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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM AIKEN COUNTY
In the Court of Common Pleas

APR 03 2023

SC Court of Appeals

Courtney Clyburn Pope, Circuit Court Judge
Civil Action No.: 2021-CP-02-02457

Appellate Case No.: 2022-000685

Vance Mack Fleming,Appellant,

v.

Glen Fleming... Respondent.

**MOTION TO STRIKE OR, ALTERNATIVELY, TO DISREGARD PORTIONS OF
RESPONDENT’S INITIAL BRIEF AND HOLD FILING DEADLINES FOR
APPELLANT’S INITIAL BRIEF, RECORD ON APPEAL, AND ALL OTHER FILING
DEADLINES IN ABEYANCE**

Pursuant to Rule 208(b)(2), SCACR, Appellant Vance Mack Fleming, respectfully moves this Court for an Order to strike the Initial Brief of Respondent, Glen Fleming or alternatively, to disregard the issues, argument, and authorities raised in the Respondent’s Initial Brief in violation of the appellate court rules and decisional law and to hold Appellant’s filing deadlines for Appellant’s Initial Reply Brief, Record of Appeal, and all other filing deadlines in abeyance, pending this Court’s decision on Appellant’s Motion to Strike.

The Respondent’s Initial Brief is required to comply with the South Carolina Appellate Court Rules. Rule 208(b)(2), SCACR, provides that:

“The brief of respondent shall conform to the requirements of Rule 208(b)(1)(A)-(F), except that a statement of the issues, of the case, or of the standard of review need not be made unless the respondent is dissatisfied with the statement of the issues, of the case, or of the standard of review by appellant. If a respondent does not include his own statement of the case, he shall be bound by the matters stated or alleged in appellant's statement of the case. If a respondent does include his own statement of the case, he shall be bound by the matters stated or alleged in his statement of the case.

Rule 208(b)(2), SCACR. The requirements of Rule 208(b)(1)(E), SCACR, require that the Respondent's argument “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.”

“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.” *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). See also *State v. Burton*, 356 S.C. 259, 265, n. 5, 589 S.E.2d 6, 9 n. 5 (2003) (“A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”); *State v. Hollman*, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958) (stating that established rules of procedure are not to be discarded on appeal merely because a party appeared *pro se*), overruled on other grounds by *Stevenson v. State*, 335 S.C. 193, 516 S.E.2d 434 (1999).

In *HHHunt Corp. v. Town of Lexington*, the Court held that conclusory arguments and arguments not supported by authorities are deemed abandoned. *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 635-36, 699 S.E.2d 699, 705 (Ct.App. 2010); *State v. Colf*, 332 S.C. 313, 322, 504 S.E.2d 360, 364 (Ct.App. 1998); see also *Emerson*, 395 S.C. at 488 n.6, 719 S.E.2d at 654 n.6. Short, conclusory statements made without supporting authority are deemed abandoned

on appeal and therefore not presented for review. *Glasscock, Inc. v. U.S. Fidelity and Guar. Co.*, 348 S.C. 76, 557 S.E.2d 689 (Ct. App. 2001). In *Englert, Inc. v. Netherlands, Ins. Co.*, the court has stated that a "one-sentence" argument is too conclusory to present any issue on appeal. *Englert, Inc. v. Netherlands Ins. Co.*, 315 S.C. 300, 433 S.E.2d 871 (Ct. App. 1993).

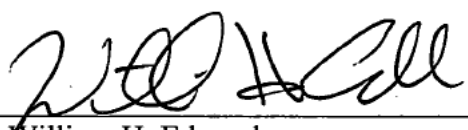
In this case, the Respondent's Initial Brief does not meet the requirements of the South Carolina Appellate Court Rules. While the Respondent submitted its brief *pro se*, the Respondent still assumed full responsibility to comply with the substantive and procedural requirements and the Respondent's failure to comply should not be discarded merely because he is not represented by counsel. *State v. Hollman*, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958).

