

August 3, 2020

RECEIVED

AUG 03 2020

SC Court of Appeals

Re: SCDEW v. Robert Ardis

Appellate Case No. 2020-000

Dear Clerk of the S.C. Court of Appeals:

I am writing concerning your July 15, 2020, letter addressed to me, a copy of which is attached. I do offer my apologies for a hand-written response, but I am without ink for my printer, and I am without the unemployment benefits that I am legally entitled to.

Regarding the first issue addressed in your attached July 15, 2020, letter, you will please find the "Order Granting Respondent's Motion to Dismiss." It was entered by Administrative Law Judge H.W. Funderburk, Jr. I am a self-represented pro se litigant and "A document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers. Please see *Krickson v. Pardus*, 551 U.S. 89, 127 S. Ct. 2197 U.S. (2007).

I am respectfully requesting that this Honorable Court fast-track and expedite these matters. It is currently August 3, 2020 and I have been

to wait for the unemployment benefits to which I am legally entitled, since December of 2019. My family is desperately hurting and I desperately need this Court's expedited Relief.

Judge Funderburk, of the Administrative Law Court, ignored the law in these matters, and treated me in a discriminatory manner because I am a pro se self-represented litigant. Instead Judge Funderburk showed deference to the 28 year old attorney of SC DEW, MR. Steven Jordan, simply because he is an attorney.

What matters in these matters are several fold. First there are the written South Carolina laws and the written South Carolina Regulations. In addition, other controlling legal authorities in these matters concern Constitutional Provisions of law, documented South Carolina Decisional Law, and finally the controlling Executive Orders of South Carolina Governor, Henry McMaster. If it would please the Court, what I would like to do is put such

Matters in proper context. And, in direct opposition to the erroneous and legally insufficient "Order" of Judge Funderburk, I am respectfully requesting this Honorable Court Carefully reads and reviews the legal arguments I set forth, for Judge Funderburk, in the following which are attached:

- 1) My Emergency Motion to Vacate Order of Dismissal, and to Schedule Emergency Contested Hearing, and for other Relief.

I filed this with the Court and opposing parties on May 26, 2020

The legal arguments contained in the aforementioned Emergency Motion, completely, and without reservation, eviscerate the "Order" entered by Judge Funderburk.

What absolutely gives absolute legal efficacy to the aforementioned Emergency Motion consists of its Appendix A, which is Executive Order 2020-10 entered by His Excellency South Carolina Governor, Henry McMaster on March 17, 2020.

It is respectfully submitted to this Court that my Emergency Motion to Vacate Order

of Dismissal, and to Schedule Emergency Contested Hearing, and for Other Relief, along with Executive Order 2020-10, of Governor McMaster, entered on March 17, 2020, completely renders Judge Funderburk's Dismissal "Order" as legally moot.

Under the requested Emergency /Expedited attention I have requested in these matters I would respectfully request that this Honorable Court issues an order which VACATES Judge Funderburk's Dismissal "Order" and subsequently Orders SC DEW to immediately RELEASE ALL UNEMPLOYMENT BENEFITS which are most certainly owed to me.

There are many more documents /pleadings that I filed in an attempt to demonstrate to Judge Funderburk the errors of his legal reasoning. I am not including every pleading I filed before the Administrative Law Court, but I am

including a Selected Bibliography of the most important and relevant of such pleadings:

- 2) I am respectfully requesting that this Honorable Court reads and reviews my Second Amended Emergency Motion for Reconsideration and to Schedule Emergency Contested Hearing and for Other Relief which I filed with the Administrative Law Court on June 15, 2020.

I would respectfully implore this Court to carefully and diligently review the controlling legal authorities cited in the aforementioned Emergency Motion. Upon such a review I am confident this Honorable Court will feel compelled to VACATE Judge Funderburk's Dismissal "Order"

- 3) Concurrently, I am requesting this Court's careful, diligent review of my Emergency Motion for Summary Judgment and Other Relief, which was dutifully filed with the Administrative Law Court on April 29, 2020

The legal arguments contained within

The aforementioned Summary Judgment Motions are not only legally sound, but it was egregious, harmful error on the part of the ALC to NOT Grant the requested Summary Judgment. Additionally, the attached Appendixes to the Summary Judgment Motion make it an extremely relevant and timely Summary Judgment and the controlling legal authorities, only to be, again, ignored by Judge Funderburk.

4) And, while there are many, many additional legally sufficient pleadings I could include in these matters, I will conclude with my Memorandum of Law and Emergency Motion for leave to Present Additional Evidence.

Even though, based on the clear legal arguments cited in the prior, legally sufficient legal pleadings, I gave Judge Funderburk an "out" so to speak in this Memo of Law and Emergency Motion filed with the ALC on April 29, 2020:

Page 6

Regarding the other matters addressed in this Court's July 15, 2020, letter which is attached, I am not able to pay the filing fee. I have been and am unemployed through no fault of my own, coupled with the Covid 19 situation. I do not have the funds available to pay the \$ 250 filing fee and am requesting indigent status as I had on the ALJ level.

I am writing this Statement regarding Service on the opposing party and the ALJ. At the time I filed the Notice of Appeal with this Court, I dutifully provided a copy on the opposing party and on the Administrative Law Court. It is respectfully submitted this Statement should suffice for Form 7, Appendix C part II of SCACR and Rule 203(e) SCACR.

To the Court, I have been illegally AND unlawfully denied my unemployment benefits contrary to multiple, controlling ~~legal~~ legal authorities.

All I am requesting is that this Honorable Court does not require me to submit to legal technicalities, when ~~NEITHER~~ SC DEW nor the Administrative Law Court have followed the law regarding my unemployment claim. I hereby ATTEST that everything in my attached legal pleadings is the absolute, complete truth. It is respectfully submitted that I am entitled to due Process of Law and the Right to be Heard. This has never, ever happened from the time that I originally filed for unemployment benefits in November of 2019 through the filing with this Court on August 3, 2020. Enough is enough! I am begging this Court to Expedite these matters and Order SC DEW to immediately Release my unemployment



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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July 15, 2020

Robert M. Ardis
105 North Guignard Drive
Sumter SC 29150

Re: SCDEW v. Robert Ardis
Appellate Case No. 2020-000981

Dear Mr. Ardis:

Upon reviewing your notice of appeal, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- The notice of appeal is not accompanied by the order(s) and/or judgment(s) challenged on appeal.
- The required filing fee has not been submitted. The correct filing fee is \$250.00
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.
- A proof of service showing that a copy has been served on the Administrative Law Court has not been provided as required by Rule 203(e), SCACR.

SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert Michael Ardis

Appellant/Claimant,

DOCKET NO. 20-ALJ-22-0070-AP

Lower Tribunal: SC Dept. of Emp. &
Workforce

vs.

South Carolina Department of Employment and
Workforce and Sykes Enterprises, Inc.

Appellees/Respondents,
_____ /

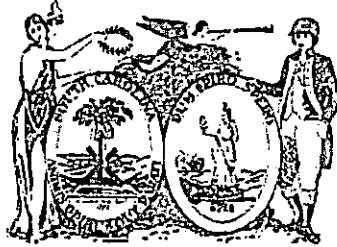
**EMERGENCY MOTION TO VACATE ORDER OF DISMISSAL, AND TO
SCHEDULE EMERGENCY CONTESTED HEARING, AND FOR OTHER
RELIEF**

COMES NOW, the Appellant/Claimant on his own behalf¹ and files this
Emergency Motion to Vacate Order of Dismissal and to Schedule Emergency

¹ See *Erickson v. Pardus* 551 U.S. 89, 127 S. Ct. 2197 U.S., 2007. A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers. Pleadings in this case are being filed by the Petitioner *in propria persona*, wherein pleadings are to be considered without regard to technicalities. *Propria* pleadings are not to be held to the same high standards of perfection as practicing lawyers. See *Haines v. Kerner* 92 S. Ct. 594, also See *Powell v. Lennon*, 914 F2d 1459 (11th Cir 1990).

APPENDIX A

State of South Carolina
Executive Department



FILED

MAR 17 2020

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO. 2020-10

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that the 2019 Novel Coronavirus ("COVID-19") poses an actual or imminent public health emergency for the State of South Carolina; and

WHEREAS, in addition to declaring a State of Emergency, Executive Order No. 2020-08 placed certain units or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and directed, *inter alia*, the closure of public schools in those counties where the South Carolina Department of Health and Environmental Control ("DHEC"), in consultation with the Centers for Disease Control and Prevention ("CDC"), identified instances of COVID-19 transmission via "community spread"; and

WHEREAS, on March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency, which began on March 1, 2020; and

WHEREAS, on March 15, 2020, the undersigned issued Executive Order No. 2020-09, directing, *inter alia*, the closure of all public schools in the State of South Carolina for students and non-essential employees beginning Monday, March 16, 2020, and through Tuesday, March 31, 2020, and the postponement or rescheduling of any election scheduled to be held in this State on or before May 1, 2020, as well as urging that indoor and outdoor public gatherings be cancelled, postponed, or rescheduled, to the extent possible, or limited so as not to exceed one hundred (100) people; and

WHEREAS, on March 16, 2020, based on updated information and recommendations from the CDC, the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, "The President's Coronavirus Guidelines for America: 15 Days to Slow the Spread of Coronavirus (COVID-19)"—to help protect Americans during the global COVID-19 outbreak; and

SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert Michael Ardis

Appellant/Claimant,

DOCKET NO. 20-ALJ-22-0070-AP

Lower Tribunal: SC Dept. of Emp. &
Workforce

vs.

South Carolina Department of Employment and
Workforce and Sykes Enterprises, Inc.

Appellees/Respondents,
_____ /

**SECOND AMENDED EMERGENCY MOTION FOR RECONSIDERATION,
AND TO SCHEDULE EMERGENCY CONTESTED HEARING, AND FOR
OTHER RELIEF**

COMES NOW, the Appellant/Claimant on his own behalf¹ and files this his
Second Amended Emergency Motion for Reconsideration and to Schedule

¹ See *Erickson v. Pardus* 551 U.S. 89, 127 S. Ct. 2197 U.S., 2007. A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers. Pleadings in this case are being filed by the Petitioner *in propria persona*, wherein pleadings are to be considered without regard to technicalities. *Propria* pleadings are not to be held to the same high standards of perfection as practicing lawyers. See *Haines v. Kerner* 92 S. Ct. 594, also See *Powell v. Lennon*, 914 F2d 1459 (11th Cir 1990).

Emergency Contested Hearing, and for Other Relief. In support thereof the Appellant/Claimant would show the Court the following:

1. Simultaneously with the instant **Emergency Motion** the Appellant/Claimant is filing his Emergency Motion to Vacate Order of Dismissal and to Schedule Emergency Contested Hearing, and for Other Relief. Many of the arguments found in the Emergency Motion to Vacate will dovetail with the arguments in the instant Emergency Motion in that said arguments are similar. However, the undersigned is Amending and adding to the instant **Emergency Motion** for the review and consideration of the Court.

2. Henry McMaster currently serves as His Excellency, the 117th and current Governor of South Carolina. Article IV, Executive Department, Section I of the South Carolina Constitution reads as follows:

SECTION 1. Chief Magistrate.

The **supreme executive authority** of this State shall be vested in a Chief Magistrate, who shall be styled "The Governor of the State of South Carolina." (1972 (57) 3171; 1973 (58) 48.) (**emphasis added**)

3. According to the **South Carolina Constitution**, what follows are some of the more important duties and responsibilities of His Excellency, the Governor of South Carolina:

According to the South Carolina Constitution, the Governor:

- Exercises "**supreme executive authority.**" (Article IV, South Carolina Constitution) **(emphasis added)**
- Appoints directors to 14 cabinet agencies
- Serves as the commander-in-chief of the South Carolina National Guard.
- Serves as the commander-in-chief of the South Carolina State Guard, which is an auxiliary of the National Guard organized for in-state homeland defense.
- Commutes death sentences to life imprisonment.
- Calls the General Assembly to an extra session in "extraordinary circumstances."
- Adjourns the General Assembly as he shall think proper.
- Exercises veto and a Line-item veto power on bills.
- Declares a **state of emergency** and oversees relief in the event of a disaster. **(emphasis added)**
- **Oversees all state departments. (emphasis added)**
- Serves as the ex officio chair of the board of trustees of all state universities.
- Submits a budget proposal to the General Assembly every January.
- Delivers a state of the state address, "from time to time," to the General Assembly; this is usually done in January.
- Appoints United States senators in cases of vacancy to serve until the next election.
- Appoints (or suspends) county sheriffs in cases of vacancy to serve until the next election.

4. On March 17, 2020,² Governor McMaster entered his **Executive Order 2020-10**,³ which is included with this **Emergency Motion as Appendix A**. Contained

² With the entry of **Executive Order 2020-10**, on **March 17, 2020**, all deadlines, timetables, etc., were officially "**suspended**" and "**waived**" as the same deadlines and timetables were/are applicable to the Administrative Law Court and the South Carolina Department of Employment and Workforce, both of which are subordinate to the Executive Supremacy of the Governor.

³ The Court cites to an Administrative Order of the Chief Administrative Law Judge in its Dismissal Order, however, being subordinate to the Office of the Governor, **Executive Order 2020-10**, supersedes and controls over said Administrative Order of the Administrative Law Court.

within **Executive Order 2020-10**, vested in him by the People of South Carolina, and the South Carolina Constitution, Governor McMaster wrote, in part, the following:

Section 3. I hereby authorize and direct any agency within the undersigned's Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or "suspend provisions of existing regulations prescribing procedures" for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency," in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law. (emphasis supplied)

5. The Appellant/Claimant can cite to a plethora of Decisional Law, wherein when the language of an **Executive Order**, is clear and unambiguous, as is the case here, that there is no need to resort to interpretation or to apply arbitrary constructs. Such citations should not be necessary in that this is a straightforward and simplistic matter. The following words and phrases are of particular importance in these matters:

***Waive or suspend provisions of existing regulations prescribing procedures
in any way prevent, hinder, or delay necessary action⁴***

⁴ Keeping the Appellant/Claimant and his 78 year old Mother from being evicted from their home; and keeping the electricity and other utilities turned on; and keeping food in the refrigerator and in the cabinets; and being able to pay for his 78 year old Mother's Stage 4 Bone Cancer Treatments, are, most definitely, "necessary action(s)", for this Citizen of South Carolina and his family.

6. The application of the rule of construction known as "*expressio unius est exclusio alterius*," meaning "*to express or include one thing implies the exclusion of another, or of the alternative*," found in the Supreme Court Case of Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 582 (2000) (quoting Black's Law Dictionary 602 (7th ed. 1999)), which also dealt with an Executive Order of the Governor, held that an Executive Order, of the Governor, is the Supreme Executive Authority and is beyond being questioned.

7. The following information was taken directly from the website of the South Carolina Administrative Law Court, which is found at: <https://scalc.net/>

The Administrative Law Court is an agency within the executive branch of state government. (emphasis supplied)

8. The Executive Order of the Governor of South Carolina, supersedes any Administrative Order, of any Agency, which is subordinate to the Chief Executive of the State of South Carolina.

9. This Court, the Administrative Law Court of South Carolina, is a **subordinate agency to the Executive Branch**, or to His Excellency, Governor McMaster.

10. Governor McMaster's **Executive Order 2020-10**, is **not** only applicable to this Court. Furthermore, pursuant to Governor McMaster's **Executive Order 2020-10**, the South Carolina Department of Employment and Workforce is also bound by the Executive Order of the Governor in that SC DEW **is a subordinate state agency**, to the authority of the Governor, as defined by **section 1-30-10 of the South Carolina Code of Laws**.

11. Both Executive Branch Agencies, the Administrative Law Court and the South Carolina Department of Employment and Workforce, have been **ORDERED** by the Governor, in **Executive Order 2020-10**, to:

Section 3. I hereby authorize **and direct any agency** within the undersigned's **Cabinet or any other department within the Executive Branch**, as defined by **section 1-30-10 of the South Carolina Code of Laws**, as amended, through its respective director or secretary, to **waive or "suspend provisions of existing regulations prescribing procedures"** for conduct of state business if strict compliance with the provisions thereof would **in any way** prevent, **hinder, or delay necessary action** in coping with the emergency," in accordance with **section 25-1-440 of the South Carolina Code of Laws** and **other applicable law**. (emphasis supplied)

12. Accordingly, due to mandatory Stay at Home Orders issued by the Governor, along with other legal restrictions put in place, the undersigned could not meet the “*technical*” guidelines of “*Service*” of the Notice of Appeal due to the Covid-19 State of Emergency. Said State of Emergency was Declared by both Governor McMaster, and President Trump. The Appellant/Claimant did provide said Notice of Appeal, to the Respondents via email, as they had been providing legal documents to him for months. And, for the Respondents to “*argue*” that they were not served is disingenuous, as well as insulting to common sense. Additional arguments on this matter is presented in greater detail below.

