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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Mikell R. Scarborough, Circuit Court Judge

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Appellate Case No. 2024-000788

Case No.: 2019-CP-10-01108

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Balfour Beatty Construction, LLC, Appellant,

v.

Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendant

And

Library Associates, LLC, Third-Party Plaintiff,

v.

Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Precision Walls, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Low Country Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.

Of which Library Associates, LLC is the Respondent.

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**APPELLANT'S MOTION TO EXCEED PAGE LIMIT**

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Pursuant to Rule 208(b)(5), SCACR, Appellant Balfour Beatty Construction, LLC ("Balfour") respectfully requests leave to exceed the 50-page limit in its Initial Brief in the above-captioned appeal by twenty-five (25) pages.

This appeal arises from a dispute between Balfour and Respondent Library Associates, LLC (“Library”) related to the construction of a hotel in Charleston, South Carolina. The construction of the hotel lasted more than 500 days and cost in excess of \$60 Million Dollars. As a result of numerous issues that arose during the course of the project, Balfour filed a Complaint asserting fourteen (14) causes of action against Library. In response, Library alleged six (6) counterclaims against Balfour. Balfour and Library also asserted multiple claims against several subcontractor defendants.

In the fall of 2021, Balfour, Library, and several subcontractor defendants participated in a twenty-three (23) day trial before the Master-In-Equity. The trial transcript totals 5,054 pages. The trial of this case included in-person testimony from seventeen (17) witnesses, including six (6) individuals offered to provide expert testimony. The Master also received testimony from eight (8) witnesses for whom he admitted portions of their deposition transcripts. In addition to the witness testimony, the Master admitted 363 exhibits into evidence.

Twenty-two months after the close of evidence and the conclusion of the trial, the Master issued a forty-seven (47) page order ruling on all of the causes of action alleged by Balfour and Library and granted judgment in favor of Library. Balfour and Library each filed Motions to Alter or Amend pursuant to Rule 59(e), SCRCF. The Master held numerous post-trial hearings to address: (i) the Motions to Alter or Amend; (ii) the purported award of punitive damages in favor of Library; (iii) the award of attorneys’ fees to Library; (iv) the award of expert witness fees to Library; (v) Library’s election of a remedy; and (vi) other issues related to the subcontractor defendants. Thereafter, the Master issued multiple post-trial orders, including a twelve (12) page order awarding Library punitive damages and a six (6) page order awarding Library attorneys’ fees and the costs incurred by Library for one of its expert witnesses. The transcripts of the post-trial

hearings total 322 pages. The Master issued orders totaling more than sixty-five (65) pages in length and entered a judgment in favor of Library in excess of \$16 Million Dollars.

The length of the trial, the number of witnesses, the amount of the judgment, the volume of witness testimony and exhibits, and the multiple orders at issue in this appeal all reflect the complexity of this case and demonstrate the need for additional pages to address all of the issues raised to and ruled upon by the Master. Moreover, the issues to be addressed in this appeal relate to a variety of facts arising out of a project that lasted more than 500 days and involve numerous separate and distinct legal issues requiring a detailed explanation of the procedural history.

Based on the foregoing, good cause exists for the Court to grant Balfour's Motion to Exceed Page Limit. Accordingly, Balfour requests leave to exceed the 50-page limitation by 25 pages to address adequately all issues that were raised and ruled upon by the Master.

/s/James Lynn Werner

James Lynn Werner, (SC Bar No. 6029)  
Katon E. Dawson, Jr. (SC Bar No. 101167)  
1221 Main Street, Suite 1100  
Columbia, SC 29201  
(803) 255-8000  
[jimwerner@parkerpoe.com](mailto:jimwerner@parkerpoe.com)

