

DESIGNATION OF MATTER
(TO BE INCLUDED IN THE RECORD ON APPEAL)

THE STATE OF SOUTH CAROLINA
In The Court of Appeal

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

RECEIVED

MAY 22 2019

Case No.: 18-ALJ-30-0181-CC

SC Court of Appeals

Appellate Case No.: 2018-001740

Clara Lewis Brockington, Appellate,
Vs
South Carolina Department of Employment
And Workforce, Respondents.

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

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

- 1/ Request for Contested Case Hearing Form
- 2/ Thomas T. Medlock, Jr., Hearing Officer's Decision (**UNSIGNED**)
- 3/ Certification of Hearing (**UNSIGNED**)
- 4/ Motion from Appellate Requesting Readable CD
- 5/ Letter from Kristi Chesley, Admin. Asst. / Attorney Paul Famolari confirming missing info.
- 6/ Motion for Prehearing Statement

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

Amended May 20, 2019

/s/ Clara Lewis Brockington
Clara Lewis Brockington, Appellant

Exhibit 1

South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM
 Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name: <i>Brockington</i>	First: <i>CLARA</i>	Middle: <i>Lewis</i>	<input type="checkbox"/> Mr. <input type="checkbox"/> Mrs.	<input type="checkbox"/> Miss <input checked="" type="checkbox"/> Ms.	Docket No. (To Be Completed by ALC)
Mailing Address: <i>Post Office Box 3232</i>			City: <i>Florence</i>		State and Zip: <i>South Carolina 29502</i>
Home Number:	Work Number:	Cell Number: <i>843-616-1317</i>		E-Mail Address:	

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are you represented by an Attorney? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Name of Attorney:
Attorney Mailing Address:	City, State and Zip:
Attorney Work Number and Cell Number:	Attorney E-Mail Address:

CASE INFORMATION

Name of Agency that Issued the Decision: (Example - Dept. of Revenue, Dept. of Insurance, DHEC) <i>S.C. Dept. of Employment and Workforce</i>	
In order to have your case processed, you must attach the agency decision. Is it attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Date the decision was issued: <i>04-20-18</i>	Date the decision was received: <i>04-25-18</i>
Please provide a brief statement regarding why the hearing is being requested and the relief sought: <i>I Am Not in agreement that I owe the agency any monies. I requested proof of any and all payments made to me such as cashed checks (back and front) and any other proof the agency has on hand. I called in to Job Service only the weeks I was unemployed according to my memory. The agency has refused to provide any documents for the phone conference and for this appeal.</i>	
Payment via <input type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Cash for \$ (applicable filing fee pursuant to ALC Rule 71) is being submitted today to the Administrative Law Court via <input checked="" type="checkbox"/> U.S. Postal Service <input type="checkbox"/> Hand-delivery	
<i>Clara Lewis Brockington</i>	<i>5/9/18</i>
<input checked="" type="checkbox"/> Your Signature or Signature of Attorney	Date

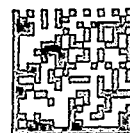
PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: <i>CLARA Lewis Brockington</i>	Date: <i>5-9-18</i>	City: <i>Florence</i>	State: <i>S.C.</i>
I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):			
<i>S.C. Dept. of Employment and Workforce</i>	<i>P.O. Box 995</i>	<i>Columbia, SC 29202</i>	
Name and/or Agency Name	Address	City, State and Zip	
Name and/or Agency Name			
Address			
City, State and Zip			
<i>Clara Lewis Brockington</i>			<i>5/9/18</i>
<input checked="" type="checkbox"/> Your Signature or Signature of Attorney			Date

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.



South Carolina
Department of Employment and Workforce



1652563

Exhibit 2

04/20/2018

Appeal Docket #: 18-LA-004309

CLARA L BROCKINGTON
Po Box 3232
Florence SC 29502-3232

Debtor: CLARA L BROCKINGTON
PO BOX 3232
FLORENCE SC 29502

Claimant Agency: DEW
Debtor SSN: xxx-xx-6197
Claimant ID: 4895720
Original Debt Amt: \$752.00

I, Thomas T. Medlock, Jr., do hereby find that:

No amount is due from the debtor.

The amount of the debt originally submitted through the Debt Setoff Collection Act should be REDUCED and the proper amount due is _____

X The amount of the debt originally submitted through the Debt Setoff Collection Act is correct and is rightfully due from the above debtor.

The specific reasons for my ruling are as follows:

Under the Debt Setoff Collection Act, S.C. Code Ann. § 12-56-10, et. seq., the SC Department of Employment and Workforce (DEW) is a "claimant agency." See S.C. Code Ann. § 12-56-20(1). DEW satisfied the statutory notice requirements by mailing the notice, with postage prepaid, addressed to the debtor at the debtor's last known address which included a statement of the appeal procedures available to the debtor. See S.C. Code Ann. § 12-56-62.

