

SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia, South Carolina 29211

NOTICE OF INTENT TO APPEAL OUT OF TIME

APPEAL FROM THE GREENVILLE COUNTY CIRCUIT COURT

HONORABLE D. GARRISON HILL, Circuit Judge

CASE NUMBER 2010-CP-23-7631

IN RE:

Brenda Bryant, individually and as)
Guardian for Madison,)
)
Plaintiff,)
)
vs.)
)
Greenville County Disability and Special Needs,)
Brent Parker, John King, et al)
Defendants.)
_____)

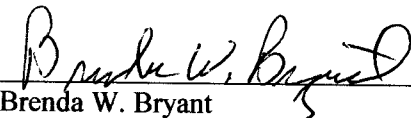
I, Brenda W. Bryant, am filing this Notice of Intent to Appeal out of time the following *Order* of the Honorable D. Garrison Hill:

Order of Judge D. Garrison Hill filed June 24, 2011
[a copy of which is attached hereto and incorporated herein by reference]

issued in Case/Docket Number 2010-CP-7631.

March 13, 2012

Lexington, South Carolina



Brenda W. Bryant
Pro-Se Plaintiff
264 Ashton Circle, Lexington, SC 29073

RECEIVED

MAR 14 2012

SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia, South Carolina 29211

CERTIFICATE OF SERVICE

APPEAL FROM THE GREENVILLE COUNTY CIRCUIT COURT

HONORABLE D. GARRISON HILL, Circuit Judge

CASE NUMBER 2010-CP-23-7631

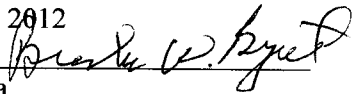
IN RE:

Brenda Bryant, individually and as)
Guardian for Madison,)
)
Plaintiff,)
)
vs.)
)
Greenville County Disability and Special Needs,)
Brent Parker, John King, et al)
)
Defendants.)
<hr/>	

I, Brenda W. Bryant, do hereby certify that I have served a copy of the *Notice of Intent to Appeal Out of Time, Motion to Proceed In Forma Pauperis, and Motion to Dismiss/Relieve Counsel* upon the following parties:

Clerk of Court – Greenville County Circuit Court
~~Greenville County Circuit Court~~
~~Greenville County Circuit Court~~
~~Greenville County Circuit Court~~
 Greenville County Disability and Special Needs
 Brent Parker
 John King
 29____

305 East Main Street,
 1204 East Main Street,
 P.O. Box 233, Chapin, SC
 _____, Greenville, SC
 _____, Greenville, SC
 _____, Greenville, SC

3/3, 2012
 Brenda W. Bryant 
 Lexington, South Carolina

Pro-Se Plaintiff
 264 Ashton Circle, Lexington, SC

Honorable Paul B. Wickensimer
Clerk of Court
Greenville County Circuit Court
305 East Main Street
Greenville, South Carolina 29601

Via Regular Mail

Re: **Brenda Bryant vs. Greenville County DDSN, et al**
2010-GC-23-7631
Notice of Appeal

Dear Mr. Wickensimer:

Enclosed herewith for filing please find the following filed today in the South Carolina Court of Appeals in connection with the above matter:

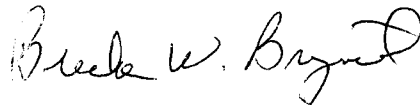
1. Original and one (1) copy of my *Notice of Intent to Appeal Out of Time*;
2. Original and one (1) copy of *Motion to Proceed In Forma Pauperis*;
3. Original and one (1) copy of *Motion to Dismiss/Relieve Counsel*; and,
4. *Certificate of Service* evidencing service of the above upon all interested parties.

Please file the original of the above documents and return to me clocked copies of the same using the enclosed return envelope.

By copy of this *Letter* to the parties identified below and in the *Certificate of Service* or his or her counsel of record, I am serving each with a copy of the *Motion*.

