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Jan 27 2025

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

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

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

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Jason M. Aryeh, .....Respondent,

v.

Olivia R. Aryeh.....Appellant.

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**RETURN IN OPPOSITION TO MOTION “FOR CLARIFICATION”**

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The notice of appeal in this matter is dated August 21, 2023. Appellant filed her initial brief on January 10, 2024. Respondent filed his initial brief on March 11, 2024. After numerous deficiency notices and requests for extensions, Appellant finally served a record on appeal on October 30, 2024. Respondent filed his final brief on November 19, 2024. On that same date and rather than filing a final brief as contemplated by Rule 211, SCACR, Appellant filed a completely new brief. The Court sent a letter on November 25, 2024 requiring Appellant to submit a compliant final brief within ten days.

Appellant did not comply with the Court’s November 25 letter. Instead, she filed a motion to amend, seeking a “do-over” of her brief. Respondent opposed the motion to amend, citing the

lack of any basis in the rules for such a motion and the prejudice that allowing the amendment would work upon Respondent.<sup>1</sup>

By order filed January 16, 2025, this Court denied the motion to amend and ordered Appellant to file a final brief within ten days, cautioning Appellant that “[f]ailure to comply will result in dismissal of this appeal.” Rather than performing the simple task of adding the record page numbers and submitting her final brief as set forth in Rule 211, Appellant has again moved for an extension<sup>2</sup> and “for clarification” of the Court’s order denying her motion to amend.<sup>3</sup>

Appellant does not seek clarification; she seeks rehearing of the order denying her motion to amend. Such relief is not available under Rule 221(c), SCACR, which states, “[t]he appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party’s appeal.”

Appellant had every chance to fully present her case in the initial briefing process and to allow wholesale changes at this late date would prejudice Respondent. The Appellate Court Rules do not contemplate a second bite at the apple after the initial briefing phase has closed.

Appellant cites to Rule 208(b)(7), SCACR, the rule governing supplemental citations. Rule 208(b)(7) allows a party “[w]hen pertinent and significant authorities come to the attention of a party after his initial brief(s) has been served and filed” to submit a letter to the Court with

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<sup>1</sup> Respondent incorporates by reference his return opposing the motion to amend.

<sup>2</sup> In denying Respondent’s motion to expedite by order dated October 28, 2024, the Court contemplated that the briefing process was approaching its conclusion, stating as follows: “Appellant must serve and file the record on appeal no later than October 30, 2024. Further, Appellant must serve and file her final brief within twenty days of serving and filing the record on appeal. No further extensions will be granted absent extraordinary circumstances.”

<sup>3</sup> Respondent notes that the motions for clarification and extension would have taken more time to draft than preparing a final brief consistent with Rule 211 as ordered by the Court.

additional citations “without argument.” Nothing in Rule 208(b)(7) contemplates or permits a new brief after the initial briefing stage.

The Court correctly denied Appellant’s motion to amend. Rule 221(c) bars rehearing of that decision. For these reasons, the motion for clarification must be immediately dismissed or denied. Enough is enough. It is time for this appeal to either be dismissed or to proceed for a prompt determination on the merits.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

*s/ Sarah P. Spruill*

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*Attorneys for Respondent Jason M. Aryeh*

January 27, 2025  
Greenville, South Carolina

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v.

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**PROOF OF SERVICE**

I certify that I have served the Return in Opposition to Motion “for Clarification” on all parties of record by depositing a copy of the same in the United States Mail, postage prepaid, on January 27, 2025, addressed to:

Olivia Aryeh  
30 Upland Drive  
Greenwich CT 06831

  
Stacey Carberry, Legal Assistant

**HAYNSWORTH  
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January 27, 2025

**VIA EMAIL**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

Re: *Jason M. Aryeh v. Olivia R. Aryeh*  
Appellate Case No. 2023-001334

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**SC Court of Appeals**

Dear Ms. Kitchings:

This firm represents the Respondent in the above-captioned matter. Enclosed for filing, please find Respondent's Return in Opposition to Motion "for Clarification".

Once the motion has been filed-stamped, we would appreciate your reply to this message with a filed-stamped copy. Thank you for your assistance in this matter.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/sac

Enclosure

cc: Olivia R. Aryeh (Via U.S. Mail)  
Stafford J McQuillin (Via email [mmcquillin@hsblawfirm.com](mailto:mmcquillin@hsblawfirm.com))  
Elliot Condon (Via email [econdon@hsblawfirm.com](mailto:econdon@hsblawfirm.com))