

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW
COURT

Deborah Brooks Durden, Administrative Law Judge

Docket No. 2014-000246

South Carolina Department of Consumer Affairs,.....Respondent,

v.

Entera Holdings, LLC and
Entera Work Comp Solutions, LLC,Appellants.

INITIAL REPLY BRIEF OF APPELLANTS

David Hill Keller
Constangy Brooks & Smith, LLP
105 N. Spring Street Suite 105
Greenville, South Carolina 29201

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SC Court of Appeals

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ARGUMENT

ISSUE I

THE DOCUMENT IN QUESTION WAS NEVER PROPERLY SERVED PURSUANT TO SOUTH CAROLINA LAW

Respondents state that they can serve papers upon a party by personal service. While appellants do not dispute this, the particular document in question was not served by personal service but was served by a third party delivery service. As noted in the brief-in-chief, all of the rules and regulations of South Carolina appellants have been able to find, require service of documents by US Mail.

It, therefore, remains the contention of appellants that service of any legal document in South Carolina is not effective unless it is either delivered by personal service, as noted by the Department or by US Mail.

ISSUE II

THE AGENCY ALTERED THE TERMS AND PROVISIONS OF THE FINAL AGENCY DECISION

Regardless of any other items in the letter of August 21, 2013, the Department altered the terms of the final agency decision, by including the last paragraph requiring that appellants contact “the Department” within 30 days of the receipt of the letter, which was accomplished well within that timeframe. As such, though the Department may have unintentionally altered the terms of the original letter, nonetheless they are the drafters of the letter and their Deputy Director added a paragraph to the letter indicating that a response to “the Department,” not the ALJ, was due within 30 days. (letter)

CONCLUSION

It is therefore respectfully submitted that the order of the ALJ be vacated and the matter be remanded to the agency.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. Hill Keller", written over a horizontal line.

David Hill Keller, Esq.

Bar # 003345

Constangy, Brooks & Smith, LLP

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CERTIFICATE OF SERVICE

I, Caroline Anders, say that I am the legal assistant for David H. Keller, attorney for Respondents Entera Holdings, LLC and Entera Work Comp Solutions, LLC with CONSTANGY, BROOKS & SMITH, LLP in Greenville, South Carolina; and on the 7th day of July, 2014, I mailed in a sealed envelope, postage prepaid, a copy of the Initial Reply Brief of The Appellants to the following person(s) at the following address:

Elliot F. Elam, Jr., Esq.
Deputy Director
South Carolina Department of Consumer Affairs
P.O. Box 5757
Columbia, SC 29250

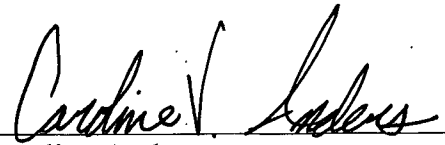
Jenny Abbott Kitchings
Clerk of Court

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SC Court of Appeals

South Carolina Court Of Appeals
P.O. Box 11629
Columbia, SC 29211

A handwritten signature in black ink, appearing to read "Caroline Anders", written over a horizontal line.

Caroline Anders

Legal Assistant to David H. Keller
Constangy, Brooks & Smith, LLP
105 N. Spring Street, Suite 105
Greenville, SC 29601
Telephone (864) 990-1883
canders@constangy.com

CONSTANGY
BROOKS & SMITH, LLP

105 N. SPRING STREET
SUITE 105
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 242-2577 • FACSIMILE (864) 242-9815
www.constangy.com

dkeller@constangy.com
864-242-2577

July 7, 2014

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

Re: **South Carolina Department of Consumer Affairs v. Entera Holdings,
LLC and Entera Work Comp Solutions, LLC.**
Docket No. 2014-000246

Dear Ms. Kitchings:

Enclosed please find Appellants Initial Reply Brief and a certificate of service on opposing council. Should you have any questions, please feel free to contact me.

Yours truly,



David H. Keller

DHK/cva
Enclosures

cc: Elliot F. Elam, Jr., Esq.

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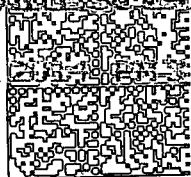
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CONSTANGY
BROOKS & SMITH, LLP

105 N. SPRING STREET
SUITE 105
GREENVILLE, SOUTH CAROLINA 29601

GREENVILLE, SC 29601

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