

STATE OF SOUTH CAROLINA  
COURT OF APPEALS

Fritz Timmons )  
Petitioner, )  
v. )  
South Carolina Department of )  
Employment and Workforce )  
Respondent(s). )  
\_\_\_\_\_ )

Docket No. 09-CP-16-0540

NOTICE OF  
MOTION TO DISMISS

**RECEIVED**

APR 02 2014

**SC Court of Appeals**

**TO: Fritz Timmons, PRO SE**

NOTICE IS HEREBY GIVEN that the Respondent, S.C. Department of Employment and Workforce, (DEW) through its undersigned attorney, moves the Court to dismiss the above captioned appeal pursuant to Rule 208 SCACR. This Motion is made on the following grounds:

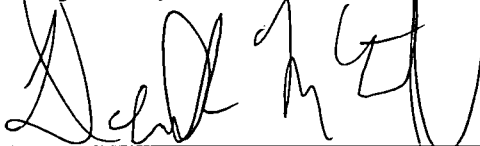
**LACK OF JURISDICTION - FAILURE TO TIMELY FILE INITIAL BRIEF**

1. On October 7, 2013, Presiding Judge J. Michael Baxley of the Darlington County Court of Common Pleas denied Petitioner's appeal from the S.C. Department of Employment and Workforce's final agency Decision No. 09-CP-16-0540. Judge Baxley affirmed the final agency finding of voluntary quit pursuant to S.C. Code Ann. § 41-35-120(1). The judgment was entered on October 8, 2013 and a copy mailed first class to the parties.
2. The Petitioner filed a notice of appeal to the South Carolina Court of Appeals on October 29, 2013 appealing Judge Baxter's order. The notice of appeal stated that Petitioner received no written notice of Judge Baxter's order dated October 8, 2013.
3. The Petitioner subsequently served the South Carolina Department of Employment and Workforce with a copy of his filing.

4. On December 12, 2013, the South Carolina Court of Appeals sent Petitioner a letter of review citing the South Carolina Appellate Court Rules (SCACR) stating that Petitioner failed to submit the required filing fee of \$100.
5. South Carolina Judicial Department Rule 208(a) sets forth the provisions for serving and filing initial briefs. Pursuant to these sections, to obtain judicial review, Appellant within thirty (30) days after serving the notice of appeal shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service.
6. Pursuant to South Carolina Judicial Department Rule 208(a)(4), upon the failure of Appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal.
7. Since the petitioner did not properly file his initial brief and designation of matter until February 7, 2014, DEW is informed and believes the Petitioner has not complied with the statutory requirements for the South Carolina Court of Appeals to obtain jurisdiction and the petition should be dismissed.

WHEREFORE, Respondent prays that the appeal be dismissed with prejudice.

Respectfully Submitted,



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Derrick McFarland, SC Bar # 15236  
South Carolina Dept. of Employment and Workforce  
Post Office Box 8597  
Columbia, SC 29202  
803.737.0395/ 803.737.0124 (fax)  
legal@dew.sc.gov

Columbia, SC  
March 28, 2014

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE CIRCUIT COURT  
J. Michael Baxley, Presiding Judge

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APR 02 2014

**SC Court of Appeals**

Case No. 09-CP-16-0540

Appellate Case No.: 2013-002356

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Fritz Timmons,

Appellant,

v.

South Carolina Department of Employment  
and Workforce,

Respondent.

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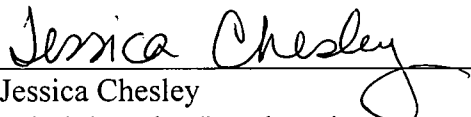
PROOF OF SERVICE

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I certify that I have served the Respondent South Carolina Department of Employment and Workforce's Motion to Dismiss on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on March 28, 2014, addressed to the Appellant in this case at his address of record:

Fritz Timmons  
PO Box 367  
Hartsville, SC 29551

March 28, 2014

  
Jessica Chesley  
Administrative Legal Assistant  
SC Dept of Employment and Workforce  
Post Office Box 8597  
Columbia, South Carolina 29202  
(803) 737-0395

P.O. Box 995  
1550 Gadsden Street  
Columbia, SC 29202  
dew.sc.gov



Nikki R. Haley  
Governor

Cheryl M. Stanton  
Executive Director

---

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Columbia, SC 29202  
Telephone: (803) 737-0395  
Fax: (803) 737-0124

March 28, 2014

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

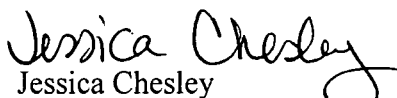
RE: Fritz A. Timmons v. SCDEW  
Appellate Case No. 2013-002356

Dear Ms. Kitchings:

Enclosed for filing please find the original and six copies of Respondent SCDEW's Motion to Dismiss in the above referenced case. Also enclosed is the Proof of Service to the other parties.

If you have any questions, please contact me at the number or address above.

Sincerely,

  
Jessica Chesley  
Administrative Legal Assistant for  
Derrick McFarland  
General Counsel

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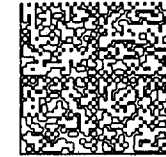
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**SC Court of Appeals**

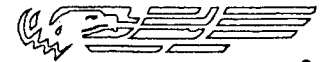
**SOUTH CAROLINA  
DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

P.O. BOX 995  
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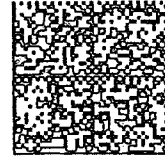


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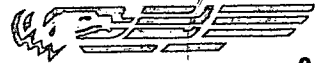
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