

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Administrative Law Court

RECEIVED

OCT 21 2014

Ralph King Anderson III, Administrative Law Judge
Trial Court Case No.: 2013-ALJ-080267-AP **SC Court of Appeals**

Appellate Case No.: 2013-002415

Brook Waddle,.....Appellant,

v.

South Carolina Department of Health and Human Services.....Respondent,

**RESPONDENT'S SECOND MOTION FOR EXTENSION OF TIME TO FILE
AND SERVE INITIAL BRIEF AND DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL OR, IN THE ALTERNATIVE,
TO FILE A MOTION TO DISMISS APPEAL**

Counsel for the Respondent moves pursuant to Rule 263(b), SCACR, for a thirty (30) day extension of time in which to file and serve Respondent's Initial Brief and Designation of Matter Record on Appeal or in the alternative, to file a Motion to Dismiss the appeal. The grounds for this motion are that there is good cause to grant the requested extension as set forth:

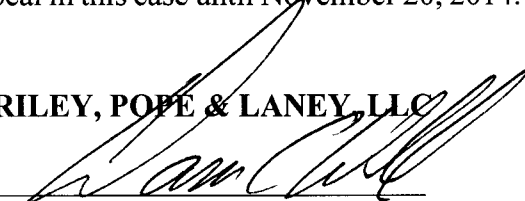
- 1) This is the second request for an extension of this type by Respondent's counsel;
- 2) Respondent current deadline for filing its Initial Brief and Designation of Matter is October 21, 2014;

- 3) The undersigned mistakenly thought Appellant's Amended Initial Brief and Designation of Matter were to be served on October 6, 2014 based upon the denial of the Appellant's Motion to attach exhibits to the Initial Brief. However, in re-reviewing the Order last week, the undersigned's error was identified as the Order provided that Appellant's Final Brief would not include the exhibits. The undersigned's error resulted in the first request for a fifteen (15) day extension.
- 4) In preparing to draft the initial brief and reviewing the case file,¹ the undersigned learned that the oximeter cable that was the subject of the underlying agency appeal and request for a fair hearing has been provided to the appellant irrespective of the current appeal. Accordingly, even if the Court grants the Appellant's appeal, the relief would be to remand the case to the agency for a fair hearing, for which this issue has been resolved and is therefore moot.
- 5) The undersigned is in the process of obtaining an Affidavit to accompany the Motion to Dismiss setting forth the requisite information showing this appeal is moot.
- 6) The undersigned is requesting a thirty (30) day extension due to current obligations during the weeks of November 3rd and 10th.

¹ The undersigned was retained to represent the Respondent in this appeal and did not participate in the underlying department level hearing or appeal to the Administrative

WHEREFORE Respondent's counsel prays for an Order extending the time in which to file and serve Respondent's Initial Brief and Designation of Matter Record or in the alternative, a Motion to Dismiss the Appeal in this case until November 20, 2014.

RILEY, POPE & LANEY, LLC



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Counsel for the Respondent

Columbia, South Carolina
October 21, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Administrative Law Court

Ralph King Anderson III, Administrative Law Judge
Trial Court Case No.: 2013-ALJ-080267-AP

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SC Court of Appeals

Brook Waddle,.....Appellant,

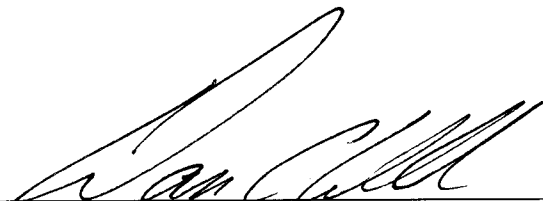
v.

South Carolina Department of Health and Human Services.....Respondent,

CERTIFICATE OF SERVICE

This is to certify that have this day caused to be served upon the person named below the attached **Respondent's Second Motion for Extension of Time to File Initial Brief and Designation of Matter to be Included in the Record on Appeal or, the alternative, to file a Motion to Dismiss Appeal** in the above-captioned matter via United States mail, first-class postage prepaid, to the following:

Patricia Harrison, Esquire
611 Holly Street
Columbia, SC 29205



Damon C. Wlodarczyk

Columbia, South Carolina
October 21, 2014

RILEY POPE & LANEY, LLC
ATTORNEYS AND COUNSELORS AT LAW

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FACSIMILE
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October 6, 2014

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SC Court of Appeals

(VIA HAND DELIVERY)
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

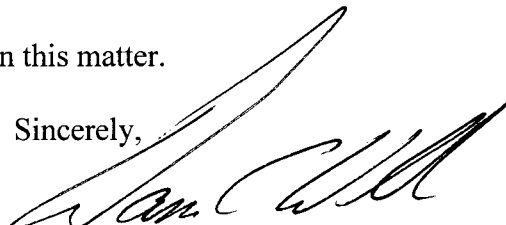
Re: Brook Waddle, Appellant, v. South Carolina Department of Health and Human Services,
Respondent
Court of Appeals Docket No.: 2014-002415³
Our File No. 5252.00114

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of Respondent's Motion for Extension of Time to File and Serve Initial Brief and Designation of Matter or, in the alternative, Motion to Dismiss Appeal along with proof of service. Please return one (1) filed copy of each to me with my courier. Pursuant to Rule 240(d), SCACR, the motion fee is not required as the movant is an agency of the State of South Carolina. Please do not hesitate to contact me with questions.

Thank you for your kind assistance in this matter.

Sincerely,



Damon C. Wlodarczyk

DCW/
Enclosure
cc: Patricia L. Harrison, Esq.