

February 6, 2025
VIA E-MAIL

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Feb 06 2025
SC Court of Appeals

The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: Takara L. Stewart v. South Carolina CVS Pharmacy, LLC
Claim No: 302045514320001
Appellate Case No.: 2023-001264
W.C.C. File No.: 1923480
Date of Injury: 12/26/2019

Dear Clerk of Court:

By Order of the South Carolina Court of Appeals dated January 14, 2025, Appellant, Takara Stewart, was ordered (1) to serve and file an amended Record on Appeal (“ROA”) by January 29, 2025 and (2) to ensure the amended ROA complied with Rule 210 of the South Carolina Appellate Court Rules. “Failure to comply **will result in dismissal.**” Ct. App. Order dated January 14, 2025 (emphasis added).

On January 30, 2025, Appellant sent, via e-mail, what appears to be a proof of service noting she served via e-mail and certified mail, the ROA. The body of the proof of service does not contain the date of service that she is certifying. Appellant signed the proof of service on January 28, 2025. Respondents’ counsel did not receive the amended ROA via e-mail until January 30, 2025 at which time this Court was copied. (Exhibit A). Further, despite nine (9) days elapsing since the date Appellant signed (but did not certify) the proof of service, Respondents have not received a hard copy of the amended ROA via certified mail at the designated Post Office box. For this reason alone, and consistent with the January 14, 2025 Order, this appeal must be dismissed for failing to satisfy element (1) concerning timing of the filing.

More significantly, Appellant still has not complied with Rule 210 of the South Carolina Appellate Court Rules with her January 30, 2025 ROA. As you know, under South Carolina Appellate Court Rules, Rule 210(c), the record on appeal should only include matters designated to be included by any party under Rule 209 and shall not include any matter which was not presented to the lower court or tribunal. Under Rule 209, the Designation of Matter may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the record on appeal and shall not include any matter which is not relevant to the appeal.

Almost all of the same documents included in her 267 page amended ROA were also included in her 265 and 267 page November 29, 2024 and December 1, 2024 ROAs. In Respondents’ December 9, 2024 Motion to Dismiss, or, in the alternative, Motion to Strike the Record on Appeal, the specific problems with the records included in the ROA were addressed in detail. Even disregarding the fact that the amended ROA contains numerous documents never identified in any Designation of Matter or ever

submitted into evidence in the lower tribunals, the ROA does not include all documents identified in Respondents' Designation of Matter. Such documents include items 1 – 4, 6-7, and 9 from Respondents' Designation of Matter.¹ Because Appellant's amended ROA did not satisfy element (2) concerning compliance with Rule 210, and consistent with the January 14, 2025 Order, this appeal must be dismissed.

Respondents have filed four (4) Motions to Dismiss or, in the alternative, Motions to Strike on December 20, 2023, May 13, 2024, August 29, 2024, and December 9, 2024. In all instances, the Motions to Strike have been granted, Motions to Dismiss have been denied, and Appellant has been given four additional opportunities to comply with the appellate court rules despite multiple orders stating that non-compliance will result in dismissal. At this time, Respondents respectfully ask this court to determine if Appellant complied with its January 14, 2025 Order and, if she did not, ask that this Court follow its own order that it "will" dismiss this appeal for non-compliance without requiring Respondents to file a fifth (5th) Motion to Dismiss or, in the alternative, Motion to Strike.

Thank you in advance for your attention to and assistance in this matter.

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



Michelle DeLuca Yarbrough

MDY/tq
Enclosure

cc: Takara Stewart (via e-mail)
Stormy Falin (via e-mail)

¹ Appellant claims to have included items 1-2 on page 14 of the ROA; however, those two separate documents are not located on that one page. Appellant claims to have included items 3 a., 3 d., and 3 e. all on page 15 of the ROA; however, that one page did not include all 8 pages of the referenced documents.

Tawnya Queen

From: Takara L Stewart <takara.l.stewart@gmail.com>
Sent: Thursday, January 30, 2025 3:45 AM
To: Ctappfilings@sccourts.org
Cc: Michelle Yarbrough; Tawnya Queen
Subject: ROA
Attachments: ROA Tech Issue.JPG; Form 7_ROA.pdf; Stewart vs SC CVS _ ROA.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: EXTERNAL EMAIL ORIGINATING OUTSIDE OF GWB's EMAIL SYSTEM

SC Courts Administration and Counsel,

Form 7, ROA and Copy of Persistent Tech Issue attached.

Regards,

Takara Stewart

Career Professional

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