THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BARNWELL COUNTY
Doyet A. Early, Circuit Court Judge

Appellate Case No. 2017-001208
Case No. 2013-CP-06-0059

RECEIVED
NOV 27 2017
SC Court of Appeals

Lorenda Robinson, Elaine Nix, Archie Patterson, and Tami Bollerman, ... Plaintiffs,

Of Whom, Archie Patterson and Tami Bollerman are ..... Respondents,

v.

South Carolina Department of Employment and Workforce, ... Appellant.

AMENDED RETURN TO PLAINTIFFS'-RESPONDENTS' MOTION TO DISMISS APPEAL

This appeal concerns two Orders of the circuit court holding that two Plaintiffs (Respondents) have standing. Appellant (Defendant), the Department of Employment and Workforce ("DEW"), submits that in so holding, the Order

effectively "strikes out an answer or any part thereof. . . ." S. C. Code Ann. § 14-3-330(2)(c). The part of the Answer stricken was the defense of standing.

PROCEDURAL BACKGROUND

The "Background" section of Respondents' motion accurately sets forth the pertinent procedural history of this case, except that it does not expressly mention the filing by DEW of an Amended Notice of Appeal on November 2, 2017, several days after DEW received written notice of the entry of an Order dated October 27, 2017 by an e-filing on October 30, 2017.

Plaintiffs-Respondents moved on November 13, 2017 to dismiss this appeal on the ground that the aforementioned Orders are not appealable at present. Defendant-Appellant DEW respectfully submits that the motion should be denied, or in the alternative, held in abeyance until the appeal is fully briefed.

FACTS

In this purported class action for declaratory and injunctive relief, Plaintiffs claim that at time between 2012 and 2016, DEW erroneously denied them one or more weeks of unemployment benefits. DEW based its denial on the fact that those individuals, who were required to conduct four work searches each week, did not perform one of the four through the SC Works Online System (SCWOS), an online job bank operated by DEW. DEW has raised a number of defenses, including lack of standing by the Plaintiffs, but the simplest defense raised by DEW is that its

procedure was authorized, and in fact, mandated by legislative provisos starting on July 1, 2012, and ending on June 30, 2016, at which time DEW did not continue the requirement. An example of those provisos is the one covering fiscal year 2012-2013, which read as follows:

> **67.7.** (DEW: SUTA Contingency Assessment Funds) Thirty percent of the funds appropriated through the contingency assessment funds collected on taxable wages paid by employers shall be spent on enforcement of Section 41-35-110(3) and Section 41-35-120(5) of the 1976 Code, via Eligibility Reviews, Random Verification of Job Contacts and Wage Cross Matches during those weeks covered by the South Carolina State Unemployment Tax Authority (SUTA), and to ensure seated meetings with Unemployment Insurance claimants and requiring that one of the four job search contacts required per week be conducted through SC Works Online System (SCWOS), so that it can be electronically verified.

(Emphases added.) Plaintiffs claim that DEW should not have imposed that requirement without a regulation.

In the course of considering whether to certify a class, the court below held two evidentiary hearings with regard to the standing of the two Plaintiffs who remain in the case. It is axiomatic, of course, that in order to serve as a class representative, the named plaintiff or plaintiffs must have standing. DEW showed at those hearings that, among other things, neither of the two named Plaintiffs could present evidence to prove that they had made four non-online job searches. In order to be entitled to benefits during the timeframe in question, all claimants

must perform four job searches irrespective of the legislative mandate that one of the four searches be online. Even if Plaintiffs are ultimately successful in arguing that DEW could not have complied with this proviso absent a regulation, a person, such as Plaintiffs, who could not show four total job searches in some way, shape, or form would not meet the eligibility requirements of the law and, thus, not able to recover in this class action.

Stated simply, neither Plaintiff was able to prove that they had conducted four job searches during the week (one per person) in which they did not receive benefits. As a result, they lack standing to represent the purported class.

The first Order of the circuit court regarding standing, filed on April 27, 2017, was completely silent on this issue. DEW filed a Rule 59(e) motion pointing out that failure to rule on that issue. The Order filed on October 30, 2017, denying that motion, was summary in nature, and also did not address the need to make four offline job searches in order to have standing.

