THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Administrative Law Court Judge

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Appellate Case No. 2020-001689
Case No. 2020ALJ300064AP

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South Carolina Technical College System, ..... Appellant,

v.

Carla Jackson and South Carolina
Department of Administration, ..... Respondents,

Of whom, Carla Jackson is the ..... Respondent.

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# INITIAL BRIEF OF APPELLANT

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## STATEMENT OF ISSUES ON APPEAL

I. Did the Administrative Law Court err in finding that the Respondent is an employee cover by the State Employee Grievance Procedure Act, and in finding as a result that the State Employee Grievance Committee and the Court had subject matter jurisdiction over the Respondent's grievance?

   A. Did the Administrative Law Court err in remanding the jurisdictional issue to the Committee for additional fact-finding?

   B. Did the Administrative Law Court err by failing to apply a *de novo* standard when reviewing the jurisdictional facts as determined by the State Employee Grievance Committee?

   C. Did the Administrative Law Court err in failing to find that the preponderance of the evidence established that the Respondent held the position of Interim Dean of Business, Computers and Related Technologies at the time of her termination?

   D. Did the Administrative Law Court err in failing to find that the Respondent is judicially bound by the representations in her State Employee Grievance Procedure State Appeal Form that she held the position of Interim Dean at the time of her termination?

II. Did the Administrative Law Court err in refusing to hear the merits of the Appellant's appeal that Denmark Technical College had valid reasons to terminate the Respondent and there was substantial evidence in the record to support that termination decision?

## STATEMENT OF THE CASE

### I. Statement of Facts

The Respondent Carla Jackson began her employment with Denmark Technical College ("DTC") on January 4, 2011, as an Administrative Coordinator I to provide support to the DTC President's Office. (R. 6). Jackson described her primary duties in this role as "basically manag[ing]" the DTC President's Office to assist the DTC President "with the executive level documents" and "to assist the executive staff as well." (R. 442).

Jackson testified that on October 1, 2013, she applied for tuition reimbursement assistance from DTC in connection with a master's degree in business administration ("MBA") that she was seeking at American Intercontinental University ("AIU"). (R. 444-447). She stated that her supervisor at the time was Dr. Joann Boyd-Scotland, DTC's President, and that Theresa Mack was DTC's Title III director. (R. 446-448). DTC's Institutional Advancement Policy No. 2-1-008 set forth the conditions to which faculty and staff seeking professional development were required to comply to receive Title III funds for tuition reimbursement. (R. 862-863). DTC's Policy mandated that a six-step process be followed for approval of tuition reimbursement assistance, including obtaining the signatures of at least five different DTC officials (in addition to the applicant) on the application in a specific sequence. (R. 862-867).

DTC's former president and Jackson's supervisor (subsequent to Dr. Boyd-Scotland), Dr. Leonard McIntyre, testified that five signatures were required on the application and had to be obtained in the following order: those of the applicant-employee's "immediate supervisor," "[the] department head" or dean, "the VP or the division head," the "director of grants and

contracts," and finally DTC's president. (R. 385). It was evident from Jackson's testimony and the application she submitted that the mandated process was not followed by her or DTC because her application lacked some of the necessary signature authorizations. Jackson signed the application, thereby attesting to her agreement with all applicable conditions which had to be met to obtain tuition reimbursement. (R. 471-474, 862-867).

Jackson enrolled at AIU in November 2013. (R. 740). Her AIU tuition and fee schedule reflected a two-year MBA program consisting of four quarters of instruction. (R. 741-743). Section VI(B) of SCTCS Procedure 8-10-100.1 ("System Advancement Policy") limited tuition assistance to "no more than six (6) credit hours per academic term per employee." (R. 803). Section VI(F)(4) of the System Advancement Policy provides that "[e]mployees requesting tuition assistance w[ould] be notified of approval/disapproval as soon as possible *before the class start date*." (R. 805). (Emphasis added). Section VI(F)(5) of the System Advancement Policy required an employee seeking tuition assistance to "present official documentation of the *grade achieved* for the course *from the college or university attended*" in order "to be reimbursed." (R. 805). (Emphasis added). The System Advancement Policy further required that a grade of "B" or above be received to qualify for tuition reimbursement for graduate-level courses. (R. 804).

Carla Jackson sought and received payment from DTC for two courses – "MGT600" (Business Research for Decision Making) and "MGT680" (Strategic Management) – for which her official AIU transcript reflected that no "Grade" or "Quality Points" were awarded, because these "courses" were *transfer credits* (as indicated thereon by the letters "TC") for coursework completed at another educational institution. (R. 548-552, 890-907). Although Jackson testified that the transfer credits were from "Strayer University," her transcript reflected that they were from "Springfield College." (R. 445, 479, 896-899).

Despite the fact Jackson's transcript showed that she earned no grade or Quality Points for these two courses, she submitted documents to DTC reflecting that (1) she earned an "A" grade in MGT600 at AIU but no Quality Points and (2) she earned what appeared to be an "A" grade in MGT680 at AIU (under a column entitled "Actions") and six Quality Points – though for reasons unknown this same document reflected the number "6.000" under the "Letter Grade" column. (R. 892, 894). Jackson obtained tuition "reimbursement" from DTC by submitting a Direct Expenditure Voucher dated April 5, 2015 for MGT600 and another Direct Expenditure Voucher dated May 1, 2015 for MGT680. (R. 890-895). Each of the two Direct Expenditure Vouchers was in the amount of $3,492.00, for a total of $6,984.00. Documents Jackson submitted in connection with the Direct Expenditure Vouchers reflected that both were AIU courses that started on October 6, 2014 and ended on December 14, 2014 – yet neither MGT600 nor MGT680 appeared on her AIU transcript corresponding to those (or any other) dates. (R. 890-899). Jackson also appeared to have taken another course that began and ended on those October-December 2014 dates, BUS610 ("Economics for the Global Manager"), which meant these documents collectively suggested that she took *three* courses during the October to December 2014 term for a total of *18 credit hours* – twelve hours more than was permitted by policy. (R. 803, 898). DTC business manager Jamie Wise testified that the Direct Expenditure Vouchers for MGT600 and MGT680 appeared to have been falsified. (R. 548-549).

