

FILED: March 3, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-1705  
(4:16-cv-03326-RBH)

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CLARA LEWIS BROCKINGTON

Plaintiff - Appellant

v.

S.C. DEPARTMENT OF SOCIAL SERVICES; REESE PALMER

Defendants - Appellees

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ORDER

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Upon consideration of submissions relative to the motion for reconsideration,  
the court denies the motion.

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Entered at the direction of the panel: Judge Wilkinson, Judge Richardson,  
and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: December 5, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-1705  
(4:16-cv-03326-RBH)

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CLARA LEWIS BROCKINGTON

Plaintiff - Appellant

v.

S.C. DEPARTMENT OF SOCIAL SERVICES; REESE PALMER

Defendants - Appellees

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ORDER

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Upon consideration of the motion for an extension of time in which to file a petition for rehearing, the court grants a 15-day extension of time. No further extensions will be granted for filing of a petition for rehearing absent a showing of extraordinary circumstances.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

FILED: November 21, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-1705  
(4:16-cv-03326-RBH)

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CLARA LEWIS BROCKINGTON

Plaintiff - Appellant

v.

S.C. DEPARTMENT OF SOCIAL SERVICES; REESE PALMER

Defendants - Appellees

---

J U D G M E N T

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In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 19-1705**

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CLARA LEWIS BROCKINGTON,

Plaintiff - Appellant,

v.

S.C. DEPARTMENT OF SOCIAL SERVICES; REESE PALMER,

Defendants - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Florence.  
R. Bryan Harwell, Chief District Judge. (4:16-cv-03326-RBH)

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Submitted: November 19, 2019

Decided: November 21, 2019

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Before WILKINSON and RICHARDSON, Circuit Judges, and TRAXLER, Senior Circuit  
Judge.

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Affirmed by unpublished per curiam opinion.

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Clara Lewis Brockington, Appellant Pro Se. George A. Reeves, III, FISHER & PHILLIPS,  
LLP, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clara Lewis Brockington appeals the district court's order denying her motion for an extension of time and denying relief under Fed. R. Civ. P. 60(b). We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Brockington v. South Carolina Dep't of Soc. Servs.*, No. 4:16-cv-03326-RBH (D.S.C. June 18, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*



Appendix D

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

June 24, 2019

~~The Honorable Amy Bracy~~  
Worker's Compensation Commission  
Post Office Box 1715  
Columbia SC 29202

### REMITTITUR

Re: Clara Brockington v. SCDSS  
Lower Court Case No. 1509277  
Appellate Case No. 2019-000801

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

Enclosure

cc: Clara L. Brockington,  
James Edward Lawrence Fickling, Esquire  
Kevin Desmond Maroney, Esquire

Appendix E

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

CLARA LEWIS BROCKINGTON,	)	Civil Action No. 4:16-cv-3326-RBH-TER
	)	
Plaintiff,	)	
	)	
-vs-	)	
	)	<b>REPORT AND RECOMMENDATION</b>
	)	
SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES and REESE PALMER,	)	
	)	
	)	
Defendant.	)	
	)	

**I. INTRODUCTION**

This action arises out of Plaintiff's former employment with Defendant South Carolina Department of Social Services (DSS). Plaintiff, who is proceeding pro se, alleges that Defendant terminated her employment because of her age in violation of the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq. She also alleges that Defendant violated the South Carolina Workers' Compensation Act (SCWCA), S.C.Code Ann. § 42-1-540, et al., and she seeks compensation for damages she sustained in the parking lot of DSS. Presently before the court is Defendants' Motion for Summary Judgment (ECF No. 68). Because she is proceeding pro se, Plaintiff was advised pursuant to Roseboro v. Garrison, 528 F.3d 309 (4th Cir. 1975), that a failure to respond to the moving Defendant's motion could result in dismissal of her case.

Plaintiff filed a Response (ECF No. 80) but argued that the documents Defendants provided in discovery were not responsive to her requests, and she could not respond to the Motion for Summary Judgment until she received the documents she requested. The undersigned entered an order noting that Plaintiff had not previously raised the issue of the sufficiency of Defendants'

responses in a motion to compel, and even if the court were to construe her response as a motion to compel, it would not be timely under the scheduling order. The undersigned gave Plaintiff an additional ten days to file a response to Defendants' Motion for Summary Judgment. On the day Plaintiff's Response was due, February 11, 2019, Plaintiff filed a Motion for Extension of Time (ECF No. 89), stating that she had not received the order until February 7, 2019, and needed an extension to respond. The undersigned denied the motion but noted that Plaintiff could file any response as part of her objections to the Report and Recommendation. All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(g), DSC. This report and recommendation is entered for review by the district judge.

## **II. FACTS**

Plaintiff began her employment with DSS on February 9, 2015, when she was hired as a Child Protective Services Specialist (Human Services Specialist II). Pl. Dep. 59-60. Plaintiff was 59 years old at the time she was hired. Pl. Dep. 96.

Plaintiff began her employment with DSS as a probationary employee. Pl. Dep. 61. DSS requires that all employees who conduct intake, child protective services (CPS) assessments or investigations, or carry caseloads in foster care, family preservations, or adoptions, be child welfare certified. Elmore Aff. ¶ 4; Child Protective Services Protective and Preventive Services Manual (Ex. B to Elmore Aff.). According to DSS policy: "Staff must obtain child welfare certification prior to being assigned cases for CPS assessment, CPS investigation, family preservation, foster care, adoptions, and/or county foster care licensing." Elmore Aff. ¶ 4; Child Protective Services Protective and Preventive Services Manual (Ex. B to Elmore Aff.). To meet this requirement, all DSS staff are required to complete the Child Welfare Basic Training, a certification program offered



by the University of South Carolina Center for Child and Family Studies, in conjunction with DSS. Elmore Aff., ¶ 5; DSS Directive Memo D14-14 (Ex. C to Elmore Aff.). Employees who fail to successfully complete the Child Welfare Basic Training course are not permitted to perform child welfare case management duties and are terminated from their employment with DSS. Elmore Aff., ¶ 6; DSS Directive Memo D14-14 (Ex. C to Elmore Aff.). After being hired, Plaintiff went through daily meetings with approximately 20 to 30 other employees in which they received instruction and training. Pl. Dep. 63-64, 66-67. During these meetings, Plaintiff and all other employees in attendance were told that they would take certification testing. Pl. Dep. 65, 73.

