

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

The Honorable Michael Nettles, Circuit Court Judge

**RECEIVED**

JUN 18 2019

SC Court of Appeals

Case No. 2017-CP-21-1375

April Jones.....Appellant

v.

Tim Ringer, Individually and as  
employee/agent of WAL-MART  
STORES, INC. d/b/a WAL-MART  
STORE # 630; WAL-MART STORES,  
INC.; and WAL-MART STORES  
EAST, L.P.....

Respondents

RETURN TO RESPONDENTS' MOTION TO DISMISS



Lane D. Jefferies, Esquire  
Kenneth T. David, Esquire  
Eric M. Poulin, Esquire  
Roy T. Willey, IV, Esquire  
Anastopoulo Law Firm, LLC  
32 Ann Street  
(843) 614-8888  
Attorneys for Appellant

June 17, 2019

## ARGUMENT

Respondents' Motion to Dismiss should be denied, as Respondents are wrong about the law, and wrong about the facts. Respondents raise two grounds for their motion: First, that the order at issue is not immediately appealable. Second, that the Notice of Appeal was not timely filed. Respondents are mistaken as to each.

### **I. The Order is Immediately Appealable Because it Affects the Substantial Right of Choosing One's Own Counsel.**

Appellant's attorneys were ordered to be in two places at once. Obviously, that's not possible. Specifically, Appellant's attorneys were ordered to appear for trial of Appellant's case in Florence County at the same time they were ordered to appear for trial of another client's case in Colleton County. Both cases were major actions involving serious personal injury – the Colleton County case involved degloving of an arm, and the Florence County case involved amputation of a leg. Accordingly, each client had chosen a trial team consisting of the firm's senior-most attorneys – Eric Poulin, Roy Willey, and Lane Jefferies – and indeed those attorneys were of record in each case. *Affidavit of Jefferies*. Clearly, the entire trial team of Poulin, Willey, and Jefferies could not appear for both trials at the same time.

Appellant's attorneys advised the Florence trial court of the conflict. *Exhibit A to Affidavit of Jefferies*. The Colleton County case was both older (2016 vs. 2017) and had higher priority on the roster (#1 vs. #4). *Affidavit of Jefferies*. Logically, the Colleton case should have gone forward, with the Florence to follow on the next term of court. This is what Appellant's attorneys suggested. *Exhibit A to Affidavit of Jefferies*. Alternatively, the Florence case (although younger, and with a lower priority on the roster), could have gone to trial while the Colleton case waited for the next

term. But what could not happen was for the trial team of Poulin, Willey, and Jefferies to try both cases simultaneously.

Unfortunately, the impossible task of trying both cases at the same time is exactly what the trial judge in this case ordered. The attorneys in the Florence case were initially advised by the Florence court that the Colleton county trial judge – despite having the older case with the higher roster priority – would eliminate the conflict by “deferring” to the Florence court. *Exhibit B to Affidavit of Jefferies*. However, that is not what a subsequent email from the Colleton court said. *Exhibit C to Affidavit of Jefferies*. Rather, the Colleton court emailed Plaintiff’s attorneys at 10:15 a.m. on May 23, 2019, as follows:

“Judge Buckner wants the Plaintiffs to designate one attorney for the trial of this matter. That attorney will be protected from other matters in other counties, the remaining attorneys are not protected from other hearings in other counties.”

*Exhibit C to Affidavit of Jefferies*

The result of the two judges each insisting that the case in their county go forward at the same time is that *neither* Plaintiff could have her case tried by her chosen attorneys – the trial team of Poulin, Willey, and Jefferies. It is as if each client had hired Crosby, Stills, and Nash to play her wedding, but the trial Judges decreed that the band had to split up – two would play one wedding, and the third would play the other.