With regards, I am,

Respectfully,



Brenda W. Bryant

cc: Rodney F. Pillsbury – Attorney for Tracy Parsons
Greenville County DDSN
John King
Brant Parker

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(864) 478-2135
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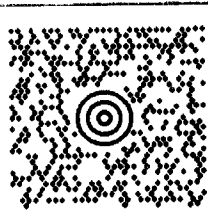
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TO: (803) 734-1890
SOUTH CAROLINA COURT OF APPEALS
1015 SUMPTER ST

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COLUMBIA SC 29201

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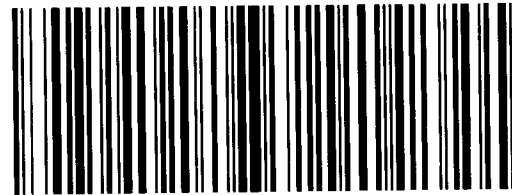
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SOUTH CAROLINA COURT OF APPEALS
1015 SUMPTER ST

COLUMBIA SC 29201 - 3728

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Brenda W. Bryant
264 Ashton Circle
Lexington, SC 29073

March 13, 2012

Tonya G ~~ee~~
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, South Carolina 29211

Hand Delivered

Re: **Brenda Bryant vs. Greenville County DDSN, et al**
2010-GC-23-7631
Notice of Appeal

Dear Ms. G ~~ee~~

Enclosed herewith for filing please find the following in connection with the above matter:

1. Original and one (1) copy of my ***Notice of Intent to Appeal Out of Time***;
2. Original and one (1) copy of ***Motion to Proceed In Forma Pauperis***;
3. Original and one (1) copy of ***Motion to Dismiss/Relieve Counsel***; and,
4. ***Certificate of Service*** evidencing service of the above upon all interested parties.

Please file the original of the above documents and return to me clocked copies of the same using the enclosed return envelope.

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With regards, I am,

Respectfully,



Brenda W. Bryant

cc: Rodney F. Pillsbury – Attorney for Tracy Parsons
Greenville County DDSN
John King
Brent Parker

RECEIVED

MAR 14 2012

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Brenda W. Bryant, individually and in capacity)
as Guardian for Madison, a mentally disabled person,)
)
Plaintiff,)
vs.)
)
The Greenville County Disabilities and Special Needs)
Board, The South Carolina Department of Disabilities)
and Special Needs, John King, individually and in his)
official capacity, Brent Parker, individually and in his)
official capacity, Melissa Stubblefield, individually and)
in her official capacity, Jennifer Bogart, individually and)
in her official capacity, Tracy Parsons, William H.)
Davidson, II, Esquire, and Theresa A. Horton, Esquire,)
)
Defendants,)
)
_____)

C.A. NO.: 10-CP-23-7631

ORDER

This matter comes before the Court upon Defendant Tracy Parsons' ("Defendant Parsons") rule to show cause for the plaintiff to be held in contempt of court for failing to pay the sanctions ordered by this Court in its order of November 10, 2010.¹ Although Plaintiff's counsel of record received notice of the hearing and has not been relieved by this court as Plaintiff's counsel, Plaintiff appeared at the hearing *pro se*, stating that she had been told that the contempt proceedings were a separate matter and did not require her counsel's attendance. For reasons set forth herein, the Court grants Defendant Parsons' rule to show cause and finds the plaintiff in contempt of court.

¹Because the plaintiff openly rejected the previous ruling of this Court in its November 10, 2010 order, the findings of fact and conclusions of law set forth therein are incorporated herewith *in toto*.

Procedural History

The relevant procedural history is straightforward. Plaintiff filed this action on September 16, 2010 alleging various claims against Defendant Parsons and several other named defendants. Defendant Parsons immediately filed a Motion to Dismiss and Motion for Sanctions on September 17, 2010. After a hearing, this Court signed an order on November 10, 2010 that was entered on November 16, 2010 granting Defendant Parsons' motion and ordering the plaintiff to pay a sanctions award in the sum of \$5,062.50 within fifteen (15) days of entry of the order.