At the time of Plaintiff's employment with DSS, the Initial Child Welfare Certification required a score of 85% on the Child Welfare Basic Training examination and successful completion of the DSS approved Trial Preparation Training. Elmore Aff. ¶ 6; DSS Directive Memo D14-14 (Ex. C to Elmore Aff.). In the event that an employee fails to obtain the necessary score on the Child Welfare Basic Exam, DSS policy provides the County Director may allow the employee to retake the exam a second time. Elmore Aff. ¶ 6; DSS Directive Memo D14-14 (Ex. C to Elmore Aff.). If an employee fails the second attempt, DSS policy provides the employee is no longer eligible to perform child welfare case management duties or may no longer may be employed. Elmore Aff. ¶ 6; Child Protective Services Protective and Preventive Services Manual (Ex. B to Elmore Aff.); DSS Directive Memo D14-14 (Ex. C to Elmore Aff.). However, in "extraordinary circumstances," a third attempt to pass the examination may be granted at the discretion of the Director of Knowledge Management and Practice Change. Elmore Aff. ¶ 6; Child Protective Services Protective and Preventive Services Manual (Ex. B to Elmore Aff.); DSS Directive Memo D14-14 (Ex. C to Elmore Aff.). Plaintiff alleges in her Amended Complaint that "some staff took the test three or more times." Am. Compl. p. 2.

Plaintiff took the Child Welfare Basic Training Examination and failed. Pl. Dep. 74. She was then allowed to take the examination again but failed the second attempt as well. Pl. Dep. 74, 76. On June 23, 2015, Defendant Rasel “Reese” Palmer, Richland County DSS Director, contacted Glenise Elmore, Employee Relations Director for DSS, and informed her that he wanted to terminate Plaintiff for failing her certification examination twice. Elmore Aff. ¶ 7; Palmer Email (Ex. D to Elmore Aff.). DSS Human Resources staff reviewed the request and approved Plaintiff’s termination as it was consistent with DSS practice of terminating employees who failed to obtain their certification. Elmore Aff. ¶¶ 8-9.

On June 24, 2015, Palmer met with Plaintiff and notified her that her employment with DSS was being terminated effective immediately for unsuccessful completion of the Child Welfare Basics Certification. Pl. Dep. 41, 91, 92; Termination Letter (Ex. E to Elmore Aff.).

As she was leaving, Plaintiff fell in the parking lot of the Richland County DSS offices. Pl. Dep. 97. She “injured [her] right leg, right knee, lower back and other parts of the body.” Am. Compl. p. 1. Her supervisor while she was employed with DSS, Roshawnda Gooden, “requested” that she go to the emergency room and let her know what the “Medical Professionals” said. Am. Compl. p. 1. Plaintiff advised Gooden that the hospital was requesting workers compensation paperwork, but Defendant refused to provide it. Am. Compl. p. 2. She later filed a claim for workers’ compensation benefits as a result of injuries sustained in that fall. Pl. Dep. 97, 98.

On or about October 2, 2015, Plaintiff filed a Charge of Discrimination. On May 19, 2016, the South Carolina Human Affairs Commission issued a Dismissal and Notice of Right to Sue in which the agency found no cause. On July 7, 2016, the United States Equal Employment Opportunity Commission adopted the South Carolina Human Affairs Commissions’ findings and issued a Dismissal and Notice of Rights.

### III. STANDARD OF REVIEW

Under Fed.R.Civ.P. 56, the moving party bears the burden of showing that summary judgment is proper. Summary judgment is proper if there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(a); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Summary judgment is proper if the non-moving party fails to establish an essential element of any cause of action upon which the non-moving party has the burden of proof. Id. Once the moving party has brought into question whether there is a genuine dispute for trial on a material element of the non-moving party's claims, the non-moving party bears the burden of coming forward with specific facts which show a genuine dispute for trial. Fed.R.Civ.P. 56(e); Matsushita Electrical Industrial Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574 (1986). The non-moving party must come forward with enough evidence, beyond a mere scintilla, upon which the fact finder could reasonably find for it. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986). The facts and inferences to be drawn therefrom must be viewed in the light most favorable to the non-moving party. Shealy v. Winston, 929 F.2d 1009, 1011 (4<sup>th</sup> Cir. 1991). However, the non-moving party may not rely on beliefs, conjecture, speculation, or conclusory allegations to defeat a motion for summary judgment. Barber v. Hosp. Corp. of Am., 977 F.2d 874-75 (4<sup>th</sup> Cir. 1992). The evidence relied on must meet "the substantive evidentiary standard of proof that would apply at a trial on the merits." Mitchell v. Data General Corp., 12 F.3d 1310, 1316 (4<sup>th</sup> Cir. 1993).

To show that a genuine dispute of material fact exists, a party may not rest upon the mere allegations or denials of his pleadings. See Celotex, 477 U.S. at 324. Rather, the party must present evidence supporting his or her position by "citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations,

stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials.” Fed.R.Civ.P. 56(c)(1)(A); see also Cray Communications, Inc. v. Novatel Computer Systems, Inc., 33 F.3d 390 (4<sup>th</sup> Cir. 1994); Orsi v. Kickwood, 999 F.2d 86 (4<sup>th</sup> Cir. 1993); Local Rules 7.04, 7.05, D.S.C.

#### IV. DISCUSSION

##### A. ADEA

In her Amended Complaint, Plaintiff alleges that “Plaintiff took the test twice while there were some staff took the test three or more times. Plaintiff was discriminated against because of her age by Defendants.” Am. Compl. p. 2. The ADEA makes it unlawful for an employer to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age. 29 U.S.C. § 623(a)(1).

As an initial matter, to the extent Plaintiff asserts her ADEA claim against Defendant Reese Palmer, the claim fails. The ADEA does not provide for causes of action against defendants who are sued in their individual capacities. See Jones v. Sternheimer, 387 F. App'x 366, 368 (4th Cir. 2010) (per curiam) (recognizing that Title VII, the ADA, and the ADEA “do not provide for causes of action against defendants in their individual capacities”); Lissau v. Southern Food Serv., Inc., 159 F.3d 177, 180 (4th Cir. 1998) (noting that the Fourth Circuit rejects claims of individual liability under the ADEA).

