

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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AUG 20 2020

APPEAL FROM THE ADMINISTRATIVE LAW COURT
H.W. Funderburk, Jr., Administrative Law Judge

SC Court of Appeals

Case No.: 20-ALJ-22-0070-AP

Appellate Case No. 2020-000981

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

Respondents,

v.

Robert M. Ardis,

Appellant.

RETURN TO APPELLANT'S MOTION TO EXPEDITE

Respondent South Carolina Department of Employment and Workforce (the Department) submits this return to Appellant Robert M. Ardis's Motion to Expedite. The Department respectfully requests this Court deny Appellant's motion because Appellant failed to serve the Department with a copy of his motion and the issues involved in this appeal do not warrant expediting this appeal and giving it special status above other pending appeals.

I. The Court should deny Appellant's Motion to Expedite because Appellant failed to serve the Department with a copy of his motion as required by Rule 241(d), SCACR.

The Court should deny Appellant's Motion to Expedite because Appellant failed to serve the Department with a copy of his motion as required by Rule 241(d), SCACR.¹ Rule 241 addresses motions before this Court, and Rule 241(d) specifically mandates a party filing a motion with the Court "shall" serve each party with a copy of the motion. Also, Rule 241(g), SCACR states, "Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition." Service on opposing parties of documents filed with the court is a basic legal requirement for almost any document in any court or legal tribunal.

For this motion, Appellant should be intimately aware of the service requirement. Although Appellant claimed in his motion that he is pro se and needs the Court to excuse his informality and unfamiliarity with legal proceedings, Appellant routinely informs the Department of his extensive background in the law, including expert-level trial skills. According to Appellant, he was a professor of law and "taught law and court procedures, for 20 years, in front of approximately 25,000 to 30,000 students." *See Exhibit A, Email Dated July 31, 2020 from Appellant to Various Department Employees.* Also, on multiple occasions, Appellant has regaled the Department with the story of a past trial victory when, after the trial, a bailiff informed Appellant "he had never seen anyone handle cross-examination as well as [Appellant] did." *Exhibit A.* Thus, given Appellant's extensive legal knowledge, he should be aware of the service requirement.

Moreover, our appellate courts routinely reiterate the well-settled rule that courts should hold pro se litigants to the same standard as attorneys. *See State v. Burton*, 356 S.C. 259, 265, 589

¹ The Department is aware of Appellant's motion only because the Court issued a deficiency letter to Appellant and sent a copy of the letter to the Department.

S.E.2d 6, 9 (2003) (explaining a pro se litigant is responsible "for complying with substantive and procedural requirements of the law"); *Rouvet v. Rouvet*, 388 S.C. 301, 310, 696 S.E.2d 204, 208 (Ct. App. 2010) ("[T]he court will hold a layman to the same standard as an attorney."); *Goodson v. Am. Bankers Ins. Co. of Flo.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988) ("Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.").

Furthermore, as discussed below, the issue in this appeal involves Appellant's failure to properly serve the Department with his notice of appeal to the Administrative Law Court (ALC). *See Exhibit B, ALC Order Dated May 18, 2020*. Thus, even if Appellant's decades of legal experience did not make him aware of the service requirement, Appellant's participation in these proceedings provided knowledge that he must serve opposing parties with his court filings.

Based on Appellant's failure to serve the Department with a copy of his Motion to Expedite, despite having knowledge of the service requirement, the Court should deem Appellant's failure to be an abandonment of the motion under Rule 241(g). The Court should deny Appellant's motion based on his failure to serve the Department.

II. The Court should deny Appellant's Motion to Expedite because the issues involved in this appeal do not warrant expediting the appeal and giving it special status above other pending appeals when the legal issue concerns only whether Appellant properly served the Department with his notice of appeal to the ALC and, even if Appellant prevailed in this appeal and on remand, his total recovery would be limited to \$5,956 of unemployment insurance benefits.

The Court should deny Appellant's Motion to Expedite because the issues involved in this appeal do not warrant expediting the appeal and giving it special status above other pending appeals when the legal issue concerns only whether Appellant properly served the Department with his notice of appeal to the ALC, and even if Appellant prevailed in this appeal and on remand, his total recovery would be limited to \$5,956 of unemployment insurance benefits. The

Department has been unable to find any case law directly addressing criteria for expediting appeals; however, our appellate courts tend to expedite appeals only when compelling circumstances exist to do so. For example, our supreme court has ordered that appeals involving the custody of minors, such as termination of parental rights or adoption, be expedited due to the need for stability in children's lives. *See* S.C.Sup.Ct. Order dated October 20, 2011.

