

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
The Honorable Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2018-001868  
Docket No. 2017-ALJ-07-0003-CC

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NOV 28 2018  
SC Court of Appeals

South Carolina Department of Health and Environmental  
Control..... Petitioner,

v.

James W. Davenport..... Respondent,

Of whom South Carolina Department of Health and Environmental  
Control is..... Appellant.

DESIGNATION OF MATTER TO BE INCLUDED  
IN THE RECORD ON APPEAL

Appellant South Carolina Department of Health and Environmental Control (“DHEC”)

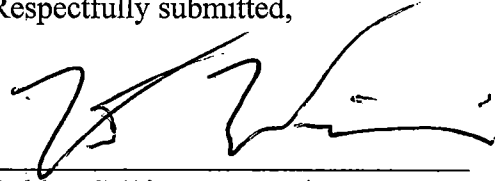
proposes the following to be included in the Record on Appeal:

1. DHEC’s Administrative Order
2. DHEC Board’s Notice Declining Final Review Conference
3. Davenport’s Request for Contested Case Hearing
4. The Honorable Shirley C. Robinson’s Final Order and Decision dated March 20, 2018 (“Merits Order”)
5. Davenport Petition for Attorney’s Fees & Court Costs dated March 21, 2018
6. DHEC Memorandum in Opposition to Davenport’s Petition for Attorney’s Fees & Court Costs dated April 5, 2018
7. Davenport Reply Brief in Support of Petition for Attorney’s Fees & Court Costs dated April 16, 2018

8. The Honorable Shirley C. Robinson's Order Granting Petition for Attorney's Fees dated August 1, 2018 ("Order Awarding Attorney's Fees")
9. DHEC Motion to Alter or Amend (Reconsider) Order Granting Petition for Attorney's Fees dated August 13, 2018
10. Davenport Memorandum of Law in Opposition to DHEC's Motion for Reconsideration dated August 27, 2018
11. The Honorable Shirley C. Robinson's Order on DHEC's Motion to Alter or Amend ("Reconsideration Order") dated September 20, 2018
12. DHEC Exhibit 1 (Anderson County Standards of Care and Treatment Protocols) – pp. 1-7, 14-16, 27, 31, 42-43, 65, 89-90, 93-96, 105, 125, 133-134, and 138-139.
13. DHEC Exhibit 2 (Iva Police Officer Body-Cam Footage Video File)
14. DHEC Exhibit 3 (Medic 6-1 AnMed Emergency Department Report Audio File)
15. DHEC Exhibit 4 (Kimberly Aiken Statement)
16. DHEC Exhibit 6 (AnMed Emergency Department Record)
17. DHEC Exhibit 7 (AnMed Operating Room Procedure Notes)
18. DHEC Exhibit 9 (James Davenport DHEC Interview Audio File)
19. DHEC Exhibit 10 (James Davenport MC Agreement and Application)
20. DHEC Exhibit 11b (2016.03.19 PM Iva Rescue Squad PCR)
21. DHEC Exhibit 16 (Photograph #1 of Patient's Sofa)
22. DHEC Exhibit 17 (Photograph #2 of Patient's Sofa)
23. DHEC Exhibit 19 (Photograph #1 of Patient's Front Door)
24. DHEC Exhibit 20 (Photograph #2 of Patient's Front Door)
25. DHEC Exhibit 21 (Photograph #1 of Patient in Ambulance)
26. DHEC Exhibit 22 (Photograph #2 of Patient in Ambulance)
27. DHEC Exhibit 23 (Photograph #1 of Knife in Patient)
28. DHEC Exhibit 24 (Photograph #2 of Knife in Patient)
29. DHEC Exhibit 25 (Photograph of Knife in Patient)
30. Merits Hearing Transcript
  - July 24th – Aiken Trial Tr. 21-24, 26-27, 29-31, 39-57, and 105-107. Davenport Trial Tr. 108-114, 131-142, 146, 149-152, 154-156, 158-171, 177-179, 181-183, and 185-187.
  - July 25th – Eudy Trial Tr. 3-5, 8-10, 17-20, 33, 38-41, and 59-68. Kickham Trial Tr. 71-75, 79-129, 132-133, 153, 175-179, 192-194, 202-208, and 219-222.
  - July 26th – DeAngelo Trial Tr. 48-50, 57-61, and 72-74. Douglas Trial Tr. 100, 103-104, 107-110, 114-120, 125-129, 131-132, 135-136, 150-153, 158-160, 169-181, 193-194, 208-210, and 215-216. DesChamps Trial Tr. 220-222, 225, 230-260, 263-266, 275-277, 281-284, and 287-293.
  - July 27th – Wronski Trial Tr. 4, 8-9, 19-29, 33-44, 47-63, 125, 128-131, 144-150, 158, 162-163, and 179-182. Directed Verdict Mtn. 189-219. Deason Trial Tr. 270, 276-281, and 292-293.
  - July 28th – Kaiser Trial Tr. 135 and 162-167.
31. Stoller Deposition Designations – 112-113, 118-119, 132-134, and 170.
32. Petition for Attorney's Fees Hearing Transcript

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Biggers', written over a horizontal line.

Ashley C. Biggers, Esquire  
Vito M. Wicevic, Esquire  
South Carolina Department of Health and  
Environmental Control  
2600 Bull Street  
Columbia, SC 29201

*Attorneys for Appellant South Carolina  
Department of Health and Environmental  
Control*

November 26, 2018

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2018-001868  
Case No. 18-ALJ-07-0003-CC

South Carolina Department of  
Health and Environmental Control,

Appellant/Respondent,

v.

James W. Davenport,

Respondent/Appellant.

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I, Rita D. DeCarlis, Paralegal for the South Carolina Department of Health and Environmental Control, hereby certify that I have on this **26<sup>th</sup> day of November 2018**, served a copy of **Initial Brief of Appellant/Respondent and Designation of Matter to be Included in the Record on Appeal** upon all parties and counsel of record in the above-captioned case, via United States Mail, First Class, postage prepaid and addressed as follows:

David E. Rothstein, Esquire  
Rothstein Law Firm, PA  
1312 Augusta Street  
Greenville, SC 29605

*Rita D. DeCarlis*

Rita D. DeCarlis

November 26, 2018  
Columbia, South Carolina



November 26, 2018

**VIA U.S. MAIL**

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

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SC Court of Appeals

RE: SCDHEC v. Davenport Case No. 17-ALJ-07-0003-CC  
Appellate Case No.: 2018-001868  
DHEC OGC# 22888

Dear Ms. Kitchings:

Please find enclosed for filing the original and one copy of the **Initial Brief of Appellant/Respondent, Designation of Matter to be Included in the Record on Appeal and Proof of Service**. It would be appreciated if your office would please return a clocked copy to me in the envelope provided.

Thank you for your attention to this matter.

Sincerely,

Rita D. DeCarlis

/rdd

Enclosures

cc (w/ enclosures): David E. Rothstein, Esquire



600 Bull Street  
Columbia, SC 29201

Return Service Requested

LEGAL OFFICE

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
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