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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

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Unpublished Opinion No. 2014-UP-192 (S.C. Ct. App. Filed May 7, 2014)

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Lawrence Terry, ..... Petitioner,

v.

Allen University, ..... Respondent.

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**RETURN TO APPELLANT'S PETITION FOR WRIT OF CERTIORARI**

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Attorney for Respondent Allen University

Pursuant to Rule 242(f) of the South Carolina Appellate Court Rules, Respondent Allen University files this return to Appellant's Petition for Writ of Certiorari as to the Court of Appeals' unpublished opinion in this matter (Terry v. Allen University, Op. No. 2014-UP-192 (S.C. Ct. App. filed May 7, 2014) (Shearouse Adv. Sh. No. 18)).

The Petition for Writ of Certiorari in this matter should be denied. None of the factors in Rule 242(b), SCACR exist to justify the issuance of the writ. There is no Court of Appeals dissent, no constitutional issue, no federal question, and no novel question of law.

Furthermore, Appellant's argument that the Court of Appeals erred in affirming the circuit court's dismissal of the case because Allen was in default is without merit. Allen was not in default at the time the circuit court issued its dismissal. Allen's operative motion to dismiss was included in the Record on Appeal. See Amended Record p. 40-45 containing Allen's Motion to Show Cause, for Sanctions, and to Dismiss.<sup>1</sup> Allen was not required to file a new motion to dismiss simply because Appellant filed an Amended Complaint. *See* 6 Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, *Federal Practice and Procedure-Civil* § 1476 (2010) ("If some of the defects raised in the original motion remain in the new pleading, the court simply may consider the motion as being addressed to the amended pleading.")

The Panel considered each argument advanced by Appellant and rejected each claim. The Panel did not consider documents that were not presented to the circuit

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<sup>1</sup> While this Court did strike other motions filed by Allen from the Record, the motion to dismiss applicable to the order on appeal was included in the Record on Appeal.

court and did not use “an unknown Motion to Dismiss” as its reasoning for affirming the circuit court’s dismissal. See Petition for Writ of Certiorari at p. 6. Thus, the Panel did not overlook any argument advanced by Appellant or misapprehend Appellant’s arguments.<sup>2</sup>

Based on the foregoing, the Panel should deny Appellant’s Petition for Writ of Certiorari.

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Columbia, South Carolina

August 14, 2014

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<sup>2</sup> As noted in the opinion, Appellant raised five issues on appeal. The Panel ruled on all five in the opinion. However, Appellant’s petition for rehearing only advances argument related to one of the issues raised, namely the motion to dismiss argument. Appellant raises no arguments related to his other four issues addressed in the opinion. Therefore, those arguments are abandoned. See, e.g., Biales v. Young, 315 S.C. 166, 168, 432 S.E.2d 482, 484 (1993) (“Failure to argue is an abandonment of the issue and precludes consideration on appeal.”).

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2012-CP-40-04857

Court of Appeals Tracking No. 2013-000340

Lawrence Terry, ..... Appellant,

v.

Allen University, ..... Respondent.

**PROOF OF SERVICE**

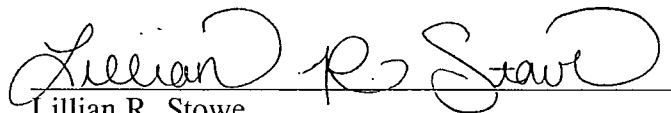
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondent, do hereby certify that I have served a copy of the pleading(s) hereinbelow specified by mailing a copy of the same (1) by United States Mail, postage prepaid, and (2) via Certified Mail, Return Receipt Requested, to the following address(es):

Pleadings:

Return to Appellant's Petition for Writ of Certiorari

Counsel Served:

Lawrence Terry, Plaintiff Pro Se  
P.O Box 24138  
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Lillian R. Stowe  
Administrative Assistant

August 14, 2014

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2012-CP-40-04857

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Lawrence Terry, ..... Appellant,

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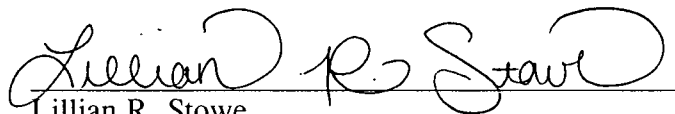
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August 14, 2014