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**Mar 07 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

The Honorable Jennifer B. McCoy, Circuit Court Judge  
Trial Court Case No. 2022-CP-10-05916

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Appellate Case No. 2024-001248

Marka Danielle Rodgers.....Appellant,

v.

CNT Foundations.....Respondent.

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RESPONDENT’S RETURN TO APPELLANT’S MOTION TO STRIKE

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Attorneys for Respondent

Pursuant to Rules 209, 210, 240, SCACR, Respondent, CNT Foundations, files this Return to Appellant's Motion to Strike, and respectfully moves this Court to deny Appellant's Motion to Strike. The memorandum setting forth the grounds for this return is as follows:

1. Rule 209(c), SCACR, provides that a "signature constitutes a certificate that the Designation contains no matter which is irrelevant to the appeal."
2. Appellant, in her Reply Brief filed February 6, 2025, has certifiably acknowledged and failed to object to Item 1 of Respondent's designation of matter evidenced by Appellant's signature. **See Exhibit A.** Appellant's acknowledgement and lack of objection should constitute a waiver of any objections to the designated matter. Pursuant to Rule 210(c), the record on appeal shall include all matter designated to be included by any party under Rule 209. Appellant has already accepted Item 1's inclusion and the Motion to Strike is untimely.
3. Respondent's designation of the "Original Summons and Complaint filed in the Magistrate's Court on September 12, 2022" is properly designated matter to be included in the record on appeal. This fact was presented to the trial court by Respondent's counsel, with no objection by Appellant. **See Exhibit B.** Pursuant to Rules 209(b) and 210, SCACR, this matter is relevant to the appeal because it was referenced at trial in opposition to Appellant's argument that she had no meaningful choice in entering into the contract with CNT Foundations. This is one of the main issues Appellant has raised in this appeal, and it is part of the procedural history of this matter. Appellant has cited no authority that requires that the document referenced in oral argument to the Court be presented in its physical form to the Court. The Appellant's original summons and complaint and its affirmative and legal statement

that the Appellant had other options for a repair contractor was referenced in the oral argument without objection and relied upon by the Circuit Court in its decision.

4. Even if the physical document, “Original Summons and Complaint filed in the Magistrate’s Court on September 12, 2022,” is deemed inadmissible on the record of appeal, the “Transcript of Motion Hearing – September 8<sup>th</sup>, 2023” has been properly designated by Appellant. **See Exhibit A.** Thus, the fact of its existence and Respondent Counsel’s declaration to its contents at the September 8, 2023, hearing is properly before this Court for consideration.
5. While Respondent did not file its designation of matter with its Initial Brief on January 6, 2025, Appellant’s counsel was on protected leave until January 24, 2025, and pursuant to motion, Appellant’s Reply Brief was not due until February 6, 2025. Respondent’s delayed filing of its Designation was not prejudicial to Appellant nor delayed the appellate process in any form. Further, Appellant originally acknowledged and accepted, without objection, Respondent’s service and filing of the Designation.

WHEREFORE, Respondent contends that the “Original Summons & Complaint filed in the Magistrate’s Court on September 12, 2022” is properly before this Court and Appellant’s Motion to Strike is untimely and has been waived by Appellant’s acknowledgment and waiver of objection in Appellant’s Reply Brief and Designation. Respondent respectfully requests that this Court deny Appellant’s Motion to Strike.

