

**IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from the Administrative Law Court

The Honorable Shirley C. Robinson, Administrative Law Judge

Case No.: 2014-001484

Stephanie Stewart,
Appellant,

v.

**South Carolina Department of Employment & Workforce,
and Oconee County, South Carolina,**
Respondents.

**SECOND MOTION TO AMEND PREVIOUSLY FILED MOTION ENTITLED,
“APPELLANT’S APPLICATION FOR LEAVE TO PRESENT ADDITIONAL
EVIDENCE” DATED FOR OCTOBER 23, 2014**

Stephanie Stewart, Pro-Se
2142 Toccoa Highway
Westminster, South Carolina 29693
864-647-2216
stephstewart77@yahoo.com

RECEIVED

DEC 04 2014

SC Court of Appeals

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The Honorable Shirley C. Robinson, Administrative Law Judge

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**SECOND MOTION TO AMEND PREVIOUSLY FILED MOTION ENTITLED,
“APPELLANT’S APPLICATION FOR LEAVE TO PRESENT ADDITIONAL
EVIDENCE” DATED FOR OCTOBER 23, 2014**

COMES NOW, Stephanie Stewart, (hereinafter, “Stewart”), Appellant, Pro Se, moving this Honorable Court for leave to amend her “Appellant’s Application for Leave to Present Additional Evidence” Motion, previously filed before this Court on October 23, 2014. Stewart moves for such pursuant to Rule 240(c)(3), SCACR, requirement that “where the record on appeal ... has not been filed or where the facts relied upon in support of the motion are not contained in the record on appeal, the parties shall file affidavits and other documents in support of their positions.” Stewart previously filed the documents proposed to be attached as amendments on October 31, 2014. Such was returned to Stewart by the Clerk of this Court on October 31, 2014 and received by Stewart on November 1, 2014.

Stewart filed her Initial Appeal Brief and Designation of Matters in the instant case simultaneously with the subject application and did not specifically detail which documents were to be considered as part of the “Application for Leave to Present Additional Evidence”. As such, the Clerk exercised its discretion and deemed the documents below to be a part of the Designation

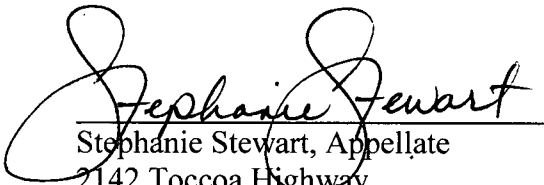
of Matters and returned them as prematurely submitted pursuant to Rule 209, SCACR. See Exhibit 1. This unintended error has resulted in the Court not having before it the necessary documents the Application Motion references to permit meaningful review. As a collateral effect, Stewart now moves this Court for leave to amend the Application by attachment of the instant documents, which are fully referenced within the previously submitted Application. The documents sought to be appended are as follows:

1. Nine (9) Exhibits referenced in the Memorandum in support
2. Excerpts of SCDEW 12/11/13 Initial Record on Appeal
 - a. 12/11/13 SCDEW Memorandum to SCALC
 - b. SCDEW Record on Appeal caption page
 - c. Certification
 - d. Excerpts of 12/11/13 Record On Appeal (95-100)
3. SCDEW ⁹⁸3/19/14 Amended Record on Appeal (Entirety)
4. SCDEW 2/24/14 Supplement to Record on Appeal (Entirety)

For the reasons stated above, Stewart seeks to correct the filing error through submission of the instant Pleading. WHEREFORE, Stewart prays her motion is GRANTED.

Dated this 28 day of November, 2014

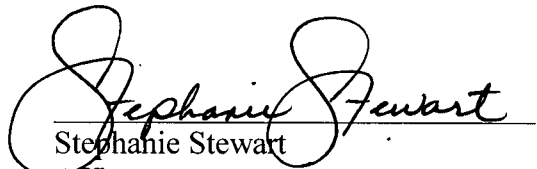
Respectfully Submitted,


Stephanie Stewart, Appellate
2142 Toccoa Highway
Westminster, South Carolina 29693
864-647-2216
stephstewart77@yahoo.com
Pro-Se

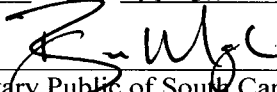
STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

SWORN AFFADAVIT

PERSONALLY came and appeared before me, the undersigned Notary, the within named Stephanie Stewart, who is a resident of Oconee County, 2142 Toccoa Highway, State of South Carolina, 29693, and makes her statement and Sworn Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts set forth within her pleading styled Second Motion to Amend Previously Filed Motion Entitled, 'Appellant's Application for Leave to Present Additional Evidence' dated for October 23, 2014" dated November 28, 2014, is true and correct to the best of her knowledge.


Stephanie Stewart
Affiant

Dated and sworn to before me this the
28th day of NOVEMBER 2014.


Notary Public of South Carolina
My Commission Expires: 6/16/20

BRIAN MCGHEE
Notary Public - State of South Carolina
My Commission Expires June 16, 2020

**IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

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Case No.: 2014-001484

Stephanie Stewart,
Appellant,

v.

**South Carolina Department of Employment & Workforce,
and Oconee County, South Carolina,**
Respondents.

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SC Court of Appeals

CERTIFICATE OF SERVICE

I certify that I have served the above "Second Motion to Amend Previously Filed Motion Entitled, 'Appellant's Application for Leave to Present Additional Evidence' dated for October 23, 2014", by depositing the same in the United States mail, postage prepaid, on December 1, 2014 to each parties' address of record listed in the above captioned case.

SCDEW
Office of General Counsel
Attn: Attorney E.B. Trey McLeod, III
Post Office Box 8597
Columbia, South Carolina 29202

Oconee County
c/o: McNair Law Firm
Attn: Attorney Reginald Gay
Post Office Box 447
Greenville, South Carolina, 29602

Dated this 1st day of December 2014.


Stephanie Stewart
2142 Toccoa Highway
Westminster, South Carolina 29693
Phone: 864-647-2216
Pro-Se

December 1, 2014

Stephanie Stewart
2142 Toccoa Highway
Westminster, South Carolina 29693

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

RE: Stewart v. SCDEW et. al., Case No.: 2014-001484

Ms. Kitchings:

Please find enclosed "Second Motion to Amend Previously Filed Motion Entitled, 'Appellant's Application for Leave to Present Additional Evidence' dated for October 23, 2014" along with:

1. Nine (9) Exhibits referenced in the Memorandum in Support;
2. Excerpts of SCDEW 12/11/13 Initial Record on Appeal:
 - a. 12/11/13 SCDEW Memorandum to SCALC
 - b. SCDEW Record on Appeal caption page
 - c. Certification
 - d. Excerpts of 12/11/13 Record on Appeal (95-100);
3. SCDEW 2/19/14 Amended Record on Appeal (Entirety);
4. SCDEW 3/24/14 Supplement to Record on Appeal in its entirety; and

Also enclosed, is "Appellant's Return in Opposition to the Respondents' Joint Motion to Dismiss Appellant's Appeal for Failure to Comply with the South Carolina Appellate Court Rules or, In the Alternative, Motion to Strike", along with six (6) attached Exhibits referenced therein.

Should you have any questions or need additional information, please do not hesitate to contact me.

Respectfully Submitted,


Stephanie Stewart

cc: Trey McLeod
Reginald Gay

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DEC 04 2014

SC Court of Appeals

Oconee County
Summary Court

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



MEMORANDUM

TO: Kay Olbon
Human Resources Director

FROM: Judge M. Todd Simmons
Chief Administrative Summary Court Judge

RE: Transfer

DATE: May 3, 2013

Please be advised that Stephanie Stewart's work location has been changed. Mrs. Stewart will now be located at the Walhalla Magistrate Court under the direct supervision of Judge Mike Norton. This change takes effect on Monday, May 6, 2013 at 8:30 am.

Stephanie was hired on January 10, 2011, as a Magistrate Clerk to fill the position in the Walhalla Court following the retirement of a former employee. At all times during the interview process, I made it very clear to Mrs. Stewart that her position would be permanently located in Walhalla following a brief introductory period in the Seneca Magistrate Office. Following the standard Oconee County pre-hire procedures, Mrs. Stewart was temporarily assigned to the Seneca office to receive training. The training consisted of learning as much as possible about the complicated case management system, the scheduling of preliminary hearings, and the day to day functions of a Court Clerk. After several weeks, Mrs. Stewart was assigned permanently to the very busy Walhalla office. Mrs. Stewart remained there until September 19, 2011. Through discussions with Judge Norton and Mrs. Stewart, it became apparent that Mrs. Stewart was not happy with her Walhalla assignment. I determined that Mrs. Stewart needed additional training and that I needed to work with the Walhalla office staff to address some intra-office personality differences. Mrs. Stewart was moved back to the Seneca office where she has

"Post HR Transfer Memo" (May 3, 2013)

EXHIBIT

1

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DEC 04 2014

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OCT 27 2014

SC Court of Appeals

SC Court of Appeals

MTJ

SC Court of Appeals

**Oconee County
Summary Court**

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



remained responsible for scheduling preliminary hearings. Additionally, all criminal domestic violence cases were directed to the Seneca office and Mrs. Stewart has coordinated the CDV central court. Mrs. Stewart has also undertaken the many and various duties of a Court Clerk. She also is the main phone attendant and is the main front desk Court Clerk responsible for interacting with the public at the front window.

Since returning to Seneca, Stephanie has received substantial experience and does a great job. She has received good reviews from me and has shown that she can use and navigate the case management system properly. I have reviewed the workload distribution among the three Magistrate offices and Walhalla continues to handle the most cases within Oconee County. There continues to be a need for an additional Court Clerk in Walhalla. Due to the fact that my requested permanent Court Clerk position remains unapproved by the administration, I feel that it is best for the Oconee County Magistrate Department to transfer Mrs. Stewart back to the office she was hired to work in. Mrs. Stewart has received a great deal of training and experience during her temporary reassignment to Seneca and I believe she will work well in the Walhalla office and receive good reviews from her new supervisor. Supporting documentation is attached. I would appreciate it if you would place this memo and supporting materials in Mrs. Stewart's HR file maintained in your office. Please let me know if you need any additional information.

Acknowledged: _____

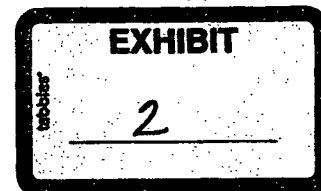
Witnessed: _____

MTS/ds

Enclosures (4)

MTS
5/3/13

"May 7th HR Transfer Memo"



Oconee County
Summary Court

MEMORANDUM

TO: Kay Olbon
Human Resource Director

FROM: Judge M. Todd Simmons *MTS*
Chief Administrative Summary Court Judge

RE: Transfer

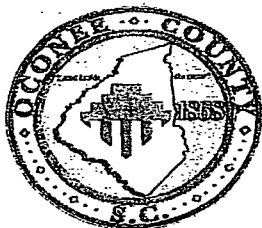
DATE: May 7, 2013

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462

On Friday, May 3, 2013 at 11:00 a.m. I held a meeting with Mrs. Stephanie Stewart to discuss her transfer to the Walhalla Magistrate Court. Documentation of the meeting has been provided to your office. As the documentation shows, Mrs. Stewart refused to be transferred. I gave her until the end of the work day to decide between one of three options. The options presented were: 1) she could decide to show up Monday morning at the Walhalla office and continue her employment, 2) she could resign, or 3) I would discuss her immediate termination with Mr. Scott Moulder, County Administrator. She was instructed to take the remainder of the day off on administrative leave and I contacted Kim Hopkins to advise her that it would be paid leave. Mrs. Stewart was also instructed to return her key to the Seneca office and to remove her personal belongings from her desk.

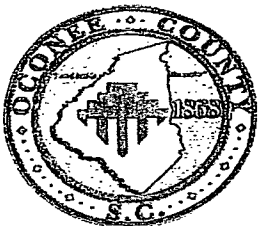
Immediately after the meeting, Mrs. Stewart asked if she could speak with me about a personal matter. I agreed and we sat in the court room and Mrs. Stewart asked Debbie Sheriff to leave the room. Once Mrs. Sheriff left the room, Mrs. Stewart accused Mrs. Sheriff of not accurately recording her time on the payroll sheets. Mrs. Stewart also claimed that Mrs. Sheriff took long lunch breaks, and was not as punctual as the other Court Clerks. Mrs. Stewart stated that the payroll records were not in Mrs. Sheriff's desk as they used to be. I asked Mrs. Stewart how she knew the records were gone. She explained that she went into her desk and looked for various records pertaining to the time sheets and also stated that Lisa Lee helped her do it. I immediately explained that no Court Clerk should ever do that. She stated that Mrs. Sheriff would go into her desk and intentionally remove files to make her look bad. Mrs. Stewart then implied that I knowingly let Mrs. Sheriff inaccurately record her hours and she also stated that Lisa Lee had called me several weeks before to complain about the matter. I explained to Mrs. Stewart that I didn't believe Lisa had called me and that I didn't remember having any conversation with her about the matter. Mrs. Stewart instant stated to me "you are a liar". Recognizing the civility of the meeting was rapidly declining, I informed Mrs. Stewart that the meeting was over and that I would



**Oconee County
Summary Court**

Chief Judge M. Todd Simmons
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not be called a liar in my own court room. I instructed her to leave and consider her three options.

Following the meeting, I prepared a short resignation letter for Mrs. Stewart to sign and I provided it to her as she left. She gave me her office key and I helped her transport her personal belongings to her car parked on the street. She was once again advised to make a decision regarding her future with the Magistrate Department by the end of the work day. Mrs. Stewart called later that day and stated that she would report to the Walhalla office on Monday morning at 8:30 a.m. I explained that I would make the necessary arrangements. Thereafter, I arranged for her computer to be transported along with all of the files she needed to perform her job.

Mrs. Stewart has been given every opportunity to succeed as a Court Clerk. She takes assigned tasks and performs her work as required 95% of the time. What troubles me most about Mrs. Stewart is that the kind and cheerful individual that I initially hired no longer shows up for work. Instead, Mrs. Stewart is more concerned with what other employees are doing, she does not accept constructive criticism well, and she instantly assumes she is being accused of something if she is asked a question about what she did on any particular matter. While I understand that Mrs. Stewart may have felt stressed following the transfer meeting, she clearly showed a significant lack respect and professionalism when she stated to the Chief Magistrate in his own court room that he was a "liar". I have never had a criminal defendant do that in my court room, and I certainly will not stand for that type of conduct from a Court Clerk under my supervision.

While I have reluctantly agreed to allow Mrs. Stewart to continue her employment in Walhalla, I feel there are sufficient grounds for immediate termination. I believe that no further incidents should be tolerated.

MTS/das

MTS
5/7/13

**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

Mark H. Pullium
Director of
Administrative Services
mpullium@oconeesc.com
Direct Line: 864-364-5196

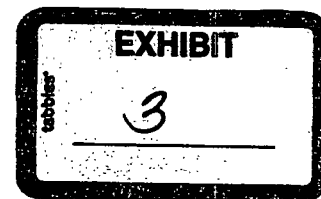
Ladale Price
Assistant Director,
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lprice@oconeesc.com
Direct Line: 864-364-5188

Art Holbrooks
Strategic Planner & Special
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aholbrooks@oconeesc.com
Direct Line: 864-364-5242

Kay Olbon
Human Resources
Manager
kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190

"Notice of County
Grievance
Hearing"



September 6, 2013

VIA CERTIFIED MAIL # 7011 0110 0001 6701 9717
First Class US Mail
And E-mail [stephstewart77@yahoo.com]

Ms. Stephanie Stewart
2142 Toccoa Hwy
Westminster, SC 29693

RE: Grievance Committee Hearing

Dear Ms. Stewart:

In accordance with your request, the County has scheduled a Grievance Committee Hearing for September 30, 2013 beginning at 9:30 am in the County Council Chambers, located at 415 South Pine Street, Walhalla, SC.

Grievance Hearings shall be closed hearings restricted to only those parties directly involved, which may include any legal representation as outlined in the Oconee County Personnel Manual; and

Grievance Committee members shall have no contact pertaining to the matter at hand with any parties to the hearing prior to the formal hearing; and

Discussions relating to the matter shall not be entertained by the Committee outside of the hearing proceedings; and

Only evidence and testimony directly pertaining to the grievance will be considered by the Committee; and

No debate shall occur between the party requesting the grievance, the human resource department, or the supervising employee; and

The Chairperson, for good cause shown, may extend the time limits set out in this section.

All correspondences related to the Grievance Committee Hearing should be directed to my attention.

I appreciate your cooperation in this matter, and if you should have any questions, please do not hesitate to contact me.

**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

Mark H. Pullium
Director of
Administrative Services
mpullium@oconeesc.com
Direct Line: 864-364-5196

Ladale Price
Assistant Director,
Administrative Services
lprice@oconeesc.com
Direct Line: 864-364-5188

Art Holbrooks
Strategic Planner & Special
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aholbrooks@oconeesc.com
Direct Line: 864-364-5242

Kay Olbon
Human Resources
Manager
kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190

Sincerely,



Mark H. Pullium
Director of Administrative Services

Enclosure: Excerpt from Oconee County Personnel Manual
Policy 7.1 Employee Grievance and Appeal Procedure

Cc: T. Scott Moulder
The Honorable Michael Todd Simmons

Oconee County
Administrative
Services



415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
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Art Holbrook
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aholbrook@oconeesc.com
Direct Line: 864-364-5212

Kay Olbon
Human Resources
Manager
kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190

To: Stephanie Stewart

From: Mark Pullium
Administrative Services Director

Re: Grievance Hearing

Date: September 30, 2013

Ms. Stewart,

Information attached has been entered into evidence in association with your Grievance hearing, held September 30, 2013 and per the request of the Grievance Committee Members.

You will receive same information via certified mail.



Subject: Grievance Hearing Information

From: Kay Olbon (kolbon@oconeesc.com)

To: stephstewart77@yahoo.com;

Date: Monday, September 30, 2013 1:09 PM

Ms. Stewart,

Please refer to the attachment of documents that have been entered into evidence regarding your hearing.

Kay Olbon

**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

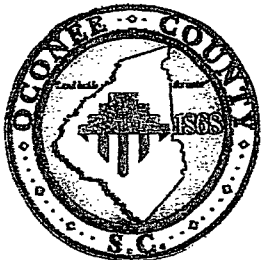
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Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190



September 30, 2013

Ms. Stephanie Stewart
2142 Toccoa Hwy.
Westminster, SC 29693

Sent via certified mail: 7011 0110 0001 6701 9755

Re: Grievance Hearing Information

Dear Ms. Stewart,

This package includes the information that was previously scanned and emailed to you today. As stated in the e-mail, the documents have been entered into evidence in association with your grievance hearing that was held September 30, 2013, per the request of the Grievance Committee Members.

Sincerely,

Mark H. Pullium
Director of Administrative Services

enclosures

Kay Olbon

Mailed Reg Cert. 5-24-13

From: Gay, Reggie [RGay@mcnair.net]
Sent: Friday, May 24, 2013 2:30 PM
To: Kay Olbon
Cc: Mark Pullium
Subject: RE: FOIA Steward

"May 24th HR
Email"



Yes, that should be included. Also, it mentions supporting documentation is attached. We need to attach the documentation.

M C N A I R
ATTORNEYS

Reginald M. Gay
Shareholder
rgay@mcnair.net

McNair Law Firm, P.A.
Anderson Office 132 East Benson Street | Suite 200 | Anderson, SC 29624
864 226 1688 Main | 864 225 6456 Fax
Mailing Post Office Box 4086 | Anderson, SC 29622
VCard | Bio URL | Web site

From: Kay Olbon [mailto:kolbon@oconeesc.com]
Sent: Friday, May 24, 2013 2:14 PM
To: Gay, Reggie
Cc: Mark Pullium
Subject: FOIA Steward
Importance: High

Reggie,
The attached document is the only piece of information forwarded to Hr. regarding the transfer of said ex-employee. We have no memo that was addressed to Ms. Steward in writing. Please advise if this needs to be a part of the personnel file of this individual, if so we will include a copy in FOIA packet and forward per her request.
Kay

From: Debbie Smith
Sent: Friday, May 24, 2013 2:10 PM
To: Kay Olbon
Subject:

CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US Federal Tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (I) avoiding penalties under the internal revenue code or (II) promoting, marketing or recommending to another party any transaction or matter addressed herein. This advice may not be forwarded (other than within the taxpayer to which it has been sent) without our express written consent. To read more about this disclosure, please see http://www.mcnair.net/D1D330/portalresource/IRS_Circular_230.pdf

PRIVILEGE AND CONFIDENTIALITY NOTICE: This communication (including any attachments) is being sent by or on behalf of a lawyer or law firm and may contain confidential or legally privileged information. The sender does not intend to waive any privilege, including the attorney-client privilege, that may attach to this communication. If you are not the intended recipient, you are not authorized to intercept, read, print, retain, copy, forward or disseminate this communication. If you have received this communication in error, please notify the sender immediately by email and delete this communication and all copies.

Oconee County
Summary Court

MEMORANDUM

"May 3rd Pre-HR
Meeting Transfer
Memo"

EXHIBIT

7

TO: Kay Olbon
Human Resource Director

FROM: Judge M. Todd Simmons, MTS
Chief Administrative Summary Court Judge

RE: Transfer

DATE: May 3, 2013

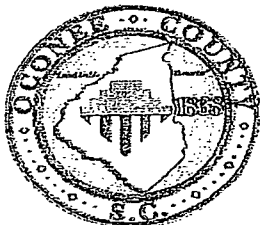
Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462

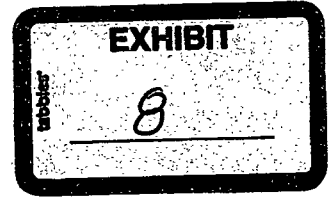
A meeting was held this date in the Courtroom of the Seneca Magistrate Court. Present at the meeting were Judge M. Todd Simmons, Chief Magistrate and Deborah Sheriff, Senior Court Clerk and Mrs. Stephanie Stewart. During the meeting Judge Simmons relayed his decision to transfer Mrs. Stewart back to the Walhalla Magistrate Office. He explained to Mrs. Stewart that was the position she was hired for and that due to the workload indicators he felt that he had no alternative but to make the transfer. He prepared a memo outlining those issues and presented the Memo along with documents to Mrs. Stewart. Mrs. Stewart stated that she would not go back to the Walhalla Office to work and that she would not sign anything. At that point Mrs. Stewart was asked to turn over her key to the Seneca Office and remove any personal items from her desk. She was also asked to contact Judge Simmons by the end of the day to relay her decision for further employment with Oconee County.

If you have any questions, please do not hesitate to call.

MTS/das



"May 9th Racial Overtone Email"



From: Stephanie Stewart
Sent: Thursday, May 09, 2013 8:44 AM
To: Blake Norton
Cc: Todd Simmons; Connie Weaver; Elizabeth Brackett
Subject: RE: Initials on Paperwork

Given the harsh and hostile history of and racial overtones that have existed within this office, it is necessary that I have way to clearly distinguish my work from other employees.

Stephanie Stewart - Staggus

EXHIBIT

9

not subject to County Policy.
Magistrate has the power to authorize
Investigators.

Complaint we against Lineman, should
be investigated w/ to Court Administration.

We do not have to prove, but do need to
investigate.

Have Todd call court administrator for guidance.

11:00 - Conference call

Third Court - make rec. recommendations to
Court Admin.

Bucky Worlock - HR Consulting

* Next step is meet with Stewart

5-15-13 Conference Call - W/ Glenn, Amanda, Brad,
Todd, Kay, Reggie, Abby

Research. status on Elected + appointed - per 1922
(1) ~~Alta~~ - main status deal w/ lines & fire, have authority to
lines & fire & not subject to County Divorce procedure.

Harassment + retaliation - complaint - claims inappropriate.

if found - not County to address their grievances.

We have complaint of harassment & grievance.
grievance is premature, due to no investigation.

We need to a harassment investigation by
County - Explain to her grievance is premature.

We will issue finding & conclusion to her.

10th Linda letter to her if who is appointed to investigate
done to show. Ask what the complaint is.

gpc. Investigator is required - Investigator needs for
her to put in writing her complaint & give us
names of individuals to question.

Will be safe for 3rd party investigate, independent
of County. Reggie & Dawn recommended! Becky Wallock
Reggie will contact Becky.

Called Court Admin - said she was County Employee
& County is responsible.

Do not include Job's documentation.

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



Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

631 Hampton Street
P.O. Box 8597
Columbia, South Carolina 29202
(803) 737-0395
FAX (803) 737-0124
December 11, 2013

RECEIVED
OCT 27 2014
SC Court of Appeals

The Honorable Shirley Robinson
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: Stephanie Stagger Stewart v. SCDEW and Oconee County
Docket Number: 13-ALJ-22-0555-AP

Dear Judge Robinson:

Enclosed are the original and one copy of the Record on Appeal in the above referenced case. Also enclosed is a certificate of service to the other parties.

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

With kind regards, I am

Sincerely Yours,

Jessica Chesley
Administrative Legal Assistant for
Trey McLeod
Attorney for SC DEW
Legal@dew.sc.gov

**THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
) CERTIFICATION
COUNTY OF RICHLAND)

The South Carolina Department of Employment and Workforce, by its Legal Department, hereby certifies that the attached hereto is a true and correct copy of the Record on Appeal in the matter of Stephanie Staggers Stewart v. SCDEW & Oconee County together with a true and correct copy of the original decision of the Appellate Panel therein.

**THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**

Jessica Chesley
Jessica Chesley, Administrative Legal Assistant

Columbia, South Carolina

EXHIBIT

31

May 07 2013

Stephanie Stewart
2142 Toccoa Hwy
Westminster, SC 29693

Oconee County Human Resource Department
Attn: Human Resource Director, Kay Olbon
415 South Pine Street
Walhalla, SC 29691

Ms. Kay Olbon:

Under the *South Carolina Freedom of Information Act, §30-4-10 et seq.*, I am requesting an opportunity to obtain copies of every item contained in my Human Resource file.

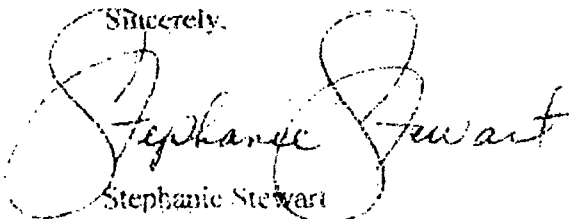
If there are any fees for copying these records, please inform me if the cost will exceed \$50.00. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest. This information is not being sought for commercial purposes.

The South Carolina Freedom of Information Act requires a response time within 15 business days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,


Stephanie Stewart

2005 2620 0002 7502 0508

US Postal Service		
CERTIFIED MAIL RECEIPT		
Postage & Fees		
MAILING LABEL USE		
Postage	\$	13.10
Certified Fee		13.10
Return Receipt For (Endorser's Required)		\$6.00
Restriction Delivery Fee (Endorser's Required)		\$6.00
Total Postage & Fees	\$	38.20

Sent to: Oconee County Human Resource
Serial, Aff. No.: 1111
or PE Box No.: 415 South Pine Street
City, State, ZIP: Walhalla, SC 29695

**Oconee County
Human Resources
Office**

**Kay C. Olbon
HR Director**

Oconee County Administrative
Offices
415 South Pine Street
Walhalla, SC 29691

Phone: 864-638-4252
Fax: 864-718-1077

E-mail:
kolbon@oconeesc.com

May 17, 2013

Ms. Stephanie Stewart

VIA Certified Mail: 7011 0110 0001 6702 2021

Dear Ms. Stewart:

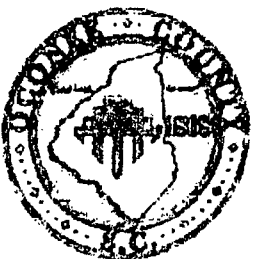
This letter acknowledges receipt of and is in response to your recent correspondence, dated May 7, 2013, and received by my office on May 8, 2013. Your request is subject to the South Carolina Freedom of Information Act, codified as Sections 30-4-10 *et seq.*, Code of Laws of South Carolina, 1976, *as amended* (the "Act"), and has been processed as such. Your request is approved for identifiable, non-exempt records in existence and within Oconee County's possession.

As I understand your correspondence, you requested copies of every item in your personnel file.

Oconee County can provide you copies of identifiable, records in existence and within Oconee County's possession. Oconee County anticipates spending approximately one (1) hour at an average rate of \$13.68 per hour for personnel costs to copy the records. In addition, Oconee County anticipates preparing and providing approximately fifty-two (52) copies to you at a cost of 25¢ per page for a total of \$13.00. Therefore, if you desire copies of such records, please remit your check payable to Oconee County, in the amount of \$26.68.

Upon receipt of your valid payment made payable to Oconee County Finance Office, 415 S. Pine St., Walhalla, SC 29691, Oconee County will proceed to search for and assemble and copy the records. If the actual cost to Oconee County for responding to your request is different than the approximation made herein, Oconee County will either refund the overage when Oconee County releases the records to you, or Oconee County will provide an invoice to you outlining the additional cost of providing copies of the records. Upon receipt of the valid payment in full, Oconee County will release copies of the records to you. Once Oconee County has received your valid payment, Oconee County estimates it will take approximately one (1) day to assemble and copy the approximately fifty-two (52) copies of the responsive records pursuant to your request.

Should you desire to inspect the records, the cost of 25¢ per page is not applicable, however, the fee for personnel costs to conduct the search remains.



**Oconee County
Human Resources
Office**

**Kay C. Olbon
HR Director**

Oconee County Administrative
Offices

415 South Pine Street
Walhalla, SC 29691

Phone: 864-638-4252
Fax: 864-718-1027

E-mail:
kolbon@oconeesc.com

Oconee County wishes to provide you the information you seek in the most cost-effective and user-friendly manner to you, while still allowing the staff of Oconee County to continue its normal daily operations and service to the citizens of Oconee County with minimal disruption. As you are aware, I deal with many different matters. As it should be, I rely heavily on the competent staff of Oconee County to help facilitate matters such as your request.

I can assure you that we make every attempt to answer the request for documents efficiently and uniformly. I look forward to providing you with the records soon so that this matter may be concluded.

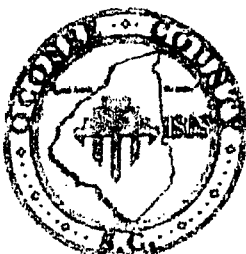
I look forward to your timely response, and / or payment, and I appreciate your interest in Oconee County and its matters.

Sincerely,



**Kay C. Olbon
Human Resources Manager**

C: file
TSM



**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

Mark H. Pullum
Director of
Administrative Services
mpullum@oconeesc.com
Direct Line: 864-364-5196

Ladale Price
Assistant Director,
Administrative Services
lprice@oconeesc.com
Direct Line: 864-364-5188

Art Holbrooks
Strategic Planner & Special
Projects
aholbrooks@oconeesc.com
Direct Line: 864-364-5242

Kay Olbon
Human Resources
Manager
kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slovery@oconeesc.com
Direct Line: 864-364-5190

May 24, 2013

Ms. Stephanie Stewart

VIA First class Mail and Certified Mail: 7011 0110 0001 6702 2052

Dear Ms. Stewart:

This letter acknowledges receipt of and is in response to your recent correspondence, dated May 7, 2013, and received by my office on May 8, 2013. Your request is subject to the South Carolina Freedom of Information Act, codified as Sections 30-4-10 *et seq.*, Code of Laws of South Carolina, 1976, *as amended* (the "Act"), and has been processed as such. Your request is approved for identifiable, non-exempt records in existence and within Oconee County's possession.

Enclosed, please find the information you requested: a copy of each item in your personnel file.

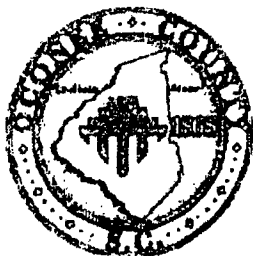
Unless I hear from you in writing within fifteen (15) days, I will consider this request for information complete.

Once again, I appreciate your interest in Oconee County and its matters.

Sincerely,



Kay Olbon
Human Resources Manager



**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

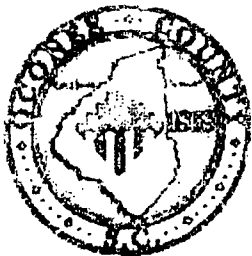
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Kay Olhon
Human Resources
Manager
kolhon@oconeesc.com
Direct Line: 864-364-5715

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5196



June 5, 2013

Ms. Stephanie Stewart

VIA Certified Mail: 7008 0150 0001 3102 6815

Dear Ms. Stewart:

This letter acknowledges your correspondence dated May 24, 2013, addressed to Scott Moulder, County Administrator regarding a recorded conversation between you and your supervisor. Unfortunately, this tape was not released to you in my previous response to your request under the Freedom of Information Act and it should have been. I apologize to you for any inconvenience this may have caused and have enclosed a copy of the recorded conversation with this correspondence since this material is responsive to your request for certain documents identified as within the County's possession. I am producing and providing a verbatim copy of the taped meeting between you and Judge Simmons on or about May 3, 2013.

In accordance with Oconee County guidelines a copy of information is enclosed. The cost to produce this CD is \$12.47. Please send a payment for this amount to my attention for this document, make check payable to Oconee County.

I assure you that Oconee County makes every attempt to provide information requested efficiently.

Sincerely,

Kay C. Olhon
Human Resources Manager

**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

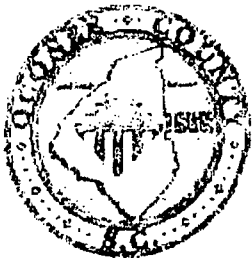
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Direct Line: 864-364-5242

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Human Resources
Manager
kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190



June 6, 2013

Ms. Stephanie Stewart

Sent via first class Mail

Re: Correspondence dated May 31, 2013

Dear Ms. Stewart:

This letter acknowledges your correspondence dated May 31, 2013. The taped meeting between Judge Todd Simmons and yourself was mailed June 5, 2013 via certified mail. Please contact me if you have not received it.

Regarding the e-mail documents that were not legible, the referenced dates on your correspondence relate to, (Monday) July 18, 2011 and (Friday) July 15, 2011, which have not occurred to date. I did locate (6) email documents with the dates of, (Monday) July 18, 2011 and (Friday) July 15, 2011. I am assuming these are the correct documents you are referencing. I am resubmitting those email documents with this correspondence.

I assure you that Oconee County makes every attempt to provide information requested efficiently.

Sincerely,

Kay C. Olbon
Kay C. Olbon
Human Resources Manager

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



Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

631 Hampton Street
P.O. Box 8597
Columbia, South Carolina 29202
(803) 737-0395
FAX (803) 737-0124
February 19, 2014

RECEIVED

DEC 04 2014

SC Court of Appeals

The Honorable Shirley Robinson
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: Stephanie Staggers-Stewart v. SCDEW and Oconee County
Docket Number: 13-ALJ-22-0555-AP

Dear Judge Robinson:

Enclosed are the original and one copy of the Amended Record on Appeal in the above referenced case. Also enclosed is a certificate of service to the other parties.

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

With kind regards, I am

Sincerely Yours,

Jessica Chesley

Jessica Chesley
Administrative Legal Assistant for
Trey McLeod
Attorney for SC DEW
Legal@dew.sc.gov

Stephanie Staggers-Stewart,
Appellant,

Docket No. 13-ALJ-22-0555-AP

VS.

SC Department of Employment and
Workforce and Oconee County,

Respondent,

AMENDED RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Administrative Law Court

APPEAL FROM SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT
AND WORKFORCE APPELLATE
PANEL

Stephanie Staggers-Stewart
2142 Toccoa Highway
Westminster, SC 29693
Claimant

Trey McLeod
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202
803-737-0395
legal@dew.sc.gov
Attorney for Respondent

Reggie Gay
132 E. Bunson Street, Suite 200
Anderson, SC 29624
Employer Attorney

**THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) CERTIFICATION

The South Carolina Department of Employment and Workforce, by its Legal Department, hereby certifies that the attached hereto is a true and correct copy of the Record on Appeal in the matter of Staggers-Stewart v. SCDEW together with a true and correct copy of the original decision of the Appellate Panel therein. Obconee County

THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE

Jessica Chesley
Jessica Chesley, Administrative Legal Assistant

Columbia, South Carolina

INDEX

Determination by Claims Adjudicator	1
Claimant Appeal to Appeal Tribunal.....	2
Appeal Tribunal Decision No. 2013-A-13189	3
Claimant Appeal to Appellate Panel.....	5
Notice of Hearing before the Appellate Panel	35
Claimant Motion	36
Claimant Written Argument to Panel	40
Appellate Panel Decision No. 2013-P-1546	149
Transcript of Testimony Appeal No. 11025-131024	154

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

P.O. BOX 995, COLUMBIA, S.C. 29202

1 OCONEE COUNTY
1 C/O HR KAY OLBON
1 415 S PINE ST
1
1

DATE OF THIS NOTICE 05/23/13

1 WALHALLA SC 29691

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS		
STEPHANIE STAGGERS				-2934	05/05/13	09/21/13		
WFC NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS	
370	I	01	\$ 248.00	\$ 4960.00	\$ 4960.00	\$ 0.00	05/04/14	

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 _____ You are eligible for benefits from the above effective date.

1 X You have been disqualified from receiving benefits or have been found to be ineligible for benefits
for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR IMPROPER ACTIONS
1 ON THE JOB. YOUR ACTIONS WERE CONTRARY TO WHAT AN EMPLOYER HAS A RIGHT TO EXPECT. YOU WERE
1 DISCHARGED FOR MISCONDUCT CONNECTED WITH THE EMPLOYMENT UNDER THE SOUTH CAROLINA CODE SECTION
1 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20
1 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF IMPROPER ACTIONS AND IMPROPER BEHAVIOR.
1
1
1
1
1
1
1

1 _____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 05/24/2013

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE 'APPEAL TRIBUNAL' P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

P. O. Box 995, Columbia, South Carolina 29202

SC Dept. of
Employment & Workforce

MAY 31 2013

Notice of Appeal to Appeal Tribunal

Received Benefits Div.

Claimant's Name: Stephanie Staggers Stewart

Social Security Number: - 2934

Claimant's Address:

Date of Initial Claim: 5/10/2013
(Month/Day/Year)

Telephone: _____

Employer's Name: Oconee County

Telephone: 864-638-4252

Employer's Address: 415 Pine Street, Walhalla, SC 29693

Appealing Party: Claimant: Stephanie Staggers Stewart

On 5/25/2013 I received a claims adjudicator's determination mailed 5/24/2013 from _____
(Date of receipt) (Mailing date on Notice)
which I appeal and hereby apply for a hearing because I believe it was issued in error for the following reasons:

"Pursuant to Title 41: Labor and Employment, Chapter 35: Employment and Workforce – Benefits and Claims therefor, Section 660: Appeals, the right to appeal the May 24, 2013 initial disqualification determination is effectuated for the following reason:

As the employee, Stewart asserts the employer's basis for separation was not the result of Stewart's improper actions or improper behavior. Stewart contends the subject termination resulted from Stewart exercising rights under FMLA, complaints of fraudulent abuse of overtime by co-worker and complaints of racial discrimination.

As such, a hearing is required to request and submit evidence and facts to support Stewart's position.

If appeal is untimely or you were absent from a prior hearing, state the reason: _____

I know that I must continue to file my claim for each week of unemployment until I receive the Appeal Tribunal's or Appellate Panel's decision, until I return to work, or until my claim is exhausted. If I win the appeal, I know I can only be paid for those weeks that I have claimed timely.

X
(Claimant's Initials)

Does claimant need an interpreter? ☐ YES ☒ NO What language/dialect?

Claimant is ☐ Deaf ☐ Mute

(If it appears necessary to subpoena witnesses or documents, you must report to your local office. A representative should use Form 107 and attach them to this form at the time of transmittal to the Central Office.)

SUBPOENA ☒ YES ☐ NO

Appellant: Stephanie Staggers Stewart

Signed By: Stephanie Stewart

Title: _____

Date: 5/30/2013

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

DECISION OF APPEAL TRIBUNAL

Hearing Date: August 20, 2013

STEPHANIE STAGGERS)

CLAIMANT

OCONEE COUNTY)
C/O HR KAY OLSON)
415 S PINE ST)
WALHALLA, SC 29691)

EMPLOYER

APPELLANT: Claimant

SS NO: 2934

APPEARANCES

FOR THE
CLAIMANT: PresentFOR THE
EMPLOYER: 4 witnesses

FINDINGS OF FACT

The issue in this case is whether the claimant was discharged for misconduct.

The claimant appealed the claims adjudicator's determination mailed May 24, 2013, which held the claimant disqualified from receiving benefits for twenty (20) weeks, effective May 5, 2013, through September 21, 2013, along with a corresponding reduction in the maximum potential benefit amount upon a finding the claimant was discharged for misconduct.

The claimant worked from January 10, 2011, to May 9, 2013, with the subject employer, most recently as a court clerk. On May 3, 2013, the chief magistrate called the claimant into a meeting with himself and the lead court clerk. During that meeting, the chief magistrate informed the claimant that she was going to be transferred to the Walhalla office because it was the busiest office in the county and it needed another court clerk to help. The claimant had initially been hired to work in the Walhalla office, but she was transferred out in 2011 because of issues she had with co-workers. The claimant initially refused to transfer during the meeting. The chief magistrate informed the claimant that she would be without a job if she did not transfer, and he gave her until the end of the day to think about the decision. At the end of the meeting—which was recorded with the permission of all parties involved—the claimant asked the chief magistrate to excuse the lead court clerk and turn off the recording so she could discuss a personal

matter. The claimant asked the chief magistrate about an unrelated issue regarding the lead court clerk and if he recalled having an earlier conversation with an individual about the lead clerk. The chief magistrate said that he did not recall the conversation taking place, to which the claimant responded that he was lying. During the hearing the claimant asserted that she did not say that the magistrate was lying; rather, she testified that she told the magistrate that what he was saying was not accurate. At the end of the day, the claimant changed her mind and accepted the transfer. She worked one day at the Walhalla office the following week before being discharged by the employer for calling the chief magistrate a liar.

REASONS

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of his employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

In this case, the claimant was discharged for directly impugning the chief magistrate's honesty. While the claimant denied having called the magistrate a liar, she acknowledged having told the magistrate that what he said about an earlier conversation was inaccurate. The manner in which the claimant conveyed this sentiment was antagonistic and was equivalent to calling the magistrate a liar. Such behavior constitutes a deliberate violation of the standards of behavior which the employer had the right to expect of the claimant. Therefore, the Tribunal finds that the claimant was discharged for misconduct and a disqualification must be imposed.