DEW also contended that one of the Plaintiffs, Archie Patterson, had failed to mitigate his loss. He was eligible to recover the entire sum total of unemployment benefits available to him during the benefit year in question, but instead indisputably (and inexplicably) did not claim that full amount of benefits, leaving an unclaimed balance on his account for that benefit year. The proximate cause of his loss was therefore his own inaction rather than any act of DEW. The

court below merely held summarily that his inaction "does not cure or obviate any earlier wrongful denial of benefits," 4/27/17 Order at 5, although that holding is supported by no citations to applicable law.

The April 27, 2017 Order also held that standing was present for two other reasons, both untenable. The first was a conclusion that the facts of this case were capable of repetition, yet evading review. 4/27/17/ Order at 5-6. However, those facts were not capable of repetition, because it is undisputed that the complained-of requirement ended on June 30, 2016. While the incapability of repetition is a complete answer to this assertion, Plaintiffs' claims also would not evade review, because there was nothing to stop the claim of a person who did not recover all benefits to which he was entitled from being adjudicated, no matter how long it took of the issue to be finally decided.

The second untenable ground set forth in the April 27, 2017 Order was "public interest" standing. *Id.* at 6-8. However, the Supreme Court has held that "[t]he key to the public importance analysis is whether a resolution is needed for future guidance." *ATC S., Inc. v. Charleston Cty.*, 380 S.C. 191, 199, 669 S.E.2d 337, 341 (2008)(emphasis added). Again, DEW terminated the program effective July 1, 2016, so future guidance is not needed, and the public importance exception therefore does not apply.

The Order of October 30, 2017 did contain one variation from prior Orders, holding that "Nothing in either order should be construed as a decision on the merits and all issues raised in the pleadings are preserved." 10/30/17 Order at 2. The effect, if any, of that sentence on this appeal is discussed below.

ARGUMENT

1. The dismissal of DEW's defenses pertaining to standing, justiciability, mootness and mitigation of damages affect substantial rights and effectively strikes those defenses.

S.C. Code Ann. § 14-3-330(2) provides that

> The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:
>
> * * *
>
> (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;[1]

DEW raised the defenses of standing, absence of a justiciable controversy, mootness, and failure to mitigate damages in its Answer, a copy of which is attached. The circuit court's two Orders on standing unquestionably had the

[1] The Supreme Court and this Court have held that at least some orders affecting substantial rights must be appealed immediately, or the right to appeal will be lost. *See, e.g., First Union Nat. Bank of S.C. v. Soden,* 333 S.C. 554, 565, 511 S.E.2d 372, 377 (Ct. App. 1998).

practical effect of striking out those defenses. Plaintiffs correctly note that there is no South Carolina case specifically addressing the issue of the appealability of an order holding that standing is present. However, the four referenced defenses without question involve substantial rights of a defendant. If the plaintiff or plaintiffs lack standing, the entire case does not present a justiciable controversy and is effectively a hypothetical matter, for which any subsequent proceedings would amount to a waste of time of the courts and the parties. The orders therefore effectively struck the defense of the absence of a case or controversy as well. Finally, by holding that Plaintiff Patterson's inaction "does not cure or obviate any earlier wrongful denial of benefits," 4/27/17 Order at 5, the court below effectively struck the defense of failure to mitigate damages and the defense of mootness as applied to him. His failure to claim benefits to which he was entitled and which would have eliminated any loss from his being disqualified for one week had the effect of rendering his claim in this case moot.

It is true that the Order of October 30, 2017 contained a sentence holding that "Nothing in either order should be construed as a decision on the merits and all issues raised in the pleadings are preserved," 10/30/17 Order at 2. However, the issue of standing was tried before the Court, with both named Plaintiffs appearing as witnesses, as well as several other persons. In light of the depth of the parties' presentations on this issue and DEW's two Rule 59(e) motions, there is no realistic

reason to believe that the circuit court would later reconsider its Orders on this issue. In effect, the court affirmatively granted judgment for Plaintiffs on the issue of standing, rather than denying a motion for summary judgment by DEW on that ground.