Also, in *Riverwoods, LLC v. County of Charleston*, a group of taxpayers challenged a county tax ordinance, and the trial court ruled in favor of the taxpayers. 349 S.C. 378, 380–81, 563 S.E.2d 651, 653 (2002). Our supreme court granted a joint motion by the parties to expedite the appeal. *Id.* at 383, 563 S.E.2d at 654. Although the court did not explain its reasoning for granting the motion to expedite, it appears expediting the case was desirable given the nature of the issues involved: whether the ordinance conflicted with an act passed by the general assembly and whether the ordinance violated our state constitution. *Id.* Given that the ordinance involved property taxes, swift resolution of the appeal was needed to provide all of Charleston County with clarity regarding taxes. Such a situation involves the public interest and provides compelling circumstances for expediting an appeal.

Additionally, compelling circumstances to expedite an appeal existed in *Florence County v. Moore*, 344 S.C. 596, 545 S.E.2d 507 (2001). In *Moore*, the governor appointed the appellant to serve as the treasurer of Florence County when the elected treasurer could not fulfill his term. *Id.* at 598, 545 S.E.2d at 508. The appointment was to last until the time when a successor could be elected. *Id.* at 599, 545 S.E.2d at 508. Subsequently, the County held the election, and the question became whether the person elected was immediately the rightful treasurer or did the governor's appointee continue to act as treasurer through the end of the previous term, which was approximately seven months following the election. *Id.* at 599, 545 S.E.2d at 509. On appeal, the

appellant filed a motion to expedite, and our supreme court, again without explanation, granted the motion. *Id.* at 599–600, 545 S.E.2d at 509. As in *Riverwoods LLC*, the appeal in *Moore* involved issues of public interest and compelling circumstances that warranted expediting the appeal. Essentially, the court was deciding the rightful treasurer of Florence County, not at some point in the future, but at that moment. The public interest requires the court to resolve such an issue as expeditiously as possible, and thus, compelling circumstances warranted expediting the appeal.

In this case, no such compelling circumstances exist. The issue in this appeal does not involve the public interest. The only issue properly on appeal before this Court involves the ALC's order finding Appellant failed to serve the Department with his notice of appeal to the ALC following the Department's final agency decision. The ALC properly found it lacked appellate jurisdiction to consider Appellant's appeal based on Appellant's failure to serve the Department with the notice of appeal. *See Exhibit B*. Thus, this appeal involves a routine appellate jurisdiction question. Contrary to Appellant's assertions, even if this Court ultimately reversed the ALC's order, the only proper relief would be to remand the case to the ALC so that Appellant's appeal to the ALC could proceed. The underlying merits of Appellant's claim for unemployment benefits is not before this Court.²

² In any event, the Department strongly disagrees with Appellant's claim that he is entitled to unemployment benefits. Appellant's employer terminated his employment after discovering Appellant, who worked as a telemarketer, was having inappropriate conversations with customers, including sexual innuendos such as "I like it when you talk dirty to me." Based on this behavior, the employer terminated Appellant's employment for misconduct rendering Appellant ineligible for benefits. *See* S.C. Code Ann. § 41-35-120(2) (Supp. 2019). Following the denial of his claim for unemployment benefits, Appellant appealed to the Department's Appeal Tribunal but refused to participate in two evidentiary hearings scheduled by the Department. Because Appellant refused to participate in the appeal process, the Tribunal dismissed his appeal. Subsequently, Appellant appealed to the Department's Appellate Panel and then to the ALC where he failed to serve the Department with his notice of appeal. Thus, Appellant's claims are erroneous when he

Furthermore, even if Appellant prevailed in this appeal and ultimately prevailed on remand, his total recovery would be \$5,956 of unemployment insurance benefits. *See Exhibit C, Determination of the Maximum Amount of Benefits Appellant Could Receive if he was Eligible.* Although Appellant may feel this is a significant amount to him personally, it is hardly significant relative to other appeals involving criminal convictions, family and domestic issues where children are involved, and civil cases wherein significant amounts of money are at stake. Appellant's Motion to Expedite would place his appeal ahead of these other appeals that have more significant ramifications. Moreover, Appellant has informed the Department he recently began new employment, which alleviates his alleged financial difficulties. Thus, the issue in this appeal does not involve the public interest, and there are no compelling circumstances to warrant expediting this appeal.