13. But those matters are irrelevant to the point at issue, which is Governor McMaster’s Executive Authority over both the Administrative Law Court and SC DEW, coupled with His Excellency’s issuance of **Executive Order 2020-10**, included as **Appendix A**. Such “*technical*” requirements like in-person or mailing of a Notice of Appeal, were “*waived*” and “*suspended*” as “*provisions of existing regulations prescribing procedures for conduct of state business*” because such “*technical*” requirements, most certainly were and are, directly adverse to the Appellant/Claimant because “*strict compliance with the provisions thereof would in any (every) way prevent, hinder, or delay necessary action*” as desperately needed by the Appellant/Claimant and his family.

14. Both the Administrative Law Court and the South Carolina Department of Employment and Workforce, were **ORDERED** by the Governor to “*Waive or suspend provisions of existing regulations prescribing procedures in any way prevent, hinder, or delay necessary action*” in Executive Order 2020-10.

15. However, it readily appears the only individual who has followed Governor McMaster’s **Executive Order 2020-10**, is Mr. Bruce Urban, the Assistant Executive Director of the South Carolina Department of Employment and Workforce. It was Mr. Urban, himself, who told the Appellant/Claimant, in front of several witnesses, that to effectuate the "Service" of an Appeal, with SC DEW, that all the undersigned was required to do was email those documents to his attention. Mr. Urban, obviously acting in Compliance with **Executive Order 2020-10**, even boastfully told the undersigned, “*you are talking to the right man*” when Mr. Urban, speaking as the Assistant Executive Director of SC DEW, directed the undersigned to email his Notice of Appeal, to him, Mr. Urban, directly.

16. It is respectfully submitted that Judge Funderburk must **VACATE** his recent Dismissal Order in accordance with the provisions of Governor McMaster's **Executive**

Order 2020-10. It is the undersigned's sincere hope that the letter, spirit, and intent of the Governor's Order will be honored by both State Agencies in these matters, and the mean-spirited "*legal gamesmanship*" will immediately cease. The Appellant/Claimant has been waiting on **Due Process of Law**, and his **Right to be heard**, since November of 2019. Enough is enough.

17. **Appendix A** is the Order of the Governor of this State. In accordance with the Order of the Governor, and the **VACATING** of this Court's recent Order, the undersigned resubmits his **Emergency Request for a Contested Hearing**, and his **Right to Due Process of Law**, and his **Right to be Heard**, and his **Right to call witnesses**. The Appellant/Claimant respectfully requests that the Court takes such actions on an **Expedited, Emergency Basis**.

18. In the alternative, and this is preferable, the undersigned would respectfully request this Honorable Court to put this farce to rest, once and for all, and **GRANT** his **Motion for Summary Judgment**, and **ORDER** the South Carolina Department of Employment and Workforce to immediately provide the Appellant/Claimant with the \$8,150 in unemployment compensation that he is legally entitled to, **without any further delay**.

CONFLICT IN ADMINISTRATIVE LAW COURT RULES

Due Process Required

19. The Appellant/Claimant moves the Court to Reconsider its Dismissal Order on several grounds as set forth above. The undersigned now moves for Reconsideration based upon **Due Process of Law** provisions found in both the United States and South Carolina Constitutions. The following passages have been excerpted from the ALC Rules:

I. GENERAL PROVISIONS

Authority and Applicability. The promulgation of these Rules is authorized by S.C. Code Ann. §1-23-650 (1976) (as amended). These Rules shall govern all proceedings before the Administrative Law Court, in which the right to a hearing (a) is provided by the Administrative Procedures Act; (b) is specifically required by other statutes or regulations; **or (c) is required by due process under the South Carolina or United States Constitutions.** As provided in S.C. Code Ann. § 1-23-650(C), these Rules apply exclusively in all proceedings before the Administrative Law Court. These Rules should be cited "SCALC Rule ____." (emphasis added)

2. Definitions.

E. Contested Case is defined in Section 1-23-505. It is a case for which a hearing is conducted pursuant to Article 3, Chapter 23 of Title 1, the South Carolina Administrative Procedures Act, and includes hearings conducted by the Administrative Law Court pursuant to Section 1-23-600(A), **hearings required by due process under the South Carolina or United States Constitutions, or as otherwise provided by law.** (emphasis added)

20. The Appellant/Claimant has never been heard and has never had his day in Court. Such actions by the Respondents are violations of multiple laws, regulations and Constitutional provisions. The United States Constitution specifically references

Due Process of Law in the 5th and 14th Amendments. And the **South Carolina Constitution Article I, § 22** was added to the 1895 Constitution in 1970 "as a safeguard for the protection of liberty and property of citizens." Final Report of the Committee to Make a Study of the South Carolina Constitution of 1895, p. 21 (1969).

Article I, § 22 provides, in part:

No person *shall be finally bound* by a judicial or quasijudicial decision of an administrative agency affecting private rights *except on due notice and an opportunity to be heard*; nor shall he be subject to the same person for both prosecution and adjudication; . . .(emphasis added)

21. The **South Carolina ALC Rule 1 and Rule 2(E)**, both specifically carve out exceptions and such exceptions are noted at the beginning of the ALC Rules. The fact that Due Process exceptions are “**required**” based upon both Rules dovetails with the specific, unambiguous Constitutional Requirements of **Article I, § 22** as set forth above.

22. There are so very many violations of laws, rules, regulations and Constitutional Provisions, in the instant case, that whether it is resolved by this Court, or another Court, SC DEW is going to be held to account. The present situation, in the instant case, unless this Court **GRANTS** Reconsideration, is a direct violation of **South Carolina Code of Regulations, R. 47-51**, which reads as follows:

S.C. Code of Regulations R. 47-51

C(3) Evidence will not be excluded solely because it may be hearsay. Hearsay, including information provided to the Department through telephone conversations and written statements, may be considered. However, findings of fact cannot be based exclusively on hearsay evidence unless that evidence is admissible under the South Carolina Rules of Evidence. (emphasis added)

23. The present situation in the instant case is a violation of Governor McMaster's **Executive Order 2020-10**; a violation of **Article I, § 22**, of the South Carolina **Constitution**; a violation of the **Due Process Requirements** of **ALC Rule 1** and **Rule 2(E)**; a violation of **S.C. Code of Regulations R. 47-51**; and other violations which are too numerous to list here.

24. Accordingly, notwithstanding the implications associated with Governor McMaster's **Executive Order 2020-10**, which most certainly controls, this Court is required to Reconsider its Dismissal Order based upon **ALC Rule 1** and **Rule 2(E)**, as set forth herein. The Court's Dismissal Order must be **VACATED** and a **Contested Hearing** must be scheduled or in the alternative, **Summary Judgment** must be **GRANTED** in favor of the Appellant/Claimant.

Service By Email

25. Governor McMaster's **Executive Order 2020-10**, both "*waived*" and "*suspended*" the time requirements set forth in the Dismissal Order of the Court, which warrants both **Reconsideration** and the **VACATING** of the Dismissal Order.

26. Even assuming, *arguendo*, that **Executive Order 2020-10** was not controlling (but it is), the Appellant/Claimant avers that he effectuated proper Service upon the Respondents. **ALC Rule 3(C)** reads as follows:

3. Time.

C. Service By Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, by e-mail, or upon a person designated by statute to accept service, five days shall be added to the prescribed period. (emphasis added)

27. **ALC Rule 3(C)** specifically cites to "*service of a notice or other paper*" then continues on to say that the "*notice or paper is served upon him by mail, by e-mail, or upon a person designated by statute to accept service. . .*" There is no ambiguity here, but rather it presents a conflict in the **ALC Rules**. **ALC Rule 3(C)** appears before the other referenced Rules in the Dismissal Order and since it appears first, deference must be shown to it.

28. This Court is designed to reach fair and just solutions. The Appellant/Claimant is simply reciting the text of **ALC Rule 3(C)**, and this Rule is clear and unambiguous. The present situation in the instant case is neither just, nor fair, nor in the interests of justice.

29. In the endnotes to the **ALC Rules**, the following is found:

2014 Revised Notes

In all cases involving pro se litigants or those without substantial knowledge and experience in administrative matters, the administrative law judge may make reasonable efforts to assure fairness.

30. Accordingly, notwithstanding the implications associated with Governor McMaster's **Executive Order 2020-10**, which most certainly controls, this Court is required to Reconsider its Dismissal Order based upon **ALC Rule 1** and **Rule 2(E)**, and **ALC Rule 3(C)** and the endnotes to the **ALC Rules**, as set forth herein. The Court's Dismissal Order must be **VACATED** and a **Contested Hearing** must be scheduled or in the alternative, **Summary Judgment** must be **GRANTED** in favor of the Appellant/Claimant.

Stay of the Proceedings

31. Governor McMaster's **Executive Order 2020-10**, both "*waived*" and "*suspended*" the time requirements set forth in the Dismissal Order of the Court, which warrants both the **Reconsideration** and the **VACATING** of the Dismissal Order.

32. Even assuming, *arguendo*, that **Executive Order 2020-10** was not controlling (but it is), the Appellant/Claimant avers that the Respondents effectuated a **Stay of the Proceedings** when they filed their Motion to Dismiss.

33. **ALC Rule 34(B)**, clearly stays the time limits for perfecting an Appeal when an opposing party files a Motion to Dismiss.

B. Effect of Motions upon Time Limits. Unless otherwise ordered by the presiding administrative law judge, the filing of a motion or petition shall not stay the time limits imposed by these Rules. A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided. The time limits shall resume from the date of an order deciding the motion. (emphasis added)

34. Merriam-Webster defines a stay as "*a stopping or suspension of procedure or execution by judicial or executive order.*" Merriam-Webster further defines

perfecting as “*being entirely without fault or defect.*” These definitions are of crucial importance when juxtaposed with **ALC Rule 34(B)**.

35. The Appellant/Claimant maintains he effectuated proper service upon the Respondents based upon all the positions set forth above. Even assuming, *arguendo*, that the undersigned did not effectuate proper service (**but he did**), the reading of **ALC Rule 34(B)**, and the specific provisions it contains, were invoked when the Respondents filed their Motion to Dismiss.

36. Even though the undersigned effectuated service upon the Respondents with his emailed **Notice of Appeal** on March 16, 2020, (see **ALC Rule 1** and **Rule 2(E)**, and **ALC Rule 3(C)** and the endnotes to the **ALC Rules**), the Appellant/Claimant completed a second service directly upon the Assistant Executive Director of SC DEW, Mr. Bruce Urban, on April 16, 2020. As the Appellant/Claimant has informed this Court, through Verified Pleadings, Mr. Urban is the second in charge of SC DEW. Mr. Urban informed the undersigned, in front of several witnesses, that all the undersigned had to do was email him (Mr. Urban) copies of the Appeal documents in order to effectuate service upon SC DEW. If a citizen cannot trust the Assistant Executive Director, of a State level cabinet agency, then who can a citizen trust?

37. The Appellant/Claimant believes the precise wording of **ALC Rule 34(B)**, was made so specific so as to preclude the technical dismissal of an Appeal, if such a dismissal would not serve the interests of justice.

38. Once the Respondents filed their Motion to Dismiss the instant case, the Respondents thereby invoked all the provisions of **ALC Rule 34(B)**. And, in doing so, the Respondents gave the Appellant/Claimant time for “*perfecting*” his Appeal. Again, based upon the arguments above, the undersigned avers he perfected his Appeal via email service, on March 16, 2020. Notwithstanding such facts, the Respondents invoked **ALC Rule 34(B)**, and the undersigned provided a second service, on Assistant Executive Director Bruce Urban, on April 16, 2020.

39. Pursuant to the wording of **ALC Rule 34(B)** not only was stay invoked by the Respondents with the filing of their Motion to Dismiss, but that stay remained in effect until the Court entered its Dismissal Order on May 18, 2020, and received by the undersigned on May 20, 2020. However, based upon the inherent safeguarding provisions of **Rule 34(B)**, the undersigned succeeded in “*perfecting*” his Appeal with a second service on Mr. Bruce Urban on April 16, 2020. The stay ceased to exist when the Court entered its Dismissal Order on May 18, 2020, but, again, this

point is moot because the undersigned completed a second service upon Mr. Bruce Urban on April 16, 2020, while the official stay was in effect. There was no Dismissal in place when the undersigned effectuated his April 16, 2020, second service upon Mr. Urban. Accordingly the undersigned followed the provisions of **Rule 34(B)**, and perfected his Appeal.

40. Accordingly, notwithstanding the implications associated with Governor McMaster's **Executive Order 2020-10**, which most certainly controls, this Court is required to Reconsider its Dismissal Order based upon **ALC Rule 1** and **Rule 2(E)**, and **ALC Rule 3(C)** and **ALC Rule 34(B)**, and the endnotes to the **ALC Rules**, as set forth herein. The Court's Dismissal Order must be **VACATED** and a **Contested Hearing** must be scheduled or in the alternative, **Summary Judgment** must be **GRANTED** in favor of the Appellant/Claimant.

CONCLUSION

41. Pursuant to **ALC Rule 29(D)**, the Appellant/Claimant hereby moves the Court for Reconsideration of its Dismissal Order. Pursuant to **Rule 29(D)(1)**, this **Emergency Motion** is being filed, it is within ten (10) days of the notice of the Order of Dismissal, and the undersigned has not yet filed a Notice of Appeal of said

Dismissal Order. Also, pursuant to **ALC Rule 29(D)(4)**, this **Emergency Motion** stays the time to file a Notice of Appeal of the Court's Dismissal Order should the Court not **GRANT** the Relief sought herein.

42. Accordingly, in conclusion and notwithstanding the implications associated with Governor McMaster's **Executive Order 2020-10, Appendix A**, which most certainly controls, this Court is required to Reconsider its Dismissal Order based upon **ALC Rule 1** and **Rule 2(E)**, and **ALC Rule 3(C)** and **ALC Rule 34(B)**, and the endnotes to the **ALC Rules**, as set forth herein. The Court's Dismissal Order must be **VACATED** and a **Contested Hearing** must be scheduled or in the alternative, **Summary Judgment** must be **GRANTED** in favor of the Appellant/Claimant.

WHEREFORE, the Appellant/Claimant Prays for the following **Emergency Relief**, on an **Expedited, Emergency basis**:

- a) that based upon **Appendix A**, Governor McMaster's **Executive Order 2020-10**, that the Court immediately **VACATES** its Dismissal Order in these matters;
- b) notwithstanding the implications associated with Governor McMaster's **Executive Order 2020-10, Appendix A**, which most certainly controls, that this

Court Reconsiders its Dismissal Order based upon **ALC Rule 1** and **Rule 2(E)**, and **ALC Rule 3(C)** and **ALC Rule 34(B)**, and the endnotes to the **ALC Rules**, as set forth herein. The Court's Dismissal Order must be **VACATED**;

c) that the Court immediately **GRANTS** the undersigned's **Motion for Summary Judgment**, previously filed with the Court, and that the Court further **ORDERS** the Respondents to immediately, and without delay, release and compensate the undersigned for the twenty-five weeks of unemployment benefits he is owed at \$326 per week, for a total of \$8,150;

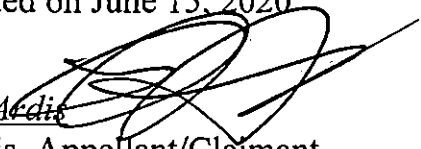
d) in the alternative that this Court, on an **Emergency Basis**, schedules a **Contested Hearing**, for this week and that this Court makes a determination since the Respondents have never Complied with **S.C. Code Ann. § 41-35-760** and numerous other **South Carolina Laws, Regulations, and Constitutional Provisions**;

e) the Appellant/Claimant respectfully informs the Court that this is the first in a series of **Emergency Motions** that he has drafted. It is hoped that this **Emergency Motion** is all that is required and the other drafts will not need to be filed. In reality, this should be the case given the incontrovertible nature of **Executive Order 2020-10** and the other controlling legal authorities cited herein;

f) **Respectfully, if the Administrative Law Judge, currently assigned to this matter, will not take actions to correct the blatant errors that are present, in accordance with the legal authorities cited, which are necessary to serve due process and justice, then the undersigned is left with no choice but to respectfully requests that said Judge Disqualifies and/or Recuses himself from these matters, immediately;**

g) that the Court **GRANTS** any and all further Relief the Court deems, in its sound discretion, meets the ends of fairness and justice;

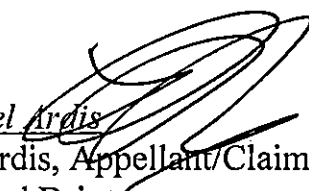
Respectfully submitted on June 15, 2020


/s/ Robert Michael Ardis
Robert Michael Ardis, Appellant/Claimant

105 North Guignard Drive
Sumter, S.C. 29150
(803) 236-0859
michael.ardis2001@gmail.com


VERIFICATION

COMES NOW the Appellant/Claimant, ROBERT MICHAEL ARDIS, who, under penalty of perjury and under the laws of the United States of America and the state of South Carolina, does hereby declare that I have read the foregoing, and that the facts alleged therein are true and correct to the best of my knowledge and belief. I understand that a false statement in this verification, and above in Paragraphs 1-42, will subject me to penalties of perjury.