The Supreme Court has held that in considering whether an order is appealable, the court looks to the "nature and effect of the order, not merely its label. *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 538, 773 S.E.2d 144, 146 (2015). As a result, any characterization by the circuit court of its order on standing as being nonfinal does not govern appealability.

Plaintiffs cite a number of cases involving denials of motions to dismiss or denials of motions for summary judgment, both situations in which it has been held over and over that the denials of such motions do not establish law of the case and are not appealable. *See, e.g., Ballenger v. Bowen,* 313 S.C. 476, 443 S.E.2d 379 (1994). The cases cited by Plaintiffs include the following: *Woodard v. Westvaco Corp.*, 319 S.C. 240, 460 S.E.2d 392 (1995)(order denying motion to dismiss); *Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 426 S.E.2d 777 (1993)(same); *Burkey v. Noce*, 398 S.C. 35, 726 S.E.2d 229 (Ct. App. 2012)(same); *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 529 S.E.2d 11 (2000)(motion to transfer venue); *Tillman v. Tillman*, 420 S.C. 246, 801 S.E.2d 757 (Ct. App. 2017)(granting motion to dismiss a counterclaim, but allowing the

counterclaiming party the right to amend its pleading). As can be seen, none of those cases involved the same kind of order as is present in this case.

2. If the Court permits this appeal to proceed, it would be efficient to consider class certification as well.

Defendant's counsel acknowledge that an order granting class certification is normally not immediately appealable. However, this rule has not been applied rigidly, and "an order that is not directly appealable will nonetheless be considered if there is an appealable issue before the [c]ourt and a ruling on appeal will avoid unnecessary litigation." *Watson v. Underwood*, 407 S.C. 443, 459, 756 S.E.2d 155, 163 (Ct. App. 2014), quoting *Hite v. Thomas & Howard Co.*, 305 S.C. 358, 360, 409 S.E.2d 340, 341 (1991), overruled on other grounds by *Huntley v. Young*, 319 S.C. 559, 462 S.E.2d 860 (1995).

Among other things, Defendant DEW has contended that *Gardner v. South Carolina Dept. of Revenue*, 353 S.C. 1, 577 S.E.2d 190 (2003), precludes class certification in this case. *Gardner* holds in pertinent part as follows:

> A representative class cannot exist where the court must investigate each plaintiff's prejudice claim where it is one of the two predominate issues in the case. Requiring such individualized examination negates the benefits of a class action suit. See *O'Quinn v. Beach Associates*, 272 S.C. 95, 104, 249 S.E.2d 734, 738 (S.C.1978) ("The very purpose of a class action is to avoid the necessity of requiring each member of the class to prove the elements of the cause of action.").

353 S.C. at 22, 577 S.E.2d at 201. In the present case, as noted above, each putative plaintiff's individual situation needs to be examined to see whether that person made the four non-online job searches that would entitle him or her to a benefit for any week when benefits were denied for failure to perform an online work search. As a result, the nature of these claims "requir[es] each member of the class to prove the elements of the cause of action," thereby making class certification inappropriate.

If this Court concludes that the issue of standing is appealable and affirms the circuit court's Order that the named Plaintiffs have standing, a decision on the correctness of the grant of class certification would make an enormous difference in the amount of time and effort that would need to be expended even if the Court were to conclude that the named Plaintiffs had standing. The reason for this is that without class certification, this litigation would involve only the claims of the two named Plaintiffs and not an entire class.

CONCLUSION

For the foregoing reasons, Appellant DEW submits that Plaintiff's-Respondents' Motion to Dismiss should be denied, or in the alternative, held in abeyance until the appeal is fully briefed.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: _____

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Counsel for Appellant South Carolina Department of Employment and Workforce

Columbia, South Carolina

November 27, 2017

STATE OF SOUTH CAROLINA COUNTY OF BARNWELL	)))	IN THE COURT OF COMMON PLEAS
Lorinda Robinson, Elaine Nix, Archie Patterson, Tami Bollerman, Fred Alexander, and Pamela Wooten, Plaintiffs, v. South Carolina Department of Employment & Workforce, Defendant.	)	Civil Action No. 2013-CP-06-0059 **AMENDED ANSWER TO AMENDED COMPLAINT**

FILED FOR RECORD
2015 FEB 19 PM 1:15
RHONDA D. HEELVEEN
CLERK OF COURT
BARNWELL COUNTY, S.C.

