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SC Court of Appeals

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Charleston, SC
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Greenville, SC
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January 7, 2025

VIA E-FILE (ctappfilings@sccourts.org)

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Forum Benefits, LLC v. Brian Bannon
Appellate Case No. 2022-000231

Dear Ms. Kitchings:

I am in receipt of Respondents' counsel's letter of today's date that asserts, "There appears to have been a copying error when Appellant initially submitted the Record on Appeal resulting in pages 603–609 of the trial transcript being omitted."

This submittal is improper and incorrect.

There is no authority for counsel's unilateral submission of additional material for the Record on Appeal, and even much less so after the case has been argued and decided. This is an appellate proceeding, not a free-for-all or the Wild Wild West. I object to this improper maneuver.

Furthermore, counsel is incorrect. Included with my letter are the following:

- Appellant's Designation of Matter to be Included in the Record on Appeal;
- Respondents' Designation of Matter to be Included in the Record on Appeal; and

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- Appellant's Second Designation of Matter to be Included in the Record on Appeal.

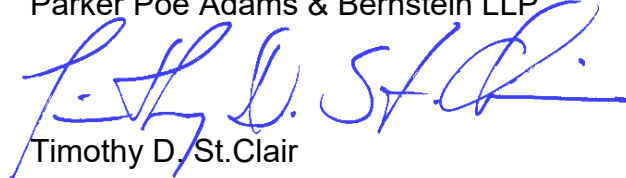
You will see in these documents that neither party, at any time, designated pages 603–609 of the trial transcript for inclusion in the Record on Appeal.

Thus, there was no “copying error” in the Record on Appeal – it was full and complete, as the parties had designated.

For at least these two reasons, I request that Respondents' counsel's improper and incorrect assertion and submittal be rejected and ignored.

Yours very truly,

Parker Poe Adams & Bernstein LLP

A handwritten signature in blue ink, appearing to read "T. D. St. Clair", is written over the typed name. The signature is fluid and cursive.

Timothy D. St. Clair

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No. 2016-CP-07-2541
Appellate Case No. 2022-000231

Forum Benefits, LLC,

Appellant,

v.

Brian Bannon and Assured Partners, NL,

Respondents.

**APPELLANT’S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
ON APPEAL**

Appellant Forum Benefits, LLC (“Forum Benefits”), by and through its undersigned counsel, propose the following be included in the Record on Appeal:

1. Plaintiff’s Verified Complaint, Filed December 1, 2016;
2. Motion for Summary Judgment, Filed March 8, 2018;
3. Memo in Support of Motion for Summary Judgment, Filed March 8, 2018
4. Response to Motion for Summary Judgment, with 13 Exhibits, Filed March 30, 2018;
5. Memo in Reply to Motion for Summary Judgment, with 1 Exhibit, Filed April 2, 2018;
6. Motion for Summary Judgment, filed June 11, 2019;
7. Order Denying Defendants’ Motion for Summary Judgment, Filed June 22, 2018;

8. Response to Second Motion for Summary Judgment, filed June 27, 2019;
9. Withdrawal of Motion for Summary Judgment, filed August 22, 2019;
10. Motion for Summary Judgment, with 8 Exhibits, filed April 20, 2020;
11. Response to 4th Motion for Summary Judgment, with 14 Exhibits, filed June 7, 2020;
12. Reply in Support of Motion for Summary Judgment, with 2 Exhibits, Filed June 9, 2020;
13. Order Form 4 Denying Motion for Summary Judgment, Filed October 14, 2020;
14. Plaintiff's Motion for New Trial, Filed October 25, 2021;
15. Plaintiff's Response to Defendants' Motions for Attorneys' Fees, Filed October 25, 2021;
16. Defendants' Response in Opposition to Plaintiff's Motion for a New Trial, Filed November 1, 2021;
17. Defendants' Reply in Support of Its Motion for Attorneys' Fees/Costs and the Court's Award of Fees/Costs, Filed November 1, 2021;
18. Proposed Order for Attorneys' Fees, Filed November 9, 2021;
19. Order of Substitution of Parties, Filed November 9, 2021;
20. Order Granting Motion to Change Name of Plaintiff, Filed November 9, 2021;
21. Plaintiff's Reply in Support of Motion for a New Trial, with 4 Exhibits, Filed November 16, 2021;
22. Plaintiff's Supplemental Response to Defendants' Motions for Attorneys' Fees, Filed December 29, 2021;
23. Declaration of Brian Stritt, filed December 29, 2021;
24. Declaration of Lisa Hollingsworth-Stritt, filed December 29, 2021;
25. Declaration of Michelle Filler, filed December 29, 2021;
26. Order Granting Defendants' Motion for Directed Verdict and Awarding Prevailing Party Attorneys' Fees and Costs to Defendants, Filed February 1, 2022;
27. Plaintiff's Motion to Alter or Amend a Judgment and Supplement to its Motion for a New Trial, Filed February 11, 2022;
28. Order Denying Plaintiff's Motion to Alter or Amend a Judgment, Filed February 16, 2022;

