

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY, SOUTH CAROLINA
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

Appellate Case No.: 2016-000562
Lower Court Order No.: 2014-CP-04-01780

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APR 03 2017

SC Court of Appeals

Nancy C. Perez,

Appellant,

v.

South Carolina Department of Labor, Licensing
and Regulation, Board of Nursing,

Respondent.

OPPOSITION TO APPELLANT'S MOTION FOR REHEARING

In her Motion for Rehearing, Ms. Perez objects to the portion of the Court's March 23, 2017, order denying her request that Respondent be required to provide her the transcript for inclusion in the record on appeal. In paragraph 5 of her Motion for Rehearing, Ms. Perez inaccurately states "[t]he Appellees did not refer to the transcript in their Response brief." Respondent did in fact reference the transcript on pages 3 and 11 of its Initial Brief.

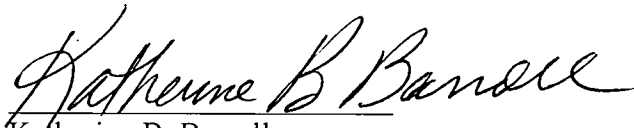
Furthermore, in paragraph 5 of her Motion for Rehearing, Ms. Perez states that "Appellees have failed or refused to claim that the trial court Order is, somehow, insufficient." Respondent has previously expressly advised this Court on two separate occasions that the transcript was necessary for the appeal. Nearly a year ago, on April 14, 2016, Respondent filed a Motion for Extension of Time that expressly states, "Respondent needs the transcript of the

hearing to prepare its initial brief and Respondent's Designation of Matter to be Included in the Record on Appeal." In a letter received by the Court on December 7, 2016, Respondent advised the Court that it had not yet received a record on appeal from Appellant that complied with Rule 210, SCACR. In that letter, Respondent specifically stated that the record on appeal Appellant prematurely filed with her Initial Brief did not include sixteen pages of the transcript designated by Respondent for inclusion in the Record on Appeal. Ms. Perez was served or copied both times.

In paragraph 6 of her Motion for Rehearing, Ms. Perez states that Respondent has not identified a specific appellate claim the appellate court would be unable to review effectively without the transcript. Citation to the transcript is necessary to show that Respondent raised the issue of exhaustion of administrative remedies before the lower court. (See Argument II of Initial Brief of Respondent, at page 11).

Ms. Perez contends that "Appellees are demanding the transcript in order to arbitrarily increase the costs of litigation as at trial strategy. . . ." Respondent has never made any such demand. Respondent merely informed the Court of Appellant's non-compliance with Rule 210 SCACR. As Ms. Perez acknowledges in paragraph 5 of her motion for reconsideration, Respondent did not file an opposition to Appellant's January 13, 2017 "Motion Requesting Leave of Court to File 'Record on Appeal' Outside of Filing Deadlines and Motion for an Order Directing the Appellees to Provide Her a Copy of the Transcript." Respondent remains ready to comply with whatever the Court directs regarding providing the transcript to Appellant. However, Respondent observes that it would not be an onerous burden upon Appellant to order the requested pages of the transcript. Respondent designated only sixteen pages of transcript, and is agreeable to only those portions being ordered.

Respectfully submitted,

A handwritten signature in cursive script that reads "Katherine B. Barroll". The signature is written in black ink and is positioned above the typed name.

Katherine B. Barroll
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S.C. Department of Labor, Licensing and Regulation
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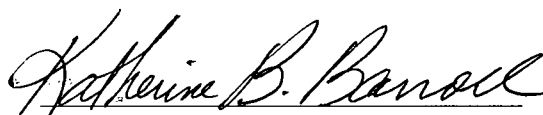
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Respondent's Opposition to Appellant's Motion for Rehearing by depositing a copy of it in the United States mail, postage prepaid, on April 14, 2016, addressed to:

Nancy C. Perez
713 E. Greenville Street, #D220
Anderson, SC 29621
(864) 209-1509

March 31, 2017



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March 31, 2017

Jenny Abbott Kitchings
Clerk of Court
1220 Senate Street
Columbia, South Carolina 29201

RE: Nancy C. Perez, Appellant, v. South Carolina Department of Labor, Licensing and Regulation—Board of Nursing, Respondent, Appellate Case No. 2016-000562

Dear Ms. Kitchings:

Enclosed please find the original of Respondent's Opposition to Appellant's Motion for Rehearing and proof of service of the same.

Sincerely,


Katherine B. Barroll

cc: Nancy C. Perez

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