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STATE OF SOUTH CAROLINA  
In the Court of Appeals

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JUN 07 2022

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
R. FERRELL COTHRAN, JR., CIRCUIT COURT JUDGE

Appellate Case No.: 2022-000674

Kevin Dion Hollinshead, Senior,..... Appellant,

v.

Thomas J. Bell, individually and as Executive Director of Charleston Coalition for Kids,  
Charleston Coalition for Kids, a nonprofit Organization, Angelica M. Colwell, Lee P. Deas,  
Godrey A. Gibson, Eric P. Strickland, Loren R. Ziff, Courtney S. Waters, Leeza D. Steward,  
and Teach for America, Inc. .... Respondents

**MOTION TO DISMISS APPEAL**

Respondent Leeza D. Steward, by and through her undersigned counsel, moves before this Honorable Court for an order dismissing the appeal for lack of jurisdiction as a result of Appellant's failure to timely serve a Notice of Appeal.

Two form orders have been issued and filed in this matter. The original form order dismissing Appellant's second amended complaint specifically as to Respondents Leeza Steward and Charleston Coalition for Kids was filed on April 5, 2022, which showed service of the order on all counsel of record, including Edward K. Pritchard, counsel of record for Appellant. No motion for reconsideration was filed by any of the parties after the original order was issued, but counsel for the remaining Respondents informally contacted Judge Cothran for clarification as to the effect of the order on the remaining Respondents. Judge Cothran then issued a second order

dismissing Appellant's second amended complaint as to all the Respondents, specifically identifying each Respondent. The second order was filed on April 26, 2022. On or about May 12, 2022, Edward K. Pritchard filed the Notice of Appeal with this Court, more than thirty (30) days from the date of the original order.

Rule 203(b)(1), SCACR, provides its mandatory terms as follows: "A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." Rule 203(b)(1), SCACR. This Court recognizes and has held consistently that "[t]he failure to timely serve a notice of appeal divests this court of subject matter jurisdiction and results in dismissal of the appeal." *Holroyd v. Requa*, 361 S.C. 43, 603 S.E.2d 417 (Ct. App. 2004). The Supreme Court has, in fact, held as follows: "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." *Elam v. South Carolina Dept. of Transportation*, 361 S.C. 9, 602 S.E.2d 772, 775 (2004). *See also, USAA Property & Casualty Ins. Co. v. Clegg*, 377 S.C. 643, 661 S.E.2d 791 (2008) (same).

Respondent Leeza Steward submits that the Notice of Appeal was not timely served as to her, and as a result, this Court lacks appellate jurisdiction over the appeal as it relates to her. The only exception to the requirement of service of a Notice of Appeal within thirty days is contained in Rule 203(b)(1), which holds the period for appealing in abeyance only "[w]hen a form order . . . indicates that a more full and complete order or judgment is to follow." That did not occur here. The Form 4 order issued on April 5, 2022 was a final order as to all relief against Leeza Stewart. The thirty-day deadline for service of the Notice of Appeal will run from the earliest date that the Appellant's counsel received notice of the entry of Judge Cothran's original order for summary

judgment, which was April 5, 2022. The issuance of the second Form 4 order, which restated the earlier grant of summary judgment to Leeza Steward did not begin the time to appeal any orders in Ms. Steward's favor over again.

WHEREFORE, having fully set forth the grounds for the relief sought herein, Respondent Steward moves for an order dismissing this appeal.

Respectfully submitted,

s/ Joseph M. McCulloch

Joseph M. McCulloch (S.C. Bar No. 3760)

Kathy R. Schillaci (S.C. Bar No. 17248)

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ATTORNEYS FOR RESPONDENT STEWARD

June 7, 2022

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Godrey A. Gibson, Eric P. Strickland, Loren R. Ziff, Courtney S. Waters, Leeza D.  
Steward,  
and Teach for America, Inc. .... Respondents

**PROOF OF SERVICE**


I certify that I have served Respondent Leeza D. Steward's **Motion to Dismiss Appeal** by  
email and by depositing one copy of it in the United States Mail, first-class mail, postage  
prepaid, on June 7, 2022, addressed to:

**Edward K. Pritchard, III, Esq.**  
Pritchard Law Group, LLC  
8 Cumberland Street, Suite 200  
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\_\_\_\_\_  
Elizabeth Gunter, Paralegal  
McCulloch & Schillaci, Attorneys at Law

Columbia, South Carolina  
this 7<sup>th</sup> day of June, 2022.

**McCULLOCH & SCHILLACI**  
**ATTORNEYS AT LAW**

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June 7, 2022

**Delivered Via Hand Delivery**

South Carolina Court of Appeals  
Attn: Jenny Abbott Kitchings, Clerk of Court  
1220 Senate Street  
Columbia, South Carolina 29201

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**RE: Kevin Dion Hollinshead, Senior v. Thomas J. Bell, et al.**  
**Appellate Case No. 2022-000674**

Dear Ms. Kitchings:

Please find enclosed for filing Respondent Leeza D. Steward's Motion to Dismiss Appeal along with the proof of service. The motion fee of \$50.00 is also included. If you would, please clock and file the original and clock and return the copy in the self-addressed, pre-stamped envelope. We greatly appreciate your attention to this matter.

Sincerely,



Elizabeth Gunter  
Paralegal

Enclosure(s)

cc: Edward K. Prtichard, III  
Brittany Tanya Bihun, Esq  
David Starr Cobb, Esq.  
Nickisha M. Woodward, Esq.  
Dwayne Marvin Green, Esq.

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