Plaintiff never filed a motion under Rule 59 of the South Carolina Rules of Civil Procedure,² nor did the plaintiff file a notice of intent to appeal. As such, the order of November 10, 2010 is final and is the law of the case.

After expiration of the time to appeal, Defendant Parsons' counsel wrote the plaintiff and her counsel on January 3, 2011, informing them that if payment was not received on or before January 10, 2011, Defendant Parsons' counsel would file a Rule to Show Cause. Having received no response, counsel filed the petition for a rule to show cause on February 7, 2011.

A hearing was held before Judge Garrison Hill on March 2, 2011. On March 21, 2011, Judge Hill ruled that the plaintiff had to be personally served with the petition. Defendant Parsons personally served the plaintiff with the petition on April 12, 2011.

Notice of the hearing was sent by Defendant Parson's counsel to the plaintiff and her counsel on May 19, 2011. The hearing was held on June 10, 2011.

²At the hearing, Plaintiff misrepresented to the Court that such a motion had been filed. The Non-jury Court Coordinator, who was in attendance at the hearing, confirmed that no such motion has ever been received by the Clerk of Court's office.

Plaintiff then changed her story to state that she believed her attorney of record had mailed something to the clerk's office. Neither the clerk's office nor Defendant Parsons' counsel has ever received such a mailing.

Findings of Fact and Conclusions of Law

At the hearing, Plaintiff agreed to proceed *pro se* despite the absence of her attorney of record. Plaintiff first declared that she wanted a jury trial on the contempt proceedings. Because the immediate action pertains to the plaintiff's requirement to pay fine and/or damages to a party in this case, this is a matter of civil contempt. *See, Poston v. Poston*, 331 S.C. 106, 115, 502 S.E.2d 86, 90 (1998). A civil contempt proceeding does not require a jury trial. *Shillitani v. U.S.*, 384 U.S. 364, 86 S.Ct. 1531, 16 L.Ed.2d 622 (1966) (no jury trial is required for a civil contempt proceeding even though the resulting imprisonment may be long because the contemnor may avoid the sanction by complying with the court's order); *see also* 17 Am.Jur.2d Contempt § 203. As such, Plaintiff's request for a jury trial on these civil contempt proceedings is denied.

The plaintiff also argued that the November 10, 2010 order erroneously was heard because she had never served Defendant Parsons with the lawsuit in order to "commence" the action under Rule 4 of the South Carolina Rules of Civil Procedure. At the original hearing for the Motion to Dismiss and Motion for Sanctions, Defendant Parsons waived any defect in service. Such findings were incorporated into this Court's order of November 10, 2010 and are now final and the law of the case.

Similarly, Plaintiff argued that she should not be sanctioned because she believed she had a meritorious case against Defendant Parsons. This Court went to great lengths to explain why such claims against Defendant Parsons were patently frivolous in this lawsuit and why severe sanctions were justified under the circumstances. [*see, n.1, supra*] The findings of fact and conclusions of law are now final and the law of this case. Plaintiff's contention to the contrary is now irrelevant.

Having addressed each of the arguments proffered by the plaintiff, the Court then inquired from the plaintiff if she intended to comply with its order of November 10, 2010. The plaintiff

indicated on the record that she disagreed with the court's findings and had no intention of paying any fine or sanction to Defendant Parsons.

The Court then held the plaintiff in contempt of court. In lieu of any further sanction, the Court hereby grants the plaintiff thirty (30) days to contact Rodney Pillsbury, attorney for Defendant Parsons, to make the necessary payment arrangements for the outstanding sanction. The responsibility for establishing contact rests solely with the plaintiff. Furthermore, counsel for Defendant Parsons has indicated his preference that all communication be in writing, to avoid any dispute about accuracy.