III. Conclusion

Based on the foregoing, the Department respectfully requests this Court deny Appellant's Motion to Expedite. The Court should deny Appellant's motion because Appellant failed to serve the Department with a copy of his motion despite knowledge of the service requirement. Further, the issues involved in this appeal do not involve the public interest, and there are no compelling circumstances to warrant expediting this appeal.

alleges he is entitled to unemployment benefits and the Department denied him an opportunity to be heard.

Respectfully Submitted,

s/ Steven A. Jordan, Jr.

Steven A. Jordan, Jr. (SC Bar # 100314)
SC Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202
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803.737.0124 (fax)
Legal@dew.sc.gov

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

August 17, 2020

EXHIBIT A

Chesley, Kristi

Subject: FW: URGENT MESSAGE

From: mike ardis <michael.ardis2001@gmail.com>

Sent: Friday, July 31, 2020 7:51 AM

To: Ellzey, Dan <DEllzey@dew.sc.gov>; Urban, Brian <BUrban@dew.sc.gov>; Newsom, Tudy <TNewsom@dew.sc.gov>

Subject: URGENT MESSAGE

Your attachment(s) were cleaned by Check Point Sandblast Threat Extraction.

[Click here](#) to restore the original(s).

Mr. Ellzey, Mr. Urban, and Ms. Newsom,

I have repeatedly emailed you all, since an erroneous "decision" was reached in my unemployment claim by the incompetent Roger Dickerson on July 21, 2020. I must ask, do you simply hire people and put them to work, or do you have any type of training regimen? Please keep all these emails I am sending you. I want it to be documented. I informed you in December I would be suing you, I served you with a Notice of Claim, and am now providing you with verifiable information, yet again, that your agency has violated South Carolina Law, South Carolina Regulations, and your very own written policies and procedures. In fact, what is immediately below is taken directly from your website.

If my lawsuit lacked legal efficacy, don't you believe that the Circuit Judge would have, *sua sponte*, Dismissed it? That's not going to happen and I will defeat your motions to dismissal and summary judgment. All you are doing, by refusing to correct the egregious error I brought to your attention, over a week ago, is simply proving everything in my pending lawsuit is true. That's fine by me. Keep violating the law. And if you force me to "appeal" something that any one of you could fix, with 2 minutes of your time, trust me, it will be detailed, at length, in my **Amended Complaint** against each of you, and DEW. The unemployment benefits you are illegally withholding from me are not yours. They belong to me. I paid taxes and I earned them.

I have provided the Governor's Office and my State Senator's Office with all communications and documents I have sent to you, that you have never responded to. You know you violated the law and your own policies, but you are refusing to correct your errors. There is a lot I wish I could share with you, but cannot do so due to settlement agreements/releases and memorandums of understanding. But here is one thing I can share, since this matter does not involve confidentiality agreements. And, pursuant to the law of this state, consider this email a **"settlement negotiation."** Here is the applicable law on such matters and nothing in this email can be used in any court proceeding or

pleading. [https://www.sccourts.org/courtreg/displayRule.cfm?ruleID=408.0&subRuleID=&ruleType=EVD#:~:text=It%20is%20generally%20the%20rule,not%20admissible%20to%20prove%20liability.&text=453%2C%2070%20S.E.%201060%20\(1911,a%20compromise%20is%20not%20admissible\).](https://www.sccourts.org/courtreg/displayRule.cfm?ruleID=408.0&subRuleID=&ruleType=EVD#:~:text=It%20is%20generally%20the%20rule,not%20admissible%20to%20prove%20liability.&text=453%2C%2070%20S.E.%201060%20(1911,a%20compromise%20is%20not%20admissible).)

