

RECEIVED

Aug 31 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM  
BERKELEY COUNTY COURT OF COMMON PLEAS  
The Honorable Bentley D. Price, Circuit Court Judge

Appeal No.: 2022-000927

Shelby Trehus, ..... Plaintiff,

v.

Santee Run Apartments, A South Carolina  
Corporation, and Shelly Jean Colley, ..... Defendants,

And

Kayden M, a Minor, By His Guardian  
Ad Litem Shelby Trehus, ..... Plaintiff,

v.

Santee Run Apartments, A South Carolina  
Corporation, and Shelly Jean Colley, ..... Defendants,

Of Whom

Shelby Trehus and Kayden M., A Minor,  
By His Guardian Ad Litem Shelby Trehus, are the ..... Appellants,  
and

Santee Run Apartments, a South Carolina  
Corporation, is the ..... Respondent.

**MOTION TO STRIKE ITEMS FROM  
APPELLANTS’ DESIGNATION OF MATTER,  
RELATED REFERENCES IN THEIR INITIAL BRIEF, AND  
PURPORTED EXHIBITS TO THEIR INITIAL BRIEF**

Pursuant to Rules 208, 209, 210 and 240, SCACR, Respondent Santee Run  
Apartments, a South Carolina Corporation, moves this Court to strike items from  
Appellants’ Shelby Trehus and Kayden M.’s Designation of Matter (“Designation”) and  
related references to the stricken materials in Appellants’ Initial Brief. Appellants have

designated and substantively relied on materials and evidence in their Initial Brief that were never submitted to the jury and, therefore, must be stricken.

According to Rule 209(b), SCACR, “the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)].” Rule 210(c), SCACR, in turn, provides that “[t]he Record shall not ... include matter which was not presented to the lower court or tribunal.” *See also Elam v. South Carolina DOT*, 361 S.C. 9, 23-24, 602 S.E.2d 772, 780 (2004) (the “record on appeal shall not include matter which was not presented to lower court”).

First, Appellants have designated the full Transcript of Deposition of Shelby Trehus, taken June 22, 2020. While that deposition transcript was referenced during cross-examination during the hearing, (Exh. A, Tr. pp. 66-69, referencing pages 43 and 44 of Shelby Trehus’ deposition transcript), the entire deposition transcript was not submitted by Respondent as an exhibit nor presented to the jury. As a result, it may not be included in the Record on Appeal and must be stricken from Appellants’ Designation.

Correspondingly, the references to Shelby Trehus’ June 22, 2020 deposition transcript in Appellants’ Initial Brief, beyond the portions read into the record before the jury, must be stricken. An appellate brief may only reference the Record on Appeal to support alleged facts, which is limited to those items “presented to the lower court or tribunal.” *State v. White*, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007); *see also* Rule 208(b)(4), SCACR (an initial brief “shall contain references to the transcript, pleadings orders, exhibits, or other materials which may be properly included in the Record on Appeal”).

Second, Appellants have designated the entire deposition transcript of Dr. Timothy Brewerton, taken February 18, 2022, of which only portions were played to the jury. (Exh. B, Tr. pp. 131-140, 175-181, containing arguments and discussions limiting Dr. Brewerton's testimony, noting agreement between counsel as to which portions should be deleted). Only those portions of Dr. Brewerton's deposition testimony that were presented to the jury may be included in the Record on Appeal, and the excluded portions, consisting of Brewerton Dep. p. 37, line 7 – p. 41, line 15; p. 92, line 11 – p. 94, line 13; p. 98, line 14 – p. 110, line 14; and, p. 155, line 21 – p. 156, line 3, must be stricken. And, again, any references to the stricken portions of Dr. Brewerton's February 22, 2018 deposition testimony must be removed from Plaintiffs' Initial Brief. *State v. White*, 372 S.C. at 387, 642 S.E.2d at 619; Rule 208(b)(4), SCACR.