A plaintiff asserting a claim of unlawful employment discrimination may proceed through two avenues of proof. First, she may establish through direct or circumstantial proof that a protected characteristic such as age was a motivating factor in the employer's adverse decision. See Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 318 (4th Cir.2005); Hill v. Lockheed Martin

Logistics Mgmt., Inc., 354 F.3d 277, 284–85 (4th Cir.2004) (en banc). Direct evidence is defined as “evidence of conduct or statements that both reflect directly the alleged discriminatory attitude and that bear directly on the contested employment decision.” Warch v. Ohio Cas. Ins. Co., 435 F.3d 510, 520 (4th Cir.2006) (internal quotations omitted). Direct evidence is said to prove a fact “without any inference or presumptions.” O’Connor v. Consol. Coin Caterers Corp., 56 F.3d 542, 548 (4th Cir.1995). Circumstantial evidence must be of sufficient probative force to raise a genuine dispute of material fact. Evans v. Technologies Applications & Service Co., 80 F.3d 954, 959 (4th Cir. 1996). Plaintiff does not present evidence or allege that she has direct evidence that her termination was based on her age.

When direct evidence is lacking, a plaintiff may proceed under the burden-shifting proof scheme established in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). Under this burden-shifting scheme, Plaintiff has the initial burden of establishing a prima facie case of discrimination. Id. The Fourth Circuit has held that the causation and burden-shifting standards applicable in Title VII cases as set forth in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973)<sup>1</sup> are also applicable in discrimination or retaliation cases brought pursuant to the ADEA<sup>2</sup> “where the defendant disavows any reliance on

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<sup>1</sup>The McDonnell Douglas analysis was refined in St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 113 S.Ct. 2742, 125 L.Ed.2d 407 (1993), and Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000).

<sup>2</sup>The Supreme Court has noted that it “has not definitively decided” whether the McDonnell Douglas framework, first developed in the context of Title VII cases, “is appropriate in the ADEA context.” Gross v. FBL Financial Services, Inc., 557 U.S. 167, 174, 129 S.Ct. 2343, 2349 n.2, 174 L.Ed.2d 119 (2009). In the absence of further direction from the Supreme Court, the undersigned must follow Fourth Circuit precedent, which applies the McDonnell Douglas framework to ADEA claims. See Hill, 354 F.3d at 285; see also Waters v. Logistics Mgmt. Inst., 716 F. App'x 194, 197 (4th Cir. 2018)(continuing to apply the McDonnell Douglas framework in the ADEA context).

discriminatory reasons for its adverse employment action.” Ennis v. Nat'l Assoc. Of Business and Educ. Radio, 53 F.3d 55, 58 (4th Cir.1995). Under the analysis set forth in McDonnell Douglas, Plaintiff has the initial burden of demonstrating a prima facie case of discrimination. Bryant v. Bell Atlantic Maryland, Inc., 288 F.3d 124, 133 (4<sup>th</sup> Cir. 2002). If Plaintiff establishes a prima facie case, the burden shifts to Defendant to produce a legitimate, nondiscriminatory reason for the Plaintiff's discharge. Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 254 (1981). Once Defendant has met its burden of production by producing its legitimate, nondiscriminatory reason, the sole remaining issue is “discrimination vel non.” Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 143 (2000)(citing Postal Service Bd. of Governors v. Aikens, 460 U.S. 711, 716 (1983)). In other words, the burden shifts back to Plaintiff to demonstrate by a preponderance of the evidence that the legitimate reason produced by Defendant is not its true reason, but was pretext for discrimination. Reeves, 530 U.S. at 143.

To set forth a prima facie case under the ADEA, Plaintiff must establish that: (1) she was a member of a protected class (at least 40 years old); (2) she was performing at a level that met her employer's legitimate job expectations; (3) she suffered an adverse employment action; and (4) that similarly-situated employees outside of the protected class received more favorable treatment or there is some other evidence giving rise to an inference of unlawful discrimination. Hill v. Lockheed Martin Logistics Mgmt., Inc., 354 F.3d 277, 2895 (4th Cir. 2004); Anderson v. Westinghouse Savannah River Co., 406 F.3d 248, 268 (4th Cir.2005). Defendants acknowledge that Plaintiff, at 59 years old, is a member of a protected class and that she suffered an adverse employment action when she was terminated. However, they argue that Plaintiff was not performing at a level that met her employer's legitimate job expectations, nor did similarly situated employees outside the protected class receive more favorable treatment.

The evidence in the record reveals that as a Child Protective Services Specialist, Plaintiff was required to successfully complete the Child Welfare Basic Training. Elmore Aff., ¶¶ 4, 5, 6; Child Protective Services Protective and Preventive Services Manual (Ex. B to Elmore Aff.); DSS Directive Memo D14-14 (Ex. C to Elmore Aff). Failure to do so rendered Plaintiff unable to perform the functions of her position. *Id.* Plaintiff asserts in her Amended Complaint that she should not have been required to take the test and that no one told her at the time of hire that it was required. However, she admitted during her deposition that she and the other employees were informed of the testing requirement. Pl. Dep. 65, 73. Further, she was provided training along with other employees prior to taking the test and was then given another opportunity to take the test after she failed the first one. The policy provides that “at the discretion of the County Director, a participant who fails that Child Welfare Basic exam may make a second attempt to pass and is provided an individualized study guide.” DSS Directive Memo D14-14 (Ex. C to Elmore Aff). Thus, Palmer, as the Richland County DSS Director, was not required to allow Plaintiff to take the test again but did so in his discretion. Nevertheless, Plaintiff again failed the test.

Once an employee has failed the test twice, the policy provides that termination is appropriate. Only in “extraordinary circumstances” at the “discretion of the Director of Knowledge Management and Practice Change with appointing authorities recommendation and justification in writing” is an employee allowed to take the test for a third time. DSS Directive Memo D14-14 (Ex. C to Elmore Aff). An email chain including Palmer and others within DSS reveals why Palmer did not recommend that Plaintiff be allowed to take the test a third time. Palmer Email (Ex. D to Elmore Aff.). The proctor for Plaintiff’s second test stated in an email that Plaintiff disregarded or challenged several rules she had given to the participants prior to the exam. Palmer Email (Ex. D to Elmore Aff.). Plaintiff questioned why she was told not to discuss the exam with anyone outside

of the classroom. She also used her phone to text and take a phone call during the test despite being told to refrain from using cell phones. Palmer Email (Ex. D to Elmore Aff.). Plaintiff also told the proctor that she would not be coming back to take the test again, and complained that she should not have to take it at all since she was a licensed social worker. Palmer Email (Ex. D to Elmore Aff.).