/s/ Robert Michael Ardis 
Robert Michael Ardis, Appellant/Claimant
105 North Guignard Drive
Sumter, SC 29150
michael.ardis2001@gmail.com
(803) 236-0859

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of this **Emergency Motion**, and its **Appendixes**, have been provided to the Court via hand-delivery and the South Carolina Department of Employment and Workforce, via Eservice pursuant to Rule 4, South Carolina Rules of Civil Procedure on this 15th day of June 2020, and via U.S. Mail.

/s/ Robert Michael Ardis 

Robert Michael Ardis, Appellant/Claimant

SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert M. Ardis

Appellant/Claimant,

DOCKET NO. 20-ALJ-22-0070-AP

Lower Tribunal: SC Dept. of Emp. &
Workforce

vs.

South Carolina Department of Employment and
Workforce and Sykes Enterprises, Inc.

Appellees/Respondents,
_____ /

**EMERGENCY MOTION FOR SUMMARY JUDGMENT AND
OTHER RELIEF**

Pursuant to South Carolina Rule of Civil Procedure, Rule 56, Plaintiff¹

Robert Michael Ardis moves this Honorable Court to **GRANT** Summary Judgment
in favor of the Appellant/Claimant, and **GRANT** the Appellant/Claimant the other

¹ See *Erickson v. Pardus* 551 U.S. 89, 127 S. Ct. 2197 U.S., 2007. A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers. Pleadings in this case are being filed by the Petitioner *in propria persona*, wherein pleadings are to be considered without regard to technicalities. *Propria* pleadings are not to be held to the same high standards of perfection as practicing lawyers. See *Haines v. Kerner* 92 S. Ct. 594, also See *Powell v. Lennon*, 914 F2d 1459 (11th Cir 1990).

Emergency Relief he is seeking in his Prayer for Relief. In support thereof the Appellant/Claimant would show the Court as follows:

1. The Appellant/Claimant, hereby incorporates, by reference each and every Notice, Motion, Pleading, and document, previously filed with the Court, as if quoted verbatim herein.

2. The unemployment benefits the Appellant/Claimant is seeking do not belong to the Respondents, South Carolina Department of Employment and Workforce (SC DEW). Those unemployment benefits were paid in, by the undersigned, based upon the Appellant/Claimant's tireless work, sometimes 60-70 hours per week. It is not fair, nor is it in good faith, on the part of the Respondents, to play "legalistic games" in order to harm the Appellant/Claimant's family. The Appellant/Claimant and his family are suffering and this Court must act.

3. **S.C. Code Ann. § 1-23-570**, is sufficiently and absolutely clear as a matter of law. Based upon this law, this Court entered a **Notice of Assignment**.

4. In this Court's **NOTICE OF ASSIGNMENT** entered and Docketed on March 26, 2020, the Court wrote in part:

FURTHER, NOTICE IS GIVEN that the parties are required to meet the following deadlines, unless otherwise ordered by the assigned Administrative Law Judge. (**emphasis added**)

Record on Appeal Due within twenty (20) days of the date of this Notice (**to be filed by the agency**)

5. It is respectfully submitted that the Respondents, SC DEW, were required by the Order of this Court, to meet a deadline of twenty (20) days, to provide the Record to the Court. The Appellant/Claimant has not been provided the Record nor has the Court been provided the Record. In point of fact, since the Respondents have never conducted an evidentiary hearing, there is no Record, other than the impermissible hearsay incorporated in their "decisions."

6. This **Emergency Motion** is being filed on April 27, 2020. This accounts for a period of 32 days. The inaction of the Respondents was not due to a further Order of this Court. In addition to the Respondent's violation of this Court's Order, additionally, they did not seek an extension of time. Accordingly, the Appellant/Claimant seeks Summary Judgment.

7. Summary judgment is proper where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is

entitled to a judgment as a matter of law." Rule 56(c), SCRPC ; see also ALC Rule 68 (stating the South Carolina Rules of Civil Procedure may be applied in proceedings before the ALC to resolve questions not addressed by the ALC rules). The question of statutory interpretation is one of law for the court to decide. CFRE, LLC v. Greenville Cnty. Assessor, 395 S.C. 67, 73, 716 S.E.2d 877, 881 (2011).

8. Summary judgment should be granted when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC; Lanham v. Blue Cross & Blue Shield of S.C., Inc., 349 S.C. 356, 361, 563 S.E.2d 331, 333 (2002).

Undisputed Material Facts

9. The undisputed facts are as follows. This Honorable Court issued its **Notice of Assignment** on March 26, 2020, Ordering the parties to meet certain Deadlines set by the Court. Please see the attached **Appendix A**.

10. In this Court's **NOTICE OF ASSIGNMENT** entered and Docketed on March 26, 2020, **Appendix A**, the Court wrote in part:

FURTHER, NOTICE IS GIVEN that the parties are required to meet the following deadlines, unless otherwise ordered by the assigned

Administrative Law Judge. (**emphasis added**)

Record on Appeal Due within twenty (20) days of the date of this Notice (**to be filed by the agency**)

11. The Appellant/Claimant has not been provided with the Record on Appeal by the Respondents, and likewise, neither has the Court been provided with the Record on Appeal. Again, it is impossible for the Respondents to present this Court with a "Record" which consists only of impermissible hearsay.

12. To the best of the undersigned's knowledge and belief the Respondents have not transferred and filed the Record on Appeal, to this Honorable Court, as Ordered. In point of fact, based on his prior pleadings and motions in this cause, the undersigned has informed the Court that there is not a Record due to the actions of the Respondents.

13. Notwithstanding such facts the Court should still **GRANT** Summary Judgment against the Respondents, and in favor of the Appellant/Claimant.

14. Through no fault of his own, the undersigned has been unemployed and without any income for himself and his family, since November 8, 2019. And now, due to the Covid-19 crisis, the economy is in such shambles, that the unemployment compensation owed to the undersigned may be his only source of

income for the foreseeable future.

15. Attached as **Appendix B**, is the detailed work history of the Appellant/Claimant, when he worked for Sykes Enterprises. The undersigned was an excellent employee who always excelled at the highest possible level of performance, earning overtime, monthly and quarterly bonuses.

16. The Appellant/Claimant was specifically targeted by his employer because he is a white, male, over 40 and his excellent work performance was perceived as a threat by his manager. Out of approximately 700 employees who work at the Sumter Sykes location, approximately 680 are African Americans, while only approximately 20 are Caucasian Americans. It should be noted that Sumter County is a majority Caucasian American County.

17. Investigations are currently underway against Sykes Enterprises for racial, gender, and age discrimination, against the undersigned, by the South Carolina Human Affairs Commission, and the United States Equal Employment Opportunity Commission.

18. Sykes Enterprises has a long and infamous history of litigation. Attached as **Appendix C** is a Selected Bibliography of the Federal Lawsuits, brought against Sykes Enterprises, in just the last few years. As the Court will see from its review

of **Appendix C**, Sykes has been the Defendant in over thirty (30) Federal Lawsuits recently. The Appellant/Claimant has not researched the state level lawsuits brought against Sykes, but would venture a guess that it could be in the hundreds, if not higher.

19. Attached as **Appendix D**, is the December 18, 2019, Discrimination Charges, proffered against Sykes Enterprises by the South Carolina Human Affairs Commission. The Appellant/Claimant is working closely with SCHAC, to make sure Sykes is held accountable for its atrocious behaviors.

20. However, even supposing, *arguendo* that these matters were not ripe for Summary Judgment (but they are), the fact remains that even if this Court were to **REMAND** these matters back to the Respondents, SC DEW, it would be to the detriment of the Appellant/Claimant and his Rights.

21. Attached as **Appendix E**, is a copy of **S.C. Code Ann. § 41-35-760**, which was passed and signed into law in March of 2010. Notwithstanding such facts, the Respondents, SC DEW, have **never** complied with **Appendix E**. A synopsis of the undisputed facts/examples to this effect are as follows:

a statutorily required Evidentiary Hearing has **never** been held for the

Appellant/Claimant

both the Appeals Tribunal and Appellate Panel for the Respondents, considered, and incorporated, the undersigned's Complaint emails to SC DEW in their "decisions" such actions equate to impermissible *ex parte* consideration and violations of the Judicial Canons

the above cited consideration of *ex parte*, hearsay, is a direct violation of the Judicial Canons and **S.C. Code Ann. § 41-29-300**

the "decisions" of the Respondents' Appeals Tribunal and Appellate Panel, were based exclusively on impermissible hearsay. No one was ever sworn. Such actions are direct violations of **S.C. Code of Regulations R. 47-51** which states in part, findings of fact cannot be based exclusively on hearsay evidence(emphasis added)

the no hearing for the undersigned by the Respondents violates the South Carolina Constitution which reads in part at **Article I, § 22**, No person shall be finally bound by a judicial or quasijudicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; (emphasis added)

For months the Respondents have refused to Comply several **South Carolina Freedom of Information Act Requests**, related to **S.C. Code Ann. § 41-35-760**.

the Appellant/Claimant filed an **Emergency Petition for writ of mandamus**, in the Sumter County Circuit Court, against the Respondents in an effort to

Compel them to hold a hearing.

the Appellant/Claimant has been forced to take out a high interest title loan against his vehicle; has been forced to sell his burial plot in my family plot; has been forced to go to the Salvation Army for food donations and forced to go to United Ministries for food donations and assistance with our utility bills; he has done all of this due to the illegal actions of the Respondents

22. The Appellant/Claimant could continue to list specific violations of his Rights, committed by the Respondents. However, any one of the above is more than sufficient for the Court to **GRANT** the requested Summary Judgment and the other **Emergency Relief** being sought by the undersigned. Now, coupled with all of the above, the undersigned and his 78 year old Mother, who is a Stage 4 Bone Cancer patient are facing eviction and being in the street, due to the bad faith actions of the Respondents. The Appellant/Claimant, and his family have waited and suffered long enough.

23. All of the above, and everything contained in all prior Pleadings in this matter, by the undersigned, conclusively proves that the Respondents have never Complied with **S.C. Code Ann. § 41-35-760**. If the Respondents had complied with **S.C. Code Ann. § 41-35-760**, then the actions and violations committed by the Respondents, cited herein, to which the undersigned is swearing to, would **not** be possible. If the Court were to **REMAND** this matter back to the Respondents, this

would only prolong the undersigned's suffering and he would be back before this Court in 3-4 months. By that time irreparable harm would be done to him and his family.

24. Based upon what is contained within all of the undersigned's Pleadings and Exhibits to this Honorable Court, if the Respondents have not complied with **S.C. Code Ann. § 41-35-760**, from March of 2010, through April 27, 2020, the filing of this **Emergency Motion**, it is extremely unlikely that they will comply anytime soon.

25. The Respondents have also failed to Comply with the numerous other laws, regulations, and Constitutional guarantees, previously cited, in the prior pleadings of the undersigned.

26. The unemployment compensation earned and owed to the undersigned is derived from Federal income taxes. As such, these funds are **not** something the Respondents must be permitted to hold hostage to the detriment of the undersigned and his family.

27. Generally, a court must apply the rules of statutory interpretation to resolve the ambiguity and discover the intent of the legislature. *Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 348, 549 S.E.2d 243, 247 (2001). However, "[i]n the enforcement of tax statutes, the **taxpayer should receive the benefit in cases of doubt.**" *S.C. Nat'l Bank v. S.C. Tax Comm'n*, 297 S.C. 279, 281, 376 S.E.2d 512, 513

(1989) (citing Cooper River Bridge, Inc. v. S.C. Tax Comm'n, 182 S.C. 72, 188 S.E. 508 (1936)). (emphasis added)

28. "[W]here the language relied upon to bring a particular person within a tax law is ambiguous or is reasonably susceptible of an interpretation that will exclude such person, then the person will be excluded, any substantial doubt being resolved in his favor." Cooper River Bridge, Inc., 182 S.C. at 76, 188 S.E. at 509–510; see also SCANA Corp. v. S.C. Dep't of Revenue, 384 S.C. 388, 394 n. 3, 683 S.E.2d 468, 471 (2009) (Beatty, J., dissenting) (noting general rule that where substantial doubt exists as to the construction of tax statutes, the doubt must be resolved against the government). (emphasis added)

29. This Court is empowered to **GRANT** the requested **Emergency Relief** sought by the Appellant/Claimant pursuant to **S.C. Code Ann. § 1-23-380(5)**). That section states:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision [of an agency] if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5) (Supp. 2019).

30. Taking each subsection of **S.C. Code Ann. § 1-23-380(5)**), individually, the undersigned at all times is referencing what is contained above, and in all his prior pleadings before the Court:

Did the Respondents take actions in *(a) in violation of constitutional or statutory provisions?*

The answer is a resounding yes. Please see their noncompliance and violations of **Article I, § 22**, of the S.C. Constitution; their noncompliance and violations of **S.C. Code of Regulations R. 47-51**; and their noncompliance, cited repeatedly by the undersigned, with **S.C. Code Ann. § 41-35-760**; along with multiple other violations not being cited for purposes of brevity;

Did the Respondents take actions in *(b) in excess of the statutory authority of the agency?*

The answer is a resounding yes. Besides the violations cited immediately above, the Respondents never conducted an evidentiary hearing; the Respondents openly violated the **S.C. Freedom of Information Act**; the Respondents reviewed and considered and incorporated the undersigned's Official Complaint emails, *ex parte*, directed to the Administration of the Respondents, which is simply further conclusive proof that the Respondents have never complied with S.C. Code Ann. § 41-35-760, in the more than ten (10) years since it became law;

Did the Respondents take actions in (c) *made upon unlawful procedure*?

The answer is a resounding yes. Where to begin? Making decisions without interviewing the undersigned's witnesses; not holding evidentiary hearings; changing hearing officers without Notice; reviewing and considering Complaint emails; violating numerous statutes, rules, and even the S.C. Constitution; the undersigned could turn this into a dissertation if time permitted;

Did the Respondents take actions in (d) *affected by other error of law*;

The answer is a resounding yes. Please reference each and everything listed above, and each and every pleading filed by the Appellant/Claimant in this cause;

Did the Respondents take actions in (e) *clearly erroneous in view of the reliable, probative and substantial evidence on the whole record*?

The answer is a resounding yes. The Appellant/Claimant is verifying this **Emergency Motion** and he stands behind everything he has pled. The Respondents are an inept, lazy, incompetent agency. I am sorry, but they just are. There is no Record, because there has never been an evidentiary

hearing. The Respondents have retaliated against the undersigned because he has pointed out that the Respondents have never, ever Complied with **S.C. Code Ann. § 41-35-760**. The Respondents, by simply having a link on their website, which has a copy of the law, is not Compliance. They should be ashamed of themselves.

Did the Respondents take actions in an *(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion*.

The answer is a resounding yes. The undersigned would respectfully request that the Court reviews everything he has filed in this cause. There has been rampant, multiple arbitrary, capricious actions, and not just an abuse of discretion, but a perversion of discretion. It sickens me that a state agency would behave in such a disgusting manner. And, the undersigned would ask the Court to take **Judicial Notice** of the fact that the Respondents, have never, ever, not once, attempted to deny the allegations of the undersigned. Respectfully, this Honorable Court should not require anything further.