Third, Appellants' Initial Brief purports to include Exhibits (A) – (F) to the Brief, which were not attached to their Brief but were referenced internally. Each of the purported Exhibits is included in Plaintiffs' Designation of Matter; however, the Appellate Court Rules do not contemplate exhibits to briefs. Instead, the content of initial briefs is set forth in Rule 208(b), SCACR, which does not mention exhibits. Instead, references to the appropriate portions of the Record on Appeal are to be included in final briefs. Rule 211, SCACR. As such, the references to various Exhibits in Appellants' Initial Brief should be stricken and, where appropriate, references should be made to the Record on Appeal in their Final Brief.

Finally, Respondent requests that the briefing schedule, including the deadline for filing its Initial Brief and Designation of Matter, be stayed until the Court decides this

Motion and, assuming it orders the relief sought herein, the above-referenced corrections are made.

Respectfully submitted,  
McANGUS GOUDELOCK & COURIE, LLC

August 31, 2022

*s/Helen F. Hiser*  
Helen F. Hiser  
S.C. Bar No.: 76124  
735 Johnnie Dodds Blvd., Suite 200 (29464)  
P.O. Box 650007  
Mount Pleasant, South Carolina 29465  
(843) 576-2900  
helen.hiser@mgclaw.com

*Attorneys for Respondent Santee Run Apartments, a  
South Carolina Corporation*

1 Q. While you were walking -- while you were looking  
2 through your apartment for a couple of minutes before  
3 opening the front door, were you crawling around?

4 A. No, sir. I didn't know what was going on.

5 Q. Okay. So you're walking -- you were able to walk  
6 around normally in your argument?

7 A. Yes.

8 Q. And when you went to go open the front door,  
9 was it hot, the door handle?

10 A. No, sir.

11 Q. It didn't prevent you from opening it up with  
12 your bare hands?

13 A. No, sir.

14 Q. Did you see -- when you opened the door to your  
15 apartment, did you see fire trucks or firemen?

16 A. No, sir.

17 Q. When did you first see the firefighters on scene?

18 A. When I got out.

19 Q. How were you able to tell they were on scene  
20 before?

21 A. I didn't. I didn't know what was happening.

22 Q. Do you remember providing deposition testimony  
23 in this matter?

24 A. Yes.

25 Q. And do you remember testifying at that point

**EXHIBIT**

**A**

1 that you saw fire trucks outside when you opened the  
2 door to your apartment?

3 A. No, sir.

4 MR. BEVANS: Bear with us, Your Honor.  
5 One moment, Your Honor. We've got two depositions.  
6 I'll be right there.

7 (Pause.)

8 BY MR. BEVANS:

9 Q. All right, Ms. Trehus, if you'll open that for  
10 us, and if you'll go to Pages 43 and 44, and that is  
11 a sealed transcript of the first deposition you provided  
12 in this matter back on June 22nd, 2020, just about  
13 a year after this fire.

14 MR. TISDALE: Your Honor, should we go out  
15 to call the next witness?

16 THE COURT: Sure. No problem. Take your  
17 time.

18 THE WITNESS: What page?

19 BY MR. BEVANS:

20 Q. Yeah, if you'll look at Page 43, and let me know  
21 when you're there.

22 A. Okay. I'm at Page 43.

23 Q. Okay. If you'll just go ahead and read the  
24 entire paragraph, starting at Line 16 and ending on  
25 Page 44 at Line 3.

1           A.    You want me to start at 16?

2           Q.    I would because that's the whole paragraph,  
3 that way you're not, you know, cutting what you were  
4 saying off, tell the jury the whole entire paragraph  
5 for context.

6           A.    Okay.  "Well, I was sleeping.  I ended up waking  
7 up to a very awful smell and sore throat ---

8                   THE COURT:  You have to slow down when  
9 you're reading, okay?

10                   THE WITNESS:  Oh, I'm sorry.

11                   MR. TISDALE:  What line is she starting  
12 from?

13                   MR. BEVANS:  44 -- Page 43, Line 16 to  
14 Page 44, Line 3.

15                   MR. TISDALE:  Got it.  Thanks.

16                   THE WITNESS:  "Well, I was sleeping.  
17 I ended up waking up to a very awful smell and sore  
18 throat, nasty taste.  Wasn't really sure what was going  
19 on.  I walked out of my bedroom, turned on my hallway  
20 light, seen a bunch of smoke in my apartment, wasn't  
21 really sure what was really going on, started looking  
22 around to see if it was coming from my apartment.  I had  
23 opened up my front door.  I had a bunch of smoke roll  
24 into my apartment.  I really couldn't see anything."

