

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Jan 03 2023

SC Court of Appeals

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APPEAL FROM DORCHESTER COUNTY  
COURT OF COMMON PLEAS  
EDGAR W DICKSON, CIRCUIT COURT JUDGE

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Appellate Case No. 2022-001070

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Rosen Hagood, LLC, .....Respondent/Appellant,

v.

Albert T. Henson, Jr., .....Appellant/Respondent,

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**DESIGNATION OF MATTER  
FOR INITIAL RESPONSE BRIEF OF APPELLANT/RESPONDENT**

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Pursuant to Rule 209, SCACR, Appellant/Respondent Albert T. Henson Jr. (“Mr. Henson”) submits the following as his Designation of Matter to be included in the Record on Appeal. Unless otherwise stated, all documents designated exclude cover sheets and affidavits or certificates of service and include all exhibits attached to the original document when filed. Additionally, Mr. Henson reserves the right to include in the Record on Appeal any item properly designated by Respondent/Appellant Rosen Hagood.

Mr. Henson objects to certain items designated by Respondent/Appellant Rosen Hagood. Specifically:

## **OBJECTIONS TO RESPONDENT/APPELLANT'S DESIGNATIONS**

1. Item 5: "Representation agreement dated May 25, 2016" should not be separately designated, as it was an exhibit to Item 4, "Affidavit of Daniel F. Blanchard, III with exhibits." Including Item 5 in the Record on Appeal as a separate exhibit is improper.
2. Item 6: "Client Ledger Report dated November 24, 2020" should not be designated at all because it was not a part of the record before the trial court below. Rule 210(c), SCACR. However, to the extent the exhibits to the original Item 4, the "Affidavit of Daniel F. Blanchard III with exhibits" contained an Exhibit B entitled "Tabs3 Client Ledger Report dated November 24, 2020," Mr. Henson does not object to Exhibit B to Mr. Blanchard's affidavit being included as an exhibit to Item 4, "Affidavit of Daniel F. Blanchard III if included as an exhibit and not separately.
3. Item 8: "Excerpts of deposition of Albert T. Henson Jr. taken March 23, 2022" should not be separately designated, except insofar as it is Exhibit 2 to Item 4, the "Affidavit of Daniel F. Blanchard III, filed April 7, 2022 with exhibits." Including deposition excerpts of Mr. Henson separately from Mr. Blanchard's affidavit would be improper and those excerpts attached to Mr. Blanchard's affidavit should be the same pages attached as Exhibit 2 to Mr. Blanchard's affidavit, *i.e.*, pages 1, 2, 13, 14, 15, 16, 22, 23, 39, 40, 61, and 62. Mr. Henson reserves the right to designate other pages of his Deposition in his Designations of Appellant/Respondent which accompany his Initial Appellant/Respondent's brief in accordance with Rule 32(a)(4) and (5), SCACR.
4. Item 11: "Plaintiff's Memorandum in Support of Motion for Summary Judgment dated May 26, 2022 with exhibit" in that the document is not a part of the record before the trial court. Even if the Memorandum may have been handed up to the trial judge during

- the hearing,<sup>1</sup> it was not made a part of the record, and is therefore improper for inclusion in the Record on Appeal. Rule 210(c), SCACR.
5. Item 12: “Affidavit of Plaintiff’s Attorney dated June 1, ,2022” in that the document is not a part of the record before the trial court.<sup>2</sup>
  6. Item 13: “Summary sheet of prejudgment interest calculations (totaling \$57,083.46)” is not a part of the trial court record and may not be included in the Record on Appeal. Rule 210(c), SCACR.<sup>3</sup>
  7. Item 14: “Detailed transaction file list document dated March 21, 2022” is not a part of the trial court record and may not be included in the Record on Appeal. Rule 210(c), SCACR. Mr. Henson’s counsel can find no reference to this document during the June 1, 2022 hearing.
  8. Appellant/Respondent Mr. Henson objects to the order of the Respondent/Appellant’s designations filed with its Initial Respondent/Appellant’s brief because the items listed are not in compliance with Rule 210(c), SCACR, which details the order in which items are to be included in the Record on Appeal.

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<sup>1</sup> The transcript of proceedings dated June 1, 2022 do not reflect that any memorandum was handed up to the trial judge during the hearing.

<sup>2</sup> The transcript of proceedings dated June 1, 2022 do not reflect that any affidavit of Plaintiff’s Attorney was handed up to the trial judge during the hearing. The trial court record includes the Affidavit of Mr. Blanchard dated April 7, 2022 that was designated as Item 4 in Respondent/Appellant’s Designations, but the clerk’s record of the proceedings below do not include a second affidavit from Rosen Hagood and/or Mr. Blanchard. It does appear that Rosen Hagood intended to file a second affidavit after the hearing, but did not do so. (Transcript p. 12, lines 8-10).

<sup>3</sup> Rosen Hagood’s counsel made reference to calculations during the hearing, but did not make the calculations a part of the record. (Transcript June 1, 2022 page 12, lines 1-7).

