

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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OCT 11 2016

SC Court of Appeals

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

Case No.: 16-ALJ-22-0050-AP

Appellate Case No. 2016-001734

Sharon Brown,

Appellant.

vs.

SC Department of Employment
and Workforce and Cherokee County
School District One,

Respondents.

**APPELLANT'S RESPONSE TO RESPONDENTS' REPLY IN SUPPORT OF THEIR MOTION
TO DISMISS APPELLANT'S APPEAL AS INTERLOCUTORY**

NOW COMES the Appellant in the above captioned action who hereby alleges that her counsel substantially complied with rules of this court in replying to Respondents' Motion to Dismiss Appellant's Appeal as Interlocutory.

In Respondents' Return In Support of Their Motion To Dismiss Appellant's Appeal as Interlocutory dated September 28, 2016, the respondents claim that "Brown's Response to Respondents' Motion is untimely and should not be considered."

Appellant's counsel replied immediately to respondents' motion to dismiss after receiving it. Appellant counsel does not have control over the U.S. Postal Service delivery of Respondents' Motion to Dismiss the Appeal to him.

Further, it is to be noted that the Respondents had until September 26, 2016 to file a Reply to *Appellant's Response to Respondents' Motion to Dismiss Appellant's Appeal As Interlocutory*. Rule 240 (f) states the following "The moving party shall have 5 days from the date of service of a return to file an original and six (6) copies of a reply with the clerk and serve on all parties a copy of the reply. Respondents were mailed Appellant's response to their Motion to Dismiss Appellant's Appeal on September 21, 2016.

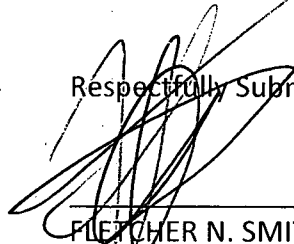
Appellant is not going to make the fact that Respondents were 2 days late/delayed an issue before this Court because Respondents do not have control over U.S. Mail delivery of Appellant's Response to them. Further, Appellant suffered no prejudice by the 2 day delay in respondents serving their reply. Likewise, Respondents have not suffered any material prejudice due to the alleged purported two day delay in Appellant filing her response to their motion to dismiss the appeal. It is worth mentioning that Respondents, after receiving Appellant's response, proceeded with additional research and wrote a reply to *Appellant's Response to Respondents' Motion to Dismiss Appellant's Appeal As Interlocutory*.

Conclusion

Appellant's Response to Respondents' Motion to Dismiss the Appeal should be considered by this Court. The Appellant believes that the evidence before this Court clearly demonstrates that NO material prejudice to Respondents' substantial rights have resulted from the alleged purported 2 day delay in Appellant serving her response to respondents' Motion to

Dismiss the appeal. Further, Appellant contends that Judge Lenski's order reversing SDEW's Appellate Panel's decision disposed of all issues in controversy concerning the Appellant and the Respondents. Appellant contends that SCDEW failed to carry out enforcement of the reversal decision that indicated that Appellant was to receive her unemployment benefits.

Respectfully Submitted,



FLETCHER N. SMITH JR.
S.C. Bar #: 005165
P.O. Box 10496, F.S.
Greenville, South Carolina 29603
(864)-232-6541
(864)232-6756 Fax
fnsmith@bellsouth.net

ATTORNEY FOR APPELLANT

October 7, 2016

CERTIFICATE OF SERVICE

I, Sharon Brown, hereby certify that I have this 8th day of October, 2016, served a copy of the herein below listed document to the addresses listed below by depositing a copy of same in the United States Postal System postage prepaid, and mailing same to:

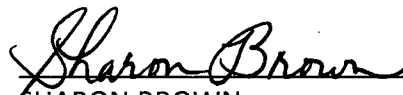
PLEADING(S): APPELLANT'S RESPONSE TO RESPONDENTS' REPLY IN SUPPORT OF THEIR MOTION TO DISMISS APPELLANT'S APPEAL AS INTERLOCUTORY

PARTY SERVED:

Todd Timmons
Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia, S.C. 29202

Ms. Andrea E. White/David Lyon, Esq.
Duff, White & Turner, LLC
P.O. Box 1486
Columbia, S.C. 29202

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SHARON BROWN
Appellant

FLETCHER N. SMITH, LLC
ATTORNEY AT LAW



P.O. BOX 10496, F.S. GREENVILLE, SOUTH CAROLINA 29603
112 WAKEFIELD STREET GREENVILLE, SOUTH CAROLINA 29601
(864) 232-6541 FAX (864) 232-6756

October 7, 2016

South Carolina Court of Appeals
ATTN: Jenny Abbott Kitchings, Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

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SC Court of Appeals

Re: Sharon A. Brown, Appellant vs. South Carolina Department of Employment and Workforce and Cherokee County School District One, Respondents.
Docket No. 16-ALJ-22-0050-AP
Appellate Case No. 2016-001734

Dear Clerk of Court,

Enclosed you will find one (1) original and six (6) copies of *APPELLANT'S RESPONSE TO RESPONDENTS' REPLY IN SUPPORT OF THEIR MOTION TO DISMISS APPELLANT'S APPEAL AS INTERLOCTORY*. Additionally, you find a certificate of service.

Please clock in the extra copies and return them to my office in the self addressed stamped envelope provided. If you have any questions, please contact my office.

Sincerely,


Fletcher N. Smith Jr., Esquire

Enclosure(s)

Cc: Mr. Todd Timmons, Esquire
Office of General Counsel
S.C. Department of Employment and Workforce

Ms. Andrea E. White, Esquire
Mr. David Lyon, Esquire
Duff, White & Turner, LLC

Fletcher N. Smith Jr., Esquire
P. O. Box 10496, F.S.
Greenville, S.C. 29603



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