25           Q.    Keep going.  And that lines up with exactly

1 what you said so far, right, Shelby?

2 A. Yes, sir.

3 Q. Okay. Well, keep going and continue reading  
4 the next three lines for us to finish that thought out.

5 A. "I had looked kind of around. It was really hard  
6 to see. I had seen some of the fire trucks out there,  
7 and I assumed something -- I assumed that we were on  
8 fire."

9 Q. Okay. Thank you. So you testified in this case  
10 back on June 22nd, 2020, and your testimony back on June  
11 22nd, 2020, was identical to what you just said today,  
12 with the exception of the one line about seeing fire  
13 trucks outside, right?

14 A. Yes, sir.

15 Q. So were you lying then or now?

16 A. No, sir.

17 Q. Okay. Did you see fire trucks?

18 A. I do now remember seeing that faint fire truck  
19 in the corner.

20 Q. Okay. So the fire trucks were on scene by the  
21 time you opened up the door?

22 A. Yes, sir.

23 Q. Okay. Thank you. And your front door, does  
24 it open up to the outside or is it an interior hallway?

25 A. It goes into my apartment.

1 MR. TISDALE: Suits us if it suits you,  
2 Your Honor.

3 THE COURT: All right. Anything else that  
4 we need to take up?

5 MR. BEVANS: I do think so. I hate to be  
6 difficult and keep you, but we've got Dr. Brewerton,  
7 the video. I've got a couple of motions in limine about  
8 him, and that's only important because I've got to go  
9 and give you my designations tonight of his video  
10 deposition we took on Friday of last week. So, I would  
11 kind of like to know your ruling on what he's allowed  
12 to say, so I can, you know -- ahead of the video.

13 THE COURT: All right. What's your motion?

14 MR. BEVANS: So, I've got two motions  
15 related to Dr. Brewerton, Your Honor. The first would  
16 be to exclude Dr. Brewerton's treatment of Shelby.  
17 He was disclosed as an expert witness strictly to view  
18 Kayden's records. He conducted a complete review  
19 of Kayden's analysis, and I'm going to -- this is the  
20 motion that's in the big binder clip, so I'm really  
21 going to hit the high points and rely on the record  
22 written down for appellate purposes, if any.

23 But, essentially, there's no methodology.  
24 I mean, he met with Ms. Trehus for a couple of hours,  
25 never looked at past records, never got a family

**EXHIBIT**

**B**

1 history, never got a mental health history from her.  
2 It's just not an acceptable standard for being able  
3 to perform an evaluation of a patient or a person's  
4 psychiatric well-being based on such a limited sample  
5 size. It doesn't meet the standard for expert  
6 qualification review and reliability.

7 THE COURT: And he's going to be a video  
8 deposition?

9 MR. BEVANS: Yes, sir. We took it on  
10 Friday. He's not available, so we had to take it.  
11 And I had to go into it with him, but I'm hoping  
12 to cut out some, you know, hours of testimony,  
13 if we can.

14 THE COURT: All right. Any objection?

15 MR. TISDALE: Your Honor, I think that the  
16 value of his testimony and the quality of it is a matter  
17 that will have to be determined when he testifies.  
18 We don't think that he did anything improper or  
19 inappropriate by giving an evaluation of Shelby Trehus  
20 when he evaluated her son.

21 THE COURT: What did he do now?

22 MR. BEVANS: Exactly, evaluated her son.  
23 That's exactly what I'm saying. He did a three-hour  
24 Zoom call that's recorded.

25 THE COURT: Right.

1           MR. BEVANS: Ends up being two hours and 40  
2 minutes once he gets past his I'm an expert you all  
3 hired. I'm not a doctor.