However, unlike having the wedding band of one’s choosing, having the *attorneys* of one’s choosing is substantial right. EnerSys Delaware, Inc. v. Hopkins, 401 S.C. 615, 618, 738 S.E.2d 478, 479–80 (2013); Hagood v. Sommerville, 362 S.C. 191, 194, 607 S.E.2d at 707, 708 (2005). An order that affects the substantial right of a party to have an attorney of her choosing is appealable pursuant to S.C. Code Ann. § 14–3–330(2). EnerSys Delaware, 401 S.C. at 618, 738 S.E.2d at 479–80 (“In *Hagood*, we considered as an issue of first impression whether an order granting a motion to disqualify counsel in a civil trial was immediately appealable. We held

that it is, finding *such an order affected the substantial right of the party to have an attorney of one's choosing and was therefore appealable* pursuant to section 14-3-330(2)”) (emphasis added). The EnerSys Delaware court went on to say:

“In concluding the right to retain counsel of one’s choosing is a substantial right for the purposes of appealability, [the Hagood Court] noted:

- (1) the importance of the party’s right to counsel of his choice in an adversarial system;
- (2) the importance of the attorney-client relationship, which demands a confidential, trusting relationship that often develops over time;
- (3) the unfairness in requiring a party to pay another attorney to become familiar with a case and repeat preparatory actions already completed by the preferred attorney; and
- (4) an appeal after final judgment would not adequately protect a party’s interests because it would be difficult or impossible for a litigant or an appellate court to ascertain whether prejudice resulted from the lack of a preferred attorney.”

EnerSys Delaware, Inc. v. Hopkins, 401 S.C. 615, 618, 738 S.E.2d 478, 479–80 (2013).

In the same vein, the Hagood court observed that an order, affecting the

“right to be represented by an attorney of ones choosing is one of those rare orders which, in effect, could determine the action and prevent a judgment from which an appeal might be taken, or could discontinue an action due to the potential impact on both the attorney-client relationship and the overall litigation and trial of the case. Moreover, the right to be represented by ones preferred attorney is closely related to the right to a particular mode of trial, a well-established substantial right.

Deprivation of the right to one’s preferred attorney would affect the attorney-client relationship, which is extremely important in our adversarial system. Furthermore, an appeal after final judgment and a new trial, if granted, would not adequately protect a party’s interests because it would be difficult or impossible for the affected party or the appellate court to ascertain by any objective standard whether prejudice resulted from the disqualification.”

Hagood, 362 S.C. at 197–98, 607 S.E.2d at 710.

Moreover, regarding the closely analogous situation of an order actually disqualifying a party’s preferred attorney, the Hagood court held that that not only is the order immediately appealable, it “*must be immediately appealed* or any later objection in a subsequent appeal will

be waived. Cf. Flagstar Corp., 341 S.C. at 72, 533 S.E.2d at 333 (party is required to immediately appeal if denied a mode of trial to which he is entitled as a matter of right, and failure to do so forever bars appellate review of the issue).” Hagood, 362 S.C. at 197–98, 607 S.E.2d at 710. The same applies here, because whether an attorney is actually disqualified (i.e. removed from the case) or constructively disqualified (e.g. prevented from appearing), the effect is the same – the client is deprived of her substantial right to choose her own counsel.

In light of our Supreme Court’s opinion in both EnerSys Delaware, Inc. and Hagood, not only is Appellant permitted to bring this appeal now, she is *required* to do so.

## **II. The Notice of Appeal was timely filed.**

The Notice of Appeal was filed with the Clerk of the Court of Appeals within ten days of service as required. There are two ways to file a document with the Court of Appeals. One way is by “[d]elivering the document to the clerk of the appellate court,” pursuant to Rule 262(a)(1). The other way is by “depositing the document in the U.S. mail, properly addressed to the clerk, with sufficient first class postage attached,” pursuant to Rule 262(a)(2).

The date of filing depends on the method of filing used. If the Notice is filed by delivering it to the clerk, then the date of filing is the date of delivery. Rule 262(a)(2). This makes sense – one hands the Notice to the clerk, the clerk clocks it, and the Notice is filed as of that moment. On the other hand, if the Notice is filed by depositing it in the U.S. mail, then the date of filing is “the date of mailing.” Rule 262(a)(2); see also Mose v. State, 420 S.C. 500, 510–11, 803 S.E.2d 718, 723 (2017) (observing that “our own Rule 262(a)(2), SCACR, provides that a document is “filed” the moment it is *sent* to that court.”) (emphasis added). Rule 262(a)(2) simply codifies the well-known “mailbox rule.”

Having thus established the rule, the issue resolves itself. Respondent concedes that the deadline for filing was June 3, 2019. And Respondent concedes that Appellant mailed the Notice on June 3, 2019 (as is shown on the Certificate of Service on file with this Court). As a result, under Rule 262(a), SCACR, the Notice was filed on June 3, 2019, in time to satisfy the deadline.