Carla Jackson admitted that transfer credits accounted for some of the credit used toward obtaining her MBA, which enabled her to complete the AIU two-year program in one year – sometime in 2014. (R. 475-480). She admitted that DTC paid her the cost of *two years' worth of instruction* at AIU despite her having only completed one year of instruction there. (R. 475-480, 890-895, 903-907). Jackson received $27,936.00 – the total cost of the AIU degree

program – from DTC in connection with her obtaining an MBA. (R. 475-480, 890-907). Jackson testified that she realized that SCTCS Procedure 8-0-105.1 ("System Ethics Policy") and the State Ethics Act prohibited an employee such as her from using her position for personal gain. (R. 499-500, 764-768, 807-813).

Jackson was in the Administrative Coordinator position until October 1, 2015, when she became Interim Dean of Transitional Studies and Distance Education. (R. 494). She testified that she no longer performed the Administrative Coordinator duties or worked in the President's Office as of October 1, 2015, except for a brief period of three months or less immediately thereafter to assist the person who "fill[ed]" her "old position" to transition into this role. (R. 494-496). Gwendolyn Bamberg filled Jackson's previous role as Administrative Coordinator when Jackson vacated it to become Interim Dean of Transitional Studies and Distance Education. (Order p. 2).

In October 2016, Jackson became the Interim Dean of Business, Computers, and Related Technologies. (R. 387). An "Interim Dean" position description for Jackson described her duties as providing "curricular leadership in relation to … academic programs," supervising "the administration of and ensur[ing] the academic quality of academic advising and special programs," and being "([r]esponsible for human resource management of unit faculty and staff." (R. 855-856).

In 2016, the Appellant South Carolina Technical College System ("SCTCS") received several complaints through its fraud hotline alleging incidents of self-dealing, abuse, and mismanagement at the "highest levels" of DTC, and Jackson was the focal point of many of these allegations. (R. 8, 640). Jackson was suspended pending an investigation on February 15, 2017. (R. 8). In April 2017, a report generated in connection with SCTCS's investigation

recommended that Jackson be terminated from DTC for willful violations of written rules, regulations, or written policies. (R. 640-642).

By letter dated May 11, 2017, Carla Jackson was terminated retroactive to her February 15, 2017 suspension date for "willful violation of rules, regulations, and written policies, which constitute conduct unbecoming a state employee," including improper receipt of tuition payments and using her position for personal gain in violation of the State Ethics Act. (R. 8; Order pp. 2-3).

## II. Procedural History

After Carla Jackson exhausted SCTCS's internal grievance procedures,[1] she initiated a grievance of her termination by submitting a State Appeal Form to the State Human Resources Director on July 5, 2017, and she identified her job thereon as an "Interim Dean of Business, Computers, and Related Technologies."[2] (R. 599-602).

The Director forwarded Jackson's appeal to the State Employee Grievance Committee. (R. 827-829). A four-day hearing on the merits occurred before the Committee over the course of November 28, 2017; February 1-2, 2018; and March 2, 2018. (R. 6). The Committee issued its final decision (referred to as "original decision") on March 22, 2018, wherein it reversed

[1] The SCTCS's agency procedures provide that it must issue the Step Three/final agency decision for grievances of terminations and certain disciplinary actions administered by the State's sixteen technical colleges, including DTC.

[2] The full title is cut off, but the description given is "Interim Dean of Business, Computers and Rel."

Jackson's termination. (R. 6-14). The Committee's conclusions of law contained in the original decision included the following:

- "the former DTC President Boyd-Scotland, the Title III Director, and [Jackson's] immediate supervisor at the time all approved [Jackson's] request for tuition assistance";

- "Ms. Wise's testimony regarding her tuition assistance application and approval process was very similar to [Jackson's] testimony regarding her tuition assistance application and approval process";

- "Ms. Wise's completed Request for Professional Development Assistance form ha[d] the same authorizing signatures (DTC President, Title III Director, and immediate supervisor) as [Jackson's] request";

- "DTC [was] on notice regarding the possibility of [Jackson's] transfer credits being accepted towards her degree at AI[U]" and "it was DTC's responsibility to assess if it would reimburse [Jackson] for her transfer credits";

- "DTC should have been aware of [Jackson's] transfer credits from Springfield College to AI[U] based on her transcript and [her] reimbursement for the entire cost of her degree"; and

- "The Committee did not find that [Jackson] violated any rules or regulations concerning her . . . tuition reimbursements, therefore, the Committee finds [Jackson] was not unethical in th[is] matte[r]."

(R. 6-14).

On April 19, 2018, SCTCS submitted a motion for reconsideration of the original decision. (R. 44-57). The State Employee Grievance Committee denied the motion for reconsideration in a decision issued August 1, 2018. (R. 17-27). SCTCS subsequently appealed the original decision to the South Carolina Administrative Law Court ("ALC"), which assigned Docket No. 18-ALJ-30-0341-AP to that appeal ("2018 Appeal"), and the parties submitted appellate briefs therein. (Order, p. 1).

In the briefs SCTCS submitted in the 2018 Appeal seeking reversal of the State Employee Grievance Committee's decision, SCTCS argued that the Committee lacked subject

matter jurisdiction to render the original decision because Carla Jackson was not a covered employee under the State Employee Grievance Procedure Act and had no right to a hearing before the Committee under the Act. SCTCS further argued that Jackson's termination was valid because (1) her purported "reimbursement" from DTC for tuition expenses violated applicable policies and the State Ethics Act and (2) Jackson used her position at DTC to obtain financial gain for herself.

Instead of ruling upon the merits of the 2018 Appeal, including whether Jackson engaged in improprieties concerning her tuition "reimbursement" or otherwise violated rules and policies as provided in her termination letter, the ALC issued a limited Remand Order on June 25, 2019, instructing the State Employee Grievance Committee to consider on remand only the specific issue of fact regarding which position – Administrative Coordinator or Interim Dean – Jackson occupied at DTC at the time of her termination. (Remand Order, pp. 5-6).

Pursuant to the Remand Order, a limited hearing was held by the State Employee Grievance Committee on January 14, 2020. (R. 37-42). SCTCS was not permitted to make any argument at the remand hearing. (R. 215-216). On February 3, 2020, the Committee issued its finding on remand that Carla Jackson was functioning as an Administrative Coordinator at the time of her termination from DTC. (R. 37-42). The Committee transmitted its finding directly to the ALC and copied the parties. SCTCS received the finding on February 4, 2020. (R. 43).