CONCLUSION

31. The Appellant/Claimant performed at the highest level of professionalism while working at Sykes. See **Appendix B**. However, Sykes elected to continue their illegal pattern of Discrimination, see **Appendix D**.

32. The undersigned, due to his excellent work performance and working

regularly 60-70 hours each week, has earned the maximum of his Federal Unemployment Benefits.

33. The undersigned has been illegally unemployed since November 8, 2019, through the filing of this **Emergency Motion**, on April 27, 2020. The undersigned is entitled to \$326 per week, for a period of 25 weeks, for a total amount owed to the Appellant/Claimant of \$8,150. The Appellant/Claimant is respectfully requesting the Court to Award him \$8,150, from the Respondents, without any further delay. The undersigned and his Mother will become homeless if this Court does not **GRANT** the requested, **Emergency Relief**. It is respectfully submitted that this Honorable Court has never been presented with such dire, emergency matters, as the ones presented in the instant case.

34. Currently, the undersigned's rent has not been paid and eviction is imminent; the only food at the undersigned's home consists of random can goods; the undersigned is unable to get another food donation for two months.

35. It is respectfully submitted that if the Court does not **GRANT** the **Emergency Relief** being sought by the Appellant/Claimant, he will be prejudiced in such a way that no future actions, by any Court, will ever make him whole.

36. It is respectfully submitted that the Appellant/Claimant has been waiting

for his unemployment compensation since November 8, 2019. This is too long. The immense hardships suffered by the Appellant/Claimant, and his family, are beyond the pale. Again, the Respondents should be ashamed of themselves.

37. This Honorable Court should **GRANT** the requested Summary Judgment and the other **Emergency Relief** sought by the undersigned, without further delay.

WHEREFORE, the Appellant/Claimant Prays for the following Relief, on an Expedited, Emergency basis:

a) that the Court **GRANTS** Summary Judgment for the Appellant/Claimant and against the Respondents;

b) that the Court **ORDERS** the Respondent to immediately, and without delay, release and compensate the undersigned for the twenty-five weeks of unemployment benefits he is owed at \$326 per week, for a total of \$8,150;

c) in the alternative that this Court, on an Emergency Basis, schedules a **Contested Hearing**, for this week and that this Court makes a determination since the Respondents have never Complied with **S.C. Code Ann. § 41-35-760**;

d) that the Court **GRANTS** any and all further Relief the Court deems, in its

sound discretion, meets the ends of fairness and justice;

Respectfully submitted on April 29, 2020

/s/ Robert Michael Ardis

Robert Michael Ardis, Appellant/Claimant

105 North Guignard Drive

Sumter, S.C. 29150

(803) 236-0859

michael.ardis2001@gmail.com

VERIFICATION

COMES NOW the Appellant/Claimant, ROBERT MICHAEL ARDIS, who, under penalty of perjury and under the laws of the United States of America and the state of South Carolina, does hereby declare that I have read the foregoing, and that the facts alleged therein are true and correct to the best of my knowledge and belief. I understand that a false statement in this verification, and above in Paragraphs 1-37, will subject me to penalties of perjury.

/s/ Robert Michael Ardis

Robert Michael Ardis, Appellant/Claimant

105 North Guignard Drive

Sumter, SC 29150

michael.ardis2001@gmail.com

(803) 236-0859

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of this **Emergency Motion**, and its **Appendixes**, have been provided to the Court via hand-delivery and the South Carolina Department of Employment and Workforce, via Eservice pursuant to Rule 4, South Carolina Rules of Civil Procedure on this 29th day of April 2020, and via U.S. Mail.

/s/ Robert Michael Ardis

Robert Michael Ardis, Appellant/Claimant

A handwritten signature in black ink, appearing to be 'R. Ardis', written over the printed name.

Appendix A

NOA AP DEW
July 2016

STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert M. Ardis,

Appellant,

vs.

South Carolina Department of Employment
and Workforce and Sykes Enterprises, Inc.,

Respondents.

NOTICE OF ASSIGNMENT

DOCKET NO. 20-ALJ-22-0070-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on March 16, 2020. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2019), the **Honorable H. W. Funderburk, Jr.**, Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550. Pursuant to SCALC Rule 4A, all future filings must be filed directly with the above assigned Judge and shall include the docket number.

FURTHER, NOTICE IS GIVEN that the parties are required to meet the following deadlines, unless otherwise ordered by the assigned Administrative Law Judge:

Record on Appeal	Due within twenty (20) days of the date of this Notice (to be filed by the agency)
Appellant's Brief	Due within twenty (20) days after the Record on Appeal is filed
Respondent's Brief	Due within twenty (20) days after the Appellant's Brief is filed
Reply Brief	Due within ten (10) days after the Respondent's Brief is filed

The parties are directed to the relevant provisions of the Rules of Procedure regarding these deadlines and other requirements applicable to the appeal process. Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scalc.net.

This the 26th day of March 2020.

Ralph King Anderson, III
Chief Administrative Law Judge

By: Jana E. Shealy
Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED

MAR 26 2020

SC ADMIN. LAW COURT

Appendix B

I worked for Sykes Enterprises in Sumter, South Carolina. Sykes Enterprises is a call center corporation with call centers throughout the United States and also internationally, for many different companies. The Sykes call center I worked for, in Sumter, is contracted for Bank of America.

The Bank of America lines of business, at the Sumter call center, are as follows:

- a. Consumer Deposits: Personal checking and savings accounts
- b. Consumer Credit Cards: Personal credit cards
- c. Small Business: Small business checking and credit card accounts

I worked in the Consumer Deposits line of business

FACTS

1. Hired by Sykes in March of 2019. Have consistently been one of the top Agents, in top 1-2% of all Agents out of over 700.
2. Agent Rankings based upon work related performance are as follows, from lowest to highest:

none

Hometown Hero

National Hero

World Class Hero

Cosmic Hero

3. **Cosmic** is the highest of the Rankings an Agent can attain and I have been consistently at the Cosmic Level, month after month. Besides my regular pay, and overtime pay, I also consistently earned monthly and quarterly bonuses due to the fact that my level of work is exemplary.

4. The formula for earning the top level, Cosmic, takes into account three (3) performance indicators. I will briefly speak about each one:

a. **Customer surveys**: after each phone call the customers will receive a survey via email. The scores range from 1 (the lowest) to 10 (the highest). To earn the Cosmic level of performance an Agent must have an aggregate score of 83% on their surveys. My surveys are consistently above 83%

b. The second level of performance is **attendance**. An Agent must keep their absenteeism below 8%. With all the overtime I work my absenteeism is almost non-existent, but well below 8%

c. Working for a call center the emphasis is on solving the problem for the customer, and then quickly getting to the next customer call. The third measurement is "**Consumer Time Invested**" or **CTI**, which is a fancy way to say call time. The third measurement is an average call time of less than 3 minutes and 35 seconds (335). My average CTI is always between 310 and 320.

5. The Sumter Sykes location has definite racial components and a racial/racist hierarchy, and with me being white, I was/am in the minority.

6. The four senior managers are all Latino and are originally citizens of Costa Rica. They all worked at the Sykes call center there, in Costa Rica, and got promoted and all were assigned to the Sykes call center in Sumter.

7. The overwhelming majority of employees and other managers at Sykes Sumter are African American. Out of the approximately 700 Sykes Sumter call center Agents and managers, for all lines of business, approximately 675 are African American and only 20-25 are white.

8. As an employee with Sykes, the contracted company, Bank of America, allows for unlimited overtime. I took advantage of this unlimited overtime and work, on average, approximately 70-75 hours per week. This is on average. My personal best two week pay period was 178.5 hours, or 89.25 hours for each week of a 2 week pay period.

9. While working overtime, one of my days off, on November 7, 2019, I was singled out, by 2 black managers, for an unscheduled "meeting" in a secluded area of the Sykes Sumter location, after I had already clocked out and was getting ready to leave. I was forced to attend this unscheduled "meeting" for approximately 45 minutes.

10. During this "meeting" I was coerced and intimidated in to filling out two "surveys" much in the same manner that a customer would complete a survey based upon the service received. I was directed to complete 2 such "surveys" over my objections.

11. When I voiced my objections to completing the "surveys" my objections were met with implied threats, from the 2 African American managers, that I would be terminated if I did not complete them. While I completed the "surveys" I insisted on including an addendum to the surveys pointing out my excellent work record and performance record with Sykes.

12. At that unscheduled meeting, the 2 managers stated they did not have the authority to "discipline" me, but advised me to return to the center the next day, Friday, at 11:30 am., to meet with the Site Director, Fausta Salas, and the Assistant Site Director, also from Costa Rica.

13. On a side note, and without going down a "rabbit trail" a few weeks before November 7, 2019, I had provided my immediate manager, Vanessa Cox, and the Sykes Sumter HR Office, a copy of a letter provided to me by Dr. Joseph Adams, my personal physician. In his letter, Dr. Adams was specific that I had medical issues that needed appropriate, work accommodations.

14. I did not go in to work at 11:30 a.m., on Friday, November 8, 2019. At the time, I had an attorney and informed Sykes that I would come in, and meet, if my attorney was permitted to attend as well. I emailed the management at Sykes and stated that I was not scheduled for work (another of my days off), and that I wanted to speak to my attorney, and have him attend any meeting with me. This was sent on the evening of Thursday, November 7, 2019.

15. On Friday, November 8, 2019, at approximately 5:30 p.m., I received a telephone call from (803) 406-0466, and that phone call was from the Site Director, Fausto Salas. Mr. Salas called and informed me I was "*suspended*" from work at Sykes, with pay. He refused to say anything else, for example why, how

long, etc. I also requested to meet personally with Ms. Salas, as is stated in the Policies of Sykes Enterprises. He refused.

16. During that phone call, on November 8, 2019, I informed Mr. Salas that all the employment information for Sykes, I had had to find, on my own, online through Google searches. I specifically requested to be provided with copies of the following from Mr. Salas and Sykes. It should be noted for the South Carolina Human Affairs Commission that I have made this request numerous times since November 8, 2019. Sykes has not complied with my repeated requests.

- a. A current copy of the Sykes Enterprises Employment Handbook
- b. A current copy of the Sykes Enterprises Progressive Discipline Policy
- c. And I requested a copy of the Sykes Enterprises Grievance Form so I could file a Grievance regarding the unscheduled, coercive meeting which took place on November 7, 2019, and also to file a Grievance for the blatant age, disability, gender, and racial and ethnic discrimination that I have suffered from Sykes.

17. As of the drafting of this synopsis and outline I have **not** received any of the specifically requested documents listed above.

18. The unscheduled meeting, off the clock, the phone call from Mr. Salas, and the "*suspension*," **none of these events** were done in compliance, nor in accordance with SYKES written Policies and Procedures and in accordance with South Carolina and Federal Laws.

19. I was singled out, differently from other, similarly situated employees in that my "*situation*" was escalated to Corporate Offices, in Florida, when others were **not**. Basically, I was singled out for special, disciplinary attention. This was/is illegal. To the best of my knowledge and belief, discipline is always handled, in

house. However, for me, it was "*escalated*" to the Corporate Offices, in Tampa, and that was done specifically for me.

The actions of SYKES, thus far, are clear violations of the following:

- I. Violations of Sykes Policies and Procedures regarding Progressive Discipline and the Employee Handbook**
- II. Violations of South Carolina Employment Law**
- III. Violations of Federal Employment Law**

20. As previously cited above, I have requested, but have not been provided, with several employment documents from Sykes Enterprises. The information I am citing, I found through online, Google searches.

21. Regarding the issue of **Sykes' Policies and Procedures**, below are excerpts from **SYKES' Progressive Corrective Action Policy**. I am highlighting pertinent portions

The corrective action process creates an opportunity for managers to formally meet with employees to bring attention to existing performance, attendance and/or conduct issues. It's a time for managers to discuss the nature of the problem or violation of Company policies and procedures. Managers are expected to clearly outline expectations and steps employees must take to improve performance or resolve the problem and to provide them with a Notice of Corrective Action describing this information.

Employees are expected to openly discuss these issues, to positively respond to this counseling, and to sign this document. Outlined below are the steps of SYKES' progressive corrective action policy. While these steps generally tend to be progressive, the level of discipline applied will take into account whether the offense is repeated despite coaching, counseling and/or training, the employee's work record and the impact the conduct and performance issues have on the organization.

Step 1: Verbal Warning

Step 2: Written Warning (Performance Improvement Plan)

Step 3: Final Written Warning

22. While the above represents SYKES' Policies and Procedures regarding discipline and/or corrective action, not only was none of this done in my case, prior to me being suspended from work. The manner in which I was singled out, by the 2 female African American managers was downright deceitful and untoward. My team manager, Vanessa Cox, "live listened" to my phone calls "searching" for something against me. First, she is not empowered to do this, that is the job of the Quality Department, and that Department had been gone for hours. And, second, the alleged "infraction" I supposedly committed absolutely pales in comparison to verifiable transgressions committed by others. Namely, those who are Black, and not disabled, and not over 40, etc.

23. I was suspended from my job without ever having a meeting with management, which is a **violation** of SYKES own written Policies. On November 8, 2019, I received a "phone call" from the Sumter Sykes Director, Fausto Salas, informing my I had been suspended with pay.

24. I then had my "*discipline*" incident escalated to the Sykes Corporate Offices in Florida, when this is not the normal policy for any other Sykes employee. Only reserved for me.

25. The links immediately below come from **SYKES' Employee Manual** and some of the language found therein, with highlighting supplied. Again, I had to find this online, myself. I have asked that it be provided to me and this has not been done and it has been nearly a month since my requests.

[https://www.sykes.com/wp-content/](https://www.sykes.com/wp-content/uploads/2014/07/1-SYKES-Standards-of-Conduct-August) HYPERLINK "<https://www.sykes.com/wp-content/uploads/2014/07/1-SYKES-Standards-of-Conduct-August>"[uploads/2014/07/1-SYKES-Standards-of-Conduct-August 2012_ENG.pdf](https://www.sykes.com/wp-content/uploads/2014/07/1-SYKES-Standards-of-Conduct-August)

You should be aware of and familiarize yourself with the specific rules of conduct and the disciplinary process that applies at your location. Your Human Resources office will be available to assist you with any questions you may have.

We observe and support all applicable laws and regulations concerning equal employment opportunities and do not tolerate race, color, religion, national origin, disability, gender or age discrimination as well as discrimination in any other protected classification.

26. Regarding South Carolina Employment Law, I am including the following link from the **South Carolina Human Affairs Commission** <https://schac.sc.gov/employment-discrimination/prohibited-practices-discrimination-types>

Discipline & Discharge

An employer may not take into account a person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), or disability when making decisions about discipline or discharge. For example, if two employees commit a similar offense, an employer may not discipline them differently because of their race, color, religion, sex (including pregnancy), national origin, age (40 or older), or disability.

REVIEW

27. The actions that have been taken against me by SYKES, conveyed to me in the November 8th telephone call, and in the November 22, 2019 e-mail, not only violate SYKES written Policies and Procedures. Furthermore, such actions also violate South Carolina Employment Law. Just to reiterate what transpired, the following happened on Thursday, November 7, 2019.