### **III. Respondents' Motion is Factually Unsupported.**

While denial of Respondent's motion is proper based solely on the grounds set forth above, Appellant would respectfully point out that there is a third basis for denial – that the motion is not supported by facts as required. Rule 2140©(3), SCACR.

Rule 240 ©(3) requires that when filing a motion where “the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions.” Rule 240©(3), SCACR.

Roughly half of Respondent's purported facts in support of its motion are not supported by any evidence. Instead, they are merely arguments of counsel. “It is axiomatic that arguments of counsel are not evidence.” State v. Manning, 418 S.C. 38, 47, 791 S.E.2d 148, 152 (2016) (Pleicones, C.J. dissenting). Critically, out of all of Respondents claims about what happened on May 23 – the day that Appellant served the Notice of Appeal – exactly *none* are supported by any evidence. For example:

#### **This statement is not supported by any evidence.**

The following day, May 23, 2019, immediately prior to the scheduled deposition of Respondent Walmart's Rule 30(b)(6) deposition, the parties conferred by telephone with Judge Nettles, during which time the parties informed the court that counsel for Appellant inquired as to whether Respondents would consent to dismissal of the action pursuant to Rule 40(j), SCRCR.

**This statement is not supported by any evidence.**

The court informed the parties that if Respondents did not consent to Rule 40(j) dismissal, the case would proceed to trial on May 28, 2019. Further, during the telephone conference, Respondents' counsel advised the Court and Appellant's counsel that Respondents were in the process of filing a motion for sanctions regarding the handling of certain evidence in the matter. Directly after the

**This statement is not supported by any evidence.**

a motion for sanctions regarding the handling of certain evidence in the matter. Directly after the conclusion of the telephone conference, Respondents' counsel conferred with their clients and informed Appellant's counsel that Respondents did not consent to Rule 40(j) dismissal.

**This statement is not supported by any evidence.**

Immediately thereafter, Appellant's counsel excused themselves and filed the instant Notice of Appeal of the trial court's May 13, 2019 Order (approximately thirty (30) minutes after the conclusion of the telephone conference with the trial court), returned to the conference room and handed Respondents' counsel a copy, and cancelled the scheduled Rule 30(b)(6) deposition.

### **CONCLUSION**

As described above, this appeal is proper, and the Notice of Appeal was timely filed. Accordingly, Respondent's Motion to Dismiss should be denied.

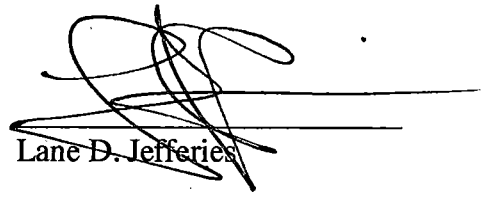
[Signature on following page]

June 17, 2019



Lane D. Jeffries, Esquire  
Kenneth T. David, Esquire  
Eric M. Poulin, Esquire  
Roy T. Willey, IV, Esquire  
Anastopoulo Law Firm, LLC  
32 Ann Street  
(843) 614-8888  
Attorneys for Appellant

Counsel of Record for Respondents:  
Nashiba Boyd, Esquire  
Lee Ellen Bagley, Esquire  
3700 Forest Drive, Suite 400  
Columbia, SC 29204  
(803) 790-8838



Lane D. Jefferies

Sworn to before me this 17<sup>th</sup> day of  
June, 2019

Pa'quenda Vanderhorst  
Notary Public for South Carolina  
My Commission Expires 12/28/2028

1000



# EXHIBIT A

**From:** Lane Jefferies lane@akimlawfirm.com  
**Subject:** 601 Conflict - April Jones v. Wal-Mart, et al.  
**Date:** May 22, 2019 at 2:59 PM  
**To:** Nettles, Michael G. mnettlesj@sccourts.org, Nettles, Michael G. Law Clerk (Willie McAbee) mnettleslc@sccourts.org  
**Cc:** Lee Ellen Bagley lebagley@gaffneylewis.com, Lee Ellen Bagley lebagley@glelawfirm.com, Matt Roy Eric teamrem@googlegroups.com, DPoulos@florenceco.org, Nashiba Boyd nboyd@gaffneylewis.com

---

Dear Judge Nettles:

A Rule 601 conflict has arisen which prevents this trial going forward next week. To avoid any additional delay beyond that, we intend to proceed with depositions tomorrow and Friday as currently planned.