Pursuant to S.C. Code Ann. § 12-56-20(4), the overpayment of unemployment insurance benefits is a "delinquent debt" because it arises through operation of law, specifically, a final decision of DEW.

THEREFORE, the debtor owes monies to the SCDEW in the amount stated above:

Administrative Hearing Officer

*No
Signature*

Date Hearing Officer's decision was Mailed: 04/20/2018.



South Carolina
Department of Employment and Workforce

Exhibit 3

CERTIFICATION OF HEARING

Claimant Agency: SCDEW Agency's 4-digit ID: 0897 18-LA-004309
Debtor Name: CLARA L BROCKINGTON Hearing Date: 04/18/2018
Debtor SSN: xxx-xx-6197
Original Debt Amt: \$752.00

I certify that I have conducted a hearing in the above matter, in accordance with S.C. Code Ann. § 12-56-65, and have ruled in favor of the claimant agency, SCDEW. I further certify that:

X The amount of the debt originally submitted has not changed.

The amount of the debt has been REDUCED; the new amount is _____.

The debtor did not appear for the hearing, therefore, the amount of the debt originally submitted is correct.

Administrative Hearing Officer *No Signature*

SWORN to before me this _____
day of _____, 20____

(LS)

*Not
Notarized*

Notary Public for South Carolina
My Commission Expires: _____

L

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

COPY

Clara Lewis Brockington,)
Appellant,)
Vs.)
S. C. Department of Employment and)
Workforce,)
Respondents.)


Docket No.: 18-ALJ-30-0181-CC

REQUEST FOR READABLE CD
THAT CAN BE OPENED BY THE
APPELLANT

TO THE ADMINISTRATIVE LAW COURT JUDGE:

The Appellant has spoken with Kristi Chelsey, Legal Assistant to the Respondents on numerous occasions concerning the CD that was requested by the Appellant that will not open for the Appellant to read and confirm the information. Please ask the Respondents to resend another CD that can be open in WORD DOCUMENT, which is the NORMAL document that most everyone uses to open documents.

Appellant ask that this request is granted and look forward to receiving CD in Word Document within the next few days, if this is going to be a part of their case. Otherwise, we can agree that this document will NOT be a part of the case and dismiss from the records expeditey. Thanks in advance for granting this request.



Clara Lewis Brockington, Appellant
Post Office Box 3232
Florence, South Carolina 29502
Telephone: (843) 616-1317

July 20, 2018

Columbia, South Carolina

FILED

JUL 23 2018

SC ADMIN. LAW COURT

Exhibit 5

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

Jamie Suber
Acting Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124

February 28, 2019

The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Clara L. Brockington v. South Carolina Department of
Employment and Workforce
Appellate Case No: 2018-001740

Dear Ms. Kitchings:

The Appellant in the above case, Ms. Brockington, contacted our office to inform us that she was missing pages of DEW's Return to Appellant's Motion for Extension that was mailed on February 19, 2019. In reviewing our copies, we were also missing pages. To remedy that, we are remailing the original and six copies to the Court and a copy to Ms. Brockington of the full Return and exhibits.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Chesley".

Kristi Chesley
Administrative Legal Assistant for
Paul Famolari
Assistant General Counsel

Cc: Clara L. Brockington, Appellant

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Clara Lewis Brockington,)	Docket No. 18-AJ-30-0181-CC
)	
Petitioner)	PREHEARING STATEMENT
v.)	by Clara Lewis Brockington
)	
South Carolina Department of)	
Employment and Workforce,)	
)	
Respondents.)	
_____)	

In response to the Order for Prehearing Statements issued by the Honorable S. Phillip Lenski, Administrative Law Judge, on June 19, 2018, Petitioner Clara Lewis Brockington respectfully submits the following:

THE NATURE OF THIS PROCEEDING:

Petitioner is appealing the amount of \$752.00 (original amount of \$800.00) stated by South Carolina Department of Employment and Workforce, that agency said is due from the Petitioner, for receiving overpayment of these amounts.