29. Plaintiff's Exhibit 1;
30. Plaintiff's Exhibit 8;
31. Plaintiff's Proffered Exhibit 9;
32. Plaintiff's Exhibit 10;
33. Plaintiff's Exhibit 11;
34. Plaintiff's Exhibit 12;
35. Plaintiff's Exhibit 13;
36. Plaintiff's Exhibit 16;
37. Plaintiff's Exhibit 45;
38. Plaintiff's Exhibit 64;
39. Plaintiff's Exhibit 69;
40. Plaintiff's Exhibit 70;
41. Plaintiff's Exhibit 72;
42. Plaintiff's Exhibit 77;
43. Plaintiff's Exhibit 93;
44. Plaintiff's Exhibit 137;
45. Plaintiff's Exhibit 163;
46. Plaintiff's Exhibit 550;
47. Plaintiff's Exhibit 601;
48. Plaintiff's Exhibit 602;
49. Plaintiff's Exhibit 603;
50. Trial Transcript, Pages 1; 34; 38-54; 69; 72-160; 162; 165-223; 239; 256-258; 263-264; 269-287; 300-309; 314-327; 333-389; 423-432; 443-444; 445; 447-472; 479-565; 602; 626-627; 634-637; 649-657; 662-663; 671-673; 675-683.
51. Hearing Transcript of January 4, 2002.

The undersigned hereby certifies, pursuant to Rule 209(c), SCACR, that Forum Benefits' Designation of Matter to be included in the Record on Appeal contains no matter that is irrelevant to the appeal.

s/Timothy D. St. Clair

Timothy D. St. Clair (SC Bar No. 5297)

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May 27, 2022

Attorneys for Appellants Forum Benefits, LLC

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No. 2016-CP-07-2541
Appellate Case No. 2022-000231

Forum Benefits, LLC, Appellant,

v.

Brian Bannon and Assured Partners, NL, Respondents.

**RESPONDENTS' DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondents, by and through their undersigned counsel, designate the following court filings and documents to be included in the Record on Appeal, in addition to the filings previously designated by Appellant in its Second Designation of Matter To Be Included In The Record On Appeal:

1. Plaintiff's Ex Parte Motion for TRO filed on December 1, 2016;
2. Order Granting Ex Parte Motion for TRO filed December 1, 2016;
3. Plaintiff's Motion for Preliminary Injunction filed December 2, 2016;
4. Order Denying Motion for Preliminary Injunction filed December 15, 2016;
5. Plaintiff's Affidavit for Attorneys' Fees and Costs filed November 4, 2021, with attachments; and

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6. Trial Transcript, pages 41, 55-72, 223-269, 287-300, 309-314, 327-333, 389-423, 432-443, 472-478, 565-602, 617-673.

In addition, Respondents designate all exhibits attached to any filings designated by Appellant. Respondents note that some of Appellant's designations reference the exhibits to the filing, but some do not. For example, the following filings do not include references to exhibits:

1. Plaintiff's Verified Complaint, Filed December 1, 2016. This filing has 3 exhibits and Respondents designate those exhibits as exhibits to be included in the Record on Appeal;

16. Defendants' Response in Opposition to Plaintiff's Motion for a New Trial, Filed November 1, 2021. This filing has 6 exhibits and Respondents designate those exhibits to be included in the Record on Appeal; and

17. Defendant's Reply in Support of Motion for Attorneys' Fees/Costs and the Court's Award of Fees/Costs, Filed November 1, 2021. This filing has 2 exhibits and Respondents designate those exhibits to be included in the Record on Appeal.

Pursuant to Rule 209(c), SCACR, the undersigned hereby certifies that Respondents' above designations to be included in the Record on Appeal contain no matter that is irrelevant to the appeal.

Respectfully Submitted,

January 4, 2023

s/ Jeffrey A. Lehrer

Jeffrey A. Lehrer
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Attorneys for Respondents

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No. 2022-000231

Forum Benefits, LLC,Appellant

v.