Defendant South Carolina Department of Employment and Workforce, answering the Amended Complaint herein, alleges and shows the following:

FOR A FIRST DEFENSE

1. The Amended Complaint fails to state facts sufficient to constitute a cause of action.

FOR A SECOND DEFENSE

2. The venue of this action is improper, because the question, action or controversy arose in Richland County, where Defendant's headquarters are located. In addition, S.C. Code Ann. § 41-27-610 provides that actions of the kind complained of in this action are deemed to have been committed in part at the office of the Defendant in Columbia.

FOR A THIRD DEFENSE

3. Any allegation of the Amended Complaint not hereinafter admitted or qualified is denied.

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4. Paragraphs 1 through 4 of the Amended Complaint are admitted on information and belief.

5. Answering Paragraph 5, it is admitted that the Defendant SCDEW is an agency of the State of South Carolina. The duties of the agency are as set forth in its governing statutes. Except as expressly admitted, Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 sets forth legal conclusions and/or descriptions of the relief sought, neither of which can be admitted or denied. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof.

8. The first sentence of Paragraph 8 is merely descriptive of the class certification relief sought by Plaintiff, and as such requires neither admission nor denial. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof. Answering the second and last sentence of Paragraph 8, it is denied that the referenced actions of DEW were required by statute to be the subject of a regulation.

9. Paragraph 9 is denied for lack of information.

10. Paragraphs 10 and 11 are denied.

11. Paragraphs 12 through 14 are denied for lack of information.

12. Paragraph 15 sets forth legal conclusions which can neither be admitted nor denied. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof.

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13. Answering Paragraph 16, Defendant reiterates and realleges each and every paragraph and affirmative defense of this Answer as if set forth herein verbatim.

14. Answering Paragraphs 17and 18, Defendant would refer the Court to the statutes referenced therein for the best evidence of their contents. Except as expressly admitted, Paragraphs 17 and 18 are denied.

15. Paragraph 19 sets forth legal conclusions which can neither be admitted nor denied. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof.

16. Answering Paragraph 20, Defendant would refer the Court to the documents setting forth the requirements referenced in that paragraph and to the law governing the Defendant's operations for the best evidence of the applicable law and practice. Except as expressly admitted, Paragraph 20 is denied.

17. Answering Paragraph 21, Defendant would refer the Court to the documents setting forth the requirements referenced in that paragraph for the best evidence of what occurred. Except as expressly admitted, Paragraph 21 is denied.

18. Answering Paragraphs 22 and 23, Defendant would refer the Court to the statutes referenced therein for the best evidence of their contents. Except as expressly admitted, Paragraphs 22 and 23 are denied.

19. Answering Paragraph 24, Defendant would refer the Court to the documents setting forth the requirements referenced in that paragraph for the best evidence of what occurred. Except as expressly admitted, Paragraph 24 is denied.

20. Paragraph 25 is denied.

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21. Answering Paragraph 26, Defendant would refer the Court to the documents in the files of the Defendants setting forth the actions referenced in that paragraph for the best evidence of what occurred. Except as expressly admitted, Paragraph 26 is denied. It is specifically denied that Plaintiff Nix was ever found to be eligible for unemployment benefits at any time that the online job search policy was in effect, and it is therefore also denied that she was ever denied unemployment benefits for not performing an online work search.

22. Answering Paragraph 27, Defendant reiterates and realleges each and every paragraph and affirmative defense of this Answer as if set forth herein verbatim.

23. Paragraphs 28 through 34 are denied.

24. Paragraph 35 is denied for lack of information. In addition, it is denied that Plaintiffs are entitled to recover attorneys' fees.

25. Paragraph 36 is denied.

26. Paragraph 37 is merely descriptive of the relief sought by Plaintiff, and as such requires neither admission nor denial. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof.

27. Answering Paragraph 38, Defendant reiterates and realleges each and every paragraph and affirmative defense of this Answer as if set forth herein verbatim.

28. Paragraph 39 is denied.

29. Paragraph 40 is denied for lack of information.

30. Paragraph 41 is denied.

31. Paragraph 42 is merely descriptive of the relief sought by Plaintiff, and as such requires neither admission nor denial. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof.

