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Feb 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Lexington County

Court of Common Pleas

The Honorable William P. Keesley, Circuit Court Judge

Appellate Case No. 2023-001005

Dennis Gallipeau,

Appellant,

v.

D. Ryan McCabe and Marion J. Smith,

Respondents.

RESPONDENTS' RETURN TO APPELLANT'S MOTION TO STRIKE OR
DISALLOW MATTER DESIGNATED BY RESPONDENTS TO BE INCLUDED IN THE
RECORD ON APPEAL

Respondents hereby responds to Appellant's Motion to Strike or Disallow Matter Designated by Respondents to be Included in the Record on Appeal. Appellant asks this Court to strike the following matters from the Record on Appeal that appeared on Respondents' Designation of Matter:

Item 2	Answer and Counterclaim of D. Ryan McCabe
Item 3	Answer and Counterclaim of Marion J. Smith
Item 4	Certificate of Service for Answers and Counterclaims of D. Ryan McCabe and Marion J. Smith
Item 6	Defendants' Affidavit of Default

Item 7	Motion for Default Judgment
Item 8	Notice of Hearing for Motion for Default Judgment
Item 9	Order Granting Default Judgment (8/3/2023)

Respondents submit that these matters are all relevant to the record and necessary for the court to consider the issues on appeal in this matter. Specifically, Appellant alleges in his Initial Brief that the Answers, Counterclaims, and associated certificates of service were false and improperly formed the basis for one of the orders appealed from. Accordingly, it is appropriate to include copies of these documents in the Record for the Court's review. The Affidavit of Default is relevant to Respondents' argument in response to Appellant's claim that the trial court should have entered default prior to granting Respondents' Motion for Default Judgment. The Motion for Default Judgment and August 2023 Order are both relevant because these are the very items of which Appellant seeks appellate review. Finally, the Notice of Hearing is relevant because it demonstrates Appellant received notice of the WebEx hearing and was afforded an opportunity to participate.

The issues presented by Appellant are straight-forward and ready for appellate review. Instead, Appellant continues to delay this matter by seeking to add supplemental items to his designation of matter on appeal, failing to file a motion to supplement or notifying the Court that Respondents agreed to a portion of the supplemental designation, and filing the instant motion. Respondents respectfully request that this Court require Appellant to produce the Record on Appeal as designated by the parties so that the Court may consider and rule upon the issues presented by the parties.

/s/ Stephanie Trotter Kellahan
Stephanie Trotter Kellahan (SC Bar 77680)

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RESPONDENTS' PROOF OF SERVICE

I hereby certify that on February 13, 2024, I caused to be served Respondents' Return to Appellant's Motion to Strike or Disallow upon Appellant by mailing a copy of same by first-class U.S. Mail addressed as follows:

**Dennis Gallipeau
1920 Ashford Lane
Columbia, SC 29210**

**Dennis Gallipeau
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Columbia, SC 29210**

/s/ Stephanie Trotter Kellahan

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