By letter dated February 19, 2020, SCTCS submitted two questions to the South Carolina Department of Administration ("DOA"): (1) whether it viewed the State Employee Grievance Committee as having jurisdiction to reconsider the finding and (2) whether it deemed DOA's approval as necessary under S.C. Code Ann. § 8-17-340(F) for SCTCS to appeal or otherwise challenge the finding. (R. 913-914). SCTCS's February 19, 2020 letter also observed that "the

appeal itself has at all times remained pending before the ALC, notwithstanding the limited remand that was given for the Committee to make its finding." The ALC was copied on this correspondence via e-mail. On March 4, 2020, DOA notified SCTCS's counsel via e-mail that it answered both the foregoing questions in the negative. (R. 915).

On March 5, 2020, SCTCS filed (1) a "Motion for Supplemental Brief and Motion for an Order Directing the South Carolina Department of Administration to Supplement the Record on Appeal" under the 2018 Appeal's docket number and (2) a "Notice of Appeal of the State Employee Grievance Committee's Finding of Fact on Remand." The notice of appeal provided that "[t]o the extent that SCTCS's present challenge to the Finding may be viewed as a stand-alone appeal, SCTCS requests that it be consolidated with the preexisting appeal of this case … and that its forthcoming brief be incorporated into SCTCS's arguments in this case to date." (Notice, p. 2). SCTCS's motion for supplemental brief likewise provided that "the Finding is a new matter and SCTCS's grounds to challenge it therefore are in addition to those argued in this case to date." (Motion for Supplemental Brief, p. 2).

The ALC issued a Notice of Assignment on March 12, 2020, assigning a new case number to SCTCS's March 5, 2020 challenge to the finding on remand but not otherwise acknowledging SCTCS's foregoing requests contained in the notice of appeal or motion for supplemental brief. In an e-mail to the ALC on March 19, 2020, Jackson's counsel observed that SCTCS's notice of appeal and motion for supplemental brief were "intertwined" and sought clarification as to how the motion would be handled. (Email attached as Ex. A). On March 24, 2020, the ALC staff informed the parties' counsel via e-mail that "motions" would not be reviewed "until after the record is filed." By e-mail to the DOA on April 7, 2020, SCTCS notified DOA and Jackson that it "expected the ALC w[ould] consolidate these appeals

eventually." (R. 579). The Record on Appeal was served on the parties by DOA on May 26, 2020. (R. 916).

As required by the ALC's March 12, 2020 Notice of Assignment in the current appeal, the parties subsequently briefed the issue of fact determined in the finding concerning Jackson's position at DTC when she was terminated. No ruling was ever issued on SCTCS's motion for supplemental brief or its request to consolidate contained in the notice of appeal. On September 23, 2020, the ALC issued its order in which it observed that "in this appeal SCTCS has not challenged the Committee's underlying decision that Jackson was terminated without cause." (Order p. 12, n. 4). SCTCS subsequently filed a motion for rehearing, which resulted in the ALC issuing an amended order on December 1, 2020. The ALC ruled as follows: "because the Committee's determination that Jackson was a covered employee was supported by substantial evidence in the Record and SCTCS failed to appeal the Committee's underlying decision on the merits of the termination, the Court concludes the Committee's decision must be affirmed." (Amended Order, p. 18).

The Appellant SCTCS thereupon filed a timely appeal to this Court.

## STANDARD OF REVIEW

This appeal pursuant to the South Carolina Administrative Procedures Act is governed by S.C. Code Ann. § 1-23-380(5), which provides for appellate review of a final agency action under the following standard:

> 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 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). The foregoing standard of review is not applicable, however, as to issues of subject matter jurisdiction, including findings of fact incidental to the jurisdictional issues, which are reviewed *de novo*. Moreover, the court's review as to such jurisdictional facts is governed by the preponderance of evidence standard rather than the substantial evidence standard. *Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 647 S.E.2d 691, 694-695 (Ct. App. 2007).

The standard of review for questions of law is *de novo*. The appellate court "may reverse where the decision is affected by any error of law." *Murphy v. Owens Corning*, 393 S.C. 77, 710 S.E.2d 454, 457 (Ct. App. 2011). The appellate courts are "free to decide matters of law with no

particular deference to the fact finder." *Id*.

## ARGUMENTS

### I. The Administrative Law Court erred in finding that the Respondent is an employee covered by the State Employee Grievance Procedure Act, and in finding as a result that the State Employee Grievance Committee and the Court had subject matter jurisdiction over the Respondent's grievance.

The Appellant SCTCS contends that the State Employee Grievance Committee and the Administrative Law Court lacked subject matter jurisdiction because the Respondent Carla Jackson is not an employee covered by the State Employee Grievance Procedure Act and, therefore, had no right to a grievance hearing under the Act.

The State Employee Grievance Procedure Act provides a procedure whereby designated state employees may grieve certain adverse employment actions. *See*, S.C. Code Ann. § 8-17-330 ("a covered employee may file a grievance or appeal concerning the following adverse employment actions: terminations, suspensions, involuntary reassignments, and demotions"). Only a "covered employee" has grievance rights. A "covered employee" is defined, in pertinent part, to mean:

> a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has a "meets" or higher overall rating on the employee's performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at state technical colleges of not more than two full academic years' duration.

S.C. Code Ann. § 8-17-320(7). Additionally, "instructional personnel" is defined as meaning "employees of an agency that has primarily an educational mission, *excluding the state technical colleges* and excluding those employees exempted in Section 8-17-370(10) who work an academic year." S.C. Code Ann. § 8-17-320(12). (Emphasis added).

In its Remand Order to the State Employee Grievance Committee, the ALC made the following findings:

> Here, the Record does not reflect that Jackson was performing her duties as "Executive Coordinator" or "Administrative Coordinator" after she became the "Dean of Transitional Studies and Distance Education," which was the position she held when she was terminated. Indeed, she filed this case as "Interim Dean." In addition, the Record reflects another person, Gwendolyn Bamberg, was hired as Administrative Coordinator in the President's office *after Jackson was named Interim Dean*. The transcript also reflects that the position of "interim Dean" is not an FTE position. Therefore, the evidence reflects that Jackson was employed as a covered employee initially but was subsequently promoted to a non-covered employee position.