Palmer referred to the comments from the proctor and stated “[Plaintiff’s] conduct as described below is why we do not wish to have her take the exam a third time.” Palmer Email (Ex. D to Elmore Aff.). John Shackelford<sup>3</sup> responded that “you need only send the request [to allow for a third test] for those you feel are committed, passionate, and are exhibiting the skill sets needed to serve the children and families. For those staff that do not pass the 2<sup>nd</sup> attempt that do not meet the standard you are seeking for your staff can be released.” At that point, Palmer notified Glenise Elmore, Employee Relations Director for DSS that he would be “moving towards termination of [Plaintiff].” Palmer Email (Ex. D to Elmore Aff.). Thus, Plaintiff failed to perform at a level that met her employer’s legitimate job expectations in two respects: she did not pass the required exam after two attempts, and her conduct “did not meet the standard [Palmer was] seeking for [his] staff.” Palmer Email (Ex. D to Elmore Aff.). It is well-held that “[i]t is the perception of the decision maker which is relevant, not the self-assessment of the plaintiff” that determines if the employee is meeting the employer’s expectations. See Hawkins v. PepsiCo, Inc., 203 F.3d 274, 280 (4th Cir. 2000). Plaintiff fails to present evidence to meet this prima facie requirement.

Defendants also argue that Plaintiff fails to show that similarly situated employees outside her protected class received more favorable treatment. Plaintiff asserts in her Amended Complaint that other employees were allowed to take the Child Welfare Basic Training examination three or

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<sup>3</sup>Shackelford’s position within DSS is not clear from the record.



more times. However, in her deposition, she testifies that she does not specifically know of any employees who were younger than her who were allowed to take the test more than twice. Pl. Dep. 96-97. Defendants assert that Plaintiff points to Gerri Williams and Ashley Holmes as two employees who were allowed to take the test for a third time. Defendants argue that, even assuming these two employees were allowed to take the test a third time, Williams was 53 years old and Holmes was 28 years old. Elmore Aff. ¶ 10. Thus, Plaintiff has identified one similarly situated employee outside of her protected class who was treated differently than she was. Nevertheless, as discussed above, Plaintiff fails to present evidence sufficient to show that she was meeting her employer's job expectations. Therefore, summary judgment is appropriate.

Even assuming Plaintiff has presented sufficient evidence to establish a prima facie case of age discrimination, she fails to show that Defendants' reason for her adverse employment action was pretext for a discriminatory reason. Defendants assert that Plaintiff's employment was terminated because she failed to pass the Child Welfare Basic Training examination after two attempts. Plaintiff does not dispute that she failed to pass the exam twice. Thus, the burden shifts back to Plaintiff to demonstrate by a preponderance of the evidence that the legitimate reason produced by Defendants is not the true reason, but was pretext for discrimination. Reeves, 530 U.S. at 143. Plaintiff fails to meet this burden. She does not dispute that DSS policy provides when an employee fails the second attempt, the employee is no longer eligible to perform child welfare case management duties or may no longer may be employed. During the years 2014 through 2016, DSS terminated at least 25 employees, including Plaintiff, for not successfully completing the Child Welfare Basic Training examination. Elmore Aff., ¶ 9; Termination Chart (Ex. G to Elmore Aff.). Of these 25 employees, 10 were over the age of 40 while the remaining 15 were under the age of 40. Elmore Aff., ¶ 9; Termination Chart (Ex. G to Elmore Aff.). Plaintiff argues, however, that other employees were

allowed to take the test three or more times. As discussed above, DSS policy allows the test to be taken a third time, but only in “extraordinary circumstances.” The records shows only a limited number of employees were allowed to take the test a third time, and of the two that were given the opportunity, one was within the protected class and one was not. Additionally, Palmer explained in an email that he was not recommending that she be allowed to take the test a third time because of her behavior towards the proctor of her exam. Plaintiff does not dispute this reasoning.

In sum, “[t]he ultimate question in every employment discrimination case involving a claim of disparate treatment is whether the plaintiff was the victim of intentional discrimination.” Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 153 (2000). Given the evidence in the record, Plaintiff fails to show that her termination was the result of intentional discrimination because of her age. Therefore, summary judgment is appropriate.

#### **B. State Law Claims**

Plaintiff also alleges in her complaint that she sustained injuries when she fell in the DSS parking lot and Defendants refused to provide workers’ compensation benefits. Personal injury claims sound in tort and, thus, are state law claims. Plaintiff points to no federal law that would give rise to a cause of action for these claims. Title 28 U.S.C. § 1367(c)(3) provides, in pertinent part, “[t]he district courts may decline to exercise supplemental jurisdiction over a claim ... if ... the district court has dismissed all claims over which it has original jurisdiction....” The Fourth Circuit has recognized that “trial courts enjoy wide latitude in determining whether or not to retain jurisdiction over state claims when all federal claims have been extinguished.” Shanaghan v. Cahill, 58 F.3d 106, 110 (4th Cir.1995) (holding district court did not abuse its discretion in declining to retain jurisdiction over the state law claims). See also, e.g., United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 726–27, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966); Revene v. Charles County Comm'rs,

882 F.2d 870, 875 (4th Cir.1989). In determining whether to retain jurisdiction, courts consider “the convenience and fairness to the parties, existence of any underlying issues of federal policy, comity, and considerations of judicial economy.” Shanaghan, 58 F.3d at 110. Here, the undersigned recommends that the district judge decline to retain supplemental jurisdiction over Plaintiff’s state law claim for defamation. There are no issues of federal policy underlying the remaining state law claim. In addition, comity favors remand since the remaining claims are quintessential state law questions. In United Mine Workers of America v. Gibbs, 383 U.S. 715, 726, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966), the Supreme Court cautioned that “[n]eedless decisions of state law should be avoided both as a matter of comity and to promote justice between the parties, by procuring for them a superfooted reading of applicable law. . . . if the federal law claims are dismissed before trial ... the state claims should be dismissed as well.” Accordingly, should the district judge accept the recommendation with respect to Plaintiff’s federal claim, it is recommended that the court decline to exercise jurisdiction over the remaining state law claim.