Specifically, the conflict is this: We were advised yesterday that we are number one for trial in Colleton County in Katina Troutman v. South Carolina Dept. of Parks, Recreation, and Tourism. We immediately set a pre-trial conference call today as we were hoping that matter would resolve. Unfortunately, attempts to settle the Troutman matter today were unsuccessful, and the parties are so far apart that there is no reasonable hope for settlement before trial given the pre-trial conference that occurred today.

Both Troutman and Jones are major cases, and both involve the same Anastopoulo attorneys of record and trial team. The cases differ in that Troutman is a year older (2016 vs. 2017) and Troutman is ahead on the trial roster (#1 vs. #4). Therefore, we will need to be in Colleton County next week to try the Troutman matter.

As mentioned, we intend to proceed with depositions in this case (Jones) as planned tomorrow and Friday, and we are ready to try the case on the very next available roster. I am copying opposing counsel as well as the clerk of court so that everyone is informed, and so that the clerk may update the roster.

Best regards,  
Lane Jefferies

--

**Lane D. Jefferies**  
**Trial Lawyer**  
**Anastopoulo Law Firm, LLC**  
32 Ann Street | Charleston, SC 29403  
Tel: 843-614-8888 | Fax: 843-494-5536

[www.akimlawfirm.com](http://www.akimlawfirm.com) | [TeamJefferies@GoogleGroups.com](mailto:TeamJefferies@GoogleGroups.com)

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# EXHIBIT B

**From:** Nettles, Michael G. Law Clerk (Willie McAbee) MNettlesLC@sccourts.org  
**Subject:** Re: 601 Conflict - April Jones v. Wal-Mart, et al.  
**Date:** May 23, 2019 at 9:21 AM  
**To:** Lee Ellen Bagley lebagley@gaffneylewis.com  
**Cc:** TeamJefferies teamjefferies@googlegroups.com, Nettles, Michael G. mnettlesj@sccourts.org, Matt Roy Eric teamrem@googlegroups.com, O'Hara, Doris dpoulos@florenceco.org, Nashiba Boyd nboyd@gaffneylewis.com



Mr. Jeffries:

Judge Nettles has spoken to Judge Buckner and Judge Buckner has agreed to defer to the Florence case in this matter. Judge Buckner asks that Plaintiff's counsel contact him ASAP in regards to this matter. However, the April Jones v Wal-Mart will be subject to be calling to trial next week.

Sent from my iPhone

On May 22, 2019, at 7:35 PM, Lee Ellen Bagley <lebagley@gaffneylewis.com> wrote:

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Thank you. We can be available tomorrow afternoon at the judge's convenience.

On May 22, 2019, at 6:50 PM, Nettles, Michael G. Law Clerk (Willie McAbee) <MNettlesLC@sccourts.org> wrote:

Judge Nettles is also available tomorrow, more likely around noon and the afternoon.

Sent from my iPhone

On May 22, 2019, at 5:29 PM, Lee Ellen Bagley <lebagley@gaffneylewis.com<mailto:lebagley@gaffneylewis.com>> wrote:

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Dear Judge Nettles,

Defendants respectfully request an in-person, in-camera audience with the court on this matter, tomorrow or Friday if at all possible. I understand from the conference call on Sunday that you may be in Greenville. We are glad to be available at the court's convenience.

Thank you,

Lee Ellen Bagley

On May 22, 2019, at 2:59 PM, Lane Jefferies <lane@akimlawfirm.com<mailto:lane@akimlawfirm.com>> wrote:

P

Dear Judge Nettles:

A Rule 601 conflict has arisen which prevents this trial going forward next week. To avoid any additional delay beyond that, we intend to proceed with depositions tomorrow and Friday as currently planned.

Specifically, the conflict is this: We were advised yesterday that we are number one for trial in Colleton County in Katina Troutman v. South Carolina Dept. of Parks, Recreation, and Tourism. We immediately set a pre-trial conference call today as we were hoping that matter would resolve. Unfortunately, attempts to settle the Troutman matter today were unsuccessful, and the parties are so far apart that there is no reasonable hope for settlement before trial given the pre-trial conference that occurred today.