(Remand Order, p. 5). Accordingly, the ALC remanded the case to the Committee "to determine whether Jackson was an Interim Dean at the time of her termination (uncovered employee) or whether Jackson was also functioning in a covered FTE position." (Remand Order, p. 6).

### A. The Administrative Law Court erred in remanding the jurisdictional issue to the Committee for additional fact-finding.

As a threshold issue, the ALC erred in remanding the jurisdictional issue to the Committee for additional fact-finding. In *Chew v. Newsome Chevrolet, Inc.*, 315 S.C. 102, 431 S.E.2d 631 (Ct. App. 1993), this Court explained that "[t]he question of subject matter jurisdiction is a question of law for the court, not a jury question." 431 S.E.2d at 631. This Court further held that "[i]f the facts which give rise to a jurisdiction issue are in dispute, the court, not the jury, must find the facts." *Id*. This Court reaffirmed the long-standing principle that "every court has the power and duty to determine whether it has jurisdiction which includes the power to decide all questions, whether of law or fact, the decision of which is necessary to determine the question of jurisdiction." 431 S.E.2d at 632. Here, the ALC disregarded that well

settled principle and remanded to the State Employee Grievance Committee to make factual findings related to what was purely a jurisdictional question. The ALC should have made the factual determination based on the record presented.

### B. The Administrative Law Court erred by failing to apply a *de novo* standard when reviewing the jurisdictional facts as determined by the State Employee Grievance Committee.

In addition, after remand from the Committee, the ALC compounded that error by then failing to apply a *de novo* standard when reviewing the jurisdictional facts as determined by the Committee. In *Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 647 S.E.2d 691 (Ct. App. 2007), this Court stated the proper standard of review for jurisdictional issues, including findings of fact that impact a jurisdictional issue:

> Judicial review of a Workers' Compensation decision is governed by the substantial evidence rule of the Administrative Procedures Act. However, if the factual issue before the Commission involves a jurisdictional question, this court's review is governed by the preponderance of evidence standard. Consequently, our review is not bound by the Commission's findings of fact on which jurisdiction is based. A reviewing court has both the power and duty to review the entire record, find jurisdictional facts without regard to conclusions of the Commission on the issue, and decide the jurisdictional question in accord with the preponderance of evidence.

647 S.E.2d at 694-695. *See also*, *Wilkinson v. Palmetto State Transportation Co.*, 382 S.C. 295, 676 S.E.2d 700, 702 (2009) ("[b]ecause the question is jurisdiction, the Court may take its own view of the preponderance of the evidence").

### C. The Administrative Law Court erred in failing to find that the preponderance of the evidence established that the Respondent held the position of Interim Dean of Business, Computers and Related Technologies at the time of her termination.

The preponderance of the evidence demonstrates that Carla Jackson held the position of Interim Dean of Business, Computers and Related Technologies at the time of her termination. As the Interim Dean, she was not a covered employee under the Act. Accordingly, the State Employee Grievance Committee lacked subject matter jurisdiction to consider Jackson's appeal of her termination. Likewise, the ALC lacked jurisdiction to uphold the Committee's decision.

The record reflects that Carla Jackson was initially hired by DTC in January 2011, as an Administrative Coordinator in the DTC President's office. Jackson described her primary duties in the Coordinator role as being to "basically manage the operation of the [DTC President's] office[,] to assist the president with the executive level documents in operation of the college, and to assist the executive staff." (R. 112). Jackson was in the Administrative Coordinator position until October 1, 2015, when she became Interim Dean of Transitional Studies and Distance Education. (R. 113). She admitted that she no longer performed the Administrative Coordinator duties or worked in the President's office as of October 1, 2015, except for a brief period of three months or less immediately thereafter to assist the person who "fill[ed]" her "old position" with the transition into it. (R. 115).

Jackson's supervisor was the DTC President, Dr. Leonard McIntyre, who likewise testified that Jackson left the Administrative Coordinator position once she became Interim Dean and no longer performed the duties of the former position. (R. 108). In her State Employee Grievance Procedure State Appeal Form, Jackson represented that she had "previously" served as "Administrative Coordinator" in the President's office but that she "ha[d] not ... been

employed" in that capacity "since October 2015 when she was *promoted to Interim Dean.*" (R. 116-118). (Emphasis added). Additionally, after Jackson became the Interim Dean, the Administrative Coordinator was filled full time by another employee, Gwendolyn Bamberg. (R. 100-101, 105). That is undisputed.

Moreover, testimony from her supervisor showed definitively that Jackson was not functioning simultaneously as both an Interim Dean and an Administrative Coordinator. The Interim Dean position description was compared with the Administrative Coordinator position description during Dr. McIntyre's questioning by Jackson's counsel. Dr. McIntyre explained that Jackson's duties were dramatically different between the two jobs. (R. 109-110). Most critically, Dr. McIntyre testified that Jackson "absolutely" could not have been serving in both roles simultaneously:

> Jackson's counsel: [A]s the former President of a college, what would be the differences between what she was performing as an Administrative Coordinator and what might merit her receiving more pay for performing these Interim Dean roles.
>
> Dr. McIntyre: Well, certainly these duties required more credentials, in terms of ... the qualifications. And more accountability, more responsibility. That's basically what I can tell you. There's a big difference between what is expected from one position to the next.
>
> Jackson's counsel: And would it be ... as common sense, that someone couldn't be performing all of these full time roles at the same time, that even if Miss Jackson was keyed as one position she, as a full time job, would only have been doing one of these?
>
> Dr. McIntyre: Absolutely, only one.

(R. 110).

In sum, the preponderance of the evidence reflects that Carla Jackson was not filling more than one position at the time of her termination. She clearly held the Interim Dean position which is not a covered position under the State Employee Grievance Procedure Act.

### D. The Administrative Law Court erred in failing to find that the Respondent is judicially bound by the representations in her State Employee Grievance Procedure State Appeal Form that she held the position of Interim Dean at the time of her termination.