DECISION

The Tribunal hereby holds the claimant disqualified from receiving benefits for twenty (20) weeks, effective May 5, 2013, through September 21, 2013, along with a corresponding reduction in the maximum potential benefit amount, upon a finding the claimant was discharged for misconduct. This decision affirms the determination mailed May 24, 2013.

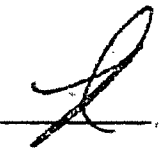
This will be the final decision of the Agency, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia, South Carolina, 29202", or by fax at 803.737.3166. For additional information on filing an appeal, visit our web site at www.dew.sc.gov/appeals.asp.

Lane K. Cook

Lane K. Cook
Administrative Hearing Officer

LKC: lc

Decision Mailed: 08/23/13

Mailed on the above Date By: 

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P. O. BOX 1752, COLUMBIA, SC 29202

APPLICATION FOR LEAVE TO APPEAL TO THE APPELLATE PANEL

Claimant's Name Stephanie Stewart

SSN 2934

Address _____

Telephone Number 864 647 2216

Employer's Name Oconee County

Address 415 Pine Street, Walhalla, SC 29691

 **COPY**

Please refer to Decision of Appeal Tribunal to complete section below

On August 26, 2013, I received Appeal Tribunal Decision Number 2013-A-13189
(Date of Receipt)

mailed to me on August 23, 2013
grounds _____
(Mailing Date on Decision)

I ask for review of the record on the following

Please see attachment

Faxed to 803 737 3166 and sent via U.S. Certified Mail No. 7009 2820 0002 7554 4797 on August 31, 2013

* If appeal is untimely, state the reason. If appellant failed to attend Appeal Tribunal hearing, state the reason and whether postponement was requested

I must continue filing my claims for each week of unemployment while my appeal is pending; I can only be paid for those weeks that I have timely claimed. If I have received benefits and am ruled disqualified or ineligible, I will be required to repay the benefits I have received for that time period.

**As a Board of Review, the Appellate Panel is confined solely to the record submitted by the Appeal Tribunal and does not accept additional evidence or testimony in its consideration of the appeal. For this reason, subpoenas for appeals to the Appellate Panel will not be issued.

Who is filing appeal. ☒ Claimant ☐ Employer

Signature _____

Title _____

Date 8/31/2013

RECEIVED

SEP 03 2013

SCOTW

HIGHER APPEALS

Does claimant need an interpreter? ☐ YES ☒ NO If yes, what language/dialect? _____

Claimant is ☐ Deaf ☐ Mute

Please submit form by fax to 803 737.3166 or by mail to "Appellate Panel, P O Box 1752, Columbia, SC 29202 "

August 31, 2013

Faxed to 803 737 3166 and sent via US Certified Mail No - 7009 2820 0002 7554 4797

Stephanie Stewart

Attachment for: Application For Leave To Appeal To The Appellant Panel

Appeal No.: 1311025

Decision No.: 2013-A-13189

I ask for review of the record on the following grounds

- 1 An explicit and tacit agreement between Stewart and the Employer to utilize administrative leave for Stewart to determine whether to transfer, resign, or receive involuntary termination
- 2 The facts and substantive documentary evidence infers that the close temporal proximity in time of Stewart's grievance and the Employer's decision to terminate was not based on employee misconduct
- 3 The Employer's cause of action for terminating Stewart's employment did not rise to the *Employer Handbook's* classification of termination for insubordination as stated by the termination notice.
- 4 The cause of action for terminating Stewart's employment did not rise to the South Carolina Supreme Court's common law definition of employee insubordination.
- 5 The AHO violated Stewart's due process rights in admitting evidence into the record not availed to Stewart by the Employer prior to the commencement of the hearing.
- 6 The AHO did not consider documentary evidence in support of Stewart's position during the hearing
- 7 The Employer did not meet its burden of proof to establish Stewart guilty of misconduct.
- 8 The AHO decision to deny benefits based on Stewart's statement was a denial of free speech by a public employee
- 9 The language of the AHO's decision evidences he misapplied and misinterpreted the facts of the case in reaching his conclusion.
- 10 The AHO improperly considered impermissible evidence and hearsay testimony from the Employer's witnesses during the hearing
- 11 Stewart's conduct did not violate the *Employee Handbook*
12. The AHO violated Stewart's due process right, by not including the subpoenaed HR Recording into the Tribunal Record, although it was requested

SS
8/31/13

RECEIVED

SEP 03 2013

SCDEW
HIGHER AUTHORITY APPEALS

Hearing Date and Time: (Tuesday) August 20, 2013 at 11:30 AM

**STATE OF SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
APPEAL TRIBUNAL**

**Appeal of Claims Adjudicator's Unemployment
Compensation in Eligibility Determination of Claim
Appeal No.: 1311025**

**Stephanie C. Stewart
Appellant,**

vs.

**South Carolina Department of
Employment and Workforce and
Oconee County, South Carolina,
Respondents.**

**MOTION TO SUBMIT DECLARATION OF FACTS, DOCUMENTARY
EVIDENCE, AND ARGUMENTS INTO TRIBUNAL HEARING RECORD
WITH BRIEF IN SUPPORT**

**Stephanie C. Stewart
2142 Toccoa Hwy
Westminster, South Carolina 29693**

**SCDEW Appeal Tribunal
Post Office Box 995
Columbia, South Carolina 29202**

**Oconee County
415 Pine Street
Walhalla, South Carolina 29691**

ARGUMENTS

I.

An Explicit And Tacit Agreement Between Stewart And The Employer To Utilize Administrative Leave For Stewart To Determine Whether To Transfer, Resign, Or Receive Involuntary Termination.

II.

The Facts And Substantive Documentary Evidence Infers That The Close Temporal Proximity In Time Of Stewart's Grievance And The Employer's Decision To Terminate Was Not Based On Employee Misconduct.

III.

The Employer's Cause Of Action For Terminating Appellant's Employment Did Not Rise To The Employer Handbook's Classification Of Termination For Insubordination As Stated By The Termination Notice.

IV.

The Cause Of Action For Terminating Appellant's Employment Did Not Rise To The South Carolina Supreme Court's Common Law Definition Of Employee Insubordination.

EXHIBIT LISTING

- Exhibit 1:** Email, [two (2) pages], dated, August 19, 2011, 10:50 AM, from Stewart to Norton. *Subject: Just want to say thank you!* (Listing racial overtones) with emailed response "Call me when you can. No Rush", from Simmons to Stewart, dated, August 19, 2011, 11:22 AM.
- Exhibit 2:** Email, [one (1) page], dated, September 16, 2011, 8:58 AM, from Norton to Simmons. *Subject: Stephanie.* (Requesting transfer of Stewart after staff meeting concerning subject matter of August 19, 2011 email to Norton).
- Exhibit 3:** Email, [one (1) page], dated, September 16, 2011, 10:00 AM, from Simmons to entire Oconee County Summary Court Staff. *Subject: Employee transfer.* (Transferring Stewart to Oconee County Summary Court, Seneca, South Carolina location effective September 19, 2011).
- Exhibit 4:** *Employee Performance Evaluation Report* for Stewart, [three (3) pages], dated, January 10, 2013.
- Exhibit 5:** *Designation Notice* (Family Medical Leave Act), Form WH-382, [one (1) page], dated, January 29, 2013.
- Exhibit 6:** SMS text messages, [one (1) page], from Simmons' cellular phone, 864-723-5135, to Stewart's cellular phone, 864-324-2700, for the time period of March 17, 2013, 6:52:05 AM through March 7, 2013, 6:53:58 AM.
- Exhibit 7:** Emails, [three (3) pages], dated April 30, 2013, 4:51 PM from Stewart to Simmons. *Subject: Today ...* (Refuting theft accusations by Sheriff and raising whistleblower complaint of Sheriff's overtime payroll fraud / Simmons' response
Stewart's Motion and Pleading with Exhibits

dated April 30, 2013, 5:38 AM resolving Stewart of theft accusations / Stewart's reply to Simmons dated, May 1, 2013, 8:57 AM).

Exhibit 8: Email, [one (1) page], dated, May 2, 2013, 11:44 AM from Simmons to Oconee County Summary Court Staff of the Seneca, South Carolina location. *Subject: HR meeting* (Response and confirmation of HR meeting scheduled Friday, May 03, 2013 at 11:00 AM).

Exhibit 9: Email, [one (1) page], dated, May 2, 2013, 11:51 AM, from Simmons to Oconee County Summary Court Staff of the Seneca, South Carolina location. *Subject: payroll procedures.* (Informing of proper payroll procedures after Stewart's April 30, 2013, whistleblower complaint regarding fraudulent overtime reporting by Sheriff).

Exhibit 10: Notarized Oconee County Summary Court, Seneca Office, *Transcript of HR Meeting*, held, Friday, May 03, 2013, [nineteen (19) pages], with Sworn Affidavit of Transcriber, Stephanie Stewart.

Exhibit 11: *Audio Sound Recording of HR Meeting* held, May 3, 2013. (Requested via Application for Issuance of Witness Subpoena form submitted to and received by the South Carolina Department of Employment and Workforce on May 30, 2013 - See Exhibit 28)

Exhibit 12: *MEMORANDUM*, [two (2) pages], dated, May 3, 2013 regarding Transfer, to Kay Olbon, Human Resource Director from Judge M. Todd Simmons, Chief Administrative Summary Court Judge.

Exhibit 13: *Resignation Letter*, authored by Simmons for Stewart, [one (1) page], dated, May 3, 2013 and given to Stewart by Simmons on May 3, 2013.

Exhibit 14: Email, [one (1) page], dated, May 6, 2013, 11:08 AM from Simmons to Kim Hopkins of the Oconee County Payroll Department. *Subject: Payroll.*
(Requesting administrative "decision-making" leave for Stewart with pay).

Exhibit 15: Email, [one (1) page], dated, May 8, 2013, 2:57 PM, from Stewart to County Administrator's Assistant / Office Manager, Amanda Brock. *Subject: Meeting* on May 8, 2013/ Request to meet with County Administrator (Stewart advised to report to Oconee County Summary Court, Walhalla location to avoid termination).

Exhibit 16: Cellular Telephone Call Detail of Stewart, [one (1) page], listing calls made from Stewart's cellular phone, 864-324-2700 to Simmons' cellular phone, 864-723-5135 on May 3, 2013 at 4:33 PM and 4:37 PM.

Exhibit 17: SMS text messages, [one (1) page], from Simmons' cellular phone, 864-723-5135, to Stewart's cellular phone, 864-324-2700, on May 3, 2013, 5:21:28 PM, accepting transfer.

Exhibit 18: "*Post HR Meeting*" MEMORANDUM, [one (1) page], preceding the May 3, 2013, HR Meeting, contained within Stewart's HR file and addressed to Human Resource Director, Kay Olbon, from Simmons, dated, May 3, 2013.

Exhibit 19: Vacation Leave Request Form for Stewart, [one (1) page], authorized by Norton, for May 6, 2013 for three hours, through May 7, 2013.

Exhibit 20: Email, [one (1) page], dated, May 8, 2013, 4:17 PM, from Stewart to Norton.

Subject: Initials on Paperwork. (Summarizing Norton's instructions).

Exhibit 21: Email, [two (2) pages], dated, May 8, 2013, 4:08 PM from Stewart to Norton.

Subject: Walhalla Expectations Meeting / (Monday) May 06, 2013.

(Summarizing meeting held, May 06, 2013 with Norton, Brackett and Stewart as attendants).

Exhibit 22: Email, [one (1) page], dated, May 9, 2013, 8:36 AM from Norton to Stewart,

Simmons and Oconee County Summary Court Staff of the Walhalla location, responding to email from Stewart. *Subject: Re: Walhalla Expectations Meeting / (Monday) May 06, 2013.*

Exhibit 23: Email, [one (1) page], dated, May 9, 2013, 8:29 AM, from Norton to Stewart,

Simmons and Oconee County Summary Court Staff of the Walhalla location, responding to email from Stewart. *Subject: Re: Initials on Paperwork.*

(Directing Stewart not to identify/ initial work product).

Exhibit 24: Email, [one (1) page], dated, May 9, 2013, 8:44 AM, from Stewart to Norton

Subject: Re: Initials on Paperwork. (Grievance detailing basis of initialing office work product due to racial overtones).

Exhibit 25: *Termination Notice*, [one (1) page], from Simmons to Stewart, dated, May 9, 2013.

Exhibit 26: South Carolina Department of Employment and Workforce Notice, Form UCB-103, *Determination by Claims Adjudicator on Claim for Benefits*, [one (1) page],

dated, May 23, 2013, disqualifying Stewart from receiving unemployment benefits under South Carolina Code, Section 41-35-120 (2) (A).

Exhibit 27: South Carolina Department of Employment and Workforce, *Notice of Appeal to Appeal Tribunal*, [one (1) page], dated, May 30, 2013.

Exhibit 28: South Carolina Department of Employment and Workforce, *Application for Issuance of Witness Subpoena*, [one (1) page], dated, May 30, 2013.

Exhibit 29: Oconee County Personnel Policy and Procedure Manual, ("*Employee Handbook*"), [nine (9) pages], dated, September 2012, (pgs, 53-60).

Exhibit 30: South Carolina Department of Employment and Workforce, *SCBOS NET 101. "Employer Response"* [seven (7) pages], dated, May 14, 2013.

Exhibit 31: *Freedom of Information Act*, (FOIA) requests made by Stewart to Human Resources for copies of each item contained within her HR file, along with subsequent responses, with dates of May 07, 2013, May 17, 2013, May 20, 2013, May 24, 2013, May 31, 2013, June 5, 2013 and June 5, 2013.

**STATE OF SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
APPEAL TRIBUNAL**

STEPHANIE C. STEWART,
Appellant,

vs.

SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE; AND
OCONEE COUNTY

Respondents.

Appeal No.: 1311025

**MOTION TO SUBMIT DECLARATION OF FACTUAL POINTS WITH
DOCUMENTARY EVIDENCE INTO TRIBUNAL HEARING RECORD IN
SUPPORT OF APPELLANT'S PETITION FROM UNEMPLOYMENT
COMPENSATION**

COMES NOW, Stephanie C. Stewart, Appellant, Pro-Se, in the above-entitled action moving this Tribunal to enter the below Declaration of Facts, Documentary Evidence, and Arguments as part of the Tribunal Hearing Record in consideration of reaching its decision. In connection therewith, Appellant, respectfully shows this Appeal Tribunal as follows:

PRE-TEXTUAL BACKGROUND

This is an appeal seeking reversal of a Claims Adjudicator's ineligibility of unemployment compensation determination for Stephanie C. Stewart (hereinafter, "Stewart"), on May 23, 2013. On May 3, 2013, Stewart was involuntarily transferred to a work location for

which she was previously reassigned as a remedy for racial animus after returning from federal statutory protected *Family Medical Leave Act* (FMLA) leave, for a gender specific serious medical condition, (Bi-lateral Breast Reduction), three weeks prior. Equally, prior to utilizing FMLA and contrary to law, the Employer threatened Stewart, stating she may not have employment upon returning. Additionally, two days prior to the involuntary transfer, Stewart emailed a grievance to her Employer refuting alleged theft accusations by a senior co-worker and raised a whistleblower complaint of fraudulent overtime reporting.

As a result, forty-eight hours later during a recorded conversation, Stewart was directed to transfer, the next business day, to the office whereby she experienced racial animus and was informed the basis of such transfer was due to budgetary constraints. **Initially, Stewart declined to transfer back into a racially hostile work environment, but subsequently entered into an agreement with her Employer, to exercise administrative leave for the remaining portion of the day in order to reach a definitive decision by close of business on May 3, 2013.**

After notifying the Employer of her intent to transfer, Stewart complied with Employer's directive and timely reported to her new assignment on May 6, 2013. After three hours and one day of authorized vacation leave commencing the latter portion of May 6, 2013 through May 7, 2013, Stewart, on May 9, 2013 forwarded a grievance by email, regarding racial overtones as a basis for documenting her written work products within the office. Five hours later Stewart returned from lunch and was subsequently terminated by her Employer for lack of professionalism and insubordination, allegedly exhibited approximately one week prior, on May 3, 2013; the very day Stewart and the Employer agreed to administrative leave for her to decide whether to transfer, resign or be involuntarily terminated. Specifically, the Employer cited the

Oconee County Policy and Procedure Manual, (hereinafter, "*Employee Handbook*") as the basis for Stewart's termination.

In this Motion, Stewart provides chronicled facts, serving as pre-textual factors in Employer's decision to terminate Stewart's employment unwarrantedly, and absent any misconduct. Stewart moves this Tribunal to enter the attached Declaration of Facts, Documentary Evidence and Arguments into the record in support of granting Stewart's petition for unemployment compensation benefits and to perfect and preserve the record for appellate review if necessary.

DECLARATION OF FACTUAL POINTS

1.

Stephanie C. Stewart, Appellant, an African-American female, was employed as a Court Clerk within the Oconee County Summary Court, Magistrate Department, beginning January 10, 2011 through May 9, 2013, and was the only employee of minority descent.

2.

Stewart, after three weeks of training in the Oconee County Summary Court, Seneca, South Carolina Office location, (hereinafter, "Seneca"), was permanently assigned to the Oconee County Summary Court, Walhalla, South Carolina Office location, (hereinafter, "Walhalla"), on or about Monday, February 1, 2011. Chief Magistrate Judge, Michael Todd Simmons (hereinafter, "Simmons"), served as Stewart's immediate supervisor while assigned to Seneca. Magistrate Judge, Blake A. Norton (hereinafter, "Norton"), served as Stewart's immediate supervisor while assigned to Walhalla. However, Simmons retained managerial authority over all Magistrate Department personnel. Court Clerks Deborah "Debbie" Sheriff (hereinafter,

"Sheriff"), and Lisa Lee (hereinafter, "Lee"), were Stewart's co-workers in Seneca throughout Stewart's entire tenure.

3.
On September 19, 2011, as a remedy, Stewart was reassigned by Simmons to Seneca, after experiencing multiple incidents of racial animus within Walhalla, causing collateral effects. *Reference, Exhibit 1, Exhibit 2, and Exhibit 3.*

4.
Stewart, while in Walhalla, performed her duties exemplary as reflected in multiple performance evaluations, including the most currently dated one of January 10, 2013. *Reference, Exhibit 4.*

5.
Stewart sought surgical medical treatment for a gender specific medical condition, (Bilateral Breast Reduction) surgery in December of 2012 and was approved for federal statutory protected FLMA Leave on January 29, 2013. *Reference, Exhibit 5.*

6.
On or about February 8, 2013, prior to utilizing FMLA Leave, negative comments were communicated to Stewart by Simmons encouraging her to return to work prior to release by her physician and possibly not having employment upon return from leave.

7.
Stewart utilized FMLA Leave from March 6, 2013 through April 10, 2013 and returned early on April 11, 2013 under limited duty restrictions, in consideration of losing employment, as articulated by Simmons. With disregard for Stewart's physical condition, Simmons suggested Stewart return to work early, exactly one day following her surgery, stating, "... keep in mind that if you get bored and want to work I can have a deputy come and get you". *Reference, Exhibit 6.*

8.

On April 30, 2013, Stewart forwarded an email to Simmons refuting theft accusations by Sheriff and presenting a whistleblower complaint regarding fraudulent reporting of overtime payroll reporting by Sheriff. *Reference, Exhibit 7.*

9.

On Thursday, May 2, 2013, at 11:44 AM, Simmons directed Stewart and Sheriff to attend a HR Meeting scheduled for Friday, May 3, 2013, at 11:00 AM, in the Seneca Courtroom. *Reference, Exhibit 8 and Exhibit 9.*

10.

On May 03, 2013, the above-mentioned HR meeting began at 11:00 AM with Sheriff, Simmons, and Stewart attending. *Reference, Exhibit 10 and Exhibit 11.* Simmons asked that the meeting be held in the courtroom with permission to record the conversation, in case it needed to be used later and that a copy of the meeting would be provided. *Reference, [HR Tr., p. 1, Lines 7-8].* Simmons began by describing how his role was very difficult in conducting meetings like the subject HR Meeting. Simmons stated he met with County Administration, referencing the Oconee County Administrator, Scott Moulder (hereinafter, "Moulder") and that he could not continue to justify the existence of three clerks in Seneca. Simmons presented Stewart with a graph prepared by Sheriff, illustrating the volume of cases processed in Walhalla and the Oconee County Summary Court in Westminster, South Carolina (hereinafter, "Westminster"), versus Seneca. Simmons stated Walhalla had the most cases, while Seneca had the least. Simmons stated no one was going to lose their job but he had to make the hard decision to reassign Stewart back to Walhalla under Norton's supervision. *Reference, [HR Tr., p. 5, Lines 14-24; p. 6, Lines 1-24 and p. 7, Lines 1-5].* Simmons possessed and presented a memo that he requested Stewart read and sign, to which Stewart refused. *Reference, Exhibit 12 and [HR Tr. p. 15, Lines 13-19; p. 16, Lines 21-23 and p. 17, Lines 4-9].* Stewart informed

Simmons she would not work for Norton. Simmons stated, "you will force me to fire you". Stewart requested time to think about and seek advisement prior to rendering her decision to transfer, resign or be terminated. *Reference, [HR Tr., p. 14, Lines 11-15]*. Stewart reminded Simmons that he himself stated that he would not work in Walhalla, due to the environment being harsh and hostile. Stewart also reminded Simmons that he informed her that she did not have to return to Walhalla because of their mistreatment of her. *Reference, [HR Tr., p. 14, Lines 16-17; p. 16, Lines 18-20]*. Stewart reiterated how Simmons informed her that if he were to reassign Lee or Sheriff to Walhalla, they would resign. Stewart inquired of Simmons why he was being singled out, especially given her history with that office. Simmons proffered that when she was hired, Walhalla was where the vacancy existed. Simmons advised Stewart to take the remainder of the day off to make her decision. Simmons informed Stewart he had taken the liberty of composing a resignation letter for her and all Stewart had to do was sign. *Reference, Exhibit 13*. Stewart stated to Simmons, she found this ultimatum to be interesting in light of the email she forwarded to Simmons two days prior referencing overtime abuse and stealing accusations. Stewart requested to speak with him without Sheriff's presence. Simmons agreed and preceded to turn-off the recording. Stewart asked if this [transfer] was what he intended when stating, "if you have a job" during the meeting on or about February 8, 2013 before her FMLA leave. Simmons stated "maybe" and commented how Stewart had five weeks to "lay-up" for cosmetic reasons with pay. Stewart, in disbelief, immediately asked why the timesheet transmittals were missing. Simmons assumed and asked, "So you went into Debbie's [Sheriff] desk"? Stewart informed Simmons, that she did not retrieve the timesheet transmittal book. Instead, Stewart offers that Lee went into Sheriff's workspace, obtained the timesheet transmittal book and showed her the transmittals were missing. In fact, the timesheet transmittal book was

empty. Simmons, never addressing this, asked, "why were you [Lee and Stewart] looking in Debbie's [Sheriff] desk when she does not do that to you [Lee and Stewart]"? Stewart informed Simmons he was incorrect and informed Simmons she was unaware that anyone's desk was off limits and it was common practice for each clerk to access common office documents and material from each other's area. Stewart further stated that whatever Sheriff documented as submitted to Finance as her payroll time information Stewart was entitled to access because it contained her payroll reporting records. Simmons stated Stewart was wrong on that point. Stewart asked Simmons if he remembered February 8, 2013, when Lee contacted him after discovering unearned overtime on her payroll and Simmons informed, he had asked Sheriff to review the timesheet transmittal logs unsuccessfully for an extended period. Stewart also asked Simmons if he recalled requesting Lee to forward an email on overtime and payroll reporting procedures and later rescinding the request prior to Lee's forwarding? Simmons replied, "I do not recall the conversation". Stewart asked, "Are you sure"? Simmons stated, "I do not know what you are talking about". Stewart stated, "That can't be accurate". Simmons jumped up in anger and with animation stating that Stewart had called him a liar in his courtroom and stated that their conversation was over. Stewart stated, "I did not call you a liar". Simmons stated as a judge, "It's my word against yours".

11.

Stewart departed on half-day administrative "decision-making" leave. *Reference, **Exhibit 14.*** Stewart attempted unsuccessfully to meet with the County Administrator, Moulder. Instead, Stewart consulted with the Administrator's Office Manager, Amanda Brock, who advised Stewart to report to Walhalla in order to avoid Simmons involuntary terminating her on the grounds of insubordination. *Reference, **Exhibit 15.***

12.

Per their agreement, Stewart notified Simmons on May 3, 2013 at 4:37 PM by way of telephone conversation of her intent to report to Walhalla on Monday, May 6, 2013. *Reference, **Exhibit 16.*** During this telephone exchange and in conjunction with SMS text messages from Simmons, he stated that Stewart had made the right decision. *Reference, **Exhibit 17.***

13.

Simmons responded affirmatively to Stewart's decision to report to Walhalla by way of SMS text message on, May 3, 2013 at 5:23:28 PM. *Reference, **Exhibit 17.***

14.

Simmons, documented in a formal memorandum, the HR Meeting of May 3, 2013 and had placed in Stewart's HR file. The memorandum was authored by Simmons and documented; 1.) his purported basis for Stewart's transfer, 2.) Stewart's initial refusal to transfer, and 3.) the opportunity afforded to Stewart to definitively disclose her decision, by end of business, to either transfer, resign, or be terminated. **The memorandum is absent any detail of verbal misconduct or unprofessionalism, whereby Simmons alleges Stewart called him a liar or any other violation of the *Employee Handbook*.** *Reference, **Exhibit 18.***

15.

On Monday, May 6, 2013, Stewart reported to Walhalla, on time, without incident. Upon reporting, Stewart requested three hours of vacation leave for the afternoon of May 6, 2013 and a full day of leave on May 7, 2013. *Reference, **Exhibit 19.*** The leave was approved by Norton, concluding a meeting in which he made unprofessional and demeaning comments to Stewart, within minutes of her first day in Walhalla.

16.

On May 8, 2013, Stewart returned from leave for her first full work day since transferring. Stewart processed and prepared documents, but was prohibited by Norton from placing her initials on her work product, as routinely accomplished in office settings. Stewart

adhered to Norton's instructions and documented his directive in an email at the end of the business day. *Reference, Exhibit 20.*

17.

Stewart also documented the subject matter of the May 6, 2013 "Walhalla Expectations" meeting, in an email as a summary. Stewart, accomplished the email due to unprofessional and demeaning statements, made by Norton to her. *Reference, Exhibit 21. **NOTE**, during the May 3, 2013 HR Meeting, in Simmons attempt to influence Stewart to transfer to Walhalla, he gave her three options. He stated, "...[T]here's three choices, you can go [to Walhalla] and document things if you see that things are happening that shouldn't be happening, you can resign or you can force me to fire you ... I don't want to do the last one". *Reference, [HR Tr., p.18, Lines 4-8]*. In accordance with Simmons' options, and coupled with Stewart's previous history of racial animus within Walhalla, Stewart documented the May 6, 2013 meeting and other material events for future reference. In response to Stewart's email summation, Norton responded the summary of events by Stewart was "fairly accurate". *Reference, Exhibit 21 and Exhibit 22.**

18.

On May 9, 2013, Norton, by email, responded to Stewart's May 8, 2013, 4:16 PM email, courtesy coping Simmons, and the entire Walhalla Staff, expressing his disagreement of Stewart's initialing any internal documents. *Reference, Exhibit 22 and Exhibit 23.*

19.

On May 9, 2013, Stewart responded to Norton and provided a distinct grievance reason for the need to distinguish her work product. Stewart stated, "Given the harsh and hostile history of racial overtones that have existed within this office, it is necessary that I have a way to clearly distinguish my work from other employees." *Reference, Exhibit 24.*

20.

On May 09, 2013, Stewart returned from lunch at 2:00 PM and observed Simmons' vehicle parked outside. Stewart entered, observed Norton and Simmons in a closed-door conference, began to work, and was rudely directed by Simmons to come into the courtroom where Norton and Bracket were seated at a conference table. Simmons proceeded to inform Stewart that he had been in discussions with both County Administration and the County Attorney and discovered that he could exercise his authority to terminate Stewart's employment for insubordination, when he said Stewart refused to transfer, and called him a liar on May 3, 2013. Stewart restated that she did report to Walhalla and did not call him [Simmons] a liar, and requested to review the recording. Simmons stated that he did not have a recording, because the recorder was turned off and it was his word, as a judge against Stewart. Simmons affirmatively stated that Stewart had called him a liar. Stewart then requested a signed copy of the *Termination Notice*, but Simmons refused. Simmons, instead stated, he would provide Stewart with a copy of the termination notice, when she signed it. Stewart refused, in disagreement and proceeded to phone the Department of Labor, because she believed the Employer, was mandated, to furnish a written reason for termination. Stewart proceeded to her desk, began to dial the Department of Labor's number, when Brackett, ran to the copier, copied Simmons *Termination Notice*, and provided the copy to Stewart. *Reference, Exhibit 25. NOTE: On or about a date in August 2012, Stewart observed Simmons and Sheriff engaged in a heated exchange within the Seneca Office. During this exchange, Stewart observed Simmons return documents he had directed Sheriff to complete, totaling four times. This was due to Sheriff's failure of properly preparing them as Simmons instructed. Sheriff, frustrated with Simmons, exclaimed loudly, "Oh you are just too damn picky". Simmons, in turn*

initiated no corrective disciplinary action, and though *similarly situated* as Stewart, did not transfer or terminate Sheriff's employment.

21.

On May 10, 2013, Stewart applied for unemployment compensation through the local Seneca, South Carolina Department of Employment and Workforce (hereinafter, "SCDEW"). On May 24, 2013, Stewart received a letter from SCDEW disqualifying Stewart from receiving unemployment compensation and delineating "improper actions and improper behavior" as the reasoning. Reference, Exhibit 26.

22.

On May 30, 2013, Stewart timely submitted her *Notice of Appeal to the Appeal Tribunal* in opposition to the Claim Adjudicator's determination. Reference, Exhibit 27 and Exhibit 28. As a result, of the SCDEW Claim Adjudicator's determination disqualifying Stewart's receipt of unemployment compensation benefits pursuant to *S.C. Code Annotated § 41-35-120 (2) (A)*, this Pleading follows for appellate reconsideration of such determination. Stewart submits, she in fact adhered to instructions of the Employer and never displayed any form of unprofessionalism raising a cause of action for the Employer to terminate her employment involuntarily.

ARGUMENTS

I. An Explicit And Tacit Agreement Between Stewart And The Employer To Utilize Administrative Leave For Stewart To Determine Whether To Transfer, Resign, Or Receive Involuntary Termination.

As previously delineated above, during the May 3, 2013 HR Meeting, Stewart was directed to transfer from Seneca to Walhalla, effective May 6, 2013. Due to the racial animus

Stewart experienced in Walhalla, Stewart initially rejected the reality of her Employer (Simmons) reassigning her back to an environment where the exact same employees who discriminated against her remained. Aggravating the circumstance, the Employer provided no identifiable corrective action. The transfer directive originated within forty-eight hours after Stewart submitted a whistleblower complaint of fraudulent overtime reporting. *Reference, Exhibit 7.* Stewart was assigned to Seneca in excess of nineteen months, immediately following the aforementioned grievance. As a racial minority, Stewart was ordered and subjected to return to Walhalla, where she encountered a harsh, hostile, and racially insensitive work environment that was the initial and underlining reason for her reassignment to Seneca in September 2011.

A. The Transfer, Resignation, And / Or Involuntary Termination Agreement

After being informed by the Employer (Simmons) multiple times, during the audio sound recording of the HR Meeting held, May 3, 2013, that, "I don't wanna fire you", Stewart in compromise reasoned "...if you feel like you want to give me some time to think about it [Transferring to Walhalla] umm I would like to consult with someone else". *Reference, [HR Tr., p.8, Lines 13-14 and HR Tr., p. 11, Line 21].* The Employer (Simmons) in response agreed and stated, "Okay...it's a decision that you gotta make today okay...". *Reference, [HR Tr., p. 14, Lines 16-17].* Further, in detailing the agreement, the Employer stated, "So what I'm asking that you do is take the rest of the day off okay. Umm let me know please by the end of the day what your intent is ...". *Reference, [HR Tr., p. 16, Lines 17-20].* Stewart, in agreement, responded, "...I'll let you know by the end of the day today...". *Reference, [HR Tr., p.17, Lines 2-3].* In this exchange, Stewart and the Employer, on May 3, 2013 at approximately 11:15 AM, entered into an agreement to utilize administrative leave to decide by the end of the business day whether she would resign, transfer or be involuntarily terminated.

In accordance with the above agreement and in good faith, Stewart contacted the Employer, Simmons, on May 3, 2013, by way of telephone conversation, informing him of her decision to transfer to Walhalla on Monday, May 6, 2013. *Reference, Exhibit 16*. Likewise, during the brief conversation, the Employer (Simmons) expressed agreement with Stewart's decision and further acquiescence via SMS text message exclaiming, "...I believe you made the right choice and believe you will see a difference in Walhalla...". *Reference, Exhibit 17*. Additionally, the Employer (Simmons) further memorialized this agreement in Stewart's HR file within a "*Post HR Meeting*" *MEMORANDUM*", dated May 3, 2013. Incidentally, the "*Post HR Meeting*" *MEMORANDUM*" summarized the audio sound recording of the HR Meeting held, May 3, 2013 and specifically re-identified the aforementioned agreement. *Reference, Exhibit 18*. Equally important, the Employer's actions provide a strong inference that actions and statements were of such significance that memorializing such in Stewart's HR file was necessary. Moreover, the May 3, 2013 "*Post HR Meeting*" *MEMORANDUM*" interestingly, does not document any unprofessional misconduct by Stewart as alleged by the Employer within his May 9, 2013 *Termination Notice*. To be clear, the Employer (Simmons) deemed it necessary to formally document the HR Meeting and agreement surrounding the transfer within Stewart's HR File. On the contrary, the Employer (Simmons) deemed it unnecessary to document Stewart's alleged misconduct, which was later used as the basis for Stewart's involuntary termination. Not to mention, the involuntary termination subsequently occurred after Stewart submitted a grievance pertaining to racial animus. This infers, the alleged misconduct did not occur.

Furthermore, and as recited in the above Declaration of Facts, Stewart timely reported to Walhalla, on Monday, May 6, 2013, at 8:30 AM. In furtherance of the agreement made between Simmons and Stewart on May 6, 2013 at 11:30 AM, the Employer (Simmons) requested that the

Oconee County Payroll Department designate Stewart's pay as a half-day of administrative leave for May 3, 2013. *Reference, Exhibit 14*.

B. The Facts And Substantive Documentary Evidence Supports Stewart's Position

The facts and substantive documentary evidence prove Stewart adhered to the instructions of the Employer (Simmons) and insubordination was absent. The facts and evidence attached, as recited above, are straight-forward, clear, and simply irrefutable. Stewart, by agreement, met the reasonable expectations of the Employer (Simmons). Albeit, Stewart was terminated on, May 9, 2013, within hours of a racial animus complaint, for allegedly refusing to transfer and for a lack of professional behavior. Correspondingly, there were no witnesses and the *HR Meeting Audio Sound Recording of May 3, 2013*, was absent any such alleged misconduct. Identically, the alleged misconduct relied upon by the Employer (Simmons), is not memorialize in the "*Post HR Meeting*" *MEMORANDUM*, which the Employer prepared for permanent submission in Stewart's HR file, immediately following the HR meeting of May 3, 2013.

II. The Facts And Substantive Documentary Evidence Infers That The Close Temporal Proximity In Time Of Stewart's Grievance And The Employer's Decision To Terminate Was Not Based On Employee Misconduct.

As outlined in the above Declaration of Facts, after Stewart returned from approved Vacation, on May 8, 2013, an exchange of emails between Stewart and her immediate supervisor concerning initialing work products, transpired. *Reference, Exhibit 20, Exhibit 23 and Exhibit 24*. On May 9, 2013 at 8:44AM Stewart forwarded an email grievance to her immediate supervisor defining racial overtones as the basis to document her work product. At approximately 2:00 PM, on May 9, 2013, five hours later, without any remarkable negative event

occurring since the email, the Employer (Simmons) involuntarily terminated Stewart for misconduct, he alleged occurred on May 3, 2013, during the HR Meeting.

A. The Employer's Cause Of Action For Terminating Stewart Was Retaliation, Not Misconduct.

The facts are straight-forward and clearly indicative of adverse actions implemented against Stewart, by the Employer (Simmons), as a result of her submission of grievances. Stewart submitted an internal grievance, on April 30, 2013 and was subsequently involuntarily transferred on May 3, 2013. *Reference, Exhibit 7*. On May 9, 2013, Stewart emailed a grievance to the Employer (Simmons) based on racial overtones and five hours later Stewart was involuntarily terminated. Incredibly, the conduct the Employer (Simmons) accused Stewart of, is factually impossible and formally documented by the Employer in a manner that infers the misconduct alleged never occurred because no employee misconduct or insubordination was memorialized within the "Post HR Meeting" MEMORANDUM. Misconduct, the Employer (Simmons) purports to be of a level for immediate involuntary termination pursuant to the *Employee Handbook*. *Reference, Exhibit 29*. As explained above, Stewart completely adhered to the Employer's directive to report to Walhalla on Monday, May 6, 2013. Thus, refusing to perform the work or instruction of the Employer as a basis for Stewart's termination is implausible. Moreover, the facts and evidence are contrary to the Employer's (Simmons) basis for terminating Stewart. Conclusively, Stewart's termination was not the result of misconduct, but the result of retaliation for submitting grievances. The Employer (Simmons) can proffer no basis from the time Stewart submitted her grievance at 8:44 AM as to why she was immediately and involuntarily terminated five hours later. *Reference, Exhibit 24*.

Coupled with the facts and documentary evidence, it is evident that Stewart adhered to the instructions of the Employer as agreed and the Employer has provided no proof of employee misconduct. The close temporal proximity in time between the two events, gives rise to a strong legal inference of a causal connection to Stewart's grievances as the basis for Stewart's termination. Simply, by clear and convincing evidence, direct and circumstantial, Stewart has established, the racial grievance served as the significant factor and pretext to her involuntary termination, along with other issues. The Employer's preparation of the *Resignation Notice* for Stewart to sign prior to the May 3, 2013 HR Meeting, strongly infers the Employer's desire to terminate Stewart's employment under the guise of a legally permissible basis that would absolve the Employer of liability, after Stewart raised her whistleblower complaint. *Reference, Exhibit 13*. As such, Stewart's termination is not subject to the statutory provisions for disqualification of Benefits, as a result of discharge due to employment connected misconduct mandated under the *SC Code, Section 41-35-120 (2) (A)*.

III. The Employer's Cause Of Action For Terminating Stewart's Employment Did Not Rise To The Employer Handbook's Classification Of Termination For Insubordination As Stated By The Termination Notice.

The Employer's *Termination Notice, Exhibit 25*, specifically alleged Stewart displayed a lack of professionalism and insubordination for stating to her supervisor, "You're a liar" following a refusal to be transferred. To which, the Employer alleges this statement was made by Stewart while disagreeing with the Employer's response to questions pertaining to Stewart's whistleblower complaint. Whereas, Stewart reasserts the Employer's allegations are inaccurate, misleading, and an over-simplified mischaracterization of content surrounding the May 3, 2013 HR Meeting. The *Employee Handbook's, Policy Number 7-2, "Employee Code of Conduct and*

Discipline, Termination Examples, " dated, September 2012, exemplifies termination for insubordination as "refusal to perform assigned work". Reference, Exhibit 29. Thus, Stewart's actual adherence, transferring to Walhalla, as per the Employer's instruction, is not analogous to criteria satisfying elements of insubordination contained within the *Employee Handbook*.

Likewise, in the *Termination Notice*, Exhibit 25, the Employer purports to terminate Stewart for stating to her supervisor, "You're a liar", which the Employer described as a lack of professionalism. The Employer alleges, this statement was made by Stewart while disagreeing with the Employer's response to questions pertaining to her whistleblower complaint. The characterization by the Employer of the alleged statement is not conducive to the *Employee Handbook's* description of employee misconduct cited by the Employer. The alleged statement does not constitute a "refusal by Stewart to perform assigned work". Though the "termination examples" contained within the *Employee Handbook*, are not all-inclusive but illustrative, the basis for immediate termination provided by them, such as fighting, theft, refusal to perform assigned work, harassment, are not found in the present facts. Since this is the case, the Employer's termination of Stewart is for dissembled reasons extrinsic of misconduct. Stewart stating to her supervisor "that can't be accurate", (or as the Employer alleges "You're a liar"), surrounding a difference in recollection of events pertaining to her whistleblower complaint of fraudulent overtime reporting, is not a lack of professionalism or a known and deliberate act, committed by Stewart, harming the Employer's operation objectives. Rather, in the context of Stewart's professionally courteous personality and vocal demeanor, her communication during the HR Meeting was a calm expression of concern absent any vulgarity or unprofessionalism. Reference, Exhibit 4 and Exhibit 11. Stewart's demeanor and communication during the HR

Meeting, held, May 03, 2013, was a calm expression of concern, absent of any vulgarity or unprofessionalism.

On the contrary, there is a strong inference the close temporal proximity in time of "before" Stewart's whistleblower complaint. Stewart's whistleblower complaint triggered her involuntary transfer back to Walhalla, where racial animus occurred. Merely, informing an Employer of inaccuracies, after an Employer's denial of facts surrounding a whistleblower complaint, is not employee misconduct, within the meaning of the *Employee Handbook*. Further, in the capacity of a public employee and as a private citizen, Stewart possessed the Constitutionally Protected Right In Freedom of Speech, which precludes her Employer from discharging her, when presenting complaints of public concern such as misappropriation of county payroll funds. See *Rankin v. McPherson*, 483 U.S. 378, 97 L. Ed. 2d 315 U.S. Supreme Court (1987) and *Urofsky v. Gilmore*, 216 F.3d 401, 406 4th Circuit Court of Appeals (2000). In accordance with the *Employee Handbook*, the lack of professionalism proclaimed by the Employer alone, is not an identifiable act that would have provided sufficient notice of immediate termination to Stewart.

