

**RECEIVED**

**Oct 24 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Debra R. McCaslin, Circuit Court Judge

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Civil Action No.: 2021-CP-26-05745

Appellate Case No.: 2023-00822

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Joseph A. Stagar, ..... Appellant,

v.

Deborah Cole, ..... Respondent.

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RESPONDENT'S MOTION TO DISMISS

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Luther O. McCutchen, III, Esquire  
McCUTCHEM VAUGHT GEDDIE & HUCKS, P.A.  
4610 Oleander Drive, Ste. 203  
Myrtle Beach, SC 29577  
(843) 449-3411  
Attorney for Respondent

The Respondent, by and through her undersigned counsel, moves before this Honorable Court for an Order dismissing the above-captioned appeal. Grounds for Respondent's Motion to Dismiss are for the failure of Appellant to properly serve Respondent with certain documents as provided by the following:

1. Rules 207, 208, 209 and 262 of the South Carolina Appellate Court Rules (SCACR);
2. Letters of this Court to Joseph Andrew Stagar dated May 23, 2023, July 18, 2023, August 1, 2023, August 9, 2023 and
3. The Order of this Honorable Court dated and filed August 21, 2023, which extended the filing of Appellant's designation of matter and proof of service until September 18, 2023.

### **MEMORANDUM IN SUPPORT**

#### **STATEMENT OF FACTS**

Appellant brings his appeal to the South Carolina Court of Appeals pursuant to the South Carolina Appellate Court Rules. On or about May 17, 2023, Appellant served Respondent with a copy of the Notice of Appeal and Statement of Issues on Appeal in the above-captioned matter by serving a copy via Sheriff's deputy upon the undersigned counsel for Respondent. On or about May 23, 2023, the undersigned then received a copy of a letter from this Honorable Court to Appellant notifying Appellant that the Court had received Appellant's Notice of Appeal and instructing Appellant that all parties are to comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules. The Court further provided the website address for the South Carolina Appellate Court Rules.

The undersigned received a copy of an additional letter on May 23, 2023 from this Honorable Court to the Appellant notifying Appellant of a deficiency in his filing the Notice of Appeal, specifically Appellant's failure to provide proof of service of the Notice of Appeal in the form of Form 7 in Appendix C to the SCACR. Said deficiency was evidently corrected on June 6, 2023 by the filing of a Proof of Service. Respondent was unaware of said filing, and no copy of same has been served on or provided to Respondent.

The next correspondence received by the undersigned on behalf of Respondent was a copy of a letter dated July 18, 2023 from this Honorable Court to Appellant notifying him that the transcript in the above matter should have been delivered but that the Court had not received the transcript and containing further instruction related to same. This letter further stated, "Be sure to copy the Court and opposing counsel with all correspondence concerning the transcript." It then instructs Appellant to advise the Court of the status within ten (10) days of the date of the letter. Respondent has received no correspondence from Appellant as to the status of the transcript.

On August 1, 2023, the undersigned received a copy of a letter from this Honorable Court to Appellant notifying him that the Court had reviewed the Initial Brief of the Appellant, and deficiencies were noted. The Initial Brief was not accompanied by a designation of matter to be included in the Record on Appeal, and proof of service had not been provided substantially in the format of Form 7 in Appendix C to the SCACR. To date Respondent has not been served with a copy of Appellant's Initial Brief or Designation of Matters to be Included in the Record on Appeal.

On August 9, 2023, the undersigned received a letter from this Honorable Court to Appellant notifying him that the Court had received and reviewed his Motion for Extension of Time and that deficiencies were noted. The filing fee had not been paid, and proof of service had

not been provided substantially in the format of Form 7 in Appendix C to the SCACR. To date Respondent has not been served with a copy of Appellant’s Motion for Extension of Time.

On August 21, 2023, the undersigned received a copy of an Order of this Honorable Court granting Appellant an extension of time until September 18, 2023 to file and serve his Designation of Matter. To date, Respondent has not been served with a copy of Appellant’s Designation of Matters to Be Included in Appeal. On August 22, 2023, however, Respondent was served, via the undersigned, with a copy of the Notice of Appeal which was previously served on May 17, 2023, and as is evidenced by the Proof of Service filed by the Appellant on August 11, 2023. A copy of the documents contained in this service are attached hereto as Exhibit “A” and incorporated herein by reference.