In her State Employee Grievance Procedure State Appeal Form,[3] which was completed and signed by her legal counsel, Carla Jackson identified her job on the document's first page only as an "Interim Dean of Business, Computers and Rel[ated Technologies]." (R. 599). Her narrative statement on the Appeal Form confirmed the fact that she held the position of Interim Dean at the time of her termination. (R. 600-601). Specifically, she maintained that she was "an Interim Dean of Business, Computers and Related Technologies at Denmark Technical College," that she had been a "Dean of the College" whose "entire job entail[ed] 'college operations,'" and that she had served as "an Interim Dean of the College since October 2015." (R. 600). Jackson included no mention of holding the position of Administrative Coordinator at the time of her termination. In fact, she stated that she served "previously as Administrative Coordinator." (R. 600). Importantly, she did not represent that she was an Administrative Coordinator who had

[3] The Appeal Form is an approved form required by State regulations for parties submitting grievance appeals to the Director of the Division of State Human Resources. S.C. Code Ann. Regs. 19-718.05(C) (providing that Division of State Human Resources "shall develop standard forms to be used in all appeal procedures"); S.C. Code Ann. Regs. 19-718.05(D)(2) (referring to "the standard appeal application form" to be used in grievance appeals submitted to the Director). The instructions contained on the Appeal Form provide that the "employee or representative initiating the appeal must complete this form and return it to the Division of State Human Resources." (R. 599).

been performing the "additional duties" of an Interim Dean – she said unequivocally that she was an Interim Dean when she was terminated. (R. 600).

The State Employee Grievance Procedure State Appeal Form is the functional equivalent of a pleading. In *Postal v. Mann*, 308 S.C. 385, 387, 418 S.E.2d 322 (Ct. App. 1992), this Court held that "parties are judicially bound by their pleadings unless withdrawn, altered or stricken by amendment or otherwise." 418 S.E.2d at 323. "The allegations, statements or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings and the facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the action." *Id*. *See also*, *Johnson v. Alexander*, 413 S.C. 196, 775 S.E.2d 697, 700 (2015); *Kitchen Planner, LLC v. Friedman*, 432 S.C. 267, 851 S.E.2d 724 (Ct. App. 2020).

The case of *Fisher v. South Carolina Dep't of Health and Environmental Control*, 309 S.C. 10, 419 S.E.2d 794 (Ct. App. 1992), is particularly instructive. In that case, a discharged public employee claimed she had grievance rights under the State Employee Grievance Procedure Act despite alleging in her complaint that she was in probationary status. This Court concluded that the plaintiff was bound by the statements in her pleadings, and as a result it disregarded the facts she pointed to as evidence of why she should be entitled to a grievance hearing. 419 S.E.2d at 795.

Similarly, in *Towles v. United Healthcare Corp.*, 338 S.C. 29, 524 S.E.2d 839 (Ct. App. 1999), a medical director alleged in his wrongful discharge complaint that he had been employed by a specific company. However, he later submitted an affidavit in which he claimed he worked for a different entity. This Court observed that the plaintiff was bound by the representation contained in his pleadings about who his employer was, and as a result this Court refused to

consider the contents of the affidavit that ran contrary to his earlier statement. 524 S.E.2d at 841 n.1.

The ALC, however, committed reversible error in refusing to apply this rule of law to the representations made by Carla Jackson in her Appeal Form – a pleading that was prepared and filed on her behalf by legal counsel, which is an additional consideration that the ALC never mentions nor acknowledges. That Appeal Form was never withdrawn or amended. Consequently, Jackson should be bound by the representations contained therein. The ALC attempts to distinguish the cases on which SCTCS relies but fails to note any meaningful distinctions. The ALC also claims that there are exceptions to the general rule, but then cites only to the case of *Gary v. Lowcountry Medical Transport, Inc.*, 424 S.C. 18, 817 S.E.2d 291 (Ct. App. 2018), in which this Court recognized a public policy exception to the "doctrine of binding a party to its pleadings." This Court noted that the doctrine is intended "to protect the integrity of the court process," but under the unique circumstances presented "should yield to the overriding policy against bigamous marriages." 817 S.E.2d at 294. In the case at bar, Jackson has not argued, and the ALC did not find, any public policy concern that should override requiring Jackson to be bound by her pleadings. It was error for the ALC to disregard this well settled rule of law and to allow Jackson to assert inconsistent positions from her Appeal Form.

The ALC also erred in finding that "substantial evidence" supported Jackson's argument that she was holding the position of Administrative Coordinator when she was terminated. The ALC erred in failing to apply the proper standard, that being the preponderance of the evidence standard. Clearly, the preponderance of the evidence demonstrates that Jackson was functioning as the Interim Dean when she was terminated, which is consistent with the representations made

in her Appeal Form. Moreover, as mentioned above, the ALC failed to conduct a *de novo* review and make appropriate findings of fact on this issue.

In sum, for each of these reasons, it is clear that the ALC committed reversible error in its analysis of the jurisdictional issues. The record establishes that Carla Jackson held the position of Interim Dean when she was terminated, and that was not a covered position allowing for grievance rights under the State Employee Grievance Procedure Act.

## II. The Administrative Law Court erred in refusing to hear the merits of the Appellant's appeal that Denmark Technical College had valid reasons to terminate the Respondent and there was substantial evidence in the record to support that termination decision.

Assuming that the State Employee Grievance Committee and the ALC had subject matter jurisdiction, the ALC also erred in refusing to hear the merits of SCTCS's appeal that Denmark Technical College had valid reasons to terminate Carla Jackson and there was substantial evidence in the record to support that termination decision. The ALC determined that there were two separate appeals filed which the ALC referred to as the "2018 appeal" and the current appeal filed in March 2020. The ALC ruled that the 2018 appeal ended with the Remand Order issued on June 25, 2019, and that the appeal after the State Employee Grievance Committee issued its decision on remand was a new and separate appeal.

On February 3, 2020, the Department of Administration forwarded the decision on remand directly to the ALC. SCTCS subsequently filed a notice of appeal to incorporate the decision on remand as part of the prior appeal or as a new appeal to be consolidated with the prior appeal. In its notice of appeal, SCTCS made its intentions clear:

> To the extent that Appellant's present challenge to the Finding may be viewed as an extension of the preexisting appeal of this case, SCTCS requests by way of a motion filed contemporaneously with this Notice that it be permitted to submit a supplemental brief on the issues identified herein. To the extent that Appellant's present challenge to the Finding may be viewed as a stand-alone appeal, SCTCS requests that it be consolidated with the preexisting appeal of this case pursuant to SCALC Rule 19(D) and that its forthcoming brief be incorporated in this case to date.