A. The Employer's Response To The SCDEW's SCBOS NET 101 "Employer Response" Form Is False, Misleading and Inaccurate.

The Employer, in responding to the SCBOS NET 101, "Employer Response" form, inaccurately stated, that a warning was issued to Stewart for allegedly stating to the Employer "You're a liar". Reference, **Exhibit 30**. Stewart submits that her HR file is absent any "disciplinary notices, counseling memoranda, [negative] performance appraisals, or any similar documents." In accordance with the *Employee Handbook*, Policy Number 7-2, "Employee Code of Conduct and Discipline", Acknowledgement of Signature, specifically provides that

employees MUST sign "disciplinary notices, counseling memoranda, performance appraisals, and similar documents." Further, it states, "the employee's signature indicates, the employee is aware of the action taken...". It is very important to note, that on no date, preceding or proceeding May 3, 2013, did the Employer initiated ANY form of disciplinary action in accordance with the *Employee Handbook*, surrounding the alleged "You're a liar" statement. In support of this, Stewart has made several *Freedom of Information Act* (FOIA) requests to the Oconee County Human Resources Department, with dates of May 7, 2013 and May 31, 2013. These FOIA requests were for copies of each item contained within Stewart's HR file. The Oconee County Human Resources Director Kay Olbon responded to Stewart's FOIA requests on May 17, 2013, May 24, 2013, June 5, 2013 and June 6, 2013. Reference, Exhibit 31.

In stating that Stewart was warned, in accordance with the *Employee Handbook*, the Employer is effectively affirming, the alleged conduct attributed to Stewart of stating, "You're a liar", occurred at least twice; an occurrence to effect a disciplinary warning and occurrence on the final incident date. If such occurred, which Stewart asserts did not, the Employer at a minimum, to effect proper documentation, was required to obtain Stewart's signature as acknowledgement for any such corrective action. Stewart proffers that the Employer cannot submit such documentation because such does not exist, nor any action warranting such documentation. However, the Employer inaccurately indicated the existence of such documentation on the *SCBOS NET 101*, "Employer Response" form.

Likewise, the Employer's responses on the *SCBOS NET 101*, "Employer Response" form, evidences dissembled information, causing further adverse effects against Stewart, in his attempt to misleadingly document the termination to fit the standards contained within the

Employee Handbook. Thus, the Employer fraudulently effects Stewart's denial of unemployment benefitsⁱ.

In addition, Stewart points to the Employer's "*Post HR Meeting*" MEMORANDUM, which is absent any facts or details of incidents whereby Stewart addresses the Employer as a liar. Reference, **Exhibit 18**. For inexplicable reasons, the Employer went to great lengths to memorialize the May 3, 2013 HR Meeting and subsequently prepared the "*Post HR Meeting*" MEMORANDUM summarizing the events. Each, inexplicably, failed to note the Employer's allegations of misconduct by Stewart. Wherefore, the Employer conveniently stated occurred six days later, after Stewart emailed a complaint of racial overtones as a basis to document her internal work production.

IV. The Cause Of Action For Terminating Appellant's Employment Did Not Rise To The South Carolina Supreme Court's Common Law Definition Of Employee Insubordination.

Recently, in *Carson v. South Carolina Department of Natural Resources*, 371 S.C. 114, (2002) the South Carolina Supreme Court unequivocally defined employment insubordination as (1.) "willful disregard of an employer's instructions" and (2.) "an act of disobedience to proper authority; esp., a refusal to obey an order that a superior officer is authorized to give. It is generally held to import a willful or intentional disregard of the lawful and reasonable instructions of the employer, citing *Porter v. Pepsi-Cola Bottling Co. of Columbia*, 247 S.C. 370, 374 (1966). See also, *Freeman v. King Pontiac Co.*, 236 S.C. 335, 346-47, (1960); *Hall v. The Board of Trustees of Sumter County School District*, 330 S.C. 402 (1998); *Young v. Mc Kelvey*, 286 S.C. 119 (1985), quoting the same. As previously stated above, Stewart adhered to the instructions of the Employer, as agreed upon on May 3, 2013 to perform a future act on May 6,

2013; transfer to Walhalla. The Employer's (Simmons) attempt to import a lack of professionalism, as a form of insubordination defined by the Courts, falls short of the legal definition clearly set forth. Furthermore, and as stated above, a lack of professionalism is not an identifiable act of immediate termination within the *Employee Handbook*. Reference, Exhibit 29.

As a matter of fact, the *Employee Handbook*, in the present case, is ambiguous and subject to interpretation. Reference, Exhibit 29. Notably, a reading of *Policy Number 7-2, "Positive Discipline Examples" and "Termination Examples"* [p. 60], reveals that the reason espoused by the Employer for immediate termination of Stewart is not contained within the list of offenses as immediate termination examples. Moreover, the alleged misconduct is more aligned with "*Positive Discipline Examples*". Additionally, the Employer's act of dissembling a written termination notice implies he deemed it necessary to document Stewart's termination for compliance with the *Employee Handbook* policies. This is important, because the basis for Stewart's termination is absent within the memorandums prepared by the Employer. Also, the fact that the Employer assembled a termination notice in an attempt to comply with policy implies that the Employer thought it was required to document the termination because the basis for Stewart's termination was non-existent and not supported by said policy. Coupled with the above, in reviewing the *SCBOS NET 101, "Employer Response"* form, the Employer appears to dissemble a response to the SCDEW that is misleading, false, or inaccurate. The employer distinctly informs the SCDEW that Stewart was issued a disciplinary warning of corrective action. However, this is inaccurate. Stewart has never received any disciplinary warnings within her entire tenure of employment.

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

**Post Office Box 1752
Columbia, South Carolina 29202**

NOTICE OF HEARING BEFORE THE APPELLATE PANEL

DATE October 9, 2013

CLAIMANT

**SSN XXX-XX-2934
APPEAL NO 131024**

STEPHANIE STAGGERS

LIABLE EMPLOYER

**OCONEE COUNTY
C/O HR KAY OLBON
415 S PINE ST
WALHALLA, SC 29691**

SEPARATING EMPLOYER

A hearing has been scheduled in this matter for 2.00 p.m Tuesday, October 22, 2013 All hearings are held in Columbia, South Carolina at this location

**SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
C LEM HARPER, CENTRAL OFFICE ANNEX BUILDING
631 HAMPTON STREET, ROOM 350, COLUMBIA, SC
(The three story reflective green building on the corner of Wayne and
Hampton Streets The entrance is on Wayne Street)**

**NO CELL PHONES OR SMALL CHILDREN
ARE PERMITTED IN THE HEARING ROOM**

The Appellate Panel is a Board of Review, and hearings are limited to the record developed by the Administrative Hearing Officer. As such, **no new evidence is admissible**. Parties may appear in person or be represented by counsel. Parties may also submit written arguments. Fees charged by claimants' attorneys are statutorily limited to the greater of \$200.00 or the claimant's weekly benefit amount per appearance.

SPECIAL NOTE. The Appellate Panel can make its own factual findings and may reverse, affirm or modify the decision on appeal. **Be advised that this may result in an increase or a decrease of the disqualification.**

THE HEARING WILL NOT BE POSTPONED EXCEPT FOR AN EMERGENCY Contact a representative of the Department at 803-737-0239 **AT ONCE** if you cannot be present at the time scheduled and wish to request a postponement of the hearing.

**Higher Authority Appeals
(803) 737-0239
(803) 737-3166 FAX**

CC Claimant
 Claimant Attorney
 Liable Employer
 Separating Employer
 Employer Attorney
 Imaging
 File

Hearing Date and Time: (Tuesday) October 22, 2013 at 2:00 PM

**STATE OF SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
APPELLATE PANEL**

**Appeal of Administrative Hearing Officer's Unemployment
Compensation in Eligibility Determination of Claim
Appeal No.: 11025-131024**

**Stephanie C. (Staggers) Stewart
Appellant,**

vs.

**South Carolina Department of
Employment and Workforce and
Oconee County, South Carolina,
Respondents.**

**MOTION TO INCLUDE CLAIMANT'S PREVIOUSLY SUBMITTED
MOTIONS AND DOCUMENTARY EVIDENCE
FOR THE AUGUST 20, 2013 TRIBUNAL HEARING
AS PART OF THE APPELLATE PANEL RECORD**

**Stephanie C. (Staggers) Stewart
2142 Toccoa Hwy
Westminster, South Carolina 29693**

**SCDEW APPELLANT PANEL
Attn: Appellant Panel
c/o: Stephen S. Kelly, Jr., Chairperson
Evelyn Belicia Ayers, Panelist
Timothy Dangerfield, Panelist
Post Office Box 1752
631 Hampton Street, Room 350
Columbia, South Carolina 29202**

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE
APPELLATE PANEL**

STEPHANIE C. (STAGGERS) STEWART,
Appellant,

vs.

SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE; AND
OCONEE COUNTY
Respondents.

Appeal No.: 11025 -131024

**MOTION TO INCLUDE CLAIMANT'S PREVIOUSLY SUBMITTED
MOTIONS AND DOCUMENTARY EVIDENCE
FOR THE AUGUST 20, 2013 TRIBUNAL HEARING
AS PART OF THE APPELLATE PANEL RECORD**

COMES NOW, Stephanie C. (Staggers) Stewart, Appellant, Pro-Se, in the above-entitled action moving this Panel to enter the attached pleading into the Appellate Panel Hearing Record in consideration of reaching its decision for a pending hearing on October 22, 2013. In therewith, Stewart respectfully shows that the Tribunal Hearing Record released to her is absent substantive written pleadings and documentary evidence properly submitted before the Appeal Tribunal Hearing pursuant to South Carolina Department of Employment and Workforce, (hereinafter, "SCDEW"), policy. Respectfully, Stewart shows this Appeal Panel as follows:

1.

On August 17, 2013, by way of certified U.S. Postal Service mail numbers 7009 2820 0002 7554 4032 and 7009 2820 0002 7554 4056, Stewart, in accordance with SCDEW policy, forwarded a motion titled "*Motion To Submit Declaration Of Factual Points With Documentary*

Evidence Into Tribunal Hearing Record In Support Of Appellant's Petition For Unemployment Compensation", to the Appeal Tribunal and opposing party. **Exhibit 1** (Attached).

2.

On August 20, 2013 the Tribunal Hearing commenced and Administrative Hearing Officer Lane Cook, (hereinafter "AHO"), presided. During the Hearing, Stewart questioned the AHO to assure the Tribunal was in receipt of the subject motion with exhibits. The AHO answered affirmatively to Stewart's question. **Exhibit 2**, *Tribunal Hearing Transcripts*, reference *Tribunal Hearing Transcripts Pg. 15, Ln. 11-16*. Throughout the Tribunal Hearing, multiple exhibits were used by Stewart to cross-examine opposing party witnesses. Reference, *Tribunal Hearing Transcripts. Pg. 18 Ln. 10-11, Pg. 19 Ln. 5-8, Pg. 20 Ln. 18-24, Pg. 27 Ln. 10-29, Pg. 31 Ln. 10-29, Pg. 32 3-11, Pg. 34 1-15 and Pg. 35 Ln. 1-9*.

3.

On October 9, 2013, Stewart received a *Notice Of Hearing Before The Appellate Panel* dated, October 9, 2013 with disclosure of what purports to be the entire hearing record which was absent the aforementioned Arguments and Documentary Evidence Stewart submitted and litigated during the proceeding. Based upon the SCDEW's disclosure, the entire record consists of the following: 1.) a transcript of the August 20, 2013 Tribunal Hearing, 2.) SCDEW UCB 103 Form dated, May 23, 2013, 3.) SCDEW UCB-102 Form dated, May 21, 2013, 4.) SCBOS NET101 Form dated, May 14, 2013, 5.) Employer Termination Notice, dated May 9, 2013, 6.) Employer Policy Manual 7-2, 7.) Employer Exhibit 1 submitted on August 20, 2013, and 8) Claimant Exhibit #1 HR Meeting Compact Disc Recording dated, May 3, 2013.

Stewart respectfully submits that the Tribunal Hearing Record is incomplete and moves this Appellate Panel to incorporate the previously submitted Arguments and Documentary

Evidence, attached hereto, into the record for Appellate consideration. Stewart submits excluding her evidence and properly submitted pleadings prevents the Panel from adequately reviewing the record as a whole for proper Appellate review. To do so, aggravates Stewart's right to due process of law in the instant case.

Wherefore Stewart moves that this motion be GRANTED. Dated this 18th day of October, 2013.

CERTIFICATE OF SERVICE

I, Stephanie C. Stewart hereby certify a copy of the attached Pleading with Exhibits forwarded to the below listed by way of Certified Mail with sufficient postage attached for delivery:

South Carolina Department of Employment and Workforce

Attn: Appellant Panel

c/o: Stephen S. Kelly, Jr., Chairperson

Evelyn Belicia Ayers, Panelist

Timothy Dangerfield, Panelist

Post Office Box 1752

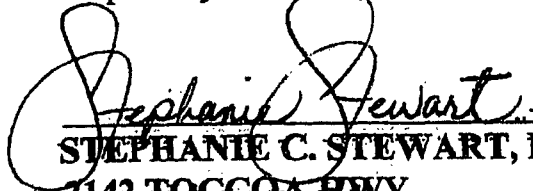
631 Hampton Street, Room 350

Columbia, South Carolina 29202

Via Certified Mail No: 7009 2820 0002 7554 4834

On this 18th day of October 2013.

Respectfully Submitted,



STEPHANIE C. STEWART, PRO-SE

2142 TOCCOA HWY

WESTMINSTER, SOUTH CAROLINA 29693

**STATE OF SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
APPELLANT PANEL**

STEPHANIE C. (STAGGERS) STEWART,
Appellant,

vs.

Appeal No.: 11025- 131024

SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE; AND
OCONEE COUNTY

Respondents.

**WRITTEN ARGUMENTS IN SUPPORT OF GRANTING
UNEMPLOYMENT COMPENSATION WITH RENEWED MOTION TO
INCLUDE PREVIOUSLY SUBMITTED TRIBUNAL HEARING
ARGUMENTS AND DOCUMENTARY EVIDENCE AS PART OF THE
APPELLANT RECORD**

COMES NOW, Stephanie C. (Staggers) Stewart, Appellant, Pro-Se, in the above-entitled action moving this Panel to enter the below arguments and previously submitted Tribunal Hearing Pleading, "*Motion To Submit Declaration Of Factual Points With Documentary Evidence Into Tribunal Hearing Record*", in consideration of reaching its decision. In connection therewith, Appellant, respectfully shows this Panel as follows:

PRELIMINARY STATEMENT

This is an appeal seeking reversal of the Claim Adjudicator's and Appeal Tribunal's ineligibility of unemployment compensation determination for Appellant, Stephanie C. (Staggers) Stewart, (hereinafter, "Stewart"). Though numerous issues are raised for possible

further appellate review, the primary issues in this appeal are whether Stewart was discharged for misconduct and whether the Administrative Hearing Officer Lane K. Cook, (hereinafter, "AHO"), properly considered and preserved Stewart's evidence in the record for Appellate review of the Appeal Tribunal decision. In accordance with the South Carolina Department of Employment and Workforce (hereinafter, "SCDEW")'s policy, on August 17, 2013, by U.S. Postal Service Certified Mail, Stewart forwarded a Motion, Arguments, and Documentary Evidence she needed entered into the Appeal Tribunal Record to support and prove her defense. During the proceeding, Stewart verified the receipt of said Motion, Arguments, and Documentary Evidence, to which the AHO affirmed receipt of on the record and for which Stewart referenced, and utilized in cross-examining witnesses. Stewart initiated this action with great concern that as a "common layperson" with limited legal training, the former Employers, a Summary Court Chief Magistrate Judge and Magistrate Judge, would garner significant legal advantage during any formal adversarial hearing, which challenged the actions and credibility of their testimony. Stewart reasoned that their testimony would be given considerable deference without evidence to support her position. As such and pursuant to SCDEW's policy, Stewart submitted her Motion, Arguments, and Documentary Evidence, in writing, for entry into the Appeal Tribunal record for consideration and preservation of the record pending further Appellate review, if necessary.

PRE-TEXTUAL BACKGROUND

The facts of this case are simple and straightforward. On May 3, 2013, Stewart was involuntarily transferred to a work location for which she was previously reassigned as a remedy for racial animus after returning from federal statutory protected *Family Medical Leave Act*

(FMLA) leave, for a gender specific serious medical condition, (Bi-lateral Breast Reduction), (3) three weeks prior. Equally, prior to utilizing FMLA and contrary to law, the Employer threatened Stewart, stating she may not have employment upon returning. Additionally, two days prior to the involuntary transfer, Stewart emailed a grievance to her Employer refuting alleged theft accusations by a senior co-worker and raised a whistleblower complaint of fraudulent overtime reporting.

As a result, forty-eight hours later during a recorded conversation, Stewart was directed to transfer, the next business day, to the office whereby she experienced racial animus and was informed the basis of such transfer was due to budgetary constraints. **Initially, Stewart declined to transfer back into a racially hostile work environment, but subsequently entered into an agreement with her Employer, to exercise administrative leave for the remaining portion of the day in order to reach a definitive decision by close of business on May 3, 2013.**

After notifying the Employer of her intent to transfer, Stewart complied with Employer's directive and timely reported to her new assignment on May 6, 2013. After three hours and one day of authorized vacation leave commencing the latter portion of May 6, 2013 through May 7, 2013, Stewart, on May 9, 2013 forwarded a grievance by email, regarding racial overtones as a basis for documenting her written work products within the office. Five hours later Stewart returned from lunch and was subsequently terminated by her Employer for lack of professionalism and insubordination, allegedly exhibited approximately one week prior, on May 3, 2013; the very day Stewart and the Employer agreed to administrative leave for her to decide whether to transfer, resign, or be involuntarily terminated. Specifically, the Employer cited the *Oconee Personnel Policy and Procedure Manual*, (hereinafter, "*Employee Handbook*") as the basis for Stewart's termination. Within the Motion submitted to the Tribunal, Stewart chronicled

factors and direct evidence contradicting the decision of the Employer to terminate her based on misconduct.

ARGUMENTS

I. Whether Stewart's Arguments and Documentary Evidence Properly Submitted To The SCDEW And Liable Employer Prior To The Tribunal Hearing And Litigated By Claimant, Was Properly Considered by The AHO And Entered Into The Record For Appellate Review? And;

II. Whether Stewart Arguments and Documentary Evidence Submitted To The SCDEW And Liable Employer Prior To The Tribunal Hearing And Litigated By Claimant During The Tribunal Hearing, Should Be Part Of The Record For Appellate Review? And;

III. Whether The Administrative Hearing Officer In Withholding Stewart's Arguments And Documentary Evidence From The Tribunal Hearing Record Violates Her Right To Due Process In Seeking A Meaningful Appeal Before The Appellate Panel?

The entire record is absent any consideration by the AHO of Stewart's Documentary Evidence to support her position. As previously stated, Stewart, as a common layperson without litigation experience, took great lengths to put forth and preserve her Arguments and Documentary Evidence into the Tribunal record by submission of such exhibits to the Appeal Tribunal and opposing party prior to the commencement of the hearing as this agency's rules dictates. After witness testimony of Employer's witness (2) two, the AHO afforded Stewart an opportunity of cross-examination. Upon the first available opportunity to speak to the substantive issues Stewart stated:

Claimant: ...[T]he first thing is I just want to make sure, Mr. Cook, do you have a copy of the Motion to Submit Declaration of Facts, Documentary Evidence and Arguments Into the Tribunal hearing record? (Reference, *South Carolina Department of Employment & Workforce Columbia, South Carolina Transcript of Testimony Before Lane Cook, Administrative Hearing Officer*, (hereinafter, "SCDEW Appeal Tr."), Pg. 15 Ln. 11-13)

Hearing Officer: Yeah, I do have those... (Pg. 15 Ln. 14)

Hearing Officer: I have those documents, yes. (Pg. 15 Ln. 16)

Before proceeding to the substantive issues through cross-examination, Stewart sought affirmatively to question the AHO in ascertaining whether her request to submit Declarations of Facts, Arguments and Documentary Evidence were received by the Tribunal. In affirmatively stating yes, the AHO noticed to Stewart that she, a common layperson without litigation experience, sought to enter the documents into the record as part of the case. Further, as delineated below, Stewart utilized the subject documents to cross-examine each of the Employer's witnesses. Notwithstanding, the AHO never formally entered any of Stewart's exhibits into the record, asked Stewart the substantive value of any of the exhibits, and completely withheld the documents from this Appellate Panel, which is inexplicable and damaging to Stewart's case in chief.

A close examination of the hearing record, clearly establishes the excluded Documentary Evidence submitted by Stewart and utilized in cross-examining (3) three of the Employer's witnesses with references to those exhibits within Stewart's Pleading submitted to the AHO. (Reference, *SCDEW Appeal Tr.* Pg.'s 16, 17, 18, 19, 20, 27, 31, 33, 32 and 35.) As this panel is well aware, the AHO's focus during the Tribunal hearing is merely on gathering testimony and documentary evidence from both parties for making a determination. Here, inexplicably, the AHO excluded documentation presented by Stewart to rebut the Employer's position and failed or refused to inquire into the substantive value of such to Stewart's defense.

As such, Stewart's Arguments and Documentary Evidence, which were properly submitted and litigated before the Appeal Tribunal during the hearing, were NOT properly considered by the AHO in reaching his decision and were never entered into the record for proper Appellate Panel review. Stewart submits the Documentary Evidence consisted of work place emails, Employer memorandums, and grievances proving her position that her termination was a result of submitting a racial animus grievance on May 9, 2013, which was approximately (5) five hours prior to her termination. However, the AHO excluded entry of such into the Appellate Panel record.

IV. Whether The Administrative Hearing Officer's Finding Of Fact Evidences The Appeal Tribunal Misapplied and Misinterpreted The Facts In Reaching It's Decision? And;

V. Whether The Administrative Hearing Officer Improperly Considered Impermissible Hearsay Testimony From Multiple Employer Witnesses Who Lacked First-Hand Knowledge Of The Incident Allegedly Causing Stewart's Termination? And;

VI. Whether Stewart In Exercising Her Right To Pursue A Grievance Under the *Employee Handbook, Policy Number 7-1, Employee Grievance*, Displayed Misconduct By Stating To the Employer "That Can't Be Accurate" In Disagreement To The Employer's Recollection Of Facts Surrounding A Whistleblower Complaint? And;

VII. Whether Stewarts' Statement Violated the *Employee Handbook, Policy Number 7-2, Employee Code of Conduct and Discipline*, And / Or Met The Definition Of Insubordination and Misconduct?

A closer examination of the *Decision of the Appeal Tribunal* (hereinafter, "Decision") questions whether the AHO misinterpreted and misapplied facts in recalling its conclusion to deny Stewart benefits. As stated above, the AHO failed or refused to consider Stewart's Documentary Evidence submitted prior to the commencement of the Tribunal hearing. In addition, the

transcribed record contradicts the AHO's factual findings on substantive key issues. Page 1, Para. 2, Sent. 5 of the "Decision" states:

The Claimant had initially been hired to work in the Walhalla Office, but she was transferred out in 2011 because of issues she had with co-workers.

This statement omits a substantive factor that reasonably explains Stewart's initial resistance in transferring back to the Walhalla office. First, Stewart contends her transfer from Walhalla was also due to issues of racial animus. On Page 31 and 32 of the SCDEW Appeal Tr., during cross-examination of Employer Witness 4, Judge Blake A. Norton, Stewart questioned the witness surrounding a meeting on racial grievances and referred to an email submitted to the AHO and documented in her Pleading as Exhibit 1. The subject email preceded the transfer and clearly discussed racial issues within the office. When asked by the AHO why she did not want to be transferred, Stewart testified:

Because of the harsh and hostile environment of Walhalla that I had been exposed to historically and that he (Simmons) was placing me back into that environment. He removed me from that environment initially to remedy that situation and was placing me back into that environment. (Reference, SCDEW Appeal Tr., Pg. 39 Ln. 8-11)

In response to the AHO's question, why Stewart felt the environment was hostile, Stewart further stated:

There were several incidents that occurred there that are documented throughout my HR file, officers that were allowed to come through there and one of the officers was speaking in terms of moving [a movie] and referred to ... and this is just pretext, this has nothing to do with, you know, the actual reason why we're here on this call, this officer of this particular office used the "N" word [Nigger], there were postings that were on the bulletin board that were racially insensitive. (Reference, SCDEW Appeal Tr., Pg. 39 Ln. 17-22)

In response to the AHO's question, Did Mr. Simmons indicate to you that he had tried to address some of these issues, Stewart further stated:

He did, and actually he actually asked me to talk with Judge Norton. I spoke with Judge Simmons and he asked me to speak with Judge Norton. I did speak with Judge Norton, we set up a meeting and I spoke with Judge Norton about those issues on August the 2nd and Judge Simmons as you can see in exhibit 1, sent an e-mail because he was copied on this e-mail that was sent to Judge Norton and asked me to call him afterwards and so we had a conversation afterwards of what I spoke to Judge Norton about. (Reference, SCDEW Appeal Tr., Pg. 40 Ln. 1-7)

The AHO's statement in the Decision that she [Stewart] was transferred out in 2011 because of issues she had with coworkers is partially correct and casts Stewart as the difficult employee in support of his decision. The record, to include Exhibit 1 attached to Stewart's pleading, but was excluded by the AHO, shows the transfer served to remedy clearly documented racial issues and was the reason Stewart initially refused to transfer back to Walhalla. The AHO stated in the Decision, "The claimant initially refused to transfer during the meeting". However, the AHO discarded Stewart's reasoning and evidence as reflected in the record and articulated above.

Page 1, Para. 2, Sent. 8, of the Decision states:

At the end of the meeting---which was recorded with the permission of all parties involved---the claimant asked the chief magistrate to excuse the lead court clerk and turn off the recording so she could discuss a personal matter. (Reference, *Decision of Appeal Tribunal*)

This statement by the AHO is conflicted by the record and is wholly inaccurate. On page 27 of the *SCDEW Appeal Tr.*, Stewart in cross-examining Employer Witness 3, Deborah Sheriff, referred the witness to Exhibit 10 of her Pleading, submitted to the Appeal Tribunal and Employer before the hearing. Exhibit 10 was a transcript of the HR Meeting held between Employer Witness 1 and Employer Witness 3 on May 3, 2013. Again, the exhibit was excluded from the record by the AHO. Stewart stated / asked the witness:

Claimant: ...Ms. Sheriff, You say that on May 3rd during the meeting at the conclusion of the meeting I asked to go off record, did you say that that was for ... because I wanted to discuss personal reasons?

Employer Witness 3: To my recollection you asked Judge Simmons to speak with him personally off the records about a personal matter, out of my presence and asked me to leave.

Claimant: Okay. I'm looking at page 18 of [UNCLEAR] this is actually Exhibit 10, which is a transcript of that meeting.

Employer Witness 3: Uh huh.

Claimant: ... on page 18 of that meeting, [UNCLEAR] Simmons asked at line 17, anything else you want to say or talk about or and Stewart, I replied "off the record, I want to talk to you personally."
(Reference, SCDEW Appeal Tr., Pg. 27 Ln. 4-16)

The context of this is substantive. Stewart contends, with supporting evidence in her Pleading, she was accused of theft by Employer Witness 3 and filed a grievance with Simmons that alleged Employer Witness 3's abuse of overtime/payroll funds. **(Reference, Exhibit 7 of Stewart's Pleading, email from Stewart to Employer dated, May 30, 2013).** Notice that within 48 hours of submitting such grievance, Stewart, without notice of the purpose of the meeting, was blindsided with a transfer directive back to the Walhalla office she was reassigned from, as a remedy to racial animus. Emails, Exhibits 8-9, forwarded to Stewart, including an email of Payroll Procedures from Employer and an email notice of HR Meeting dated, May 2, 2013, led her to believe the purpose of the meeting was to address her grievances. As such, Stewart sought to talk with the Employer to address the grievance without Employer Witness 3's presence:

...I was not aware that the meeting was about a transfer, I thought going into this meeting it was going to be about a grievance that I raised to him for a whistle blowing complaint that I raised to him prior to that meeting. **(Reference, SCDEW Appeal Tr., Pg. 38 Ln. 15-18)**

And

I asked to speak to him about something off of the record because the complaint that I had brought up prior to that meeting which I thought that's what the meeting was going to be about, was a complaint regarding the misuse of overtime funds from Deborah Sheriff, and allegations that she had made against me and had made prior to that against me. So, that is why I asked to speak to him off the record because she was asked to join

Stewart's Written Argument and Renewed Motion, Submitted October 22, 2013

us in this meeting. (Reference, SCDEW Appeal Tr., Pg. 40 Ln. 15-20)

Page 2, Para. 1, Sent 2, of the Decision states:

The claimant asked the chief magistrate about an unrelated issue regarding the lead court clerk and if he recalled having an earlier conversation with an individual about the lead clerk.

This clearly shows that the AHO misunderstood the facts. Stewart contends, the issues raised by her in a prior grievance were directly related to the transfer. First, the issues discussed by Stewart were surrounding the grievance she file concerning the lead clerk (Employer Witness 3) and Stewart contends this was a direct result of such. Further, the conversation included more discussion than as the AHO "[recalls] having an earlier conversation with an individual about the lead clerk".

Claimant: I asked to speak to him about something off of the record because the complaint that I had brought up prior to that meeting which I thought that's what the meeting was going to be about, was a complaint regarding the misuse of overtime funds from Deborah Sheriff, and allegations that she had made against me and had made prior to that against me. So, that is why I asked to speak to him off the record because she was asked to join us in this meeting.
(Reference, SCDEW Appeal Tr., Pg. 40, Ln. 15-20)

... and we furthered our conversation in regard to him not wanting ... him not wanting to interact with this particular office or go to this particular office because of it being a harsh environment. (Reference, SCDEW Appeal Tr., Pg. 40, Ln. 26-27 and Pg. 41, Ln 1-2)

Page 2, Para. 1, Sent. 3 of the Decision states,

...[T]he claimant responded that he was lying.

This is contrary to Stewart's testimony in the record and is inaccurate. Stewart testified on multiple instances, that she never called the Employer a liar.

I said that what he was saying was inaccurate and he jumped up very animated and said, "You just called me a liar." And, actually that was in reference to ... I brought up the fact of a conversation that he had with Court Clerk Lisa Lee who it was stated, like I said prior to Judge Norton, that it was stated that I went into Debbie's desk or work area and retrieved ... (Reference, SCDEW Appeal Tr., Pg. 41, Ln. 19-23)

And,

... what I was referring to was what he was stating was inaccurate, I never on [in] any way on May 9th, called him a liar. (Reference, SCDEW Appeal Tr., Pg. 42, Ln. 26-27)

The record is replete with testimony from Stewart that establishes she vehemently denied calling the Employer a liar. In addition, the record reflects that only Stewart and Simmons had first-hand knowledge of what was actually stated. Reliance upon the Employers' witnesses, which is hearsay, to establish such a finding of fact is wholly impermissible. As the record has clearly established, the Employer and Stewart were the only parties present during the unrecorded portion of the conversation when Stewart sought to discuss her grievance:

Employer Witness 2: ... I assumed we were going to talk about a personal matter because she asked to talk to me about a personal matter. Once it was a business related matter and once the liar comment was made was when I ended the meeting which was no more than five minutes. (Reference, SCDEW Appeal Tr., Pg. 13, Ln. 31-34)

As such, the record is conclusive that it is virtually impossible for the AHO to conclude that Stewart stated to the Employer, "You're a liar". Both parties contest what the other stated. Again, there are no witnesses, there is no recording, and there is no admission by Stewart stating, "You're a liar" to the Employer, present in the record.

Page 2, Para. 1, Sent. 5 of the Decision states:

She [Stewart] worked one day at the Walhalla office the following week before being discharged by the employer for calling the chief magistrate a liar.

Again, the AHO is inaccurate. The subject *Termination Notice* entered into the record by the AHO, clearly documents the alleged incident transpired on Friday, May 3, 2013. It further documents Stewart's termination transpired on May 9, 2013. First, the AHO's above-referenced statement places a negative light upon Stewart and favorably portrays the Employer as pursuing an expedient termination of Stewart the next business day because of the alleged misconduct. On the contrary, the record forwarded to this Panel and Stewart is absent of any fact for the AHO to make such a finding. Even considering Stewart's Pleadings, which were excluded from the record, it is legally and factually impossible to reach such a finding of fact. As documented in Stewart's Exhibit 19, Vacation Leave Request Form, Stewart reported to Walhalla on May 6, 2013 as directed and used (3) three hours and (1) one day of vacation time. Stewart returned to the Walhalla office on May 8, 2013 and was terminated after returning to work on May 9, 2013 at 2:00 PM. However, the substantive significance of this error is that Stewart did not "work one day at the Walhalla office ... before being discharge ... for calling the chief magistrate a liar". Quite the contrary, Stewart worked (3) three days and forwarded an email grievancing "racial overtones" on May 9, 2013 at 8:44 AM to Norton and Simmons and within (5) five hours, was subsequently fired:

Employer Witness-2: What time of the day?

Claimant: Yes, what time of the day on May 9th, did it occur?

Employer Witness-2: It was after lunch, don't quote me on the exact time, but I believe it was about 2:00.

Claimant: Okay. Did you receive an e-mail from me on May the 9th at 8:44 a.m., grievancing racial overtones, [UNCLEAR] for documenting my work product?

Employer Witness-2: I received ... there was a chain of, it was probably six or seven or more e-mails that I believe that I was cc'd on, there was a conversation that was going back and forth between

you and Judge Norton ... yes, I have received all those copied e-mails. (Reference, SCDEW Appeal Tr., Pg. 20 Ln. 13-20)

Claimant: So, you're saying yes, you did receive that e-mail?

Employer Witness-2: Yes.

Claimant: Okay. By about five hours later, did you terminate me for conduct that transpired on May the 3rd ...

Employer Witness-2: Yes, ma'am.

Claimant: ...that was never documented in a warning according to the handbook?

Employer Witness-2: It was documented only in that memorandum, but at no point and time did I deliver to you a written write up for you to sign, no.

Claimant: So, you don't have a memorandum that I signed personally?

Employer Witness-2: I don't have any memorandums that you signed regarding this matter, no, ma'am.

Claimant: Well, in particular I'm talking about the May 7th, that we're missing, that I don't have in front of me.

Employer Witness-2: Did you sign that no, ma'am, that was a memo to Kay Olbon.

Claimant: Okay, but it was not ... but my question was, five hours later, did you terminate me for conduct that transpired on May the 3rd, that was never documented in a warning according to that [the] handbook?

Employer Witness-2: And, as I stated before, that's correct.

Claimant: Okay. (Reference, SCDEW Appeal Tr., Pg. 21 Ln. 1-22)

Stewart from the onset informed the AHO the transfer and termination, which are intrinsically linked, were not for misconduct but a form of retaliation, for first a whistleblower grievance and second a racial grievance. (Reference, SCDEW Appeal Tr., Pg. 15 Ln. 17-19 and "Motion To Submit Declaration of Facts, Documentary Evidence Into Tribunal Record").

Despite the AHO's obligation under the Administrative Law Court rules to "make reasonable efforts to assist a party to ensure fairness", Stewart's Pleading with Documentary Evidence, Exhibit 24, email of racial overtones, dated, May 9, 2013 8:44 AM, was not considered by the AHO. This non-consideration, disallowed Stewart the opportunity to present and prove her case and/or provide such to the Appeal Panel for appellate review.

Furthermore, the Employer immediately after transferring Stewart on May 3, 2013 prepared a Post HR Meeting Memorandum addressing what transpired on May 3, 2013 during and after the HR Meeting. The memorandum was absent any allegations of misconduct or insubordination by Stewart; and conclusively establishes that there were no actions exhibited by Stewart at that time, of such a serious nature, to warrant termination.

Employer Witness-2: That was already asked and answered by Mr. Cook and I said no, that we had gone off the record, there is no recording.

Claimant: Okay, Mr. Simmons, yes or no, did you produce a post HR memorandum [memorializing] the events of May the 3rd ... the May 3rd HR meeting after the meeting concluded?

Employer Witness-2: Yes. (Reference, SCDEW Appeal Tr., Pg. 17 Ln. 17-22)

The employer evasively admitted the Post HR Memorandum prepared immediately after the May 3, 2013 meeting did not contain any misconduct.

Claimant: Okay, so what I'm ... I guess what I'm asking Mr. Simmons, no what I am asking is in that second memorandum which is the post HR memorandum, I have it as Exhibit #18 in the information that I sent over, are you looking at that or do you have that information in front of you?

Employer Witness-2: Yes, ma'am, I am looking at that.

Claimant: Okay, in that memorandum, did it include any misconduct on May the 3rd, as alleged in your May the 9th termination notice of me calling you a liar?

Employer Witness-2: That memo does not, the only memo that contains that is the May 7th memo.

Claimant: May 7th memo?

Employer Witness-2: And, once again, that's the one that you had just stated that Ms. Olbon has not provided to you. When I provided the May 7th memorandum to Ms. Olbon, it also contained a signed statement attached to it from Lisa Lee, you don't have that one?

Claimant: I do not. Did you supply it to the Department of Labor?

Employer Witness-2: I have not ... this morning we did fax that to Mr. Cook and Mr. Breed emailed all that information scanned in to [UNCLEAR] e-mail this morning. (Reference, SCDEW Appeal Tr., Pg. 19 Ln. 5-24)

At no point did the AHO, as fact-finder, exam the contents of the Post HR Memorandum identified as Exhibit 18, in Stewart's Pleading. The Post HR Memorandum serves as direct evidence in support of Stewart's position that no misconduct transpired and the Employer had no intent of terminating Stewart for the alleged misconduct he memorialized on May 9, 2013, after Stewart emailed a racial grievance.

In furtherance of establishing the Employers' non-intent to terminate Stewart for the alleged misconduct, immediately after Stewart informed the Employer she would transfer the Employer informed her she made the right decision. When asked by the AHO why he informed Stewart of such, the Employer stumbled with no explanation but stated:

Employer Witness-2: I really can't explain that other than I wanted her to feel comfortable because she was coming to Walhalla the following morning and I said that just ... I can't tell you exactly why just words of comfort for lack of a better explanation. (Reference, SCDEW Appeal Tr., Pg. 8 Ln. 23-26)

Without sounding cynical, Stewart submits that such a statement certainly does not lend to the mindset of an Employer who was intending to terminate the employee's employment as the

AHO stated, after "one day of work". Although, the Employer attempted to explain in a subsequent HR memorandum dated, May 7, 2013 alleged misconduct, the AHO was required not give it any substantive consideration. First, the Employer admittedly did not follow SCDEW rules of submitting a copy of such to Stewart or the Appeal Tribunal, prior to the hearing:

Employer Witness-2: And, once again, that's the one that you had just stated that Ms. Olbon has not provided to you. When I provided the May 7th memorandum to Ms. Olbon, it also contained a signed statement attached to it from Lisa Lee, you don't have that one?

Claimant: I do not. Did you supply it to the Department of Labor?

Employer Witness-2: I have not ... this morning we did fax that to Mr. Cook and Mr. Breed emailed all that information scanned in to [UNCLEAR] e-mail this morning. (Reference, SCDEW Appeal Tr., Pg. 19 Ln. 16-24)

Also problematic, Stewart pursuant to the State of South Carolina's Freedom of Information Act, (hereinafter, "FOIA"), requested a copy of her entire Human Resources file on May 7, 2013 which was fully disclosed on June 5, 2013 as documented in Stewart's Pleading as **Exhibit 31**. The subject May 7, 2013 HR Memorandum was not part of the Human Resources File released to Stewart although, the Employer testified the document was hand-delivered to the HR Department on May 8, 2013. Moreover, on June 5, 2013, Oconee County HR pursuant to State law released no HR Memorandum, dated May 7, 2013, authored by the Employer. This fact strongly infers 1.) the document did not exist at the time of the FOIA request, 2.) was withheld from Stewart, 3.) was fabricated to fit the Employer's basis for terminating Stewart and/or 4.) the document does not exist as it was not entered into the record by the Employer.

Equally troubling, the Employer testified he attempted to contact County Administrator Moulder, (hereinafter, "Administrator") to seek Stewart's termination PRIOR TO PREPARING any memorandum documenting the alleged behavior and after the Post HR Memorandum which

documented no misconduct. The Employer testified he did not have conversations with the Administrator until Thursday, May 9, 2013 and the matter was delegated to Employer Witness 1, Asst. County Administrator Breed, and subsequently discussed with the County Attorney on May 9, 2013. (Reference, SCDEW Appeal Tr., Pg. 7 Ln. 16). Correspondingly, the Employer did not call the Administrator as a witness during the SCDEW Appeal Tribunal hearing, to confirm what he stated they discussed in regards to Stewart's termination. In fact, the Employer clearly stated the decision to terminate Stewart "was ultimately made on Thursday May 9th". Further, Employer Witness 1 stated no discussion of terminating Stewart transpired until May 9, 2013. (Reference, SCDEW Appeal Tr., Pg. 36 Ln. 6-22) and Pg. 37 Ln. 2-20) Certainly, all of the above did not transpire before 8:44 AM, such as the time Stewart forwarded her racial grievance email, or the email the Employer confirmed he received when cross-examined by Stewart or the email the AHO excluded from the Appeal Panel record.

Stewart, after reporting for work on Thursday May 8th, at 8:44 AM, submitted an email to the Employer grievancing racial overtones as a basis for documenting her work product. The subject email was submitted to the AHO as Exhibit 24 within Stewart's Pleading, but was excluded from the record. However, Stewart cross-examined the Employer inquiring as to whether he received the email, (Exhibit 24), and asked the time of day she was terminated.

Employer Witness-2: What time of the day?

Claimant: Yes, what time of the day on May 9th, did it occur?

Employer Witness-2: It was after lunch, don't quote me on the exact time, but I believe it was about 2:00.

Claimant: Okay. Did you receive an e-mail from me on May the 9th at 8:44 a.m., grievancing racial overtones, [UNCLEAR] for documenting my work product?

Employer Witness-2: I received ... there was a chain of, it was probably six or seven or more e-mails that I believe that I was cc'd on, there was a conversation that was going back and forth between you and Judge Norton ... yes, I have received all those copied e-mails. (Reference, SCDEW Appeal Tr., Pg. 20 Ln. 13-20)

And,

Claimant: So, you're saying yes, you did receive that e-mail?

Employer Witness-2: Yes.

Claimant: Okay. By about five hours later, did you terminate me for conduct that transpired on May the 3rd ...

Employer Witness-2: Yes, ma'am.

Claimant: ... that was never documented in a warning according to the handbook?

Employer Witness-2: It was documented only in that memorandum, but at no point and time did I deliver to you a written write up for you to sign, no. (Reference, SCDEW Appeal Tr., Pg. 21 Ln. 1-9)

Evidence in the record clearly establishes that many of the AHO's findings of facts are erroneous and incomplete. Simply, the AHO's findings excludes ALL facts Stewart submitted with proof and recounts partial facts that are favorable to the Employer's position. The AHO's statement that "[Stewart] worked one day at the Walhalla office the following week before being discharged by the Employer for calling the chief magistrate a liar", significantly omits substantive facts listed above by Stewart and clearly establishes a non-consideration of Stewart's documentary evidence submitted into the record.