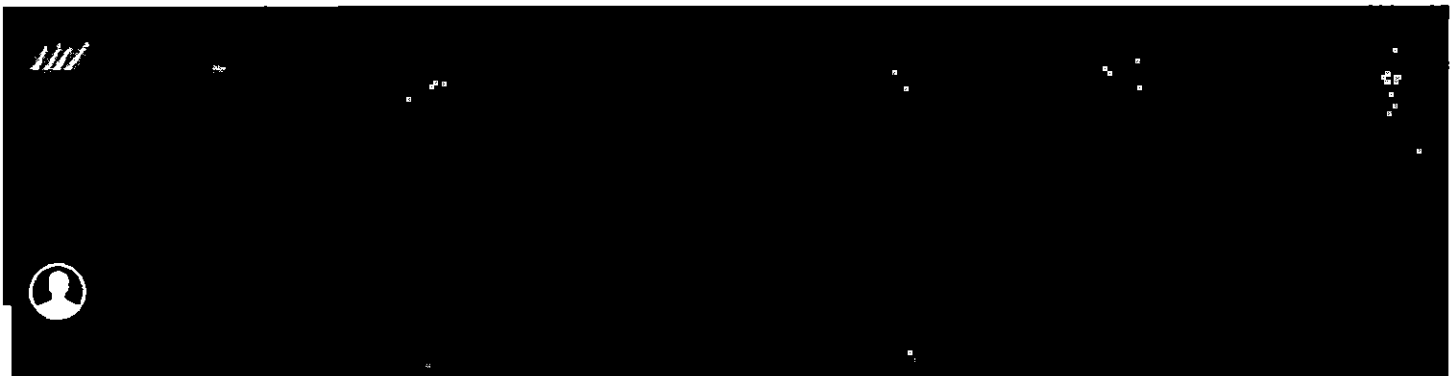
I was illegally fired by Morris College in 2000, and represented myself in that case. Morris refused to settle and the case went to trial. I went up against a team of three attorneys for Morris. When I made my closing arguments I had an erasable board in front of the 12 person jury. I added up my lost salary, retirement, and other benefits for one year, which is what I was suing for. The total came to \$66,000, and that's what the jury took into the deliberation room with them. When they came back the verdict was \$70,000, \$4,000 more than I had asked for. Before I left the courtroom the bailiff came up to me and said 2 things. First, he said in his 30 years as a bailiff he had never seen anyone handle cross-examination as well as I did. And, second, he said he had never seen a jury return with a larger amount than the one requested. Remember, I taught law and court procedures, for 20 years, in front of approximately 25,000-30,000 students. You can throw any question at me, and I will be giving you an answer before you even finish. Or, depending on the demeanor of the jury, I may delay my answer a few seconds. But, it will be timed for effect.

So, you keep blowing me off and pissing me off. I do not miss a thing. But I would strongly advise you to correct the clear, unforgivable, ILLEGAL, error made by Roger Dickerson, and release my unemployment benefits now. Or, I give you my solemn promise, that I will make my performance against Morris College look like a little league game compared to how I will prepare for you and DEW. Get this straight. Now!

Please advise.

Robert M(Mike) Ardis
803-236-0859

PS: You will also notice that the story regarding Morris College was featured in the **Chronicle of Higher Education**, the premiere publication on college and university news. I have a way of getting publicity, and trust me, when we go to trial, you, and the racist and retaliatory acts, of DEW, will be prominently covered. **Not a threat. A promise!!**





[MyBenefits Login](#)



[SUITS Portal](#)

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- [Employers](#)
- [Workforce Partners](#)
- [Tools & Resources](#)
- [About DEW](#)



Unemployment Insurance

Unemployment Insurance (UI) is a nationwide program created to financially help eligible

Unemployment Insurance (UI) is a nationwide program created to financially help eligible individuals (also referred to as claimants), who are unemployed through no fault of their own, while they actively search for new work.

The program allows UI recipients to maintain purchasing power, therefore, easing the serious effects of unemployment on individual households, the community and the state. In South Carolina, a UI claim can provide up to 20 weeks of benefits. The average weekly benefit amount is \$236. The maximum weekly benefit is \$326.

Employers finance the UI program through tax contributions, and DEW is responsible for the collection, accounting and auditing functions of South Carolina's UI tax program. **DEW**

administers the UI program according to guidelines established by the South Carolina Code of Laws, Title 41, and South Carolina Code of Regulations, Chapter 47.

For more information on additional eligibility provided through the CARES Act programs, click [here](#).



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EXHIBIT B

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Robert M. Ardis,

Appellant,

vs.

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

Respondents.