I am the victim of racial, ethnic, age, gender and disability discrimination, by SYKES Enterprises Inc., for several reasons.

a. First, I have an excellent work/performance record at SYKES. Just two weeks before my suspension, I received an email informing me that I had, yet again, made the highest level of performance, Cosmic, and also informing me of my monthly and quarterly bonuses. I have made Cosmic for the last three (3) months in a row. I would challenge the Commission to compare me to the other

seven hundred or so employees at the Sumter SYKES location. If this was done I would rank in the top 1-2% of all employees.

b. Second, I have previously been the victim of blatant, overt racial, ethnic, age, gender, and disability discrimination at the hands of my previous team manager, Michael. I do not remember his last name. He viewed me as a "*threat*" to his job based upon my stellar performance and his racism was so overt and obvious that I requested meetings with Senior Account Manager Johnny Villalobos and requested to either be moved to another team or that I would quit. That is how bad the discrimination and racism was. Afterwards I was moved to Ms. Vanessa Cox's team, and the discriminatory actions of management moved with me based upon the deceitful actions of Ms. Cox on November 7, 2019.

c. Third, I have been suspended and terminated over a telephone call that was "*live listened*" by my manager, Vanessa Cox, but I was purposefully lied to by another manager who said the call was "*dinged*" by the Quality Department. The call in question happened at approximately 7:30 p.m. My desk was right next to the Quality Department and I know that they were not working past 5:00 p.m. on Thursday, November 7, 2019. And regarding that telephone call, I am not aware of any complaint being filed by the customer I spoke to. In fact, if you were to speak to that customer, I am certain she would give me a stellar review. Yet, I have been suspended and terminated as a knee jerk reaction fueled by racist, ethnic, age, gender, and disability employment discrimination.

d. I finished working a split shift, for overtime, at approximately 8:15 pm on November 7, 2019.

e. After I had clocked out and was getting ready to leave, I was forced to go to a secluded part of the SYKES complex, by my immediate manager, Ms. Vanessa Cox. I met there with Ms. Cox, and another manager, also female and Black,

whom I had never met before, for approximately forty-five minutes. This was being done in the clear visibility of a good friend of mine, Sameeh Ross. When I objected to such actions being taken in clear view and ear shot of Sameeh, and others, I was berated for being "*demanding*." I was not being demanding, I was simply requesting privacy concerning a confidential, employment matter. The "*demanding*" comments are part and parcel of the overt racial discrimination I am alleging in these matters. It was as if I was not "*staying in my place*" with such a request.

f. During this meeting I was told to review one of the phone calls I had handled during the day, and then I was intimidated and coerced into writing my "*thoughts*" and "*observations*" regarding the phone call. This was not a "*coaching*" or anything of the sort, and I objected. This was intimidation and I was made to answer things on two forms as if I was a customer. The entire situation was surreal and intimidating.

g. When I attempted to object to such actions I received a clear, implied, direct threat that if I did not do so that I would be terminated and that it would "*look bad*" on me if I did not "*rate*" my own performance on the phone call.

h. I continued to object to such tactics and insisted on writing an addendum to what I was forced to write. In my addendum I emphasized my excellent work record and the exemplary awards I have consistently received due to my excellent work.

i. The entire totality of the events of Thursday, November 7, 2019, continuing through to the present, violated every provision of the Policies and Procedures of SYKES and applicable South Carolina and Federal Employment Law.

j. The involuntary "*meeting*" I was forced into on Thursday, November 7, 2019, violated my fundamental rights to due process. When I brought up the issue of due process, to the senior supervisor, whose name I do not recall, she asked me what "*due process*" meant, which is indicative of the fact that I did not receive due process.

28. The overwhelming majority of employees and managers at the SYKES location, in Sumter, are of African American descent. However, I am of European American descent and there are only maybe 20-25 of others of similar origin at Sumter SYKES, out of over 700 employees. During the meeting on Thursday, November 7, 2019, I met with my immediate manager, Ms. Vanessa Cox and another female manager, who, like Ms. Cox, is of African American descent. Besides the fact that such a meeting violated the Policies and Procedures of SYKES as set forth herein, the senior manager at that meeting openly lied to me.

29. During that meeting the senior female African American manager said that the Quality Department had listened to the telephone call in question and that Quality had "*dinged*" the call for review. That was/is a direct lie. First, I work right next to the Quality Department Section, and this was at night and the Quality Department had long since left the facility. Second, I sit only four desks away from my immediate manager, Ms. Vanessa Cox and was observing her "*live listening*" to telephone calls, my calls to be specific, and am well aware that it was Ms. Cox, and not the Quality Department, that had listened to my call. The motives of Ms. Cox must be brought into question, especially when taken into account with the senior manager's open, direct lie to me that the telephone call was listened to by the Quality Department. Such words and actions are indicative of untoward actions at play and represent direct, overt, racial discrimination against me. All of this information, and more, will be forthcoming if these matters are not immediately resolved in accordance with the applicable laws and SYKES own Policies and Procedures.

30. While I have been suspended and, now, terminated and my "*situation*" has been forwarded to Corporate, a microcosm if you will, of the behaviors I have witnessed while I have been working at SYKES Sumter location:

a. I have witnessed a male African American employee assault a female employee by grabbing her violently, and ripping her wig off of her head, on the production floor. He is still employed at SYKES and works in a psuedo supervisory position.

b. I have witnessed several African American employees, yelling, cursing, and slamming down their phones, in direct arguments with their team manager, while myself and others were on the phone with customers. They are still employed at SYKES.

c. I have witnessed several African American employees, while at work, go to the bar that is only approximately 100 yards from the SYKES entrance, and return to work drunk and high, and take phone calls. And they are still employed by SYKES.

I have witnessed much, much more, but I will reserve those events for a later date if necessary.

All I want to do is work. Period. But the illegal actions currently being taken are preventing me from doing that. I moved back to South Carolina, from Florida, earlier this year because my Mother is 78 years old, and she has been diagnosed with Stage 4 Bone Cancer. I am living with her and taking care of her. I work so many hours to earn the money to help pay for her oncologist and her chemotherapy and radiation treatments.

These are the absolute facts and the absolute truth, and none of it has been taken into consideration by SC DEW because that Agency has never conducted a hearing and has elected to Retaliate against me because I have pointed out their decades long violations of multiple South Carolina Laws.

APPENDIX C

SELECTED BIBLIOGRAPHY OF SYKES FEDERAL LAWSUITS

McFeeters v. Sykes Enterprises, Inc.

Filed: September 25, 2019 as 2:2019cv02121

Plaintiff: Sean McFeeters

Defendant: Sykes Enterprises, Inc.

Cause Of Action: Diversity-Employment Discrimination

Court: Eighth Circuit › Arkansas › US District Court for the Western District of Arkansas

Type: Civil Rights › Civil Rights: Jobs

Fye v. Sykes Enterprises, Incorporated (PLR2)

Filed: December 12, 2018 as 2:2018cv00218

Defendant: Sykes Enterprises, Incorporated

Plaintiff: Dylan J. Fye

Cause Of Action: Fed. Question: Employment Discrimination

Court: Sixth Circuit › Tennessee › US District Court for the Eastern District of Tennessee

Type: Civil Rights › Civil Rights: Americans with Disabilities - Employment

Kronzer v. Sykes Enterprises, Incorporated

Filed: December 4, 2018 as 8:2018cv02939

Defendant: Sykes Enterprises, Incorporate, Sykes Enterprises, Incorporated

Plaintiff: William Krozner, William Kronzer

Cause Of Action: Fair Credit Reporting Act

Court: Eleventh Circuit › Florida › US District Court for the Middle District of Florida

Type: Other Statutes › Consumer Credit

GANZEL v. SYKES ENTERPRISES, INC.

Filed: September 26, 2018 as 2:2018cv04145

Defendant: SYKES ENTERPRISES, INC.

Plaintiff: CATHERINE GANZEL

Cause Of Action: Job Discrimination (Sexual Harassment)

Court: Third Circuit › Pennsylvania › US District Court for the Eastern District of Pennsylvania

Type: Civil Rights › Civil Rights: Employment

Daly v. Sykes Enterprises Incorporated et al

Filed: August 17, 2018 as 3:2018cv02286

Plaintiff: Meloni L Daly

Defendant: Hartford Life and Accident Insurance Company, Sykes Enterprises Incorporated

Cause Of Action: E.R.I.S.A.-Employee Benefits

Court: Fourth Circuit › South Carolina › US District Court for the District of South Carolina

Type: Labor › Labor: E.R.I.S.A.

Payne v. Sykes Enterprises Incorporated

Filed: January 15, 2018 as 2:2018cv00068

Plaintiff: Tina Payne

Defendant: Sykes Enterprises Incorporated

Cause Of Action: Fair Labor Standards Act

Court: Seventh Circuit › Wisconsin › US District Court for the Eastern District of Wisconsin

Type: Labor › Fair Labor Standards Act

Rake v. Sykes Enterprises Incorporated

Filed: October 30, 2017 as 8:2017cv02560

Plaintiff: Kevin Rake

Defendant: Sykes Enterprises Incorporated

Cause Of Action: Notice of Removal - Fair Credit Reporti

Court: Eleventh Circuit › Florida › US District Court for the Middle District of Florida

Type: Other Statutes › Consumer Credit

Slaughter v. Sykes Enterprises, Inc.

Filed: August 24, 2017 as 1:2017cv02038

Plaintiff: David Slaughter

Defendant: Sykes Enterprises, Inc.

Cause Of Action: Fair Labor Standards Act

Court: Tenth Circuit › Colorado › US District Court for the District of Colorado

Type: Labor › Fair Labor Standards Act

HUDSON v. SYKES ENTERPRISES INCORPORATED

Filed: August 9, 2017 as 5:2017cv00304

Plaintiff: NICOLA HUDSON

Defendant: SYKES ENTERPRISES INCORPORATED

Cause Of Action: Americans with Disabilities Act

Court: Eleventh Circuit › Georgia › US District Court for the Middle District of Georgia

Type: Civil Rights › Americans with Disabilities - Employment

Larson v. Sykes Enterprises et al

Filed: May 18, 2017 as 6:2017cv00780

Defendant: John Cage Enterprises, Sykes Enterprises

Plaintiff: David Larson

Cause Of Action: Fair Labor Standards Act of 1938

Court: Ninth Circuit › Oregon › US District Court for the District of Oregon

Type: Labor › Labor: Fair Standards

Motley v. Sykes Enterprises, Incorporated (MAG2)

Filed: April 19, 2017 as 2:2017cv00241

Plaintiff: Sharon J. Motley

Defendant: Sykes Enterprises, Incorporated

Cause Of Action: Diversity-Breach of Contract

Court: Eleventh Circuit › Alabama › US District Court for the Middle District of Alabama

Type: Contract › Other Contract

Meeks et al v. Sykes Enterprises, Inc.

Filed: December 14, 2016 as 8:2016cv03405

Plaintiff: Janice Meeks , Mary Powers , David Slaughter

Defendant: Sykes Enterprises, Inc.

Cause Of Action: Denial of Overtime Compensation

Court: Eleventh Circuit › Florida › US District Court for the Middle District of Florida

Type: Labor › Fair Labor Standards Act

Etchieson v. Sykes Enterprises, Inc. et al

Filed: November 15, 2016 as 1:2016cv02779

Plaintiff: Sharon Etchieson

Defendant: Sykes Enterprises, Inc. , Alpine Access, Inc.

Cause Of Action: Fair Labor Standards Act

Court: Tenth Circuit › Colorado › US District Court for the District of Colorado

Type: Labor › Fair Labor Standards Act

HAINES v. SYKES ENTERPRISES, INC. et al

Filed: August 18, 2016 as 2:2016cv04537

Plaintiff: KIMBERLY HAINES

Defendant: SYKES ENTERPRISES, INC. , ALPINE ACCESS, INC.

Cause Of Action: The Americans with Disabilities Act of 1990

Court: Third Circuit › Pennsylvania › US District Court for the Eastern District of Pennsylvania

Type: Civil Rights › Americans with Disabilities - Employment

Bismark School District No. 25 et al v. Sykes Enterprises, Inc.

Filed: October 8, 2015 as 6:2015cv06108

Plaintiff: Bismark School District No. 25 , Ouachita School District , Glen Rose Public Schools

Defendant: Sykes Enterprises, Inc.

Cause Of Action: Petition for Removal- Breach of Contract

Court: Eighth Circuit › Arkansas › US District Court for the Western District of Arkansas

Type: Contract › Other Contract

Garboden v. Sykes Enterprises Incorporated

Filed: July 2, 2015 as 6:2015cv01223

Plaintiff: Erin Neel Garboden

Defendant: Sykes Enterprises Incorporated

Cause Of Action: Petition for Removal

Court: Ninth Circuit › Oregon › US District Court for the District of Oregon

Type: Civil Rights › Civil Rights: Employment

Sykes Enterprise Incorporated et al v. Attachmate Corpo

MCGETTIGAN v. SYKES ENTERPRISES, INC.

Filed: July 11, 2014 as 2:2014cv04223

Defendant: SYKES ENTERPRISES, INC.

Plaintiff: GAYLE MCGETTIGAN

Cause Of Action: Job Discrimination (Age)

Court: Third Circuit › Pennsylvania › US District Court for the Eastern District of Pennsylvania

Type: Civil Rights › Employment

Williams v. Sykes Enterprises, Inc., et al.

Filed: April 23, 2013 as 0:2013cv00946

Plaintiff: Tenisha Williams , Melissa Kenekeo , Sherie Hayes and others

Defendant: Sykes Enterprises, Inc., Alpine Access, Inc.

Court: Eighth Circuit › Minnesota › US District Court for the District of Minnesota

Type: Labor › Labor: Fair Standards

Minor v. Sykes Enterprises, Inc.

Filed: February 11, 2013 as 8:2013cv00375

Defendant: Sykes Enterprises, Inc.

Plaintiff: Brandie Minor

Cause Of Action: Denial of Overtime Compensation

Court: Eleventh Circuit › Florida › US District Court for the Middle District of Florida

Type: Labor › Labor: Fair Standards

McKim v. Sykes Enterprises, Inc.

Filed: November 21, 2012 as 6:2012cv06129

Plaintiff: Mallory Renee McKim

Defendant: Sykes Enterprises, Inc.

Cause Of Action: Job Discrimination (Employment)

Court: Eighth Circuit › Arkansas › US District Court for the Western District of Arkansas

Type: Civil Rights › Civil Rights: Jobs

Shoemaker v. Sykes Enterprises Incorporated et al

Filed: October 12, 2012 as 4:2012cv00638

Plaintiff: Terrie Shoemaker

Defendant: Sykes Enterprises Incorporated , Nikki Edwards

Cause Of Action: Violation of the Family and Medical Leave Act-1993

Court: Eighth Circuit › Arkansas › US District Court for the Eastern District of Arkansas

Type: Labor › Family and Medical Leave Act

DIAZ v. SYKES ENTERPRISES, INC.

Filed: September 28, 2012 as 2:2012cv05537
Defendant: SYKES ENTERPRISES, INC.
Plaintiff: DEBRA DIAZ
Cause Of Action: The Americans with Disabilities Act of 1990
Court: Third Circuit › Pennsylvania › US District Court for the Eastern District of Pennsylvania
Type: Civil Rights › Civil Rights: Americans with Disabilities - Employment

Bledsoe v. Sykes Enterprises, Inc.
Filed: July 31, 2012 as 6:2012cv06096
Defendant: Sykes Enterprises, Inc.
Plaintiff: Reuben E. Bledsoe, Jr.
Cause Of Action: Job Discrimination (Race)
Court: Eighth Circuit › Arkansas › US District Court for the Western District of Arkansas
Type: Civil Rights › Employment

Lambert et al v. Sykes Enterprises Incorporated
Filed: November 30, 2011 as 4:2011cv00850
Plaintiff: Khrystall Murdock , Kristina Nwaro , Marquita Jimerson and others
Defendant: Sykes Enterprises Incorporated
Cause Of Action: Fair Labor Standards Act
Court: Eighth Circuit › Arkansas › US District Court for the Eastern District of Arkansas
Type: Labor › Fair Labor Standards Act

Ankrum v. Sykes Enterprises, Inc.
Filed: November 18, 2011 as 6:2011cv06084
Defendant: Sykes Enterprises, Inc.
Plaintiff: Scott Ankrum
Cause Of Action: Family and Medical Leave Act of 1993
Court: Eighth Circuit › Arkansas › US District Court for the Western District of Arkansas
Type: Civil Rights › Americans with Disabilities - Other

BROWN v. SYKES ENTERPRISES INCORPORATED

Filed: October 20, 2011 as 2:2011cv06573

Defendant: SYKES ENTERPRISES INCORPORATED

Plaintiff: REGINA BROWN

Cause Of Action: The Americans with Disabilities Act of 1990

Court: Third Circuit › Pennsylvania › US District Court for the Eastern District of Pennsylvania

Type: Civil Rights › Americans with Disabilities - Employment

Karen Powell v. Sykes Enterprises, Incorporate

Filed: March 31, 2011 as 11-1273

Plaintiff - Appellant: KAREN DISHMAN POWELL

Defendant - Appellee: SYKES ENTERPRISES, INCORPORATED

Court: Fourth Circuit › U.S. Court of Appeals, Fourth Circuit

Type: Civil Rights › Jobs

Powell v. Sykes Enterprise, Inc.

Filed: November 23, 2010 as 1:2010cv00069

Plaintiff: Karen Dishman Powell

Defendant: Sykes Enterprise, Inc.

Cause Of Action: Job Discrimination (Employment)

Court: Fourth Circuit › Virginia › US District Court for the Western District of Virginia

Type: Civil Rights › Civil Rights: Jobs

Simmons v. Sykes Enterprises Inc.