The AHO reasons that "the MANNER in which [Stewart] conveyed to the Employer he was inaccurate was antagonistic and impugned the Employer's honesty. First, the record is absent any evidence of the manner or tone in which Stewart was speaking. The record clearly reflects the conversation was not recorded. (Reference, SCDEW Appeal Tr. Pg. 13 Ln 24-34). Another key point, Stewart's recorded tone during the recorded portion of the May 3, 2013 HR Meeting.

Stewart's Written Argument and Renewed Motion, Submitted October 22, 2013

During that meeting, Stewart's tone was courteous and professional even though she felt she was being unfairly treated. The AHO never listened to the contents of the meeting to ascertain the tone of that conversation. Second, the record further reflects Stewart's history to be that of impeccable professional communication:

Hearing Officer: Had there ever been any issues before through Ms. Staggers' [Stewart] employment with the nature of her communications with either yourself or any other staff or co-workers?

Employer Witness-2: Could you kind of clarify your question as to which time frame and which office?

Hearing Officer: Well, had you ever experienced any issues with Ms. Staggers [Stewart] using any kind of inappropriate communications that would be similar to what you said her calling you a liar... had there been anything similar before?

Employer Witness-2: With me personally; no. (Reference, SCDEW Appeal Tr., Pg. 10 Ln. 18-26)

And,

Hearing Officer: Did you ever know Ms. Staggers [Stewart] to use any kind of unprofessional communication with others or anything to that effect?

Employer Witness-2: No. (Reference, SCDEW Appeal Tr., Pg. 24 Ln. 19-21)

In addition, Stewart within her Pleading the AHO withheld from the record, submitted **Exhibit 4** Employee Performance Evaluation, which had recently been conducted by the Employer, dated January 10, 2013. Within the evaluation, the Employer rated Stewart's communication as a (9), out of a possible 1 to 10 scoring. Additionally, the Employer commented, "[Stewart] handles affairs professionally" in rating how Stewart clarifies misunderstandings tactfully, avoids confrontations, and deals tactfully with associates and the public. Thus, the record establishes the AHO's determination that Stewart was "antagonistic" is contrary to her demeanor

during the recorded portion of the meeting, the Employer and witness's testimony of her, and her past-history as rated by the Employer. The record is absent any evidence or factual basis Stewart communicated in an "antagonistic" manner and actually establishes she does not have the propensity of communicating in such a manner.

In stating, "the claimant was discharged for directly impugning the chief magistrate's honesty", the AHO is again inaccurate and leaves out a significant fact. Stewart, in disagreeing with the Employer regarding her grievance, was within her right to file and pursue such, in accordance with the *Oconee County Personnel Manual Policy Number 7-1 "Employee Grievance and Appeal Procedure"*. Stewart stated on the record she filed a complaint prior to the May 3, 2013 HR meeting:

Claimant: I asked to speak to him about something off of the record because the complaint that I had brought up prior to that meeting which I thought that's what the meeting was going to be about, was a complaint regarding the misuse of overtime funds from Deborah Sheriff, and allegations that she had made against me and had made prior to that against me. So, that is why I asked to speak to him off the record because she was asked to join us in this meeting.

Hearing Officer: So, then after the recording was turned off and you brought this to Mr. Simmons attention, what was his response?

Claimant: He said he didn't ... he told me that this was not in regard to that, that I wasn't being transferred for that reason and I, you know, I asked him why, why was I being transferred. I had just come back from FMLA, I asked him whether it was a result from that and I, you know, we furthered our conversations in regard to him not wanting ... him not wanting to interact with this ... (Reference, SCDEW Appeal Tr., Pg. 40 Ln. 15-27)

In addition, Stewart, through her Pleading the AHO excluded from the record, submitted a grievance dated, April 30, 2013 as Exhibit 7 and Exhibit 29, Employee Handbook to the Appeal Tribunal to become part of the record. In the Employee Handbook, *Policy Number 7-1, "Employee*

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT
P.O. BOX 995, COLUMBIA, S.C. 29202

EXHIBIT
A# 1
FILE NO: 1311075

1 STEPHANIE STAGGERS

DATE OF THIS NOTICE 05/23/13

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS		
STEPHANIE STAGGERS				-2934	05/05/13	09/21/13		
WFC NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS	
370	I	01	\$ 248.00	\$ 4960.00	\$ 4960.00	\$ 0.00	05/04/14	

DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 _____ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR IMPROPER ACTIONS
1 ON THE JOB. YOUR ACTIONS WERE CONTRARY TO WHAT AN EMPLOYER HAS A RIGHT TO EXPECT. YOU WERE
1 DISCHARGED FOR MISCONDUCT CONNECTED WITH THE EMPLOYMENT UNDER THE SOUTH CAROLINA CODE SECTION
1 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20
1 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF IMPROPER ACTIONS AND IMPROPER BEHAVIOR.

1 _____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 05/24/2013

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE 'APPEAL TRIBUNAL,' P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

UCB-102 DCI
Catalog# 08132
Rev 9/12



South Carolina Department of Employment and Workforce
Unemployment Insurance Benefits
Claimant Fact Finding Interview
Discharge – Insubordination

SC Dept. of
Employment & Work
MAY 22 2013
Received Benefits Div

WFC# 370

Effective Date of Issue 05/05/13

Type of Claim

New ☒ Add ☐ Cont ☐ Trans ☐

BYE 05/04/14

Claimant's Name Stephanie Stagers

SS# -2934

Bona Fide Employer (Name of Company) Oconee County

Employer Address 415 S Pine Street

Employer Telephone # 864-638-4252

Walhalla SC 29691

Employer Account# 125556

Employer Contact Person Kay Olbon

Dates of Employment Beginning 01/10/11

and Ending 05/09/13

Hours worked From 8 30am To 5pm or which shift _____ for _____ da _____ ys per week

Ending salary \$28,022 per yr _____ Occupation Court Clerk

All Questions Must Be Answered.

What is the name and title of the person who discharged you? Magistrate Simmons

What reason did your employer give for discharge? Insubordinant & I refused to report to Walhalla

What was the date of the discharge? 05/09/13

What was the date of the final incident that caused the discharge? 05/03/13

What was the final incident that caused the discharge? I think there were several incident that led to my dismissal

Was there a delay (two weeks or more) between the final incident and the date of discharge? ☐ Yes ☒ No

If the claimant states there was a delay due to suspension, pending investigation, or other reasons, document the specific details related to the scenario _____

Were you discharged for violation of a company policy? ☐ Yes ☒ No

If Yes, what company policy was violated? _____

How were you made aware of the company policy (Orientation, Handbook, etc)? _____

Did you receive any warnings? ☐ Yes ☒ No

If Yes, list

Dates of warnings _____

Reason _____

Name and title of the person who gave the warnings? _____

How were the warnings given (Oral, Written, etc)? _____

How did the final incident have an impact on the employer s business? _____

I don't think it had an impact on the business

Did you fail to comply with an order of a supervisor? ☐ Yes ☒ No

If Yes,

Was the order related to a written job description of your position? ☐ Yes ☐ No

What action did the employer say was insubordinate? **He said I called him a liar. He said that I had refused to transfer to the Walhalla Office. I had been instructed to transfer to the Walhalla Office on 05/06/13. I did report to the Walhalla Office on 05/06/13. I worked in Walhalla on that day. One cannot refuse to obey an order and comply with the order at the same time.**

Were there any witnesses? ☐ Yes ☒ No If Yes, please specify the names and titles _____

Employer's Statement (Also use for rebuttal of claimant's statement)

NET 101

Employer's Signature or Name of Individual Contacted

Title of Individual Contacted

☐ Telephone ☐ In Person ☐ Fax/Email Date

Rebuttal of Employer Reply **I disagree with the employer's statement I**

disagree with their grounds for terminating me I did not state in any meeting "You are a Liar"

I requested a copy of that meeting on 5/3/13 & 5/9/13 Magistrate Simmons asked Debra Sherriff & myself if we were okay if the meeting was recorded - we were both okay with it being recorded So I know that it was recorded When I requested a copy of the recording, Simmons told me that he didn't have one (CONT)

Claimant's Signature Phone

Date 05/21/13

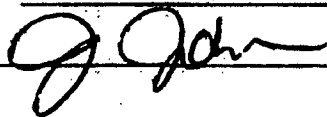
Interviewer's Signature

Date 05/21/13

Interview's Printed Name Pat Webb

Date 05/21/13

Reviewed By



Date 5/21/13

Use attached sheet for additional comments

Claimant's Name Stephanie Staggers

Social Security #

2934

All my employee reviews have ben exemplary Simmons has even told me that I've requested the recording several times I was to get back to Simmons with my decision as to whether or not I was going to report to the Walhalla Office, if I wanted to resign, or if I wanted to be terminated He told me that the part of the meeting where I was accused of saying that he was a liar wasn't recorded I then said, "So this is just your word against mine" and he said "Yes"

After the meeting that I had with Simmons on 5/3, I went to the County Aministrators office and spoke to Amanda Brock - Asst to the County Administrator This was the chain of command that I was to follow Ms Brock advised me to report to Walhalla on the designated report date I followed her advise She told me that she would talk to Molder (County Administrator) and get back to me I called her twice on Monday morning and when I finally got in contact with her, she told me that Molder refused to speak with me I asked her if she was telling me that Molder would speak with Simmons but not with me? She told me that Molder said that I should follow the procedure written in my employee handbook I have followed that procedure, yet they have not



SC Department of Employment and Workforce SCBOS NET101 Employer Response

NOTE: This verification must be completed on or before: 5/23/2013

Created date: 5/14/2013

Employer account number: 125556

Employer name: OCONEE COUNTY

Employer FEIN:

Employer enrollment date:

Employer status:

Employer address type: Tax

Employer address: 415 S PINE ST WALHALLA, SC 29691 US

Employer phone number: 8646384252

Employer email address:

Employer's statement of employee's first day at work: 1/10/2011

Employer's statement of employee's last day at work: 5/9/2013

Did the employer pay the claimant more than \$1984.00: Yes

Employer's statement of claimant's total wages earned by claimant: \$1,984.00

Are you paying or will you pay the claimant a pension or retirement pay: No

Amount employer pays claimant in pension or retirement: (\$1.00)

Frequency of pension or retirement payment: N/A

Explain the claimant's retirement situation:

Claimant contributed: No

Percentage the claimant contributed: -1%

UI local office to contact: SENECA

UI local office telephone number: 8648825638

UI local office fax number: 8648850694

Review completed date: 5/13/2013

Fact finding interview type: Phone - Local Office

Fact finding interview date and time: 5/21/2013 3:00 PM

Claimant's name: Stephanie Staggers

Additional last name for claimant: Stewart

Claimant's SSN: 250552934

Claimant's separation date: None

Separation reason: DISCHARGED

Discharge reason: INSUBORDINATION

Claim effective date: 5/5/2013

Claimant's statement of his/her first day at work: 1/10/2011

Claimant's statement of his/her last day at work: 5/9/2013

Claimant's statement of total wages earned: \$1,984.00

Contact person for NET-101 verification: Kay Olbon

Contact title: Human Resources manager

Contact phone number: 8648881460

Contact fax number:

Contact email address(es): kolbon@oconeesc.com
Tsimmons@oconeesc.com

Discharged - Insubordination

Description of how claimant was insubordinate:

During a meeting with claimant and Manager, Chief Magistrate Simmons, she stated "you are a liar." this meeting was held May 3, 2013.

Claimant warned: Yes

Final incident date: 5/3/2013

Explain final incident: Yes

Method used to enter company's insubordination policy: Fax

Explain company's policy:

Will be faxed

SC Dept of
Employment & Workforce

MAY 15 2013

Oconee County
Summary Court

May 9, 2013

Received Benefits Div.

Ms. Stephanie Stewart

Copy given to
Stephanie
Stewart by
Elizabeth
Brackett
5/9/13

VIA HAND DELIVERY

Refusal to Sign

Signature

Ms. Stewart:

Since our discussion on May 3, 2013, I have consulted with the County's Attorney and the County Administration, and thus have since affirmed my authority to terminate employees of the Magistrate's Department according to O.C.G.A. § 51-5-21 (HB 521 (1981)).

I have considered the lack of professionalism and insubordination you exhibited on Friday, May 3, 2013, when you stated, "You're a liar," following your refusal to be interviewed in the Magistrate Office.

Since confirming my authority to terminate Magistrate's Office employees, and since this conduct is insubordination per the County Policy & Procedure Manual, you are hereby notified that your employment as a Court Clerk in the Magistrate's Department is terminated, effective immediately.

You are responsible for contacting the Human Resources Office at 864 638-4252 to arrange an appointment for an Exit Interview.

Sincerely I am,



M. Todd Simmons
Chief Magistrate
Oconee County

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



General Guidelines

Human Resources shall be responsible for organizing and scheduling the hearing, to include all contact and notifications for the hearing with all hearing participants; and

Grievance Hearings shall be closed hearings restricted to only those parties directly involved, which may include any legal representation as outlined in the Oconee County Personnel Policy and Procedure Manual, and

Grievance Committee members shall have no contact pertaining to the matter at hand with any of the parties to the hearing prior to the formal hearing; and

Discussions relating to the matter shall not be entertained by the Committee outside of the hearing proceedings, and

Only evidence and testimony directly pertaining to the grievance will be considered by the Committee, and

No debate shall occur between the party requesting the grievance, the human resource department, or the supervising employee; and

The Chairperson, for good cause shown, may extend the time limits set out in this section

OCONEE COUNTY PERSONNEL MANUAL Policy Number 7-2

SUBJECT: Employee Code of Conduct And Discipline

Intent

Positive discipline is the preferred means to resolve problems related to conduct and performance. However, situations may occur which require a different course of action.

THIS POLICY IN NO WAY INFERS A CONTRACTUAL OBLIGATION TO FOLLOW ANY CERTAIN PROCEDURE. THE COUNTY RETAINS THE RIGHT TO UTILIZE ANY FORM OF DISCIPLINE IT DEEMS APPROPRIATE.

General

This jurisdiction has adopted a positive discipline policy that allows an employee every opportunity to meet the requirements, policies, rules, and regulations necessary

for continued employment. At the same time, the jurisdiction recognizes that some violations are of such a serious nature that immediate discharge is appropriate. Any action which will result in loss of pay, reduction in grade, or which places an individual's job in jeopardy must ordinarily be reviewed by the Human Resources Director and approved by the County Administrator.

Positive Discipline Examples

Examples of conduct calling for the appropriate use of positive discipline include, but are not limited to: tardiness, unauthorized absences, failure to follow instructions, procedures, or standards; improper care, use or abuse of organizational property and equipment, abusive, vulgar, or threatening language; disregard of safety rules; and others of a similar nature. Examples of discipline that may be utilized by the County include an oral counseling, a written counseling, a written reprimand, and/or a short, paid, (maximum of one week) decision-making leave. The decision making leave gives the employee time off to think about the situation.

Termination Examples

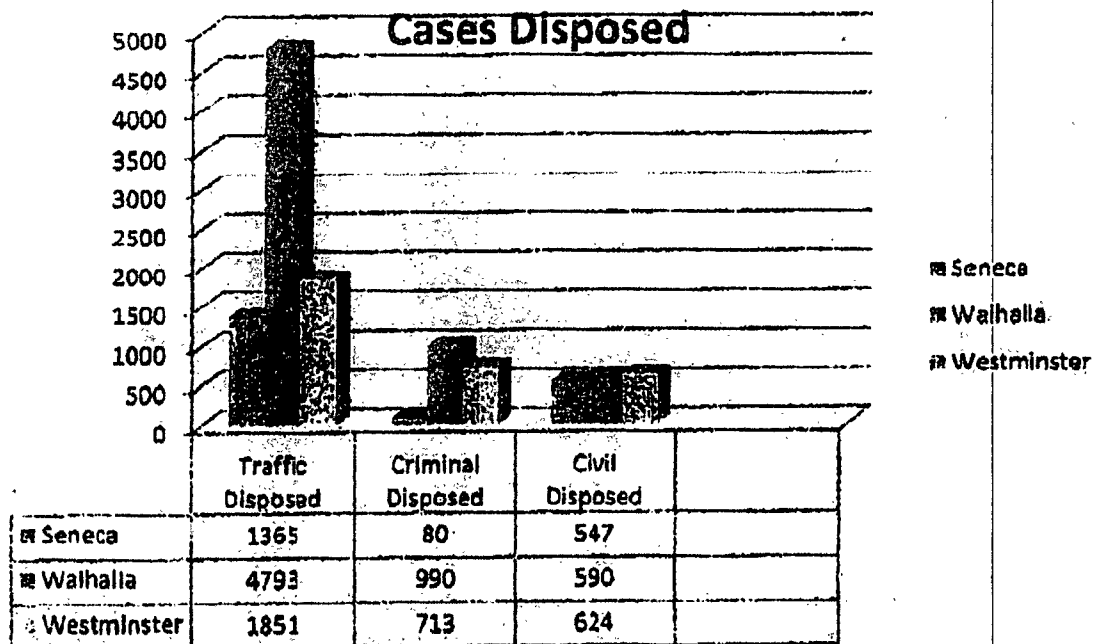
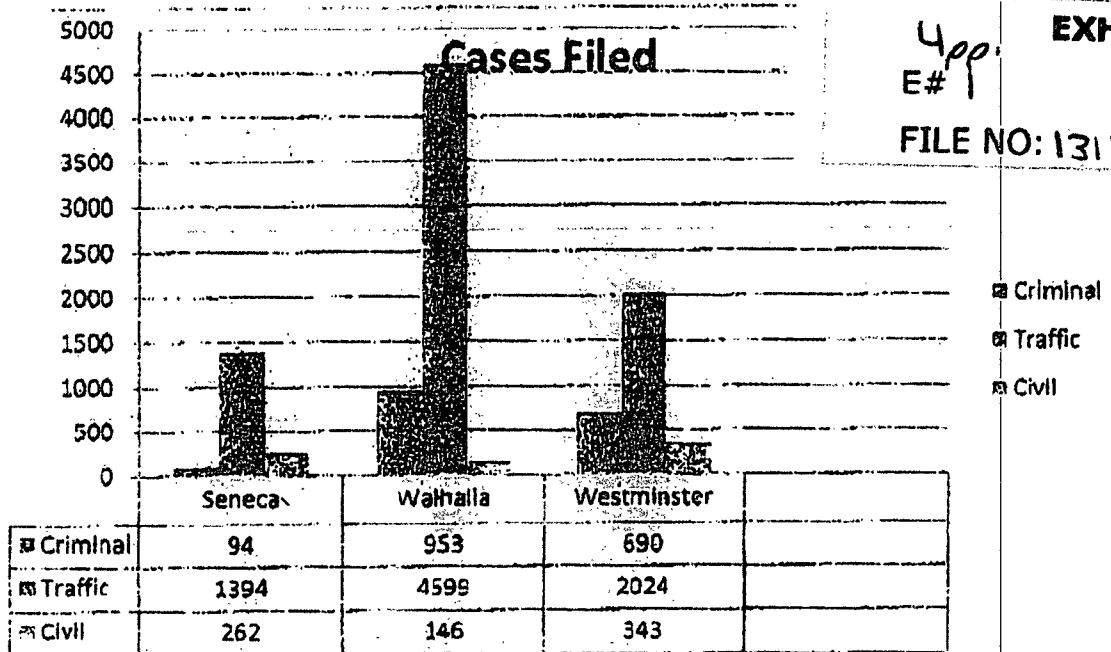
There may be occasions where an employee's performance, behavior, or conduct leads the County to conclude, in its sole discretion, that termination is appropriate. Examples of the type of conduct that may lead to termination include, but are not limited to: theft, intoxication on duty, use, possession or sale of narcotics or other controlled or dangerous substances, fighting on duty, any form of harassment, insubordination, refusal to perform assigned work, falsification of records, sleeping on the job, and unauthorized possession of firearms or other weapons, or reckless endangerment through actions or operations of equipment or machinery. This list is not all-inclusive but rather is illustrative of the type of conduct that may lead to termination.

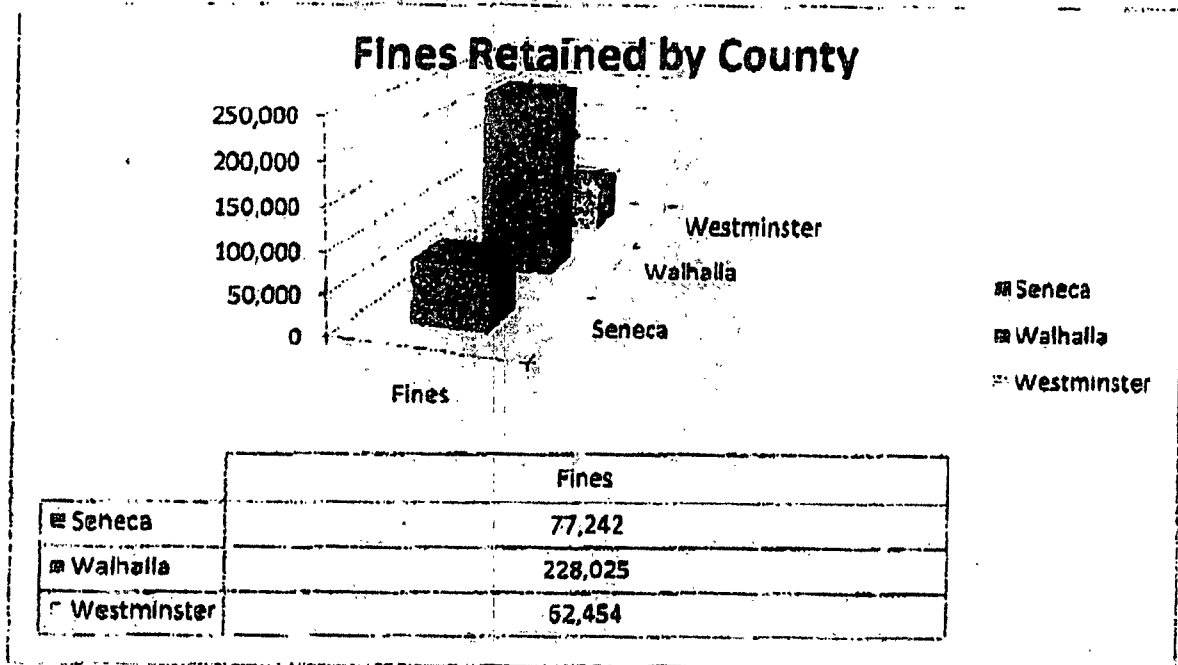
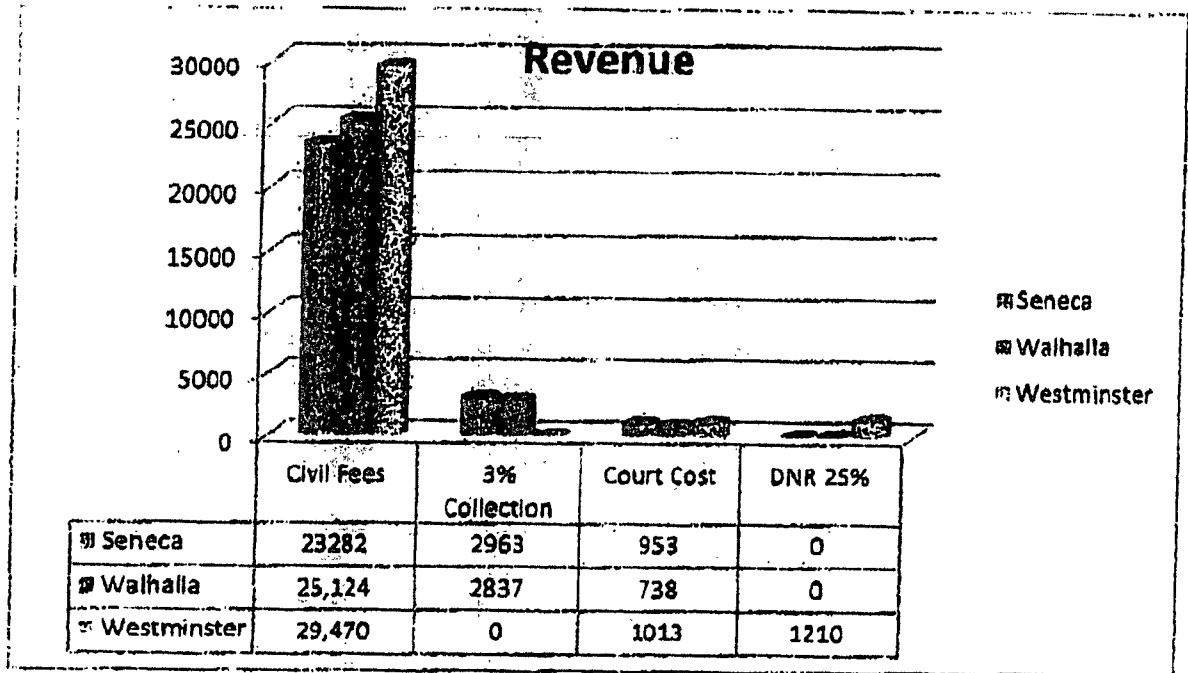
Acknowledgement of Signature

The County may periodically conduct oral or written evaluations of employees' performance. Employees must sign written evaluations. The employee's signature does not necessarily indicate agreement with the contents of the evaluation, only that he/she has been made aware of the document. While favorable performance evaluations may be a factor in determining wage increase, no employee is entitled to a wage increase because he/she receives a favorable evaluation.

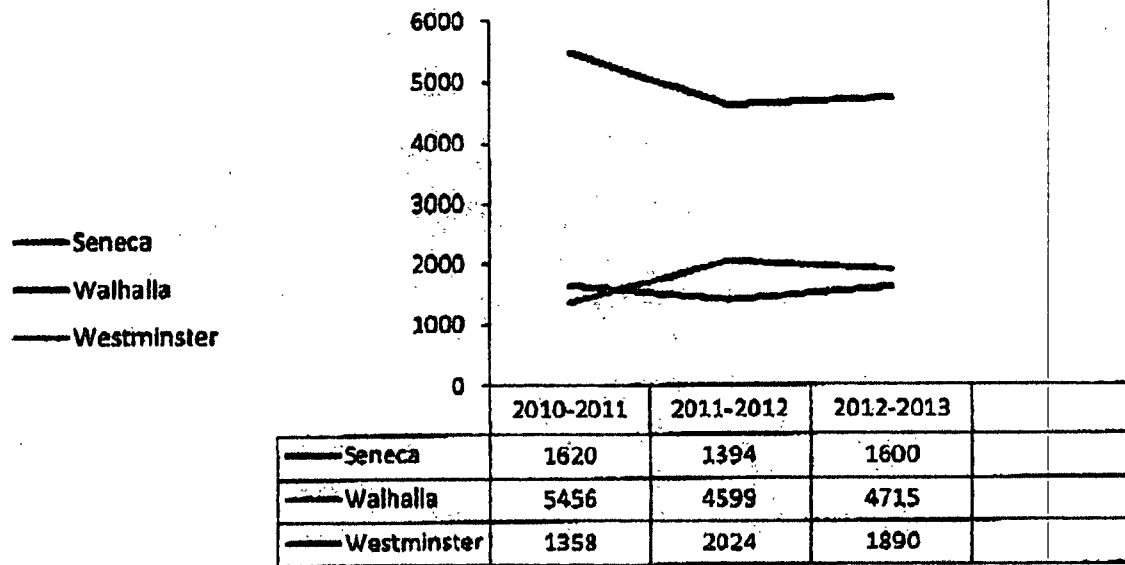
Employees must sign disciplinary notices, counseling memoranda, performance appraisals and similar documents. The employee's signature indicates only that the employee is aware of the action taken and does not indicate whether or not the employee agrees with the action. An employee who refuses to sign such a document will be relieved of all duty until the document is signed. If the document has not been signed and returned by the end of the employee's next scheduled work day, the County will consider the employee to have resigned.

Workload Indicators *2011-2012 fiscal year* Magistrate Department 509

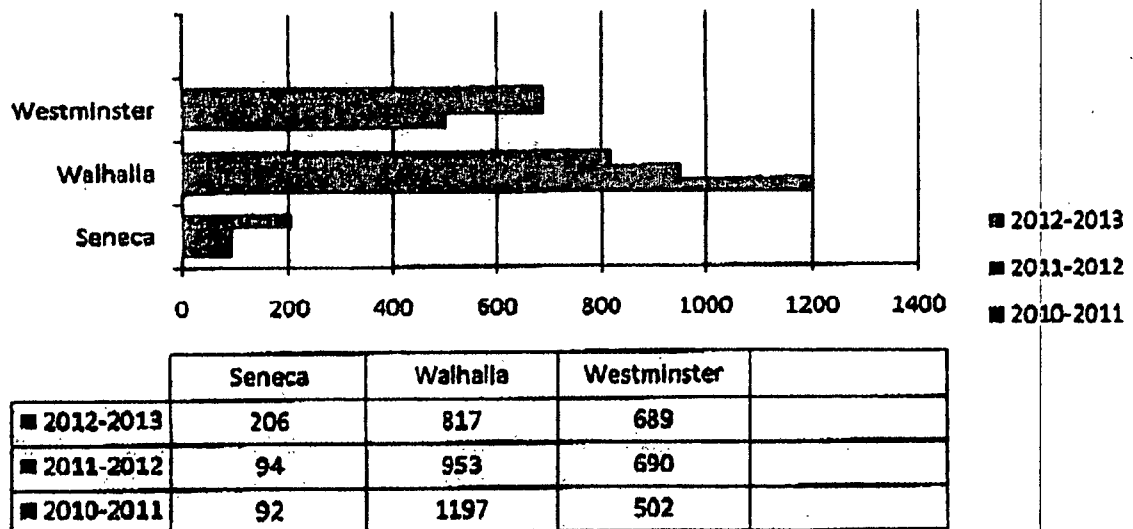


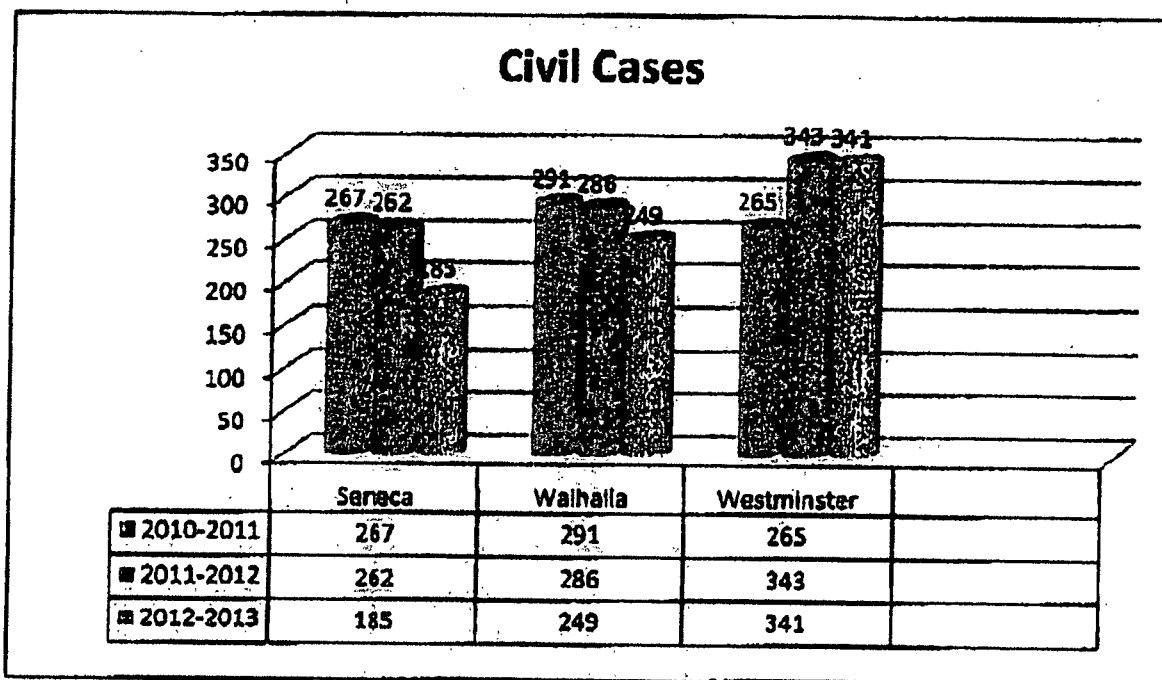
Workload Indicators *2011-2012 Fiscal year* Magistrate Department 509

Traffic Cases

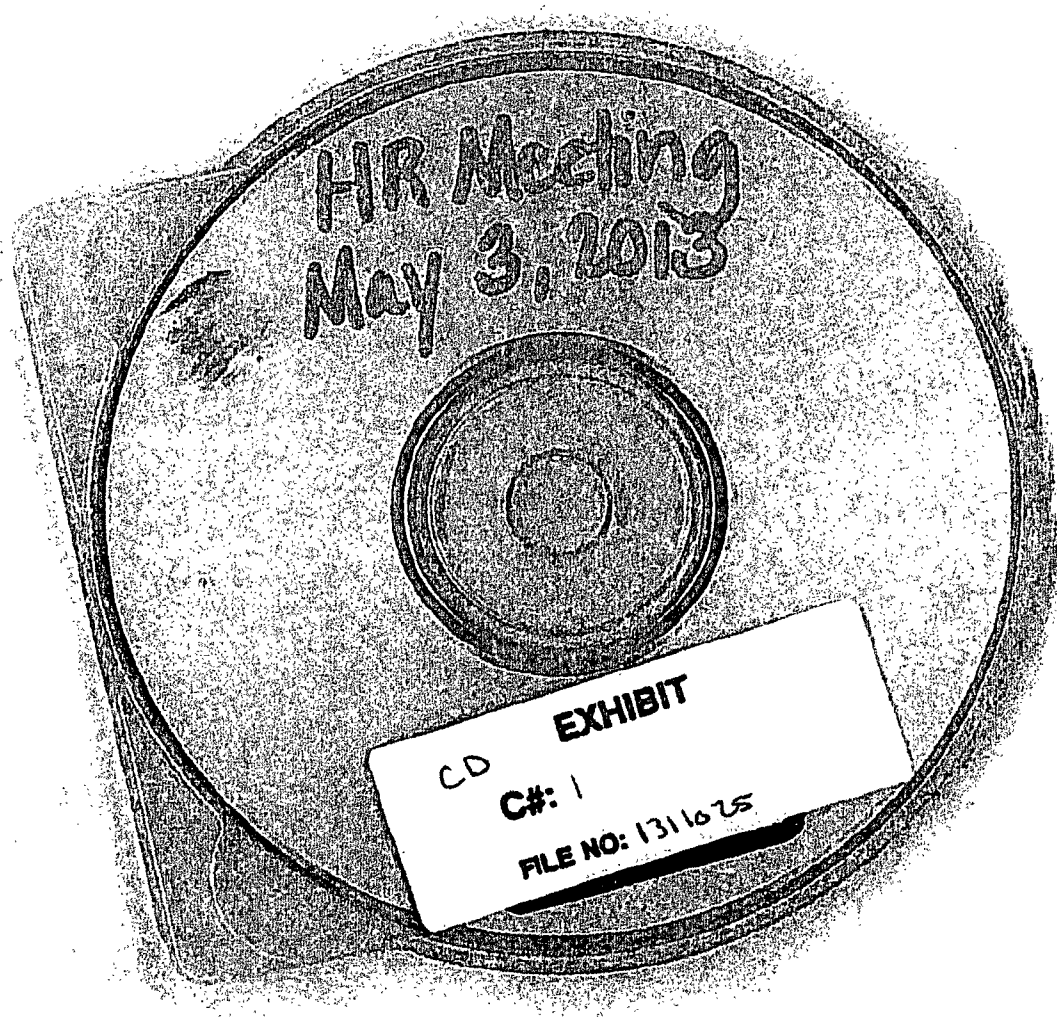


Criminal Charges





CLAIMANT EXHIBIT #1



EMPLOYER PROFFERED DOCUMENTS

SCDEW

AUG 20 2013

cc

Fax

Lower Authority Appeals
8/20/2013

From: Chief Judge M. Todd Simmons
Phone: (864) 888-1460
Fax: (864) 888-1462
Company Name: Oconee County Summary Court

To: Judge Lane K. Cook
Phone: (803) 737-0287
Fax: (803) 737-0287

Subject: Stephanie Staggars Stewart - Appeal No. 1311025

Comments:

Please see the attached documents that I request be placed into evidence in the above matter.

[19 pages, including this cover sheet]

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

SC Judicial Department

Page 1 of 7

2012-12-28-02

The Supreme Court of South Carolina

RE: Chief Judges for Administrative Purposes of the Summary Courts

ORDER

The judges of the magisterial and municipal courts, hereinafter referred to as "summary courts", of South Carolina being a part of the uniform statewide judicial system and pursuant to the provisions of Section 4, Article V, South Carolina Constitution,

IT IS ORDERED that the judges of the magisterial courts listed below be designated as Chief Judge or Associate Chief Judge for Administrative Purposes of the Summary Courts in the counties in which they hold office.

Judge S.G. Gladden
Abbeville County

Judge C.S. Insley
Aiken County

Judge D.H. Williamson
Associate Chief Judge
Aiken County

Judge W.D. Branch, Jr.
Allendale County

Judge N.W. Devine
Anderson County

Judge R.C. Threatt
Bamberg County

Judge J.W. Gantt
Barnwell County

Judge L.J. Holland, Jr.
Associate Chief Judge
Barnwell County

Judge R.H. Sproatt
Beaufort County

SC Judicial Department

Page 2 of 7

Judge L.P. McElynn
Associate Chief Judge
Beaufort County

Judge A.B. Ayers
Berkeley County

Judge R.H. Lake
Calhoun County

Judge D.W. Coker
Charleston County

Judge J.B. Gosnell
Associate Chief Judge
Charleston County

Judge R.B. Howell
Cherokee County

Judge D.H. Moore
Chester County

Judge G.R. Faulkenberry
Chesterfield County

Judge P.B. Harvin, Jr.
Clarendon County

Judge K.A. Campbell, Jr.
Colleton County

Judge C.A. Baker
Darlington County

Judge M.D. Hayes
Dillon County

Judge C.D. Spivey
Associate Chief Judge
Dillon County

Judge K.L. Patton
Dorchester County

Judge P.B. Shelbourne
Associate Chief Judge
Dorchester County

Judge B.B. Carpenter
Edgefield County

Judge W.F. Pope

SC Judicial Department

Page 3 of 7

Fairfield County

Judge E. Cooper
Florence County

Judge S. M. Grimsley
Associate Chief Judge
Florence County

Judge I.L. Pyatt
Georgetown County

Judge D.D. Cagle
Greenville County

Judge L. Foster
Associate Chief Judge
Greenville County

Judge B.S. McGuire
Greenwood County

Judge C.A. Williams
Hampton County

Judge M.B. Livingston
Horry County

Judge A.C. Butler
Associate Chief Judge
Horry County

Judge S.J. McDonald
Jasper County

Judge D.D. Lynah
Associate Chief Judge
Jasper County

Judge R.M. Todd, Jr.
Kershaw County

Judge W.D. Corbett
Associate Chief Judge
Kershaw County

Judge J.M. Pope
Lancaster County

Judge P.D. Lyles
Laurens County

Judge G.R. Gibson

SC Judicial Department

Page 4 of 7

Lee County

Judge G.W. Reinhart
Lexington County

Judge B.W. Jeffcoat
Associate Chief Judge
Lexington County

Judge D.O. Barker
Marion County

Judge R.K. McDonald
Marlboro County

Judge P.L. Smith
McCormick County

Judge A.L. Jayroe, Jr.
Newberry County

Judge M.T. Simmons
Oconee County

Judge B.A. Norton
Associate Chief Judge
Oconee County

Judge D.F. Dash
Orangeburg County

Judge P.D. Doremus
Associate Chief Judge
Orangeburg County

Judge B.E. Anders
Pickens County

Judge D.J. Simons
Richland County

Judge K.D. Shealy
Associate Chief Judge
Richland County

Judge J.B. Shults
Saluda County

Judge D.J. Turner
Spartanburg County

Judge J.T. Wall
Associate Chief Judge

SC Judicial Department

Page 3 of 7

Spartanburg County

Judge K.F. Curtis
Sumter County

Judge B.K. Griffin
Associate Chief Judge
Sumter County

Judge J.D. Crocker
Union County

Judge J.D. Bailey
Associate Chief Judge
Union County

Judge E. Ackerman
Williamsburg County

Judge D. F. Williams
Associate Chief Judge
Williamsburg County

Judge L.H. Benfield
York County

Judge R. Davenport, Jr.
Associate Chief Judge
York County

A Chief Judges' authority shall include, but not be limited to, the following:

1. Coordinate with the Office of South Carolina Court Administration on all matters pertaining to summary court judges in the county.
2. Coordinate the activities of the summary court judges of the county with other affected persons and/or agencies to insure cooperation and effective judicial service.
3. Establish with the other magistrates of the county, a schedule so arranged that a magistrate will be available, in person or on call, in the county to issue warrants and conduct bail proceedings. The bail proceedings schedule shall be in compliance with the provisions of the Order of the Chief Justice dated September 19, 2007, outlining certain bond procedures in those courts. The Chief Judge shall also inform the municipal courts of the details of the county magisterial court schedule, to insure the availability of a magistrate to issue warrants and conduct bail proceedings for the municipal courts when the municipal judge is unavailable. After hours and weekends does not constitute unavailability in and of itself. Establish a procedure with all municipal courts within the county whereby they provide the Chief Judge with a monthly bond schedule indicating their availability for bond court. Monitor all summary court judges within the county to insure compliance with the above referenced Order dated September 19, 2007. The monitoring shall include, but shall not be limited to, insuring that bond hearings are being conducted twice daily, insuring that defendants' and victims' constitutional and statutory rights are being upheld, insuring that cash bonds only and excessive bonds are not being required, and insuring that no irregular practices as outlined in

SC Judicial Department

Page 6 of 7

the above referenced Order are occurring.