Docket No. 20-ALJ-22-0070-AP

**ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS**

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Motion to Dismiss for Lack of Jurisdiction filed by the South Carolina Department of Employment and Workforce (Department or Respondent) in response to an appeal filed by Robert M. Ardis (Appellant) seeking to obtain judicial review of a final Department decision denying unemployment insurance benefits pursuant to S.C. Code Ann. § 41-35-750 (Supp. 2019).

PROCEDURAL BACKGROUND

The Department mailed the Appellate Panel's final decision on February 26, 2020. The Appellate Panel denied Appellant's Application to Appeal. The Appeal Tribunal dismissed Appellant's appeal because he did not participate in a hearing he requested. This decision effectively affirmed the Department's redetermination holding Appellant disqualified from benefits for twenty weeks for having been discharged for misconduct connected with the employment.

On March 3, 2020, Appellant filed a "Motion for Rehearing/Reconsideration." By letter dated March 6, 2020, Appellant was notified that the Panel denied his request.

Included in the final decision was a "Notice of Mailing of Appellate Panel Decision" (Notice). That Notice clearly informed Appellant that a Petition for Judicial Review must be filed with the ALC and served on all parties (including the Department) within thirty (30) days from the mailing date of the Department's final decision. The Notice also informed Appellant that, "[t]o obtain judicial review of this decision, [he] must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court." (Emphasis added.)

FILED

MAY 18 2020

SC ADMIN LAW COURT

The Notice includes the address of the ALC and mandates that service of the Petition on the Department **must** be addressed and **mailed** to the Department's Office of General Counsel at Post Office Box 8597, Columbia, SC 29202. (Emphasis added.)

In the letter denying his request for reconsideration, Appellant was again informed that he had thirty days from the date of the letter to file a Petition for Review with the Administrative Law Court and must serve a copy of the Petition on the Department at the address of its "Office of General Counsel" at "Post Office Box 8597, Columbia, SC 29202."

Instead of following this procedure, Appellant submitted an "Emergency Notice of Appeal" received at the ALC on March 17, 2020. Appellant appended a Certificate of Service stating that the Notice of Appeal was "provided to the South Carolina Department of Employment and Workforce and Sykes Enterprises [Employer] on this 16th day of March 2020." Appellant did not certify how the notices of appeal were provided to the Department or to the Employer.

The Department filed a Motion to Dismiss by mail on April 9, 2020, and served both Appellant and Employer by mail. The Department contends that the Notice of Appeal was not served on the Department either by mail or by personal delivery. This contention is supported by an affidavit provided by the Department's legal assistant.

Appellant responded via email to Department's Motion to Dismiss on April 13, 2020. In his response, Appellant admitted that he had been "communicating and providing service upon [Respondent] via email since December of 2019." Based on this history, he complains that the Department's motion, asserting that an email filing is not allowed, is made in bad faith.

Appellant further argues that he is **not** attempting to invoke the appeal provisions of S.C. Code Ann. § 1-23-380 (Supp. 2019) but only the provisions of § 1-23-380(3) that allow a court to order that "additional evidence be taken before the agency upon conditions determined by the court."

However, invoking this provision requires a "timely application" to obtain jurisdiction before a reviewing court. Thus, the question, as presented in the Department's motion, is whether the ALC's jurisdiction has been properly acquired.

DISCUSSION

For the Court to review an appeal from a final decision of the Department, appellate jurisdiction must be properly invoked by timely service.

Under S.C. Code Ann. § 41-35-750 (Supp. 2019) and SCALC Rule 33, a Petition for Judicial Review be filed with the ALC and served on all parties within thirty (30) days of the mailing of the Department's final decision. In this case, the Department's final decision (containing instructions as to how to file an appeal), was mailed on February 26, 2020. The time for Appellant to properly file his appeal and serve all parties expired on March 27, 2020.

As provided by SCALC Rule 5,

Any document filed with the Court shall be served upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by delivery, by mail to the last known address, or as otherwise approved by the Court through administrative order.

The "Proof of Service" Appellant filed with the Court claims that notice was "provided" to the Department and the Employer on March 16, 2020. In any event, Appellant has not shown that all parties were served the notice of appeal by mail or by personal delivery within the 30-day period required by law, that is by April 6, 2020.