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32. Answering Paragraph 43, Defendant reiterates and realleges each and every paragraph and affirmative defense of this Answer as if set forth herein verbatim.

33. Answering Paragraph 44, Defendant would refer the Court to the pertinent legal authorities and facts of record for the best evidence of Plaintiffs' entitlement to UI benefits. Except as expressly admitted, Paragraph 44 is denied.

34. Paragraph 45 is denied.

35. Paragraph 46 is merely descriptive of the relief sought by Plaintiff, and as such requires neither admission nor denial. Insofar as such allegations attempt to establish liability on the part of the Defendant, Defendant would deny same and demand strict proof thereof.

36. Any remaining allegations of the Amended Complaint, including Paragraphs 1 through 6 of the prayer for relief, are denied.

FOR A THIRD DEFENSE

37. Plaintiffs are not entitled to relief from this Court, because they did not exhaust administrative remedies.

FOR A FOURTH DEFENSE

38. On information and belief, some or all Plaintiffs lack standing to pursue their present claims. Specifically, Plaintiffs Patterson, Alexander and Wooten have exhausted or will soon exhaust all benefits available to them even without the week or weeks for which they did not receive benefits as a result of not conducting online work searches. In addition, Plaintiff Robinson was disqualified for benefits for the weeks in question for the additional reason that she owed reimbursement to DEW because she collected benefits while employed.

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FOR A FIFTH DEFENSE

39. On information and belief, there is no present case or controversy between the Defendant and some or all of the Plaintiffs.

FOR A SIXTH DEFENSE

40. On information and belief, the claims of some or all of the Plaintiffs are not ripe for adjudication.

FOR A SEVENTH DEFENSE

41. On information and belief, some or all Plaintiffs have failed to take steps that could have mitigated any financial losses claimed by them.

FOR AN EIGHTH DEFENSE

42. Some or all Plaintiffs may have consented to the job search conditions of which they now complain.

FOR A NINTH DEFENSE

43. Some or all Plaintiffs may have waived any claim they may have had to challenge the matters of which they complain.

FOR A TENTH DEFENSE

44. Some or all Plaintiffs may be estopped from challenging the matters of which they complain.

FOR AN ELEVENTH DEFENSE

45. If an individual Plaintiff is asserting impossibility of compliance with the challenged policy, such impossibility may also have rendered it impossible for that individual to obtain employment for that week, so that such Plaintiff would not have suffered any detriment as a result of the policy.

DLSCN 02/23/15

FOR A TWELFTH DEFENSE

46. Plaintiffs have unreasonably delayed filing this action, and their claims are accordingly barred by the doctrine of laches.

FOR A THIRTEENTH DEFENSE

47. On information and belief, the claims of at least some of the Plaintiffs are presently moot, or will soon become moot. Specifically, Plaintiffs Patterson, Alexander and Wooten have or will soon exhaust all benefits available to them even without the week or weeks for which they did not receive benefits as a result of not conducting online work searches. In addition, Plaintiff Robinson was disqualified for benefits for the weeks in question for the additional reason that she owed reimbursement to DEW because she collected benefits while employed.

FOR A FOURTEENTH DEFENSE

48. The actions of which the Plaintiffs complain have been authorized by the General Assembly, pursuant to Proviso 67.7 of the Part 1B provisos of the General Appropriations Act for fiscal year 2012-2013 (H. 4813, as ratified by the General Assembly), Proviso 83.6. of the Part 1B provisos of the 2013-2014 General Appropriations Act (H. 3710, as ratified by the General Assembly), and Proviso 83.6 of the Part 1B provisos of the 2014-2015 General Appropriations Act (H. 4701, as ratified by the General Assembly). In addition to any other reasons for regulations to be unnecessary under the facts of this case, those provisos have rendered it unnecessary for the Defendant to promulgate regulations in order to implement and enforce the online job search requirement, including the stoppage of benefits to claimants for weeks in which they do not comply with the online work search requirement.

DLSCN 02/23/15

FOR A FIFTEENTH DEFENSE

49. This Court lacks jurisdiction over this case, because § 41-35-690, S.C. Code Ann., provides that the appeal procedure referenced therein is the sole and exclusive appeal procedure for the kinds of issues involved in this case.