(Notice of Appeal, p. 2). Thus, SCTCS made it clear that it was not waiving the arguments made in what the ALC refers to as the 2018 appeal. The notice of appeal should have, at the very least, been read as incorporating the prior appeal. The reference to "preexisting appeal" makes that intent obvious.

The ALC, however, ruled that its jurisdiction over the 2018 appeal ended upon issuance of the Remand Order. That ruling is contrary to precedent from this Court. In *Bobo v. Marshane Corp.*, 302 S.C. 86, 394 S.E.2d 2 (Ct. App. 1990), this Court held as follows:

> Where a case that has been appealed is remanded by the court to the workers' compensation commission with specific directions, the commission must proceed in accordance with those directions. In such a case, the order limits the authority of the commission. The appeal, however, *remains pending in the circuit court* while it awaits the commission's compliance with the order of remand.

394 S.E.2d at 4. (Emphasis added). The ALC found *Bobo* to be distinguishable and "not persuasive." The ALC found it distinguishable because *Bobo* "was decided in the context of [a] workers' compensation case," which is a distinction without a difference. *Bobo* is an appeal from an administrative tribunal that was remanded to that tribunal for specific fact-finding as *required by a court sitting in an appellate capacity* which deemed the remand necessary to address the appeal pending before it. This Court in *Bobo* explicitly holds that under such circumstances the appeal remains pending in the court sitting in an appellate capacity, whether

that is a circuit court or an administrative law court. That is precisely the scenario in this case. *Bobo* remains good law, and SCTCS had the right to rely on that precedent.

Nonetheless, even if *Bobo* should be overruled or is truly distinguishable from this case (which is disputed), it would be a miscarriage of justice to conclude that SCTCS has waived the issues on appeal raised in the 2018 appeal. The notice of appeal filed after remand, as mentioned above, made it clear that SCTCS intended to raise the pre-remand issues asserted in the 2018 appeal. The purpose of a notice of appeal is to provide notice of the orders or issues being appealed. *Mason v. Mason*, 412 S.C. 28, 770 S.E.2d 405, 422 (Ct. App. 2015) (holding that despite errors parties received sufficient notice). That was accomplished with the notice of appeal filed by SCTCS. Both the ALC and Carla Jackson were on notice that SCTCS intended to continue its pursuit of the pre-remand issues on appeal. There is no other explanation for the references to "pre-existing appeal" and the request to "consolidate" the appeals or otherwise allow for a supplemental record and briefing in the pre-existing appeal. If SCTCS's language was inartful in any respect, that constitutes, at worst, a clerical error. However. both this Court and the Supreme Court have held clerical errors in the notice of appeal do not prevent an appeal from proceeding. *See, State v. Scott*, 351 S.C. 584, 571 S.E.2d 700, 701 (2002) (acknowledging that service of the notice of appeal is a jurisdictional requirement, but stating "non-prejudicial clerical errors in the notice are not detrimental to the appeal"); *Weatherford v. Price*, 340 S.C. 572, 532 S.E.2d 310, 313 (Ct. App. 2000) (holding the incorrect reference in the notice of appeal to the motion for reconsideration rather than the final order did not deprive this Court of jurisdiction to hear the appeal and noting the appellant did attach a copy of the appealed order to the notice); *Charleston Lumber Co. v. Miller Housing Corp.*, 318 S.C. 471, 458 S.E.2d 431, 435 (Ct. App. 1995) ("Clerical errors in a notice of appeal do not destroy the appeal"). The Supreme

Court has also rejected adherence to notice requirements that elevate form over substance. *See*, *South Carolina Second Injury Fund v. American Yard Products*, 330 S.C. 20, 496 S.E.2d 862, 864 (1998).

In sum, justice dictates that SCTCS should be permitted to be heard on all issues raised on appeal, including the pre-remand issues on appeal as briefed as part of the so-called 2018 appeal. The decision of the ALC should be reversed and remanded to allow for a full review of those pre-remand issues.

The following is a condensed summary of the issues on appeal that the ALC did not reach:

### A. The original decision by the State Employee Grievance Committee was not supported by substantial evidence because it was based on *ultra vires* acts by Respondent and others.

The original decision by the State Employee Grievance Committee relied on the clearly erroneous and arbitrary view that decisions made by Carla Jackson and others at DTC about her tuition reimbursement were authorized, when in fact they were in direct contravention of policy and impermissible *ultra vires* acts. The payments of Jackson's tuition by DTC could not as a matter of law have been properly authorized because they patently departed from DTC's Policy and the System Advancement Policy. "When a public officer acts outside the scope of his or her legal authority, that act is 'ultra vires,' meaning that it is unauthorized and beyond the power of the actor." Op. S.C. Att'y Gen., 2016 WL 3946153, at *2 n.3 (July 5, 2016). Therefore, "attempts by an agency" or officials acting on its behalf to perform *ultra vires* acts "beyond the scope of [their] authority" would be "invalid," "unenforceable," and "null and void." Op. S.C. Att'y Gen., 2011 WL 2214062, at *4 (May 11, 2011).

Where public entities have been found to have engaged in *ultra vires* acts, such acts have been enjoined or invalidated accordingly. *See, South Carolina Pub. Interest Found. v. South Carolina Dep't of Transportation*, 421 S.C. 110, 804 S.E.2d 854, 861-862 (2017) (determining that an agency's inspections of privately-owned bridges were improper and *ultra vires*); *City of Rock Hill v. Public Service Comm'n of South Carolina*, 308 S.C. 175, 417 S.E.2d 562 (1992) (ruling that a city's provision of electrical service to a private entity outside its city limits was "illegal and *ultra vires*"). Hence, a purported practice, acquiescence to ongoing activity, or course of dealing by a public official or agency cannot be used to justify past misconduct or subvert the plain language of an institutional policy or requirement.

As a threshold matter, the State Employee Grievance Committee misconstrued the SCTCS's general oversight authority of DTC and its employees and the corresponding duties imposed on employees such as Jackson. SCTCS's policymaking jurisdiction extends by law to "all state-supported technical institutions and their programs." Specifically, Section 59-53-20 provides as follows:

> *All personnel employed in the institutions* and programs within the jurisdiction and control of the [SCTCS] are designated state employees whether paid in whole or in part by state funds and *are subject to the regulations, guidelines, and policies of the [SCTCS],* the Department of Administration, and the state personnel system.