Appellant argues, as stated above, that the Department, having accepted his requests and appeals by email in the course of the Department's processing of his claim and associated appeals, is estopped from claiming that his appeal to this Court cannot be made electronically. However, appeals from Department determinations or from Appeal Tribunal decisions are permitted to be "electronically delivered" or "file[d] online, by fax, by mail, or otherwise deliver[ed] to the Department." S.C. Code Regs. 47-52(A)(1) and 47-52(A)(1) (Supp. 2019).

On the other hand, appeals to the ALC are governed by S.C. Code Ann. §§ 1-23-380 (Supp. 2019) and 41-35-750 and South Carolina Administrative Law Court (SCALC) Rules 5 and 33.

Section 1-23-380(1) states that,

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.

The South Carolina Appellate Court Rules (SCACR), requires that a “party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules.” Rule 203, SCACR. Furthermore, service is defined as follows:

Whenever under these Rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the appellate court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address Service by mail is complete upon mailing.

Rule 262(b), SCACR.

Likewise, Section 41-35-750 requires that a notice of appeal must be served on the executive director or on a person designated by the Department within the time specified by this section [thirty (30) days].” In the materials mailed to Appellant, the Department designated its General Counsel to receive notices of appeal. Therefore, a notice of appeal must be delivered or mailed to the Department’s General Counsel.

In addition, SCALC Rule 5 requires service “by delivery, by mail to the last known address, or as otherwise approved by the Court by administrative order.” The Court has not established any procedure for service other than personal delivery or delivery by mail. The 2019 Revised Notes for Rule 5 confirm this requirement: “[P]arties may not serve documents by e-mail” and provide that “service is by delivery or mailing, but not fax.”

Furthermore, SCALC Rule 33 requires that service by personal delivery or by the United States Postal Service (USPS) must be accomplished within thirty (30) days. If not, appellate jurisdiction does not attach. *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985). (An appellate court “may not extend the time to appeal.”)

In addition, service is complete when properly addressed, bearing sufficient postage, and deposited in the United States mail. *Southbridge Properties, Inc., v. Jones*, 292 S.C. 198, 199, 355 S.E.2d 535 (1987). Delivery to a professional mailing service is not service on the addressee, and the timeliness of an appeal can only be determined by the date the notice is deposited in the United State mail. *Id.*

Compliance with rules, regulations, and statutes determines appellate jurisdiction. *Allison v. Gore & Associates*, 394 S.C. 185, 188, 714 S.E.2d 547, 549 (2011). Moreover, the general rule is that an appellate body cannot extend the time to appeal. *Id.* at 189, 714 S.E.2d at 550; *Mears* at 169,

337 S.E.2d at 207 (“[the Supreme Court] has no authority to extend or expand the time in which the notice of intent to appeal must be served.”)

CONCLUSION

Appellant did not serve by direct delivery or by mail the Department or the Employer. Therefore, he did not comply with the requirement that he serve all parties within thirty days from the mailing date of the Department’s final decision. Therefore, the ALC does not have jurisdiction to entertain this appeal. The timely filing and service of the notice of appeal are jurisdictional requirements under S.C. Code Ann. §§ 1-23-380 and 41-35-750 and associated rules.

The Court has no authority to extend the time by which a notice of appeal must be served. *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004) (“The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.”)

Considering the impact of the COVID-19 pandemic, many deadlines and due dates for filings have been extended. However, The Chief Administrative Law Judge in allowing these extensions also recognized the following:

All Rules of Procedure regarding the method for the filing and service of documents are still in effect. **This Order does not apply to the statutory timeframes for filing the initial request for a hearing or a notice of appeal.**

Administrative Order, March 24, 2020.

The Court recognizes that Appellant is not represented by counsel, but a *pro se* litigant is responsible for “complying with substantive and procedural requirements of the law.” *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003); *State v. Policao*, 402 S.C. 547, 558, 741 S.E.2d 774, 779-80 (Ct. App. 2013). While the Court is aware of the consequences of dismissal in this matter, the ALC has no authority to enlarge the time within which an appeal or a request for a contested case hearing must be filed. *See, e.g. State v. Johnson*, 327 S.C. 435, 438, 489 S.E.2d 228, 230 (Ct. App. 1997), *rev’d on other grounds*, 333 S.C. 459, 510 S.E.2d 423 (1999) (holding that “it is the duty of the court to assure that it renders no decision in a matter when it has no authority to act”).