Filed: December 18, 2009 as 09-1558

Plaintiff - Appellant: PATRICIA F. SIMMONS

Defendant - Appellee: SYKES ENTERPRISES INC., a Florida corporation

Court: Tenth Circuit › U.S. Court of Appeals, Tenth Circuit

Type: Civil Rights › Civil Rights Jobs

Simmons v. Sykes Enterprises, Incorporated
Filed: March 4, 2008 as 1:2008cv00449
Plaintiff: Patricia F. Simmons
Defendant: SYKES Enterprises, Incorporated
Cause Of Action: Job Discrimination (Age)
Court: Tenth Circuit › Colorado › US District Court for the District of Colorado
Type: Civil Rights › Civil Rights: Jobs

Karamanolis v. Sykes Enterprises, Inc. et al
Filed: December 28, 2004 as 8:2004cv02796
Cause Of Action: E.R.I.S.A.: Employee Retirement
Court: Eleventh Circuit › Florida › US District Court for the Middle District of Florida
Type: Labor › Labor: E.R.I.S.A.

Vander Wal, et al v. Sykes Enterprises, et al
Filed: April 28, 2004 as 1:2004cv00049
Cause Of Action: Fed. Question: Fair Labor Standards
Court: Eighth Circuit › North Dakota › US District Court for the District of North Dakota
Type: Labor › Labor: Other

Nagel v. Sykes Enterprises
Filed: April 16, 2004 as 1:2004cv00039
Cause Of Action: Disabilities Act of 1990
Court: Eighth Circuit › North Dakota › US District Court for the District of North Dakota
Type: Civil Rights › Civil Rights: Jobs

APP D

STATE OF SOUTH CAROLINA
HUMAN AFFAIRS COMMISSION



Raymond Buxton, II
Commissioner

1026 Sumter Street, Suite 101
Columbia, South Carolina 29201
(803) 737-7800 (803) 737-7835 Fax

www.state.sc.us/schac
(800) 521-0725 In-State

December 18, 2019

Mr. R. Mike Ardis
105 North Guignard Drive
Sumter, SC 29150

RE: Sykes Enterprises, Inc.

EEOC#: 14C-2020-00241

Dear Mr. Ardis:

This is to acknowledge your charge of employment discrimination against the above respondent. The information you provided indicates that your charge is subject to:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Title VII of the Civil Rights Act of 1964 (Title VII) | <input checked="" type="checkbox"/> The Americans with Disabilities Act (ADA) |
| <input checked="" type="checkbox"/> The Age Discrimination in Employment Act (ADEA) | <input type="checkbox"/> The Equal Pay Act (EPA) |
| <input checked="" type="checkbox"/> The State and/or Local Discrimination Laws | |

The paragraph(s) checked below apply to your case:

- The EEO laws prohibit retaliation against job applicants or employees who have filed a charge of discrimination, provided information, assisted, or participated in an investigation concerning a discriminatory act. Please notify this agency if you believe you have been subjected to retaliation from the employer after filing this charge of discrimination.
- You are required to notify this office of any change in address and telephone number, and keep us informed of any prolonged absence from your current address. Your failure to cooperate in this matter may lead to dismissal of your charge.
- You should be aware after your signed Charge of Discrimination (EEOC Form 5) is received, this agency will send a copy of the charge to the U.S. Equal Employment Opportunity Commission (EEOC) as required by our procedures. Some charges initially filed with the SC Human Affairs Commission (SHAC) may be sent to the EEOC for further handling in accordance with our worksharing agreement. You will be notified if your charge will be processed by the EEOC.
- Under section 1601.76 of EEOC's regulations, you are entitled to request that EEOC perform a Substantial Weight Review of this agency's final finding. To secure this review, you must send a written request to EEOC within 15 days of your receipt of this agency's final finding in your case. Otherwise, EEOC will generally adopt this agency's finding.

Sincerely,

Alex Nelson, Intake & Referral Division

<h2 style="margin: 0;">CHARGE OF DISCRIMINATION</h2> <p style="font-size: small; margin: 0;">This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC</p> <p style="text-align: right; font-weight: bold;">14C-2020-00241</p>
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South Carolina Human Affairs Commission

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.) Mr. R. Mike Ardis	Home Phone (incl. Area Code) (803) 236-0859	Date of Birth 1962
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Street Address City, State and ZIP Code
105 North Guignard Drive, Sumter, SC 29150

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name SYKES ENTERPRISES INC.	No. Employees, Members 500 or More	Phone No. (Include Area Code) (803) 774-7900
---------------------------------------	--	--

Street Address City, State and ZIP Code
1057 Broad Street, Sumter, SC 29150

Name	No. Employees, Members	Phone No. (Include Area Code)
------	------------------------	-------------------------------

Street Address City, State and ZIP Code

<p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p> <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) </p>	<p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p style="text-align: center;">Earliest Latest</p> <p style="text-align: center;">10-01-2019 12-13-2019</p> <p style="text-align: center;"><input checked="" type="checkbox"/> CONTINUING ACTION</p>
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was subjected to disparate terms and conditions from on or about October 1, 2019, to on or about November 1, 2019. During a conversation with another employee (black), I learned that I was being paid a lower wage, despite having been there longer and having consistently achieved "Cosmic" ranking. I questioned my supervisor (black), but was not provided with a reason for the disparity. I contend I was being paid a lower wage because of my race and medical condition.

I was denied a reasonable accommodation, harassed, and intimidated from on or about October 1, 2019, to on or about November 1, 2019. My supervisor (black) routinely threatened to write me up for taking doctor recommended breaks. However, he treated other employees (younger, black, females) far more favorably. He allowed them to take frequent breaks, never threatening them with disciplinary actions. I contend he treated me less favorably because of my age, race, sex, medical condition, and as retaliation for requesting accommodation.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> <p>I declare under penalty of perjury that the above is true and correct.</p> <p style="text-align: center; margin-top: 20px;">Date _____ Charging Party Signature _____</p>	<p>NOTARY - When necessary for State and Local Agency Requirements</p> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p style="text-align: center; margin-top: 20px;">SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>
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CHARGE OF DISCRIMINATION

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Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

14C-2020-00241

South Carolina Human Affairs Commission

and EEOC

State or local Agency, if any

I was Subjected to further harassment and intimidation on or about November 7, 2019. Subsequent to complaining about maltreatment from my manager (black) to upper management, I was transferred. However, the discriminatory behavior persisted. My manager (black/female/younger) regularly failed to code my breaks properly. Rather than coding them according to my disability, she would code them as regular breaks. Consequently, my pay and bonuses were adversely impacted. Additionally, two managers (both black/female/younger) forced me to have an off the clock meeting at which they compelled me to complete two surveys. I protested, but they persisted, and, upon my completing the surveys, implied that if I did not return the following day, which was my day off, I would be fired. I contend that they treated me in this manner because of my age, race, sex, and in retaliation for my prior complaints about discrimination.

I was disciplined/suspended on or about November 8, 2019. Following my encounter with the two managers (black/female/younger), they instructed me to come to work the following day. I informed them that I would do so, but only if my attorney could also attend. The Director (Hispanic/Costa Rican) called to inform me that I was being suspended with pay. He did not provide any further details. However, I contend I was suspended because of my age, race, sex, national origin, and in retaliation for requesting accommodation and complaining about discrimination.

I was discharged on or about November 19, 2019. The stated reason for my discharge is that I violated Respondent's "Service Expectation Policy." I refute this allegation in that I was unaware of such a policy. Additionally, My performance had been such that I consistently achieved "Cosmic", which the highest possible. Moreover, I am aware of other employees (black/younger/female) who have committed far more egregious offenses but have not been discharged. I contend I was treated less favorably and discharged because of my age, race, sex, national origin, medical condition, and in retaliation for requesting accommodation and complaining about discrimination.

I am being subjected to further harassment and intimidation. Subsequent to my discharge, I have been attempting to avail myself of Respondent's grievance procedures. However, my requests for information have been consistently denied or ignored. I assert I am being treated in this manner because of my age, race, sex, national origin, medical condition, and in retaliation for requesting accommodation and complaining about discrimination.

I therefore believe I have been discriminated against because of my age (57), race (white), sex (male), national origin (European), qualified disability, and in retaliation for engaging in an activity protected by the South Carolina Human Affairs Law, as amended, Title VII of the Civil Rights Act of 1964, as amended, the US Age Discrimination in Employment Act of 1967, and the Americans With Disabilities Act of 1990,

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
 SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

Date

Charging Party Signature

**PLEASE READ THESE INSTRUCTIONS
BEFORE
SIGNING YOUR CHARGE...**

- 1. All four originals of the charge need to be signed and returned to the SC Human Affairs Commission in order to establish your complaint of discrimination. We are unable to accept copies and require the originals to be returned by mail or in person. **PLEASE RETURN THIS SHEET AND ALL FOUR (4) SIGNED CHARGE FORMS**

***Note: If corrections need to be made or you do not agree with any of the information on the Charge of Discrimination , please call the Intake Division at 1 (800) 521-0725 or (803) 737-7800, to make changes.*

PLEASE DO NOT MAKE WRITTEN CHANGES ON THE CHARGE FORMS.

- 2. The SC Human Affairs Commission offers mediation as an alternative to the prolonged investigative process in order to resolve your complaint. Mediation is a prompt, fair, and efficient process that significantly reduces the amount of time needed to resolve your complaint and is offered free of charge. Program experience shows that employees and employers who participated in mediation indicated a high degree of satisfaction. Participation in the mediation program is strictly voluntary and does not affect your right to have your complaint investigated should it fail to be resolved during mediation. Please check the following if you would be interested in mediation as a method to resolve your complaint.

_____ Yes, I am willing to participate in the mediation process.

_____ No, I am not willing to participate in the mediation process.

- 3. If you have moved or you are planning to move in the near future, please provide your new address and telephone number, including the effective date.

Street Address _____

City/State/Zip _____

Phone _____ Effective Date _____

- 4. **PLEASE RETURN THIS FORM AND ALL FOUR (4) SIGNED CHARGE FORMS TO THIS AGENCY WITHIN TEN (10) BUSINESS DAYS FROM THE DATE ON THE COVER LETTER.** If we do not receive the forms by that time, we must assume that you do not want to file a charge of discrimination and no further action will be taken.

Appendix E

Code of Laws of South Carolina 1976 Annotated

Title 41. Labor and Employment

Chapter 35. Employment and Workforce--Benefits and Claims Therefor (Refs & Annos)

Article 5. Allowance of Claims

Code 1976 § 41-35-760

§ 41-35-760. Publication of department regulations on electronic website.

Effective: March 30, 2010

Currentness

(A) The department must promulgate all regulations described in this chapter and regulations governing procedures at all proceedings, hearings, and appeals before the department or any member or employee of the department, including claims for benefit determinations, and all appeals of determinations regarding those claims, and publish all regulations on an electronic website.

(B) Regulations governing procedures at hearings and appeals before the department shall include, at a minimum:

(1) procedures for seeking a hearing, review, or appeal;

(2) procedures for notifying parties;

(3) evidentiary rules;

(4) procedures for making findings of fact and conclusions of law;

(5) procedures for making and maintaining an appropriate record of interviews and proceedings before the department; and

(6) procedures for seeking review or appeal of the department's decision.

(C) All regulations must be promulgated in accordance with the provisions of Chapter 23, Title 1 of the South Carolina Code of Laws.

Credits

HISTORY: 2010 Act No. 146, § 99, eff March 30, 2010.

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Code 1976 § 41-35-760, SC ST § 41-35-760

Current through the 2019 session, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

End of Document

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SOUTH CAROLINA ADMINISTRATIVE LAW COURT

ROBERT M. ARDIS

Appellant/Claimant,

Lower Tribunal: SC Dept. of Emp. & Workforce

Appellate Panel No: 20-HA-000142

Appeal Tribunal No: 19-LA-0200031

vs.

SYKES ENTERPRISES, INC.

Appellee/Respondent,

_____ /

MEMORANDUM OF LAW

AND

**EMERGENCY MOTION FOR LEAVE TO PRESENT ADDITIONAL
EVIDENCE**

COMES NOW, the Appellant/Claimant, ROBERT M. ARDIS, on his own behalf, and respectfully files this **Memorandum of Law and Emergency Motion for Leave to Present Additional Evidence**. This **Emergency Motion** is being filed pursuant to **South Carolina Code of Laws § 1-23-380**, which reads in relevant part as follows:

(3) If a timely application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file the evidence and modifications, new findings, or decisions with the reviewing court.

It is respectfully submitted that this Honorable Court should immediately **ORDER**, SC DEW to immediately hold a hearing, since one has never been heard, and the Appellant/Claimant has never been heard, in accordance with the South Carolina Constitution, and numerous laws and regulations of this state.

In accordance with **South Carolina Code of Laws § 41-35-760**.

Publication of department regulations on electronic website, a copy of which was included with the undersigned's March 16, 2020, filings with this Court, the undersigned is asking this Court to **REMAND** these matters, immediately to SC DEW, so the undersigned can be heard. I am making such a request, pursuant to the provisions found in **South Carolina Code 1976 § 1-23-380(1)**, and also found in **South Carolina Code 1976 § 1-23-380(3)**.

1. The Appellant/Claimant is requesting that this Court to **REMAND** this case back to SC DEW and **ORDER** that Agency to hold an evidentiary hearing. Such a

hearing has never been held. The undersigned is not pursuing an Appeal, but is pursuing a **REMAND**.

2. It is respectfully submitted that in my opinion, SC DEW is a grossly mismanaged, State Agency, which lacks oversight and accountability. I have been involved in a terse, adversarial relationship with that Agency, because it does **not** follow the law.

3. The South Carolina Department of Employment and Workforce, SC DEW, is **not** in Compliance with several laws passed by the General Assembly and signed by the Governor. With some of those laws have been enacted a full decade ago. For the sake of judicial economy and brevity, the Appellant/Claimant is not duplicating the production of those previously filed Appendixes. The Appellant/Claimant would respectfully request that the Court reviews his March 16, 2020, filing, and that the Court takes Judicial Notice of the following:

Appendix A: March 9, 2020, email serving as follow-up **SC FOIA Request**

Appendix B: **South Carolina Code 1976 § 41-35-760**

Appendix C: **South Carolina Code 1976 § 1-23-380**

Appendix D: **South Carolina Code 1976 § 41-35-750**

Appendix E: **South Carolina Code 1976 § 41-35-750**

Appendix F: **South Carolina Code 1976 § 41-29-300**

- Appendix G:** S.C. Code of Regulations R. 47-2
- Appendix H:** Rule 59, S.C. Rules of Civil Procedure
- Appendix I:** January 29, 2020 “Decision” of Appeals Tribunal
- Appendix J:** February 26, 2020, “Decision” of Appellate Panel
- Appendix K:** March 6, 2020, “Decision” of Appellate Panel in response to March 3, 2020, Emergency Motion to Strike and Emergency Motion for Reconsideration
- Appendix L:** March 3, 2020, Emergency Motion to Strike and Emergency Motion for Reconsideration
- Appendix M:** History and Overview of Work Environment
- Appendix N:** Selected Bibliography of Sykes Lawsuit History
- Appendix O:** Petition for *writ of mandamus*, filed in Sumter County Circuit Court on January 22, 2020 (minus attachments)

4. The Appellant/Claimant is respectfully requesting that the Court takes **Compulsory Judicial Notice of Appendix A through Appendix O**, in accordance with **Rule 201 of the South Carolina Rules of Civil Procedure**. Specifically, **Rule 201(b) and Rule 201 (d)**, which read as follows:

(b) Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready

determination by resort to sources whose accuracy cannot reasonably be questioned.

(d) When Mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

**REASONS TO INVOKE THE PROVISIONS OF SOUTH CAROLINA
CODE 1976 § 1-23-380**

5. The Appellant/Claimant is respectfully invoking **South Carolina Code 1976 § 1-23-380(3)**, which reads as follows:

(3) If a timely **application** is made to the court for **leave to present additional evidence**, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, **the court may order that the additional evidence be taken before the agency upon conditions determined by the court**. The agency may modify its findings and decision by reason of the additional evidence and shall file the evidence and modifications, new findings, or decisions with the reviewing court. **(emphasis added)**

6. The Appellant/Claimant is asking this Honorable Court to **REMAND** these matters back to the SC DEW Appeals Tribunal, in order to conduct an actual hearing, with sworn testimony and evidence. Since there has never been a hearing held. I would also request that this Court takes such actions on an Expedited basis, in the interests of justice, because my family has been suffering, for months, due to

the inactions, and illegal activity of SC DEW. I am requesting an **in-person, Appeals Hearing**.