To date, the only document with which Respondent has been served is the Notice of Appeal; a “Form 9 Letter to Clerk of Lower Court Filing Notice of Appeal” dated May 1, 2023; Common [sic] Pleas Notice of Civil Appeal; Statement of Issues on Appeal Case 2021-CP-26-5745”; Form 11 Letter Ordering Transcript from Court Reporter; copy of Civil Action Coversheet for case 2021-CP-26-5745 dated May 8, 2023; and a cut off copy of Defendant / Respondent’s Answers to Requests for Admissions which were part of Appellant’s original filing in the Court of Common Pleas which was dismissed by Order of the Honorable William H. Seals on September 2, 2022. These documents are collectively referred to hereafter as the “Notice of Appeal.”

**ARGUMENT AND CITATION OF AUTHORITY**

To date in his appeal, Appellant has failed to comply with both the South Carolina Appellate Court Rules and an Order of this Honorable Court dated August 21, 2023. Appellant filed his original Complaint and an amended Complaint in the Court of Common Pleas as a pro se Plaintiff, and Appellant further filed this appeal pro se. Appellant is granted the right to represent

himself by statute; however, Appellant is subject to the South Carolina Appellate Court Rules and any Orders of this Honorable Court to the same extent that an attorney is. Rule 101(a), SCACR, states in part as follows:

**(a) Scope.** These Rules are divided into six parts. Part I governs the applicability of these Rules and contains general provisions. Part II governs practice and procedure in appeals, petitions, and motions in the Supreme Court and the Court of Appeals.

Following the filing of Appellant’s Notice of Appeal, this Honorable Court sent a letter to Appellant dated May 23, 2023 regarding the receipt of his Notice of Appeal and therein provided the Appellant with the website for the South Carolina Appellate Court Rules. Appellant has no excuse for his failure to follow the SCACR. The SCACR are clear and set forth the various procedures applicable for filing and responding to appeals from the lower court. Rule 262, SCACR, entitled “FILING AND SERVICE” provides the Court’s Rules for the filing of documents with the Court of Appeals as follows:

**(b) Proof of Service to Be Filed.** *Any document* filed with the appellate court shall be accompanied by proof of service showing the document has been served on all parties. (Italicized emphasis added).

Since any document filed with Court of Appeals is to be accompanied by Proof of Service, service of a document should be made before the filing of that document with the Appellate Court. Since the filing of Appellant’s Notice of Appeal, Respondent has not been served with any documents except a second copy of the Notice of Appeal, with the second time appearing to be in response to this Court’s Deficiency Letter dated August 1, 2023.

This Court requested information from Appellant related to the transcript on July 18, 2023 and specifically instructed Appellant to “[b]e sure to copy the Court and opposing counsel with all correspondence concerning the transcript.” To date, the undersigned has not received any

correspondence from Appellant related to the transcript, including any initial letter requesting the transcript.

Appellant evidently filed his Initial Brief on July 27, 2023; however, Respondent has not been served with a copy, and proof of service related to the Initial Brief has not been filed. Rule 208, SCACR, entitled “INITIAL BRIEFS,” states, in part, as follows:

**(a) Time for Serving and Filing Initial Briefs.**

**(1) Brief of Appellant.** Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, *appellant shall serve one copy of his brief on all parties to the appeal*, and file with the clerk of the appellate court one copy of the brief *with proof of service*.

...

**(4) Failure to File.** Upon the failure of the appellant to file *and serve* his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260. Upon the failure of respondent to timely file a brief, the appellate court may take such action as it deems proper. (Italicized emphasis added.)

This Court sent a letter dated August 1, 2023 to Appellant which informed him that the Court had received and reviewed the Initial Brief, but deficiencies were noted. Appellant’s Initial Brief was not accompanied by a designation of matters to be included in the Record on Appeal, nor was proof of service filed. This Honorable Court was lenient and gracious to Appellant and allowed Appellant ten (10) days from the date of the letter to file his Designation of Matters on Appeal and proof of service. However, to date, Appellant has failed to serve his Initial Brief on Respondent and has further failed to file proof service of his Initial Brief. Appellant has also failed to serve his Designation of Matters on Appeal on Respondent, despite the Designation evidently being filed on September 11, 2023.