FOR A SIXTEENTH DEFENSE

50. Plaintiffs' claims are barred by the ten-day limitation period set forth in § 41-35-660 for appeals of agency determinations or redeterminations.

FOR A SEVENTEENTH DEFENSE

51. In addition to any other reasons why the claim of Plaintiff Robinson is barred, that claim is also barred because Ms. Robinson claims relief only for the weeks ending August 18, 2012 and August 25, 2012. However, she was specifically disqualified from receiving benefits for those weeks because she was found to have collected unemployment earlier in the year 2012 while actually employed.

DLSCN 02/23/15

WHEREFORE, having fully answered the Amended Complaint, the Defendant prays that the Amended Complaint be dismissed with prejudice, for the costs of this action, and for such other and further relief as the Court deems just and proper.

DAVIDSON & LINDEMANN, P.A.

BY: Ken Woodington / DAD

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Columbia, South Carolina

February 16, 2015

DLSCN 02/23/15

 KPW #9

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF BARNWELL)

Lorenda Robinson, Elaine Nix, Archie Patterson, Tami Bollerman, Fred Alexander and Pamela Wooten

Plaintiffs,

v.

South Carolina Department of Employment & Work force,

Defendants.

Civil Action No. 13-CP-06-059

CERTIFICATE OF SERVICE

FILED FOR RECORD
2015 FEB 19 PM 1:15
RHONDA D. McELVEEN
CLERK OF COURT
BARNWELL COUNTY, S.C.

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Defendants, does hereby certify that service of the AMENDED ANSWER OF THE AMENDED COMPLAINT in the above-captioned action was made upon all counsel of record by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 16th day of February, 2015, addressed as follows:

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DLSCN 02/23/15

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BARNWELL COUNTY
Doyet A. Early, III, Circuit Court Judge

RECEIVED
NOV 27 2017
SC Court of Appeals

Appellate Case No. 2017-001208
Case No. 2013-CP-06-0059

Lorenda Robinson, Elaine Nix, Archie Patterson, and Tami Bollerman, ... Plaintiffs,

Of Whom, Archie Patterson and Tami Bollerman are ..... Respondents,

v.

South Carolina Department of Employment and Workforce, ... Appellant.

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., counsel for the Appellant, does hereby certify that service of the **Amended Return to Plaintiffs'-Respondents' Motion to Dismiss Appeal** in the above-captioned matter was made upon all counsel of record by email and by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 27th day of November 2017:

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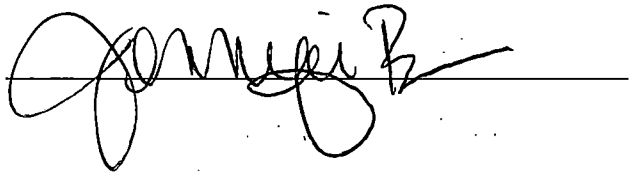

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Writer's Email: kwoodington@dml-law.com

November 27, 2017

Hand Delivered
The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
NOV 27 2017
SC Court of Appeals

RE: Archie Patterson and Tami Bollerman v. South Carolina Department of Employment and Workforce
Court of Appeals Tracking Number: 2017-001208
Civil Action Number: 2013-CP-06-0059
Our File Number: 79.9168

Dear Ms. Kitchings:

Earlier today, I filed the original and seven copies of the Return to Plaintiffs'-Respondents' Motion to Dismiss Appeal in the above referenced matter. Upon review of that Return, I noticed that there were several matters that needed to be added, and am therefore enclosing an original and seven copies of an Amended Return. The previous version can be ignored if the Court so chooses.

In addition, page 6 of the Return references an attached Answer. I inadvertently left off the attachment with this morning's filing. The Answer is attached to the present Amended Return.

I have served all counsel of record by email and U.S. Mail, with a copy of the Return and Amended Return, including the referenced attachment. Thank you for your assistance in this matter.

With highest regards, I am

Sincerely yours,

DAVIDSON & LINDEMANN, P.A.

/Ken Woodington

Kenneth P. Woodington

KPW/jmb
Enclosures

cc: (w/ Enclosure)

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