Respectfully submitted,

**CHARLES A. KRAWCZYK ESQ**  
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s/ Charles A. Krawczyk

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SC Bar #: 16832  
*Attorney for Respondent*

Columbia, South Carolina  
March 7, 2025

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**Feb 06 2025**

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APPEAL FROM CHARLESTON COUNTY  
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**APPELLANT’S SECOND DESIGNATION OF MATTER TO BE INCLUDED IN THE  
RECORD ON APPEAL**

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Appellant proposes the following<sup>1</sup> to be included in the Record on Appeal:

1. Summons and Complaint filed December 27<sup>th</sup>, 2022;
2. Defendant’s motion to compel arbitration dated January 25<sup>th</sup>, 2023;
3. Exhibit to Defendant’s motion to compel arbitration, Agreement;
4. Plaintiff’s Amended memorandum opposing arbitration dated September 6, 2023;
5. Defendant’s reply to Plaintiff’s amended memorandum dated September 7<sup>th</sup>, 2023;
6. Transcript of motion hearing – September 8<sup>th</sup>, 2023;
7. Form 4 order dated October 18, 2023;
8. Motion to amend dated October 27<sup>th</sup>, 2023;

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<sup>1</sup> This list is identical to the one submitted alongside Appellant’s initial brief

9. Formal Order granting motion to compel arbitration dated November 2<sup>nd</sup>, 2023;
10. Second motion to amend dated November 10, 2023;
11. Transcript of hearing on motion to amend dated June 20<sup>th</sup>, 2024;
12. Form order denying motion to amend dated June 26<sup>th</sup> 2024.

Appellant acknowledges the Respondent's proposed items and doesn't object to their inclusion:

13. Summons and Complaint filed in the Magistrate Court on September 12, 2022;
14. Plaintiff's Memo in Opposition to Motion to Compel Arbitration on February 8, 2023;
15. Form 4 Order dated August 15<sup>th</sup>, 2023
16. Defendant's Memo in Support to Compel Arbitration dated September 7, 2023.

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

/s/ Daniel Summa

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February 6, 2025  
Charleston, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
IN THE COURT OF COMMON PLEAS  
C.A. NO. 2022-CP-10-05916

MARKA DANIELLE RODGERS,

PLAINTIFF,

vs.

CNT FOUNDATIONS,

DEFENDANT.

H E A R I N G  
BEFORE THE HONORABLE JENNIFER MCCOY

DATE: SEPTEMBER 8, 2023  
TIME: N/A  
LOCATION: SOUTH CAROLINA CIRCUIT COURT 9  
TRANSCRIBED BY: AMANDA WATSON

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EXHIBIT B

## APPEARANCES:

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EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS  
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 the costs, even if she wins. Obviously, if her argument is  
2 found to be meritless or frivolous or whatever, they still  
3 have all the regular available rights to get attorneys' fees  
4 from their side. Just -- it shouldn't be automatic that she  
5 pays all of their costs.

6 THE COURT: All right. Mr. Krawczyk?

7 MR. KRAWCZYK: Well, I -- again, I don't think that  
8 whatever the Plaintiff's particular situation is as far as  
9 being in a wheelchair -- I don't think that had anything to  
10 do with her ability to -- to negotiate. She -- actually in  
11 her original pleadings in the magistrate's court, she  
12 indicated that she got more than one estimate. She got  
13 estimates from multiple people. She's had multiple people  
14 out there.

15 She's had the opportunity to negotiate this contract,  
16 and her being in the wheelchair doesn't have anything to do  
17 with whether or not she had the cognitive ability to -- to  
18 understand what she was signing. And all -- again, what  
19 we're here today to discuss is the -- is the forum in which  
20 this -- all these arguments will take place. And it's clear  
21 that the law says when we're just looking at the forum, that  
22 the Courts will enforce an arbitration provision.

23 And Plaintiff can raise all these issues with -- with  
24 the arbitrator in the same way that they can raise it with  
25 the Court. What we're asking for is just to have the -- the

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Marka Danielle Rodgers, Appellant

v.

CNT Foundations, LLC, Respondent

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PROOF OF SERVICE

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I certify that I have served Respondent's Response to Motion to Strike with Exhibit A and Exhibit B on Appeal on Marka Danielle Rodgers, by electronic mail to their attorney of record, Daniel Summa, Esquire, [daniel@summalawfirm.com](mailto:daniel@summalawfirm.com) on March 7, 2025.

s/ Charles A. Krawczyk

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