This Court then sent a letter dated August 9, 2023 to Appellant and addressed a Motion for Extension of Time which Appellant had filed, evidently on August 5, 2023. Appellant failed to

serve a copy of his Motion for Extension upon Respondent and, as evidenced in the August 9 letter, Appellant failed to file proof of service. The letter graciously provided Appellant with an additional ten (10) days to file proof of service. To date, Respondent has not been served with a copy of the Motion for Extension, nor has proof of service of the Motion been filed.

On August 21, 2023, this Court filed an Order which reads as follows:

The time for *servicing and filing* the appellant's designation of matter and proof of service is hereby extended until September 18, 2023. (Emphasis added.)

To date, and in direct contravention to this Court's Order of August 21, 2023, Respondent has not been served with Appellant's Designation of Matters on Appeal and no proof of service of same has been filed. The Court's Order and the Appellate Court Rules explicitly require service to be made upon opposing parties prior to filing with the Court. Appellant has additionally been informed of the need to provide Respondent with copies of any correspondence relating to the transcript of the Common Pleas matter and, despite this appeal being filed in May of 2023, Respondent has still not received copies of any correspondence related to the transcript.

Respondent would add that although Appellant is appearing pro se and appeared pro se in the Common Pleas action, Appellant is still required to comply with the substantive and procedural requirements of the Court. *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 the substantive and procedural requirements of the law."). Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney. *Goodson v. American Bankers Ins. Co. of Florida*, 368 S.E.2d 687, 295 S.C. 400 (S.C. App. 1988). *See also McCall v. A-T-O-, Inc.*, 276 S.C. 143, 276 S.E.2d 529 (1981) ("This Court has never held a layman to a lesser standard than attorneys."). Further, Appellant is in receipt of a letter from this Honorable Court which directs him to the South Carolina Appellate

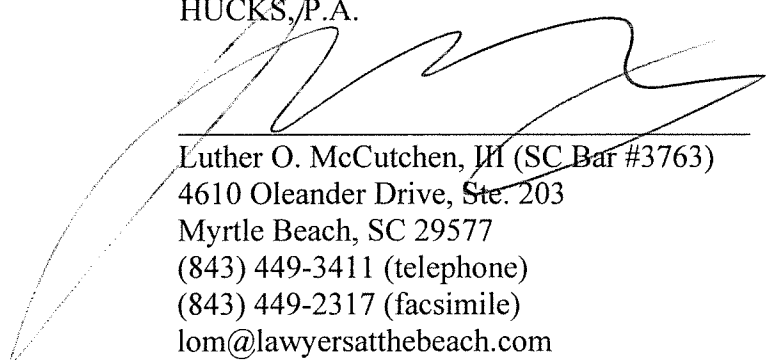
Court Rules and has further received at least four (4) letters from this Court notifying him of the requirement to file proof of service as to each document Appellant has filed. There appears to be no good cause for which Appellant has not timely served his Initial Brief, his Motion for Extension of Time, or his Designation of Matters on Appeal.

**CONCLUSION**

As set forth above, in direct contravention to Appellate Court Rules, Appellant has failed to timely serve and timely file proof of service of at least three (3) separate documents in this matter: his Initial Brief, his Motion for Extension of Time, and his Designation of Matters to be Included on Appeal. Further, the Designation was Ordered by this Court to be served and filed by September 18, 2023, yet the Respondent has not been served with a copy to date. Additionally, Respondent has received no communication from the Appellant related to the transcript, other than the Form 11 Letter to Court Reporter served August 22, 2023. Appellant has been provided ample opportunity by this Court to comply with the Appellate Court Rules, yet Appellant has not done so. Therefore pursuant to Rule 208(a)(4), Respondent respectfully requests this appeal be dismissed.

Respectfully submitted,

McCUTCHEM VAUGHT GEDDIE &  
HUCKS, P.A.



