

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Mikell R. Scarborough, Master-In-Equity

Case No. 2021-CP-10-3609
Appellate Case No. 2023-001334

Jason M. Aryeh,Respondent,

v.

Olivia R. Aryeh.....Appellant.

MOTION TO STRIKE AND TO CLARIFY

Pursuant to Rule 210(c), SCACR, Respondent hereby moves to strike portions of the Appellant’s designation of matter to be included in the record on appeal (“designation”) and to clarify what is meant by other items in the designation. This matter is an appeal from an order awarding \$120,391.73 in attorney’s fees to the Respondent.

As stated in Rule 210, a record on appeal shall not “contain matter which was not presented to the lower court or tribunal.” *See* Jean H. Toal et al., *Appellate Practice in South Carolina* 131 (2d ed. 2002). If a party designates matter in violation of this rule, the appropriate course of action for the opposing party is to file a motion to strike. *Id.* at 261.

Appellant has designated “Defendant’s attorney’s fees” and “Plaintiff’s attorney’s fees” as items 1 and 2 in her designation. Respondent does not know what that means and asks that

Appellant be ordered to provide additional detail as to what material contemplated by Rule 210 Respondent intended to designate, including a description of when and how that material was presented to the lower court. Similarly, Respondent does not know what is meant by item 6 (Proof of Plaintiff's multiple residences and income sources) and asks that those items be identified together with a description of when and how that information was provided to the lower court. Respondent further asks that item 7 be clarified to specify the date of the referenced order from Judge Moukawasher and when and how it was presented to the lower court.

Respondent contends that items 5 (Connecticut Divorce Decree, August 22, 2023), 8 (Motion for Contempt for refusal to pay alimony), and 9 (Motion for Expenses for Children) were not presented to the trial court and may not be included in the record on appeal. Appellant appears to concede as much with respect to item 5, stating in her brief that “[t]he Charleston Court of Common Pleas could not have had this information at the time of trial . . .” (Initial Brief of Appellant at 3).

Respondent asks that this motion be granted and that Appellant be instructed to comply with the requirements of Rule 210.

Respectfully submitted,

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