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JAN 18 2017

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable H.W. Funderburk, Jr.

Appellate Case No. 2016-002136

GENE B. SCHWIERS.....Respondent,

vs.

SOUTH CAROLINA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL and STEWART W.
HEATH.....Respondents below,

OF WHOM SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL IS THE RESPONDENT,

AND

STEWART W. HEATH IS THE APPELLANT.

RESPONDENT' S REPLY TO THE MOTION FOR
EXTENSION OF TIME TO FILE RESPONDENT' S
INITIAL BRIEF AND DESIGNATION OF MATTER

TO: THE COURT AND COUNSEL FOR ALL PARTIES:

The motion before the Court states "that Appellant South Carolina Department of Health and Environmental Control ("SCDHEC" or the "Department") respectfully request a thirty (30) day extension of time to file Respondent' s Initial Brief and Designation of Matter in this matter..." The South Carolina Department of Health and Environmental Control is not the Appellant in this matter and did not file with the Court a notice of Appeal as outlined in the rules of the Court.

In addition, the basis for this motion is simply unacceptable and yet another request from the South Carolina Department of Health and Environmental Control to delay this matter. This is not the first time this matter had been delayed due to the South Carolina Department of Health and Environmental Control' s consistent lack of a sense of urgency regarding the matter. It was indeed the South Carolina Department of Health and Environmental Control that delayed the hearing before the Administrative Law Court.

While I am able to appreciate the fact that Bradley D. Churdar, Chief Counsel, has a work load I do not agree that his work load and vacation plans exempt him from following the same rules and guidelines as the Respondent, Gene B. Schwiers, has done throughout this process. Respondent, Gene B. Schwiers, has not once asked for any extension or special treatment. I, Gene B. Schwiers, too have important responsibilities outside of the matter before the Court and too had long standing vacation plans during this timeframe. However, I, Gene B. Schwiers, prioritized my responsibilities, acted with a sense of urgency, planned my schedule according to the timeline, worked long hours on the matter, and left my vacation early in order to meet the timeframe set forth by the Court. In addition, it should be noted that I, Gene B. Schwiers, do not have a staff or vast resources available to me as Bradley D. Churdar, Chief Counsel, has at his disposal and I am not an attorney with extensive knowledge of the Court and the rules; however, I, Gene B. Schwiers, was able to meet or exceed all deadlines set forth and as required by the Court.

The timeline has been in place since the filing of the Notice to Appeal by the Appellant' s attorney, E. LeRoy Nettles, III and by all Proofs of Service Bradley D. Churdar has been aware of the timeline and knew of his responsibility to file the Respondent' s Initial Brief for months prior to the deadline. I, Gene B. Schwiers, am unclear as to why the South Carolina Department of Health and Environmental Control has determined that these timelines do not apply to them just as they apply to others and why their circumstances are more important or take precedent over others. Based on the demonstrated behavior of the South Carolina Department of Health and Environmental Control and the Appellant they want what they want regardless of the rules in place, the regulations set forth, the concerns of others, and the impact their behavior has on others. This continued lack of accountability being demonstrated is incomprehensible to the Respondent, Gene B. Schwiers.

It is questionable that the South Carolina Department of Health and Environmental Control has waited until Respondent, Gene B. Schwiers, filed her Initial Brief and Designation of Matter to make such a request of the Court only two (2) days before the deadline and on the day Respondent' s, Gene B. Schwiers, Initial Brief and Designation of Matter was received by the party. It is also interesting that Bradley D. Churdar did find the time to engage E. LeRoy Nettles, III in conversation regarding the matter after the Respondent, Gene B. Schwiers, filed her Initial Brief to all parties and the time to write the Court requesting an extension with little to no substance to the basis for request. I, Gene B. Schwiers, am sure had Respondent, Gene B. Schwiers, failed to

meet the timeline requirements outlined by the Court neither Bradley D. Churdar nor E. LeRoy Nettles, III would have consented to the request simply because she went on vacation and had other responsibilities.

This is yet another example of where the South Carolina Department of Health and Environmental Control wants to step outside the rules and regulations and have exceptions made in their favor just because they feel entitled. This Motion in itself supports the Respondent' s, Gene B. Schwiers, case before the Court and clearly demonstrates a complete disregard for the importance of the matter.

