while Appellate Case No. 2013-002356 (Fritz A. Timmons v. Browns a/s RV and Campers ) stems from court of common pleas Case No. 2009-CP-16-0540 of Darlington County and is an appeal from the unemployment tribunal hearing. Both appeals are from cases in which Judge J. Michael Baxley was presiding over. In Appellate Case No. 2013-001415, includes for the state, Adam M. Foard, , Salley W. Elliott, and Alan Wilson. In Appellate Case No. 2013-002356, includes for the unemployment commission, Romi Yolanda Robinson and for Browns a/s RV and Campers , Adam M. Foard.

Sincerely,  
Fritz A. Timmons  
P. O. Box 367  
Hartsville, SC 29551  
(843)-335-6283

Cc Foard, Adam M.  
Rosalyn W. Frierson  
Romi Yolanda Robinson  
Salley W. Elliott

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Chesterfield County  
Honorable J. Michael Baxley, Circuit Court Judge

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Appellate Case No. 2013-001415

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FRITZ ALLEN TIMMONS,

Appellant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

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**PROOF OF SERVICE**

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I, Angela Bennett, certify that I have served the **Motion to Relax Rules 208, 209, 210, 211 and for an Extension of Time in Which to File Respondent's Initial Brief, Designation of Matter, Supplemental Record on Appeal and Final Brief of Respondent** on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to Fritz A. Timmons, P.O. Box 367, Hartsville, South Carolina 29551.

I further certify that all parties required by Rule to be served have been served.

This 19<sup>th</sup> day of February, 2014.

  
ANGELA BENNETT  
Administrative Assistant

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

February 19, 2014

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

Re: The State v. Fritz A. Timmons  
Appellate Case N: 2013-001415

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the **Motion to Relax Rules 208, 209, 210, 211 and for an Extension of Time in Which to File Respondent's Initial Brief, Designation of Matter, Supplemental Record on Appeal and Final Brief of Respondent** along with proof of service in the above-referenced case.

Sincerely,

Salley W. Elliott  
Senior Assistant Deputy Attorney General  
S.C. Bar No: 1871

SWE/ab  
Enclosures

cc: Fritz A. Timmons, pro se  
Ms. Trisha Allen

**RECEIVED**

FEB 19 2014

**SC Court of Appeals**