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Jun 03 2024

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM MARLBORO COUNTY
Court of Common Pleas**

**Michael S. Holt
Circuit Court Judge**

**Appellate Case No. 2024-000280
Marlboro County Case No. 2021-CP-34-00228**

Synchrony Bank, **Appellant,**

v.

Michael Hudson..... **Respondent**

MOTION TO DISMISS

Respondent, pursuant to Rules 240 & 260(a), SCACR, moves¹ to dismiss this appeal for failure to comply with Rules 208 & 209, SCACR. On May 31, 2024, the Appellant served its initial brief. However, Appellant’s initial brief contains no citations to the record, as required by Rule 208(b)(4), SCACR. The Appellant also did not serve a Designation of Matter, as required by Rule 209, SCACR. These deficiencies leave the Appellant without a record upon which to base its arguments.

¹ Because this is a dispositive motion, Respondent files it without consultation with the opposing party. Respondent also reserves the right to assert other grounds for dismissal as they become apparent.

See Rule 210(h), SCACR. (“Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.”) *see also Medlock v. One 1985 Jeep Cherokee*, 322 S.C. 127, 470 S.E.2d 373 (1996) (“The appellant has the burden of providing this court with a sufficient record upon which to make a decision.”). This is a fatal deficiency.²

CONCLUSION

This appeal must be dismissed.

Dated: 06/01/2024

/s/ Jason Scott Luck
Jason Scott Luck
P.O. Box 47
Bennettsville, SC 29512
843.479.6863 (o)
843.479.7222 (f)
jason@luck.law

Attorney for Respondent

² Respondent cannot address Appellant’s deficiencies in his merits brief because it would effectively shift the burden of preparing the record on appeal to him.

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v.

Michael Hudson..... **Respondent**

CERTIFICATE OF SERVICE

I certify that on the date June 1, 2024, I emailed the Motion to Dismiss to scfilings@sessomslaw.com and wddail@sessomslaw.com.

Dated: 06/01/2024

/s/ Jason Scott Luck
Jason Scott Luck
P.O. Box 47
Bennettsville, SC 29512
843.479.6863 (o)
843.479.7222 (f)
jason@luck.law

Attorney for Respondent