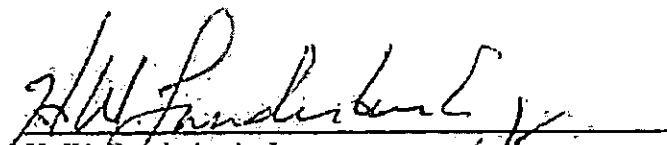
Because Appellant did not comply with the statutes and rules governing appeal to the ALC, his notice of appeal was untimely. Consequently, the Court does not have jurisdiction to hear this appeal.

It is therefore,

ORDERED that the Department's Motion to Dismiss for Lack of Jurisdiction is **GRANTED** and this Appeal is hereby **DISMISSED**.

AND IT IS SO ORDERED

May 18, 2020
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

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MAY 18 2020

SC ADMIN. LAW COURT

Docket No. 20-ALJ-22-0070-AP

CERTIFICATE OF SERVICE

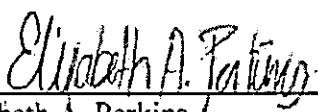
I, Elizabeth A. Perkins, hereby certify that I have this date served the enclosed **Order Granting [Respondent DEW's] Motion to Dismiss** upon all parties to this case by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

Robert M. Ardis
105 N. Guinyard Dr.
Sumter, SC 29150
Petitioner

Steven Jordan, Esquire
SC Dept. of Employment & Workforce
PO Box 8597
Columbia, SC 29202
Counsel for Respondent SCDEW

Sykes Enterprises, Inc.
PO Box 16560
Clearwater, FL 33766

May 18, 2020
Columbia, South Carolina



Elizabeth A. Perkins
Judicial Law Clerk

FILED
MAY 18 2020
SC ADMIN. LAW COURT

EXHIBIT C



South Carolina
Department of Employment and Workforce



4467732

ROBERT M ARDIS
105 N GUIGNARD DR
SUMTER SC 29150-4540

Claim ID: 839133
Claimant ID: 10382369
Employment Service Office: Sumter
SSN: xxx-xx-8549

Initial Determination of Status as an Insured Worker

EFFECTIVE DATE 11/17/2019
DATE PREPARED 11/25/2019

DATE FILED 11/22/2019

***BENEFITS YOU MAY BE ELIGIBLE FOR**

WEEKLY BENEFIT AMOUNT \$326.00
MAXIMUM TOTAL BENEFITS \$5,956.00
BENEFIT YEAR ENDS 11/14/2020

SEE ATTACHED SHEET FOR CLAIMANT INFORMATION

EMPLOYMENT RECORD		ALTERNATE BASE PERIOD QUARTERLY EARNINGS			
EMPLOYER	ACCOUNT NO.	*QTR / YEAR	*QTR / YEAR	*QTR / YEAR	*QTR / YEAR
		4/2018	1/2019	2/2019	3/2019
SYKES ENTERPRISES INC	217289	\$0.00	\$0.00	\$9,586.39	\$7,381.81
SHIVAM INVESTMENTS INC	342031	\$0.00	\$0.00	\$900.03	\$0.00
ALTERNATE BASE QUARTER TOTAL		\$0.00	\$0.00	\$10,486.42	\$7,381.81

NOTE: The weekly benefit amount on this form reflects your **GROSS PAYMENT EACH WEEK BEFORE ANY DEDUCTIONS** are made. Possible deductions to this amount include, but are not limited to, tax withholding, pension, child support, offset of overpayment, and part-time earnings. **ALSO, YOUR FINAL PAYMENT MAY BE LESS THAN THE FULL WEEKLY BENEFIT AMOUNT BASED ON THE BALANCE REMAINING IN YOUR ACCOUNT.**

*QTR:
1. JAN, FEB, MAR 3. JULY, AUG, SEPT
2. APR, MAY, JUNE 4. OCT, NOV, DEC



4467732

INFORMATION FOR CLAIMANT

This is a monetary determination of your claim for benefits based on wages paid during your Alternate Based Period. This determination shows your Alternate Base Period Employment Record. It lists your covered employer(s) that paid you wages, their account number, and the wages paid to you by quarter and year during the base period of your claim. The total amount of wages paid to you by quarter in the alternate base period is shown beside Alternate Base Quarter Total. This determination covers only the monetary portion of your claim. Another determination will be issued states if you are eligible to receive benefits. It will be based on the reason for separation from your most recent bona fide employer.

