

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

**Jul 11 2022**

**SC Court of Appeals**

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APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

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Appellate Case No.: 2022-000282

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Michael K. Crowley, Employee, .....Appellant,

vs.

Darlington County, Employer, and  
South Carolina Association of Counties SIF, Carrier..... Respondents.

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**RESPONDENTS' RETURN TO APPELLANT'S  
MOTION TO EXCEED PAGE LIMIT**

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Pursuant to Rule 240(e), SCACR, Respondents respectfully submit this return to Appellant's July 1, 2022, motion to exceed the page limit for their Initial Brief, filed on June 28, 2022. According to Rule 208(b)(5), SCACR, except in cases in which a sentence of death has been imposed, principal briefs shall not exceed fifty (50) pages, and reply briefs shall not exceed twenty-five (25) pages. On motion, the appellate court may grant a party permission to exceed those limitations.

Appellant filed their Initial Brief with this Court on June 28, 2022. Appellant's Initial Brief consisted of sixty-seven (67) pages, plus the addition of an unnumbered additional page that fails to comply with Rule 208, SCACR. On June 30, 2022, this Court sent Appellant a letter pointing out Appellant's deficiencies under the South Carolina Appellate Court Rules—specifically, Appellant's failure to comply with the page limit set forth in Rule 208(b)(5), SCACR, and referencing the additional document contained in Appellant's brief that does not comply with Rule 208, SCACR. This Court's letter instructed Appellant to correct this

deficiency or file a motion pursuant to Rule 240, SCACR, to exceed the required page limit.

On July 1, 2022, Appellant filed a “Motion to Exceed Page Limit.” In support of their motion, Appellant stated that the “Statement of Case” consisted of four (4) pages of content, the “Statement of Facts” consisted of over twenty (20) pages, and the “Arguments” consisted of approximately twenty-eight (28) pages. Appellant further stated that the “major” reason their Initial Brief exceeds the required page limit is the extensive “Statement of Facts,” which they argue is “necessary to an understanding of by the Court in this matter of the issues before this Court and are submitted to assist this Court to focus on the important parts of the extensive record.” (Appellant’s Motion to Exceed Page Limit, pp. 2–3).

The South Carolina Appellate Court Rules controlling the content of Initial Briefs are clearly set forth in Rule 208(b), SCACR. According to Rule 208(b)(1), SCACR, the initial brief of an appellant shall contain under appropriate headings and in the order here indicated, as follows: (A) Table of Contents and Cases, (B) Statement of Issues on Appeal, (C) Statement of the Case, (D) Standard of Review, (E) Argument, (F) Conclusion. Specifically, Rule 208(1)(C), SCACR, addressing the Statement of Case states:

The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. *The statement shall not contain contested matters* and shall contain, as a minimum, the following information: the date of the commencement of the action or matter; the nature of the action or matter; the nature of the defense or of the response; the action of the court, jury, master, or administrative tribunal; the date(s) of trial or hearing; the mode of trial; the amount involved on appeal; the date and nature of the order, judgment or decision appealed from; the date of the service of the notice of appeal; the date of and description of such orders, judgments, decisions and proceedings of the lower court or administrative tribunal that may have affected the appeal, or may throw light upon the questions involved in the appeal; and any changes made in the parties by death, substitution, or otherwise.

Rule 208(1)(C)(emphasis added).

A review of the Statement of the Case contained in Appellant’s initial brief

Rule 208(1)(E), SCACR, addressing Argument, states:


The brief shall be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, followed by discussion and citations of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize the party's contentions.

Rule 208(1)(E).

Essentially, Appellant is attempting to use their Motion request for an extended Initial Brief as a vehicle to make the same arguments multiple times within the brief. While Respondents recognize litigants have the freedom—within the parameters of the South Carolina Appellate Court Rules—to structure their briefs how they choose, Respondents submit that the Rules do not permit appellants to use a separate “Statement of the Facts” to make legal arguments and thereafter use the “Argument” sections of the brief to reiterate or reemphasize those same legal arguments. In sum, Respondents respectfully submit that the intention behind the ability of the Court to grant leave for an extended brief is not well-served by granting permission to do so in this case. Accordingly, Respondents request this Court compel Appellant to faithfully abide by the unambiguous text of the South Carolina Appellate Court Rules by denying their Motion to Exceed the [Permitted] Page Limit of the Initial Brief.

Notwithstanding this Court’s deposition of “Appellant’s Motion to Exceed Page Limit,” Respondents respectfully request this Court also address Respondent’s deadline for filing their responsive Initial Brief.

**[Signature Block on Following Page]**

  
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J. Gabriel Coggiola, Esquire  
S.C. Bar No. 73761  
Willson Jones Carter & Baxley, P.A.  
3600 Forest Dr., Suite 204  
Columbia, SC 29204  
(803)227-2884  
jgcoggiola@wjcblaw.com  
*Attorney for Respondents Darlington County and  
South Carolina Association of Counties SIF*

July 11, 2022  
Columbia, South Carolina

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Michael K. Crowley, Employee, .....Appellant,

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**PROOF OF SERVICE**

I certify that I have served **Respondents' Return to Appellant's Motion to Exceed Page Limit**, by electronic mail, on the Honorable Jenny Abbott Kitchings, Clerk of Court of the South Carolina Court of Appeals at:

ctappfilings@sccourts.org.

In addition, I certify that I have served the same on the counsel of record for all parties in the above-captioned claim at the following addresses, by electronic mail:

Preston F. McDaniel, Esquire (preston@pfmcdlaw.com)  
Gerald Malloy, Esquire (gmalloy@bellsouth.net)  
*Attorneys for Appellant Michael K. Crowley*



J. Gabriel Coggiola, Esquire  
Willson, Jones, Carter & Baxley, P.A.  
3600 Forest Dr., Suite 204  
Columbia, SC 29204  
(803) 227-2884  
jgcoggiola@wjcblaw.com  
*Attorney for Respondents Darlington County and  
South Carolina Association of Counties SIF*

July 11, 2022  
Columbia, South Carolina



willson jones  
carter & baxley

**attorneys at law**  
greenville | charleston | columbia  
charlotte | myrtle beach | raleigh | atlanta

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John Gabriel Coggiola  
Direct (803) 227-2884  
Fax (803) 782-2527  
jgcoggiola@wjlaw.net

3600 Forest Drive, Suite 204  
Columbia, SC 29204  
www.wjcbllaw.com

July 11, 2022

**Sent Via Email (ctappfilings@sccourts.org)**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
1220 Senate Street, Columbia, SC 29201  
Columbia, SC 29211

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**Jul 11 2022**  
**SC Court of Appeals**

Re: Michael K. Crowley v. Darlington County  
**Appellate Case No. 2022-000282**

Dear the Honorable Ms. Kitchings:

Pursuant to Rule 240(e), SCACR, enclosed please find Respondents' Return to Appellant's Motion to Exceed Page Limit, along with proof of service for the same.

If you have any questions or concerns, please do not hesitate to contact me. Thank you for your attention to this matter.

With kindest regards,

**WILLSON JONES CARTER & BAXLEY, P.A.**

  
John Gabriel Coggiola

JGC/jgc

Enclosures: Respondents' Return to Motion to Exceed Page Limit  
Proof of Service

cc: Mr. Preston F. McDaniel, Esquire (via email)  
Mr. Gerald Malloy, Esquire (via email)