4. Establish within the county a procedure to ensure that Certificates of Transmittal are completed and the appropriate documents (warrants or other charging papers, checklists, bond forms, and checks for cash bonds received) are attached and transmitted within fifteen (15) days to the appropriate magistrate, municipal judge or Clerk of Court of General Sessions having jurisdiction over the case.
5. Call a meeting at least on a quarterly basis of all summary court judges in the county to formulate procedures which establish uniformity of procedures in the county summary court system. Require that all summary court judges who have court bank accounts bring to the quarterly meetings documentary proof of all monthly reconciliations of those bank accounts since the previous quarterly meeting. A minimum of one municipal judge from each municipality within the county shall be required to attend these meetings.
6. Coordinate the planning of budgets for the magistrates in the county, and appear before the county governing body with the magistrates of the county to present and justify the budget requests.
7. Attend schools and meetings for Chief Judges called to implement policies and procedures under this and other Orders.
8. Set terms of court, both civil and criminal, when terms are necessary for the disposition of any cases within the jurisdiction of the magisterial court.
9. Provide for the orderly assignments of any case within the jurisdiction of the magisterial court to any magistrate of the county, regardless of whether the case is transferred from circuit court or originally filed in the magisterial court.
10. Designate the hours of operation of each magistrate's court office in the county, and designate the hours during which each magistrate shall be present in the office, based upon the number of hours fixed for each magistrate by the county governing body.
11. Collect from the other magistrates in the county on a quarterly basis and review information concerning the age of pending civil and criminal cases to insure that all civil cases are disposed of within ninety days of filing and that criminal cases are disposed of within sixty days of arrest.
12. When any summary court judge in the county dies, retires, is suspended, goes out of office, becomes incapacitated, is unable to perform the duties of their office, and when a successor has not been nominated or qualified, the Chief Judge shall immediately take custody, or provide for the orderly transfer, of all records, to include past and present, civil and criminal docket books, warrant books, receipt books, financial records including official checking account statements and stubs, bank accounts and any funds contained therein, Acts and Joint Resolutions, the Code of Laws, Bench Books, pending and disposed warrants, tickets, NRVC's, and other court records.
13. Insure that the Office of Court Administration is provided written notification of the appointment, retirement, resignation, suspension or death of any summary court judge, whether municipal or magistrate, within the county.
14. Appoint, coordinate, and assign constables throughout the County, in those Counties that utilize constables, so as to insure cooperation and effective judicial service.

SC Judicial Department

Page 7 of 7

15. Establish within the county a procedure with all summary court judges and appropriate public officials to ensure that court generated revenues are collected, distributed, and reported in an appropriate and timely manner.

16. Monitor all requests for recusals countywide. When all magistrates have recused themselves from a particular case in order to avoid the appearance of impropriety, the Chief Judge shall request from the Chief Justice, by and through Court Administration, a judge from outside of that County be assigned to dispose of the case by order of the Chief Justice.

17. Report to the Office of Court Administration any significant or repetitive non-compliance by any summary court judge in the county concerning the Chief Judge's execution of the provisions of this Order.

No order issued by the Chief Judge under the authority of this Order shall be effective unless the order is filed with the Office of South Carolina Court Administration and approved for consistency with statewide administrative policies.

Associate Chief Judges appointed in this Order shall act in the absence or disability of the Chief Judge. They shall also perform administrative duties that are assigned to them by the Chief Judges.

The authority conferred on the Chief Judges and Associate Chief Judges for Administrative Purposes of the Summary Courts by this Order shall become effective on January 1, 2013 and shall continue through June 30, 2013 unless amended or revoked by Order of the Chief Justice.

s/Jean Hoefer Toal

Jean Hoefer Toal
Chief Justice

December 28, 2012
Columbia, South Carolina

South Carolina General Assembly
104th Session, 1981-1982

Bill 521

Current Status

BillNumber: 521
Ratification Number: 136
Act Number: 258
Introducing Body: Senate
Subject: Magisterial districts in Oconee County

View additional legislative information at the LPITS web site.

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

(A258, R136, S521)

AN ACT TO MODIFY THE NUMBER, DUTIES AND DISTRICTS OF MAGISTRATES IN OCONEE COUNTY; TO DEFINE JURY AREAS FOR MAGISTRATES' COURTS IN OCONEE COUNTY; AND TO REPEAL ACT 25 OF 1967, RELATING TO OCONEE COUNTY MAGISTERIAL DISTRICTS, ACT 1073 OF 1964, RELATING TO OCONEE COUNTY MAGISTERIAL DISTRICTS AND TO THE JURISDICTION OF MAGISTRATES IN OCONEE COUNTY, AND THE FIRST PARAGRAPH OF SECTION 1 OF ACT 11 OF 1933, RELATING TO OCONEE COUNTY MAGISTRATES.

Be it enacted by the General Assembly of the State of South Carolina:

Magisterial districts, in Oconee County

SECTION 1. Oconee County shall be divided into the following two magisterial districts and jury areas, comprised respectively of the specified voting precincts:

District 1 and Jury Area 1-Mt. Rest, Salem, Tamasee, Walhalla No. 1, Walhalla No. 2, West Union, Keowee, Holly Springs, Long Creek, Madison, Westminster No. 1, Westminster No. 2

District 2 and Jury Area 2-Corinth, Ravenel, Friendship, Newry, Shiloh, Utica, Seneca No. 1, Seneca No. 2, Seneca No. 3, Seneca No. 4, Richland, Earles Grove, Providence, Return, Tokeena, Fair Play, Oakway, South Union

Administrative duties of chief magistrate

SECTION 2. A. There shall be two magistrates in Oconee County with full magisterial powers and authority, whose jurisdiction shall be countywide, one of whom shall be the Chief Magistrate, whose office shall be in District One at the Oconee County Law Enforcement Center in Walhalla, and the other shall have offices in District Two; provided, however, that one of these magistrates shall sit in Westminster at least two days a week. They shall conduct trials and preliminary hearings at such times

and places throughout the county as may be required by the interests of justice. The Chief Magistrate shall have the following administrative duties:

- (1) Establish and maintain records of all cases instituted in magistrate's court, including the dates of issuance of warrants and the final disposition thereof;
- (2) Insure that at least one magistrate of the court is available for duty within the county at all times, and to specify the place of duty;
- (3) Hire and supervise support personnel of the court;
- (4) Prepare and submit the budget of the court;
- (5) Maintain a register of the qualified voters of the county from the most recent list of the State Election Commission to be used in jury selection for the court;
- (6) Prepare and submit reports of the court as may be required by law.

B. There shall be one ministerial magistrate in Oconee County with powers and duties as provided for in Section 22-2-40 of the 1976 Code. The ministerial magistrate shall have countywide jurisdiction and shall be subject to such duties and places of duty as may be assigned by the Chief Magistrate.

Appointment of magistrates

SECTION 3. Appointment of magistrates shall not be constrained or restricted by the candidate's magisterial district of residence.

Papers shall be transferred

SECTION 4. In any cause requiring either a change of venue or disqualification of one of the county's trial magistrates, the papers shall be transferred to the other of the county's trial magistrates who shall then be vested with full power and authority to dispose of the matter by trial or otherwise.

Compensation

SECTION. 5. Compensation for magistrates in Oconee County shall be as provided for by law.

Repeal

SECTION 6. Act 25 of 1967, Act 1073 of 1964, and the first paragraph of Section 1 of Act 11 of 1933 (leaving in force that portion of Section 1 designated as Section 43-219 of the 1962 Code) are repealed.

Time effective

SECTION 7. This act shall take effect on July 1, 1981.

Approved the 4th day of June, 1981.

Oconee County
Summary Court
MEMORANDUM

TO: Kay Olbon
Human Resources Director

FROM: Judge M. Todd Simmons *MTS*
Chief Administrative Summary Court Judge

RE: Transfer

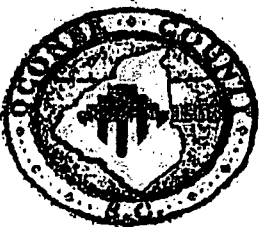
DATE: May 3, 2013

Please be advised that Stephanie Stewart's work location has been changed. Mrs. Stewart will now be located at the Walhalla Magistrate Court under the direct supervision of Judge Blake Norton. This change takes effect on Monday, May 6, 2013 at 8:30 a.m.

Stephanie was hired on January 10, 2011 as a Magistrate Clerk to fill the position in the Walhalla Court following the retirement of a former employee. At all times during the interview process, I made it very clear to Mrs. Stewart that her position would be permanently located in Walhalla following a brief introductory period in the Seneca Magistrate Office. Following the standard Oconee County pre-hire procedures, Mrs. Stewart was temporarily assigned to the Seneca office to receive training. The training consisted of learning as much as possible about the complicated case management system, the scheduling of preliminary hearings, and the day to day functions of a Court Clerk. After several weeks, Mrs. Stewart was assigned permanently to the very busy Walhalla office. Mrs. Stewart remained there until September 19, 2011. Through discussions with Judge Norton and Mrs. Stewart, it became apparent that Mrs. Stewart was not happy with her Walhalla assignment. I determined that Mrs. Stewart needed additional training and that I needed to work with the Walhalla office staff to address some intra-office personality differences. Mrs. Stewart was moved back to the Seneca office where she has

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



**Oconee County
Summary Court**

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462

remained responsible for scheduling preliminary hearings. Additionally, all criminal domestic violence cases were directed to the Seneca office and Mrs. Stewart has coordinated the CDV central court. Mrs. Stewart has also undertaken the many and various duties of a Court Clerk. She also is the main phone attendant and is the main front desk Court Clerk responsible for interacting with the public at the front window.

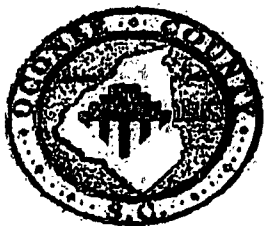
Since returning to Seneca, Stephanie has received substantial experience and does a great job. She has received good reviews from me and has shown that she can use and navigate the case management system properly. I have reviewed the workload distribution among the three Magistrate offices and Walhalla continues to handle the most cases within Oconee County. There continues to be a need for an additional Court Clerk in Walhalla. Due to the fact that my requested part-time Court Clerk position remains unapproved by the administration, I feel that it is best for the Oconee County Magistrate Department to transfer Mrs. Stewart back to the office she was hired to work in. Mrs. Stewart has received a great deal of training and experience during her temporary reassignment to Seneca and I believe she will work well in the Walhalla office and receive good reviews from her new supervisor. Supporting documentation is attached. I would appreciate it if you would place this memo and supporting materials in Mrs. Stewart's HR file maintained in your office. Please let me know if you need any additional information.

Acknowledged: _____

Witnessed: _____

MTS/ds

Enclosures (4)



**Oconee County
Summary Court**

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



MEMORANDUM

TO: Kay Olbon
Human Resource Director

FROM: Judge M. Todd Simmons *MTS*
Chief Administrative Summary Court Judge

RE: Transfer

DATE: May 7, 2013

On Friday, May 3, 2013 at 11:00 a.m. I held a meeting with Mrs. Stephanie Stewart to discuss her transfer to the Walhalla Magistrate Court. Documentation of the meeting has been provided to your office. As the documentation shows, Mrs. Stewart wished to be transferred. I gave her until the end of the work day to decide between one of three options. The options presented were: 1) she could decide to show up Monday morning at the Walhalla office and continue her employment, 2) she could resign, or 3) I would discuss her immediate termination with Mr. Scott Moulder, County Administrator. She was instructed to take the remainder of the day off on administrative leave and I contacted Kim Hopkins to advise her that it would be paid leave. Mrs. Stewart was also instructed to return her key to the Seneca office and to remove her personal belongings from her desk.

Immediately after the meeting Mrs. Stewart asked if she could speak with me about a personal matter. I agreed and we sat in the court room and Mrs. Stewart asked Debbie Sheriff to leave the room. Once Mrs. Sheriff left the room, Mrs. Stewart accused Mrs. Sheriff of not accurately recording her time on the payroll sheets. Mrs. Stewart also claimed that Mrs. Sheriff took long lunch breaks, and was not as punctual as the other Court Clerks. Mrs. Stewart stated that the payroll records were not in Mrs. Sheriff's desk as they used to be. I asked Mrs. Stewart how she knew the records were gone. She explained that she went into her desk and looked for various records pertaining to the time sheets and also stated that Lisa Lee helped her do it. I immediately explained that no Court Clerk should ever do that. She stated that Mrs. Sheriff would go into her desk and intentionally remove files to make her look bad. Mrs. Stewart then implied that I knowingly let Mrs. Sheriff inaccurately record her hours and she also stated that Lisa Lee had called me several weeks before to complain about the matter. I explained to Mrs. Stewart that I didn't believe Lisa had called me and that I didn't remember having any conversation with her about the matter. Mrs. Stewart instant stated to me "you are a liar". Recognizing the civility of the meeting was rapidly declining, I informed Mrs. Stewart that the meeting was over and that I would

**Oconee County
Summary Court**

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462

not be called a liar in my own court room. I instructed her to leave and consider her three options.

Following the meeting, I prepared a short resignation letter for Mrs. Stewart to sign and I provided it to her as she left. She gave me her office key and I helped her transport her personal belongings to her car parked on the street. She was once again advised to make a decision regarding her future with the Magistrate Department by the end of the work day. Mrs. Stewart called later that day and stated that she would report to the Walhalla office on Monday morning at 8:30 a.m. I explained that I would make the necessary arrangements. Thereafter, I arranged for her computer to be transported along with all of the files she needed to perform her job.

Mrs. Stewart has been given every opportunity to succeed as a Court Clerk. She takes assigned tasks and performs her work as required 95% of the time. What troubles me most about Mrs. Stewart is that the kind and cheerful individual that I initially hired no longer shows up for work. Instead, Mrs. Stewart is more concerned with what other employees are doing, she does not accept constructive criticism well, and she instantly assumes she is being accused of something. If she is asked a question about what she did on any particular matter, while I understand that Mrs. Stewart may have felt stressed following the transfer meeting, she clearly showed a significant lack respect and professionalism when she stated to the Chief Magistrate in his own court room that he was a liar. I have never had a criminal defendant do that in my court room, and I certainly will not stand for that type of conduct from a Court Clerk under my supervision.

While I have reluctantly agreed to allow Mrs. Stewart to continue her employment in Walhalla, there are sufficient grounds for immediate termination. I believe that no further incidents should be tolerated.

MTS/das



**Oconee County
Summary Court**

May 9, 2013

Ms. Stephanie Stewart

VIA HAND DELIVERY

Refusal to Sign

Signature

Ms. Stewart:

Since our discussion last Friday, May 3, 2013, I have consulted with the County's Attorneys, and with the County Administration, and thus have since affirmed my authority to hire and terminate employees of the Magistrate's Department according to Section 20-1(c), HB 521 (1981).

I have considered the lack of professionalism and insubordination you exhibited on Friday, May 3, 2013 when you stated to me, "You're a liar," following your refusal to be transferred to the Walhalla Magistrate Office.

Since confirming my authority to terminate Magistrate's Offices employees, and since this conduct is in fact insubordination per the County Policy & Procedure Manual, you are hereby notified that your employment as a Court Clerk in the Magistrate's Department is terminated, effective immediately.

You are responsible for contacting the Human Resources Office at 864 638-4252 to arrange an appointment for an Exit Interview.

Sincerely I am,

[Signature]

M. Todd Simmons
Chief Magistrate
Oconee County

*Copy given to
Stephanie
Stewart by
Elizabeth
Brackett
5/9/13*

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



CLAIMANT PROFFERED DOCUMENTS

Stephanie Stewart



From: Todd Simmons
Sent: Friday, August 19, 2011 11:22 AM
To: Stephanie Stewart
Subject: Re: Just want to say thank you!

Call me when you can. No rush

M. Todd Simmons

On Aug 19, 2011, at 10:51 AM, "Stephanie Stewart" <ss Stewart@oconcesc.com> wrote:

FYI...Below is a recap of my meeting with Judge Norton.

From: Stephanie Stewart
Sent: Friday, August 19, 2011 10:50 AM
To: Blake Norton
Subject: Just want to say thank you!

Judge Norton,

I want to thank you for taking time to speak with me concerning grievances & concerns I shared with you on 8.02.11. Below is just a brief recap of what I discussed with you.

1. Areas of Responsibility

- Human Error /Mistakes automatically being attributed to me.
- Constant unwarranted interference with my individual area of responsibility by co-worker.
- Constant concerns about Prelims & usurpation of the chief magistrate's administrative decisions surrounding them.

2. Professionalism & Discretion

- Discussing "inside" business among other departments (ie: w/ officers – like reviews & disciplinary actions taken, discussed inappropriately with "outsiders").
- Idleness/ constant talk of others' "business" –unprofessional not appropriate in work environment.

3. Conflicting Training given by co-workers

- Maintaining procedure logs to prevent such, has become burdensome, but is necessary.

4. Officer's in Work Space

- Personally uncomfortable
- No control over work area/space
- Gives negative perception to general public
- Much deference is given to officers

5. Negative/abusive attitudes from co-workers

- Several incidents were shared
- Constant reprimands from co-worker in front of general public, officers & other co-workers.

5. Racial overtones within work environment have been uncomfortable, sensitive & need to cease.

- Constant generalized "Hispanic" comments made within office & to general public
 - Middle Eastern "Bomber" joke
 - Email sent from co-worker regarding Hispanics
 - Officer's use of term "Nigger" in Epithet
 - Offensive posting on bulletin board (Thank you for removing the posting).

Again, thank you for your time & consideration in discussing & addressing these matters..

Stephanie Stewart

Oconee County Summary Court

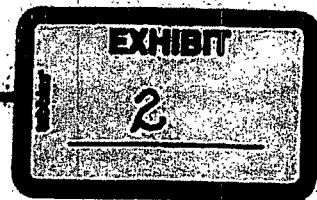
Office of Judge Blake Norton

208 Booker Drive

Walhalla, SC 29691

864-638-4125

Todd Simmons



From: Blake Norton
Sent: Friday, September 16, 2011 8:58 AM
To: Todd Simmons
Cc: Stephanie Stewart
Subject: Stephanie

Todd:

We had a meeting this morning and Stephanie told me that she is not happy working in this office. There has been a tremendous amount of tension between her and the other two clerks. She spends a great deal of time getting prelim work done and has done a great job with that. With prelims going to two times per month, I'm afraid that most, if not all of her time, would have to be spent on prelims. I respectfully request that you allow her to come to your office and work for you. She expressed a desire to leave Walhalla and go to Seneca to work and I feel that would be best considering the circumstances. I personally like Stephanie and think she has done a good job, especially getting the prelim notices out and the organization of those, but I think she would be happier in your office. Thank you.

Blake

-----Original Message-----

From: Todd Simmons

Sent: Friday, September 16, 2011 10:00 AM

To: Debbie Sheriff; Lisa Lee; Connie Weaver; Elizabeth Brackett; Melissa Turner; William Derrick; Blake Norton; Stephanie Stewart

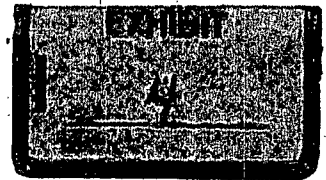
Subject: Employee transfer

To all concerned:

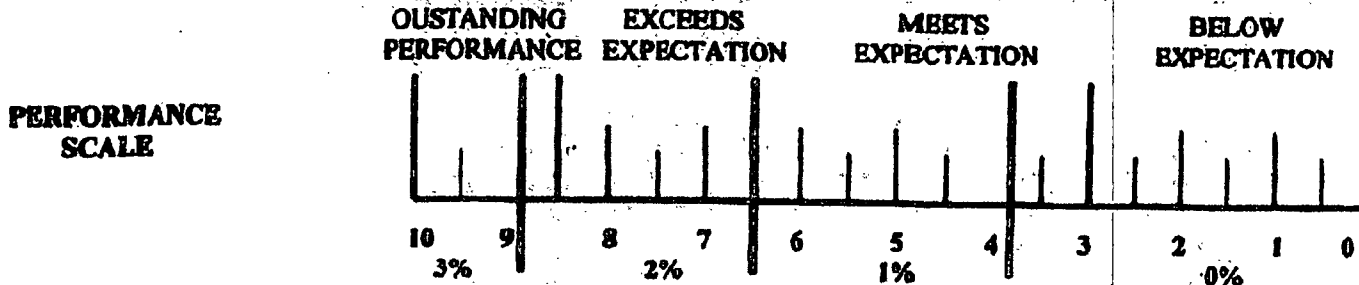
Effective Monday, 9/19, I am assigning Stephanie as a clerk in the Seneca office. She will be scheduling preliminary hearings and handling a group of cases I am transferring from Walhalla. I will be discussing which cases will be transferred with Judge Norton on Monday. Most likely we will be establishing a CDV court in Seneca similar to the DUI court. In the interim, please forward all preliminary hearing requests to Seneca. I will be contacting CMS to change the prelim request form. Any comments and suggestions are appreciated and should be addressed to me. I am going to try and get another clerk position budgeted for next year for the Walhalla office. Thanks and have a good weekend.

M. Todd Simmons

**OCONEE COUNTY, SOUTH CAROLINA
EMPLOYEE PERFORMANCE EVALUATION REPORT
CLERICAL AND OFFICE ASSISTANTS**



EMPLOYEE STEPHANIE STAGOBERS STEWART POSITION CLERK SSN
 DEPARTMENT 509-MAGISTRATE DIVISION SENECA
 TYPE OF EVALUATION ☐ PROBATION ☒ ANNUAL ☐ SPECIAL PERIOD OF 01/10/12 TO 01/10/13



WT. X SC. = TOT.

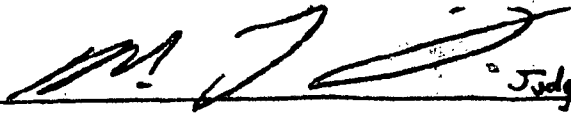
ELEMENT 1 GENERAL OFFICE SKILLS EXPECTATION: Able to independently operate word and data processing equipment and office machines; able to perform assigned tasks accurately, neatly, on time; office policies and procedures are properly observed; takes and/or transcribes correspondence, minutes, etc. with appropriate speed and accuracy.	.20	9	1.8
SUPERVISOR COMMENT: STEPHANIE IS DILIGENT IN HER WORK			
ELEMENT 2 FILING AND REPORT PREPARATION EXPECTATION: Files are maintained, properly indexed and/or cross indexed, up-to-date and accurate; reports are prepared from routine data as instructed, checked for accuracy and completed on time; vouchers accurately prepared; payroll, leave records and cash reports accurate.	.20	9	1.8
SUPERVISOR COMMENT: STEPHANIE ACCURATELY MAINTAINS FILES			
ELEMENT 3 PUBLIC RELATIONS EXPECTATION: Presents a positive image and impression to the public; is courteous and responds to questions with accurate information or refers citizens to a knowledgeable source; displays patience, listens effectively and responds with empathy and understanding.	.15	10	1.5
SUPERVISOR COMMENT: PUBLIC SERVICE IS STEPHANIE'S GREATEST ASSET			
ELEMENT 4 COMMUNICATIONS EXPECTATION: Expresses self with clear, articulate and concise statements and appropriate feedback; messages are correctly relayed in a timely manner; clarifies misunderstandings tactfully; avoids confrontations; deals tactfully with associates and public.	.15	9	1.35
SUPERVISOR COMMENT: STEPHANIE HANDLES HER AFFAIRS PROFESSIONALLY			

ELEMENT 5 ADMINISTRATION AND TECHNICAL DUTIES EXPECTATION: Arranges appointments and schedules meetings without confusion or error; Locates required information and arranges it in desired format; demonstrates knowledge of organization And functions of County government through ability to anticipate and respond to organizational demands; periodic reports/activities are prepared and reviewed accurately and on time.	.10	7	.7
SUPERVISOR COMMENT: STEPHANIE CONTINUES TO LEARN THIS COMPLICATED POSITION AND ALWAYS ASKS QUESTIONS IF SHE NEEDS ASSISTANCE			
ELEMENT 6 SUPPORT OF DEPARTMENT'S OBJECTIVES EXPECTATION: Employee's goals, talents and efforts are directed toward the needs of the department; improved work methods are suggested and readily tried to improve effectiveness and solve office problems; new or additional assignments are accepted and performed; displays initiative in performance of duties.	.10	10	1
SUPERVISOR COMMENT: STEPHANIE IS A TEAM PLAYER			
ELEMENT 7 SUPERVISION (IF APPLICABLE) EXPECTATION: Prepares and /or reviews work programs and schedules for subordinates; encourages punctuality; ensures employees are available on time, properly instructed, directed and motivated; sees that work is accomplished on schedule and according to requirements; provides feedback, information and guidance to employees as performance indicates; ensures safety regulations are followed; maintains safe working conditions.	N/A		
SUPERVISOR COMMENT: N/A			
ELEMENT 8 OPERATION AND CARE OF EQUIPMENT AND FACILITIES EXPECTATION: Performs duties with concern for safety of self and others; operates equipment using appropriate safety procedures; keeps work station clean and free of debris, unrelated work material and unsafe obstructions; no loss of time or damage to equipment is caused by carelessness; equipment wear and malfunctions are reported to supervisor or corrected as specified.	.05	10	.5
SUPERVISOR COMMENT: STEPHANIE TAKES PRIDE IN HER WORK			
ELEMENT 9 ATTENDANCE AND PUNCTUALITY EXPECTATION: Arrives at work assignment regularly and at appointed time; uses sick and other leave and takes breaks in accordance with established policy; seldom leaves work early.	.05	10	.5
SUPERVISOR COMMENT: NEVER LATE			
ELEMENT 10 OTHER N/A	N/A		
SUPERVISOR COMMENT: N/A			

TOTAL SCORE 9.15

A

SUPERVISOR

 Judge M. J. Simmons

DATE 1/10/13

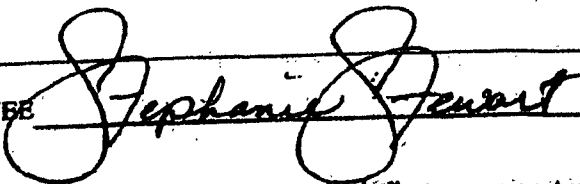
REVIEWING AUTHORITY'S COMMENT: STEPHANIE CONTINUES TO MAKE GREAT PROGRESS IN
EARNING THIS POSITION. SHE ALWAYS ASKS QUESTIONS WHEN NEEDED.

REVIEWING AUTHORITY SAME AS SUPERVISOR

DATE 1/10/13

EMPLOYEE'S COMMENT:

EMPLOYEE

 Stephanie Gervais

DATE 1/10/13

Employee's signature does not necessarily indicate agreement with the performance evaluation. It indicates only that the employee has seen the evaluation and has had an interview with his/her supervisor concerning the evaluation and goals and objectives for the next year.

PERSONNEL ADMINISTRATOR

DATE

**Designation Notice
(Family and Medical Leave Act)**

U.S. Department of Labor
Wage and Hour Division



U.S. Wage and Hour Division
OMB Control Number: 1235-0003
Expires: 2/28/2015

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To: **STEPHANIE STAGGERS STEWART**

Date: **01/29/2013**

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided. We received your most recent information on **1/29/2013** and decided:

☒ Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

☐ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____

☒ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

☐ You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

☒ We are requiring you to substitute or use paid leave during your FMLA leave.

☒ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position is ☐ is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

☐ Additional information is needed to determine if your FMLA leave request can be approved:

☐ The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.
(Provide at least seven calendar days)

(Specify information needed to make the certification complete and sufficient)

☐ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

☐ Your FMLA Leave request is Not Approved.

☐ The FMLA does not apply to your leave request.

☐ You have exhausted your FMLA leave entitlement in the applicable 12-month period.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 - 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.

Form WH-382 January 2009



To: Chief Judge Todd Simmons 8647235135

Date : 03/07/2013 06:52:05 AM

Good morning Judge,

Wanted to let you all know, the surgery was successful and I am alive and doing well.

To: Stephanie Stewart 8643242700

Date : 03/07/2013 06:53:58 AM

Glad to hear it. I was going to text you later today. Just keep in mind that if you get bored and want to work I can have a deputy come get you! Get wel

Stephanie Stewart

From: Stephanie Stewart
Sent: Tuesday, April 30, 2013 4:51 PM
To: Todd Simmons
Subject: Today ...

Judge,

Today is the second time that it has been insinuated that I am backing money out of CMS accounts and thus "stealing" by Debbie Sheriff. The account in question today was 2012A3710100061/ Joseph Steven Stashluk, II and the other account I was accused of backing out money from and thus "stealing" was towards the latter part of last year and involved a Defendant who lived in Anderson, SC. I DO NOT STEAL!!!

After looking at the present account in question, it was discovered that I was going under the gavel in CMS and selecting the Failure to Comply/ Bench (Pro-Rated) function and putting the actual days and pro-rated fine amount in the pop-up screen ... this will back out the 3% collection fee. Instead, I should not have placed anything on the pop up screen and should have manually written the information on the bench warrant after it pops up. My co-worker Lisa Lee confirmed that this same thing has happened to her in the past and she has had to have Debbie fix it because it messes her reports up. So my question is, if Debbie has encountered this with Lisa in the past, why then after all these years that she has been doing the financial reports and has been the "financial guru", did she not recognize my error right away? These insinuations appear intentional and seem to cast me in an incompetent and suspect light. Why??? Why does she [Debbie] just not fix mistakes (mistakes that all offices make) and stop making a huge deal out of every little thing? It is her job... it is why she is here right? I do not complain when you give me my work to do ... I just do it. Why is there always "shade" from Debbie directed at others for small insignificant stuff but never any mention of what she does?

In the past there have been other CMS mistakes that have been magnified when they have been mine but others have covered up THEIR mistakes or do not do enough work to make any mistakes. It is difficult to make the mistakes that have been attributed to me when you do not produce the volumes I produce and you lack a good work ethic. Please check my numbers/stats - they do not lie!

Let me just say that it is very insulting and I am documenting these matters going forward to protect myself. I have never so much as stolen one penny from any job I have ever worked on. I do not steal and it is insulting for anyone to insinuate such! I have never lied on my time sheet as some do - which IS stealing!!! I come to work and do my job period. I do not take hour ½ to 2 hour lunches and then put overtime on my timesheet. I do not come in 15-45 minutes late each morning or leave early and put overtime on my time sheet. Nor do I sit and stare into my computer all day doing ABSOLUTELY nothing and put overtime on my time sheet. I do not sit all day and surf the web and put over-time on my time sheet. Nor do I chit-chat on the phone all day with my friends and family and put overtime on my time sheet. I do not gossip and talk about others or people who come in for court nor do I keep mess and discord stirred up and going all the time. I am not nosey or unprofessional ... nor do I sit and do whatever I feel like doing all day and then put overtime on my time sheet. I don't do these things - but some do! And I am the one that is handled differently.

I am nowhere near perfect, but I am hard-working, professional, respectful and diligent. But I have been and continue to be treated in a different and disrespectful manner across the board while others flourish in their poor work habits - all while putting overtime on their time sheets and doing what they want. This is discriminatory. Would it be okay if I did all these things all day or would you write me up?

Stephanie Stewart

From: Todd Simmons
Sent: Tuesday, April 30, 2013 5:38 PM
To: Stephanie Stewart
Subject: Re: Today ...

You did a great job of documenting this. You also did a great job of assuming quite a bit. No one has ever accused you of stealing. If that was the case you would no longer be employed in the Magistrate Court. I was present to 90% of these discussions and did so because I could see a mile away that you were going to take the inquiry as being personal. It wasn't. I believe you are over reacting and need to reflect on that particular issue. I do agree that you do your job well and always take the tasks I assign you and do a great job. I have noticed a difference in your attitude since returning. While not required, simple and friendly verbal exchanges with your co-workers go a long way in maintaining a happy work environment. We can talk more in person about this if you like. Just let me know.

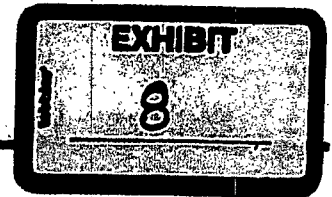
M. Todd Simmons

From: Stephanie Stewart
Sent: Wednesday, May 01, 2013 8:57 AM
To: Todd Simmons
Subject: RE: Today ...

I thank you for responding...

I have made no assumptions ... all that I have stated below are facts. Your statement that "*I have noticed a difference in your attitude since returning. While not required, simple and friendly verbal exchanges with your co-workers go a long way in maintaining a happy work environment.*" is an unwarranted opinion. Although there is no legal requirement on any job that I become "friends" with fellow co-workers, I am very respectful to everyone.

There is no need for any further discussion on my part of matters. But I do need to make a correction to the below documentation from yesterday. The warrant number referenced below of 2012A3710100061 is for Roger Chitwood not Joseph Steven Stashluk.



Stephanie Stewart

From: Stephanie Stewart
Sent: Thursday, May 02, 2013 11:46 AM
To: Todd Simmons
Subject: RE: HR meeting

Confirmed Receipt ...

From: Todd Simmons
Sent: Thursday, May 02, 2013 11:44 AM
To: Stephanie Stewart; Debbie Sheriff
Cc: Lisa Lee
Subject: HR meeting

Stephanie and Debbie,

I would like to have an HR meeting with you on Friday, May 3, 2013 at 11:00 am in the Seneca court room. I don't anticipate it will be a long meeting, but I will be available for as long as needed. Please respond and confirm that you received this email.

Lisa, Can you please handle the front window during this time?

Thanks,

Todd

M. Todd Simmons
Chief Magistrate
Oconee County Summary Court
207-A East North First Street
Seneca, South Carolina 29678
Phone (864) 888-1460
Fax (864) 888-1462

Stephanie Stewart

From: Todd Simmons
Sent: Thursday, May 02, 2013 11:51 AM
To: Stephanie Stewart; Debbie Sheriff; Lisa Lee
Subject: payroll procedures

Effective Immediately:

Each clerk will maintain her own daily hourly payroll schedule on the forms utilized for recording daily hours, sick time, vacation, etc. If you do not have these forms let me know. All forms will be submitted to Senior Clerk Debbie Sheriff per her instructions. Debbie will review the forms and provide them to me for my approval. Upon approval, Debbie will be responsible for submitting to finance. Please let me know if you have any questions. I appreciate your assistance in this regard.

Todd

Just a reminder, I expect each Clerk to accurately record their time. We begin work at 8:30 am and close at 5pm. Lunch is 1 hour. Exceptions to this schedule are available upon my oral approval.

M. Todd Simmons
Chief Magistrate
Oconee County Summary Court
207-A East North First Street
Seneca, South Carolina 29678
Phone (864) 888-1460
Fax (864) 888-1462

OCONEE COUNTY SUMMARY COURT, SENECA OFFICE, TRANSCRIPT OF HR
MEETING HELD, FRIDAY, MAY 03, 2013

Time: 11:00 AM
Where: Oconee County Summary Court / Seneca Magistrate Office
Location: 207 A East North First Street, Seneca, SC 29678
Participants: Michael Todd Simmons, Deborah Sheriff, and Stephanie C. Stewart

- 1 **Simmons:** After you, go on sit right there, at the ah
2 State's table
3 **Stewart:** [chuckles]
4 **Sheriff:** What happened?
5 **Simmons:** The State's table, the Plaintiff
6 **Sheriff:** ohhh
7 **Simmons:** I do want to just let ya'll know that I am going
8 to record what we are talking about today okay
9 **Stewart:** Okay?
10 **Simmons:** Um and I am doing that, you've probably heard me
11 say this in court for several reasons. It's for
12 our protection, the tape don't lie and if you
13 want a copy of it afterwards, it's yours to keep
14 okay. It's, this is just an open and friendly
15 discussion. Umm, I'll just kinda say a few
16 things, that way everybody, like for the purposes
17 of the record, everybody knows what we're saying
18 and doing. Umm, but I just want to up front say
19 that nobody's in trouble, nobody's losing their

1 job, nobody's getting written up. This is a
2 discussion about my role as the chief magistrate
3 and specifically both of your roles as clerks
4 here in the court system. So we gon' talk bout a
5 few things, budget matters, we are going to have
6 to talk about a few things there. Umm and I will
7 be honest with you, when I have to deal with HR
8 issues, it's like the one thing in my job, that
9 really ... I can sit up on that stand and conduct a
10 week long of DUI court and put somebody in jail
11 for 30 days and it doesn't really bother me. But
12 when we talk about and I don't know what it is...
13 it's just human nature when you get to know
14 people. And I'll be honest with you, it's very
15 difficult for me. So I can understand for you as
16 well that it could be difficult to talk about
17 these things okay. So I sympathize with both of
18 you, is what I'm trying to say. Umm just for the
19 record. It is May 03. It's 11:00 am. We are in
20 the Seneca Magistrate Court Room of Judge Todd
21 Simmons. Uhh talking with Ms. Stephanie Stewart
22 and Misses Debbie Sheriff. Uh and we are just
23 gon have a discussion. Uhh we've gotta talk about
24 a few things and we're gonna talk about some

1 changes that I'm gonna make and we'll go from
2 there. Feel calm, relaxed ... if you need to ...
3 just like I tell people in a trial if you need to
4 take a break and walk around to collect your
5 thoughts, please do so. And, I may do the same
6 thang. Umm like I said I am recording this and
7 it ... I think that recording also serves as
8 another purpose, it makes us choose our words
9 wisely. Uhh we're not here to throw arrows at
10 each other, we're here to talk like young
11 professionals. And that's ... that's what our job
12 is. Umm, you know my job as the Chief Magistrate
13 is per state law, is I hire and supervise all
14 clerks, that includes the Senior Clerk Court as
15 well as newer Court Clerks ... umm and that's where
16 my HR aspect of this kicks in. Ummm I'm
17 responsible for the whole department, and we all
18 know that ... ummm Debbie is the Senior Court
19 Clerk, she's at a different tier than the
20 remaining court clerks because of her seniority
21 and experience and uhh the budget matters that
22 Debbie takes care of, the CMS matters that she
23 takes care of, ummm as well as a host of other
24 things. Ummm ... so just to get that straight.

1 You're obviously umm ... your history, you were
2 hired as a clerk to replace an outgoing clerk in
3 the Walhalla office ... ummm we trained you here.
4 We won't go into great detail about what happened
5 unless you want to, but you were sent to your
6 location in Walhalla. We had some personality
7 differences in Walhalla. We had some training
8 issues, that needed to be addressed. Brought you
9 back here, I think it was, was it September of
10 2011?

11 **Stewart:** Yes

12 **Simmons:** Sounds about right? Umm ... and you have done a
13 great job here. I am very satisfied with your
14 work performance and I just wanna say that up
15 front ... okay? You've, when I have asked you to
16 do something, and you as well Debbie, it's done,
17 there's no questions asked. We all make little
18 errors every now and then. I, as a judge make
19 errors and that's why we have appellant courts ...
20 Nobody's perfect. But your work performance,
21 both of you, is great and I cannot complain about
22 that. Okay so we're not here to complain about
23 things like that okay. Ummm but Stephanie, I
24 would like to ask you, ummm, I mean just from a

1 standpoint of your job. I mean, do you feel like
2 I've given you adequate training? I mean umm do
3 you feel comfortable with what you are doing?

4 **Stewart:** Yes sir

5 **Simmons:** Okay... ummm do you feel like you need ... is there
6 anything else I can provide you? I mean CMS is
7 complicated, I mean

8 **Stewart:** uhhm

9 **Simmons:** ... you feel confident with it and? Yea alright...
10 ummmmm, the one thing that we gotta address ... and
11 I hate to, like I said, I hate, I hate to even
12 have to talk about this and Debbie if you, if you
13 have anything that you would like to add please
14 jump in. I've had meetings with the
15 Administration about budget. The Administration
16 is wanting to cut jobs. None of our jobs are,
17 are at risk. So we all have a job, thank, thank
18 the good lord above. Ummm but they are not going
19 to provide any more assistance as far as clerks
20 are concerned for the magistrate court. I've
21 asked for two, actually three years in a row now
22 for that issue okay. Ummm about a month ago, I
23 did my annual review of the cases that each
24 office is handling. And, be more than happy to

1 (clears throat)
2 share all that information with you. Actually
3 Debbie runs these reports for me.
4 (Flipping through papers)
5 Here's just kind of a breakdown of, of what's
6 going on.
7 (Clears throat)
8 Walhalla is hitting almost 5,000 cases filed
9 combined per year. Whereas Seneca is the least
10 busiest office and Westminster is the next
11 busiest office. The issue that I have to, the
12 decision that I have to make Stephanie is the
13 fact that you were hired for Walhalla. I'm
14 not getting a part-time clerk up there and I'm
15 having a rough time justifying to the
16 Administration why I have three clerks and I'm
17 the least busiest office. So what I've had to
18 do, I've had to decide to make that tough
19 decision and I know that you're not gon like it,
20 but I'm gonna have to send you back to Walhalla ...
21 okay. I've dealt with the issues up there, I've
22 met personally with Connie, Judge Norton, and
23 Elizabeth. They need help and what, what I'm
24 gonna do is send you back, starting Monday. I

1 feel that you've got the training that you need,
2 you've got the backbone that you need to be tough
3 in this job and I'm sending Preliminary Hearings
4 with you and CDV Court back to Walhalla umm okay.
5 That's the tough decision that I've had to make.
6 **Stewart:** Why is it me?
7 **Simmons:** Because that was the job that you were hired to
8 perform.
9 **Stewart:** But with all of the history there, that we have
10 talked about and that has been documented ...
11 **Simmons:** Right
12 **Stewart:** You still want, and you've even said that you
13 wouldn't even go down there.
14 **Simmons:** I told you when I hired you, I wouldn't work
15 there
16 **Stewart:** Correct.
17 **Simmons:** Right, So I mean you have to admit that upfront,
18 I explained to you the difficulties of that job,
19 right? I was very clear with you about the fact
20 that I'd personally wouldn't want to work there,
21 right? And you knew that that position was for
22 that office. Now I have gone through and like
23 you've said, I've kept everything about this

7:45 1 entire history and I have this for your review.
2 This is every single email that I have received
3 on the matter, including your grievances, ummm
4 what Judge Norton has sent me, what I have
5 responded to you and it is what it is.
6 (Sigh)
7 You know, I brought you back. Hopefully to try
8 to address those issues. We've ... you've been
9 here since September, 19 of 2011.
10 **Stewart:** I am not going back.
11 **Simmons:** What am I suppose to do then?
12 **Stewart:** You'll ... you just fire me.
13 **Simmons:** I am not gonna, I'm not gonna have to ... I don't
14 wanna fire you.
15 **Stewart:** Well ...
16 **Sheriff:** Maybe you know giv'em a chance ... I mean maybe any
17 issues that was in the past can be you know ...
18 **Stewart:** I'm not going back to that office
19 **Simmons:** You put me in a very difficult position when you
20 do that ... and Stephanie, off the work side, on a
21 personal bases I'm fine with you, I think you're
22 a great person and I have zero personal issues
23 with you or your work performance. But,
24 (sigh)

1 If you admit and you acknowledge, that you were
2 hired for Walhalla, we tried it, I've made
3 some corrective action ...

4 **Stewart:** You told me that I didn't have to go back,
5 especially ...

