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February 3, 2020

**RECEIVED**

FEB 05 2020

SC Court of Appeals

The Honorable Jenny Abbott 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:

Enclosed are the original and six copies of the Motion to Dismiss for Failure to Timely File and Serve the Record on Appeal in the above referenced case. A Proof of Service is also included in this packet.

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  
Attorney for Respondent South Carolina  
Department of Employment and Workforce

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

**RECEIVED**

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

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FEB 05 2020

Appellate Case No. 2018-001740

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**SC Court of Appeals**

Clara L. Brockington, Appellant,

v.

South Carolina Department of Employment and  
Workforce, Respondent.

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**MOTION TO DISMISS FOR FAILURE TO TIMELY  
FILE AND SERVE THE RECORD ON APPEAL**

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Respondent South Carolina Department of Employment and Workforce (the Department) submits this motion to dismiss Appellant Clara L. Brockington's appeal due to her continued failure to timely file and serve the record on appeal in accordance with Rule 210 of the South Carolina Appellate Court Rules, as well as this Court's letters dated August 6, September 16, and September 27, 2019, and this Court's order issued December 20, 2019.

The Department filed a motion to dismiss on October 14, 2019, detailing the egregious nature of Appellant's repeated failure to comply with Court rules and deadlines up to that date. Rather than recite that tortured history again, the Department hereby incorporates its October 14, 2019 motion to dismiss. The Court issued an order on December 20, 2019 denying the Department's motion to dismiss. The Court, however, advised Appellant it would dismiss her

appeal if she did not correct the many deficiencies contained in her October 7, 2019 filing by January 21, 2020. Among other deficiencies, Appellant's filing once again did not contain any of the matter designated by the Department, as required by Rule 210(c), SCACR, or a proper title page as required by Rule 210(d), SCACR.

On January 21, 2020, Appellant filed a document purporting to be the record on appeal. However, this filing contains only the following: (1) a "Motion to Serve the Record of Appeal, as well as continue the case in the Court of Appeals;" and (2) an "Amended Brief of Appellant" which contained Appellant's Designation of Matter previously submitted on April 30, September 26, and October 7, 2019.<sup>1</sup> For the third time, Appellant failed file a proper record on appeal that contained the matter designated by the Department, and failed to include a proper title page.

While the Department recognizes that Appellant is proceeding *pro se*, a *pro se* litigant is responsible "for complying with substantive and procedural requirements of the law." *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003); *State v. Policano*, 402 S.C. 547, 558, 741 S.E.2d 774, 779-80 (Ct. App. 2013). Rule 208(a)(4), SCACR, provides that an appellant's appeal shall be dismissed if an appellant fails to file and serve her brief within the time prescribed. Further, pursuant to Rule 260(a), SCACR, this Court "shall" dismiss an appeal whenever an appellant fails to comply with the requirements of the Court's rules.

Our courts have consistently held that deadlines have meaning and are designed to promote the orderly and efficient disposition of cases. *See TNS Mills, Inc. v. S.C. Dep't of Revenue*, 331 S.C. 611, 620, 503 S.E.2d 471, 476 (1998) ("There would be no purpose in establishing deadlines

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<sup>1</sup> Notably, the Court's December 20, 2019 order denied Appellant's request to file her amended initial brief and specifically struck the amended initial brief she submitted on September 26, 2019 from the record. It appears that Appellant is once again attempting to file the same amended initial brief the Court has already struck from the record.

if failure to meet them was of no consequence.” (brackets removed)); *Henning v. Kaye*, 307 S.C. 436, 438, 415 S.E.2d 794, 794-95 (1992) (“Counsel is advised that the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.”). At some point, a party must bear the consequences of their undue delay and failure to comply with rules. Simply put, “there is a limit beyond which the court should allow a litigant to consume the time of the court and to prolong unnecessarily time, effort, and costs to defending parties.” *Georgeanne Apparel, Inc. v. Todd*, 303 S.C. 87, 92, 399 S.E.2d 16, 19 (Ct. App. 1990).

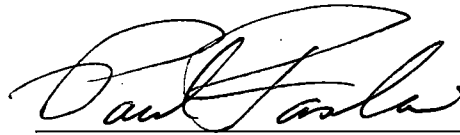
This Court has generously given Appellant ample opportunity to fully and timely comply with Court rules and deadlines. At every juncture, this Court has granted Appellant multiple extensions and multiple opportunities to correct deficiencies. Nonetheless, Appellant continues to refuse to comply with basic rules and deadlines. As of the date of this motion, it is now more than five months after the record on appeal was initially due. In that time, Appellant has filed three records that fail to comply with Court rules, despite explicit and clear instructions from the Court. Accordingly, pursuant to Rule 260(a), SCACR, this Court should dismiss Appellant’s appeal due to her repeated failure to comply with the requirements of Rule 210, SCACR. Moreover, this Court should dismiss Appellant’s appeal because her continued refusal to comply with rules and timelines is unduly burdensome and places an unreasonable demand on the Department’s and this Court’s limited resources.

## **II. Conclusion**

Appellant has for the third time failed to timely file and serve the record on appeal in accordance with Rule 210, SCACR, despite the best and reasonable efforts of the Court to afford her additional time and instructions. This failure is but the latest in a long and unbroken pattern of

failures to adhere to Court rules and deadlines. Accordingly, the Department respectfully requests that this Court dismiss Appellant's appeal pursuant to Rule 260(a) due to her failure to comply with Rule 210. The Department further respectfully requests that all deadlines be held in abeyance pending the Court's resolution of this motion.

Respectfully Submitted,



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Paul Famolari (SC Bar # 076723)  
SC Department of Employment and Workforce  
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Legal@dew.sc.gov

February 4, 2020

**Attorney for Respondent SC Department of  
Employment and Workforce**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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

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FEB 05 2020

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

SC Court of Appeals

Appellate Case No. 2018-001740

Clara L. Brockington,

Appellant,

v.

South Carolina Department of Employment and  
Workforce,

Respondent.

PROOF OF SERVICE

I certify that I have served the Motion to Dismiss for Failure to Timely File and Serve the Record on Appeal on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on February 4, 2020, addressed to the parties at their addresses of record:

Clara L. Brockington  
PO Box 3232  
Florence SC 29502

February 4, 2020



Kristi Chesley  
South Carolina Department of Employment and  
Workforce  
Post Office Box 8597  
Columbia, South Carolina 29202  
(803) 737-0395

**SOUTH CAROLINA**

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

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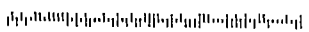
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