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H. FRANK MALONE
1930-2002

February 11, 2013

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RECEIVED

FEB 11 2013

SC Court of Appeals

Re: Compliance with Order issued by the Court of Appeals on January 31, 2013 in *Fred Gatewood*, # 289775, v. S.C. Dep't of Corr., Appellate Case No. 2012-212574 (Trial Court Case No. 07-ALJ-04-0517)

Dear Ms. Kitchings:

We represent the Respondent, the South Carolina Department of Corrections ["the Department"], in the above-referenced matter.

On November 30, 2012, we filed, on behalf of the Respondent, a motion styled as follows:

RESPONDENT'S MOTION FOR THE COURT TO HOLD THE
TIMELINES ASSOCIATED WITH THE PARTIES' BRIEFING IN
ABYEANCE SO THAT THE RESPONDENT MAY FILE A MOTION
WHICH ADDRESSES THE MATTERS TO BE INCLUDED IN THE
RECORD ON APPEAL

Appellant Gatewood's counsel, Douglas H. Westbrook, Esquire, served us with a copy of Appellant Gatewood's response to the above-styled motion. The response was dated December 10, 2012, and we received it via United States Mail on December 11, 2012.

As specifically provided in our motion filed November 30, 2012, we next filed, on December 21, 2012, a motion styled as follows:

Page 2 of 3

February 11, 2013

Re: Compliance with Order issued by the Court of Appeals on January 31, 2013 in *Fred Gatewood*, # 289775, v. *S.C. Dep't of Corr.*, Appellate Case No. 2012-212574 (Trial Court Case No. 07-ALJ-04-0517)

RESPONDENT'S MOTION TO EXCLUDE MATTERS IDENTIFIED BY APPELLANT'S COUNSEL IN HIS DESIGNATION OF MATTER DATED AUGUST 17, 2012 FROM THE RECORD ON APPEAL, OR, ALTERNATIVELY, TO REMAND THE LITIGATION OF APPELLANT'S PARTICULAR CASE BACK TO THE ALC IN CONFORMITY WITH THE DIRECTIVES ARTICULATED IN THE ALC'S SECOND AMENDED ORDER ISSUED JULY 26, 2012

Mr. Westbrook served us with a copy of Appellant Gatewood's response to the motion we filed on December 21, 2012. This response was dated December 31, 2012, and we received it via United States Mail on January 2, 2013.

By an order filed January 31, 2013, Judge Cureton issued an order for the Court in this instant matter, and it read as follows:

Respondent has filed a motion to hold the briefing deadlines in abeyance and to allow Respondent to file a motion relating to the contents of the Record on Appeal. Appellant filed a return. After consideration, Respondent's motion is granted. Any motion to strike shall be served and filed within ten days.

As reflected by the chronology provided above, it appears that Judge Cureton's order references both the motion we filed on November 30, 2012 and Mr. Westbrook's response dated December 10, 2012.

As further reflected by the above-provided chronology, we filed a motion on December 21, 2012 (i.e. our "motion to exclude") which constitutes a "motion to strike" in conformity with Judge Cureton's order. Moreover, Mr. Westbrook, by a filing dated December 31, 2012, has already submitted a return to our December 21, 2012 motion.

Accordingly, we respectfully submit that the Respondent has already complied with Judge Cureton's January 31, 2013 order.

Please do not hesitate to contact me if you have any questions regarding this letter or if you need additional copies of any of the materials discussed herein.

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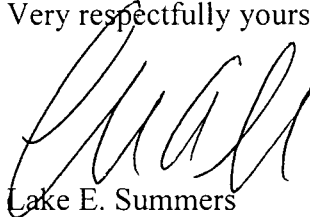
Page 3 of 3

February 11, 2013

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As always, I remain

Very respectfully yours,



Lake E. Summers
Outside Counsel for the Respondent

Cc:

Douglas H. Westbrook, Esquire, Counsel for Appellant Gatewood