S.C. Code Ann. § 59-53-20. (Emphasis added).

Accordingly, state law provides that SCTCS "shall establish statewide policies and procedures necessary to insure educational and *financial accountability* for operation of the technical education institutions and their programs." S.C. Code Ann. § 59-53-51. (Emphasis added). Consequently, a violation of an SCTCS policy by an employee of one of the state's technical colleges can give rise to disciplinary action. It follows that neither Jackson nor her

superiors were ever authorized to circumvent or override an SCTCS policy, and any attempt to have done so would have been *ultra vires*. A DTC policy (so long as it was not inconsistent with an SCTCS policy) likewise would be binding on DTC personnel and could not be disregarded without consequences. The original decision by the Committee arbitrarily and erroneously suggested otherwise.

There were a number of *ultra vires* acts and policy violations committed by Carla Jackson and others that resulted in her receiving $27,936.00 (the total program cost) in connection with her obtaining an MBA from American Intercontinental University ("AIU"). (R. 640-642). Furthermore, DTC lacked the authority to lawfully "reimburse" Jackson for the $6,984.00 in AIU tuition expenses that she never actually incurred at that institution. (R. 890-899). Jackson's contention that it was somehow appropriate for her to seek after-the-fact approval for the Springfield College courses was unavailing, insofar as courses taken at an institution other than AIU were never authorized for tuition reimbursement. The Committee acknowledged that Jackson "transferred credits from Springfield College for courses MGT600 and MGT680." (R. 10). However, the Committee failed to recognize that the absence of Springfield College appearing on Jackson's tuition assistance application as an institution she would be attending *in the future* meant that "reimbursements" to her for courses already having been taken there "should not have been paid." (R. 548-549). Furthermore, there was testimony presented to the Committee that Respondent's submissions associated with the "reimbursements" for these two courses appeared to have been falsified. (R. 548-549).

Jackson concedes that DTC Policy was not followed on her tuition reimbursement application because it was missing required signature authorizations. (R. 471-474, 862-867). Jackson also failed to comply with the System Advancement Policy by seeking and obtaining

reimbursement for two AIU courses in which she did not earn a "B" letter grade (as required) because she had *previously* completed the courses *at another school* and received only transfer credits as a result. (R. 475-480, 890-907). Jackson testified that she understood that System Ethics Policy and the Ethics Act prohibited an employee such as her from using her position for personal gain; yet, she clearly derived an improper benefit by claiming and receiving monies from DTC for coursework she admittedly did not take at (or receive a grade from) AIU in violation of the System Advancement Policy. (R. 499-500).

By willfully ignoring the mandates of DTC's Policy and the System Advancement Policy, Jackson obtained thousands of dollars in alleged "reimbursements" unlawfully. The fact that the State Employee Grievance Committee concluded another DTC employee may also have had a tuition reimbursement application approved without all necessary signatures does not absolve Jackson of wrongdoing for her own actions.[4]

In sum, it was clear from the evidence that DTC's payment of these funds to Jackson was for courses that were not taken at an institution for which tuition reimbursement had been previously requested and approved, were based on documents lacking reliable indicia that the requisite letter grade had been earned, and relied upon submissions by Jackson that were riddled with obvious signs that they had been doctored. The payments manifestly departed from applicable policies, thereby rendering them *ultra vires* and invalid. The Committee's failure to recognize as much was clearly erroneous.

[4] The State Employee Grievance Committee was instructed that "[a] penalty that is within the authority of the agency is not rendered invalid in a particular case solely because it is more severe than sanctions imposed in other cases[,] and the mere unevenness in application of the sanction does not render its application in a particular case unwarranted in the law." (R. 573).

### B. There is no evidence to support a finding that DTC had notice of Respondent's transcript at the time it made payments to her for tuition "reimbursement."

The State Employee Grievance Committee also erred in concluding that DTC "[was] on notice regarding the possibility of [Jackson's] transfer credits being accepted towards her degree at AI[U]," that "DTC should have been aware of [Jackson's] transfer credits from Springfield College to AI[U] based on her transcript and [her] reimbursement for the entire cost of her degree," and that "it was DTC's responsibility to assess if it would reimburse [Jackson] for her transfer credits." (R. pp. 6-14).

The Committee's finding that notice of the transfer credits was imputable to DTC when it issued Jackson's tuition "reimbursement" payments is unsupported because there is no such testimony in the record. *See, Mullinax v. Winn-Dixie Stores, Inc.,* 318 S.C. 431, 458 S.E.2d 76, 82-83 (Ct. App. 1995) (noting that findings of fact "may not be based upon surmise, conjecture, or speculation"). Instead, the Committee erroneously accepted as fact a statement by Jackson's counsel in reference to the AIU transcript in which she volunteered that she would "gladly let the [Committee] know that [Jackson] had a transcript that they had in their possession." (R. 547). No fact witness ever made any admissible statement imputing knowledge of the AIU transcript to DTC at the time of the tuition "reimbursements." *See, Fontaine v. Peitz,* 291 S.C. 536, 354 S.E.2d 565, 566 (1987) (finding that an abuse of discretion occurs when a ruling purportedly based upon factual conclusions "is without evidentiary support"); *South Carolina Dep't of Transportation v. Thompson,* 357 S.C. 101, 590 S.E.2d 511, 513 (Ct. App. 2003) (recognizing that "[a]rguments made by counsel are not evidence").

Moreover, Jackson's position is directly contravened by the testimony of DTC's business manager, who testified that there was no "indication that [DTC] was notified that the payment[s] w[ere] for Springfield College." (R. 549). The record therefore is bereft of any evidence as to when DTC first came into possession of Jackson's AIU transcript or whether anyone involved in approving her tuition reimbursement requests had access to it at the time such payments were made.

### C. The Respondent's obtaining funds from Denmark Technical College for courses she did not complete at American Intercontinental University constituted unauthorized compensation and the use of her position to obtain an economic interest for herself.