4           THE COURT: Right.

5           MR. BEVANS: And then he gave Shelby some  
6 questionnaires about Kayden, and in the process of it  
7 he then, like, kind of overreaches and starts making  
8 opinions about Shelby that he wasn't asked to do,  
9 and that's why the retainer agreement is up there where  
10 he's only testifying in the Kayden Trehus case before  
11 these cases were consolidated.

12          MR. TISDALE: He's taken his deposition,  
13 fully cross-examined him on the whole thing.

14          THE COURT: Did you cross-examine him as to  
15 her care and treatment?

16          MR. BEVANS: Only because I had to get  
17 it in the video because I did not want to not do it  
18 and then you allow him to come in, and then, I'm like,  
19 oh, man, now I missed my chance, he's not going to be  
20 here. So, I had to do it preemptively, but I definitely  
21 -- I mean, these motions were filed well in advance.

22                 So, I didn't waive any of my arguments  
23 against his testimony, but I had to preserve my right  
24 to get the cross-exam in because again the way it kind  
25 of happened last week, I didn't really pull the cord

1 to get an emergency ruling on the motion before we had  
2 a video deposition that I had objected to, but  
3 Plaintiff's counsel did properly notice ten days.

4 MR. TISDALE: Your Honor, the cases are  
5 consolidated, and I would suggest that Your Honor take  
6 a look at the testimony before making a ruling to  
7 exclude his testimony. He's already testified and been  
8 cross-examined.

9 THE COURT: Well, the problem is that you're  
10 going to need time to redact the video.

11 MR. BEVANS: That's exactly it. That's why  
12 I'm just asking to have the ruling today because again  
13 it really ties into my next opinion as well. I mean,  
14 I don't want to merge two motions, but they're both  
15 related to Brewerton and his opinions.

16 THE COURT: Okay. Go ahead.

17 MR. BEVANS: So the next one relates  
18 to specifically Kayden. Dr. Brewerton came up --  
19 Dr. Brewerton pulled two numbers from a report that was  
20 issued, and I have copies of the report. He is prepared  
21 to testify, and he did testify during his video  
22 deposition that Kayden will need a value of future costs  
23 somewhere in the range of, I'm going to quote the round  
24 number, \$200,000 and \$900,000 of future lifetime care.

25 Now what those numbers -- those numbers came

1 from two articles published years ago about the cost  
2 of child maltreatment to society as a whole. So those  
3 costs, those several hundred thousand dollar figures,  
4 one, are adjusted for inflation. Dr. Brewerton tried  
5 to do that himself even though he is not an economist,  
6 so that's a whole other area where the statistics aren't  
7 valuable, I think.

8 But more importantly, there's no  
9 methodology saying that Kayden is going to need X number  
10 of psychotherapy visits every month or every week  
11 or bi-monthly, anything like that. There's no breakdown  
12 of what the costs are; there's no breakdown what  
13 prescriptions that Kayden might have to have, what ADHD  
14 treatment Kayden might have to have. There's zero  
15 mention at all about any treatment that Shelby would  
16 have to have, whether it be weekly, bi-weekly, monthly,  
17 you know, quarterly, anything like that.

18 All Dr. Brewerton did was look at two  
19 citations, Your Honor, that again I could pull up that  
20 talk about the nationwide costs to society as a whole  
21 from overall child maltreatment.

22 Now Dr. Brewerton will admit that those  
23 statistics encompass things like children who are  
24 victims of sexual abuse from clergy members or teachers  
25 or camp counselors or step-dads, you know. They'll get

1 into everything under the sun, every area of non-fatal  
2 child maltreatment.

3 This is not a case of fatal child  
4 maltreatment. This is one 30-second possible instance  
5 were Kayden went out a second-floor window. This is not  
6 Kayden being locked in a closet and repeatedly abused  
7 year and year and year over and over again. And that's  
8 how Dr. Brewerton is pulling out those figures.