Conclusion

The Court hereby finds the plaintiff to be in wilful contempt of its order of November 10, 2010. The Court directs the plaintiff to arrange, in writing, mutually satisfactory terms for payment of the \$5,062.50 sanction within thirty (30) days of entry of this order. Should such terms not be made by that time, counsel for Defendant Parsons may petition the Court for further sanctions, including, but not limited to, imprisonment and/or payment of additional costs, attorney's fees and expenses associated with these (and future proceedings).

IT IS SO ORDERED, this _____ day of June, 2011.

The Honorable Edward W. Miller
Presiding Circuit Court Judge

SOUTH CAROLINA COURT OF APPEALS

P.O. Box 11629

Columbia, South Carolina 29211

MOTION TO PROCEED *IN FORMA PAUPERIS*

APPEAL FROM THE GREENVILLE COUNTY CIRCUIT COURT

HONORABLE D. GARRISON HILL, Circuit Judge

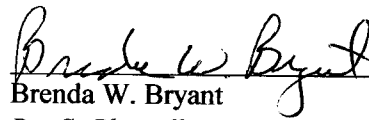
CASE NUMBER 2010-CP-23-7631

IN RE:

Brenda Bryant, individually and as)
Guardian for Madison,)
)
Plaintiff,)
)
vs.)
)
Greenville County Disability and Special Needs,)
Brent Parker, John King, et al)
)
Defendants.)
_____)

I, Brenda W. Bryant, hereby request *in forma pauperis* status in connection with the appeal of the above matter in order to negate the filing fees and other burdensome expenses due to the fact that my family is on a fixed income.

3/3 _____, 2012
/ 1
Lexington, South Carolina



Brenda W. Bryant
Pro-Se Plaintiff
264 Ashton Circle, Lexington, SC 29073

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MAR 14 2012
SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia, South Carolina 29211

MOTION TO DISMISS COUNSEL

APPEAL FROM THE GREENVILLE COUNTY CIRCUIT COURT

HONORABLE D. GARRISON HILL, Circuit Judge

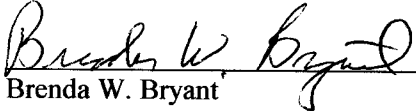
CASE NUMBER 2010-CP-23-7631

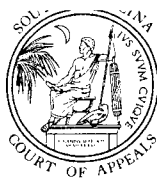
IN RE:

Brenda Bryant, individually and as)
Guardian for Madison,)
)
Plaintiff,)
)
vs.)
)
Greenville County Disability and Special Needs,)
Brent Parker, John King, et al)
)
Defendants.)
<hr/>	

I, Brenda W. Bryant, hereby request that Alice J. Perkins be relieved as counsel for me in the above matter, Case Number 2010-CP-23-7631.

3/13, 2012
Lexington, South Carolina


Brenda W. Bryant
Pro-Se Plaintiff
264 Ashton Circle, Lexington, SC 29073



The South Carolina Court of Appeals

JENNY A. KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 16, 2012

Alice Perkins, Esquire
PO Box 3527
West Columbia, SC 29169

Brenda W. Bryant
264 Ashton Circle
Lexington, SC 29073

Re: Bryant, Brenda v. Greenville DSNB
Case Tracking #: 2012209448

Dear Ms. Bryant:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. Failure to file in the proper court may result in the dismissal of your appeal. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the bar number and firm name of any counsel shown must be included in his or her address.

Within ten days of the date of this letter, you are requested to provide

1. an Amended Notice of Appeal stating the date that you received the lower court order that you are appealing, pursuant to Rule 203, SCACR.
2. Proof of Service for the Amended Notice of Appeal
3. a copy of the order you are appealing that includes the Judge's signature
4. an Amended Proof of Service that includes the names and mailing addresses for the parties to the appeal. The Proof of Service that you have provided is illegible.