Both Troutman and Jones are major cases, and both involve the same Anastopoulo attorneys of record and trial team. The cases differ in that Troutman is a year older (2016 vs. 2017) and Troutman is ahead on the trial roster (#1 vs. #4). Therefore, we will need to be in Colleton County next week to try the Troutman matter.

As mentioned, we intend to proceed with depositions in this case (Jones) as planned tomorrow and Friday, and we are ready to try the case on the very next available roster. I am copying opposing counsel as well as the clerk of court so that everyone is informed, and so that the clerk may update the roster.

Best regards,  
Lane Jefferies

--

Lane D. Jefferies  
Trial Lawyer  
Anastopoulo Law Firm, LLC  
32 Ann Street | Charleston, SC 29403

027111 Street Charleston, SC 29403  
Tel: 843-614-8888 | Fax: 843-494-5536

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To post to this group, send email to [teamjefferies@googlegroups.com](mailto:teamjefferies@googlegroups.com).  
To view this discussion on the web visit <https://groups.google.com/d/msgid/teamjefferies/7A57FD06-3C03-49FA-9AC1-5F38E4FA3D0F%40sccourts.org>.  
For more options, visit <https://groups.google.com/d/optout>.

# EXHIBIT C

**From:** Buckner, Perry M. Law Clerk (David A. Nasrollahi) PBucknerLC@sccourts.org  
**Subject:** RE: Katina Troutman VS South Carolina Department Of Parks Recreation & Tourism 2016CP1501594  
**Date:** May 23, 2019 at 10:15 AM  
**To:** Andrea Aikman aaikman@barnwell-whaley.com, Randell Stoney rstoney@barnwell-whaley.com, Eric Poulin eric@akimlawfirm.com  
**Cc:** kenneth@akimlawfirm.com, teamjefferies@googlegroups.com, cjuhas@wernlawyers.com, Lindsey Perkins lperkins@barnwell-whaley.com, Nettles, Mylinda mnettles@hamptoncountysc.org

---

Good Morning,

Judge Buckner wants the Plaintiffs to designate one attorney for the trial of this matter. That attorney will be protected from other matters in other counties, the remaining attorneys are not protected from other hearings in other counties. I have cc'd Judge Nettle's law clerk so that everyone is on the same page. Please do not hesitate to contact me if there are any questions, concerns, or comments.

Please let me know who is designated as the Plaintiff's attorney for the trial of this case.

Thank you for your time,

David A. Nasrollahi

---

**From:** Buckner, Perry M. Law Clerk (David A. Nasrollahi)  
**Sent:** Tuesday, May 21, 2019 4:31 PM  
**To:** 'Andrea Aikman' <aaikman@barnwell-whaley.com>; Randell Stoney <rstoney@barnwell-whaley.com>; Eric Poulin <eric@akimlawfirm.com>  
**Cc:** kenneth@akimlawfirm.com; teamjefferies@googlegroups.com; cjuhas@wernlawyers.com; Lindsey Perkins <lperkins@barnwell-whaley.com>  
**Subject:** RE: Katina Troutman VS South Carolina Department Of Parks Recreation & Tourism 2016CP1501594

Hello,

The pre-trial packet should consist of:

- A) List of witnesses (including hometown and occupation);
- B) Any pretrial motions;
- C) Any proposed Jury Voir Dire;
- D) Estimation as to the length of this matter.

All correspondence to the Court should be cc'd with opposing counsel. Please review opposing counsel's pre-trial packets and let me know if you object or consent to each document.

I hope this answers your question,

David A. Nasrollahi

---

**From:** Andrea Aikman [mailto:aaikman@barnwell-whaley.com]  
**Sent:** Tuesday, May 21, 2019 4:27 PM  
**To:** Randell Stoney <rstoney@barnwell-whaley.com>; Buckner, Perry M. Law Clerk (David A. Nasrollahi) <PBucknerLC@sccourts.org>; Eric Poulin <eric@akimlawfirm.com>

(David A. Nasrollahi) <PBucknerLC@sccourts.org>, Eric Poulin <eric@akimlawfirm.com>  
**Cc:** kenneth@akimlawfirm.com; teamjefferies@googlegroups.com;  
cjuhas@wernlawyers.com; Lindsey Perkins <lperkins@barnwell-whaley.com>  
**Subject:** RE: Katina Troutman VS South Carolina Department Of Parks Recreation &  
Tourism 2016CP1501594

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Mr. Nasrollahi,

Could you clarify what is to be included in the pre-trial packets to be exchanged between Plaintiff and Defendant? Thank you.