9 And, frankly, Your Honor, I think if he's  
10 able -- one, they're not based on any methodologies  
11 specific to Kayden. And I think if Dr. Brewerton,  
12 who is a doctor, I'll give you that he's qualified.  
13 I mean, the man is educated, has authored several  
14 papers, and things of those nature. I'm not discounting  
15 his qualifications. I'm discounting his qualifications  
16 when it comes to formulating these figures because  
17 they're not pulled out to be reflective of Kayden.

18 And if he sits here and tells the jury it's  
19 between \$200,000 to \$900,000 of lifetime future care,  
20 that number, Your Honor, is based on the cost to society  
21 as a whole. I mean, that factors in the cost of the  
22 court having to deal with a delinquent running around.  
23 That deals -- that doesn't just encompass medical costs  
24 alone. That encompasses the cost of the public as  
25 a whole, not the cost just to Ms. Trehus, not the cost

1 to Kayden. And I think for a jury to hear those numbers  
2 is extremely prejudicial to my case.

3 THE COURT: All right. Yes, sir.

4 MR. TISDALE: Your Honor, Dr. Brewerton  
5 is an expert witness, listed as an expert witness,  
6 gave his report to the effect that he testified  
7 what he's claiming about months ago. We gave it to  
8 Mr. Bevans right away, and he's fully qualified to give  
9 this opinion. He testified to the authorities, how he  
10 formed it, and he's testified to it in great detail in  
11 his deposition, was cross-examined about it, and there's  
12 no reason that he's not qualified to do it based upon  
13 his professional qualifications that are in the record.

14 THE COURT: What's he being qualified  
15 as an expert in?

16 MR. BEVANS: That's a great question.

17 MR. TISDALE: He's -- the treatment of this  
18 sort of injury sustained by this young man, and he's an  
19 expert on that and an expert on the cost of treating  
20 these conditions years after the victims' injuries  
21 began. And it will be clear in his testimony that  
22 he is such an expert.

23 THE COURT: But he's not a life care  
24 planner?

25 MR. TISDALE: He's not a life care planner,

1 but he's -- there's complete authentic basis for his  
2 testimony.

3 MR. BEVANS: I have no issues with  
4 Dr. Brewerton's qualifications to say that Kayden --  
5 I would disagree with him, but I have no issue with his  
6 qualifications to say that Kayden may need future care.  
7 What I do have a problem with is Dr. Brewerton saying  
8 Kayden is going to need \$200,000 to \$900,000 of future  
9 care.

10 MR. TISDALE: He ---

11 MR. BEVANS: It's not based on any  
12 methodology. So it's not the qualifications;  
13 it's the methodology. What he did was simply pull  
14 it. He didn't come up with these numbers on his own.  
15 He went and copied them from someone else and placed  
16 it in his report.

17 THE COURT: That's what a life care planner  
18 would have done.

19 MR. BEVANS: But they still have some kind  
20 of mathematical ---

21 THE COURT: Well, that's what I'm saying.  
22 There's no life care planner in this case, and there's  
23 no mathematical deduction as to again, as you indicated,  
24 how much a therapy visit is going to cost ---

25 MR. BEVANS: That's right.

1           THE COURT: --- how much ADHD medication is  
2 going to cost in the future, how many times he's going  
3 to have to take it, how long he's going to have to take  
4 it.

5           MR. BEVANS: Now if those were present,  
6 and those numbers added up to the figures, well, I would  
7 be stuck with it. I would agree.

8           THE COURT: Sure.

9           MR. BEVANS: But when it's just pulled out  
10 of a hat like that.

11          THE COURT: What is he saying where he gets  
12 these numbers from?

13          MR. BEVANS: Two articles, just the two  
14 articles that are written about nationwide childhood  
15 maltreatment over the entire country, 50 states,  
16 a huge pool of children, all different types of abuse.  
17 And that's why I referenced these are kids that have,  
18 I mean, legitimate, like, horrible clergy abuse,  
19 you know.

20          MR. TISDALE: Your Honor, he is an expert  
21 in child psychology.

22          THE COURT: I'm going to let him testify  
23 about all of that, but I'm not going to let the numbers  
24 come out. I agree that's way too prejudicial for this.  
25 I mean, if it's just pulled out of this hat, again like

1 you say, I just don't see how -- without a life care  
2 planner how you can get that in, so take it out.