THE STATUTORY PROVISION(S) CONFERRING SUBJECT MATTER JURISDICTION TO THE COURT AND OTHER APPLICABLE STATUTES AND REGULATIONS:

- Pierce’s Case, 325 Mass. 649, 92 N.E.2d 245, 250 (1950)
- Raymond Rival’s Case, 391 N.E.2d 932 (Mass. App. Ct. 1979)
- Mizrahi’s Case, 320 Mass. 733, 71 N.E.2d 383 (1947)
- Cal. Unemp. Ins. Code § 2601 et seq., Unemployment Coverage
- Hawaii Rev. Stat., Ch. 392-1 to 392-91, Unemployment Coverage
- R.I. Gen. Laws. Ann. §§ 28-39-1, et seq., Unemployment Coverage

THE ISSUES TO BE PRESENTED FOR DETERMINATION, INCLUDING ANY CLAIMS OR DEFENSES EXPECTED TO BE RAISED:

Petitioner will argue the facts that she was hired incorrectly and illegally, as well as others that may testify. When Petitioner informed her superior(s) and other co-workers that she will inquire from South Carolina Department of Social Services about their hiring policy, etc. and compare with the University of South Carolina (contractual partner), Petitioner was threatened to be terminated by the Regional Director. This showed that policies, procedures, tests, etc. were illegal. I became unemployed in June 2016 after being terminated from South Carolina Department of Social Services for stating that I would be inquiring from the University of South Carolina Administration Office/College of Social Work in Columbia, South Carolina, about a Child Welfare Certification test that South Carolina Department of Social Services threaten all new employees, that they would have to take to continue working with the agency. Hundreds of employees were threaten to take the test and were terminated if they did not pass the test. However, this test was never mentioned on the interview, given to anyone as a part of the hiring packet or mentioned to anyone when offered the job. The test was never contingent if hired. Secondly, I was terminated after threatening to call the University of South Carolina President to discuss the test being given by unqualified individuals employed by the university. I immediately filed for unemployment benefits and was informed by Job Services that Department of Social Services could not refuse to pay me unemployment benefits because I was wrongfully terminated (for not passing a test that was never mentioned in the interview process), and paid me unemployment benefits that were accumulated by me, to file for unemployment as needed. I fell while exiting the building with

all of my belongings in boxes. My former supervisor, Roshaunda Gooden, was carrying one box and I was carrying one box and my purse, etc., and fell between uneven steps coming out of the door of South Carolina Department of Social Services. The agency never acknowledged my fall nor offered me worker's compensation, which I was eligible because I fell on the premises of the agency, and witnessed by my supervisor and others. I am petitioning the court to grant me as the Petitioner NOT to repay any monies to South Carolina Department of Employment and Workforce, because I was never awarded any worker's compensation benefits for my injuries that I continue to have numerous medical problems, limitations, due to extensive pain, motivation, ambulation, walking, bending, kneeling, stooping, crawling, etc. Per my physicians, after several months of therapy, pain medications, shots, etc., I have received permanent damages to my back, lower and upper extremities, left and right sides of my total body, stress, depression, migraine headaches, etc.

Petitioner anticipates arguing the illegal hiring process of South Carolina Department of Social Services, contractual responsibilities of the University of South Carolina and request of two tests and not scores ONLY and any other information that will support this case.

THE ACTION REQUESTED OF THE COURT AND A DETAILED STATEMENT OF THE LAW WHICH SUPPORTS THE REQUESTED ACTION, INCLUDING STATUTORY AND/OR CASE CITATIONS:

Petitioner respectfully requests that the Court grant this request from the Petitioner because there is valid evidence, possible witnesses who are current employees or former employees of South Carolina Department of Social Services, and include the requested claim of \$75,000 for the pain, suffering, personal

injuries, loss of employment, wages, insurance, bills incurred that continues to be outstanding, worker's compensation income never received, bills, family losses, socialization losses, continuing medical treatment, physical therapy treatment, counseling due to financial and medical conditions, etc., that were never acknowledged by South Carolina Department of Social Services and any and all fees not included at this time.

A BRIEF SUMMARY OF THE FACTS TO BE PRESENTED AT THE HEARING:

This appeal is from a final agency decision upholding that Petitioner owing South Carolina Department of Employment and Workforce \$800.00 or more, plus any monies already paid by the Petitioner in the past), due to unprofessionalism of the Richland County Director, who has since been terminated for not complying by policies and procedures of the agency and hiring employees without explaining the hiring process and what is entailed to become an employee of South Carolina Department of Social Services. Also, the Petitioner will be addressing that Petitioner fell on the property and premises of South Carolina Department of Social Services which was witnessed by Ms. Roshaunda Gooden, Supervisor who was assisting Petitioner with her belongings when Petitioner fell at South Carolina Department of Social Services. Also, Ms. Gooden instructed Petitioner to go to the hospital and report back to Ms. Gooden on what the doctor says, etc. Petitioner followed the orders of Ms. Gooden and the agency refused to show professionalism and start the worker's compensation process with Petitioner.

The Petitioner inquired about the testing process and the fact that this information was not included in the hiring packet, was not discussed on the

interview and was not in the award acceptance letter from Reese Palmer, Regional Director when Petitioner and other employees were, newly hired.