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Luther O. McCutchen, III (SC Bar #3763)  
4610 Oleander Drive, Ste. 203  
Myrtle Beach, SC 29577  
(843) 449-3411 (telephone)  
(843) 449-2317 (facsimile)  
lom@lawyersatthebeach.com

Attorneys for Respondent

October 11, 2023

Joseph Stogor  
9768 Lakeview Rd. NW  
Ash, NC 28420

7021 2720 0003 3539 1432



LITTLE HAVEN, GA  
AUG 11, 2023

RDC 99

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R2307N153006-05

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RESTRICTED  
DELIVERY

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21610 @ Leander Davis said T 903  
Myrtle Beach S.C. 29577

AUG 22 2023

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8-30  
2-75

**FORM 1**  
**NOTICE OF APPEAL IN CIVIL CASE**  
**THE STATE OF SOUTH CAROLINA**

In The Court of Appeals

**APPEAL FROM HORRY COUNTY**

Court of Common Pleas

Debra McMaslin, Circuit Judge

Case No. 2021-CP-26-05745

FILED  
HORRY COUNTY  
2023 MAY -9 A 9:52  
RENEE N. ELVIS  
CLERK OF COURT  
HORRY COUNTY, SC

Joseph Andrew Stagar Pro Se

Appellant

V

Deborah Cole

Respondent

**NOTIC OF APPEAL**

Joseph Andrew Stagar appeals the order of the Honorable Debra McMaslin dated Appellant received written notice of this order on May 1, 2023

Luther O. Mc Cutchen 111

Other Counsel of Record

4610 Oleander Drive, Suite 203

Myrtle Beach, SC 29577

*Joseph A Stagar*

Joseph Andrew Stagar Pro SE

9758 little River Rd. Nw

910-287-7711

Appellant

**FORM 9  
LETTER TO CLERK OF LOWER COURT**

**FILING NOTICE OF APPEAL**

May 1, 2023

The Honorable Renee N. Elvis  
Clerk of Court for Horry County  
Post Office Box 677  
Conway South Carolina 29528-0677

FILED  
HORRY COUNTY  
2023 MAY -9 A 9:52  
RENEE N. ELVIS  
CLERK OF COURT  
HORRY COUNTY, SC

RE: Joseph Andrew Stagar Pro Se Case No. 2021-CP-26-5745

Dear Renee N. Elvis

Enclosed for filing is a notice of appeal in the above

Sincerely



s/ Joseph A. Stagar Pro Se  
9758 Little River Rs Nw.  
Ash North Carolina 28420  
(910) 287-7711

CC: Luther O. McCutchen 111  
4610 Oleander Drive, Suite 203  
Myrtle Beach, SC 29577  
Attorney for Respondent

**STATE OF SOUTH CAROLINA**

**COUNTY OF HORRY**

) **COMMON PLEAS CASE**

) **NUMBER**

*2021-CP-26-5745*

**Joseph A. Stagar APPELLANT**

) **IN THE COURT OF**

) **COMMON PLEAS NOTICE**

**VS.**

) **OF CIVIL APPEAL**

**Deborah Cole RESPONDENT**

)

FILED  
HORRY COUNTY  
2023 MAY -9 A 9:52  
GENE N. EAVIS  
CLERK OF COURT  
HORRY COUNTY, SC

**The plaintiff Joseph A. Stagar Pro Se notice of appeal from the judgment of the Circuit Court of Common Pleas, in the county of Horry.**

**This notice of appeal is made subsequent to personal notice of the judgment which was received on the 1 day of MAY, 2023**

**The appellant's exceptions to the judgment of the attending judge are set as follows.**

- 1. The trial Judge err in failing to recuse herself for a personal relation with the Defendants attorney family. ( The Judge and Mr. McCutchen were taking about there family wear they live, his uncle for at least 10 minutes before case started.**
- 2. The trial Judge err in not applying Rule 9.(h) Libel or Slander./ Rule 5. Service and Filing of Pleading R5(b)(1)Sam: How Made, / Rule 4(j) Acceptance of service (Cole acting as pro se on August 30, 2021 got Summons and Compliant with Admissions. On Sept 23 Cole did put pen to paper and answer the Admission the judge did not take the clocked in paper.**

# STATEMENT OF ISSUES ON APPEAL

## Case 2021-CP-26-5745

3. The original Summons and Complaint was answered 57 days late. That is when the pro se Plaintiff found out that Cole retained McMutchen 111 as her attorney in the above case

4. In the clock in papers the judge does not take in consideration a copy of SOUTH CAROLINA SEXUAL CONDUCT

SC 16-3-656 Section Verbal Assault with intent to commit sexual conduct shall be punishable as if the SEXUAL ACT WAS COMMITTED

5. The Judge failed to read any of the answers in the replies to the Plaintiff from Cole . That the only person that could hear her was my wife. They refuse to give the void tapes that would show their were a crowd of people there who was setting next to me or there bartender book

For the reasons stated, the appellant asks the court to grant the appellant a Jury Trail.