The State Employee Grievance Committee erred in determining that Carla Jackson was not unethical in connection with her obtaining tuition "reimbursements" because a public employee's receipt of improper "extra" compensation constitutes the wrongful use of public funds for private purposes. *See*, Op. S.C. Att'y Gen., 2003 WL 21040136, at *4-5 (Feb. 21, 2003) (declaring that receipt of money by public employees over and above that to which they are entitled would be *ultra vires* and potentially a breach of the Ethics Act). The South Carolina Attorney General's recognition that it is improper for public employees to receive compensation that is not actually due to them has been acknowledged by the South Carolina Ethics Commission, which has made clear that public officials cannot use their position for financial gain.

The Ethics Commission illustrated this principle in an opinion in which it observed that a public official must not charge a public entity "for staying in his own house while attending [a] convention." Op. S.C. State Ethics Comm'n, SEC AO95-002 (Sept. 21, 1994) (considering a

county councilman's request for the county to pay him the single occupancy rate charged by a convention site hotel, which he maintained was less than the rental rate for his house where he would be staying during the convention). The Ethics Commission reached this conclusion by relying upon the Section 8-13-700(A) prohibition against using one's official office to obtain an "economic interest," which is defined as an "interest distinct from that of the general public" in a "transaction or arrangement involving property or services in which a public official … may gain an economic benefit of fifty dollars or more." S.C. Code Ann. § 8-13-100(11).

The Ethics Commission reasoned that "since the councilman would not attend the conference in question but for his membership on county council, the receipt of this income appear[ed] inextricably linked to [his] public office." Op. S.C. State Ethics Comm'n, SEC AO95-002, at *2. Critically, even though "no additional public expense would result from paying the councilman to stay in his own house" since the county would have compensated him for his expenses if he had stayed in a hotel, paying him *for an expense that was never incurred* would be inconsistent with the requirements of the Ethics Act. *Id.*

Thus, the central issue is not whether Carla Jackson would have been entitled to reimbursement from DTC for the two courses *had she in fact taken them* at AIU. Rather, the issue is the propriety of her having sought reimbursement for courses she clearly had not taken at AIU and her receipt of funds for those courses from DTC amounting to compensation that was not due. There is no dispute that Jackson would not have been eligible to seek or obtain tuition reimbursement from DTC but for her employment there, so her receipt of funds from DTC under the guise of such reimbursement was "inextricably linked" to her position within the meaning of the foregoing Ethics Commission opinion.

Jackson's obtaining funds from DTC for tuition that she admittedly never paid to AIU constituted use of her position for her own economic benefit, which violated the System Ethics Policy and the Ethics Act. *See*, Op. S.C. Att'y Gen., 1980 WL 81911, at *1 (Mar. 7, 1980) (construing the predecessor ethics statute to S.C. Code Ann. § 8-13-700 and concluding that a public employee's use of his official position to obtain financial gain for himself amounted to a statutory ethics violation). Rather than properly viewing these acts as evidence of Jackson's unjust enrichment for knowingly violating applicable policies, the Committee erroneously ignored that Jackson's testimony evinced an awareness of her wrongdoing and excused her acts due to a perceived lack of institutional due diligence by DTC. This was clear error under the *ultra vires* doctrine, and the Committee's wholesale disregard of this evidence rendered its conclusions fundamentally flawed. *See, Callen v. Callen*, 365 S.C. 618, 620 S.E.2d 59, 62 (2005) (reversing and remanding a court's decision because its "findings of fact [we]re so tainted by errors of law"); *Mullinax*, 458 S.E.2d at 82-83 (finding legal error under the APA based on a tribunal's ignoring evidence in the record).

Reversal of the Committee's original decision is thus warranted based upon any one of the foregoing policy violation grounds alone, as the basis for Carla Jackson's termination was willful violation of rules, regulations, and written policies. *See, Bowers v. College of Charleston*, No. 2011-UP-569, 2011 WL 11736338, at *2 n.1 (S.C. Ct. App. Dec. 20, 2011) (affirming a college's termination of an employee for violating an agency policy, thereby rendering it unnecessary to consider "other grounds asserted by the College as justification for its decision"). Therefore, the Committee's failure to uphold Jackson's termination was clearly erroneous and otherwise arbitrary, capricious, or an abuse of discretion in light of the substantial evidence in this case.

## CONCLUSION

Based on the foregoing discussion and analysis, the Appellant South Carolina Technical College System respectfully requests that the Court reverse the orders of the Administrative Law Court and remand with directions that the Respondent's grievance be dismissed for lack of jurisdiction. In the alternative, the Appellant seeks a remand for consideration of the merits of its appeal that Denmark Technical College had valid reasons to terminate the Respondent and there was substantial evidence in the record to support that termination decision.

Respectfully submitted,

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March 22, 2021

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Administrative Law Court Court Judge

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Appellate Case No. 2020-001689
Case No. 2020ALJ300064AP

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South Carolina Technical College System, ..... Appellant,

v.

Carla Jackson and South Carolina
Department of Administration, ..... Respondents,

Of Whom, Carla Jackson is the..... Respondent.

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**CERTIFICATE OF SERVICE**

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Pursuant to Section (g)(3) of the Supreme Court's Order Re: Operation of the Trial Courts During the Coronavirus Emergency (as amended May 29, 2020), the undersigned employee of Lindemann & Davis, P.A., counsel for the Appellant, does hereby certify that service of the **Initial Brief of Appellant** and **Appellant's Designation of Matter to be Included in the Record on Appeal** was made upon all counsel of record by email only this the 22nd day of March 2021:

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March 22, 2021

***Via Email Only***
The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org



RE: South Carolina Technical College System v. Carla Jackson
Appellate Case Number: 2020-001689
ALC Number: 20-ALJ-30-0064-AP
Our File Number: 79.20391

Dear Ms. Kitchings:

In accordance with Section (c)(5) of the Supreme Court's Order RE: Operation of the Appellate Courts During the Coronavirus Emergency (As Amended May 29, 2020), please find enclosed for filing the **Initial Brief of Appellant** and **Appellant's Designation of Matter to be Included in the Record on Appeal** in the above referenced matter. In accordance with Section (g)(3) of this same order, I am hereby serving copies on all counsel of record by email only. If you have any questions, please advise.

Sincerely,

LINDEMANN & DAVIS, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosures

cc: Shannon M. Polvi, Esquire *(w/ Enclosures, Via Email Only)*
Warren V. Ganjehsani, Esquire *(w/ Enclosures, Via Email Only)*