While there may be a time to exercise an extension this is clearly not one as presented by Bradley D. Churdar. Pursuant to Rule 263, SCACR, the time "may be extended or shortened by the appellate court, or by any judge or justice thereof;" however, the argument before the Court presented by Bradley D. Churdar is not one that would be defined as unforeseen circumstances that prevented him from adhering to the rules of the Court. By his own admission in his basis for the request Bradley D. Churdar knew of his "long standing vacation plans" and certainly knew of his work load; therefore, he just did not determine it necessary to plan accordingly. This is to any reasonable person simply a matter of the South Carolina Department of Health and Environmental Control not prioritizing the matter, not determining a sense of urgency regarding the matter, failing in meeting the guidelines due to a vacation, and waiting until the Respondent, Gene B. Schwiers, presented to the Court and all parties her Initial Brief and Designation of Matter. Now the South Carolina Department of Health and Environmental Control upon conversation with the Appellant' s attorney, E. LeRoy Nettles, III, has filed a desperate Motion to halt the matter before the Court and provide the South Carolina Department of Health and Environmental Control yet another thirty (30) days to complete what they should have already done and had ample time to complete. The argument holds no weight and the timing of the motion is curious at best.

Respondent, Gene B. Schwiers, is strongly opposed to this last minute attempt to extend the timeline set forth.

WHEREFORE, Respondent, Gene B. Schwiers, respectfully moves this Court to Deny the request for an Extension of Time to File Respondent' s Initial Brief and Designation of Matter as presented by Bradley D. Churdar, Chief Counsel, South Carolina Department of Health and Environmental Control.

Respectfully submitted,



Gene B. Schwiers
4 East Cleveland Bay Court
Greenville, SC 29615
864-297-7417

January 17, 2017
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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..Respondents below,

OF WHOM SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL IS THE RESPONDENT,

AND

STEWART W. HEATH IS THE APPELLANT.

PROOF OF SERVICE

I certify that I served a copy of RESPONDENT' S REPLY TO THE MOTION FOR
EXTENSION OF TIME TO FILE RESPONDENT' S INITIAL BRIEF AND DESIGNATION OF MATTER
by depositing a copy in the United States Mail postage paid on the 17th day of January, 2017 on the following
parties and counsel of record listed below:

E. LeRoy Nettles, III
Post Office Box 699
Lake City, SC 29560

Bradley D. Churdar, Esq.
South Carolina Department of Health and Environmental Control
1362 McMillan Avenue, Suite # 400
North Charleston, SC 29405

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



Gene B. Schwiers
4 East Cleveland Bay Court
Greenville, SC 29615
864-297-7417

January 17, 2017

January 17, 2017

VIA US MAIL

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

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JAN 18 2017

SC Court of Appeals

RE: Gene B. Schwiers, Respondent, v. South Carolina Department of Health and Environmental Control and Stewart W. Heath, Respondents below,

Of Whom Stewart W. Heath is the Appellant

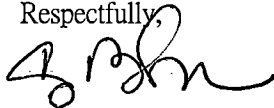
Appellate Case No. 2016-002136

Dear Ms. Kitchings:

I am responding to the South Carolina Department of Health and Environmental Control's Motion for Extension of Time to File Respondent's Initial Brief. While the South Carolina Department of Health and Environmental Control stated that E. Leroy Nettles, III, attorney for the Appellant, has consented to the request, I find this request unacceptable and have enclosed my argument for the Court to consider.

By copy of this letter I am serving these documents upon all parties as indicated by the enclosed Proof of Service.

Respectfully,



Gene B. Schwiers

Cc w/enc: E. LeRoy Nettles, III
Bradley Churdar, ESQ.

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Greenville SC 29615

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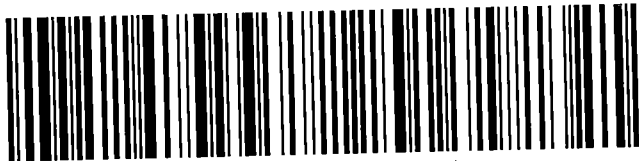
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