Thomas C. Hildebrand, Jr. (S.C. Bar No. 2501)  
Robert C. Byrd (S.C. Bar No. 1069)  
W. Greyson Land (S.C. Bar No. 104179)  
P. Nicholas Nybo (S.C. Bar No. 105825)  
850 Morrison Drive, Suite 400  
Charleston, SC 29403  
(843) 727- 2650 (Office)  
[tomhildebrand@parkerpoe.com](mailto:tomhildebrand@parkerpoe.com)  
[bobbybyrd@parkerpoe.com](mailto:bobbybyrd@parkerpoe.com)  
[greysonland@parkerpoe.com](mailto:greysonland@parkerpoe.com)  
[nicknybo@parkerpoe.com](mailto:nicknybo@parkerpoe.com)

*Attorneys for Appellant Balfour Beatty Construction,  
LLC*

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Columbia, SC

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Of which Library Associates, LLC is the Respondent.

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**PROOF OF SERVICE**

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The undersigned hereby certifies that on September 23, 2024, a copy of **Appellant's Motion to Exceed Page Limit** was served on all counsel of record via email containing the above referenced document to counsel's individual AIS email addresses:

Walter H. Bundy, Jr., Esquire  
M. Brent McDonald, Esquire  
Bundy McDonald, LLC  
1516 Old Trolley Rd 2nd Floor  
Summerville, SC 29485-8209  
[walter@bundymcdonald.com](mailto:walter@bundymcdonald.com)  
[brent@bundymcdonald.com](mailto:brent@bundymcdonald.com)

and

John P. Linton, Sr.  
Mary Kathleen Linton  
Duffy & Young, LLC  
96 Broad Street  
Charleston, SC 29401  
[jlinton@duffyandyoung.com](mailto:jlinton@duffyandyoung.com)  
[mlinton@duffyandyoung.com](mailto:mlinton@duffyandyoung.com)

*Attorneys for Library Associates, LLC*

PARKER POE ADAMS & BERNSTEIN LLP

By: /s/ James Lynn Werner  
James Lynn Werner, (SC Bar No. 6029)  
Katon E. Dawson, Jr. (SC Bar No. 101167)  
1221 Main Street, Suite 1100  
Columbia, SC 29201  
(803) 255-8000  
[jimwerner@parkerpoe.com](mailto:jimwerner@parkerpoe.com)

Thomas C. Hildebrand, Jr. (S.C. Bar No. 2501)  
Robert C. Byrd (S.C. Bar No. 1069)  
W. Greyson Land (S.C. Bar No. 104179)  
P. Nicholas Nybo (S.C. Bar No. 105825)  
850 Morrison Drive, Suite 400  
Charleston, SC 29403  
(843) 727- 2650 (Office)  
[tomhildebrand@parkerpoe.com](mailto:tomhildebrand@parkerpoe.com)  
[bobbybyrd@parkerpoe.com](mailto:bobbybyrd@parkerpoe.com)  
[greysonland@parkerpoe.com](mailto:greysonland@parkerpoe.com)  
[nicknybo@parkerpoe.com](mailto:nicknybo@parkerpoe.com)

*Attorneys for Appellant, Balfour Beatty  
Construction, LLC*

September 23, 2024  
Columbia, South Carolina



**Katon E. Dawson, Jr.**  
t: 803.253.6854  
f: 803.255.8017  
katondawson@parkerpoe.com

Atlanta, GA  
Charleston, SC  
Charlotte, NC  
Columbia, SC  
Greenville, SC  
Raleigh, NC  
Spartanburg, SC  
Washington, DC

September 23, 2024

**VIA E-MAIL & HAND DELIVERY:**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**Re: *Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.***  
**Appellate Case No.: 2024-000788; Trial Court Case No.: 2019-CP-10-01108**

Dear Mrs. Kitchings:

Enclosed in satisfaction of the filing fee for Appellant's Motion to Exceed Page Limit in the *Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.*, Appellate Case No. 2024-000788, please find Check No. 516779 in the amount of \$50.00.

Should you have any questions or need anything further, please do not hesitate to contact me.

Sincerely,

*s/Katon E. Dawson, Jr.*

Katon E. Dawson, Jr.

KED/tlc  
Enclosures  
cc: Respondent's Counsel of Record (via email only)