## V. CONCLUSION

For the reasons discussed above, it is recommended that Defendants’ Motion for Summary Judgment (ECF No. 68) be granted as to Plaintiff’s ADEA claim, that the court decline to exercise supplemental jurisdiction over Plaintiff’s state law claim, and that this case be dismissed in its entirety.

s/Thomas E. Rogers, III  
 Thomas E. Rogers, III  
 United States Magistrate Judge

February 13, 2019  
 Florence, South Carolina

**The parties are directed to the important information on the following page.**

Appendix F

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

CLARA LEWIS BROCKINGTON,

Plaintiff,

Civil Action No. 4:16-cv-3326-RBH-TER

-vs-

SOUTH CAROLINA DEPARTMENT  
OF SOCIAL SERVICES and REESE  
PALMER,

Defendant.

**ORDER****I. INTRODUCTION**

Plaintiff, who is proceeding pro se, brings this action arising from her employment with Defendant. Presently before the court are Plaintiff's Motion for Settlement of Claim (ECF No. 59), Motion to Compel (ECF No. 63), and Motion for Extension of Time (ECF No. 75). All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(g), DSC.

**II. MOTION FOR SETTLEMENT OF CLAIM**

In Plaintiff's motion docketed as "Motion for Settlement of Claim," Plaintiff seeks the following relief:

Prose Plaintiff's motion is to dispose of any evidence that the Defendants are attempting for admission concerning previous falls, previous injuries, previous jobs, etc., are not admissible in court and motion is granted by the court.

Prose Plaintiff's motion(s) are that the claim(s) submitted by the Plaintiff is granted by the court and not dismissed by the court. Pro se Plaintiff is in agreement to negotiate claims stated with the Defendants.

Prose Plaintiff's motion is that Reese Palmer remains a part of this case along

## SOUTH CAROLINA HUMAN AFFAIRS COMMISSION

P. O. Box 4490

Columbia, South Carolina 29240

## DISMISSAL AND NOTICE OF RIGHT TO SUE

Exhibit 1

Clara L. Brockington  
P.O. Box 3232  
Florence, SC 29502

Complainant,

vs.

SC Department of Social Services  
1535 Confederate Avenue Ext.  
Columbia, SC 29202

Respondent.

SHAC Complaint Number  
4-15-70D,A,R,S,RET

EEOC Deferral As  
14C-2015-00994

SHAC REPRESENTATIVE:  
Lee Ann Rice, Staff Counsel

TELEPHONE NUMBER: (803) 737-7800

The Commission has dismissed your charge for the following reason(s):

- ☐ Untimely  
☐ Prior court proceeding  
☐ No employee/employer relationship
- ☐ Complainant failed to state claim  
☐ Less than 15 employees  
☐ Private membership/nonprofit club
- ☒ No cause: The Commission is unable to conclude, based upon the information obtained during its investigation, that there has been a violation of the Human Affairs Law, Section 1-13-10, *et seq.*, of the SC Code of Laws of 1976, as amended.
- ☐ You failed to provide requested necessary information, failed or refused to appear or be available for necessary interviews/conferences, or otherwise refused to cooperate to the extent that the Commission has been unable to resolve your charge. You have had at least 15 days in which to respond to our final written request.
- ☐ The Commission has made reasonable efforts to locate you and has been unable to do so. You have had at least 30 days in which to respond to a notice sent to your last known address.
- ☐ The Respondent has made a written settlement offer which affords full relief for the harm you alleged. You have refused to accept the final relief offered and/or at least 30 days have expired since you received actual notice of this settlement offer.

This Notice of Right to Sue concludes the Commission's investigation of your charge. If the Complainant wants to pursue the charge further, the Complainant MUST DO SO WITHIN ONE YEAR FROM THE ALLEGED VIOLATION OR WITHIN ONE HUNDRED TWENTY (120) DAYS FROM THE DATE OF ISSUANCE OF THIS NOTICE OF RIGHT TO SUE, WHICHEVER OCCURS EARLIER; OTHERWISE, YOUR RIGHT TO SUE UNDER THE HUMAN AFFAIRS LAW IS LOST.

THE COMPLAINANT AND THE RESPONDENT ARE HEREBY NOTIFIED THAT IF THEY REQUIRE COPIES OF THE INVESTIGATIVE FILE OR OF ANY DOCUMENTS CONTAINED THEREIN FOR PURPOSES OF LITIGATION, THEY MUST SUBMIT A REQUEST FOR SUCH COPIES, TO INCLUDE THE COURT DOCKET NUMBER, WITHIN THREE (3) YEARS OF THE DATE OF ISSUANCE OF THIS DETERMINATION. ONLY THOSE DOCUMENTS PERMITTED TO BE RELEASED BY S.C. REGULATION 65-3(B)(11) WILL BE PROVIDED. IN ACCORDANCE WITH THE RECORDS RETENTION SCHEDULE ESTABLISHED BY STATE ARCHIVES, THE FILE WILL BE DESTROYED THREE (3) YEARS AFTER THIS DATE.

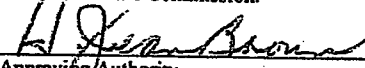
The parties are reminded that state and federal laws prohibit retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in Commission investigations is also prohibited. These protections apply regardless of the Commission's determination on the merits of the complaint.

You may contact the SHAC representative named above if you have any questions about your legal rights, including advice on which Circuit Court has jurisdiction to hear your case. A copy of this NOTICE OF RIGHT TO SUE has been sent to the Respondent.

Date of Issuance

5.19.2016

On Behalf of the Commission:



Approving Authority

**Job Title:** Human Services Specialist  
 II / Band 04 / P60001112  
**Agency:** Department of Social  
 Services  
**Opening Date:** Thu. 10/30/14  
**Closing Date/Time:** Continuous  
**State Salary Range:** \$26,139.00 - \$48,361.00  
 annually  
**Agency Hiring Range:** Min:  
 \$30,582.00 Max:\$37,250.00  
**Job Type:** FTE - Full-Time  
**Location:** Statewide, South Carolina  
**Normal Work Schedule:** Monday - Friday (8:30 -  
 5:00)

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Job Responsibilities	Benefits
Implementations/Qualifications	Additional
<p>*** MULTIPLE POSITIONS AVAILABLE ***</p> <p><b>POSITION RESPONSIBILITIES:</b></p> <p>The position serves as a specialist to plan and execute case work activities to facilitate safety, permanence, and well-being of children who have experienced abuse and/or neglect.</p> <p>Position functions as a professional level specialist to assess risk and manage safety threats to children in the custody of the agency. Engage children and families in development of treatment plans; access services; monitor behavior change; thoroughly document activities for the case file; ensure needed services are linked to care provider; participate in supervision and legal consults; prepare court; collaborate with Guardians ad litem; law enforcement and service providers; testify in court; make required face to face contacts with children, families, and providers; participate in other activities related to safety, permanency, and well-being of children. Adopts, implements, and promotes agency values and philosophy in the course of employment with agency.</p>	

DSS office  
 300 North Road

Robert Mahoe  
 DSS Director

This position serves as a specialist dedicated to intake. Receives and screens reports of abuse and neglect and assesses information to making critical decisions around the safety of the children involved.