Under Benefits You May Be Eligible For, your Weekly Benefit Amount, Maximum Benefit Amount, and the date your Benefit Year Ends are shown.

If the standard monetary determination was invalid using base period wages, this determination may show wages and employment from an Alternate Base Period.

ALTERNATE BASE PERIOD: The first four most recently completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on this form, you may request a redetermination online or by contacting a claims representative by calling 1-866-831-1724.

HIGH QUARTER: The quarter in your Alternate Base Period during which wages paid to you for insured were highest.

WEEKLY BENEFIT AMOUNT: The amount of benefits you may receive weekly, if unemployed and otherwise eligible, shall be one-half of the average weekly wage in the high quarter of your alternate base period but shall not be less than \$42.00 nor greater than the maximum weekly benefit amount as determined by the Department or before June 30 of each year for benefit years on or after July 1 of such current calendar year, and prior to July 1 of the succeeding calendar year as provided in Section 41 - 35 - 40 of the Law.

MAXIMUM POTENTIAL BENEFITS: The greatest amount of compensation that you may receive during your benefit year.

BENEFIT YEAR: The one (1) year period following the effective date of your initial Claim. To establish a Benefit Year in accordance with the provisions of the Law, you must meet the following wage requirements:

1. You were paid at least \$1,092.00 for issued work during the high quarter of your alternate base period;
2. You were paid at least \$4,455.00 for issued work during your alternate base period and
3. The total of your alternate base period wages for issued work equal or exceeded one and one-half times the total of your high quarter wages.

AVERAGE WEEKLY WAGE: Shall be determined by dividing the high quarter wage earnings by 13 weeks.

REDETERMINATION RIGHTS: You have the right to request a correction if you do not agree that this determination is correct. Your request for redetermination may be made online by logging into your My Benefits portal account or by contacting a claims representative by phone by dialing 1-866-831-1724. No change can be made on this determination after one year from the date of this notice.

IF YOU NEED TO UPDATE YOUR ADDRESS OR TELEPHONE NUMBER, PLEASE VISIT dew.sc.gov.

EXAMPLE OF COMPUTATION OF BENEFITS

			Maximum Potential Benefits:
			Your maximum total benefit amount for this benefit year is the lesser of
Higher Quarter Wages		\$ 1092.00	1. Twenty (20) times you Weekly Benefit Amount, or 2. One-third (1/3) of your total Alternate Base Period Wages as shown on this determination. (1) 20 X \$42.00 = \$840.00 (2) 1/3 of \$4455.00 = \$1485.00 Maximum Benefits would be \$ since that amount is less than \$1485.00
Alternate Base Period Wages		\$ 4455.00	
Average Weekly Wage	\$1092.00 divided by 13 =	\$ 84.00	
Weekly Benefit Amount	\$84.00 divided by 2 =	\$ 42.00	

RECEIVED

AUG 20 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
H.W. Funderburk, Jr., Administrative Law Judge

Case No: 20-ALJ-22-0070-AP

Appellate Case No. 2020-000981

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

Respondents,

v.

Robert M. Ardis,

Appellant.

PROOF OF SERVICE

I certify that I have served the South Carolina Department of Employment and Workforce' Return to Appellant's Motion to Expedite on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on August 17, 2020, addressed to the parties at their addresses of record:

Robert M. Ardis
105 N Guignard Dr
Sumter SC 29150

Sykes Enterprises Inc.
PO Box 16560
Clearwater FL 33766

August 17, 2020



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

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



Henry McMaster
Governor

G. Daniel Ellzey
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-2666
Fax: (803) 737-0124
August 17, 2020

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AUG 20 2020

SC Court of Appeals

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

RE: South Carolina Department of Employment & Workforce and
Sykes Enterprises, Inc. v. Robert M. Ardis
Appellate Case No: 2020-000981

Dear Ms. Kitchings:

Enclosed are the original and six copies of Respondent SCDEW's Return to Appellant's Motion to Expedite. A Proof of Service is also included in this packet.

Please let me know if you have any questions.

Sincerely,

Kristi Chesley
Kristi Chesley
Administrative Legal Assistant for
Steven Jordan
Attorney for Respondent South Carolina
Department of Employment and Workforce

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995
COLUMBIA, S.C. 29202



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AUG 20 2020
SC Court of Appeals

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



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