Brian Bannon and Assured Partners, NL,Respondents

PROOF OF SERVICE

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Attorneys for Respondents

I, Jeffrey A. Lehrer, of FordHarrison, LLP, counsel for Brian Bannon and Assured Partners, NL, hereby certify that the foregoing **RESPONDENTS' DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL** by Brian Bannon and Assured Partners, NL has been served upon opposing counsel, pursuant to the Supreme Court's Order 'Re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules,' (as amended May 6, 2022), by e-mailing a copy to counsel at their AIS e-mail address, as reflected below:

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Attorneys for Appellant

Respectfully submitted,

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Attorneys for Respondents

Dated: January 4, 2023

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No. 2016-CP-07-2541
Appellate Case No. 2022-000231

Forum Benefits, LLC,

Appellant,

v.

Brian Bannon and Assured Partners, NL,

Respondents.

**APPELLANT'S SECOND DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

Appellant Forum Benefits, LLC ("Forum Benefits"), by and through its undersigned counsel, propose the following be included in the Record on Appeal:

1. Plaintiff's Verified Complaint, Filed December 1, 2016;
2. Motion for Summary Judgment, Filed March 8, 2018;
3. Memo in Support of Motion for Summary Judgment, Filed March 8, 2018
4. Response to Motion for Summary Judgment, with 13 Exhibits, Filed March 30, 2018;
5. Memo in Reply to Motion for Summary Judgment, with 1 Exhibit, Filed April 2, 2018;
6. Motion for Summary Judgment, filed June 11, 2019;
7. Order Denying Defendants' Motion for Summary Judgment, Filed June 22, 2018;

8. Response to Second Motion for Summary Judgment, filed June 27, 2019;
9. Withdrawal of Motion for Summary Judgment, filed August 22, 2019;
10. Motion for Summary Judgment, with 8 Exhibits, filed April 20, 2020;
11. Response to 4th Motion for Summary Judgment, with 14 Exhibits, filed June 7, 2020;
12. Reply in Support of Motion for Summary Judgment, with 2 Exhibits, Filed June 9, 2020;
13. Order Form 4 Denying Motion for Summary Judgment, Filed October 14, 2020;
14. Plaintiff's Motion for New Trial, Filed October 25, 2021;
15. Plaintiff's Response to Defendants' Motions for Attorneys' Fees, Filed October 25, 2021;
16. Defendants' Response in Opposition to Plaintiff's Motion for a New Trial, Filed November 1, 2021;
17. Defendants' Reply in Support of Its Motion for Attorneys' Fees/Costs and the Court's Award of Fees/Costs, Filed November 1, 2021;
18. Proposed Order for Attorneys' Fees, Filed November 9, 2021;
19. Order of Substitution of Parties, Filed November 9, 2021;
20. Order Granting Motion to Change Name of Plaintiff, Filed November 9, 2021;
21. Plaintiff's Reply in Support of Motion for a New Trial, with 4 Exhibits, Filed November 16, 2021;
22. Plaintiff's Supplemental Response to Defendants' Motions for Attorneys' Fees, Filed December 29, 2021;
23. Declaration of Brian Stritt, filed December 29, 2021;
24. Declaration of Lisa Hollingsworth-Stritt, filed December 29, 2021;
25. Declaration of Michelle Filler, filed December 29, 2021;
26. Order Granting Defendants' Motion for Directed Verdict and Awarding Prevailing Party Attorneys' Fees and Costs to Defendants, Filed February 1, 2022;
27. Plaintiff's Motion to Alter or Amend a Judgment and Supplement to its Motion for a New Trial, Filed February 11, 2022;
28. Order Denying Plaintiff's Motion to Alter or Amend a Judgment, Filed February 16, 2022;

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50. Trial Transcript, Pages 1; 34; 38-54; 69; 72-160; 162; 165-223; 229; 239; 256-259; 263-264; 269-287; 300-309; 314-327; 333-389; 423-432; 443-444; 445; 447-472; 479-565; 586; 602; 610-616; 626-627; 634-637; 649-657; 662-663; 671-673; 675-683.
51. Hearing Transcript of January 4, 2002.

The undersigned hereby certifies, pursuant to Rule 209(c), SCACR, that Forum Benefits' Designation of Matter to be included in the Record on Appeal contains no matter that is irrelevant to the appeal.

s/Timothy D. St. Clair

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Attorneys for Appellants Forum Benefits, LLC

January 3, 2023