

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2012-CP-38-00837

Jimmie Aiken, Leila Brown, Veronda Cohen, Carla David, Anthony Sabb,
James Ginn, and Shirley Rice, as named Plaintiffs representing a class of
South Carolina Citizens.....Respondents,

v.

South Carolina Department of RevenueAppellant.

**Motion to File an Out of Date Return to
Appellant's Return to Respondents' Petition to Transfer
And
Motion to Strike**

Dana R. Krajack (Bar No. 3608)
Counsel for Litigation P.O. Box 12265
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Columbia, SC 29211-9979
803-898-5172
Attorneys for Appellant
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MAR 06 2019

SC Court of Appeals

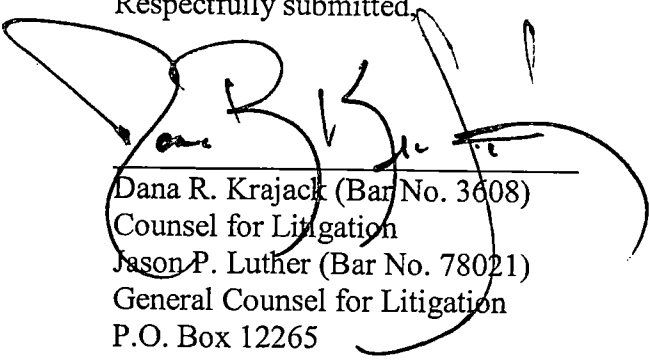
Pursuant to Rule 240(e), SCACR, Appellant South Carolina Department of Revenue (Appellant or Department) submits this Motion to File a Late Return to Respondents' Rule 204(b) Petition to Transfer.

Appellant would show unto this Honorable Court that it was served with the Respondents' Petition to Transfer, dated February 14, 2019, via U.S.P.S., the same being received on February 19, 2019. Due to the miscalculation of time within which to file its Return, by applying SCRCR, Rule 6(e), the Department added an additional 5 days to the prescribed period and, accordingly, did not file its Return *and* Motion to Strike until March 1, 2019 (ten days after actual service of Respondents' Petition).

As more fully discussed therein, the Department does not oppose the ultimate relief sought in the Respondents' Petition, but nonetheless filed its Return to clarify the issues that are of significant public interest or of major importance; and to ensure that any review of this appeal is properly limited strictly to those matters that are in the Record on Appeal currently pending before the Court of Appeals.

Accordingly, the Department now moves the Court, pursuant to Rule 240(e), SCACR, for leave to file an out of date Return (a copy of which was previously submitted to the Court on March 1, 2019).

Respectfully submitted,



Dana R. Krajack (Bar No. 3608)
Counsel for Litigation
Jason P. Luther (Bar No. 78021)
General Counsel for Litigation
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Columbia, SC 29211-9979
803-898-5172
Attorneys for Appellant

March 5, 2019

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Diane S. Goodstein, Circuit Court Judge

Case No. 2012-CP-38-00837

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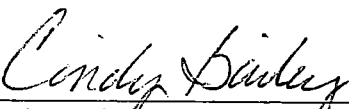
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**Motion to File an Out of Date Return
to Appellant's Return to Respondents' Petitioner to Transfer
And
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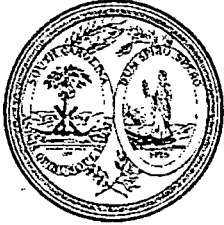
PROOF OF SERVICE

I, as employee for the Appellant, do hereby certify that I have served the Appellant's Motion for File an Out of Date Return to Respondent's Petition to Transfer and Motion to Strike [and served Jimmie Aiken, Leila Brown, Veronda Cohen, Carla David, Anthony Sabb, James Ginn, and Shirley Rice] by depositing a copy of same in the United States Mail, postage prepaid, on March 5, 2019, addressed to their attorney(s) of record, Robert N. Hill, Esquire, P.O. Box 1323, Lexington, SC, 29071-1323; Mark B. Tinsley, Esquire, Gooding and Gooding, P.O. Box 1000, Allendale, SC 29810; Charles H. Williams, Esquire, Williams & Williams, P.O. Box 1084, Orangeburg, SC 29115; and Daniel W. Williams, Esquire, Bedingfield & Williams, P.O. Box 616, Barnwell, SC 29812.



Cindy Bailey, Legal Assistant, S.C. Dept. of Revenue

March 5, 2019



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211-9979

March 5, 2019

South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

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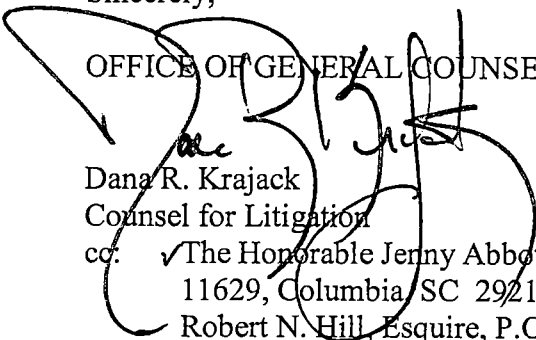
Re: Jimmie Aiken, Leila Brown, Vernonda Cohen, Carla David, Anthony Sabb, James Ginn, and Shirley Rice, as named Plaintiffs representing a class of South Carolina Citizens, Respondent vs. South Carolina Department of Revenue, Appellant
Appellate Case Number: 2017-001790

Dear Clerk of Court:

Enclosed please find the Appellant's, South Carolina Department of Revenue's, Motion to File an Out of Date Return to Respondent's Petition to Transfer *and* Motion to Strike. I am providing the unbound original and six copies of same. Please further find the Appellant's Certificate of Service for same.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION


Dana R. Krajack
Counsel for Litigation

cc: ✓ The Honorable Jenny Abbott Kitchings, Clerk, South Carolina Court of Appeals, P.O. Box 11629, Columbia SC 29211
Robert N. Hill, Esquire, P.O. Box 1323, Lexington, SC, 29071-1323
Mark B. Tinsley, Esquire, Gooding and Gooding, P.O. Box 1000, Allendale, SC 29810
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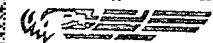
**South Carolina
Department of Revenue
Office of General Counsel**

P.O. Box 12265, Columbia, SC 29211-9979

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Hon. Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211