South Carolina Department of Social Services has a long history of wrongdoings and children dying, due to lack of cooperation, agency being challenged by employees, no policies and procedures in place, employees over-worked with too many cases (50 or more), being tested by unqualified and non-certified employees of the University of South Carolina, etc.

Petitioner contends that South Carolina Department of Employment and Workforce and South Carolina Department of Social Services were informed in writing that **“there is no law stating an employee can be terminated for not taking or passing a test”**. Employers should have policies and procedures for trained and certified staff in place to work with individuals to take tests and improve test scores to passing, if passing test is a part of their hiring packet (and this is not in place).

Petitioner contends that her rights were violated by terminating her for not passing a test, falling on the agency premises which was witnessed by supervisor and was never offered any type of worker's compensation. The agency refused to allow current employees their rights to speak with Petitioner (violating rights), even if the conversation did not include Department of Social Services (harassment), refused to give worker's compensation paperwork, refused to pay any bills related to the fall at the agency, refused to pay overtime compensation after submitting all forms to supervisor and Regional Director, ceased all income, insurance benefits, worker's compensation benefits, salaries, etc. No consideration had been given to Petitioner and South Carolina Department of Employment and Workforce apparently did not do their homework before stating

falsely what Petitioner owes their agency. Petitioner requested documentation (check stubs, tape of the hearing that will not play, etc.) and South Carolina Department of Employment and Workforce refuse to provide all documentation requested. Per Statehouse Representatives who reviewed all documents, South Carolina Department of Employment and Workforce have not done their homework appropriately before informing Petitioner that she owes a balance. If anything, the agency owes Petitioner and that is why Petitioner is appealing to the court at this time to grant all requests made by the Petitioner.

A SUMMARY OF ANY MOTIONS EXPECTED TO BE RAISED AT THE HEARING AND THE APPRECIATE AUTHORITY UNDERLYING THE MOTION:

Petitioner does not anticipate filing any motions at this time; however, the Petitioner respectfully reserves the right to file motions, if necessary upon notice in accordance with the Rules of the Administrative Law Court and the Rules of South Carolina Civil Procedure.

A LIST OF PROPOSED WITNESSES AND EXHIBITS:

In the event of a hearing on the merits, Petitioner is not aware of any witnesses that will be called for court at this time. However, Petitioner respectfully reserves the right to file the necessary motion, if needed, upon notice in accordance with the Rules of the Administration Law Court and the Rules of South Carolina Civil Procedure.

A STATEMENT REGARDING THE NECESSITY OF DISCOVERY, IF ANY:

Petitioner requested documents and devices during the discovery period from South Carolina Department of Employment and Workforce that were not received or sufficient. Petitioner respectfully reserves the right to submit a request to the Court for the same discovery documents and devices and

additional discovery from South Carolina Department of Employment and Workforce, as well as South Carolina Department of Social Services and the University of South Carolina.

THE ESTIMATED TIME REQUIRED FOR THE HEARING:

Petitioner expects that it will take approximately two days to present its case, if a merits hearing be necessary.

ANY DATES THE PARTIES, COUNSEL OR KEY WITNESSES ARE SPECIFICALLY UNAVAILABLE DURING THE NEXT THREE MONTHS:

Petitioner request that the court do not schedule any hearing or court dates before November 1, 2018 due to numerous medical appointments, during the next three months and possibly new scheduled testing, x-rays, scans, etc.

AN E-MAIL ADDRESS WHERE YOU CAN BE REACHED:

Petitioner respectfully requests that the court send all correspondence to the mailing address preferably which is: **Post Office Box 3232, Florence, South Carolina 29502**. My e-mail is not always available. Thanks for your cooperation and understanding.

Respectfully Submitted,

Clara Lewis Brockington, Petitioner
Post Office Box 3232
Florence, South Carolina 29502
Telephone: 843-616-1317

July 2, 2018

Columbia, South Carolina

PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
MAY 22 2019
SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Case No.: 18-ALJ-30-0181-CC

Appellate Case No.: 2018-001740

Clara Lewis Brockington, Appellant,

Vs

South Carolina Department of Employment
And Workforce, Respondents.

PROOF OF SERVICE

I certify that I have served the Initial Brief of Appellant and Designation of Matter by depositing copies of each in the United States Mail, postage prepaid, on May 20, 2019, addressed to S. Phillip Lenski, Administrative Law Judge, 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201 and to Attorney Paul Famolari, Post Office Box 8597, Columbia, South Carolina 29202.

Amended May 20, 2019

s/ Clara Lewis Brockington
Clara Lewis Brockington, Appellant
P. O. Box 3232, Florence, SC 29502
(843) 616-1317