**DESIGNATIONS OF APPELLANT/RESPONDENT ALBERT T. HENSON JR.  
TO ACCOMPANY HIS INITIAL BRIEF OF RESPONDENT/APPELLANT**

**ORDERS**

1. Form 4 Order of Judge Dickson filed June 20, 2022 in the instant case.
2. Order Granting Summary Judgment by Associate Probate Judge Molly Edwards filed March 4, 2020 in Case No. 1994-ES-18-00147-2.
3. Order Approving Settlement by Judge Molly Edwards dated and filed April 1, 2020 in Case No. 2014-ES-18-0592 and Case No. 1994-ES-18-00147-2.
4. Order for Relief by Judge Molly Edwards dated and filed November 12, 2020 in Case No. 2014-ES-18-0592 and Case No. 1994-ES-18-00147-2.

**PLEADINGS**

5. Complaint filed December 16, 2020 in the instant case.
6. Answer filed January 27, 2021 in the instant case.
7. Motion for Summary Judgment dated April 7, 2022 with exhibits as filed in the instant case.
8. Opposition to Summary Judgment dated May 31, 2022 with exhibits as filed in the instant case.
9. First Amended Answer and Cross Claims of Albert T. Henson Jr. dated April 29, 2015 in Case No. 1994-ES-18-00147.
10. Answer, Counterclaim and Crossclaim of the Respondent Albert T. Henson Jr. to Amended Petition to Appoint Successor Trustee and for Subsequent Administration filed June 8, 2015 in Case No. 11994-ES-18-00147.

**TRANSCRIPTS**

11. Transcript of Proceedings before Judge Dickson on June 1, 2022, pages 1-2, 11-12.

The undersigned certifies that the Designations set forth herein contains no matter which is irrelevant to the appeal.<sup>4</sup>

s/ Desa Ballard  
Desa Ballard (S.C. Bar No. 498)  
Harvey M. Watson III (S.C. Bar No. 74053)  
Haley Hubbard (S.C. Bar No. 103195)

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COUNSEL FOR APPELLANT/RESPONDENT  
ALBERT T. HENSON JR.

January 3, 2023

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<sup>4</sup> Some of the items designated herein will be cited in Mr. Henson's Initial Appellant's Brief of Appellant/Respondent.

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APPEAL FROM DORCHESTER COUNTY  
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Appellate Case No. 2022-001070

Rosen Hagood, LLC, ..... Respondent/Appellant,

v.

Albert T. Henson, Jr., ..... Appellant/Respondent,

**PROOF OF SERVICE**

I, Beth Cogan, an employee with Ballard & Watson, Attorneys at Law, do hereby certify that on January 3, 2023, I served a copy of the **Initial Response Brief of Appellant/Respondent** and **Appellant/Respondent's Designation of Matter** in the above-captioned case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

**F. Truett Nettles II, Esquire**  
**Rosen Hagood LLC**  
**tnettles@rosenhagood.com**



Beth Cogan, Paralegal

January 3, 2023  
West Columbia, South Carolina

## Beth Cogan

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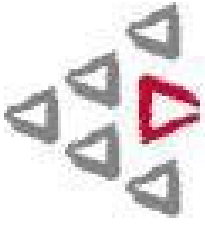
**From:** Beth Cogan  
**Sent:** Tuesday, January 3, 2023 3:36 PM  
**To:** F. Truett Nettles II  
**Cc:** Desa Ballard; Haley Hubbard  
**Subject:** (Rosen Hagood, LLC v. Albert T. Henson, Jr. 2022-001070) Initial Response Brief of Appellant/Respondent and DOM  
**Attachments:** 2023 01 03 Ltr to COA encl Initial Response Brief of Appellant Respondent.pdf; 2023 01 03 Initial Respondents Brief of Appellant Respondent.pdf; 2023 01 03 DOM for Initial Respondents Brief of AR.pdf; 2023 01 03 POS Initial Response Brief.pdf

Good afternoon,

Please see the attached Initial Response Brief of Appellant/Respondent and DOM for the above-referenced matter that will be filed today with the Court of Appeals.

Kindest Regards,  
-Beth

Beth Cogan, Paralegal  
Ballard & Watson, Attorneys at Law  
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January 3, 2023

*Via Email* ([ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org))  
The Honorable Jenny Abbot Kitchings  
Court of Appeals Clerk of Court  
Post Office Box 11629  
Columbia, South Carolina 29211

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SC Court of Appeals

Re: *Rosen Hagood, LLC v. Albert T. Henson, Jr.*  
Appellate Case No.: 2022-001070

Dear Ms. Kitchings:

Please find enclosed for filing the **Initial Response Brief of Appellant/Respondent and Designation of Matter** in the above-referenced matter. By copy of this letter and as evidenced by the Proof of Service, these filing has been served upon counsel for the Respondents. Thank you for your time in this matter. If you have any questions, please do not hesitate to contact our office.

With warm personal regards, I am,

Sincerely yours,

*s/Desa Ballard*

Desa Ballard  
[desab@desaballard.com](mailto:desab@desaballard.com)

Enclosures

cc: *Via Email*  
F. Truett Nettles II, Esquire  
Al Henson