3 MR. BEVANS: Thank you, sir.

4 THE COURT: All right. See y'all in the  
5 morning, 10:00 a.m.

6 MR. TISDALE: Thank you, Your Honor.

7 THE COURT: Yes, sir. Absolutely.

8 Thank you all.

9 (End of Transcript of Record)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 MR. DAVI: Could we cut the lights,  
2 Your Honor? Thank you.

3 (Video deposition of Dr. Timothy Brewerton played for  
4 the jury.)

5 THE COURT: All right. We're going to go  
6 to lunch. It's 12:06. We'll come back at about 1:10,  
7 1:15. Fair enough. We'll see you then.

8 (Jury exits the courtroom at 12:06 p.m.)

9 (Recess taken.)

10 (Back on the record.)

11 THE COURT: All right. Thank you very  
12 much. Please be seated. All right, everybody is back.  
13 You can go ahead and bring them out.

14 MR. BEVANS: Your Honor, I'm not quite done  
15 on our time designation on Dr. Brewerton's video.

16 THE COURT: Meaning what?

17 MR. BEVANS: That I still have a few time  
18 designations to omit from the time stamps from the  
19 testimony. We've got -- I went through it. We agreed  
20 with Plaintiff's counsel on what sections need to come  
21 out, but it's not time stamped. Now we've got to go  
22 through it and find the sections on the video and put  
23 the actual timing of it.

24 MR. TISDALE: Make sure you get through  
25 it by Friday.

1 MR. BEVANS: I can get it done pretty  
2 quickly.

3 (Jury enters the courtroom at 1:18 p.m.)

4 THE COURT: Yeah, but that's not for this  
5 video.

6 MR. BEVANS: Yeah, it is. It's the video  
7 we're playing now. It's part of the motion in limine  
8 before trial started.

9 THE COURT: I thought you were going to  
10 redact it last night.

11 MR. BEVANS: Well, I did the deposition,  
12 but I didn't on the video until just now. I'm trying  
13 to get the time stamp matched up with the redactions  
14 on the transcript.

15 THE COURT: I'm confused. What are you  
16 trying to accomplish?

17 MR. BEVANS: So there were a few pages that  
18 Your Honor agreed to keep stuff out.

19 THE COURT: Right.

20 MR. BEVANS: And I went through, and  
21 I identified those segments on the actual transcript,  
22 but the transcript I had didn't have the time stamp to  
23 match with the video. So, I have got to go in the video  
24 and figure out where the time stamp is on the testimony  
25 we're omitting. I've gotten about two-thirds of the way

1 through.

2 THE COURT: But it's for this video?

3 MR. BEVANS: Correct, yes, sir. I was  
4 working on it over lunch and just didn't get a chance  
5 to finish it.

6 THE COURT: All right. Ladies and  
7 gentlemen, I'm not sure what he's talking about. So let  
8 me just try to figure out what these lawyers are doing,  
9 so give me about five minutes, okay?

10 MR. BEVANS: My apologies, Your Honor.

11 (Jury exits the courtroom at 1:19 p.m.)

12 THE COURT: What I'm asking is that you  
13 wanted me to make a ruling yesterday so you can do that  
14 over last night.

15 MR. BEVANS: Right. Well, I did with the  
16 transcript. I identified the segments in the transcript  
17 that needed to come out, and Plaintiffs have agreed to  
18 those segments to comply with your ruling.

19 THE COURT: Right.

20 MR. BEVANS: What I didn't have at the time  
21 was the synced-up video to be able to have Mr. Davi fast  
22 forward and omit those portions, or fast forward those  
23 portions of the video, and that's what I'm working on  
24 now. I'll be finished, really, in no time. I've just  
25 got one more section. I've got to identify the time

1 stamps.

2           So, I've already identified the segments.  
3 Like, for example, this is, like, an eight-page segment.  
4 It talks strictly about the costs that Your Honor agreed  
5 to keep out. I just need to match up what pages of this  
6 transcript match with the time stamp on the video so  
7 that Mr. Davi can, you know, either mute it so the jury  
8 doesn't hear it or whatever.