**ANDREA AIKMAN, PARALEGAL  
BARNWELL WHALEY PATTERSON & HELMS, LLC**



**From:** Randell Stoney <rstoney@barnwell-whaley.com>  
**Sent:** Tuesday, May 21, 2019 3:09 PM  
**To:** Buckner, Perry M. Law Clerk (David A. Nasrollahi) <PBucknerLC@sccourts.org>; Eric Poulin <eric@akimlawfirm.com>  
**Cc:** kenneth@akimlawfirm.com; teamjefferies@googlegroups.com;  
cjuhas@wernlawyers.com; Lindsey Perkins <lperkins@barnwell-whaley.com>; Andrea Aikman <aaikman@barnwell-whaley.com>  
**Subject:** RE: Katina Troutman VS South Carolina Department Of Parks Recreation & Tourism 2016CP1501594

thank you...rcs

**From:** Buckner, Perry M. Law Clerk (David A. Nasrollahi) <PBucknerLC@sccourts.org>  
**Sent:** Tuesday, May 21, 2019 1:36 PM  
**To:** Eric Poulin <eric@akimlawfirm.com>  
**Cc:** kenneth@akimlawfirm.com; teamjefferies@googlegroups.com;  
cjuhas@wernlawyers.com; Randell Stoney <rstoney@barnwell-whaley.com>  
**Subject:** RE: Katina Troutman VS South Carolina Department Of Parks Recreation & Tourism 2016CP1501594

Good Morning,

This matter is set as number one on the roster. Please send me the following by 5:00 p.m. Thursday, May 21, 2019.

- A) List of witnesses (including hometown and occupation);

- B) Any pretrial motions;
- C) Any proposed Jury Vior Dire;
- D) Estimation as to the length of this matter.

Additionally, please review opposing counsel's pre-trial packets and let me know if you object or consent.

Thank you all in advance for your help,

David A. Nasrollahi

**From:** Eric Poulin [<mailto:eric@akimlawfirm.com>]  
**Sent:** Tuesday, May 21, 2019 9:33 AM  
**To:** Buckner, Perry M. Law Clerk (David A. Nasrollahi) <[PBucknerLC@sccourts.org](mailto:PBucknerLC@sccourts.org)>  
**Cc:** [kenneth@akimlawfirm.com](mailto:kenneth@akimlawfirm.com); [teamjefferies@googlegroups.com](mailto:teamjefferies@googlegroups.com);  
[cjuhas@wernlawyers.com](mailto:cjuhas@wernlawyers.com); [rstone@barnwell-whaley.com](mailto:rstone@barnwell-whaley.com)  
**Subject:** Re: Katina Troutman VS South Carolina Department Of Parks Recreation & Tourism 2016CP1501594

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David,

Sorry for the delayed response. I believe this case is ready to go. However, we have another case on the 5/28 roster in Florence that Judge Nettles is pushing us hard to try. Given the substantial damages in both cases, I am hoping not to have to split up our trial team and resources to try both at the same time. That would be easy if either was a simple MVA case, but neither is. In any event, this case is older than the Florence case so if Judge Buckner needs it to go, we will make it happen.

Thanks.

On Mon, May 20, 2019 at 8:27 AM Buckner, Perry M. Law Clerk (David A. Nasrollahi) <[PBucknerLC@sccourts.org](mailto:PBucknerLC@sccourts.org)> wrote:

Good Morning,

This matter is set for trial during the week of May 28, 2019 in Colleton County. Please let me know the status of this case at your earliest convenience.

Thank you,

David A. Nasrollahi  
Law Clerk to Judge P. M. Buckner  
Post Office Drawer 470  
101 Hampton Street

Walterboro, S.C. 29488

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Eric M. Poulin, Esq.  
Director of Litigation

**Anastopoulos Law Firm LLC**

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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

The Honorable Michael Nettles, Circuit Court Judge

**RECEIVED**

JUN 18 2019

SC Court of Appeals

Case No. 2017-CP-21-1375

April Jones.....Appellant

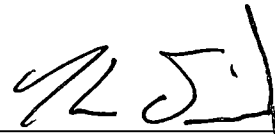
v.