6 [cut off ... loud background noise]

7 **Simmons:** At that time ... right at that time. We brought you
8 back to train you and I have dealt with those
9 issues

10 **Stewart:** You said if you sent Debbie or Lisa, they would
11 quit

12 **Simmons:** Exactly ... but their job is not in Walhalla ...
13 okay so if you're telling me that you're gonna
14 not go, that you are gonna refuse to go back to
15 Walhalla, that puts me in ... that forces my hand
16 and puts me in a very difficult situation, that I
17 don't want ... want to do.

18 (Sigh)

19 Uhhmmmm

20 **Stewart:** You have to do what you have to do

21 **Simmons:** I would encourage you to think about that before
22 you

23 **Sheriff:** I mean you wouldn't give it, just a week or two,
24 just to see how it goes?

1 **Stewart:** No

2 **Simmons:** I met with them yesterday and they assured me

3 that they would treat you with kindness and

4 professionalism and ...

5 **Stewart:** They don't treat the public like that, we've

6 addressed that ...

7 **Simmons:** And I've addressed that with them over the past,

8 I've been fighting that with ...

9 **Stewart:** And, I'm constantly going through things with

10 Judge Norton ... You've, ... You've just addressed

11 something with me on how he responds to me

12 **Simmons:** Right, and I agree

13 **Stewart:** So and you, you too, you don't particularly care

14 for him as well

15 **Simmons:** Well on a personal bases my my personal opinions

16 about an individual, I mean that's not really

17 relevant. But what I'd like to, I mean ...

18 **Stewart:** Oh, I'm talking professionally too.

19 **Simmons:** And, and ... but on a personal basis, I can't

20 tell him what to do

21 **Stewart:** Right

22 **Simmons:** All I can do is administratively assign cases, do

23 budget matters, hire and supervise clerks and

24 that type of thing.

1 **Stewart:** I just, it's very interesting to me that after I
2 brought up some things to you, that this has
3 taken place

4 **Simmons:** This has nothing to do with any type of
5 communication we've had outside of that ... I've
6 been having to deal with this issue for a while
7 when we started running these numbers and when I
8 met with the Administration about the fact that
9 I'm not gonna get a clerk and how can I justify
10 three clerks when Walhalla is struggling ... and
11 they have the most ...

12 **Stewart:** Well, I've gone down there and I've tried to work
13 with them. I've gone down there and I've tried
14 to work with them. Lisa's gone ... no one wants to
15 go there, no one, so ...

16 **Simmons:** I agree

17 **Simmons:** It's a difficult situation and like I said, I'm
18 sorry that I have to make that decision. But,
19 you were hired for that office. That office
20 needs a third clerk. Ummm ... well I would ask
21 you. I don't want to fire you okay. If you're not
22 gonna go, I would ask that you give me you
23 resignation ... Ummm, if you walk out of here and
24 you resign obviously, I've already told you, I

1 don't have any personal issues with you. Ummm,
2 I don't have any issues with your work
3 performance, it's stellar in my opinion. You do
4 a good job! But if I have to go that route, that
5 is something that if asked for a subsequent job,
6 I'm gonna have to tell them the truth, that ...
7 that I had to fire you because basically you told
8 me you weren't gonna do your job. So, I would
9 just ask that you think about that okay ... ummm
10 **Stewart:** No, I am not telling you that I won't do my job,
11 I won't do my job in a hostile environment and
12 you yourself have said that. Debbie won't go
13 down there, Lisa doesn't wanna go down there, why
14 am I being singled out to go down there? Other
15 then the fact that that was where the vacancy
16 was ... why is it, why isn't someone else being
17 sent?
18 **Simmons:** Two reasons, that is where you were hired to go
19 and you are the newest clerk and that is what my
20 decision is, okay. I hired you to put you in
21 that office. I've given you all the training, I
22 think you need to survive down there. And like I
23 said, I have dealt, in my personal belief, I

1 think I have dealt with the personality issues in
2 that office, okay. Since, since, especially in
3 the pass six months, I have really noticed a
4 difference with that office. I have made more
5 efforts on my part, now I don't always agree with
6 what they do. I don't agree with the decisions
7 that they make from the standpoint of the law ...
8 Are there personality differences, absolutely.
9 And would I run that office differently,
10 absolutely. But I think what I've ... what I've
11 shown you is what a model office, at least in my
12 opinion, what a model office is suppose to run
13 like ... I've tried. I'm not perfect and I think
14 you'd probably agree with that ... that we have
15 provided what it's suppose to be like. But I
16 have stopped by there much more frequently and
17 talked with them. I've tried to get to know them
18 more on a personal basis, continue to talk with
19 them about their customer service issues and I
20 truly believe that they have made some
21 differences. I've sat in on the past two reviews
22 for everyone in that office and I've agreed with
23 what Judge Norton reviewed them on. Ummm and I
24 can't, I can't obviously go into their personal

1 reviews, but he's, he's even in his reviews
2 indicated some corrective measures that he's done
3 **Stewart:** Well you told me that we would try it in
4 Walhalla, with all of the issues and that if it
5 did not work out you would bring me back to
6 Seneca and you were going to keep me. So ... I
7 just want that on the record
8 **Simmons:** And that's ... that's a good observation and I
9 appreciate that ... but you do, once again
10 understand my position
11 **Stewart:** But you have to do what you have to do, I'm not
12 going to Walhalla ... ummm, if you ... if you feel
13 like you want to give me some time to think about
14 it, ummm I would like to consult with someone
15 else
16 **Simmons:** Okay ... ummm, I, it's a decision that you gotta
17 make today okay ... because I've already made
18 arrangements for IT to transfer all of your ummm
19 ... your access. Umm ... I brought my truck today so
20 I could take your ... the new chairs that we
21 purchased, if you want that back in that office.
22 So, i've made all of those plans, that I, I, I
23 need to stop before the end of the day.

1 **Stewart:** It's just very interesting that it happens after
2 I send you that email regarding some stuff that's
3 going on in this office
4 **Simmons:** It has nothing to do with that Stephanie ... I
5 assure you of that. I promise you.
6 **Stewart:** That's interesting ...
7 **Simmons:** And that's your observation ... okay
8 **Stewart:** You've made some too ...
9 **Simmons:** Absolutely ... and if you like, I'll send those
10 emails that I have kept and place them in your
11 permanent file as I am going to with this, okay.
12 **Stewart:** That's fine
13 **Simmons:** Ummmm I've prepared a memo that I would like for
14 you to read ...
15 **Stewart:** Okay
16 **Simmons:** If you want to sign it, that's fine. If not,
17 what I will do is place refuse to sign on it and
18 I'm gon ... I'm sending all of this information to
19 HR.
20 **Stewart:** Okay
21 **Simmons:** This is your complaints about the Walhalla office
22 ... ummm that you sent to me, ummm my response,
23 there's some... uhh about talking to Judge Norton.
24 Ummmm this is the day that kind of umm ... I guess

1 was the straw that broke the camel's back. In
2 Walhalla there was an issue, I think it was a
3 credit card, I believe ya'll had a meeting that
4 following morning and Judge Norton asked that you
5 be transferred back here ... okay. That's all
6 going along with that memo as well as my
7 documentation of the ummm case load back to HR
8 and that's the memo that I've prepared concerning
9 our meeting today.

10 **Stewart:** Okay can I have copies of everything

11 **Simmons:** Absolutely ... absolutely. Ummm But what i'd ask
12 that you do is that you review them and let me
13 know if you're gonna sign it. But ummm I want
14 ummm, let's see it's probably... it's 11:15. Ummm

15 **Stewart:** Do you ...

16 **Simmons:** Obviously, I mean this is, this is heavy, this is
17 significant. So, what i'm asking that you do, is
18 take the rest of the day off okay. Ummm let me
19 know please by the end of the day what your
20 intent is ... Ummm but before, you leave the
21 courtroom here, I'd ask that you read that. And
22 I need to know whether not you're gonna sign it.
23 Cause I have to know uh hh

1 **Stewart:** But I don't know if I am going to sign it or not
2 ... I mean, i'll let you know, by the end of the
3 day today, but ...

4 **Simmons:** Well if you would read it, cause it's not, it's
5 not saying hey, I agree to go to Walhalla. It
6 uhh... it's what we have talked about so far ...

7 **Stewart:** [Reading Document]... okay

8 **Simmons:** What's your intent ?

9 **Stewart:** I don't know yet ...

10 **Simmons:** [Chuckles] okay. Ummm, I have to call the
11 Administrator and discuss it with him so ... the
12 way I look at it is this is a one of two decision
13 kinda thing. Either i'm gonna force, and I hate
14 it, I hate it because I don't want it to be this
15 way. You're gonna force me to have to ask for
16 your termination or you can resign okay ... that's
17 the way I look at it from, from the decisions
18 that need to be made. You tell me if you believe
19 otherwise.

20 **Stewart:** What do you mean, do I believe otherwise?

21 **Simmons:** Am I correct in what I just said

22 **Stewart:** I guess ...

23 **Simmons:** There is no, I mean if you're telling me that
24 your not going to go, that's that's that's not an

1 option. The two choices are, there's actually
2 three choices ...

3 **Stewart:** You're basically forcing me

4 **Simmons:** No, there's three choices, you can go and
5 document things if you see that things are
6 happening that shouldn't be happening, you can
7 resign or you can force me to fire you. And I ha
8 ... I don't won't to do that last one. Because
9 that's gonna go down on your record, it's my job
10 to make sure that's documented and put in there
11 umm and that's what subsequent employers are
12 gonna see .. okay. Ummm. Those are your
13 decisions to make. I've made my decision, to
14 transfer you back ... that's that's not something
15 that can be undone ... okay

16 **Stewart:** Okay

17 **Simmons:** Anything else you wanna say or talk about or

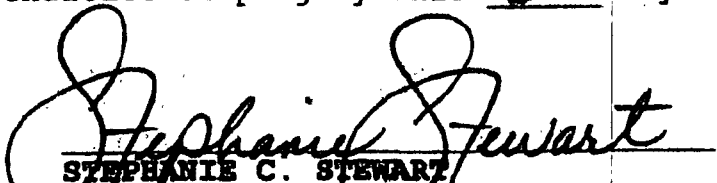
18 **Stewart:** Ummm off the record ... I want to talk to you
19 personally

20 **Simmons:** Sure ... Ummm I am gonna go off the record ...
21 alright

AFFIDAVIT OF STEPHANIE STEWART

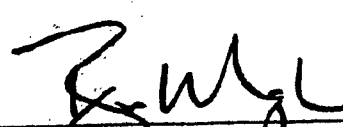
Be it acknowledged, that I , Stephanie C. Stewart, Affiant, of 2142 Toccoa Highway, Westminster, South Carolina, 29693, the undersigned deponent being of legal age, do declare and say under oath that the attached document referred to as "Oconee County Summary Court , Seneca Office Transcript of HR Meeting held Friday, May 3, 2013" is a true and accurate written transcription of the audio recording of the HR Meeting, which commenced at 11:00 AM on Friday, May 03, 2013 at 207 A-East North First Street, Seneca, South Carolina 29678. Participants present within the subject recording, are Chief Magistrate Judge Michael Todd Simmons, Court Clerks Deborah "Debbie" Sheriff and Stephanie C. Stewart. The subject audio was forwarded to Affiant at 2142 Toccoa Hwy, Westminster, South Carolina 29693 by Oconee County Human Resources Director, Kay Olbon on June 5, 2013. On the 10th day of June 2013, Affiant personally transcribed contents of said recording. I affirm, under the penalty of perjury the foregoing is true except as to the statements made upon information and belief, as to those I believe them to be true.

Witness my hand under the penalties of perjury this 6th day August 2013.


STEPHANIE C. STEWART
2142 Toccoa Highway
Westminster, South Carolina 29693

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

On August 6th, 2013 before me, personally appeared Stephanie C. Stewart, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to within the instrument and acknowledged to me that she executed the same in her authorized capacities, and that by her signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.


NOTARY PUBLIC

My Commission Expires:

6/16/2020

BRIAN MCGHEE
Notary Public - State of South Carolina
My Commission Expires June 16, 2020



From: Stephanie Stewart
Sent: Wednesday, May 08, 2013 4:08 PM
To: Blake Norton
Subject: Walhalla Expectations Meeting / (Monday) May 06, 2013

Judge Norton,

This email is to recap the meeting that you, Elizabeth Bracket and myself had on Monday 6, 2013 whereby you informed me of your expectations of me.

1. You stated that there would be no "back-talking". I asked for clarification, and you referred to the meeting held prior to my transfer from your office in September of 2011, whereby you said that I stated to you that there were numerous issues in this [the Walhalla office] that needed to be fixed and if they were not, I was going above you. You stated that this was "back-talking" and insubordinate and that you would not tolerate it.
2. You stated that I will continue to coordinate and schedule all Preliminary Hearings for the county and municipalities, as I have always done.
3. You stated that I will handle all civil cases. However, I made you aware that I was trained to handle the civil process in Seneca differently from the way it is handled here in Walhalla. You agreed and stated that I will be helped with that adjustment.
4. You stated that I will continue to set up all Criminal Domestic Violence Initial Appearances, but will not schedule any pre-trial conferences, jury selections or trials. All pre-trial conferences, jury selections and trials will be scheduled by Elizabeth Bracket.
5. You stated that you had spoken with Judge Simmons extensively both on Friday, May 03, 2013 and over the weekend and that he informed you of what transpired leading up to my involuntary transfer to your office. You stated that you knew about me getting something from Debbie's desk. I stated to you, that I did not get anything from Debbie's desk. However prior to my FMLA leave, Lisa Lee went back to Debbie's work space to retrieve and examine the timesheet transmittals that are sent to the finance department. Lisa Lee did this after realizing that she had been paid for unearned overtime on her paycheck and asked me to come and take a look at what she had discovered, and I did. Also, it was Lisa Lee who discovered on May 02, 2013 that the same timesheet transmittal notebook had been cleaned out and emptied. Lisa opened the notebook and showed me that there were no contents contained inside of it. You also stated that you were going to confirm my statements concerning this with Judge Simmons, because you were told by him that I was the one who went into Debbie's work space to get this timesheet transmittal notebook. You then stated that there was to be no looking in anyone's desk and that no one would be allowed to look into mine.
6. You stated that I will need to have Cisco VOIP training. Elizabeth has provided me with a Cisco VOIP telephone manual.

7. You stated that I will need Victim Notification training for 2013.

8. You stated that I will help with answering the phones and taking payments.

9. You stated that my lunch will be from 1pm - 2pm.

I thank you,
Stephanie

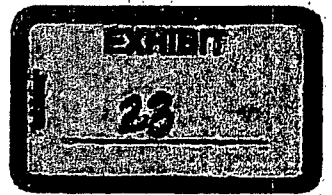


xFrom: Blake Norton
Sent: Thursday, May 09, 2013 8:36 AM
To: Stephanie Stewart
Cc: Todd Simmons; Elizabeth Brackett; Connie Weaver
Subject: RE: Walhalla Expectations Meeting / (Monday) May 06, 2013

Your summary is fairly accurate with the following exceptions:

In number five, you didn't go into nearly that much detail about the alleged desk issue when the three of us talked Monday. I wasn't there when it allegedly occurred and I didn't participate in any conversations between you and Judge Simmons regarding the desk issue. My only thing is that desks are off limits in this office and that goes for everyone. There should be no court work located in anyone's desk (case files, tickets, warrants, etc) so there should be no need for anyone to go into another person's desk.

Also, if memory serves, you stated that you wanted to go to lunch at 1230 instead of 1300. Personally, I don't care when you take your lunch break provided it is coordinated with the other clerks so there is always someone in the front office to wait on the public.



From: Blake Norton
Sent: Thursday, May 09, 2013 8:29 AM
To: Stephanie Stewart; Connie Weaver; Elizabeth Brackett
Cc: Todd Simmons
Subject: RE: Initials on Paperwork

Honestly, I don't see the need to initial things as anything you take in will be notated in the computer (CMS) that you're the one who took the civil paperwork in. As for clerks putting their initials on orders, writs, etc, that is not appropriate. These orders (civil, criminal or traffic) will only contain my signature.



From: Stephanie Stewart
Sent: Thursday, May 09, 2013 8:44 AM
To: Blake Norton
Cc: Todd Simmons; Connie Weaver; Elizabeth Brackett
Subject: RE: Initials on Paperwork

Given the harsh and hostile history of and racial overtones that have existed within this office, it is necessary that I have way to clearly distinguish my work from other employees.

**Oconee County
Summary Court**

May 9, 2013

Ms. Stephanie Stewart
2142 Toccoa Hwy
Westminster, SC 29693

VIA HAND DELIVERY

Refusal to Sign
Signature

Ms. Stewart:

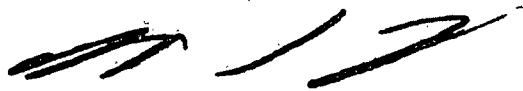
Since our discussion last Friday, May 3, 2013, I have consulted with the County's Attorneys, and with the County Administration, and thus have since affirmed my authority to hire and terminate employees of the Magistrate's Department according to Section 2(A)(3), HB 521 (1981).

I have considered the lack of professionalism and insubordination you exhibited on Friday, May 3, 2013, when you stated to me, "You're a liar," following your refusal to be transferred to the Walhalla Magistrate Office.

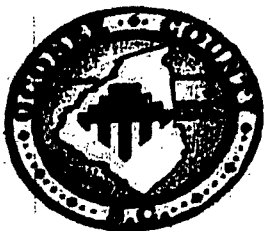
Since confirming my authority to terminate Magistrate's Offices employees, and since this conduct is in fact insubordination per the County Policy & Procedure Manual, you are hereby notified that your employment as a Court Clerk in the Magistrate's Department is terminated, effective immediately.

You are responsible for contacting the Human Resources Office at 864 638-4252 to arrange an appointment for an Exit Interview.

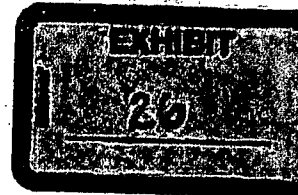
Sincerely I am,



M. Todd Simmons
Chief Magistrate
Oconee County



SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202



STEPHANIE STAGGERS

DATE OF THIS NOTICE 05/23/13

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER		EFFECTIVE DATE	DISQUALIFICATION ENDS	
STEPHANIE STAGGERS						05/05/13	09/21/13	
WORKS #	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT		LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
370	I	01	\$ 248.00	\$ 4960.00		\$ 4960.00	\$ 0.00	05/04/14

DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

☐ You are eligible for benefits from the above effective date.

☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR IMPROPER ACTIONS IN THE JOB. YOUR ACTIONS WERE CONTRARY TO WHAT AN EMPLOYER HAS A RIGHT TO EXPECT. YOU WERE DISCHARGED FOR MISCONDUCT CONNECTED WITH THE EMPLOYMENT UNDER THE SOUTH CAROLINA CODE SECTION 11-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20 TIMES YOUR WEEKLY BENEFIT AMOUNT.

THE SEPARATION WAS A RESULT OF IMPROPER ACTIONS AND IMPROPER BEHAVIOR.

☐ LAST SEPARATION FROM NON-LIABLE EMPLOYER

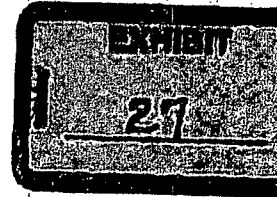
UI CLAIMS ADJUDICATOR

MAILING DATE 05/24/2013

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY SC WORKS CENTER, BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL" P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL SC WORKS CENTER OR CALL (803) 737-2400.

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P. O. Box 995, Columbia, South Carolina 29202

Notice of Appeal to Appeal Tribunal



Claimant's Name: Stephanie Staggers Stewart Social Security Number: _____

Claimant's Address: _____

Date of Initial Claim: 5/10/2013 Telephone: _____
(Month/Day/Year)

Employer's Name: Oconee County Telephone: 864-638-4252

Employer's Address: 415 Pine Street, Walhalla, SC 29693

Appealing Party: Claimant: Stephanie Staggers Stewart

On 5/25/2013 I received a claims adjudicator's determination mailed 5/24/2013 from
(Date of receipt) (Mailing date on Notice)
which I appeal and hereby apply for a hearing because I believe it was issued in error for the following reasons:

"Pursuant to Title 41: Labor and Employment, Chapter 35: Employment and Workforce - Benefits and Claims therefor, Section 660: Appeals, the right to appeal the May 24, 2013 initial disqualification determination is effectuated for the following reason:

As the employee, Stewart asserts the employer's basis for separation was not the result of Stewart's improper actions or improper behavior. Stewart contends the subject termination resulted from Stewart exercising rights under FMLA, complaints of fraudulent abuse of overtime by co-workers and complaints of racial discrimination.

As such, a hearing is required to request and submit evidence and facts to support Stewart's position.

If appeal is untimely or you were absent from a prior hearing, state the reason: _____

I know that I must continue to file my claim for each week of unemployment until I receive the Appeal Tribunal's or Appellate Panel's decision, until I return to work, or until my claim is exhausted. If I win the appeal, I know I can only be paid for those weeks that I have claimed timely.

(Signature)
(Claimant's Initials)

Does claimant need an interpreter? ☐ YES ☒ NO What language/dialect? _____

Claimant is ☐ Deaf ☐ Mute

(If it appears necessary to subpoena witnesses or documents, you must report to your local office. A representative should use Form 107 and attach them to this form at the time of transmittal to the Central Office.)

SUBPOENA ☒ YES ☐ NO

Appellant: Stephanie Staggers Stewart

Signed By: _____

Title: _____ Date: 5/30/2013



SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

APPLICATION FOR ISSUANCE OF WITNESS SUBPOENA

Claimant's Name Stephanie Claggers Stewart SSN _____

Address _____

Employer's Name Oconee County

Address 415 Pine Street, Walhalla, SC 29691

I request for the following to be duly summoned to appear and testify under oath and Certify as necessary in the proper presentation of my case. Please limit to three, if possible. Subpoenas can only be issued to an S.C. address. Requests for documents also require a person's name to whom the request will be sent.

1. Name/Documents M. Todd Simmons Address 207 A. EAST North 1st Street
Seneca, SC 29678
Telephone No. 888.1460

Recording of H.R. Meeting
held on May 3, 2013 @ 11am

Position title, if any, and what the witness knows about the situation Recording of
H.R. Meeting held on May 3, 2013 @ 11am whereby employer
alleges misconduct occurred.

2. Name/Documents _____ Address _____
Telephone No. _____

Position title, if any, and what the witness knows about the situation _____

3. Name/Documents _____ Address _____
Telephone No. _____

Position title, if any, and what the witness knows about the situation _____

Application completed by: ☒ Claimant ☐ Employer

Signature: Stephanie Stewart

Title _____ Date 5/30/13

Please submit document by fax to 803.737.0287 or by mail to "Appeal Tribunal, P.O. Box 995, Columbia, SC 29202" or by email to appealshelp@dew.sc.gov.

OCONEE COUNTY PERSONNEL POLICY AND PROCEDURE MANUAL



SEPTEMBER 2012

SECTION 6 PERSONNEL ACTIONS

OCONEE COUNTY PERSONNEL MANUAL

Policy Number 6-1

SUBJECT: Termination Of Employment

The County recognizes that conditions may develop which require the termination of an employee or a reduction in staff.

EMPLOYMENT WITH THE COUNTY IS TERMINABLE AT THE WILL OF EITHER THE EMPLOYEE OR THE ORGANIZATION AT ANY TIME. THIS JURISDICTION RESERVES THE RIGHT TO DETERMINE WHAT GROUNDS OR REASONS CONSTITUTE SUFFICIENT JUSTIFICATION FOR TERMINATION OF EMPLOYMENT. WHILE THE CIRCUMSTANCES OF A PARTICULAR CASE MAY RESULT IN TERMINATION FOR THE FIRST OFFENSE, OTHER CASES MAY RESULT IN OTHER FORMS OF DISCIPLINARY ACTION.

THIS PERSONNEL MANUAL CONTAINS GUIDELINES FOR DETERMINING PROPER DISPOSITION OF DISCIPLINE, INCLUDING SITUATIONS WHICH MAY RESULT IN THE TERMINATION OF EMPLOYMENT. THESE PRACTICES DO NOT NECESSARILY ADDRESS ALL CIRCUMSTANCES WHICH MAY RESULT IN TERMINATION OF EMPLOYMENT.

Termination Of Temporary And Introductory Employees

Due to the nature of the employment relationship, individuals in this status may be terminated at any time without the provision of a due process hearing. As much advance notice as possible will be provided.

Voluntary Terminations

A voluntary termination is a separation from the organization at the expressed or implied desire of the employee.

- **Resignation.**

Employees who resign are requested to provide two weeks' notice of their intention and to provide a written notice of such intention. Employees are asked to furnish reasons for their resignation. Failure to provide two weeks' notice may affect future re-employment. A failure to provide appropriate notice will result in the forfeiture of accrued, but unused, vacation.

- **Retirement.**

- Not returning within the specified time period after a leave of absence. Written notice of separation will be mailed to the employee's last known address.
- Missing work for three consecutive days without notification or after a threat to quit will be considered a voluntary termination. Written notice of separation will be mailed to the employee's last known address.

Involuntary Terminations

An involuntary termination is a separation from the organization at the initiation of management. They are classified as follows:

- **Release.**
Separation due to the inability to perform job assignments in an appropriate and satisfactory manner. A release, although involuntary, does not always reflect negatively toward the individual.
- **Layoff.**
Separation resulting from a reduction in the work force, either permanent or indefinite. Paid notice is provided to the employee as soon as possible and will be at least two weeks.
- **Dismissal.**
Separation resulting from the performance, conduct, or behavior of an employee, without regard to whether prior warnings have been issued concerning the employee's performance, conduct, or behavior.
- **Medical Disability Separation.**
Substantial medical evidence demonstrating that an employee cannot perform the essential functions of his/her assigned job in a satisfactory manner, with or without accommodation, and cannot accept a similar position within the organization.
- The County Administrator reserves the right to offer a minimal severance package, if in the best interest of the County.

Administrative Review Of Terminations

Except in the case of resignations, the County Administrator or his/her designee will make a final "administrative review" of each separation, before it is implemented.

References For Former Employees

When an employee is separated by resignation, layoff, release, retirement, or lack of work for temporary positions, the Human Resources Department, with the assistance of the former employee's supervisor, will provide letters of reference to help him/her obtain future employment.

All inquiries from prospective employers or their agents will be referred to the

Human Resources Department. No one else is authorized to release any information about a former employee. The release of unauthorized information can jeopardize the former employee's right to privacy and may subject this jurisdiction to legal action.

The Human Resources Department will not release any information, except for confirming the dates of employment, without the former employee's written consent or request which must be provided.

Exit Interviews

Sufficient notice is requested of those employees planning to leave employment with the County. Additionally, employees are requested to discuss their employment with the County, as well as their reasons for leaving, in an exit interview conducted by the Human Resources Department.

At the exit interview, all of the County's property should be returned, and matters such as final pay, continuation or termination of benefits, and other personnel matters will be arranged. Please remember that it is important to keep a current address on file with the County to maintain communication concerning post-termination benefits.

OCONEE COUNTY PERSONNEL MANUAL Policy Number 6-2

SUBJECT: Layoffs

If it becomes necessary to reduce the work force, consideration for retention will be based on the following priorities:

- Those employees who possess skills and abilities that are desired by the County.
- Those employees with the best records of performance.
- Those employees with the greatest seniority.

The County Council and AA/EO Coordinator will review the impact of the layoff on the organization's Affirmative Action Plan.

Recall

Employees who have been separated as a result of layoffs are eligible for reinstatement to future vacancies for one year after separation. Priority consideration will be given in the order specified above.

Written Notification

The County Administrator or his designee is responsible for preparing written notification of separation. If the employee is not available at the workplace, the notification will be forwarded to the last-known address by certified mail.

In the event that an employee is terminated thereby making Steps 1 and 2 inapplicable, the employee may, within fifteen (15) days of termination, file a grievance under Step 3. Step 3 of the grievance procedure is available for resolution of employment issues concerning the following: dismissal, suspension, involuntary transfers, promotions and demotions. Compensation is not deemed to be a proper subject for consideration under the grievance procedure except as it may apply to alleged inequities within a department of the County. In addition, verbal warnings/oral counseling or written reprimands shall not be deemed a proper subject for consideration under the grievance procedure.

The County Administrator shall appoint a Committee composed of five members to be known as the Grievance Committee. The Committee shall be appointed so that it will produce a cross-section of the County's employees. The Committee members shall serve terms of office of three years, except that of the members initially appointed, one shall serve for one year, two shall serve for two years, and two shall serve for three years. Positions that become vacant shall be filled on an interim basis for the remainder of the unexpired term. Whenever a grievance comes before the Committee initiated by or involving an employee of a department of which a Committee member also is an employee, such member shall be disqualified from participating in the hearing.

The Committee shall select a Chairman from among its own members. The Chairman shall serve as the presiding officer at all meetings unless he/she designates another Committee member to act in his/her absence.

A quorum shall consist of at least three members, and no hearing shall be held without a quorum.

In most instances, the employee (Claimant) will present to the Committee testimony regarding his/her grievance and what remedy claimant seeks, as well as any additional relevant testimony or witness.

The presiding officer will have control of the proceedings. He/she shall take whatever action is necessary to ensure an equitable, orderly, and expeditious hearing. Parties shall abide by his/her rulings concerning conduct of the hearing, except when a Committee member objects to a decision to accept evidence, in which case the majority vote of the Committee will govern. The Committee shall have the authority to call for files, records, and papers pertinent to any investigation; to determine the order of the testimony and the appearance of witnesses; to call additional witnesses; and to secure the services of a recording secretary.

The Chairman of the Grievance Committee will, within five working days after completion of the hearing, submit a written report and recommendation of the hearing to the County Administrator or the elected official with hiring and firing authority. If the County Administrator or elected official approves the report and recommendation of the Grievance Committee, the decision of the Committee shall be final and a copy of the decision shall be sent to the affected employee and the appropriate Supervisor/Department Head. If, however, the County Administrator or elected official rejects the decision of the Grievance Committee, the County Administrator or elected official shall conduct any further investigation he/she deems necessary and render his/her own written decision within seven working days. The decision of the County Administrator or elected official shall be final.

Grievance Hearing and Order of Proceedings

Grievance Hearing Proceedings (to be held in Council Chambers)

The Chairperson will call the meeting to order (proceedings shall be recorded as a matter of record,) and read a statement of the matter to be heard; and

When applicable appropriate the County's legal counsel or a representative from the human resources department will present the timeline of events as the County understands them; and

The Claimant requesting the grievance shall be granted a maximum of twenty (20) minutes to present their case before the Committee, specifically stating what they desire to be the outcome of the proceedings; and

Once the Claimant has finished his or her presentation, the supervising employee or Department Head shall be granted a maximum of twenty (20) minutes to present their case before the Committee; and

At this time any additional witnesses shall be called and given not more than a total of (20) minutes to speak; time shall be evenly divided amongst those present to speak. A general statement of relevancy shall be asked for by the Chairperson prior to each submittal; and

- a. The Claimant shall call or present any additional testimony and/or evidence; and
- b. The County shall call or present any additional testimony and/or evidence; and

Once all parties have presented their concerns to the Committee, Committee Members may ask questions pertaining to the issue at hand; and

The claimant requesting the grievance shall be granted a maximum of five (5) minutes for a closing statement; and

The Chairperson shall adjourn the hearing.

Grievance Committee Deliberations (Closed Session, limited to Committee Members)

The Committee shall meet in closed sessions to discuss the issues and evidence presented; and

The committee shall render a decision in writing as outlined in the Oconee County Personnel Policy and Procedure Manual

General Guidelines

Human Resources shall be responsible for organizing and scheduling the hearing, to include all contact and notifications for the hearing with all hearing participants; and

Grievance Hearings shall be closed hearings restricted to only those parties directly involved, which may include any legal representation as outlined in the Oconee County Personnel Policy and Procedure Manual, and

Grievance Committee members shall have no contact pertaining to the matter at hand with any of the parties to the hearing prior to the formal hearing; and

Discussions relating to the matter shall not be entertained by the Committee outside of the hearing proceedings, and

Only evidence and testimony directly pertaining to the grievance will be considered by the Committee, and

No debate shall occur between the party requesting the grievance, the human resource department, or the supervising employee; and

The Chairperson, for good cause shown, may extend the time limits set out in this section

OCONEE COUNTY PERSONNEL MANUAL Policy Number 7-2

SUBJECT: Employee Code of Conduct And Discipline

Intent

Positive discipline is the preferred means to resolve problems related to conduct and performance. However, situations may occur which require a different course of action.

THIS POLICY IN NO WAY INFERS A CONTRACTUAL OBLIGATION TO FOLLOW ANY CERTAIN PROCEDURE. THE COUNTY RETAINS THE RIGHT TO UTILIZE ANY FORM OF DISCIPLINE IT DEEMS APPROPRIATE.

General

This jurisdiction has adopted a positive discipline policy that allows an employee every opportunity to meet the requirements, policies, rules, and regulations necessary

for continued employment. At the same time, the jurisdiction recognizes that some violations are of such a serious nature that immediate discharge is appropriate. Any action which will result in loss of pay, reduction in grade, or which places an individual's job in jeopardy must ordinarily be reviewed by the Human Resources Director and approved by the County Administrator.

Positive Discipline Examples

Examples of conduct calling for the appropriate use of positive discipline include, but are not limited to: tardiness, unauthorized absences, failure to follow instructions, procedures, or standards; improper care, use or abuse of organizational property and equipment, abusive, vulgar, or threatening language; disregard of safety rules; and others of a similar nature. Examples of discipline that may be utilized by the County include an oral counseling, a written counseling, a written reprimand, and/or a short, paid, (maximum of one week) decision-making leave. The decision making leave gives the employee time off to think about the situation.

Termination Examples

There may be occasions where an employee's performance, behavior, or conduct leads the County to conclude, in its sole discretion, that termination is appropriate. Examples of the type of conduct that may lead to termination include, but are not limited to: theft, intoxication on duty, use, possession or sale of narcotics or other controlled or dangerous substances, fighting on duty, any form of harassment, insubordination, refusal to perform assigned work, falsification of records, sleeping on the job, and unauthorized possession of firearms or other weapons, or reckless endangerment through actions or operations of equipment or machinery. This list is not all-inclusive but rather is illustrative of the type of conduct that may lead to termination.

Acknowledgement of Signature

The County may periodically conduct oral or written evaluations of employees' performance. Employees must sign written evaluations. The employee's signature does not necessarily indicate agreement with the contents of the evaluation, only that he/she has been made aware of the document. While favorable performance evaluations may be a factor in determining wage increase, no employee is entitled to a wage increase because he/she receives a favorable evaluation.

Employees must sign disciplinary notices, counseling memoranda, performance appraisals and similar documents. The employee's signature indicates only that the employee is aware of the action taken and does not indicate whether or not the employee agrees with the action. An employee who refuses to sign such a document will be relieved of all duty until the document is signed. If the document has not been signed and returned by the end of the employee's next scheduled work day, the County will consider the employee to have resigned.

May 07, 2013

Stephanie Stewart
2142 Toccoa Hwy
Westminster, SC 29693

Oconee County Human Resource Department
Attn: Human Resource Director, Kay Olbon
415 South Pine Street
Walhalla, SC 29691

Ms. Kay Olbon:

Under the *South Carolina Freedom of Information Act, §30-4-10 et seq.*, I am requesting an opportunity to obtain copies of every item contained in my Human Resource file.

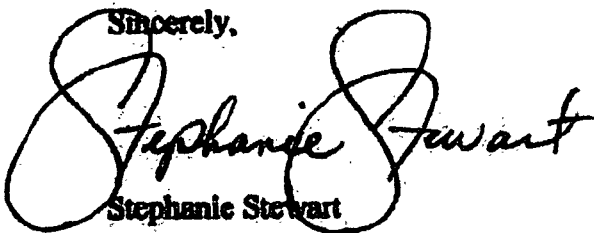
If there are any fees for copying these records, please inform me if the cost will exceed \$50.00. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest. This information is not being sought for commercial purposes.

The South Carolina Freedom of Information Act requires a response time within 15 business days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,


Stephanie Stewart

7009 2620 0002 7554 3998

U.S. POSTAL SERVICE CERTIFIED MAIL RECEIPT	
OFFICIAL USE	
Postage	\$0.46
Certified Fee	\$3.10
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$3.56

0693
16
Postmark
Here
05/07/2013

Sent To: Oconee County Human Resources
Street, Apt. No.: Attn: Kay Olbon
or PO Box No. 415 South Pine Street
City, State, ZIP+4: Walhalla, SC 29143

**Oconee County
Human Resources
Office**

Kay C. Olbon
HR Director
Oconee County Administrative
Offices
415 South Pine Street
Walhalla, SC 29691
Phone: 864-638-4252
Fax: 864-718-1027
E-mail:
kolbon@oconeesc.com



May 17, 2013

Ms. Stephanie Stewart

VIA Certified Mail: 7011 0110 0001 6702 2021

Dear Ms. Stewart:

This letter acknowledges receipt of and is in response to your recent correspondence, dated May 7, 2013, and received by my office on May 8, 2013. Your request is subject to the South Carolina Freedom of Information Act, codified as Sections 30-4-10 *et seq.*, Code of Laws of South Carolina, 1976, *as amended* (the "Act"), and has been processed as such. Your request is approved for identifiable, non-exempt records in existence and within Oconee County's possession.

As I understand your correspondence, you requested copies of every item in your personnel file.

Oconee County can provide you copies of identifiable records in existence and within Oconee County's possession. Oconee County anticipates spending approximately one (1) hour at an average rate of \$13.68 per hour for personnel costs to copy the records. In addition, Oconee County anticipates preparing and providing approximately fifty-two (52) copies to you at a cost of 25¢ per page for a total of \$13.00. Therefore, if you desire copies of such records, please remit your check payable to Oconee County, in the amount of \$26.68.

Upon receipt of your valid payment made payable to Oconee County Finance Office, 415 S. Pine St., Walhalla, SC 29691, Oconee County will proceed to search for and assemble and copy the records. If the actual cost to Oconee County for responding to your request is different than the approximation made herein, Oconee County will either refund the overage when Oconee County releases the records to you, or Oconee County will provide an invoice to you outlining the additional cost of providing copies of the records. Upon receipt of the valid payment in full, Oconee County will release copies of the records to you. Once Oconee County has received your valid payment, Oconee County estimates it will take approximately one (1) day to assemble and copy the approximately fifty-two (52) copies of the responsive records pursuant to your request.

Should you desire to inspect the records, the cost of 25¢ per page is not applicable, however, the fee for personnel costs to conduct the search remains.

**Oconee County
Human Resources
Office**

**Kay C. Olbon
HR Director**

Oconee County Administrative
Offices

415 South Pine Street
Waihalla, SC 29691

Phone: 864-638-4252
Fax: 864-718-1027

E-mail:
kolbon@oconeesc.com

Oconee County wishes to provide you the information you seek in the most cost-effective and user-friendly manner to you, while still allowing the staff of Oconee County to continue its normal daily operations and service to the citizens of Oconee County with minimal disruption. As you are aware, I deal with many different matters. As it should be, I rely heavily on the competent staff of Oconee County to help facilitate matters such as your request.

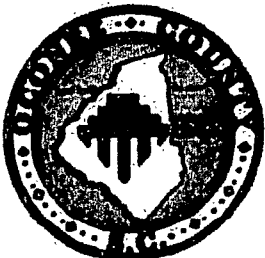
I can assure you that we make every attempt to answer the request for documents efficiently and uniformly. I look forward to providing you with the records soon so that this matter may be concluded.

I look forward to your timely response, and / or payment, and I appreciate your interest in Oconee County and its matters.

Sincerely,


**Kay C. Olbon
Human Resources Manager**

C: file
TSM



**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

Mark H. Pullium
Director of
Administrative Services
mpullium@oconeesc.com
Direct Line: 864-364-5196

Ladale Price
Assistant Director,
Administrative Services
lprice@oconeesc.com
Direct Line: 864-364-5188

Art Holbrooks
Strategic Planner & Special
Projects
aholbrooks@oconeesc.com
Direct Line: 864-364-5242

Kay Olbon
Human Resources
Manager
kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190



May 24, 2013

Ms. Stephanie Stewart

VIA First class Mail and Certified Mail: 7011 0110 0001 6702 2052

Dear Ms. Stewart:

This letter acknowledges receipt of and is in response to your recent correspondence, dated May 7, 2013, and received by my office on May 8, 2013. Your request is subject to the South Carolina Freedom of Information Act, codified as Sections 30-4-10 *et seq.*, Code of Laws of South Carolina, 1976, *as amended* (the "Act"), and has been processed as such. Your request is approved for identifiable, non-exempt records in existence and within Oconee County's possession.

Enclosed, please find the information you requested: a copy of each item in your personnel file.

Unless I hear from you in writing within fifteen (15) days, I will consider this request for information complete.

Once again, I appreciate your interest in Oconee County and its matters.

Sincerely,

Kay Olbon
Human Resources Manager

**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

Mark H. Pulliam
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mpulliam@oconeesc.com
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kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190

June 5, 2013

Ms. Stephanie Stewart

VIA Certified Mail: 7008 0150 0001 3102 6813

Dear Ms. Stewart:

This letter acknowledges your correspondence dated May 24, 2013, addressed to Scott Moulder, County Administrator regarding a recorded conversation between you and your supervisor. Unfortunately, this tape was not released to you in my previous response to your request under the Freedom of Information Act and it should have been. I apologize to you for any inconvenience this may have caused and have enclosed a copy of the recorded conversation with this correspondence since this material is responsive to your request for certain documents identified as within the County's possession. I am producing and providing a verbatim copy of the taped meeting between you and Judge Simmons on or about May 3, 2013.

In accordance to Oconee County guidelines a copy of information is enclosed. The cost to produce this CD is \$12.47. Please send a payment for this amount to my attention for this document, make check payable to Oconee County.

I assure you that Oconee County makes every attempt to provide information requested efficiently.

Sincerely,

Kay C. Olbon

Kay C. Olbon
Human Resources Manager



**Oconee County
Administrative
Services**

415 South Pine Street
Walhalla, SC 29691

Phone: 864.638.4235
Fax: 864.718.1022

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kolbon@oconeesc.com
Direct Line: 864-364-5215

Sally Lowery
Accounting Manager
slowery@oconeesc.com
Direct Line: 864-364-5190



June 6, 2013

Ms. Stephanie Stewart

Sent via first class Mail

Re: Correspondence dated May 31, 2013

Dear Ms. Stewart:

This letter acknowledges your correspondence dated May 31, 2013. The taped meeting between Judge Todd Simmons and yourself was mailed June 5, 2013 via certified mail. Please contact me if you have not received it.