Attorney of record Respondent

Luther McCutchen esq

410 Oleander Drive Suite 203

Myrtle Beach SC 29577

*Joseph A. Stagar Pro Se*  
Joseph A. Stagar ProSe

9758 Little River Rd NW

Ash NC 28420

(910) 287-7711

FILED  
HORRY COUNTY  
2023 MAY -9 A 9:52  
RENEE N. ELVIS  
CLERK OF COURT  
HORRY COUNTY, SC

**FORM 11**

**LETTER ORDERING TRANSCRIPT FROM COURT  
REPORTER**

**May 3, 2023**

**Julie Kvish**

**Post Office Box 30223  
Myrtle Beach SC 29577**

FILED  
HORRY COUNTY  
2023 MAY -9 A 9:52  
RENEE N. ELVIS  
CLERK OF COURT  
HORRY COUNTY, SC

**RE: Joseph A Stagar Pro Se v Deborah Cole Case <sup>2021</sup>201-CP-26-05745**

**On APRIL 24, 2023 the above case was tried before the Honorable  
Debra McMaslin Common Pleas in Horry County SC. My records indicate that you  
were the court reporter for the case  
request that you provide me with a estimate of the record please call or send  
Email to drb1953@atmc. Home (910) 287-7711**

**I AGREE TO PAY THE PER PAGE CHARGE FOR THE TRANSCRIPT WITH A BANK  
CHECK ON THE AGREED PRICE.**

*Joseph A Stagar*  
**Joseph A Stagar Pro Se**

**9758 little River Rd NW**

**ASH NC 28420**

**(910) 287-7711, Home**

**Drb1953@atmc.net**

STATE OF SOUTH CAROLINA

COUNTY OF Horry

JOSEPH A. STAGAN Pro Se  
Plaintiff(s)

vs.

DEBORAH COHE  
Defendant(s)

Submitted By: Joseph A. Stagan Pro Se  
Address: 9769 WHITE RIVER ROAD ACH  
NE 28420

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2021-CP-26-5745

SC Bar #: Pro Se  
Telephone #: 910-287-7711  
Fax #: 910-287-7711  
Other: 843-333-7771  
E-mail: \_\_\_\_\_

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Certificate Attached)

NATURE OF ACTION (Check One Box Below)

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Fraud/Bad Faith (150)<br><input type="checkbox"/> Failure to Deliver/Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input type="checkbox"/> Employment (180)<br><input type="checkbox"/> Other (199) _____<br><input type="checkbox"/> <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599) _____ | <input type="checkbox"/> <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br><input type="checkbox"/> Previous Notice of Intent Case # <u>20-NI</u><br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299) _____<br><input type="checkbox"/> <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Drv. License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input type="checkbox"/> Other (899) _____ | <input type="checkbox"/> <b>Torts - Personal Injury</b><br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Assault/Battery (370)<br><input checked="" type="checkbox"/> Slander/Label (380)<br><input type="checkbox"/> Other (399) _____<br><input type="checkbox"/> <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)<br><input type="checkbox"/> Incapacitated Adult Settlement (790)<br><input type="checkbox"/> Other (799) _____ | <input type="checkbox"/> <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499) _____<br><input type="checkbox"/> <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input checked="" type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) _____ |
|---|---|--|--|

Submitting Party Signature:

Joseph A. Stagan Pro Se

Date: May 8, 2023

JOSEPH A. STAGAR  
PLAINTIFF

September 20  
20

DEBORAH COLE  
DEFENDANT

ANSWER: 2021-CP-26-5745

1. Yes.

2. No.

3. Yes.

4. Yes.

5. No.

6. Dont Recall.

7. No & No.

FILED  
Horry County  
SEP 23 10 41 09  
RENEE N. ELYS  
CLERK OF COURT  
HORRY COUNTY, SC

Deborah Cole  
DEBORAH COLE

138 Old Summit  
Little River, SC  
2951  
(843) 734-0360



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 23, 2023

Joseph Andrew Stager  
9758 Little River Road NW  
Ash NC 28420

Re: Joseph A. Stager v. Deborah Cole  
Appellate Case No. 2023-000822

Dear Mr. Stager:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 23, 2023

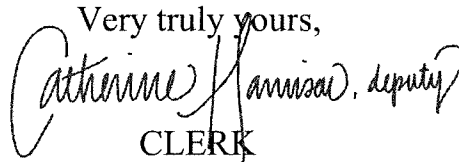
Joseph Andrew Stager  
9758 Little River Road NW  
Ash NC 28420

Re: Joseph A. Stager v. Deborah Cole  
Appellate Case No. 2023-000822

Dear Mr. Stager:

Upon reviewing your notice of appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,  
  
CLERK

cc: Luther O. McCutchen, III, Esquire

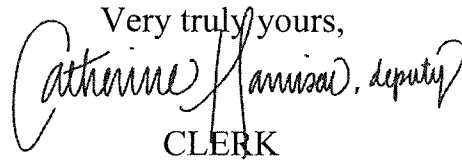
This is to advise that the title in the above matter has been changed to read as follows:

**Joseph Andrew Stager, Appellant,**

**v.**

**Deborah Cole, Respondent**

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,  
Catherine Harrison, deputy  
CLERK

cc: Luther O. McCutchen, III, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 18, 2023

Joseph Andrew Stagar  
9758 Little River Road NW  
Ash NC 28420

Re: Joseph A. Stagar v. Deborah Cole  
Appellate Case No. 2023-000822

Dear Mr. Stagar:

Our records indicate that the transcript in the above matter should have been delivered. As of today's date, we have not received any information indicating that the court reporter has been granted an extension. Further, you have not notified us that you have failed to receive the transcript, nor have we received your initial brief.

If you have not yet received the transcript, Rule 207 of the South Carolina Appellate Court Rules requires you to contact the Office of Court Administration. The address for Court Administration is as follows:

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201  
[transcripts@sccourts.org](mailto:transcripts@sccourts.org)

Be sure to copy the Court and opposing counsel with all correspondence concerning the transcript.

Please advise the Court of the status of the transcript within ten (10) days of the

date of this letter, or your appeal will be dismissed.

Very truly yours,

*Catherine Hannissaw, deputy*

CLERK

cc: Luther O. McCutchen, III, Esquire



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 1, 2023

Joseph Andrew Stagar  
9758 Little River Road NW  
Ash NC 28420

Re: Joseph A. Stagar v. Deborah Cole  
Appellate Case No. 2023-000822

Dear Mr. Stagar:

Upon reviewing your initial brief of appellant, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The initial brief is not accompanied by a designation of matter to be included in the record on appeal.
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

Handwritten signature of Catherine S. Harrison, Deputy Clerk.  
CLERK

cc: Luther O. McCutchen, III, Esquire



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
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TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 9, 2023

Joseph Andrew Stagar  
9758 Little River Road NW  
Ash NC 28420

Re: Joseph A. Stagar v. Deborah Cole  
Appellate Case No. 2023-000822

Dear Mr. Stagar:

Upon reviewing your motion for extension of time, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your filing will not be considered:

- The required filing fee has not been submitted. The correct filing fee is \$50.00.
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Luther O. McCutchen, III, Esquire

# The South Carolina Court of Appeals

Joseph Andrew Stagar, Appellant,

v.

Deborah Cole, Respondent

Appellate Case No. 2023-000822

The Honorable Debra R. McCaslin Horry County  
Trial Court Case No. 2021CP2605745

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ORDER

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The time for serving and filing the appellant's designation of matter and proof of service is hereby extended until September 18, 2023.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

cc:

Joseph Andrew Stagar

Luther O. McCutchen, III, Esquire

**FILED**  
**Aug 21 2023**

**RECEIVED**

**Oct 24 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

\_\_\_\_\_

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Debra R. McCaslin, Circuit Court Judge

\_\_\_\_\_

Civil Action No.: 2021-CP-26-05745

Appellate Case No.: 2023-00822

\_\_\_\_\_

Joseph A. Stagar, .....Appellant,

v.