Position functions as a professional level specialist appropriately accepting and screening reports of abuse or neglect. The position gathers a broad range of history and information takes into consideration all information in the decision making process (present and past CPS involvement, police reports, background checks, collateral contacts, economic services, etc.). Thoroughly and accurately document all information, decisions, and actions taken in CAPSS. Conduct formal and informal assessments and utilize critical thinking skills to determine whether there are safety threats and/or level of risk and whether the report constitutes child abuse or neglect under South Carolina law. Identify child and family needs and refer families to appropriate services and resources. Maintains client and family rights to confidentiality in compliance with State and Federal laws. Adopts, implements, and promotes agency values and philosophy in the course of employment with the agency.

CHILD PROTECTIVE SERVICES  
ASSESSMENT/INVESTIGATION

This position serves as specialist in Child Protective Services Assessment/Investigation to plan and execute case work activities related to assessment and investigation of child protective services reports.

Position functions as a professional level specialist to assess risk and manage safety threats to children who may have experienced abuse and / or neglect. Gather and assess information; conduct interviews; engage children and families in development of safety plans; assess services; thoroughly document activities for the case file; ensure needed services are linked to care providers; participate in supervision and legal consults; prepare court documents; collaborate with law enforcement and service providers; testify in court; make required face to face contacts with children, families and providers; participate in other activities related to safety and well- being of children. Maintains client and family rights to confidentiality in compliance with State and Federal laws. Adopts, implements and promotes agency values and philosophy in the course of employment with agency.

FOSTER CARE:

to plan and execute case work activities to facilitate safety, permanence and well-being of children in the custody of the agency. Position functions as a professional level specialist to assess risk and manage safety threats to children in the custody of the agency. Engage children and families in development of treatment plans; access services; monitor behavior change; thoroughly document activities for the case file; ensure needed services are linked to care providers. Participate in supervision and legal consults; prepare court documents; collaborate with Guardians Ad Litem; law enforcement and service providers; testify in court; prepare and present information to the Foster Care Review Board. Make required face to face contacts with children, families and providers; participate in other activities related to safety, permanency and well-being of children. Adopts, implements and promotes agency values and philosophy in the course of employment with the agency.

**NOTE:** Must possess a valid Driver's License.

**NOTE:** You may be required to drive your personal vehicle from time to time in the performance of duties associated with this position.

**NOTE:** May require over-time hours. Must be able to travel and work after hours with little or no notice.

**NOTE:** Must be able and willing to drive and to transport children and adults.

**NOTE:** Must be able to lift children and to interact with children and adults in a positive and supportive demeanor.

**NOTE:** Must have the ability to lift up to 10 pounds.

**NOTE:** Must have the ability to access client's homes and other buildings; have a high tolerance for noise or irate clients, crowded working conditions.

**NOTE: SELECTED APPLICANTS ARE REQUIRED TO PROVIDE A CERTIFIED OFFICIAL COLLEGE TRANSCRIPT UPON JOB OFFER.**

**Minimum and Additional Requirements:**

**STATE OF SOUTH CAROLINA MINIMUM, TRAINING AND EXPERIENCE REQUIREMENTS:**



experience. A Bachelor's Degree may be submitted for the required program experience.

(NOTE: ADDITIONAL REQUIREMENTS MAY BE APPLICABLE FOR INDIVIDUAL POSITIONS IN THE EMPLOYING AGENCY.)

**ADDITIONAL REQUIREMENTS:**

A Bachelor's Degree in Social Work, Behavioral Science, or Social Science.

A Bachelor's Degree in any other field and one (1) year experience in a related field.

***NOTE: If any Additional Requirements are listed above applicants must also meet those Additional Requirements to be considered for the position.***

**Preferred Qualifications:**

***NOTE: These Preferred Qualifications are desirable, but not mandatory, for applicants to be considered qualified for the position.***

**QUALIFYING EXPERIENCE:**

Must possess critical thinking skills to productively assess and work with a wide variety of people, to manage conflict, and to advocate for children's needs. Working knowledge of child development, family dynamics, statutes, and policies related to child welfare. Ability to collaborate with individuals, families, and service agencies in the provision of services. Skills in assessment and interviewing; strong written and oral communication, interpersonal relationships, collaboration, and treatment planning.

**RELEVANT EDUCATION AND TRAINING:**

Possess critical thinking and judgment skills to assess each report for safety threats or the appropriate level of risk. Proficient in the use of intake tools and effective documentation. Adept at using active listening and interview skills to elicit pertinent information from reporters of child abuse and neglect. Strong written, oral, and interpersonal communication skills. Knowledge of fact-gathering methods and interviewing techniques.

Knowledge of state and federal laws, rules, and regulations. Knowledge of Human Services policy and procedures. Knowledge of community resources. Ability to collaborate with individuals, families, and service agencies in the provision of

services. Proficient with Child Welfare and Economic Services software and computer systems (CAPPS, CHIPS, SCOSA, etc.).

**PROTECTIVE SERVICES**  
**ASSESSMENT/INTERVIEWING**

Must possess critical thinking skills to productively assess and work with a wide variety of people, to manage conflict and to advocate for children's needs. Working knowledge of child development, family dynamics, statutes and policies related to child welfare. Skills in assessment and interviewing; strong written and oral communication, interpersonal relationships, collaboration, safety planning. Ability to collaborate with individuals, families and service agencies in the provision of services. Maintains client and family rights to confidentiality in compliance with State and Federal laws. Must be able to manage work within prescribed timeframe.

