

Case # _____

RECEIVED

NOV 02 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY, SOUTH CAROLINA
COURT OF COMMON PLEAS

HON R. SCOTT SPROUSE, CIRCUIT JUDGE

Case # 2014-CP-04-01780

NANCY C. PEREZ

Petitioner

Vs

SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION –
BOARD OF NURSING

Respondent

MOTION FOR REHEARING

Nancy C. Perez hereby respectfully seek a rehearing . On October 20th, 2015 the
SC Court of Appeals denied Ms. Perez' "Motion To Renew Appellate

Proceedings” . The Court ruled that it no longer has jurisdiction over Ms. Perez’ Appeal . She hereby respectfully but adamantly objects.

1- Federal and South Carolina sister states’ Courts have ruled that when perfecting an appeal, the factor which determines whether jurisdiction has been conferred on the appellate court is whether the instrument was filed in a bona fide attempt to invoke appellate court jurisdiction¹. Imperfections in noticing an appeal should not be fatal where no genuine doubt exists about who is appealing, from what judgment, to which appellate court.²

2- On August 20th, 2015 Ms. Perez filed the original notice of appeal.

Simultaneously, she also filed a motion to abate the appeal in order to allow the trial court time to rule upon a timely filed post trial motion.

3- On August 26th, 2015 The Court of Appeals remanded the case to the trial court in order for the same to rule on Ms. Perez’ motion. The Court of

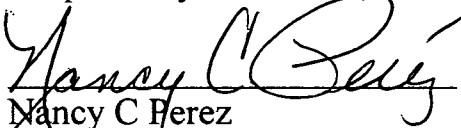
¹ Becker v. Montgomery, 532 U.S. 757, 532 U.S. 757, 121 S.Ct. 1801, 121 S.Ct. 1801, 149 L.Ed.2d 983, 149 L.Ed.2d 983 (U.S. 05/29/2001) (An appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice." Imperfections in noticing an appeal should not be fatal where no genuine doubt exists about who is appealing, from what judgment, to which appellate court. ; Accord: Jackson v. Lightsey, 775 F.3d 170 (4th Cir. 12/18/2014); See also : Warwick Towers Council of Co-Owners v. Park Warwick, L.P., 244 S.W.3d 838 (Tex. 01/25/2008) (When perfecting the appeal, we have repeatedly said "that the factor which determines whether jurisdiction has been conferred on the appellate court is not the form or substance of the bond, certificate or affidavit, but whether the instrument 'was filed in a bona fide attempt to invoke appellate court jurisdiction.'") ; Cain v. State, 573 S.E.2d 46, 275 Ga. 784 (Ga. 11/25/2002) (functional equivalent : if a document evinces a litigant's intent to seek appellate review, the litigant's motivation in filing the document is immaterial so long as the filing provides sufficient notice to other parties and the court of the litigant's intent to appeal.)

² id

Appeals dismissed the Appeal without prejudice. There is no appellate fee for the 2nd Notice of Appeal³.

WHEREFORE Ms. Perez respectfully submits that her "Motion to Renew Appellate Proceedings" ought to have been construed as the Second Notice Of Appeal.

Respectfully Submitted,


Nancy C Perez
713 E. Greenville St – D220
Anderson, SC 29621
864-209-1509

RECEIVED

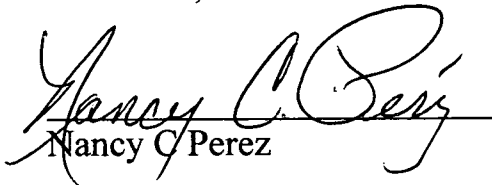
NOV 02 2015

SC Court of Appeals

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing "Motion For Rehearing" was delivered by mailing a copy thereof on October 28th, 2015 court to :

Donnell G. Jennings , Esq
South Carolina Department of Labor , Licensing
And Regulation
PO Box 11329
Columbia, SC 29211-1329

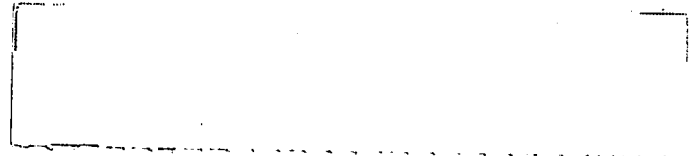

Nancy C Perez

³ A second filing fee will not be collected from a party who previously appealed, Holmes v. East Cooper Community Hospital, Inc., 758 S.E.2d 483, 408 S.C. 138 (S.C. 03/26/2014) citing Hudson v. Hudson, 290 SC 215, 215 , 349 SE 2d 341, (1986)

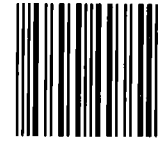
Nancy C Perez
713 E. Greenville St – D220
Anderson, SC 29621



7015 1660 0000 2668 8651



1000



29211

RECEIVED
NOV 02 2015
SC Court of Appeals

U.S. POSTAGE
PAID
SANDY SPRINGS, SC
29677
OCT 28 15
AMOUNT
\$7.45
R2305K139962-01

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