Tim Ringer, Individually and as  
employee/agent of WAL-MART  
STORES, INC. d/b/a WAL-MART  
STORE # 630; WAL-MART STORES,  
INC.; and WAL-MART STORES  
EAST, L.P.....

.....Respondents

PROOF OF SERVICE

I certify that I have served the Return to Respondents' Motion to Dismiss on Respondents by depositing a copy of it in the United States Mail, postage prepaid, on June 17, 2019, addressed to Respondents' attorneys of record, Nashiba Boyd and Lee Ellen Bagley, 3700 Forest Drive, Suite 400, Columbia, SC 29204.



Kenneth T. David, Esquire  
Anastopoulo Law Firm, LLC  
32 Ann Street  
(843) 614-8888  
Attorney for Appellant

June 17, 2019

AFFIDAVIT OF LANE D. JEFFERIES

Personally appeared before me who, being duly sworn states and deposes as follows:

1. My name is Lane D. Jefferies, and I am an attorney with the Anastopoulo Law Firm.
2. I am an attorney of record in both Katina Troutman v. South Carolina Department of Parks Recreation & Tourism (Case No.: 2016-CP-15-01594) and April Jones v. Tim Ringer, et al. (Case No.: 2017-CP-21-01375).
3. Eric M. Poulin and Roy T. Willey, IV are also attorneys of record, with others, in both Troutman v. South Carolina Department of Parks Recreation & Tourism (Case No.: 2016-CP-15-01594) and April Jones v. Tim Ringer, et al. (Case No.: 2017-CP-21-01375).
4. On May 22, 2019, Appellant's attorneys sent the attached email to the Florence County trial court, advising the court of a Rule 601 conflict with respect to April Jones v. Wal-Mart, et al. (Case No.: 2017-CP-21-01375). Exhibit A.
5. At the time of the May 22, 2019 email referenced above, the Colleton County case of Troutman v. South Carolina Department of Parks Recreation & Tourism (Case No.: 2016-CP-15-01593), was scheduled for trial at the same time as, and carried a higher roster priority than, the Florence county case of April Jones v. Tim Ringer, et al. (Case No.: 2017-CP-21-01375) case (#1 versus #4).
6. The Colleton County case of Troutman v. South Carolina Department of Parks Recreation & Tourism (Case No.: 2016-CP-15-01594) was filed in 2016, whereas April Jones v. Tim Ringer, et al. (Case No.: 2017-CP-21-01375) was filed in 2017.
7. Appellant's attorneys suggested that the Colleton case being older and higher on the roster go forward, with the Florence case to follow on the next term of court. Exhibit A.
8. On May 23, 2019, Appellants counsel received the attached email from the Florence county court. Exhibit B.
9. On May 23, 2019, Appellants counsel received the attached email from the Colleton county court, which states, in part, "Judge Buckner wants the Plaintiffs to designate one attorney for the trial of this matter. That attorney will be protected from other matters in other counties, the remaining attorneys are not protected from other hearings in other counties.". Exhibit C. This email made it clear to Appellant's counsel Judge Buckner did not defer to the Florence case and that the effect of Judge Nettles May 13, 2019 Order would be disqualification of at least one trial attorney from the Florence county case.

FURTHER AFFIANT SAYETH NAUGHT.

[Signature on following page]

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JUN 18 2019

SC Court of Appeals

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FACSIMILE: (843) 494-5536

REPLY TO ANN STREET OFFICE  
KENNETH@AKIMLAWFIRM.COM

# ANASTOPOULO

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L. CRAYTON WILLIAMS (SC)

\*OF COUNSEL

June 17, 2019

**Sent Via U.S. Mail**

Honorable Jenny Abbott Kitchings  
Clerk, SC Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RE: *April Jones v. Wal-Mart Stores, Inc., et al*  
Case No.: 2017-CP-21-1375

Dear Ms. Kitchings:

Enclosed for filing with the Court of Appeals is the original of Appellant's Return to Respondents' Motion to Dismiss as well as six (6) copies of same.

If you should have any questions, please do not hesitate to contact us.

Sincerely,



Kenneth T. David, Esq.

Enclosures as stated

Cc: Lee Ellen Bagley (Via U.S. Mail and Email)  
Nashiba Boyd (Via U.S. Mail and Email)

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JUN 18 2019

SC Court of Appeals

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Charleston, SC 29403

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