


Nikki R. Haley
Governor



Kevin A. Shwedo
Director

State of South Carolina
Department of Motor Vehicles

August 3, 2016

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

RECEIVED
AUG 08 2016
SC Court of Appeals

RE: *South Carolina Department of Motor Vehicles v. Michelle Dover*
Appellate Case No: 2016-001030

Dear Ms. Kitchings:

Please be advised that on August 1, 2016 the South Carolina Department of Motor Vehicles (hereinafter, "SCDMV") received a two (2) page handwritten document from Respondent Dover via fax. This document did not have a title on it to indicate whether it was Respondent Dover's Initial Brief in this matter, Respondent's Dover's Return to SCDMV's Motion to Resolve Appeal in Appellant's Favor, or simply correspondence. On August 2, 2016, Nina Moore, SCDMV Paralegal, contacted Dianne in your office to ask whether the Court had received Respondent Dover's August 1, 2016 document. She was advised that the Court had received the document. Ms. Moore then inquired if the Court was treating the document as:

- 1) an Initial Brief (thus, triggering SCDMV's deadline to file a reply brief and/or file the Record on Appeal);
- 2) a Return to SCDMV' Motion to Resolve Appeal in Appellant's Favor (thus, triggering SCDMV's deadline to file a reply to Respondent's return); or
- 3) Simply correspondence.

Dianne told Ms. Moore that she could not advise SCDMV on this matter and SCDMV would have to make our own determination as to what this document is and how the Court will treat it. Further, Dianne stated that Respondent Dover had until August 4, 2016 to respond to the Court's July 25, 2016 letter and had until August 4, 2016 to file a return to SCDMV's Motion to Resolve Appeal in Appellant's Favor. Dianne stated that the Court would not review SCDMV's motion until at least fifteen (15) days after August 4, 2016 (i.e. August 19, 2016), that she did not know how long it might take the Court to rule to SCDMV's motion, and that even after the Court rules on SCDMV's motion there would be a period of time for mailing the decision.

While SCDMV understands the Court and the Clerk's Office must have processes in place to allow all parties an appropriate opportunity to participate in their cases and respond to motions, the Court Rules regarding deadlines are not flexible, unless and until the Court says they are and a party is at peril if they assume they might be granted an extension. Therefore, in order to fully



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protect my client's interests, I have no choice but to view Respondent Dover's August 1, 2016 document as having triggered the following deadlines until I hear something different from the Court:

- 1) Assuming Respondent Dover's August 1, 2016 document is an Initial Brief;¹
 - a. SCDMV's Initial Reply Brief is due August 11, 2016; and
 - b. the Record on Appeal is due on August 31, 2016 or 30 days after the Initial Reply Brief is file; or

- 2) Assuming Respondent Dover's August 1, 2016 document is a Return to SCDMV's Motion to Resolve Appeal in Appellant's Favor;²
 - a. SCDMV's Reply to Respondent's Return is due August 8, 2016.

In this regard, having reviewed Respondent's Dover's August 1, 2016 document, I have determined that to the extent this document is deemed by the Court to be a Return to SCDMV's Motion to Resolve Appeal in Appellant's Favor, no reply from SCDMV is necessary, although SCDMV explicitly states it is not abandoning this motion. SCDMV simply believes all the relevant issues with regard to this motion have already been discussed in the motion itself.

Further, I have determined that to the extent this document is deemed by the Court to be Respondent's Initial Brief, no Reply Brief from SCDMV is necessary, although SCDMV explicitly states it is not abandoning its appeal or arguments in this appeal. SCDMV simply believes all the relevant issues with regard to this appeal have already been discussed in its' Initial Brief and Respondent's August 1, 2016 document raises no issues that require further discussion.

Therefore, unless I hear differently from you or the Court, SCDMV plans on filing the Record on Appeal in this matter by no later than August 31, 2016.

¹ The July 25, 2016 letter from the Clerk's Office to Respondent Dover specifically stated she had to file her Initial Brief, Designation of Matter to be Included in the Record on Appeal, and a Motion to Serve and File these documents out of time. SCDMV notes, however, that Respondent's Dover's August 1, 2016 document did not contain anything that looked like a Designation of Matter to be Included in the Record on Appeal, a Certificate of Service, or a Motion to Serve and File out of time. This document also did not appear to contain a filing fee for a Motion to Serve and File out of time. Therefore, SCDMV highly doubts Respondent Dover intended this document to be her Initial Brief, Designation of Matter to be Included in the Record on Appeal, Certificate of Service, or Motion to Serve and File out of time.

² SCDMV notes that Respondent's Dover's August 1, 2016 document did not contain anything that indicated it was a Return to SCDMV's Motion to Resolve Appeal in Appellant's Favor or a Certificate of Service. Nor did this document reference SCDMV's Motion to Resolve Appeal in Appellant's Favor or the issues raised in that motion. Therefore, SCDMV highly doubts Respondent Dover intended this document to be a Return to SCDMV's Motion to Resolve Appeal in Appellant's Favor.



The Honorable Jenny Abbott Kitchings

August 3, 2016

South Carolina Department of Motor Vehicles v. Michelle Dover

Appellate Case No: 2016-001030

Page 3

If you have any questions or concerns for me regarding the above, please feel free to call me at (803) 896-9937.

In kind regards,

A handwritten signature in cursive script, appearing to read "Brandy A. Duncan".

Brandy A. Duncan

Assistant General Counsel

cc: Michelle Dover, *pro se* Respondent