Deborah Cole, .....Respondent.

\_\_\_\_\_

AFFIDAVIT OF LUTHER O. McCUTCHEN, III

\_\_\_\_\_

Luther O. McCutchen, III, Esquire  
McCUTCHEN VAUGHT GEDDIE & HUCKS, P.A.  
4610 Oleander Drive, Ste. 203  
Myrtle Beach, SC 29577  
(843) 449-3411  
Attorney for Respondent

Personally appeared before me the undersigned Luther O. McCutchen, III who, being duly sworn, states as follows:

1. My name is Luther O. McCutchen, III of the law firm of McCutchen Vaught Geddie & Hucks, P.A., and I have been practicing law in Horry County, South Carolina, since 1978.

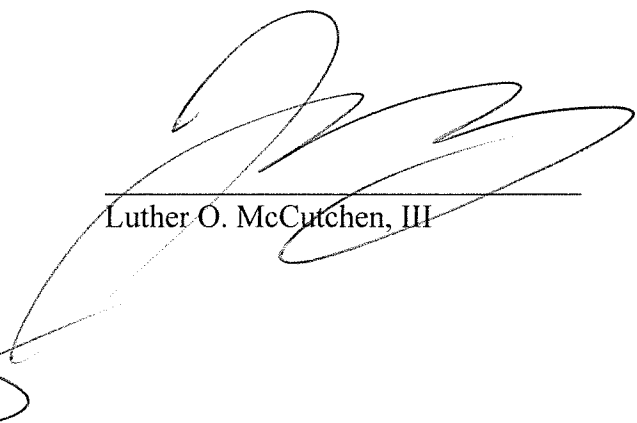
2. I am the attorney of record in this action, and I was the attorney of record in the Common Pleas action entitled *Joseph Stagar v. Deborah Cole*, Civil Action No.: 2021-CP-26-05745.

3. Since the Appellant, Joseph Stagar, filed his Notice of Appeal in this matter, I have been served with the Notice of Appeal on May 17, 2022, which included the Notice of Appeal; a “Form 9 Letter to Clerk of Lower Court Filing Notice of Appeal” dated May 1, 2023; Commom [sic] Pleas Notice of Civil Appeal; Statement of Issues on Appeal Case 2021-CP-26-5745; Form 11 Letter Ordering Transcript from Court Reporter; copy of Civil Action Coversheet for Case 2021-CP-26-5745 dated May 8, 2023; and a cut-off copy of Defendant/Respondent’s Answers to Requests for Admissions which were part of Appellant’s original filing in the Court of Common Pleas which was dismissed by Order of the Honorable William H. Seals on September 2, 2022. These documents are collectively referred to as the “Notice of Appeal.” I was also served with a copy of the Notice of Appeal by Certified Mail, Return Receipt Requested, Restricted Delivery, on August 22, 2023.

4. I have not been served with any other documents related to this matter including, but not limited to, the Appellant’s Initial Brief; the Designation of Matters to be Included in the Record on Appeal; Appellant’s Motion for Extension of Time filed August 7, 2023; or the transcript of the Common Pleas case and any correspondence related to the transcript.


5. The undersigned understood that this Honorable Court granted an extension of time to the Appellant for filing his Designation of Matters and proof of service, and the undersigned has waited ample time to allow for the service and filing of same, together with the service and filing of all other documents which are required to be served upon Respondent; however, no documents have been served other than the Notice of Appeal.

Further, Affiant sayeth not.



Luther O. McCutchen, III

Sworn to before me this 24<sup>th</sup> day  
of October, 2023.



Jennifer G. Reynolds  
Notary Public for South Carolina  
My commission expires 5/17/2026

**RECEIVED**

**Oct 24 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Debra R. McCaslin, Circuit Court Judge

Civil Action No.: 2021-CP-26-05745  
Appellate Case No.: 2023-00822

Joseph A. Stagar, .....Appellant,

v.

Deborah Cole, .....Respondent.