7. The Appellant/Claimant avers that this should be done because SC DEW has **never** complied with **South Carolina Code 1976 § 41-35-760**. This Court is a reviewing Court and can consider these matters in reaching a decision pursuant to **South Carolina Code 1976 § 1-23-380(3)**. I would respectfully request that this Honorable Court searches the website of SC DEW, as it relates to § 41-35-760, in an attempt to locate any of the following:

(B) Regulations governing procedures at hearings and appeals before the department shall include, at a minimum:

(1) procedures for seeking a hearing, review, or appeal;

(2) procedures for notifying parties;

(3) evidentiary rules;

(4) procedures for making findings of fact and conclusions of law;

(5) procedures for making and maintaining an appropriate record of interviews and proceedings before the department; and

(6) procedures for seeking review or appeal of the department's decision.

(C) All regulations must be promulgated in accordance with the provisions of Chapter 23, Title 1 of the South Carolina Code of Laws.

8. The Appellant/Claimant avers that he has been **Retaliated against**, by SC DEW, for pointing out that that Agency has never complied with **South Carolina Code 1976 § 41-35-760**, which mandatorily requires the following:

(A) The department must promulgate all regulations described in this chapter and regulations governing procedures at all proceedings, hearings, and appeals before the department or any member or employee of the department, including claims for benefit determinations, and all appeals of determinations regarding those claims, and publish all regulations on an electronic website.(emphasis added)

9. For these reasons, alone, this Honorable Court should **REMAND** these matters to the SC DEW Appeals Tribunal, and **ORDER** that Tribunal to actually hold an **in-person, Appeals Hearing**, in accordance with the attached laws. This has never been done, and, without such an Appeals Hearing being held, then my family and I will continue to suffer the unjust, illegal consequences of the arbitrary and mean-spirited actions of SC DEW. Without a **REMAND** of these matters then I will not be able to Appeal matters to this Honorable Court because there is not, and will not, be a Record of the proceedings.

10. Because of SC DEW's actions and failures and violations of the attached laws, the Appellant/Claimant has been forced to do the following:

forced to take out a high interest title loan against my vehicle

forced to sell my burial plot in my family plot

go to the Salvation Army for food donations

go to United Ministries for food donations and assistance with our utility bills

Because of DEW's violations of the law, I have been forced to take such actions to put food on my family's table, and to keep the lights and other utilities turned on. I moved back to South Carolina from Florida, to care for my 78 year old Mother who is suffering from Stage 4 Bone Cancer. Because of the complete lack of professionalism from SC DEW, I was also forced to take the actions immediately above to help defray the costs of her chemotherapy and radiation treatments. No one should ever have to take such drastic actions. Unemployment compensation is a safety net that is put there to help us when we are in need and my family is in need. And I am respectfully requesting that this Honorable Court takes immediate action, and **REMANDS** these matters to the SC DEW Appeals Tribunal, and **ORDER** the Tribunal to immediately call up an Appeals Hearing without any

further delay. My family has been without any income since November and we are hurting, terribly. We cannot wait any longer.

11. The Appellate Panel is bound by the **Code of Judicial Conduct**, and other controlling legal authorities, yet in its "Decision" (**Appendixes J & K**) it completely violated not only the **Code of Judicial Conduct**, but several other legal authorities. **South Carolina Code 1976 § 41-29-300**, reads in pertinent part as follows:

(F)(1) A panelist is **bound by the Code of Judicial Conduct**, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8-13-320. A panelist also must comply with the applicable requirements of Chapter 13, Title 8.**(emphasis added)**

12. I would respectfully direct the Court to **Appendix L**, which is my **March 3, 2020, Emergency Motion to Strike and Emergency Motion for Reconsideration**. Specifically, with the filing of **Appendix L**, I requested that SC DEW issue an Order **STRIKING** both **Appendix I** and **Appendix J**, and that SC DEW actually call up and conduct an Appeal Hearing, which is something that Agency has never done. Here is a microcosm of what is contained in **Appendix L**.

13. There has **never** been an Appeal Hearing held in accordance with the laws of South Carolina. Accordingly, the "Decisions" of the SC DEW Appeals Tribunal, and Appellate Panel, cannot stand. Both "Decisions" are based

exclusively on "hearsay" and the law and regulations are clear on this point. **South Carolina Code of Regulations, R. 47-51**, reads as follows:

S.C. Code of Regulations R. 47-51

C(3) Evidence will not be excluded solely because it may be hearsay. Hearsay, including information provided to the Department through telephone conversations and written statements, may be considered. However, findings of fact cannot be based exclusively on hearsay evidence unless that evidence is admissible under the South Carolina Rules of Evidence. **(emphasis added)**

14. Without ever giving me the benefit of a Hearing, and without the submission of evidence and testimony, SC DEW has violated my rights and the rights of my family. Specifically, **South Carolina Code of Regulations, R. 47-2**, reads as follows:

S.C. Code of Regulations R. 47-2

The Department may designate by written authorization any of its employees as its representatives to administer oaths and affirmations, issue subpoenas for the production of books, papers, correspondence, and other memoranda deemed necessary by it as evidence in connection with disputed or contested claims, or in the administration of the South Carolina Employment Security Law.

15. The Appellant/Claimant was so emphatic and serious about my Appeal

Hearing before SC DEW, that he took the extraordinary step of actually filing an **Emergency Petition for writ of mandamus**, in the Sumter County Circuit Court, in an effort to have the Circuit Court, **ORDER SC DEW** to hold an Appeals Hearing without any further delay. Please see **Appendix O**, which was filed on January 22, 2020, and provided to this Court on March 16, 2020. I am providing the **Emergency Petition for writ of mandamus**, minus its attachments for the review of the Court.

16. The Appellant/Claimant is filing this **Memorandum of Law**, under the provisions of **South Carolina Code 1976 § 1-23-380, Judicial review upon exhaustion of administrative remedies**, which reads in part:

A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy. Except as otherwise provided by law, an appeal is to the court of appeals. **(emphasis added)**

(1) Proceedings for review are instituted by serving and filing notice of appeal as provided in the South Carolina Appellate Court Rules within thirty days after the final decision of the agency or, if a rehearing is requested, within thirty days after the decision is rendered. Copies of the notice of appeal must be served upon the agency and all parties of record.

(3) If a timely application is made to the court for **leave to present additional evidence**, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, **the court may order that the additional evidence be taken before the agency upon conditions determined by the court.** The agency may modify its findings and decision by reason of the

additional evidence and shall file the evidence and modifications, new findings, or decisions with the reviewing court. **(emphasis added)**

(4) The review must be conducted by the court and must be confined to the record. In cases of alleged irregularities in procedure before the agency, **not shown in the record**, and established by proof satisfactory to the court, the case may **be remanded to the agency** for action as the court considers appropriate. **(emphasis added)**

17. The actual facts that I wanted to present, and still want to present, to SC DEW, so I can receive the unemployment compensation my family desperately needs can be found in **Appendix M** and **Appendix N**, provided to this Court on March 16, 2020.

18. Even after SC DEW had taken such actions, in a demonstration of good faith on the part of the Appellant/Claimant, before bringing matters before this Court, the undersigned presented SC DEW with the opportunity to correct its grave errors of law, by **Striking** the "Decisions" of both the Appeals Tribunal (**Appendix I**), and the Appellate Panel (**Appendix J**), all to no avail. Following the filing of his **March 3, 2020, Emergency Motion to Strike and Emergency Motion for Reconsideration, Appendix L**, SC DEW instead choose to ignore its legally required duties, under the law, and issued a letter denying my **Emergency Motion, Appendix L**, with their **Appendix K**. A very sad and telling example of what is wrong with SC DEW.

19. I am respectfully requesting that this Honorable Court takes action on an **Emergency Basis**, pursuant to **South Carolina Code 1976 § 1-23-380**, based upon the facts set forth herein, and especially what is contained in **Appendix L**. I am respectfully incorporating, by reference as if quoted verbatim herein, everything contained within my **Appendix L, my March 3, 2020, Emergency Motion to Strike and Emergency Motion for Reconsideration**.

20. The bottom line is that SC DEW has never complied with the laws passed by the South Carolina Legislature and signed by the Governor. So for SC DEW to argue that this Court should Dismiss the undersigned's case, when DEW has neglected its required duty to comply with the law, for over a decade now, smacks of a slippery slop and a blatant, double standard. For example, **South Carolina Code of Laws § 41-35-760. Publication of department regulations on electronic website**, states in part the following:

(A) The department must promulgate all regulations described in this chapter and regulations governing procedures at all proceedings, hearings, and appeals before the department or any member or employee of the department, including claims for benefit determinations, and all appeals of determinations regarding those claims, and **publish all regulations on an electronic website**.

(B) Regulations governing procedures at hearings and appeals before the department shall include, at a minimum:

- (1) **procedures for seeking a hearing, review, or appeal**;
- (2) **procedures for notifying parties**;
- (3) **evidentiary rules**;

(4) procedures for making findings of fact and conclusions of law;

(5) procedures for making and maintaining an appropriate record of interviews and proceedings before the department; and

(6) procedures for seeking review or appeal of the department's decision.

(C) All regulations must be promulgated in accordance with the provisions of Chapter 23, Title 1 of the South Carolina Code of Laws. (emphasis added)

21. SC DEW did not, and has not, ever complied with § 41-35-760. Not only has SC DEW never complied with the aforementioned law, which is ten years old, furthermore, when I pointed this out to SC DEW, that Agency actually **Retaliated** against me causing dire and extreme harm to me and my family. It is because of such dire, exigent circumstances, that I am pleading with this Honorable Court to invoke the provisions of **South Carolina Code 1976 § 1-23-380**, and immediate **REMAND** these matters back to the SC DEW Appeals Tribunal, specifying and **ORDERING** that a neutral and detached hearing officer be assigned, and that an Emergency, in-person Appeals Hearing be called up, without any further delay.

22. It is axiomatic that an Appeals Hearing has never been conducted by SC DEW in these matters, and the preposterous assertion by the Appeals Tribunal that I "abandoned" my Appeal is belied by the fact that I took the extraordinary measure of filing an **Emergency Petition for writ of mandamus**, with the Sumter County Circuit Court in an effort to Compel SC DEW to hold an Appeals Hearing

in these matters. The only reason I backed off the *mandamus petition* was that when I received notification from the Appellate Panel it stated that I had a Right to Oral Argument, before that Panel. However, contrary to the law, the Appellate Panel refused to allow me to have **Oral Argument**, and that is what has brought these matters before this Court.

23. Since there has never been an Appeals Hearing, and since no one has ever been put under Oath pursuant to **S.C. Code of Regulations R. 47-2**, then everything contained in the "Decisions" of SC DEW is hearsay, that this is strictly prohibited by **S.C. Code of Regulations R. 47-51**

C(3) Evidence will not be excluded solely because it may be hearsay. Hearsay, including information provided to the Department through telephone conversations and written statements, may be considered. However, findings of fact cannot be based exclusively on hearsay evidence unless that evidence is admissible under the South Carolina Rules of Evidence. (emphasis added)

24. **South Carolina Code of Laws § 1-23-360**, states that members or employees of an agency "assigned to *render a decision or to make findings of fact and conclusions of law in a contested case* shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or its representative, except upon notice and opportunity for all parties to participate." (emphasis added) This law

is crystal clear and unambiguous, and was not followed by the Appeals Tribunal and subsequently not followed by the Appellate Panel. Here again this Honorable Court must invoke **South Carolina Code 1976 § 1-23-380**, and **REMAND** these matters to the Appeals Tribunal so a hearing can be held.

25. Pursuant to **Rule 12(f), South Carolina Rules of Civil Procedure**, I am respectfully requesting that this Court issues an **ORDER** which **STRIKES** the attached "Decision" of the Appeals Tribunal, **Appendix I**, and the "Decision" of the Appellate Panel, **Appendix J**, for all the reasons set forth herein.

26. The **South Carolina Constitution Article I, § 22** was added to the 1895 Constitution in 1970 "as a safeguard for the protection of liberty and property of citizens." Final Report of the Committee to Make a Study of the South Carolina Constitution of 1895, p. 21 (1969). **Article I, § 22** provides, in part:

No person **shall be finally bound** by a judicial or quasijudicial decision of an administrative agency affecting private rights **except on due notice and an opportunity to be heard**; nor shall he be subject to the same person for both prosecution and adjudication; . . .**(emphasis added)**

27. The South Carolina Administrative Procedures Act (the APA) sets forth the standard for judicial review of decisions by the Commission." (citing § 1-23-380)); Hutson, 399 S.C. at 387, 732 S.E.2d at 503. Under this standard, the

Administrative Law Court can reverse or modify the decision if the claimant's substantial rights have been prejudiced because the decision is affected by an error of law or is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

28. First, there has never been any hearing held. The Appellant/Claimant is entitled to due process and has a Right to be heard. This has never happened as far as SC DEW is concerned. See Sloan v. South Carolina Board of Physical Therapy Examiners, 636 S.E.2d 598 (S.C. 2006):

Holding that in order to prove a denial of due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law

29. Pursuant to section 1-23-380(5), the reviewing court may reverse or modify the agency's decision ***"if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are . . . clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record."***

30. In Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304, the Court recognized that judicial review of Industrial Commission decisions would be governed by the

Administrative Procedures Act, Section 1-23-380(g), Code of Laws, (1976 Cum. Supp.). That section permits judicial review and reversal where "administrative findings, inferences, conclusions or decisions are: (1) in violation of constitutional or statutory provisions... (4) affected by other error of law... (5) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record...."

31. This Court should assert jurisdiction because the Appellant/Claimant, hand-delivered the Appeal documents, in person, to the Court, over a month ago. There is no Record below, and a hearing has never been held. As the South Carolina Supreme Court held in, Bone v. U.S. Food Serv., 744 S.E.2d 552 (S.C. 2013)

Stating " '[a]n agency decision which does not decide the merits of a contested case' " is not a final decision under section 1-23-380 (quoting S.C. Baptist Hosp. v. S.C. Dep't of Health & Envtl. Control, 291 S.C. 267, 270, 353 S.E.2d 277, 279 (1987))

32. Below is a brief sampling of email communications between the Appellant/Claimant, and the Defendants, SC DEW. It is clear from these emails, which serve as a microcosm of the interactions of the undersigned, and SC DEW. At best, it is disingenuous of SC DEW to argue that they did not receive service of

the Appeal documents on March 16, 2020, when **Rule 4, of the South Carolina Rules of Civil Procedure** is styled as **4. E-Filing and E-Service**. And, it further lacks Candor Towards the Tribunal when SC DEW has provided Service, upon the Appellant/Claimant, via email Service on many occasions. Simply put, SC DEW cannot have it both ways, which is what they are attempting to do. Email Service emails from SC DEW, to the undersigned, are as follows:

EMAIL EXAMPLE #1

Appeals Help <AppealsHelp@dew.sc.gov>

Wed, Jan 22, 1:31 PM

to me

Mr. Ardis,

We received your message dated today at 12:39 p.m. indicating you are unable to attend the above hearing scheduled for 1:30 p.m. today.

EMAIL EXAMPLE #2

Appeals Help <AppealsHelp@dew.sc.gov>

Attachments

Fri, Jan 17, 4:56 PM

to me

Attached is the subpoenaed documentation that was received from the employer.

EMAIL EXAMPLE #3

Appeals Help <AppealsHelp@dew.sc.gov>

Thu, Jan 9, 1:54 PM

to me

Mr. Ardis,

Due to your statement below that you are experiencing a medical emergency, your hearing scheduled for today at 2:30 pm is postponed.

33. Moreover, to assuage and negate the baseless arguments of SC DEW, the undersigned went to great lengths to make additional copies of the Appeals documents, and personally delivered them to the Assistant Executive Director of

SC DEW, Mr. Brian Urban, on April 16, 2020. After waiting for a half hour for Mr. Urban to appear, he finally came out of the building and stated, and the Appellant/Claimant is quoting:

" . . I am the Deputy Assistant Executive Director, and you're talking to the right man. You don't need to give those to me, just use the email address on that card, and email them to me, and I'll make sure they get to the right person."

