

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM KERSHAW COUNTY  
Court of Common Pleas  
William H. Seals, Jr., Circuit Court Judge

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**RECEIVED**

MAY 18 2018

Civil Action No. 2016-CP-28-00583 SC Court of Appeals  
Appellate Case No. 2017-002514

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James Teal,.....Appellant,

v.

Edwards Telecommunication, Inc. and Leroy Smith, Director of Dep't of Public Safety, Defendants,  
Of which Leroy Smith, Director of Dep't of Public Safety is the .....Respondent.

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**RESPONDENT'S RETURN TO APPELLANT'S MOTION TO AMEND #2**

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Respondent files this response in opposition to Appellant's Motion to Amend Initial Brief.

Appellant filed an Initial Brief and Designation of Matter on March 22, 2018. On April 2, 2018, this Court informed Appellant of deficiencies that needed to be corrected within ten (10) days of the date of the letter. The caption on Appellant's designation of matter did not comply with Rule 267(a), SCACR, and a proof of service had not been provided.

Also on April 2, 2018, Appellant served a 4-page document containing a table of contents, a table of citations and authorities, references to record, and a certificate of service.

On April 12, 2018, the Court returned the 4-page document to Appellant, and informed Appellant that if his intention was to amend his initial brief he would need to file a motion along

with a complete, amended appellant's initial brief. The Court instructed Appellant that he would have ten (10) days to file the appropriate motion.

On April 30, 2018, Respondent received a copy of Appellant's motion to amend initial brief (Motion to Amend #1).<sup>1</sup> The motion did not include a complete, amended appellant's initial brief, properly paginated, and using the correct caption. The entire substance of Motion to Amend #1 was as follows: "Appellant is requesting the Court to allow Appellant to amend Appellant's Initial Brief."

On May 1, 2018, Respondent filed a return in opposition to Appellant's motion to amend.<sup>2</sup> The Court has not issued an order concerning Motion to Amend #1.

In the meantime, Respondent moved forward and filed its Initial Brief and Designation of Matter on May 14, 2018. Respondent crafted his Initial Brief based on the initial brief filed by Appellant on March 22, 2018.

No sooner had Respondent filed his Initial Brief than Respondent received Appellant's most recent Motion to Amend Initial Brief (Motion to Amend #2). Appellant filed Motion to Amend #2 on May 14, 2018, which is more than a month after the Court instructed Appellant to file a motion to amend, and almost a month after the filing of Motion to Amend #1.

Both of the motions to amend filed by Appellant should be denied. As addressed in Respondent's return filed on May 1, 2018, Motion to Amend #1 should be denied because Appellant did not properly support his motion, and Appellant did not include a complete, amended appellant's initial brief, as instructed by the Court.

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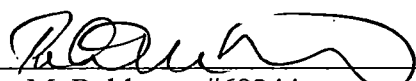
<sup>1</sup> Motion to Amend #1 had apparently been filed on April 19, 2018, but Respondent did not receive a copy until April 30, 2018.

<sup>2</sup> Respondent filed a Motion for Extension of Time to file its initial brief on April 23, 2018, requesting a new deadline of May 22, 2018. The Court has not issued an order on Respondent's motion.

Motion to Amend #2 should first be denied because of its dilatory nature. At this point, Respondent has moved forward with his Initial Brief based on the filings on record with the Court. Respondent had no reason to expect that Appellant would submit a successive motion to amend. Motion to Amend #2 should also be denied because it does not state any grounds for its necessity. The motion simply states that it is to delete a conclusive statement.

Based on a side-by-side review of Appellant's Initial Brief filed March 22, 2018, with the Amended Initial Brief filed by Appellant on May 14, 2018, there are very few substantive differences, and thus no reason for the granting of the motion. In other words, the proposed amendment is futile.

For the reasons stated herein, Respondent respectfully requests that Motions to Amend #1 and #2 be denied, and that the appeal proceed upon the initial briefs filed by Appellant and Respondent, respectively, on March 22, 2018, and May 14, 2018.

  
Peter M. Balthazor #68244  
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Columbia, South Carolina 29205  
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Attorney for Respondent Leroy Smith, Director of  
Dep't of Public Safety

May 18, 2018  
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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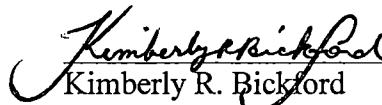
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**CERTIFICATE OF SERVICE**

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I do hereby certify that I caused to be served the RESPONDENT'S RETURN TO APPELLANT'S MOTION TO AMEND #2 upon the below-named party by depositing a copy of the same in the U.S. Mail, first class postage prepaid, and addressed as follows:

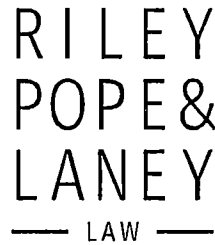
James Teal, *Pro Se*  
2832 Tee Pee Trail  
Elgin, South Carolina 29045-9758

  
\_\_\_\_\_  
Kimberly R. Bickford  
Paralegal

May 18, 2018  
Columbia, South Carolina

**South Carolina**

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Fax: 704.625.9430

May 18, 2018

**VIA HAND-DELIVERY**

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

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**MAY 18 2018**

**SC Court of Appeals**

Re: James Teal, Appellant v. Edwards Telecommunication, Inc. and Leroy Smith, Director of Dep't of Public Safety, Defendants, Of which Leroy Smith, Director of Dep't of Public Safety is the Respondent

Civil Action No.: 2016-CP-28-00583

Appellate Case No.: 2017-002514

Our File No.: 5021.01117

Dear Ms. Kitchings:

Please find enclosed the original and one copy of the Respondent's Return to Appellant's Motion to Amend #2, with Certificate of Service in the above-referenced matter. Please file the enclosed documents and return a filed copy with my runner.

Please contact me if you have any questions or comments concerning this correspondence or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Balthazor".

Peter M. Balthazor

PMB/krb

Enclosures

Cc: James Teal, *Pro Se*