**PLACER CASE:**

Must possess critical thinking skills to be able to productively work with a wide variety of people, to manage conflict, assess risk and safety, and to advocate for children's needs. Knowledge of child development, family dynamics, statutes and policies related to child welfare. Skills in assessment, strong written and oral communication, interpersonal relationships, collaboration, treatment planning. Ability to collaborate with individuals, families and service agencies in the provision of services. Maintains client and family rights to confidentiality in compliance with State and Federal laws.

**Additional Comments:**

IF YOU HAVE ANY PERIODS OF TIME WHEN YOU WERE NOT EMPLOYED YOU MUST ALSO LIST THOSE PERIODS ON YOUR EMPLOYMENT APPLICATION. A RESUME CAN NOT BE SUBSTITUTED FOR COMPLETING WORK HISTORY AND EDUCATION SECTIONS OF THE EMPLOYMENT APPLICATION. EMPLOYMENT APPLICATION WILL BE CONSIDERED INCOMPLETE AND NOT FORWARDED.

\*\*\* DIVISION: HUMAN SERVICES / MULTIPLE DIVISIONS \*\*\*

\*\*\* LOCATION: STATEWIDE \*\*\*

Subject: FVV: Richland County DSS Interview 11/5/2014 10:00 am

From: Jackson, Alysha (Alysha.Jackson@dss.sc.gov)

To: papookelly@yahoo.com;

Date: Tuesday, November 4, 2014 12:47 PM

Exhibit 3

Good Afternoon,

This message is to confirm that you have been scheduled for an employment interview on Wednesday, November 5, 2014 at 10:00 am with the Human Resource Management Team, located at Richland County DSS, 3220 Two Notch Road, Columbia, SC 29204. This is a lengthy process and ask that you plan to be here 3-4 hours.

Please view the video located at the link below and answer the questions to the video response form. This video may be used as a discussion point.

<http://www.youtube.com/watch?v=-SF9pkWQByE&feature=youtu.be>

We ask that you arrive on time. There's no need to stand in line, please be seated and someone will come out and escort you to the back.

Prepare to bring the following items to complete the paperwork:

Photo ID

Social Security Card (must be signed)

Two References (Use attached reference form. Name and Contact Information Only, we will contact them.)

Bank Information

Video Response Form

<https://us-mg6.mail.yahoo.com/neo/launch?.rand=a3t0t2hf5elv0>

11/4/2014

Thank you,

**Alysha Jackson**

SC Department of Social Services

Richland County Human Resource Liaison

Ph: 803.714.7388

Fax: 803.714.7301



Exhibit 4

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**South Carolina Registration**

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**Registration Completed for Clara Lewis Brockington****Appointment Details**

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**Location**

Columbia  
Ashland Park Shopping Center  
612 St. Andrews Road, Space 8  
Columbia, SC 29210  
United States

**Appointment**

Date: 11/12/2014

Time: 01:45 PM

**Registration ID**

A114752708X

**Payment Details**

---

No onsite payment is required.

**Reminders**

---

Please bring your valid SC Driver's License to your fingerprint appointment. If you do not have a valid SC Driver's License, you will need two forms of other State or Federal issued ID; one of which will need to be a photo ID. If you are unable to make your appointment, contact MorphoTrust USA at least one day before your appointment at (866) 254-2366 with your registration number to reschedule.

**Application Details (1)**

---

**ORI Number:** SC920090Z - DSS Child Care**Fingerprint Reason:** 12 - PERSONNEL - EMPLOYEE**OCA Number:** PERSONNEL

If you have any questions with the website,  
please contact MorphoTrust Enrollment Services at (866) 254-2366.

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**Subject:** Employment Start Date February 9, 2015 8:30am

**From:** Jackson, Alysha (Alysha.Jackson@dss.sc.gov)

**To:**

**Date:** Friday, February 6, 2015 10:14 AM

Exhibit 5

Good Morning,

We are so excited to have you join our Richland County DSS Team and look forward to you starting with us on **Monday, February 9, 2015 at 8:30am** at our **Richland County DSS office** located at **5220 Two Notch Road**. It is important that you be on time. I will come out to meet you that morning. I will also have a new hire package to give to you. You will need that for Wednesday, February 18<sup>th</sup> new hire orientation. The orientation will be held at 9:00am at the State Office (1535 Confederate Ave), Room 310. They will go over your benefits and you will fill out paperwork necessary to get that started. Once orientation is over, you will come here to the DSS office. If you have any question please don't hesitate to ask.

If you haven't already done so, **Please request an official transcript mailed to HRM**

**Our address is:**

Human Resources Management Division

Attn: Employment Unit (**Sarah Hill**)

1535 Confederate Ave. Extension

Columbia, SC 29202

See you Monday!

Alysha Jackson

Rich-land County DSS "Excellence Lives Here"

Human Resources Liaison

Rich-land County Department of Social Services

Ph: (803)714-7388

Fax: (803)714-7301

"We Don't Fail, We Prevail"

The mission of the South Carolina Department of Social Services is to efficiently and effectively serve the citizens of South Carolina by ensuring the safety of children and adults who cannot protect themselves and assisting families to achieve stability through child support, child care, financial and other temporary benefits while transitioning into employment.



you have been so instrumental in the hiring process.

Clara Lewis Brockington  
New Hire

Exhibit 6

On Thursday, January 29, 2015 8:45 AM, "Jackson, Alysha" <Alysha.Jackson@dss.sc.gov> wrote:

Good Morning,

**CONGRATULATIONS!!!** Richland County DSS Hiring Management would like to extend an offer of employment to you beginning on Monday, February 9, 2015. Once you have made your decision, check the appropriate box, sign and date it, and email it back to me. Please note, we need a response no later than Friday, January 30, 2015. I have also attached the W-4 for 2015.

Thank you,

Alysha Jackson  
Rich-land County DSS "Excellence Lives Here"

Human Resources Liaison  
Rich-land County Department of Social Services  
Ph: (803)714-7388  
Fax: (803)714-7301

"We Don't Fall, We Prevail!"