The Respondent did not comply with the requirements Rule 208(b)(2), SCACR and 208(b)(1)(D). Respondent's argument section of the Initial Brief includes a heading with only two short sentences and without any supporting authority. (See Exhibit "A" – Respondent's Initial Brief). Respondent's Initial Brief consisted of only conclusory arguments on page "5", which state "that either the Court vacate the Appellant from the premises owned by the Respondent or the matter be remanded to the Magistrate's Court." (Exhibit "A"). The Respondent's Initial Brief did not provide any supporting evidence for its argument. The Respondent's argument was also improper and insufficient by failing to discuss, reference, or cite authority as seen on Page 5 of Respondent's Initial Brief. (Exhibit "A"). Thus the Respondent's Initial Brief does not comply with the legal requirements. Therefore, the Court should Strike the Respondent's Initial Brief and disregard all arguments and authorities that are not properly raised under the rules and case law governing appellate practice.

CONCLUSION

The grounds for Appellant's Motion are set forth hereinabove. Based on the foregoing, and in light of Respondent's numerous, egregious and material violations of the South Carolina Appellate Court Rules, Appellant moves that this Court strike Respondent's Initial Brief as being incomplete and improper and hold Appellant's filing deadline for Appellant's Initial Reply Brief, Record on Appeal, and all other filing deadlines in abeyance, pending this Court's decision on Appellant's Motion to Strike.

Respectfully Submitted,

By: 
William H. Edwards
Moore Bradley Myers Law Firm
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, SC 29171
803-796-9160
will@mbmlawsc.com
Attorney for Appellant

March 31, 2023.

THE STATE OF SOUTH CAROLINA
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Courtney Clyburn Pope, Circuit Court Judge
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PROOF OF SERVICE

I certify that I have served a copy of the Appellant’s Motion to Strike or, Alternatively, to Disregard Portions of Respondent’s Initial Brief and Hold Filing Deadlines for Appellant’s Initial Brief, Record on Appeal, and All Other Filing Deadlines in Abeyance by US Mail, postage prepaid, upon counsel for the Respondent at the address listed below:

Glen T. Fleming
10943 Indies Drive North
Jacksonville, FL 32246



William H. Edwards

April 3, 2023



S. Jahue Moore†
 James Edward Bradley†
 Sheila McNair Robinson
 Christian G. Spradley
 William H. Edwards
 Stanley L. Myers
 Jane H. Downey*
 S. Jahue Moore, Jr.
 William B. Fortino
 Ralph Nichols Riley, Jr.
 John C. Bradley, Jr.
 Lester McGill Bell, Jr.

Melissa K. Moore
 Bryan C. Letteer
 Sierra D. Carini
 Lawrence D. Turner
 Emily E. Collins

Retired
 J. Mark Taylor**
 Robert D. Hazel†
 C. David Sawyer, Jr.†
 Billy C. Coleman (1916-2019)

April 3, 2023

VIA HAND DELIVERY & E-MAIL: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
 Clerk of Court
 The South Carolina Court of Appeals
 Post Office Box 11629
 Columbia, South Carolina 29211

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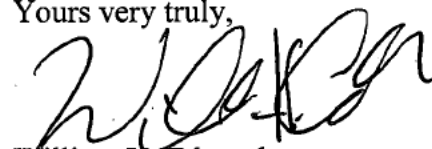
Re: Glen Fleming v. Vance Mack Fleming
 Appellate Case No.: 2022-000685

Dear Mrs. Kitchings:

Enclosed for filing is the original and nine copies of a Appellant’s Motion to Strike or, Alternatively, to Disregard Portions of Respondent’s Initial Brief and Hold Filing Deadlines for Appellant’s Initial Brief, Record on Appeal, and All Other Filing Deadlines in Abeyance and Proof of Service in the above-referenced matter. Also enclosed is our check in the amount of \$50.00 to cover the filing fee. Please return the clocked-in copies via our courier.

Please do not hesitate to contact our office if you have any questions or need additional information.

Yours very truly,


 William H. Edwards

WHE
 Enclosures

cc: Glen Fleming, Respondent (w/enclosures)
 Vance M. Fleming (w/ enclosures)

1700 Sunset Boulevard, West Columbia SC 29169 | PO Box 5709, West Columbia SC 29171

TEL 803.796.9160 FAX 803.791.8410 www.mbmlawsc.com

MBM MOORE
BRADLEY
MYERS

PO Box 5709, West Columbia SC 29173
1700 Sunset Boulevard, West Columbia SC 29169

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The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
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