9           THE COURT: All right.

10           MR. BEVANS: You know, the other thing  
11 we could do, if Your Honor wants to play what we have  
12 so far, if you want to plan on taking a recess during  
13 the middle of Dr. Brewerton's testimony, I can kind  
14 of point out when the segment is about to come up,  
15 you can take a recess then ---

16           MR. TISDALE: How long ---

17           MR. BEVANS: --- we could fast toward it.

18           MR. TISDALE: How long would it take you  
19 right now?

20           MR. BEVANS: I wouldn't expect more than  
21 five or ten minutes. I'm pretty much -- I'm working  
22 on it right now. I could have it playing -- I could  
23 do it with a headphone in, but I don't want the jury  
24 to see me have headphones in, trying to comp a video  
25 while they're in there.

1 THE COURT: Well, they don't care what  
2 you're doing because it's a video.

3 MR. BEVANS: I'm fine with doing it with  
4 headphones in if that works for the Court.

5 THE COURT: That's fine.

6 MR. BEVANS: I just don't want it to be  
7 anything ---

8 THE COURT: Yeah, that's not a problem  
9 whatsoever.

10 MR. BEVANS: Okay.

11 THE COURT: All right. Bring them back out.

12 MR. BEVANS: That works for me. I just  
13 don't want to be rude and have them in, that's all.

14 THE COURT: Completely fine by me.

15 (Jury enters the courtroom at 1:21 p.m.)

16 THE COURT: All righty. Two things.  
17 Number one, what -- basically, I now understand what  
18 they were saying, is that I made a ruling because I am  
19 the sole judge of the law in this case as to what gets  
20 presented at the trial, correct? Y'all are the sole  
21 judges of the facts in this case.

22 And so I have determined that certain  
23 portions of his testimony will be removed, and so  
24 they're trying to figure out how to get past that.  
25 That is no concern of y'all whatsoever why I chose

1 to have that taken out. That's my decision, not  
2 y'all's, but that's what they're going to have to do.  
3 So if you see it fast forwarded or paused or muted,  
4 that's why. All right. I just want y'all to know that.

5 Second thing is, is that I found -- I did  
6 y'all's Mr. Hibachi, and so if I fall out or Amy falls  
7 out, Val is just going to take over, okay? All right.  
8 Hit play.

9 (Video of Dr. Timothy Brewerton continued to be played  
10 for the jury.)

11 THE COURT: How much longer?

12 MR. BEVANS: Twelve minutes.

13 THE COURT: We're going to take a break.

14 All right. We've been at it for about two hours and  
15 seven minutes, which is astonishing. So we're going  
16 to go ahead and take about a 15-minute break, and we'll  
17 get right back in, okay?

18 (Jury exits the courtroom at 3:01 p.m.)

19 (Recess taken.)

20 (Back on the record.)

21 THE COURT: All right. Thank you very much.  
22 Please be seated.

23 MR. TISDALE: Your Honor, can we speak to  
24 you just a second?

25 THE COURT: Sure, absolutely.

1 (Off-the-record conversation held at sidebar.)

2 (Back on the record.)

3 (Jury enters the courtroom at 3:13 p.m.)

4 THE COURT: All right. Be seated. Ladies  
5 and gentlemen of the jury, they have agreed or conceded  
6 that the remaining balance of the video does not need to  
7 be played, and so I'm just going to allow the Plaintiff  
8 to call their next witness, all right.

9 MR. TISDALE: Your Honor, we don't have  
10 anything further in terms of witnesses. We've got  
11 one exhibit that we need to submit, but we don't have  
12 to do it right now.

13 THE COURT: All right. So the Plaintiff  
14 rests. So, ladies and gentlemen of the jury, this  
15 is how we're going to proceed forward. At this point  
16 in time, I'm going to have to take up some matters  
17 of law. And what we'll then do is the defense has their  
18 witnesses here today.