**Job Title:** Human Resources Manager I / Band 05 / P61016098  
**Agency:** Department of Social Services  
**Opening Date:** Wed. 09/17/14  
**Closing Date/Time:** Continuous  
**State Salary Range:** \$31,805.00 - \$58,848.00 annually  
**Agency Hiring Range:** Min: \$31,805.00 Max: \$45,326.00  
**Job Type:** FTE - Full-Time  
**Location:** Richland County, South Carolina  
**Normal Work Schedule:** Monday - Friday (8:30 - 5:00)

Exhibit 7

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- [How to Apply](#)
- [Frequently Asked Questions](#)
- [Notify About Future Job Vacancies](#)
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Job Responsibilities	Benefits	Supplemental Questions	Additional
***THIS IS A REPOSTING. PREVIOUS APPLICANTS NEED NOT APPLY***			
<p>- Plan, direct and supervise the activities of the classification department: Analyze, review, and oversee all actions pertaining to the classifications of positions, and employee classification. Supervision includes the review/distribution of actions to subordinate staff pertaining to agency positions, employees, and other associated classification activities. Directs, coordinates, evaluates, and maintains current and archived position description.</p> <p>- Oversee the accountability of allocated positions to include production/maintenance of organizations charts, establishment, and deletion of FTE's and temporary grant positions. Assist Director/Assistant Director with balancing agency FTE's as required or directed which includes review/distribution of actions to subordinate staff that impacts position allocation.</p> <p>- Administer the agency's compensation plan in accordance with the Office of Human Resource and agency regulations which includes the review and distribution of actions to subordinate staff pertaining to agency actions, employees, and association compensation activities.</p> <p>- Assist in ensuring organizational management including but not limited to, supervisor and location changes, organizational structure establishment and position updates.</p> <p><b>NOTE: APPLICANTS SELECTED ARE REQUIRED TO PROVIDE A CERTIFIED OFFICIAL COLLEGE TRANSCRIPT UPON JOB OFFER.</b></p>			
<b>Minimum and Additional Requirements:</b>			
<b>STATE OF SOUTH CAROLINA MINIMUM, TRAINING AND EXPERIENCE REQUIREMENTS:</b>			
A Bachelor's Degree and experience in human resources management programs.			
<b>ADDITIONAL REQUIREMENTS:</b>			
A Master's Degree or Bachelor's Degree in Human Resources.			
A Master's Degree in any other field and one (1) year of experience in Human Resources Management programs.			
A Bachelor's Degree in any other field and two (2) years of experience in Human Resources Management programs.			
<b>Preferred Qualifications:</b>			
***THIS IS A REPOSTING. PREVIOUS APPLICANTS NEED NOT APPLY***			
<p><b>Note:</b> These Preferred Qualifications are desirable, but not mandatory, for applicants to be considered qualified for the position.</p>			
<b>Additional Comments:</b>			
<p>*** IF YOU ATTACH A RESUME, ALL WORK HISTORY AND EDUCATION INFORMATION THAT IS LISTED ON YOUR RESUME MUST BE ON YOUR EMPLOYMENT APPLICATION. IF YOU HAVE ANY PERIODS OF TIME WHEN YOU WERE NOT EMPLOYED YOU MUST ALSO LIST THOSE PERIODS ON YOUR EMPLOYMENT APPLICATION. A RESUME CAN NOT BE SUBSTITUTED FOR COMPLETING WORK HISTORY AND EDUCATION SECTIONS OF THE EMPLOYMENT APPLICATION. EMPLOYMENT APPLICATION WILL BE CONSIDERED INCOMPLETE AND NOT FORWARDED. ***</p>			

Subject: Re: Employment Offer Letter

From: Papoo Kelly (papookelly@yahoo.com)

To: Alysha.Jackson@dss.sc.gov;

Date: Thursday, January 29, 2015 2:08 PM

Exhibit 8

From: Clara Lewis Brockington (papookelly@yahoo.com)

Date: January 29, 2015

Re: Offer Letter dated January 28, 2015

CLB

After receiving your offer letter today, January 29, 2015, I was elated to know that my personnel file has been completed

Date: January 29, 2015

Re: Offer Letter

This e-mail is to inform you that I received your offer letter dated January 29, 2015 (dated January 28, 2015). However, as we discussed via phone earlier, I am somewhat disappointed in the minimum offer of \$30,582 and following your request to send this e-mail to ask that the Human Resources Manager review my resume again and let's negotiate a salary that will be accommodating for colossal amount of work experience, skills, knowledge and degrees.

As my resume reveals, I have an Associate Degree as a Paralegal, a Bachelor's Degree in Social Work and a Master's Degree in Administration. I have over 20 years of experience, knowledge and skills in social work, counseling, etc., as well as about 20 years of experience as a Program Director, Supervisor and Coordinator. As stated on my interview by your three staff, I have a wealth of knowledge, experience and skills as a Social Worker, Counselor, Coordinator, Supervisor, Program Director and Paralegal, which includes counseling, assessments, interviewing, case management, supervising, coordinating, directing, mediating, advocating, mentoring, teaching, court liaison, etc. I have over 20 years of experience interacting with the Department of Social Services, which is not a new entity for me.

As we discussed today, my present salary is over \$40,000 due to my education, knowledge, skills and experience. I am very interested in accepting this position at \$40,000. Please understand that it would not be advantageous to me to accept a starting salary of \$30,582 with my enormous education, skills, knowledge and experience. I want to be an asset to your agency and willing to utilize all my resources and professionalism to assist in moving the agency forward. Please let's negotiate on this matter with your Human Resources Manager today and I am sure you will be in agreement with this request so that I may finalize all my paperwork today.

Look forward to hearing from you today in order that I may begin making preparations for my start date on February 9th, 2015. I can be reached by e-mail or (843) 616-1317. Thanks in

# DSS

*Serving Children and Families*

V. SUSAN ALFORD  
STATE DIRECTOR

NIKKI R. HALEY  
GOVERNOR

June 24, 2015

Hand Delivered

Ms. Clara L. Brockington  
4021 Percival Road #1113  
Columbia, SC 29201

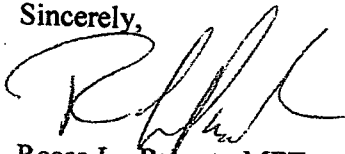
Dear Ms. Clara L. Brockington,

This letter is to inform you that your employment with the Department of Social Services is terminated effective the close of business today. This dismissal is the result of the unsuccessful completion of your Child Welfare Basics Certification.

As you are aware, your probationary status exempts you from agency grievance rights under the State Employee Grievance Procedure Act.

Please return all agency property to us and remove all personal belongings prior to leaving. We certainly wish you the best in your future endeavors.

Sincerely,



Reese L. Palmer, MFT  
Richland County Director

cc: Human Resource File

Exhibit 9