PROOF OF SERVICE

The undersigned certifies that he has served Respondent's Motion to Dismiss and Affidavit of Luther O. McCutchen, III on Joseph A. Stagar, pro se Appellant, by UPS Overnight and by depositing a copy of it in the United States Mail, postage prepaid, on October 24, 2023, to his address of record, 9758 Little River Road, NW, Ash, NC 28420.

October 24, 2023

McCUTCHEM VAUGHT GEDDIE &  
HUCKS, P.A.

s/ Luther O. McCutchen, III

Luther O. McCutchen, III (SC Bar #3763)  
4610 Oleander Drive, Ste. 203  
Myrtle Beach, SC 29577  
(843) 449-3411 (telephone)  
(843) 449-2317 (facsimile)  
lom@lawyersatthebeach.com

Attorney for Respondent



**MCCUTCHEN VAUGHT GEDDIE & HUCKS, P.A.**  
*Your Lawyers At The Beach*

Luther O. McCutchen, III  
Gene P. Vaught, III  
Norton M. Geddie\*  
Luther O. "Mac" McCutchen, IV  
J. Scott Hucks  
Margaret L. Evans  
Ryan T. Patterson

\*ALSO LICENSED IN GEORGIA & MISSISSIPPI

October 24, 2023

**RECEIVED**

**Oct 24 2023**

**SC Court of Appeals**

**VIA EMAIL (ctappfilings@sccourts.org)**

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

Re: *Joseph A. Stagar v. Deborah Cole*  
Civil Action No.: 2021-CP-26-5745  
Appellate Court Case No.: 2023-00822

Dear Ms. Kitchings:

I am in receipt of your letter dated October 24, 2023 related to the timing of the filing of Respondent's Initial Brief and Designation of Matter to Be included in the Record on Appeal. As you can see from Respondent's Motion to Dismiss and Affidavit of Luther O. McCutchen, III filed simultaneously herewith, Appellant's Initial Brief has not been served upon the Respondent as set forth in the Appellate Court Rules.

We respectfully submit that pursuant to Rule 208(a) SCACR, Respondent's Initial Brief is due within thirty (30) days after service of Appellant's Brief. Rule 208(a)(1) states that Appellant shall serve one copy of all of his Brief on all parties to the appeal and file with the Clerk of the Appellate Court one copy of the brief with proof of service. The documents Respondent received through the undersigned are copies of the Notice of Appeal, Statement of Issues on Appeal, Letter Ordering Transcript from Court Reporter dated May 3, 2023, Civil Action Coversheet dated May 8, 2023, and Defendant's Responses to Requests to Admit served in the original action which was dismissed by Order dated September 2, 2022.

Respondent has not been served with a copy of Appellant's Initial Brief, and we would respectfully request that you review the documents filed by Appellant and any proofs of service filed to date.

With my regards, I am

**North Myrtle Beach Office:**  
1016 2nd Avenue North, Suite 302  
North Myrtle Beach, SC 29582

Telephone 843-281-9831  
Fax 843-281-9562

**Myrtle Beach Office:**  
4610 Oleander Drive, Suite 203  
Myrtle Beach, SC 29577

Telephone 843-449-3411  
Fax 843-449-2317  
Fax (Real Estate) 843-213-0391

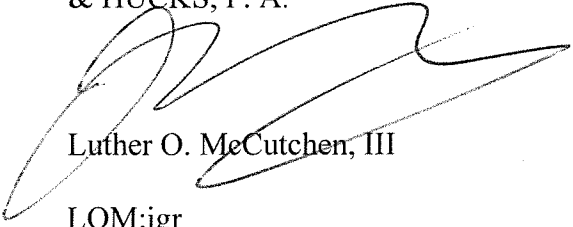
**Litchfield Office:**  
28 Wall Street, Suite 201  
Pawleys Island, SC 29585

Telephone 843-492-0099  
Fax 843-492-0299

The Honorable Jenny Abbott Kitchings, Clerk  
October 24, 2023  
Page 2 of 2

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McCUTCHEN, VAUGHT, GEDDIE  
& HUCKS, P. A.

A large, stylized handwritten signature in black ink, appearing to read 'Luther O. McCutchen, III'. The signature is written over the printed name.

Luther O. McCutchen, III

LOM:jgr

Enclosure(s)