Failure to provide this information within ten days will result in the dismissal of this appeal. The fact that you are not an attorney does not relieve you of the responsibility to perfect your appeal in accordance with the South Carolina Appellate Court Rules. These rules are now available on the Internet at www.sccourts.org.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within 10 days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the

notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

I further wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

V. Claire Allen, Deputy
Jenny A. Kitchings
CLERK

JAK/ec

cc: Rodney F. Pillsbury, Esquire
Russell W. Harter, Esquire
The Honorable Paul B. Wickensimer

SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia, South Carolina 29211

AMENDED NOTICE OF INTENT TO APPEAL OUT OF TIME

APPEAL FROM THE GREENVILLE COUNTY CIRCUIT COURT

HONORABLE D. GARRISON HILL, Circuit Judge

CASE NUMBER 2010-CP-23-7631

IN RE:

Brenda Bryant, individually and as)	
Guardian for Madison,)	
)	
Plaintiff,)	
)	
vs.)	
)	
Greenville County Disability and Special Needs,)	
Brent Parker, John King, et al)	
Defendants.)	
)	

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APR 20 2012
SC Court of Appeals

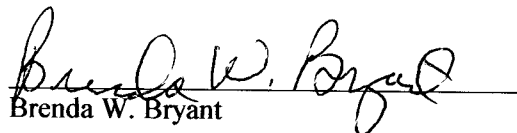
I, Brenda W. Bryant, am filing this Notice of Intent to Appeal out of time the following *Order* of the Honorable D. Garrison Hill:

Order of Judge D. Garrison Hill filed June 24, 2011
[a copy of which is attached hereto and incorporated herein by reference]

issued in Case/Docket Number 2010-CP-7631.

I was informed by my Attorney about the *Order* on or about November/2011. My Attorney had not then been relieved as counsel, and as such did not file an appeal of the *Order*. I filed with this Court a Motion to relieve her as counsel. I am informed and believe that as a client, I should not be penalized for the failure of my Attorney to proceed.

April 19, 2012
Lexington, South Carolina


Brenda W. Bryant
Pro-Se Plaintiff
264 Ashton Circle, Lexington, SC 29073

SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia, South Carolina 29211

AMENDED CERTIFICATE OF SERVICE

APPEAL FROM THE GREENVILLE COUNTY CIRCUIT COURT

HONORABLE D. GARRISON HILL, Circuit Judge

CASE NUMBER 2010-CP-23-7631

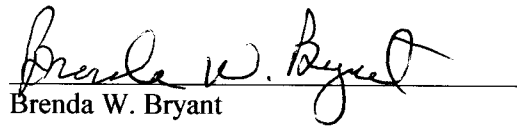
IN RE:

Brenda Bryant, individually and as)
Guardian for Madison,)
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Plaintiff,)
)
vs.)
)
Greenville County Disability and Special Needs,)
Brent Parker, John King, et al)
)
Defendants.)
_____)

I, Brenda W. Bryant, do hereby certify that I have served a copy of the *Amended Notice of Intent to Appeal Out of Time* upon the following parties:

Clerk of Court – Greenville County Circuit Court	305 East Main Street, Greenville, SC 29601
Rodney Pillsbury, Attorney	1204 East Main Street, Greenville, SC 29601
Alice J. Perkins, Attorney	P.O. Box 233, Chapin, SC 29036

April 19, 2012
Lexington, South Carolina



Brenda W. Bryant
Pro-Se Plaintiff
264 Ashton Circle, Lexington, SC 29073

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

SC Court of Appeals

APR 20 2012

C.A. NO.: 10-C-27631

RECEIVED

Brenda W. Bryant, individually and in capacity)
as Guardian for Madison, a mentally disabled person,)

Plaintiff,)

vs.)