Regarding the e-mail documents that were not legible, the referenced dates on your correspondence relate to, (Monday) July 18, 2013 and (Friday) July 15, 2013, which have not occurred to date. I did locate (6) email documents with the dates of, (Monday) July 18, 2011 and (Friday) July 15, 2011. I am assuming these are the correct documents you are referencing. I am resubmitting those email documents with this correspondence.

I assure you that Oconee County makes every attempt of provide information requested efficiently.

Sincerely,

Kay C. Olbon
Human Resources Manager

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

IN THE MATTER OF THE CLAIM OF:

Stephanie Stappers-Stewart

Oconee County
Human Resources, Kay Olbon
415 South Pine Street
Walhalla, SC 29691
Liable Employer

Appellant: Claimant

APPELLATE PANEL
DECISION

The claimant appealed Appeal Tribunal Decision 2013-A-13189 to the Appellate Panel. The Tribunal held the claimant disqualified from benefits upon finding she was discharged for misconduct. This decision affirmed the claims adjudicator's determination.

The Appellate Panel notified the parties of its hearing to consider the appeal.

DECISION

Appeal Tribunal Decision 2013-A-13189 is affirmed. The claimant is disqualified from benefits for twenty (20) weeks, from May 5, 2013, to September 21, 2013, with a corresponding monetary reduction, upon finding she was discharged for misconduct connected with the employment.

The claimant worked from January 10, 2011, to May 9, 2013, most recently as a court clerk. She was discharged for disrespectful conduct during a meeting with the chief magistrate judge for whom she worked. The issue discussed during the May 3, 2013 meeting was the claimant being reassigned to the county court office where she began her employment. The employer states the claimant was needed at that location because the office was short-staffed and the workload was high. The claimant did not want to return to work in that office because of

incidents that occurred in 2011. She reported the incidents and her dissatisfaction with the work environment. In September 2011, she was permitted to transfer to a different office. On May 3, 2013, when she was informed of the employer's need for her to return to work in that office, she immediately refused. She was unhappy with the way she was treated at that office, and she had difficulty getting along with the staff. The judge assured her that he resolved those issues since that time. Additionally, the judge relayed to her that there were no other personnel moves available for the employer to consider, she was being given a directive, and that a failure to follow the directive would result in job termination. Still, the claimant refused to be transferred. She was asked to think about her decision and was placed on administrative leave for the remainder of the day. She subsequently agreed to the transfer following the meeting and within the designated time allowed. On May 6, 2013, she reported to work at the assigned location.

The meeting on May 3, 2013, was recorded and the judge's lead court clerk was present. Prior to the end of the meeting, the claimant requested to speak with the judge personally, off the record and without the other clerk present. The judge turned off the recording. She asked him about a past conversation he had with another clerk regarding inaccurate overtime records. The judge states when he responded that he did not recall that conversation, the claimant stated he was a liar. The claimant denies using the word "liar" or "lying" and maintains she merely stated that his response to her was inaccurate.

The judge states, on May 3, 2013, following the claimant's uncooperative and disrespectful conduct during the meeting, he began seeking review of the situation by the employer's administrators, including his authority to terminate an employee.

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of an employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

The record establishes the claimant was discharged for disrespectful conduct during a meeting with her superior. In the final incident, the claimant used poor judgment when questioning the truthfulness of the judge's statement to her. We find credible the testimony of the employer-witness judge, particularly since he immediately reported the claimant's disrespectful comments to the lead court clerk. Prior to the final incident, the claimant refused to comply with instructions to work from another office. We do not find it unreasonable for the claimant to have concerns about transferring due to past incidents she reported. However, despite the employer's assurances that the situation from 2011 had been rectified, she repeatedly refused the directive to transfer. The claimant was advised the decision for her transfer was based on the operating needs of the court, and the employer had no reasonable alternatives available. She was warned her employment would be terminated if she did not comply. Although she subsequently agreed to the transfer following the meeting, we find the separating event occurred during the meeting on May 3, 2013.

The claimant knew or should have known the disrespectful manner in which she questioned the truthfulness of her supervising judge could result in her termination. The claimant deliberately disregarded the standard of behavior the employer had the right to expect. Therefore, we find the claimant was discharged for misconduct connected with the employment. The Appeal Tribunal decision is affirmed.

In the claimant's appeal to the Appellate Panel, she lists several issues she contends resulted in an incomplete record of her case and an unfair decision by the Appeal Tribunal. The claimant asserts the administrative hearing officer did not accept as part of the record the documentary evidence she submitted prior to the Appeal Tribunal hearing. She further contends the hearing officer's failure to consider the claimant's documentary evidence resulted in the inaccurate interpretation of the facts and a record on appeal that was insufficiently developed. She generally asserts improper procedure during the evidentiary hearing violated constitutional protections.

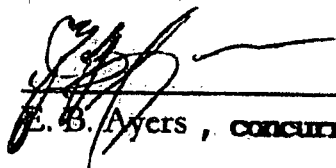
Although the claimant's documents were not formally entered into evidence by the hearing officer, the claimant made several references to the documents during the hearing and she was permitted to testify and ask questions of the witnesses from the documents. Further, she did not request specific documents to be entered as exhibits during the presentation of her case. A copy of the audio recording of the May 3, 2013 meeting was provided by the claimant during the

Tribunal hearing, and it was included as a claimant's exhibit without objection and made part of the record.

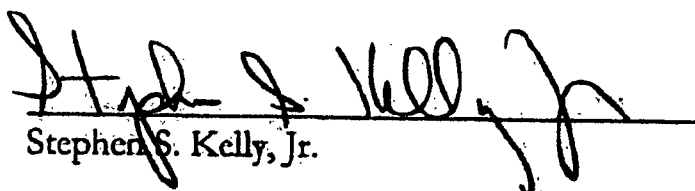
We find the claimant was afforded a full, fair, and meaningful opportunity to present her case. The record was fully and fairly developed by the administrative hearing officer and is sufficient for us to render a fair decision. Reopening the record in order to admit additional evidence as described in the claimant's written brief to the Appellate Panel is unnecessary and would not affect the outcome of this decision. Therefore, we find no cause to remand this case for further proceedings, and the claimant's request is denied.

Ms. Ayers concurs

**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E. B. Ayers, concurring

Tim Dangerfield

Stephen S. Kelly, Jr.

Hearing Date: 10/22/13
Date Mailed: 10/25/13
Mailed By: AG

Mailing Date: October 25, 2013

**SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
(SCDEW)
Columbia, South Carolina**

NOTICE OF MAILING OF APPELLATE PANEL DECISION

Attached is a copy of the final agency decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the date of mailing of the agency's final decision (**see the mailing date above**).

The address of the Administrative Law Court is:

**S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201**

Service of the Petition on SCDEW must be addressed and mailed to:

**Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice in South Carolina.

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT & WORKFORCE

Columbia, South Carolina

Transcript of Testimony
Before

Lane Cook, Administrative Hearing Officer

Stenhanie Staggers

CLAIMANT

Oconee County
c/o HR Kay Olbon
415 S. Pine Street
Walhalla, SC 29691

LIABLE EMPLOYER

PLACE OF HEARING:

SC Department of Employment & Workforce
Central Office Annex
631 Hampton Street
Columbia, SC

HEARING DATE:

August 20, 2013

APPEARANCES:

For Claimant:

Participated

For Employer:

Four Witnesses

TESTIFYING WITNESSES

CLAIMANT:

Stephanie Stagers

EMPLOYER WITNESSES:

**Glenn Breed, Assistant County Administrator
Todd Simmons, Chief Magistrate
Blake Norton, Walhalla Magistrate
Deborah Sheriff, Lead Court Clerk**

1 Before: Lane Cook, Administrative Hearing Officer

2 **HEARING OFFICER'S PREAMBLE.**

3 **ALL WITNESSES SWORN.**

4 HEARING OFFICER: Let the record show that all witnesses have answered in
5 the affirmative and are therefore duly sworn in. I'll begin by asking each of you
6 some questions and then I'll give you a chance to answer and after that you'll have
7 an opportunity to provide any relevant information on the issues in front of us in
8 this hearing. Each party will also have a chance to question its own witnesses
9 and cross examine the opposing witnesses. And, please present any
10 documents or exhibits during your testimony that you feel should be considered in
11 this case. And, finally, you'll be notified of a decision as soon as possible after the
12 hearing and that will be mailed to your address of record which for Ms. Stagers I
13 have as 2142 Toccoa Highway, Westminster, SC 29693, is that right?

14 CLAIMANT: Correct.

15 HEARING OFFICER: And, for the employer I have c/o HR, Kay Olbon, 415
16 South Pine Street, Walhalla, SC 29691, is that right?

17 EMPLOYER WITNESS-1: Correct.

18 HEARING OFFICER: And, before we go any further, are there any questions
19 about the issues or the procedures of this hearing?

20 EMPLOYER WITNESS-1: No, sir.

21 CLAIMANT: No.

22 HEARING OFFICER: Then, Ms. Stagers, did you receive the determination
23 that was mailed on May 24, 2013, which held you disqualified 20 weeks?

24 CLAIMANT: Yes, I did.

1 HEARING OFFICER: Okay, I'm getting a little bit of background noise coming
2 across, if you all could just make sure that if you're on a cell phone, not to use a
3 speaker phone or blue tooth and try to get into a quiet place. And, Ms. Staggers, is
4 that the only determination that you're appealing here today?

5 CLAIMANT: Yes.

6 HEARING OFFICER: At this time for the record I have that one page
7 determination, I also have a discharge fact finding statement that was taken on
8 May 21, 2013, that's four pages as well as three page NET101Employer Response
9 dated May 14, 2013. There's also a one page, it looks like a termination letter
10 dated May 9, 2013 and a two page excerpt from the Employer's General
11 Guidelines Policy, and that's for a total of eleven pages. I am required to enter
12 those documents administratively into the record, Ms. Staggers, do you have any
13 objection to me doing that?

14 CLAIMANT: [UNCLEAR].

15 HEARING OFFICER: I'm sorry, Ms. Staggers, could you repeat that?

16 CLAIMANT: No, sir.

17 HEARING OFFICER: And, Mr. Breed, does the employer have any objections?

18 EMPLOYER WITNESS-1: No, sir.

19 HEARING OFFICER: Okay, I'll enter those eleven pages then as Agency
20 Exhibit #1 without objections. And, since this was initially ruled a discharge, we
21 will begin testimony with the employer, so Mr. Breed who would you chose to
22 testify first on behalf of the employer?

23 EMPLOYER WITNESS-1: I call Judge Todd Simmons.

24 HEARING OFFICER: Okay, Mr. Simmons, if you'd state and spell your first
25 and last name please.

1 EMPLOYER WITNESS-2: First letter is M then Todd, T-O-D-D, last name
2 Simmons, S-I-M-M-O-N-S.

3 HEARING OFFICER: And, what is your job title?

4 EMPLOYER WITNESS-2: Chief Magistrate, Oconee County.

5 HEARING OFFICER: And, did Ms. Stagers last work for the employer as a
6 Court Clerk?

7 EMPLOYER WITNESS-2: Yes, sir.

8 HEARING OFFICER: And, was she employed there from January 10, 2011
9 through May 9, 2013?

10 EMPLOYER WITNESS-2: That is correct.

11 HEARING OFFICER: And, what was the final incident that happened to cause
12 Ms. Stagers' discharge?

13 EMPLOYER WITNESS-2: The final incident occurred...let me make sure I
14 have my dates here correct...on Friday, May 3, 2013, following a meeting where
15 she called me a liar in my court room.

16 HEARING OFFICER: What was the meeting for?

17 EMPLOYER WITNESS-2: The meeting was a transfer meeting that we had to
18 transfer Ms. Stewart and reassign her to the Walhalla Court.

19 HEARING OFFICER: And, what happened during that meeting?

20 EMPLOYER WITNESS-2: During that meeting, Ms. Stewart refused to go to
21 the meeting and we had a rather lengthy discussion and that meeting is recorded
22 and I do have that should you need it.

1 HEARING OFFICER: Yeah, I have a copy of the meeting as well that was
2 submitted by Ms. Staggers and we will get to that in just a little bit. What was the
3 result of that meeting?

4 EMPLOYER WITNESS-2: The result of the meeting was that Ms. Stewart
5 would take the remainder of the day on administrative leave to decide whether or
6 not she was going to go to the Walhalla office on Monday and I was going to
7 discuss the matter with the County Administrator and the Assistant County
8 Administrator.

9 HEARING OFFICER: And, when you say, "Ms. Stewart," you're referring to
10 Ms. Staggers or the claimant, correct?

11 EMPLOYER WITNESS-2: Yes, sir.

12 HEARING OFFICER: And, so what was Ms. Staggers' decision as far as
13 whether to transfer or not?

14 EMPLOYER WITNESS-2: Later that day, I can't remember the exact time it
15 was some time after 4:00 she did call me and say that she was going to
16 involuntarily go to the Walhalla office.

17 HEARING OFFICER: And, what was your response?

18 EMPLOYER WITNESS-2: That I would make the appropriate arrangements
19 and that she made the right decision.

20 HEARING OFFICER: And, did you tell that to Ms. Staggers that you felt she
21 made the right decision?

22 EMPLOYER WITNESS-2: To the best of my recollection I believe it was a
23 cell phone call, but I do believe I said that, yes.

24 HEARING OFFICER: Now, did you tell her that before or after the alleged
25 incident where you said she called you a liar?

1 EMPLOYER WITNESS-2: That was after and just to kind of clarify what was
2 going on there, prior to this meeting I had had discussions with the County
3 Administration regarding what happens if the situation occurred where I had to
4 terminate or discipline an employee. The agreement that I had with the County
5 because of this hybrid relationship was that before I make any decisions I would
6 consult with the Administration. It was my intent after that meeting, after she had
7 initially refused to transfer and then ultimately referred to me as a liar she goes to
8 the County Administration and see if they would mutually agree that I had the
9 authority to terminate her employment.

10 HEARING OFFICER: So, at the time that you told her that she had made the
11 right decision, were you planning to go to the County Administration to try to see
12 about having Ms. Staggers discharged?

13 EMPLOYER WITNESS-2: Yes.

14 HEARING OFFICER: When did you make that decision?

15 EMPLOYER WITNESS-2: That decision was ultimately made on Thursday,
16 May 9th. Monday I had attempted to get in touch with Mr. Moulder (phonetic), Mr.
17 Scott Moulder, which is our County Administrator and he was unavailable, that
18 following Tuesday I still not heard from him, I had called up here, Wednesday I
19 did a memo to HR regarding the being called a liar incident, sent that to HR, I did
20 stop by again to talk to Mr. Moulder. Thursday I came by to talk to Mr. Moulder
21 and he delegated the task of this matter to Mr. Glenn Breed who is present here
22 today and at that time is when we had a conference with the County Attorney
23 regarding my authority as the Chief Magistrate to terminate an employee and that's
24 when I ultimately received...I don't personally believe that I needed permission,
25 but it was at that time that we mutually agreed that that's the course of action that I
26 would take for what transpired after that meeting the previous Friday.

27 HEARING OFFICER: And, when you said that she called you a liar, do you
28 mean that she actually used the word "liar" directed at you or did she say
29 something else that you construed to mean that she thought that you were being
30 deceptive?

1 EMPLOYER WITNESS-2: She told me "You are a liar." Now, Ms. Stewart
2 obviously contests that and when I terminated her on May 9th at Judge Norton's
3 Court, she once again contested...or that's the first time she contested it was that I
4 didn't call you a liar, I said that you're lying and that was, of course in front of
5 Judge Norton and another Clerk. Now, it's being once again downgraded to that's
6 not correct but to the best of my recollection I do specifically remember being told
7 "You're a liar."

8 HEARING OFFICER: Was that after this recorded meeting that took place?

9 EMPLOYER WITNESS-2: Yes, sir.

10 HEARING OFFICER: What was she saying that you were a liar in response to?

11 EMPLOYER WITNESS-2: Ms. Stewart had stated that another Clerk of mine
12 had called me and stated that Debbie was putting down inappropriate overtime on
13 her sheets and I contested that stating that that conversation never occurred and
14 that's when she called me a liar.

15 HEARING OFFICER: And, at that time, did you make the decision that you
16 were going to pursue a discharge?

17 EMPLOYER WITNESS-2: Yes, it was my intent at that time to go straight to
18 the County Administration...it was Friday afternoon through Monday morning, it
19 was that time that I made the decision to ask for permission to terminate her
20 employment.

21 HEARING OFFICER: Why did you later that day tell Ms. Staggers that you felt
22 that she made the right decision regarding accepting the transfer?

23 EMPLOYER WITNESS-2: I really can't explain that other than I wanted her
24 to feel comfortable because she was coming to Walhalla the following morning
25 and I said that just...I can't tell you exactly why just words of comfort for lack of a
26 better explanation.

1 HEARING OFFICER: Why was Ms. Staggers resistant to accepting the transfer
2 to Walhalla?

3 EMPLOYER WITNESS-2: Ms. Stewart feels in my opinion that the Clerks in
4 Walhalla are not professional, she in her opinion believes, and this is my opinion
5 of hers that they are intentionally out to sabotage her or treat her in a harsh or
6 hostile manner and she felt that by going back there that she would be treated the
7 same way. There were some incidents that occurred when she was first assigned to
8 that office in early 2011, she felt that those incidents would occur again, I assured
9 her that I had dealt with those issues, I dealt with those matters and that I was
10 transferring her to that office because that office needed three Clerks and she was
11 specifically hired to staff that office in January of 2011.

12 HEARING OFFICER: Did you agree that there had been some inappropriate
13 incidences at that time prior that Ms. Staggers had issues with?

14 EMPLOYER WITNESS-2: I don't agree that the incidents were inappropriate I
15 think that Ms. Staggers construed some incidents at that place in a very
16 exaggerated and embellished manner, now no doubt there were some incidents that
17 occurred up there that I felt should have been handled a little bit differently. My
18 goal in hiring Ms. Stewart from the beginning was to hopefully polish up what I
19 felt at that office to be a little bit of lack of professionalism. I also wanted her to
20 help polish up what I felt a little bit of a deficiency in customer service and how
21 the people, the public perceived the Court personnel at that office. I would not
22 classify it as anything significant and certainly would not classify it as harsh,
23 hostile or racist. There were some...there was an incident where a Sheriff's
24 Deputy is alleged to have referred to Ms. Stewart by the name of an African
25 American rapper as well as Oprah Winfrey, but other than that, there was nothing
26 there that took place from my staff that in my opinion would be grounds to refuse
27 to go back to the office considering that I had made great strides with the personnel
28 in that office to hopefully polish their image and their portrayal to the public as
29 well as how they work with each other.

30 HEARING OFFICER: During that final meeting on May 3rd, did Ms. Staggers
31 point to any specific reasons as to why she didn't want to go back to that office?

1 EMPLOYER WITNESS-2: I have not listened to that tape in a long time, but
2 to the best of my knowledge, she did not point to any specific examples other than
3 she did not want to go and she even stated and I agreed, she stated "Well, Judge
4 you told me you would not want to work in that office" and I said "Yes." But, I
5 told her that that office is where she was hired, that's where the numbers dictate
6 that we have three Clerks and once again I assured her that I had had many
7 conversations with Judge Norton as well as the staff in Walhalla, I had reviewed
8 them, I had written them up regarding their professionalism, in my opinion those
9 issues had been resolved.

10 HEARING OFFICER: How long had it been since Ms. Staggers worked in that
11 office?

12 EMPLOYER WITNESS-2: Ms. Staggers-Stewart last worked in that office to
13 the best of my knowledge, I believe it was September 19th of 2011, was her last
14 day of employment there.

15 HEARING OFFICER: And, then was she transferred to a different office
16 because of those issues that she had with the co-workers?

17 EMPLOYER WITNESS-2: Yes, she was transferred to my office in Seneca.

18 HEARING OFFICER: Had there ever been any issues before through Ms.
19 Staggers' employment with the nature of her communications with either yourself
20 or any other staff or co-workers?

21 EMPLOYER WITNESS-2: Could you kind of clarify your question as to
22 which time frame and which office?

23 HEARING OFFICER: Well, had you ever experienced any issues with Ms.
24 Staggers using any kind of inappropriate communications that would be similar to
25 what you said her calling you a liar...had there been anything similar before?

26 EMPLOYER WITNESS-2: With me personally, no.

1 HEARING OFFICER: Had she ever been written up or warned for anything like
2 that before?

3 EMPLOYER WITNESS-2: No, she had not. The only time...I'm pretty
4 lenient with all of my Clerks because of the nature of the job when it comes to
5 certain minor mistakes, but the subject matter and the volume of work that any
6 Clerks deals with is vast. I have Clerks with 20 years of experience that still make
7 minor mistakes and typically they're orally dealt with. The only time I wrote Ms.
8 Staggers-Stewart up was regarding preliminary hearing scheduling matter and that
9 took place in September of 2012, I'd warned her, I wrote it up but I did not place it
10 in her HR file, but as far as comments to me of an unprofessional nature, the first
11 time I ever heard those comments was on May 3rd during the HR meeting.

12 HEARING OFFICER: And, the write up you mentioned from September 2012,
13 was that a factor in the decision to discharge her or was that not considered?

14 EMPLOYER WITNESS-2: It obviously was a totality of things from day one
15 to the present. I felt that Ms. Staggers-Stewart...the primary reason was the lack
16 of professionalism on that date and time. Now, obviously did I consider the fact
17 that I sent her to Walhalla, she had difficulty getting along with the Clerks there,
18 yes. Did I also consider the fact that she was brought back to Seneca and had
19 difficulty getting along with the Clerks there, yes. Did I feel that she was
20 becoming increasingly incapable of accepting constructive criticism, yes. The
21 primary reason why I sought to terminate her though, the proverbial straw that
22 broke the camel's back, was being called a liar in my Court room and that is...the
23 ultimate decision was made because of that.

24 HEARING OFFICER: How long did you and Ms. Staggers converse after that
25 recording was stopped?

26 EMPLOYER WITNESS-2: It was a very short conversation, I would say less
27 than five minutes, and she asked Ms. Sheriff to leave the room and as soon as Ms.
28 Sheriff left the room is when she became...she made some accusations about Ms.
29 Sheriff and things like that. There was a discussion about how she knew about
30 some time records missing and she stated that she had got them out of Ms.
31 Sheriff's desk, then that's when we came into the discussion of whether or not

1 another Clerk had contacted me about Ms. Sheriff not putting down proper time,
2 that's when I stated I did not remember that conversation and that's when she
3 stated that I was a liar. I immediately recognized that it was going nowhere good, I
4 asked Ms. Stewart to leave, I assisted her with taking her personal possessions to
5 the car and I did ask for her key to my office and once again at the car, told her to
6 consider what we had talked about in the meeting with my intent being that
7 Monday morning I would seek permission from the Administration to terminate
8 her for that comment.

9 HEARING OFFICER: Okay, give me just one moment please. By the end of
10 that recorded meeting, had Ms. Stagers made a decision one way or the other as to
11 whether she would accept the transfer?

12 EMPLOYER WITNESS-2: No, she did not.

13 HEARING OFFICER: Did she say during that meeting at any time either that
14 she would or she would not accept the transfer?

15 EMPLOYER WITNESS-2: She said that she would not and the...once again
16 the mystery of it is that I had discussed this matter several times prior to that
17 meeting about how I would handle when an employee refused what I considered to
18 be legitimate transfer and the...what I had always agreed with the Administration
19 was that I would not act without first consulting with the Administration. Now, in
20 hindsight, would I have terminated Ms. Stewart's employment when she refused to
21 transfer, yes, but unfortunately that's not how it happened and I had to go to the
22 Administration and that took a little bit of time.

23 HEARING OFFICER: Why was the decision made specifically to transfer Ms.
24 Stagers and not someone else?

25 EMPLOYER WITNESS-2: Ms. Stagers was hired specifically to staff the
26 Walhalla office. All the other Clerks are well entrenched in their positions where
27 they are, for example, my Clerks have well over a combined twenty five
28 experience in the Seneca office, Judge Norton's Clerk has been in his office for a
29 significant period of time, the only other office is the Westminster office and there

1 is only one Clerk there. That is Judge Norton's only Clerk he has ever had, they
 2 have a great working relationship. Before I transferred her back to Walhalla, I did
 3 explore the possibility of transferring her to Westminster. Now, I explored that
 4 possibility on three separate occasions, the Judge there and his Clerk with my
 5 intent being if I transferred Ms. Staggers-Stewart to the Westminster office I could
 6 then transfer the Westminster Clerk that was already there to the Walhalla office,
 7 therefore putting three in Walhalla. Judge Derrick (phonetic) did not want her to
 8 be transferred there, he expressed concern about her inability to perform the
 9 monthly accounting functions that the Clerk is required...we have a Clerk at each
 10 Court that's required to run monthly reports and do the accounting and a daily
 11 reconciliation of money. Ms. Stewart had never been trained on that and they were
 12 both concerned because he only has one Clerk that that would not work and he did
 13 not want to have to go through the sometimes laborious process of training a Clerk
 14 to perform the accounting function. Now, she was ultimately transferred to
 15 Walhalla because of the workload requirements. I, on a quarterly basis, on an
 16 annual basis for the County and on an annual basis for the State, run the numbers
 17 of all the cases in each Court. Walhalla has always been traditionally in a
 18 exponential fashion the most busiest Court, it is located right next to the Sheriff's
 19 Department, it has traditionally always had three Clerks, I felt that I had resolved
 20 the issues, the inter-office personality differences in Walhalla, I had received
 21 assurances from Judge Norton and the Clerks they would treat Ms. Stewart with
 22 the utmost respect and I made that decision to send her back because that office
 23 needs three Clerks.

24 **HEARING OFFICER:** Once last question at this time, Mr. Simmons, the portion
 25 of the conversation that we're discussing here regarding where you say that Ms.
 26 Staggers called you a liar, why was that portion not captured on the recording?

27 **EMPLOYER WITNESS-2:** Ms. Staggers-Stewart...after we had the transfer
 28 meeting asked me if she could talk about a personal matter off the record.
 29 I...looking back I would not have turned off the recording, but I honored her
 30 request, I turned off the recording, Ms. Staggers-Stewart asked for Ms. Sheriff to
 31 leave the room, I assumed we were going to talk about a personal matter because
 32 she asked to talk to me about a personal matter. Once it was a business related
 33 matter and once the liar comment was made was when I ended the meeting which
 34 was no more than five minutes.

1 HEARING OFFICER: Okay. Mr. Simmons, I don't have any more questions
2 for you at this time, is there anything else you would like to add?

3 EMPLOYER WITNESS-2: I would just ask that you please review the
4 documents that we sent down this morning regarding the number of cases in
5 Walhalla, if you look at those numbers, it's clear that Walhalla is exponentially the
6 most busiest office in Oconee County and it has always had and always should
7 have three Clerks. I did explain to you why I didn't transfer the Westminster Clerk
8 to Walhalla, the reason I didn't transfer my two Clerks to Walhalla, for one,
9 Debbie Sheriff is my Senior or Lead Court Clerk, she had always been in that
10 office, she was my predecessor, right hand when it came to budgetary matters, she
11 prepared the budget for me, she does all of the ordering, the office supply ordering
12 and she is my person that I have conversations with regarding the work in that
13 office that I bounce ideas off of. Lisa Lee (phonetic) is my other Court Clerk she
14 is actually the Central Court Coordinator. All Central Courts are handled through
15 my office in Seneca and that is her job. If I was to send her...Lisa to Walhalla,
16 then she would be performing a job in Walhalla on matters that will be occurring in
17 Seneca and I just did not feel that that was the appropriate thing to do. And, to be
18 quite honest with you, Walhalla really needs four Clerks it is a very busy office.

19 HEARING OFFICER: Okay. I have here the four pages of graphs indicating
20 cases filed in each location, would you like to submit those four pages and graphs
21 to be part of the record?

22 EMPLOYER WITNESS-2: Yes, sir, I would.

23 HEARING OFFICER: Ms. Staggers, do you have any objection to me entering
24 those four pages and graphs to be part of the record?

25 CLAIMANT: They're graphs?

26 HEARING OFFICER: Yes, they're graphs indicating the number of cases filed
27 for Seneca, Walhalla and Westminster.

28 CLAIMANT: No, sir, I don't.

1 HEARING OFFICER: Okay, I'll enter those four pages then as Employer's
2 Exhibit #1, without objections. Mr. Simmons, is there anything else you would
3 like to add at this time?

4 EMPLOYER WITNESS-2: No, sir.

5 HEARING OFFICER: Mr. Breed, do you have any questions for Mr. Simmons?

6 EMPLOYER WITNESS-1: I do not, sir.

7 HEARING OFFICER: And, Ms. Staggars, we will get to your testimony in just a
8 few minutes, but at this time this is your opportunity to ask questions to Mr.
9 Simmons, do you have any questions for him? Ms. Staggars, any questions you
10 have at this time for Mr. Simmons?

11 CLAIMANT: I do, I do, the first thing is I just want to make sure,
12 Mr. Cook, do you have a copy of the Motion to Submit Declaration of Facts
13 Documentary Evidence and Arguments into the Tribunal hearing record?

14 HEARING OFFICER: Yeah, I do have those...

15 CLAIMANT: [UNCLEAR].

16 HEARING OFFICER: ...I do have those documents, yes.

17 CLAIMANT: Okay, first question, let's see...I want to first of all
18 remind you that the FMLA and the racial and whistleblower grievances were all a
19 pretext to show that the employer used these grievances to retaliate against me.

20 HEARING OFFICER: Ms. Staggars, let me clarify something for you real quick,
21 right now we're just...this is just your time to cross examine Mr. Simmons, this
22 isn't the time to make your principal case, you can do that during your testimony,
23 but at this time this is just your chance to ask questions directly to Mr. Simmons to
24 have him answer those.

1 CLAIMANT: Okay.

2 HEARING OFFICER: So, do you have any of those questions for Mr.
3 Simmons?

4 CLAIMANT: I do. Mr. Simmons, this is a yes or no question, do
5 you have any disciplinary warning documentations that are pursuant to Section 7-2
6 of the Employee Handbook that precede the termination notice that I was given on
7 the May the 9th, and Mr. Simmons before you answer that question, please keep in
8 mind that a complete disclosure of my HR file was disclosed by Oconee County
9 HR on May 24, 2013.

10 EMPLOYER WITNESS-2: Are you asking me if I had ever in writing, written
11 you up for what I felt something...an unsatisfactory job performance?

12 CLAIMANT: I'll restate the question. The question is a yes or
13 no question, do you have any disciplinary warning documentation pursuant to
14 Section 7-2 of the Employee Handbook that precedes the termination notice that I
15 was given on May the 9th?

16 EMPLOYER WITNESS-2: Like I said, the only written documentation as I
17 testified on direct was that preliminary hearing issue that was back in September of
18 2012, so no, regarding the written documentation...the only written documentation
19 that was submitted was not signed by you, that was the May 3rd transfer memo, the
20 other written documentation was on May 7th, on Wednesday, I'm sorry,
21 Wednesday, May 8th, I did send a memo to HR regarding the liar incident, that's
22 the only written documentation.

23 CLAIMANT: That was on May 7th, you said?

24 EMPLOYER WITNESS-2: May 8th.

25 CLAIMANT: May 8th?

26 EMPLOYER WITNESS-2: Correct.

- 1 CLAIMANT: That was before the termination date?
- 2 EMPLOYER WITNESS-2: Yes.
- 3 CLAIMANT: Okay, May 8th, and then you referred to September
4 2012, a preliminary hearing write up [UNCLEAR].
- 5 EMPLOYER WITNESS-2: September 7th.
- 6 CLAIMANT: September...what was the date?
- 7 EMPLOYER WITNESS-2: September 7th.
- 8 CLAIMANT: September the 7th?
- 9 EMPLOYER WITNESS-2: Yes, ma'am.
- 10 CLAIMANT: A preliminary hearing write up?
- 11 HEARING OFFICER: Allow me to interject here, Ms. Staggers, I don't see the
12 need to go into that write up, I don't believe that was relevant to your separation,
13 so we can skip that write up.
- 14 CLAIMANT: Okay, I'll move along. Mr. Simmons, this is a yes
15 or no question, do you have a recording of me stating "You're a liar" concerning
16 the subject matter meeting of May 3, 21013?
- 17 EMPLOYER WITNESS-2: That was already asked and answered by Mr. Cook
18 and I said no, that we had gone off the record, there is no recording.
- 19 CLAIMANT: Okay. Mr. Simmons, yes or no, did you produce a
20 post HR memorandum moralizing the events of May the 3rd...the May the 3rd HR
21 meeting after the meeting concluded?
- 22 EMPLOYER WITNESS-2: Yes.

1 CLAIMANT: Okay, and did that memorandum include any
2 misconduct on May the 3rd alleged in your May the 9th termination notice?

3 EMPLOYER WITNESS-2: Yes, the May 7th memo that was delivered to Kay
4 Olbon specifically outlined the initial refusal followed by the liar...and what I felt
5 was a lack of respect and professionalism and that was documented in the May 7th
6 memo to Kay Olbon, the Human Resource Director.

7 CLAIMANT: Okay. I'm looking through the documents that
8 Kay Olbon supplied to me through an FOIA request, can you tell me exactly what
9 document that is, the only memorandum I'm aware of is Exhibit 18...

10 EMPLOYER WITNESS-2: Let me refer to your Exhibit 18 first and I will tell
11 you if that's the right one.

12 CLAIMANT: Okay, I have [UNCLEAR].

13 EMPLOYER WITNESS-2: There's actually...that's not the correct one, there
14 is a memorandum dated...there's two May 3rd memorandums...

15 CLAIMANT: Right.

16 EMPLOYER WITNESS-2: ...and then there's a May 7th memorandum that
17 was sent as well.

18 CLAIMANT: Okay, there are two...I don't have a May 7th, it
19 was not included in the FOIA.

20 EMPLOYER WITNESS-2: And, I did not receive a freedom of information
21 act, I really can't speak for Ms. Olbon.

22 CLAIMANT: Okay.

23 HEARING OFFICER: Go ahead with your questioning, Ms. Stagers.

1 CLAIMANT: I'm sorry.

2 HEARING OFFICER: Go ahead with your questioning.

3 CLAIMANT: Go ahead with my questioning?

4 HEARING OFFICER: Yes.

5 CLAIMANT: Okay, so what I'm...I guess what I'm asking Mr.
6 Simmons, no what I am asking is in that second memorandum which is the post
7 HR memorandum, I have it as Exhibit #18 in the information that I sent over, are
8 you looking at that or do you have that information in front of you?

9 EMPLOYER WITNESS-2: Yes, ma'am, I am looking at that.

10 CLAIMANT: Okay, in that memorandum, did it include any
11 misconduct on May the 3rd, as alleged in your May the 9th termination notice of me
12 calling you a liar?

13 EMPLOYER WITNESS-2: That memo does not, the only memo that contains
14 that is the May 7th memo.

15 CLAIMANT: May 7th memo?

16 EMPLOYER WITNESS-2: And, once again, that's the one that you had just
17 stated that Ms. Olbon has not provided to you. When I provided the May 7th
18 memorandum to Ms. Olbon, it also contained a signed statement attached to it from
19 Lisa Lee, you don't have that one?

20 CLAIMANT: I do not. Did you supply that to the Department of
21 Labor?

22 EMPLOYER WITNESS-2: I have not...this morning we did fax that to Mr.
23 Cook and Mr. Breed emailed all that information scanned in to [UNCLEAR] e-
24 mail this morning.

1 CLAIMANT: That was documented on May the 7th, just for the
2 record.

3 EMPLOYER WITNESS-2: Yes, ma'am.

4 CLAIMANT: I don't have a copy in front of me but it was
5 documented on May 7th is what you're stating?

6 EMPLOYER WITNESS-2: Yes, ma'am, and I'll...it was all transmitted to Ms.
7 Olbon, it was actually hand delivered on the 8th, I believe.

8 CLAIMANT: Okay, May the 7th, which is four days after May
9 the 3rd?

10 EMPLOYER WITNESS-2: Yes, correct.

11 CLAIMANT: Okay. Next question, Mr. Simmons, what time did
12 my termination occur?

13 EMPLOYER WITNESS-2: What time of the day?

14 CLAIMANT: Yes, what time of the day on May the 9th, did it
15 occur?

16 EMPLOYER WITNESS-2: It was after lunch, don't quote me on the exact
17 time, but I believe it was about 2:00.

18 CLAIMANT: Okay. Did you receive an e-mail from me on May
19 the 9th at 8:44 a.m., grievancing racial overtones, [UNCLEAR] for documenting
20 my work product?

21 EMPLOYER WITNESS-2: I received...there was a chain of, it was probably
22 six or seven or more e-mails that I believe that I was cc'd on, there was a
23 conversation that was going back and forth between you and Judge Norton...yes, I
24 have received all those copied e-mails.

- 1 CLAIMANT: So, you're saying yes, you did receive that e-mail?
- 2 EMPLOYER WITNESS-2: Yes.
- 3 CLAIMANT: Okay. By about five hours later, did you terminate
4 me for conduct that transpired on May the 3rd...
- 5 EMPLOYER WITNESS-2: Yes, ma'am.
- 6 CLAIMANT: ...that was never documented in a warning
7 according to the handbook?
- 8 EMPLOYER WITNESS-2: It was documented only in that memorandum, but
9 at no point and time did I deliver to you a written write up for you to sign, no.
- 10 CLAIMANT: So, you don't have a memorandum that I signed
11 personally?
- 12 EMPLOYER WITNESS-2: I don't have any memorandums that you signed
13 regarding this matter, no, ma'am.
- 14 CLAIMANT: Well, in particular I'm talking about the May 7th,
15 that we're missing, that I don't have in front of me.
- 16 EMPLOYER WITNESS-2: Did you sign that no, ma'am, that was a memo to
17 Kay Olbon.
- 18 CLAIMANT: Okay, but it was not...but my question was, five
19 hours later, did you terminate me for conduct that transpired on May the 3rd, that
20 was never documented in a warning according to that handbook?
- 21 EMPLOYER WITNESS-2: And, as I stated before, that's correct.
- 22 CLAIMANT: Okay.

1 HEARING OFFICER: Let's move on Ms. Staggers.

2 CLAIMANT: Yes, sir. Mr. Cook...

3 HEARING OFFICER: Yes.

4 CLAIMANT: ...were you saying something?

5 HEARING OFFICER: I said move along.

6 CLAIMANT: I wanted to go back and ask you about...you stated
7 that on May the 3rd, when you...after the meeting you helped me gather my
8 belongings and you walked me out to the car, you stated that you told me that you
9 were going to seek for my termination.

10 EMPLOYER WITNESS-2: No, I did not say that.

11 CLAIMANT: Okay.

12 EMPLOYER WITNESS-2: What I told you was...

13 CLAIMANT: [UNCLEAR] kind of clarify that up for me.

14 EMPLOYER WITNESS-2: What I stated to you is that just to keep in mind
15 what we had talked about and that you needed to make a decision by the end of the
16 day.

17 CLAIMANT: Okay.

18 EMPLOYER WITNESS-2: And, on the way out when you were getting your
19 things, I also provided you with a third option, I had gone to my office and typed
20 up a resignation letter and provided that to you.

21 HEARING OFFICER: Any more questions, Ms. Staggers?

- 1 CLAIMANT: Give me a second. I believe that is all for right
2 now.
- 3 HEARING OFFICER: Okay. Mr. Breed who would the employer's next
4 witness be?
- 5 EMPLOYER WITNESS-1: Ms. Debbie Sheriff.
- 6 HEARING OFFICER: Okay, Ms. Sheriff would you state and spell your first
7 and last name please?
- 8 EMPLOYER WITNESS-3: Deborah A. Sheriff, D-E-B-O-R-A-H, middle
9 initial A, last name Sheriff, S-H-E-R-I-F-F.
- 10 HEARING OFFICER: And, what is your position with the employer?
- 11 EMPLOYER WITNESS-3: I am the Lead Court Clerk in the Oconee County
12 Summary Court.
- 13 HEARING OFFICER: And, were you present for the meeting that took place
14 between Mr. Simmons and Ms. Staggers on May 3rd?
- 15 EMPLOYER WITNESS-3: Yes, sir, I was.
- 16 HEARING OFFICER: And, what happened during that meeting?
- 17 EMPLOYER WITNESS-3: Judge Simmons spoke with Ms. Staggers about his
18 intent to transfer her back to the Walhalla office which is where she was hired, he
19 provided her at that time with graphs and some statistics about the court case load
20 from the Walhalla, Seneca, Westminster office and she advised Judge Simmons
21 that she would not go to the Walhalla office.
- 22 HEARING OFFICER: And, what happened at the end of that meeting?

1 EMPLOYER WITNESS-3: Toward the end of the meeting Ms. Stagers asked
2 that I leave the room which I accommodate them and I did leave the room.

3 HEARING OFFICER: Did she say why she wanted you to leave the room?

4 EMPLOYER WITNESS-3: She wanted to speak with Judge Simmons off the
5 record.

6 HEARING OFFICER: Was that her words that she wanted to speak to him off
7 the record?

8 EMPLOYER WITNESS-3: Something to that effect, yes, it was a personal
9 matter that she wanted to speak to him about.

10 HEARING OFFICER: And, do you know what they talked about at that time?

11 EMPLOYER WITNESS-3: I do not I left the room and went back to my desk.

12 HEARING OFFICER: And, after you left, was it just Ms. Stagers and Mr.
13 Simmons in the court room together?

14 EMPLOYER WITNESS-3: It was.

15 HEARING OFFICER: Had you ever...well, first of all, did you work closely
16 with Ms. Stagers on a day to day basis?

17 EMPLOYER WITNESS-3: From the time she was transferred to our office
18 September the 11th, yes I worked with her on a daily basis.

19 HEARING OFFICER: Did you ever know Ms. Stagers to use any kind of
20 unprofessional communication with others or anything to that effect?

21 EMPLOYER WITNESS-3: No.

1 HEARING OFFICER: Just one moment...were you aware of the issues that Ms.
2 Stagers had with the staff at the Walhalla office?

3 EMPLOYER WITNESS-3: Yes, sir, I was.

4 HEARING OFFICER: How were you made aware of this?

5 EMPLOYER WITNESS-3: During...Judge Simmons had brought it to my
6 attention before he was going to transfer her down in September he had brought it
7 to my attention that there was some conflicts...personality conflicts and he felt that
8 he should bring her down to the office on a temporary basis to try to work through
9 some things.

10 HEARING OFFICER: Are you aware if Mr. Simmons had taken any steps to
11 correct the types of issues the Walhalla office was having?