19 My understanding is they have two,  
20 and so we'll bring you back out, and I'll allow him  
21 to call his two witnesses, and hopefully we'll get  
22 finished with those witnesses by the end of the day,  
23 all right. So if you'll excuse us for about five  
24 minutes, I'll bring you right back out.

25 (Jury exits the courtroom at 3:14 p.m.)

**RECEIVED**

**Aug 31 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM  
BERKELEY COUNTY COURT OF COMMON PLEAS  
The Honorable Bentley D. Price, Circuit Court Judge

Appeal No.: 2022-000927

Shelby Trehus, ..... Plaintiff,

v.

Santee Run Apartments, A South Carolina  
Corporation, and Shelly Jean Colley, ..... Defendants,

And

Kayden M, a Minor, By His Guardian  
Ad Litem Shelby Trehus, ..... Plaintiff,

v.

Santee Run Apartments, A South Carolina  
Corporation, and Shelly Jean Colley, ..... Defendants,

Of Whom

Shelby Trehus and Kayden M., A Minor,  
By His Guardian Ad Litem Shelby Trehus, are the ..... Appellants,  
and

Santee Run Apartments, a South Carolina  
Corporation, is the ..... Respondent.

**PROOF OF SERVICE**

I certify that on the 31st day of August 2022, I served Respondent Santee Run Apartments, a South Carolina Corporation’s **Motion to Strike Items from Appellants’ Designation of Matter, Related References in their Initial Brief, and Purported Exhibits to their Initial Brief** on Shelby Trehus, and Kayden M., a Minor, by his Guardian Ad Litem, Shelby Trehus by emailing a copy of it to their counsel of record as follows:

Thomas S. Tisdale, Esq.  
LAW OFFICES OF THOMAS S. TISDALE, LLC  
4 North Atlantic Wharf, Suite 100  
Charleston, South Carolina 29401  
tst@chancellorsc.com  
(843) 823-4100

*Counsel for Appellants Shelby*

*Trehus, and Kayden M., a Minor, by his  
Guardian Ad Litem, Shelby Trehus*

*s/Helen F. Hiser*

---

Helen F. Hiser

McAngus, Goudelock & Courie LLC

P.O. Box 650007

Mount Pleasant, South Carolina 29465

[helen.hiser@mgclaw.com](mailto:helen.hiser@mgclaw.com)

(843) 576-2900

*Attorneys for Respondent Santee Run*

*Apartments, a South Carolina Corporation*



**Reply To**

HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com

August 31, 2022

**RECEIVED**

**Aug 31 2022**

**SC Court of Appeals**

**Via S.C. Courts E-Filing & U.S. Mail**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: Shelby Trehus v. Santee Run Apartments, a South Carolina Corporation, and Shelby Jean Colley  
Civil Action No.: 2019CP0802808 (Berkeley)  
Date of Incident: May 29, 2019  
Carrier Claim No.: 847442-GL  
MGC File No.: 20302.19242  
Appeal No.: 2022-000927

Dear Ms. Kitchings:

Enclosed please find the original of Respondent's Motion to Strike Items from Appellants' Designation of Matter, Related References in their Initial Brief, and Purported Exhibits to their Initial Brief, and the Proof of Service in the above-referenced matter. We are serving counsel of record via email only. Pursuant to the Supreme Court's Order, 2021-08-25-03, Reduced Number of Copies Required in Appellate Matters, and Rule 267(f), SCACR, only one copy of Respondent's Motion is being submitted.

We will send our firm's check in the amount of \$50 for filing the motion via U.S. Mail with a copy of this letter.

Please do not hesitate to contact the undersigned if the Court requires additional copies and/or if you have any questions.

Yours truly,

McAngus Goudelock & Courie, LLC

Helen F. Hiser

Enclosures

cc: Thomas S. Tisdale, Esquire (via email only)

**McANGUS GOUDELCK & COURIE LLC**

735 JOHNNIE DODDS BLVD, STE 200  
POST OFFICE BOX 650007  
MT. PLEASANT, SC 29465

843.576.2900 PHONE  
843.534.0605 FAX  
WWW.MGCLAW.COM