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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable Kristi F. Curtis, Circuit Court Judge

Case No.: 2020-CP-26-06286
Appellate Case No. 2023-000289

Jack Kelly..... *Appellant,*

vs.

Roger D. Cox, Cox Millwork & Supply Inc, Waterside Drive Boat Ramp,
LLC and Cox Properties, LLC *Respondents.*

**APPELLANT’S MOTION SEEKING CLARIFICATION
OF RESPONDENTS’ DESIGNATION OF MATTER**

Appellant Jack Kelly moves before the Court pursuant to Rules 209(a) and (b), SCACR, a copy of which is set forth below, parties must clearly identify, and set forth *with specificity*, only the pages or portions of the Transcript of Record and deposition transcripts Respondents’ would like to be included in the Record on Appeal. Appellant would request all documents Respondents’ has designated to be included and state with specificity any Exhibits (if any) to the documents that Respondents’ would also propose to be included.

RULE **209**
DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON
APPEAL

(a) Time to Serve and File. At the same time a party serves his initial brief(s) under Rule 208, to include a reply brief, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the Record on Appeal which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. One copy of this Designation with proof of service shall immediately be filed with the clerk of the appellate court.

(b) Content. The Designation must clearly identify what the party desires to have included in the Record on Appeal, and 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)]. A party shall not include any matter in his Designation which is not relevant to the appeal.

That the Court review only those pages specifically cited to in the Briefs and/or other documents of the parties. Therefore, the Appellant is requesting the Respondents to narrow their Designation of Matter, attached hereto as Exhibit A, to only the portions or pages cited to in the trial court's Order Granting Summary Judgment as to All Defendants, and in the Respondents' Initial Brief. Further, Respondents have not specifically stated which Exhibits to what documents they wish to be included in the Record on Appeal. The Respondents' have stated they wish to include the entire depositions transcripts of Appellant and Dawn Cos which were filed under seal with the trial court due to the sensitive and personal nature of the depositions and specifically Exhibit 3 to Appellant's deposition volume II, which contains his medical counseling records. The documents designated must correspond and relate to what is in the appeal, or what they have cited to in their initial brief.

The Appellant would ask the Court to Order the Respondent to abide by Rule 209 SCACR Designation of Matter To Be Included in the Record On Appeal. Appellant would also request that the record on appeal be held in abeyance until this matter is ruled upon by the Court. Appellant's Counsel would also ask the Court to consider that he has secured leave from the Courts

for the dates of August 7 through August 25, when he will be out of the country on a long-planned vacation. A copy of Appellant's Counsel's Secure Leave Confirmation is attached hereto as Exhibit B.

Respectfully submitted.

June 29, 2023

Wright, Worley, Pope, Ekster & Moss, PLLC
Attorneys for the Appellants

sGeorge N. Spirakis

George N. Spirakis, Esquire, SC Bar No. 12024
628A Sea Mountain Highway
North Myrtle Beach, SC 29582
Tel: 843/ 281-9901/ Fax: 843/ 281-9903
Email: GeorgeSpirakis@wwpemplaw.com

The Snyder Law Group

Co-Counsel for the Appellants

Richard L. Snyder, Esquire, SC Bar No. 105192
2510 Barrett Street, Columbia, SC 29201
Telephone No.: 980/ 297-9627
Email: rl@snyderlawgroupsc.com