12 EMPLOYER WITNESS-3: Yes, he made several...had several conversations,
13 I think, with Judge Norton and the Clerks there and brought it to their attention and
14 tried to, you know, to work out any kind of personality conflict and problems that
15 they had.

16 HEARING OFFICER: After that final meeting, did Mr. Simmons tell you what
17 had happened during the private conversation with himself and Ms. Stagers?

18 EMPLOYER WITNESS-3: Yes, he came out and I could tell he was
19 immediately upset at something and he walked to my office and said "She just
20 called me a liar."

21 HEARING OFFICER: Did he say anything else about that topic?

22 EMPLOYER WITNESS-3: He was very upset about it, you know, just can't
23 believe she called me a liar and I think he said she'll be getting her stuff and she'll
24 be giving us a decision by the end of the day.

1 HEARING OFFICER: Okay. Okay, Ms. Sheriff, is there any more information
2 you want to provide at this time?

3 EMPLOYER WITNESS-3: No, sir, I think that's all.

4 HEARING OFFICER: Mr. Breed, do you have any questions for Ms. Sheriff?

5 EMPLOYER WITNESS-1: Yes.

6 HEARING OFFICER: Go ahead.

7 EMPLOYER WITNESS-1: Hang on one second, Mr. Cook. I want to ask Ms.
8 Sheriff one quick question, do you run the reports for the Seneca branch
9 office...Magistrate's Office?

10 EMPLOYER WITNESS-3: Yes, I actually run reports for all three offices, as
11 part of my job duties is to submit an annual report to the South Carolina Court
12 administration and also send one to the finance office as far as the work load
13 indicators for all three offices and the revenue obtained for the County.

14 EMPLOYER WITNESS-1: And, what would you consider to be the highest
15 case load office?

16 EMPLOYER WITNESS-3: The Walhalla office is traditionally for years
17 always been the highest case load, it has always been manned by three Court
18 Clerks because the court traffic on a daily basis and the amount of cases that are
19 filed and also for the work load as far as the warrants and things for the Sheriff's
20 office.

21 EMPLOYER WITNESS-1: And, you've been employed by the County, by the
22 Magistrate's Office for...

23 EMPLOYER WITNESS-3: Twenty-five plus years.

- 1 EMPLOYER WITNESS-1: Twenty-five plus years, okay. No further
2 questions, Mr. Cook.
- 3 HEARING OFFICER: Ms. Staggers, do you have any questions for Ms. Sheriff?
- 4 CLAIMANT: I do, I just have one question for you, Ms. Sheriff.
5 You say that on May the 3rd during the meeting...at the conclusion of the meeting I
6 asked to go off the record, did you say that that was for...because I wanted to
7 discuss personal reasons?
- 8 EMPLOYER WITNESS-3: To my recollection you asked Judge Simmons to
9 speak with him personally off the record about a personal matter, out of my
10 presence and asked me to leave.
- 11 CLAIMANT: Okay. I'm looking at page 18 of [UNCLEAR] this
12 is actually Exhibit 10, which is a transcript of that meeting...
- 13 EMPLOYER WITNESS-3: Uh huh.
- 14 CLAIMANT: ...on page 18 of that meeting, [UNCLEAR]
15 Simmons asked at line 17, anything else you want to say or talk about or and
16 Stewart, I replied "off the record, I want to talk to you personally."
- 17 EMPLOYER WITNESS-3: I think that's what I just testified to.
- 18 CLAIMANT: You said [UNCLEAR] for personal reasons.
- 19 EMPLOYER WITNESS-3: [UNCLEAR] a personal matter...
- 20 CLAIMANT: [UNCLEAR]...
- 21 EMPLOYER WITNESS-3: ...you wanted [UNCLEAR] him personally.
- 22 HEARING OFFICER: Any more questions, Ms. Staggers?

1 CLAIMANT: No, no further questions.

2 HEARING OFFICER: Okay. Mr. Breed, next witness.

3 EMPLOYER WITNESS-1: I call Judge Blake Norton.

4 HEARING OFFICER: Okay, Mr. Norton, if you'd state and spell your first and
5 last name please.

6 EMPLOYER WITNESS-4: Blake B-L-A-K-E, middle initial A, Norton, N-O-
7 R-T-O-N.

8 HEARING OFFICER: And, what is your job title?

9 EMPLOYER WITNESS-4: Walhalla Magistrate.

10 HEARING OFFICER: And, what first-hand knowledge do you have of Ms.
11 Stagers' separation from employment?

12 EMPLOYER WITNESS-4: It occurred in my court room...Judge Simmons
13 brought Ms. Stagers in and basically told her that she was terminated based on the
14 fact that he or she called him a liar in his court room. I had no part in the
15 conversation, I also had one of my Court Clerks, Elizabeth Bracket (phonetic)
16 present in that meeting.

17 HEARING OFFICER: And, were you present as well?

18 EMPLOYER WITNESS-4: I was.

19 HEARING OFFICER: And, he said that she was being terminated because she
20 had called him a liar is that correct?

21 EMPLOYER WITNESS-4: That's correct.

22 HEARING OFFICER: What was Ms. Stagers' response?

1 EMPLOYER WITNESS-4: If memory serves, I believe she said "I did not call
2 you a liar, I said you lied" or something to that effect, I don't know if those were
3 the exact words, but to that effect I said "I did not call you a liar, I said, you lied."

4 HEARING OFFICER: In the intervening days between that meeting on May 3rd
5 and the time that Ms. Staggers was working in the Walhalla office at the end, had
6 there been any issues with Ms. Staggers' performance or anything like that?

7 EMPLOYER WITNESS-4: In the Seneca Office?

8 HEARING OFFICER: In the Walhalla office at the very end of her
9 employment?

10 EMPLOYER WITNESS-4: There were a couple of issues that I had, I want to
11 address one was the fact that she on some civil papers that were filed in the court,
12 she had her initials all over the papers and I asked her about them I said, "why do
13 you have your initials on these? 'Because that's the way I do it, this way I know
14 it's my work,'" and I said, "Well you can know that's your work by what you...on
15 the computer when, you know, enter it as data through CMS which is Case
16 Management System," she said, "Well, this is the way I've done it," and I said,
17 "That's all fine and good, but I don't want anybody's initials, yours or anybody's
18 initials on any of my documents going out in my court period." I said, "the only
19 name or signatures that go out on any documents out of my court will be mine." I
20 left to go to the jail and when I returned the next day I found the same paperwork
21 back in the drawer, the initials had not been removed and I asked, I believe
22 Elizabeth Bracket what the deal was and she said that she found them in the
23 outgoing mail with the outgoing stuff going to the Sheriff's Department because all
24 civil papers are served by a Sheriff's Deputy and she said that she found them as
25 soon as I left Ms. Staggers-Stewart took them right back and put them in the mail
26 slot going with the Sheriff's Department contrary to what I told her. I said I
27 wanted them redone and she didn't do it.

28 HEARING OFFICER: Had Ms. Staggers...

29 EMPLOYER WITNESS-4: And...

1 HEARING OFFICER: Go ahead.

2 EMPLOYER WITNESS-4: Go ahead.

3 HEARING OFFICER: Had Ms. Stagers brought to your attention any
4 complaints that she had about her co-workers or other staff members.

5 EMPLOYER WITNESS-4: At that time, no, not during that...not during May
6 time, no.

7 HEARING OFFICER: Were you the Magistrate at the Walhalla office in 2011
8 when Ms. Stagers was transferred out?

9 EMPLOYER WITNESS-4: I was.

10 HEARING OFFICER: What were the issues that Ms. Stagers had at that time?

11 EMPLOYER WITNESS-4: I had a number of complaints from the other two
12 Court Clerks, basically they were saying that it was walking on eggshells around
13 the office, they were frustrated trying to keep her up to speed and her retaining
14 knowledge of the job, it would be almost like selective memory and they were
15 getting frustrated and there were a lot of conflicts going on so I called a meeting
16 and she walked into the meeting and basically started off saying "This is not going
17 to be a bash Stephanie meeting" and she said "You're going to handle this or I'm
18 going over your head" which I didn't respond to that I just sort of let that go. And,
19 at the conclusion of the meeting I said "I'm getting the distinct impression you're
20 not happy here, would you be happier in the Seneca office?" and she said "I would
21 be" and I said "Okay, I will discuss this with Judge Simmons and make the
22 arrangements to have you transferred to Seneca." And, then she transferred to
23 Seneca.

24 HEARING OFFICER: Okay, Mr. Norton, is there anything else you'd like to
25 add at this time?

26 EMPLOYER WITNESS-4: I'm good.

- 1 HEARING OFFICER: Mr. Breed, do you have any questions for Mr. Norton?
- 2 EMPLOYER WITNESS-1: Yes, I have one question, Mr. Cook.
- 3 HEARING OFFICER: Yeah, go ahead.
- 4 EMPLOYER WITNESS-1: Judge Norton, have long have you been the
5 Magistrate in Walhalla?
- 6 EMPLOYER WITNESS-4: Going on twelve years.
- 7 EMPLOYER WITNESS-1: Okay. After the May 3rd, transfer meeting, how
8 would you say that the Walhalla Clerks treated Ms. Staggers after the transfer
9 meeting?
- 10 EMPLOYER WITNESS-4: I didn't see any...with them treating her any
11 differently than they would treat anybody else working in that office, they didn't
12 treat her any worse or any better, they treated her as another staff member, but they
13 were [UNCLEAR].
- 14 EMPLOYER WITNESS-1: No further questions, Mr. Cook.
- 15 HEARING OFFICER: Ms. Staggers, do you have any questions for Mr. Norton?
- 16 CLAIMANT: I do. Mr. Norton, do you remember a meeting that
17 we had on August 2, 2011?
- 18 EMPLOYER WITNESS-4: You're going to have to be more specific about
19 what meeting.
- 20 CLAIMANT: Okay. If you have the documents in front of you
21 that I sent over to Oconee as Exhibit #1, it's an e-mail that referenced that
22 particular meeting.
- 23 EMPLOYER WITNESS-4: Give me a second.

1 CLAIMANT: Okay.

2 EMPLOYER WITNESS-4: Okay, I have an e-mail that you sent to Judge
3 Simmons I believed dated August 19th, is that what you're referencing?

4 CLAIMANT: Right below it, it shows where I sent this meeting
5 to you...

6 EMPLOYER WITNESS-4: Okay.

7 CLAIMANT: ...I'm sorry, e-mail to you and actually Judge
8 Simmons was blind copied on it.

9 EMPLOYER WITNESS-4: Yes.

10 CLAIMANT: Okay. So, you are aware that we had a
11 conversation about grievances and concerns that I had in regard to working there at
12 the Walhalla office?

13 EMPLOYER WITNESS-4: Yes.

14 CLAIMANT: Okay. I [UNCLEAR] your attention to number
15 five...point number five that's made on that second page...

16 EMPLOYER WITNESS-4: Okay.

17 CLAIMANT: ...regarding racial overtones, there was never any
18 response to this e-mail from you was there?

19 EMPLOYER WITNESS-4: I can't say.

20 CLAIMANT: Okay. Is there a response from you to this e-mail
21 to me in response to this e-mail?

1 EMPLOYER WITNESS-4: There's nothing attached, but going back two years
2 ago I can't say whether I responded to it or not to be honest with you.

3 CLAIMANT: Okay. The next question is...if you could turn to
4 Exhibit 21...

5 EMPLOYER WITNESS-4: Okay.

6 CLAIMANT: ...were you aware of the reason for my transfer
7 back to your office?

8 EMPLOYER WITNESS-4: Yes, workload.

9 CLAIMANT: Okay. And, what was that reason...what was the
10 reason that Judge Simmons gave you as my reason for being transferred back to
11 Walhalla?

12 EMPLOYER WITNESS-4: Again, it was workload, I have the busiest court in
13 the County, and there was a need for another Clerk...

14 CLAIMANT: Okay.

15 EMPLOYER WITNESS-4: ...and, we had...let me finish my answer
16 though...Judge Simmons and I had been in conversation during the last few budget
17 years trying to at the very least a part time Clerk to be staffed in the Walhalla
18 office and County Council didn't approve it, so that's why you were transferred
19 back to my office because that's...I mean, the bulk of the work is being conducted
20 in Walhalla.

21 CLAIMANT: Okay.

22 EMPLOYER WITNESS-4: [UNCLEAR].

1 CLAIMANT: Okay. Do you...are you aware, I know I told you
2 to reference 21...Exhibit 21, but could you look at Exhibit 22 for me and kind of
3 just keep your hand on 21 for me.

4 EMPLOYER WITNESS-4: Go ahead.

5 CLAIMANT: This exhibit is in response to the Exhibit 21 that I
6 sent you with the documentation of the meeting that I had with you on May the 6th
7 where you laid out the expectations for me for Walhalla. The expectations that I
8 sent over to you in Exhibit 21, you responded in 22 and you said that my summary
9 of those events were fairly accurate and you gave exceptions...

10 EMPLOYER WITNESS-4: I did.

11 CLAIMANT: ...[UNCLEAR] and one of the exceptions was
12 number five, you said...you stated in number five, you didn't go into nearly that
13 much detail about the alleged desk incident issue when the three of us talked
14 Monday, I wasn't there when this allegedly occurred and I didn't participate in any
15 conversations between you and Judge Simmons regarding the desk issue. My only
16 thing is that desks are off limits in this office and that goes for everyone, there
17 should be no Court Clerk located in...Court work located in anyone's desk, case
18 files, tickets, warrants, etc. so there should be no need for anyone to go into
19 any...into another person's desk. Also, you in the below...in the little paragraph
20 below you she talked about...

21 HEARING OFFICER: Ms. Staggars, one second, what does this have to do with
22 the reason for your discharge?

23 CLAIMANT: Okay, I'm just asking on the 21...on exhibit
24 21 stated that Judge Simmons told him that the reason for me being transferred was
25 because of the workload...

26 HEARING OFFICER: What...

1 CLAIMANT: ...however in this meeting, Judge Norton told me
2 almost immediately that he had extensive conversations with Judge Simmons
3 whereby Judge Simmons told him about me going into a desk and retrieving
4 information from the desk.

5 EMPLOYER WITNESS-4: Yes.

6 HEARING OFFICER: And, what does that have to do with your separation, Ms.
7 Staggers?

8 CLAIMANT: Which...it infers that it's for other reasons other
9 than being transferred.

10 EMPLOYER WITNESS-4: No.

11 HEARING OFFICER: Okay, do you have any more questions, Ms. Staggers, for
12 Mr. Norton?

13 CLAIMANT: I do not.

14 EMPLOYER WITNESS-4: Okay.

15 HEARING OFFICER: Okay, Mr. Breed, if you would state and spell your first
16 and last name please.

17 EMPLOYER WITNESS-1: My first name is Glenn, G-L-E-N-N, last name is
18 Breed, B-R-E-E-D.

19 EMPLOYER WITNESS-2: And, Mr. Cook, this is Todd Simmons and I
20 apologize for interrupting, Judge Norton is in the middle of doing warrants for a
21 big drug roundup in Oconee County, and I'm just going to ask if there's any way
22 he could be excused.

23 HEARING OFFICER: Ms. Staggers, you don't have any objection with Mr.
24 Norton being excused at this time, do you?

- 1 CLAIMANT: I do not.
- 2 HEARING OFFICER: Okay, Mr. Norton, you are free to go at this time.
- 3 EMPLOYER WITNESS-4: Thank you, sir.
- 4 EMPLOYER WITNESS-2: Thank you, Mr. Cook.
- 5 HEARING OFFICER: Thanks for being here.
- 6 HEARING OFFICER: Okay, Mr. Breed, did I have you state and spell your first
7 and last name?
- 8 EMPLOYER WITNESS-1: You did, would you like for me to do it again?
- 9 HEARING OFFICER: That's fine, what is your job title?
- 10 EMPLOYER WITNESS-1: Assistant County Administrator.
- 11 HEARING OFFICER: And, what first-hand knowledge do you have of Ms.
12 Stagers' separation?
- 13 EMPLOYER WITNESS-1: The first-hand knowledge I have was, I was asked
14 to take on the matter with Judge Simmons on...hang on I'll get you a date, on May
15 the 9th, it was on a Thursday, 2013 by Mr. Moulder, Mr. Scott Moulder, the County
16 Administrator.
- 17 HEARING OFFICER: What was the purported reason that Ms. Stagers was
18 going to be discharged?
- 19 EMPLOYER WITNESS-1: From what my understanding was that she called
20 him a liar.
- 21 HEARING OFFICER: Is that something that would ordinarily result in an
22 employee being discharged?

1 EMPLOYER WITNESS-1: Yes, sir, it is blatant insubordination.

2 HEARING OFFICER: Were you present when Ms. Staggers was informed that
3 she was being terminated?

4 EMPLOYER WITNESS-1: No, sir.

5 HEARING OFFICER: In the time between that May 3rd meeting and Ms.
6 Staggers' discharge on May 9th, were you in talks with Mr. Simmons to decide
7 whether he had the authority to discharge Ms. Staggers?

8 EMPLOYER WITNESS-1: I was after May the 9th.

9 HEARING OFFICER: So, prior to her discharge date, you did not speak to Mr.
10 Simmons about whether he had the authority to discharge Ms. Staggers?

11 EMPLOYER WITNESS-1: No, sir, it was my understanding that he was trying
12 to talk with Mr. Moulder that was a very busy time, we were right in the middle of
13 preparing for third reading of the budget, the County budget and Mr. Moulder's
14 schedule did not allow a meeting to occur...a meeting to occur.

15 HEARING OFFICER: And, the ultimate conclusion was that Mr. Simmons
16 indeed had the authority to discharge Ms. Staggers, correct?

17 EMPLOYER WITNESS-1: That is correct.

18 HEARING OFFICER: Mr. Breed, do you have any more information that you
19 would like to provide at this time?

20 EMPLOYER WITNESS-1: I do not.

21 HEARING OFFICER: Ms. Staggers, do you have any questions for Mr. Breed?

22 CLAIMANT: I do not.

1 HEARING OFFICER: Okay, Ms. Staggers, if you'd state and spell your first and
2 last name please.

3 CLAIMANT: It's Stephanie Stewart, S-T-E-P-H-A-N-I-E S-T-E-
4 W-A-R-T.

5 HEARING OFFICER: And, where does the Staggers come from, is that a
6 hyphenated last name?

7 CLAIMANT: It is Staggers-Stewart.

8 HEARING OFFICER: Okay. And, what happened to cause your discharge?

9 CLAIMANT: Well, allegedly on the May the 5th, during an HR
10 meeting, according to the employer I stated, "You're a liar."

11 HEARING OFFICER: Do you recall the portion of the meeting that was on the
12 recording?

13 CLAIMANT: Correct, yes, sir.

14 HEARING OFFICER: What was being discussed during that meeting?

15 CLAIMANT: The employer turned in a transfer, I was not aware
16 that the meeting was about a transfer, I thought going into this meeting it was
17 going to be about a grievance that I raised to him for a whistle blowing complaint
18 that I raised to him prior to that meeting.

19 HEARING OFFICER: So, during the meeting, Mr. Simmons informed you that
20 you were going to be transferred, correct?

21 CLAIMANT: Correct.

22 HEARING OFFICER: What was your response to him when he told you that?

1 CLAIMANT: Well, I initially disagreed.

2 HEARING OFFICER: Did you tell him that you didn't want to be transferred?

3 CLAIMANT: I did, yes, sir.

4 HEARING OFFICER: Did you express to him the reason that you did not want
5 to be transferred?

6 CLAIMANT: Correct.

7 HEARING OFFICER: And, what was that reason?

8 CLAIMANT: Because of the harsh and hostile environment of
9 Walhalla that I had been exposed to historically and that he was placing me back
10 into that environment. He had removed me from that environment initially to
11 remedy that situation and was placing me back into that environment.

12 HEARING OFFICER: When you were first hired into that position, was it with
13 the intent that you would service the Walhalla office?

14 CLAIMANT: Yes.

15 HEARING OFFICER: Why did you believe that the...why did you feel that the
16 work environment was hostile?

17 CLAIMANT: There were several incidents that occurred there
18 that are documented throughout my HR file, officers that were allowed to come
19 through there and one of the officers was speaking in terms of moving and referred
20 to...and this is just pretext, this has nothing to do with, you know, the actual reason
21 why we're here on this call, this officer of this particular office used the "N" word,
22 there were postings that were on the bulletin board that were racially insensitive.

23 HEARING OFFICER: Did Mr. Simmons indicate to you that he had tried to
24 address some of these issues?

1 CLAIMANT: He did, and actually he actually asked me to talk
2 with Judge Norton. I spoke with Judge Simmons and he asked me to speak with
3 Judge Norton. I did speak with Judge Norton, we set up a meeting and I spoke
4 with Judge Norton about those issues on August the 2nd and Judge Simmons as you
5 can see in exhibit 1, sent an e-mail because he was copied on this e-mail that was
6 sent to Judge Norton and asked me to call him afterwards and so we had a
7 conversation afterwards of what I spoke to Judge Norton about.

8 HEARING OFFICER: That e-mail is dated back in 2011, correct?

9 CLAIMANT: Correct.

10 HEARING OFFICER: So, then after the meeting, is it correct that you asked Mr.
11 Simmons, or told Mr. Simmons that you wanted to speak to him about something
12 off the record?

13 CLAIMANT: Yes, sir.

14 HEARING OFFICER: And, then what happened then?

15 CLAIMANT: I asked to speak to him about something off of the
16 record because the complaint that I had brought up prior to that meeting which I
17 thought that's what the meeting was going to be about, was a complaint regarding
18 the misuse of overtime funds from Deborah Sheriff, and allegations that she had
19 made against me and had made prior to that against me. So, that is why I asked to
20 speak to him off the record because she was asked to join us in this meeting.

21 HEARING OFFICER: So, then after the recording was turned off and you
22 brought this to Mr. Simmons attention, what was his response?

23 CLAIMANT: He said he didn't...he told me that this was not in
24 regard to that, that I wasn't being transferred for that reason and I, you know, I
25 asked him why, why was I being transferred. I had just come back from FMLA, I
26 asked him whether it was a result from that and I, you know, we furthered our
27 conversation in regard to him not wanting...him not wanting to interact with this

1 particular office or go to this particular office because of it being a harsh
2 environment.

3 HEARING OFFICER: Did Mr. Simmons tell you it was because of the heavy
4 workload at that office?

5 CLAIMANT: He did, as he stated in the meeting.

6 HEARING OFFICER: Did you doubt that?

7 CLAIMANT: No, I didn't doubt that, but I asked him why was I
8 being singled out.

9 HEARING OFFICER: And, what was his response to that?

10 CLAIMANT: He stated that I was hired for that particular
11 office...

12 HEARING OFFICER: Did he indicate that it was...

13 CLAIMANT: ...there was an outgoing Clerk and I was hired to
14 replace her.

15 HEARING OFFICER: Did he indicate that it was an issue of seniority?

16 CLAIMANT: No, he did not.

17 HEARING OFFICER: And, at some point, did you make a comment to Mr.
18 Simmons along the lines of that he was being deceptive or lying about something?

19 CLAIMANT: I said that what he was saying was inaccurate and
20 he jumped up very animated and said, "You just called me a liar." And, actually
21 that was in reference to...I brought up the fact of a conversation that he had with
22 Court Clerk Lisa Lee who it was stated, like I said prior to Judge Norton, that it
23 was stated that I went into Debbie's desk or work area and retrieved

1 transmittals...time sheet transmittals and I was letting Judge Norton know that it
2 wasn't me who went into Debbie's desk to get these transmittal, it was actually
3 Lisa Lee and she had done it on several occasions, one particular occasion was
4 right before I went out on FMLA she had a conversation with Judge Simmons
5 where she called him on the phone in my presence and spoke to him about Debbie
6 placing unearned overtime on Lisa's timesheet and Lisa subsequently called
7 the...the administrative office to get...to get it straightened out.

8 HEARING OFFICER: So, what did Mr. Simmons say to cause you to respond
9 by saying that what he was saying was inaccurate?

10 CLAIMANT: I asked him did he recall a conversation and he
11 said, "No, I do not recall that conversation," and I said, "So, you don't recall a
12 conversation that you had with Lisa in regard to payroll, how you asked Lisa to
13 send out an e-mail stating the hours of operations because I proceeded to tell him
14 how Debbie Sheriff came in late, how she took hour long lunches, two or three
15 hour lunches, left when she wanted to and then put overtime on her sheet" and he
16 asked...he said that he did not recall the conversation and I said, "Really," and he
17 said, "No, I don't know what you're talking about," and I said, "That's
18 inaccurate," and he jumped up from the table and just really animated, in fact, I've
19 never seen him act that and started to exclaim, "You just called me a liar," but "I
20 didn't call you a liar, I said what you just said was inaccurate."

21 HEARING OFFICER: During the discharge meeting at the end where you were
22 informed that you were being let go, when they said the reason for your discharge
23 was that you called Mr. Simmons a liar, did you respond by saying that what you
24 had said was that he had lied?

25 CLAIMANT: I did not, I said what I was...what he was stating,
26 what I was referring to was what he was stating was inaccurate, I never on any way
27 on May 9th, called him a liar.

28 HEARING OFFICER: Okay. I have here the HR meeting from May 3, 2013,
29 that was submitted on a disc, Ms. Stagers, would you like to submit that doc,
30 excuse me, that disc to be part of the record?

- 1 CLAIMANT: Yes, sir.
- 2 HEARING OFFICER: Mr. Simmons, excuse me, Mr. Breed, does the employer
3 have any objection to me entering that disc into the record?
- 4 EMPLOYER WITNESS-1: Yeah, Mr. Cook, we want to make sure that that is
5 the original copy...
- 6 HEARING OFFICER: Well, I don't know that it's...
- 7 EMPLOYER WITNESS-1: ...is it a copy of the original one?
- 8 CLAIMANT: [UNCLEAR].
- 9 HEARING OFFICER: Ms. Staggers...
- 10 EMPLOYER WITNESS-1: Judge Simmons wishes to speak, please.
- 11 EMPLOYER WITNESS-2: Mr. Cook, I recorded that and that original
12 recording is in my possession, I have no objection and I'm just talking for the
13 County just in this regard, to that being put into evidence as long as you would
14 allow us...for me to submit the original that I have in my possession just for the
15 purposes of corroborating authenticity.
- 16 HEARING OFFICER: Well, you can do that, I don't have that disc, I don't have
17 the original copy. If you'd like I can play a portion of that disc if that would...
- 18 EMPLOYER WITNESS-2: [UNCLEAR].
- 19 HEARING OFFICER: ...illuminate the issue.
- 20 EMPLOYER WITNESS-2: I can e-mail or deliver it to you if you'd like...
- 21 HEARING OFFICER: Would you like me to...

1 EMPLOYER WITNESS-2: ...I'd be more than happy...

2 HEARING OFFICER: ...would you like me to play a portion of that disc for
3 you to hear and see if it sounds authentic to you?

4 EMPLOYER WITNESS-2: I don't think it's necessary, and what I was trying
5 to do is provide you with the original if you want to compare them, that's fine, but
6 don't worry about it, I don't think it's necessary to play it.

7 HEARING OFFICER: Ms. Staggars, where did you get this disc from?

8 CLAIMANT: It was...it was given to me through an aid
9 with...from HR, from Kay Olbon.

10 HEARING OFFICER: Was the disc made by Ms. Olbon, or did you make the
11 disc yourself?

12 CLAIMANT: Actually the disc that I received from Kay Olbon
13 actually is encrypted from the County, it could not be copied so I had to play it and
14 copy it on another...on something else and then get it to you that way.

15 HEARING OFFICER: Okay. I will...I'm going to enter the disc then as
16 Claimant's Exhibit #1, without objections, and if you'd give me just one moment,
17 please. Ms. Staggars, have you ever been warned or written up in the past or even
18 just counseled or spoke to about any issues with the communications between
19 yourself and co-workers?

20 CLAIMANT: No, sir.

21 HEARING OFFICER: Had anyone ever told you that you had any inappropriate
22 communications with co-workers or supervisors?

23 CLAIMANT: No, sir.

- 1 HEARING OFFICER: Have there ever been any kind of heated conversations or
2 altercations between yourself and Mr. Simmons like this in the past?
- 3 CLAIMANT: No, sir.
- 4 HEARING OFFICER: Okay, Ms. Staggers, I don't have any more questions for
5 you at this time, is there anything else you'd like to add?
- 6 CLAIMANT: Me?
- 7 HEARING OFFICER: Yes, ma'am. Any other new information?
- 8 CLAIMANT: No, no, sir.
- 9 HEARING OFFICER: Mr. Breed, do you have any questions for Ms. Staggers?
- 10 EMPLOYER WITNESS-1: Yes, I do. Ms. Staggers, during the May 3rd,
11 transfer meeting, did you say that racism existed in Walhalla?
- 12 CLAIMANT: In the May 3rd [UNCLEAR] meeting?
- 13 EMPLOYER WITNESS-1: Yes, ma'am.
- 14 CLAIMANT: I did not use those terms, no.
- 15 EMPLOYER WITNESS-1: Okay. Do Oconee County Sheriff's Deputies work
16 for the Magistrate's Court?
- 17 CLAIMANT: No, they do not [UNCLEAR]...very frequently.
- 18 EMPLOYER WITNESS-1: Okay. Just a couple more questions, I apologize
19 here. Did the court personnel ever refer to you in a racial manner?
- 20 CLAIMANT: Not to my knowledge, no.

1 EMPLOYER WITNESS-1: Okay. And, did you apply for and receive FMLA
2 leave?

3 CLAIMANT: I did.

4 EMPLOYER WITNESS-1: Okay, no further questions, Mr. Cook.

5 HEARING OFFICER: Okay, before I close this hearing I will go back to each
6 witness for a final opportunity to provide me new testimony...I stress the word
7 new because the hearing is being recorded so there is no need to provide any
8 testimony that's already been provided earlier. So, since we began with you, Mr.
9 Simmons, is there anything new that you'd like to add before I close the hearing?

10 EMPLOYER WITNESS-2: No, sir.

11 HEARING OFFICER: Ms. Sheriff, is there any new information that you would
12 like to provide before I close the hearing?

13 EMPLOYER WITNESS-3: No, sir.

14 HEARING OFFICER: Mr. Breed, any new information that you'd like to add
15 before I close the hearing?

16 EMPLOYER WITNESS-1: No, sir, Mr. Cook.

17 HEARING OFFICER: Finally, Ms. Staggars-Stewart, is there any new
18 testimony that you'd like to provide before I close this hearing?

19 CLAIMANT: No.

20 HEARING OFFICER: There being no further questions and no further
21 testimony, I declare this hearing adjourned. There will be written decision issued
22 as soon as possible and that will be mailed to the addresses I checked during the
23 hearing, otherwise, that you all for being here and participating and I hope you
24 have a good day.

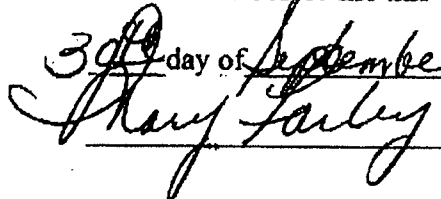
- 1 EMPLOYER WITNESS-1: Thank you.
- 2 HEARING OFFICER: Bye bye.
- 3 **HEARING CLOSED.**

STATE OF NEW JERSEY)
)
COUNTY OF: MIDDLESEX)

This is to certify that the above is a true and correct transcript of recorded testimony transcribed to the best of my ability.


Linda Pasko

SWORN to before me this the

30th day of September, 2013
 (LS)

MARY FARLEY
ID # 2388455
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires Nov. 03, 2017

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this Record on Appeal in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the interagency Mail Service address to the party(ies) or their attorney(s).

This 19th day of February, 2014

By: Jessica Chesley

Title: Administrative Legal Assistant, Legal Department

 COPY

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

RECEIVED

DEC 04 2014

SC Court of Appeals

Stephanie Staggers Stewart,
Appellant,

Docket No. 13-ALJ-22-0555-AP

VS.

**SUPPLEMENT TO THE
AMENDED RECORD ON
APPEAL**

SC Department of Employment and
Workforce and Oconee County,
Respondent,

THE STATE OF SOUTH CAROLINA
In The Administrative Law Court

APPEAL FROM SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT
AND WORKFORCE APPELLATE
PANEL

Stephanie Staggers Stewart
2142 Toccoa Highway
Westminster, SC 29693
Claimant

Trey McLeod
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202
803-737-0395
legal@dew.sc.gov
Attorney for Respondent

Reggie Gay
132 E. Brunson Street, Suite 200
Anderson, SC 29624
Employer

**THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**

Columbia, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

CERTIFICATION

The South Carolina Department of Employment and Workforce, by its
Legal Department, hereby certifies that the attached hereto is a true and correct
copy of the Supplement to the Amended Record on Appeal in the matter of

Staggers-Stewart v. SCDHEW.
Oconee County

**THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**

Jessica Chesley
Jessica Chesley, Administrative Legal Assistant

Columbia, South Carolina

INDEX

Claimant's Proffered Exhibit 11	1
Claimant's Proffered Exhibit 12	2
Claimant's Proffered Exhibit 13	4
Claimant's Proffered Exhibit 14	5
Claimant's Proffered Exhibit 15	6
Claimant's Proffered Exhibit 16	7
Claimant's Proffered Exhibit 17	8
Claimant's Proffered Exhibit 18	9
Claimant's Proffered Exhibit 19	10
Claimant's Proffered Exhibit 20	11
Claimant's Proffered Exhibit 30	12

PROFFERED

Exhibit 11

Audio Sound Recording of HR Meeting held, May 3, 2013 (See R. pp. 107-124.)

NOTE: Omitted by Court Order as duplicative

**Oconee County
Summary Court**

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462



PROFFERED

EXHIBIT

12

MEMORANDUM

TO: Kay Olbon
Human Resources Director

FROM: Judge M. Todd Simmons *MTS*
Chief Administrative Summary Court Judge

RE: Transfer

DATE: May 3, 2013

Please be advised that Stephanie Stewart's work location has been changed. Mrs. Stewart will now be located at the Walhalla Magistrate Court under the direct supervision of Judge Blake Norton. This change takes effect on Monday, May 6, 2013 at 8:30 am.

Stephanie was hired on January 10, 2011 as a Magistrate Clerk to fill the position in the Walhalla Court following the retirement of a former employee. At all times during the interview process, I made it very clear to Mrs. Stewart that her position would be permanently located in Walhalla following a brief introductory period in the Seneca Magistrate Office. Following the standard Oconee County pre-hire procedures, Mrs. Stewart was temporarily assigned to the Seneca office to receive training. The training consisted of learning as much as possible about the complicated case management system, the scheduling of preliminary hearings, and the day to day functions of a Court Clerk. After several weeks, Mrs. Stewart was assigned permanently to the very busy Walhalla office. Mrs. Stewart remained there until September 19, 2011. Through discussions with Judge Norton and Mrs. Stewart, it became apparent that Mrs. Stewart was not happy with her Walhalla assignment. I determined that Mrs. Stewart needed additional training and that I needed to work with the Walhalla office staff to address some intra-office personality differences. Mrs. Stewart was moved back to the Seneca office where she has

PROFFERED

**Oconee County
Summary Court**

**Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678**

**Phone: 864-888-1460
Fax: 864-888-1462**



remained responsible for scheduling preliminary hearings. Additionally, all criminal domestic violence cases were directed to the Seneca office and Mrs. Stewart has coordinated the CDV central court. Mrs. Stewart has also undertaken the many and various duties of a Court Clerk. She also is the main phone attendant and is the main front desk Court Clerk responsible for interacting with the public at the front window.

Since returning to Seneca, Stephanie has received substantial experience and does a great job. She has received good reviews from me and has shown that she can use and navigate the case management system properly. I have reviewed the workload distribution among the three Magistrate offices and Walhalla continues to handle the most cases within Oconee County. There continues to be a need for an additional Court Clerk in Walhalla. Due to the fact that my requested additional Court Clerk position remains unapproved by the administration, I feel that it is best for the Oconee County Magistrate Department to transfer Mrs. Stewart back to the office she was hired to work in. Mrs. Stewart has received a great deal of training and experience during her temporary reassignment to Seneca and I believe she will work well in the Walhalla office and receive good reviews from her new supervisor. Supporting documentation is attached. I would appreciate it if you would place this memo and supporting materials in Mrs. Stewart's HR file maintained in your office. Please let me know if you need any additional information.

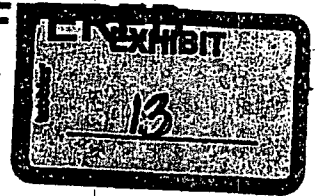
Acknowledged: _____

Witnessed: _____

MTS/ds

Enclosures (4)

PROF



May 3, 2013

Judge M. Todd Simmons
Chief Magistrate
Oconee County, SC

RE: Resignation

Dear Judge Simmons:

Please accept this letter as notice of my resignation from my position as a Magistrate Court Clerk in Oconee County. This resignation is effective as of the date set forth above. I agree to remove all personal items from my desk and return all office keys and county equipment to Debbie Sheriff by 4:00 pm today. I have enjoyed working with you and appreciate the opportunity to work in your office.

Sincerely,

Stephanie Stewart

From: Todd Simmons
Sent: Monday, May 06, 2013 11:08 AM
To: Kim Hopkins
Cc: Stephanie Stewart
Subject: Payroll



Kim,

I would like for Mrs. Stewart's administrative leave last Friday to be with pay. Please let me know if you need any further information.

Thanks,

Todd

M. Todd Simmons

Chief Magistrate

Oconee County Summary Court

207-A East North First Street

Seneca, South Carolina 29678

Phone

Fax (864) 888-1462

From: Stephanie Stewart
Sent: Wednesday, May 08, 2013 2:57 PM
To: Amanda Brock
Subject: Meeting on May 03, 2013/ Request to meet with County Administrator

PROFFERED



Ms. Brock:

This email is to document that on (Friday) May 03, 2013, I came to your office and requested a meeting with the County Administrator, Mr. Scott Moulder. My request was regarding a matter in which I was given an ultimatum of transferring, resigning or being fired, by my Department Head, Mr. Todd Simmons. However, Mr. Moulder was not in the office, so you and I briefly discussed the matter. After which you advised that I report to the Walhalla Court on (Monday), May 6, 2013.

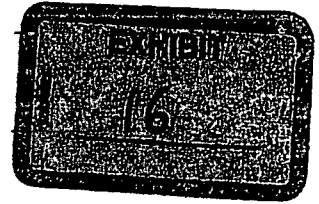
I called you on (Monday) May 6, 2013 and you stated that Mr. Moulder will not meet with me. I said so Mr. Moulder meet with Mr. Simmons but will not meet with me. You stated "Stephanie there you go assuming again", to which I replied that I was not assuming and that Mr. Simmons told me during our meeting on (Friday) May 03, 2013, that he had meet with Mr. Moulder. I again asked you if I could meet with Mr. Moulder and you stated that Mr. Moulder would not meet with me and I had to go thru the proper channels by filing a complaint with Human Resources. I asked you how to go about doing that and you referred me to the Oconee County Employee Handbook.

Thank you for your time,

Stephanie Stewart

Oconee County Summary Court Clerk

Office of Judge Blake A. Norton



Account number:

Customer:

Account Number

Service Period

Apr 28-May 27

Bill Date

May 31, 2013

Type of usage:

Voice call

Display calls originated from:

(864) 324-2700

Date & Time	Phone Number	Call Destination	Rate Type	Minutes Used	Total Charges
05/03 04:37 PM	864-723-5135	SENECA, SC	WC/AU	3:00	
05/03 04:33 PM	864-723-5135	SENECA, SC	WC/AU	1:00	

NW - Night and Weekends

WC - Any Mobile, Anytime

AU - Anytime/Plan Usage

AM - Off Network - Included in America Plan

PROFFERED



To: Stephanie Stewart 8643242700

Date : 05/03/2013 05:21:28 PM

I have made all of the arrangements for your transfer. I believe you made the right choice and I believe you will see a difference in Walhalla.

Oconee County
Summary Court

MEMORANDUM

TO: Kay Olbon
Human Resource Director

FROM: Judge M. Todd Simmons, MTS
Chief Administrative Summary Court Judge

RE: Transfer

DATE: May 3, 2013

Chief Judge M. Todd Simmons
207-A E.N. First Street
Seneca, SC 29678

Phone: 864-888-1460
Fax: 864-888-1462

A meeting was held this date in the Courtroom of the Seneca Magistrate Court. Present at the meeting were Judge M. Todd Simmons, Chief Magistrate and Deborah Sheriff, Senior Court Clerk and Mrs. Stephanie Stewart. During the meeting Judge Simmons relayed his decision to transfer Mrs. Stewart back to the Walhalla Magistrate Office. He explained to Mrs. Stewart that was the position she was hired for and that due to the workload indicators he felt that he had no alternative but the make the transfer. He prepared a memo outlining those issues and presented the Memo along with documents to Mrs. Stewart. Mrs. Stewart stated that she would not go back to the Walhalla Office to work and that she would not sign anything. At that point Mrs. Stewart was asked to turn over her key to the Seneca Office and remove any personal items from her desk. She was also asked to contact Judge Simmons by the end of the day to relay her decision for further employment with Oconee County.

If you have any questions, please do not hesitate to call.

MTS/das

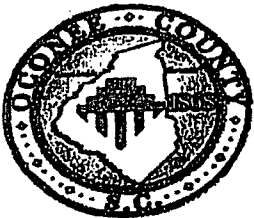


Exhibit 19

Vacation Leave Request Form for Stewart, [one (1) page], authorized by Norton, for May 6, 2013 for three hours, through May 7, 2013.

NOTE: Exhibit not in Department's File



From: Stephanie Stewart
Sent: Wednesday, May 08, 2013 4:17 PM
To: Blake Norton
Subject: Initials on Paperwork

This email is to document that today I completed civil paperwork with my initials on them in the top right hand corner to distinguish between work I complete and work completed by others. However, you stated that I was not allowed to do that.

Stephanie Stewart

Oconee County Summary Court Clerk

Office of Judge Blake A. Norton

208 Booker Drive

Walhalla, SC 29691

(Phone)

864-638-4229 (fax)

Exhibit 30

South Carolina Department of Employment and Workforce, SCBOS NET 101,
"Employer Response" [seven (7) pages], dated, May 14, 2013.

NOTE: Unable to Locate Claimants Copy however document is duplicative See (R. pp. 65-70.)

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this Supplement to the Amended Record on Appeal in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the interagency Mail Service address to the party(ies) or their attorney(s).

This 24th day of March, 2014

By: Jessica Chesley

Title: Administrative Legal Assistant, Legal Department