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SC Court of Appeals

**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

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")

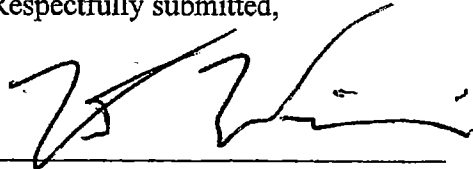
proposes the following to be included in the Record on Appeal:

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 'Ashley C. 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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PROOF OF SERVICE

I, Rita D. DeCarlis, Paralegal for the South Carolina Department of Health and Environmental Control, hereby certify that I have on this **28th day of November 2018**, served a copy of the corrected **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

November 28, 2018
Columbia, South Carolina



November 28, 2018

VIA HAND DELIVERY

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

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 corrected Initial Brief of Appellant/Respondent, Designation of Matter to be Included in the Record on Appeal and Proof of Service.

Per my telephone communications with Mary Kaitlyn, the final two pages, which included the signature page, were inadvertently left out of our filing of the Intimal Brief of Appellant/Respondent that was filed with your office on November 26. We have notified counsel for the Respondent/Appellant, Davenport and he consents to our corrected filing of same.

Thank you for your kind attention to this matter. It would be appreciated if your office would please return a clocked copy to me for our files.

Sincerely,

Rita D. DeCarlis
Rita D. DeCarlis

/rdd

Enclosures

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

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