The Greenville County Disabilities and Special Needs)
Board, The South Carolina Department of Disabilities)
and Special Needs, John King, individually and in his)
official capacity, Brent Parker, individually and in his)
official capacity, Melissa Stubblefield, individually and)
in her official capacity, Jennifer Bogart, individually and)
in her official capacity, Tracy Parsons, William H.)
Davidson, II, Esquire, and Theresa A. Horton, Esquire,)

Defendants,)

ORDER

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
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2011 JUN 20
P 4: 15

This matter comes before the Court upon Defendant Tracy Parsons' ("Defendant Parsons") rule to show cause for the plaintiff to be held in contempt of court for failing to pay the sanctions ordered by this Court in its order of November 10, 2010.¹ Although Plaintiff's counsel of record received notice of the hearing and has not been relieved by this court as Plaintiff's counsel, Plaintiff appeared at the hearing *pro se*, stating that she had been told that the contempt proceedings were a separate matter and did not require her counsel's attendance. For reasons set forth herein, the Court grants Defendant Parsons' rule to show cause and finds the plaintiff in contempt of court.

¹Because the plaintiff openly rejected the previous ruling of this Court in its November 10, 2010 order, the findings of fact and conclusions of law set forth therein are incorporated herewith *in toto*.

ea

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²At the hearing, Plaintiff misrepresented to the Court that such a motion had been filed. The Non-jury Court Coordinator, who was in attendance at the hearing, confirmed that no such motion has ever been received by the Clerk of Court's office.

Plaintiff then changed her story to state that she believed her attorney of record had mailed something to the clerk's office. Neither the clerk's office nor Defendant Parsons' counsel has ever received such a mailing.

Findings of Fact and Conclusions of Law

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IT IS SO ORDERED, this 22 day of June, 2011.



The Honorable Edward W. Miller
Presiding Circuit Court Judge

The South Carolina Court of Appeals

Brenda W. Bryant, individually and in capacity as
Guardian for Madison, a mentally disabled person,
Appellant,

v.

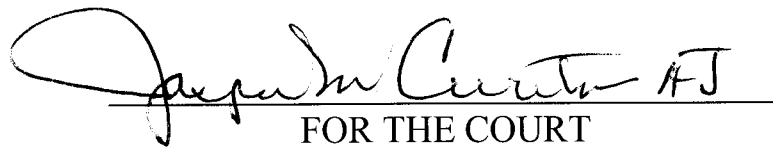
The Greenville County Disabilities and Special Needs
Board, The South Carolina Department of Disabilities
and Special Needs, John King, individually and in his
official capacity, Brent Parker, individually and in his
official capacity, Melissa Stubblefield, individually and
in her official capacity, Jennifer Bogart, individually and
in her official capacity, Tracy Parsons, William H.
Davidson, II, Esquire, and Theresa A. Horton, Esquire,
Respondents.

Appellate Case No. 2012-209448

ORDER

Appellant has filed a motion to proceed *in forma pauperis* and a motion to relieve her counsel. Appellant also served and filed an "Amended Notice of Intent to Appeal Out of Time," which indicated Appellant and her attorney received notice of the entry of the order "on or about November 2011." Appellant's proof of service indicates she did not serve Respondents with the Notice of Appeal until March and April 2012. Because Appellant did not timely serve all respondents with the notice of appeal, this appeal is dismissed. *See* Rule 203(b)(1), SCACR ("A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment."); Rule 263(b) ("The time prescribed by these Rules for performing any act *except the time for serving the notice of appeal under Rules 203 . . .* may be extended or shortened by the appellate court" (emphasis added)).

Because this appeal has been dismissed, this Court declines to act on Appellant's remaining motions.


FOR THE COURT

Columbia, South Carolina

cc:
Alice Jefferies Perkins
Rodney F. Pillsbury
Russell W. Harter, Jr.

FILED

Harter 5/22/12



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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June 14, 2012

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Bryant, Brenda v. Greenville DSNB
Lower Court Case No. 2010CP2307631
Appellate Case No. 2012-209448

Dear Mr. Wickensimer

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Brenda W. Bryant
Rodney F. Pillsbury
Russell W. Harter, Jr.