34. This Court has the inherent authority, and jurisdiction, to make a credibility determination in these matters. As the Appellate Court held in Lee v. Bondex, Inc., 406 S.C. 97 (S.C. Ct. App. 2013), it is within the sound discretion of the Court to make such a "credibility determination" as it relates to the service of the Notice of Appeal.

35. As the Appellate Court held in Peake v. Dept. of Motor, 375 S.C. 589 (S.C. Ct. App. 2007), this Court should not consider a particular clause in a statute in isolation, but should read it in conjunction with the purpose of the entire statute. And, since email Service is recognized in Rule 4, and SC DEW have never denied receiving said email Service, along with Serving the undersigned via email, in conjunction with the very own words of Assistant Executive Director of SC DEW, Mr. Urban, Service has been effectuated upon DEW.

36. SC DEW has been "dragging" these matters out since December of 2019, nearly half a year. During this period the Appellant/Claimant has had no income, and his family is hurting. The stated goal and purpose of SC DEW is to aid and assist citizens in need, not prolong litigation. As the South Carolina Supreme Court held in *Russell v. Wal-Mart Stores, Inc.*, 426 S.C. 281 (S.C. 2019), the goal in these matters should be:

Refocusing the commission on its "primary" role in avoiding "complicated and protracted litigation" (emphasis added)

37. The Administrative Procedures Act limits the role of the judicial branch of government in meeting the goal of **quick decisions in limited litigation** by restricting appeals to final decisions in most cases. See S.C. Code Ann. § 1-23-380 (Supp. 2018) ("A party ... who is aggrieved by a final decision ... is entitled to judicial review..."); *Spalt v. S.C. Dep't of Motor Vehicles*, 423 S.C. 576, 583, 816 S.E.2d 579, 583 (2018) (stating "the Administrative Procedures Act permits an appeal only from 'a final decision ...' " (quoting *Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Env'tl. Control*, 387 S.C. 265, 266, 692 S.E.2d 894 (2010))). It is clear, based upon the South Carolina Constitution, as cited herein,

and a host of other controlling legal authorities, that the Appellant/Claimant has never had due process and has never been heard.

38. As the South Carolina Supreme Court held in Russell v. Wal-Mart, 27875 (S.C. 2019):

Ultimately, we denied an immediate appeal and permitted a remand for a new hearing, 404 S.C. at 84, 744 S.E.2d at 562,

This is precisely what the Appellant/Claimant is requesting of this Honorable Court pursuant to **South Carolina Code 1976 § 1-23-380(3)**,

39. The attorney who has been drafting the legal pleadings for SC DEW is a young attorney, who has been licensed for 7 years, only graduating law school in 2012. Mr. Jordan's AVVO Profile, online, lists his expertise as one third each of the following, Internet, Construction & Development, Appeals law. Accordingly, Mr. Jordan should make it a point to be versed in **Rule 4, South Carolina Rules of Civil Procedure** which reads as follows:

4. E-Filing and E-Service

(a) Electronic Filing. The electronic transmission of a document to the E-Filing System in accordance with these Policies and Procedures and the Filer Interface

User Guide constitutes the filing of that document in accordance with Rule 5(e), SCRCF. Any required filing fees and/or technology fees must be paid for by credit card at the time of submission.

This Rule 5(e) is the same as the Federal Rule. It restates and clarifies present Circuit Rules 32 and 67.

40. Besides the fact that constructive email service is specifically cited in the Rules, the fact that Mr. Jordan's Superior, Mr. Brian A. Urban, directly contradicts the arguments averred by Mr. Jordan, in his pleadings, when Mr. Urban stated on April 16, 2020:

". . . I am the Deputy Assistant Executive Director, and you're talking to the right man. You don't need to give those to me, just use the email address on that card, and email them to me, and I'll make sure they get to the right person."

41. Mr. Urban is Mr. Jordan's superior at SC DEW. If a citizen cannot take the word of the Assistant Executive Director of a State Agency, then the public's trust in the system is irretrievably destroyed.

42. The Appellant/Claimant is not an attorney. He made this point clear in his first filings with the Court. However, the undersigned has labored to take all

actions in good faith, and that is what sound matter. In Haines v. Kerner, 404 U.S. 519 (1972), the United States Supreme Court held:

pro se complaint seeking to recover damages for claimed physical injuries and deprivation of rights in imposing disciplinary confinement should not have been dismissed without affording him the opportunity to present evidence on his claims.

43. As in Haines v. Kerner, the undersigned has not been permitted to put for any evidence, none at all, by SC DEW. **REMAND** is necessary because of this.

44. In Powell v. Lennon, 914 F.2d 1459, 1463 (11th Cir. 1990), regarding motions to dismiss, the High Court held as follows:

A motion to dismiss will be denied unless it appears beyond all doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief. quoting Luckey, 860 F.2d at 1016.

Again, SC DEW has never permitted the undersigned to present anything in support of his claims.

45. In the case of a *pro se* action, moreover, the court should construe the complaint more liberally than it would formal pleadings drafted by lawyers.

Hughes v. Rowe, 449 U.S. 5, 9, 101 S.Ct. 173, 175, 66 L.Ed.2d 163 (1980) (per curiam).

46. In the case of Erickson v. Pardus, 551 U.S. 89, 127 S. Ct. 2197 U.S., 2007, regarding the lenency given to pro se filings, the Supreme Court held:

The Court of Appeals' departure from the liberal pleading standards set forth by Rule 8(a)(2) is even more pronounced in this particular case because petitioner has been proceeding, from the litigation's outset, without counsel. A document filed pro se is "to be liberally construed," Estelle, 429 U.S., at 106, 97 S. Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers," ibid. (internal quotation marks omitted). Cf. Fed. Rule Civ. Proc. 8(f) ("All pleadings shall be so construed as to do substantial justice").

CONCLUSION

47. Pursuant to all the legal arguments set forth before this Honorable Court, and especially set for in **South Carolina Code 1976 § 1-23-380(1)**, the Appellant/Claimant is seeking an immediate, **Emergency Rehearing** before the SC DEW Appeals Tribunal. I am making this request because there is no Record from which this Honorable Court could render any Decision.

48. Pursuant to **South Carolina Code 1976 § 1-23-380(1)**, this Honorable Court needs to immediately **REMAND** these matters back to the SC DEW Appeals Tribunal, and **ORDER** that Tribunal to immediately schedule an in-person Appeals Hearing, with all deliberate speed since my family has been suffering immensely since November of 2019. Additionally, the Court needs to **ORDER** that such an in-person Appeals Hearing needs to be held before a hearing officer who has no prior knowledge of any aspect of this case.

49. The Appellant/Claimant is making this request, before this Honorable Court pursuant to **South Carolina Code 1976 § 1-23-380(3)**, which specifically authorizes the **Emergency Rehearing** sought by the undersigned. I am making this Emergency Motion before the **South Carolina Administrative Law Court**, and cites to **South Carolina Code 1976 § 1-23-380(3)**, which reads as follows:

(3) If a timely application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file the evidence and modifications, new findings, or decisions with the reviewing court.

50. In closing, and on a personal note, my family has been inflicted numerous hardships on account of the violations of the laws of South Carolina by SC DEW. The fact that that Agency is so flippant and arrogant is disgusting when it is supposed to be an Agency that helps people during their time of need. I made the "mistake" of pointing out to SC DEW that it was not in Compliance with the laws of South Carolina. And my "reward" for being a consciousness citizen was to be belittled and **Retaliated** against by SC DEW. I have filed numerous Complaints against this rogue Agency and have also filed a **Notice of Claim** against them.

51. However, all I am seeking is due process of law, and the Appeals Hearing and the unemployment compensation to which I am entitled.

52. I would respectfully submit to the Court that further proof that SC DEW has never complied with **South Carolina Code of Laws § 41-35-760**, can be deduced from the fact that its hearing officers read and considered my Complaint emails to SC DEW Senior Administrators. This is indicative of the fact that DEW has never implemented or promulgated the rules, policies, procedures, etc., that are specifically cited in **Appendix B, South Carolina Code of Laws § 41-35-760**.

53. I am seeking the **Emergency assistance** of this Honorable Court, in the interests of justice. The following is taken from the website of this Honorable Court, and I am pleading for this Honorable Court's immediate assistance:

Mission of the Administrative Law Court

The mission of the Administrative Law Court is to provide a neutral forum for fair, prompt and objective hearings for any person affected by an action or proposed action of certain agencies of the State of South Carolina.

54. It is respectfully submitted to this Honorable Court, that no citizen should be put through what the undersigned has endured at the hands of a non-responsive, State Agency.

WHEREFORE, the Appellant/Claimant Prays for the following Relief on an **Emergency Basis**:

a) That this Honorable Court gives these matters **Emergency** attention, in the interests of justice since the undersigned and his family have been without any income since November of 2019;

b) That pursuant to **Rule 201(b)** and **Rule 201 (d)**, **South Carolina Rules of Civil Procedure**, that the Court takes **Compulsory Judicial Notice** of everything the Appellant has filed in this matter, including all pleadings and Motions, and the attached **Appendix A** through **Appendix O**, filed on March 16, 2020;

c) Pursuant to everything contained herein, and in the attached Appendixes, that this Court invokes the provisions of **South Carolina Code 1976**

§ 1-23-380, and in doings so that the Court **REMANDS** these matters to the SC DEW Appeals Tribunal and **ORDERS** the Tribunal to immediate call up and hear an in-person Appeals Hearing, without any further delay;

d) In the alternative, pursuant to everything contained herein, and in the attached Appendixes, that this Court invokes the provisions of **South Carolina Code 1976 § 1-23-380**, and in doings so that the Court **REMANDS** these matters to the SC DEW Appeals Tribunal and **ORDERS** the Tribunal to immediate call up and hear a telephonic Appeals Hearing, without any further delay. My first choice is to have an in-person Appeals Hearing, but at this point my family is hurting badly, and we desperately need the unemployment compensation that I am entitled to without any further delay;

e) That this Honorable Court, in **ORDERING** the SC DEW Appeals Tribunal to immediately hold an in-person Appeals Hearing that the Court **ORDERS** the Tribunal to specifically follow the provisions of **House Bill 4014, Labor and Employment Law, South Carolina Laws Act 203**, which requires all decisions reached by SC DEW, must be done in accordance with the **South Carolina Rules of Civil Procedure** and the **South Carolina Administrative Procedures Act**;

f) Pursuant to **Rule 12(f), South Carolina Rules of Civil Procedure**, I am respectfully requesting that this Court issues an **ORDER** which **STRIKES** the

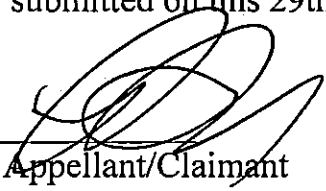
"Decision" of the Appeals Tribunal, **Appendix I**, and the "Decision" of the Appellate Panel, **Appendix J**, for all the reasons set forth herein;

g) In the alternative, and only if possible, I would prefer to have nothing to do with SC DEW if this Honorable Court is empowered to call up an **Emergency Hearing** and permit me to make my arguments to this Court, pursuant to **South Carolina Code of Laws § 1-23-380(5)**;

h) Additionally, if this Honorable Court is empowered with the authority, and jurisdiction to **ORDER SC DEW**, to immediately Release all of the unemployment compensation owed to me, I would ask the Court to do so. My family is suffering extreme, dire situations, and we desperately need the unemployment compensation that I am owed;

i) Any and all other Relief the Court deems just, proper, and in the interests of justice;

Respectfully submitted on this 29th day of April 2020.


Mike Ardis
Mike Ardis, Appellant/Claimant
105 North Guignard Drive
Sumter, SC 29150
(803) 236-0859
michael.ardis2001@gmail.com

VERIFICATION

I HEREBY CERTIFY that, under penalty of perjury, that everything contained within this **Emergency Motion** is the absolute truth. The Appellant/Claimant is Verifying this **Emergency Motion** in that this is a crucially important issue to the undersigned, and he desires to impart its importance to the tribunal via this Verification.

Mike Ardis

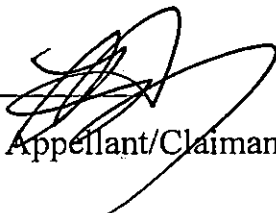


Mike Ardis, Appellant/Claimant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of this **Emergency Motion**, and its **Appendixes**, have been provided to the Court via hand-delivery and to the South Carolina Department of Employment and Workforce on this 29th day of April 2020, via Rule 4 email and U.S. Mail.

Mike Ardis



Mike Ardis, Appellant/Claimant

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: First: Middle: X Mr. Mrs. Miss Ms. Docket No. (To Be Completed by

ARDIS ROBERT MICHAEL ALC)

Mailing Address: City: State and Zip:

105 NORTH GUIGNARD DRIVE SUMTER S.C. 29150

Home Number: Work Number: Cell Number: *E-Mail Address:

N/A N/A (803) 236-0859 michael.ardis2001@gmail.com

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

REPRESENTATION

Are you representing yourself? Yes No

Are you represented by an Attorney? Yes No Name of Attorney:

Attorney Mailing Address: City, State and Zip:

N/A SELF-REPRESENTED

Attorney Work Number and Cell Number: Attorney E-Mail Address:

N/A SELF-REPRESENTED

CASE INFORMATION

Name of Agency that Issued the Decision:

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

(Example – Dept. of Revenue, Dept. of Insurance, DHEC)

In order to have your case processed, you must attach
the agency decision. Is it attached?:

Yes No

If no, please explain: **PREVIOUSLY PROVIDED TO THE COURT WITH NOTICE OF
APPEAL**

Date the decision was issued: Date the decision was received:

DATED FEBRUARY 26, 2020, BUT RECEIVED SEVERAL DAYS AFTER THIS DATE

Please provide a brief statement regarding why the hearing is being requested and the relief
sought:

**MY FAMILY IS SUFFERING TERRIBLY DUE TO THE INCOMPETENCE AND
UNPROFESSIONAL BEHAVIOR OF SC DEW. THE LONGER THESE
ACTIONS GO ON, THE MORE DRASTIC HARDSHIPS MY FAMILY WILL
SUFFER. I HAVE ALREADY HAD TO RESORT TO EXTREME MEASURES
DUE TO THIS AGENCY AND I AM TIRED OF IT. I AM ABSOLUTELY
ENTITLED TO THE UNEMPLOYMENT BENEFITS AND I AM ASKING FOR
AN EMERGENCY HEARING, BEFORE THIS HONORABLE COURT,
WITHOUT DELAY. BASED UPON MY PRIOR FILINGS I HAVE NEVER HAD
A HEARING IN ACCORDANCE WITH THE LAW, THIS IS UNDISPUTED. I
AM REQUESTING THIS EMERGENCY HEARING, SO I CAN HAVE A
HEARING AND RECEIVE THE UNEMPLOYMENT COMPENSATION I AM
RIGHTFULLY ENTITLED TO. THANK YOU**

Payment via Check Money Order Cash for \$
Administrative Law Court via

submitted today to the
(applicable filing fee

I HAVE ABSOLUTELY NOTHING. NOT EVEN \$1.00

pursuant to ALC Rule 71) is
being

**I AM UNABLE TO PAY ANYTHING DUE TO THE ACTIONS
OF SC DEW, THEY SHOULD BE ASHAMED OF THEMSELVES**

U.S. Postal Service Hand-delivery **Email**

**I DO NOT EVEN HAVE THE MONEY TO MAKE COPIES OF THIS FORM, NOR DO I
HAVE THE MONEY FOR POSTAGE TO MAIL THIS FORM, EVEN IF I WANTED TO.
WHEN A MAN HAS NOT WORKED OR HAD ANY INCOME, WHATSOEVER, SINCE
NOVEMBER OF 2019, IT SHOULD BE APPARENT THAT HE IS IN DESPERATE NEED
OF EMERGENCY RELIEF.**

X Your Signature or Signature of Attorney

Date

ROBERT MICHAEL ARDIS

APRIL 13, 2020

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: Date: City: State:

ROBERT MICHAEL ARDIS

Robert Michael Ardis, Appellant/Claimant
105 North Guignard Drive
Sumter, SC 29150
(803) 236-0859
michael.ardis2001@gmail.com

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 using the email addresses in my possession on which the Court is copied:

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

Name
and/or Agency Name Address City, State and Zip

X Your Signature or Signature of Attorney

ROBERT MICHAEL ARDIS

Robert Michael Ardis, Appellant/Claimant
105 North Guignard Drive
Sumter, SC 29150
(803) 236-0859
michael.ardis2001@gmail.com

Date

APRIL 13, 2020

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.