

99993

RECEIVED

OCT 09 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

HON. MARVIN H. DUKES, III
MASTER IN EQUITY AND SPECIAL CIRCUIT JUDGE

CASE NUMBER 2023-000891

ERIC AND TRACY SHERRIER,

APPELLANTS,

VS.

THE TOWN OF HILTON HEAD ISLAND CONSTRUCTION BOARD OF
ADJUSTMENT AND APPEALS AND THE TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA,

RESPONDENTS.

NOTICE OF MOTION AND MOTION
TO STRIKE

The Town of Hilton Head Island, South Carolina, Construction Board of Adjustments and Appeals and The Town of Hilton Head Island, South Carolina, move to strike the October 6, 2023, Notice filed by Eric and Tracy Sherrier in this case. The October 6, 2023, Notice purports to be a notice of citations of supplemental authority required under Rule 208(b)(7), SCACR.

Rule 208(b)(7), SCACR, reads:

(7) *Supplemental Citations.* When pertinent and significant authorities come to the attention of a party after his initial brief(s) has been served and filed, the party shall promptly advise the clerk of the appellate court, by letter, with a copy to all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to an issue to which the citations pertain, but the letter shall, without argument, state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited.

In their October 6, 2023, Notice, Eric and Tracy Sherrier do not refer to any citation of authority as is required by Rule 208(b)(7), SCACR. Rather, Eric and Tracy Sherrier attempt to add evidence to the Record on Appeal in violation of Rule 209(a), SCACR¹ and Rule 210(c), SCACR.²

The document attached to the Sherriers' Notice is an unauthenticated, ambiguous hearsay document that the Sherriers attempt to explain in the Notice. The document attached to the October 6, 2023, Notice was not a part of the record before the Town of

¹ Rule 209(a), SCACR, reads:

(a) *Time for Service.* Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.

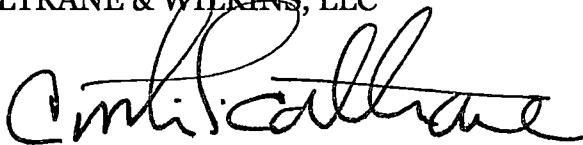
² Rule 210(c), SCACR, reads:

(c) *Content.* The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant. Each page of the Record on Appeal shall be numbered consecutively beginning with the index. Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included. When a portion of an order, judgment, decision or pleading is to be included in the Record on Appeal, the entire order, judgment, decision or pleading shall be included in the Record, to include the caption and signature(s); provided, however, that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal. If the original court reporter's numbering has been deleted, the Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted. (emphasis added)

Hilton Head Island, South Carolina, Construction and Appeals, or the Circuit Court.

Because the October 6, 2023, Notice does not make any reference to any citation of authority, but rather is an attempt to supplement the record in a manner not authorized by Rule 209(a), SCACR and Rule 210(c), SCACR, the Town of Hilton Head Island, South Carolina, Construction Board of Adjustments and Appeals and the Town of Hilton Head Island, South Carolina, move to strike the October 6, 2023, Notice filed by Eric and Tracy Sherrier.

COLTRANE & WILKINS, LLC

By 

Curtis L. Coltrane
South Carolina Bar Number 1344
Post Office Box 6808
Hilton Head Island, SC 29938
(843) 785-5551
curtis@coltraneandwilkins.com
Attorneys for the Town of Hilton Head
Construction Board of Adjustment and
Appeals and the Town of Hilton Head
Island, South Carolina

Hilton Head Island, South Carolina

This 6th Day of October, 2023.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
Hon. Marvin H. Dukes, III, Master-In-Equity

RECEIVED

OCT 09 2023

SC Court of Appeals

Appellate Case Number 2023-000891

Eric and Tracy SherrierAppellants,

vs.

the Town of Hilton Head Island Construction Board of Adjustments and Appeals and
the Town of Hilton Head Island, South CarolinaRespondents.

CERTIFICATE OF SERVICE

The undersigned certifies that the correspondence to the Hon. Jenny Abbott Kitchings requesting a thirty (30) day extension for filing the Respondents Initial Brief and Designation of Matter was served on James P. Sullivan, 215 E. Bay Street, Suite 303, Charleston, SC, 29401, by Federal Express, Tracking Number 7736 6028 5870 on October 6, 2023.



Curtis L. Coltrane
Coltrane & Wilkins, LLC
South Carolina Bar Number 1344
Post Office Box 6808
Hilton Head Island, SC 29938
curtis@coltraneandwilkins.com

Hilton Head Island, South Carolina

This 6th Day of October, 2023.

COLTRANE & WILKINS, LLC
ATTORNEYS AT LAW

POST OFFICE BOX 6808
HILTON HEAD ISLAND, SC 29938
(843) 785-5551
(843) 785-5552 (Fax)

RECEIVED

OCT 09 2023

SC Court of Appeals

Curtis L. Coltrane
E-Mail: curtis@coltraneandwilkins.com
Certified Circuit Court Mediator
Certified Circuit Court Arbitrator
Certified Federal Court Mediator

Curtis L. Coltrane*
John W. Wilkins
Ted Bliman
*Also Member Virginia Bar

October 6, 2023

Hon. Jenny Abbott Kitchings
CLERK OF SOUTH CAROLINA COURT OF APPEALS
1220 Senate Street
Columbia, SC 29210

Via Federal Express
Tracking Number 7736 6024 8740

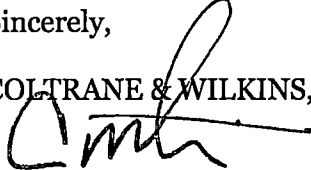
RE: Sherrier v Town of Hilton Head Island
Appellate Case # 2023-000891
Our File # THH-22-004

Dear Ms. Kitchings:

Enclosed, you will find an original and six copies of a Notice of Motion and Motion to Strike in the above case, along with a Certificate of Service showing service via overnight delivery to James P. Sullivan, Esq. I have also enclosed the filing fee in the amount of Fifty and no/100 (\$50.00) Dollars and a certificate of service. Please let me know if anything further is needed in connection with this matter. I am,

Sincerely,

COLTRANE & WILKINS, LLC


Curtis L. Coltrane

CLC/tdr

cc: James P. Sullivan, Esq.

Enc.: As Stated

ORIGIN ID: HPH-1A (843) 785-5551
CURTIS COLTRANE
COLTRANE & WILKINS, LLC
TWO PARK LN., STE. 301
MILTON HEAD ISLAND, SC 29928
UNITED STATES US

SHIP DATE: 06OCT23
ACTWGT: 8.63 LB
CAD: 104946830NET4540

BILL SENDER

TO HON. JENNY ABBOTT KITCHINGS
SOUTH CAROLINA COURT OF APPEALS
1220 SENATE STREET

COLUMBIA SC 29201

(843) 785-5551 REF. DEPT. PO



FedEx Ship Manager - Print Your Labels

MON - 09 OCT 5:00P
STANDARD OVERNIGHT

TRK# 7736 6024 8740
0201

29201
SC-US CAE

XP USCA



G3 C9-04

RT 104
6 17:00
FE B20

RECEIVED

OCT 09 2023
SC Court of Appeals

Scan to learn how we
can help make Earth
a priority together.

