

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Curtis Coltrane, Special Referee

Case No. 2021-CP-27-00504
Appellate Case No. 2024-002209

Charles Woods,.....Respondent

v.

Valeria Woods Tuten, Kathy R. Thomas, Robert Thomas, Jr., Robert Thomas, III, Katelyn Thomas, Ellison Thomas, Bryant Thomas, Rebecca Babilon, Pam Woods, Wanda W. Smith, Wayne Smith, Kevin Smith, Trent Smith, Cynara Smith Love, Peggy Powers, Anna Cope, Adell Bishop Gray, Candelaria Rosalia Mayorga, William David Mixon, II, Charles Miller, Betty Miller Revocable Trust, Marion Ralph Smith, Betty Smith, Paulino Juarez Hernandez, Felipa Flores Crus, Alma Gomez, Dionicio Gomez Flores, Eduardo Valencia Benitez, Saul Benitez Castaeda, Ramon Benitez Castaneda, John Doe and Mary Roe,Defendants

of whom Kevin Smith, Trent Smith, Cynara Smith Love, Wayne Smith, and Valeria Woods Tuten are.....Appellants

REPLY TO APPELLANTS’ RETURN TO RESPONDENT’S MOTION TO STRIKE APPEAL AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF APPELLANT

Respondent Charles Woods (“Respondent”) hereby replies to Appellants’ Return to Respondent’s Motion to Strike Appeal and Require Filing of Amended Initial Brief of Appellant (“Return”), dated April 3, 2025. First, Respondents Kevin Smith, Trent Smith, Cynara Smith

Love, Wayne Smith, and Valeria Woods Tuten (“Respondents”) argue that no “complete official transcript of the Final Hearing” exists, and therefore, they cannot order the transcript as required under Rule 207(a)(1), SCACR.¹ (Return at 3.) Second, Respondents argue they do not have to cite to references in the transcript, pleadings, orders, exhibits, or other materials in their initial brief because they “cannot reference a transcript that does not exist.” (*Id.* at 4.) Both arguments are misguided, and this Court should strike the appeal.

First, Appellants confuse the issue regarding ordering “a transcript of the entire proceedings below.” *See* Rule 207(a)(1), SCACR. No transcript from the November 8, 2024 exists because Appellants have not fulfilled their order to have it transcribed. They take issue that a Transcript of Hearing was provided for the October 18, 2023 portion of the trial.² (*Id.* at 3.) But they never address that they have not ordered and paid for the November 8, 2024 portion of the trial to be transcribed. Rather, they argue that the November 8, 2024 portion was a continuation of the October 18, 2023 portion of the trial. (*Id.* at 3.) Respondent agrees. But simply because the November 8, 2024 trial day was a continuation of the trial beginning on October 13, 2023 does not absolve Appellants from fulfilling their order of the “transcript of the entire proceedings below” which includes November 8, 2024. Rule 207(a)(1), SCACR. A court reporter was present for the November 8, 2024 portion of the trial. (*See* invoice from Coastal Court Reporting, Inc., dated November 11, 2024, for “Appearance & take down fee(s) for the untranscribed hearing/trial

¹ Interestingly, Appellant Kevin Smith did order a copy of the November 8, 2024 transcript. (*See* Affidavit of Karl Twenge, dated April 10, 2025, attached hereto as **Exhibit A**.) Appellant Smith later canceled his request for the November 8, 2024 transcript. *Id.* at ¶ 5.

² Appellants assert that “[o]nly the Plaintiff [Respondent] and Special Referee reviewed the document or were allowed input by Special Referee.” (Return at 3.) However, Appellants were copied on all emails with the Special Referee to which the proposed Transcript of Hearing was attached. (Ex. 4 to Return.) Appellants were provided with the opportunity to review and provide input on the proposed Transcript of Hearing.

take before Judge Coltrane, MIE on the date of November 8, 2024” attached hereto as **Exhibit B.**) Appellants chose not to fulfill their order of the transcript of the November 8, 2024 proceeding. Appellants have violated Rule 207(a)(1), SCACR, prejudicing Respondent as he (and the undersigned) cannot discern Appellants’ arguments regarding the order on appeal without the “transcript of the entire proceedings below.”

Second, Appellants do not address that they have not cited in their initial brief to any of the forty-four items in their designation of matter. Rather, they claim they cannot reference the transcript of the November 8, 2024 portion of the trial because it does not exist. (Return at 4.) Again, the transcript does not exist because Appellants have canceled their order of the transcript. (Ex. A, ¶ 5.) But Appellants ignore that they plan on relying on forty-four items to support their factual allegations in their briefs, yet, they have no citations to any of these forty-four items in their initial brief. This is in violation of Rule 208(b)(4), SCACR, which requires references in the brief to “the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal . . . to support the salient facts alleged.” Rule 208(b)(4), SCACR, even instructs parties how to cite to these references in their initial briefs, “e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231.” There are no references to any materials in Appellants’ initial brief. Appellants are in violation of Rule 208(b)(4), prejudicing Respondent, as he (and the undersigned) cannot find the factual support for Appellants’ factual allegations.

In sum, Appellants’ failure to follow the South Carolina Appellate Court Rules prohibit Respondent from understanding Appellants’ positions in their initial brief. A lack of a transcript of what happened below regarding the order on appeal is detrimental to Respondent. Next, the initial brief is replete with unsupported factual allegations. Respondent cannot adequately respond

to the initial brief as it is missing critical information. Respectfully, this Court should strike Appellants' appeal.

SOWELL & DuRANT, LLC

s/Bess J. DuRant

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April 10, 2025
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Exhibit A

REPLY TO APPELLANTS' RETURN TO RESPONDENT'S MOTION TO STRIKE APPEAL AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF APPELLANT

Affidavit of Karl Twenge, dated April 10, 2025

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **AFFIDAVIT OF KARL TWENGE**

Personally appeared before me, Karl Twenge, who first being duly sworn, deposes, and says as follows:

1. I am Karl Twenge. I am over the age of eighteen (18) years, and I submit this affidavit based on my personal knowledge.

2. I served as trial counsel in *Charles Woods v. Valeria Woods Tuten*, Case No. 2021-CP-27-00504, which is currently on appeal at the South Carolina Court of Appeals, Appellate Case No. 2024-002209.

3. The trial of this case occurred on two days – October 18, 2023 and November 8, 2024.

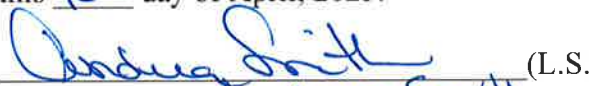
4. After the conclusion of the trial on November 8, 2024, I witnessed Appellant Kevin Smith approach the court reporter and order a copy of the transcript of the November 8, 2024 portion of the trial.

5. A few days later, I called the court reporter's office. I was informed that Mr. Smith canceled his request for a transcript of the November 8, 2024 portion of the trial.

FURTHER AFFIANT SAYETH NOT.


Karl Twenge

SWORN to and subscribed before me
this 10th day of April, 2025.


Printed Name: Andrea Smith (L.S.)
Notary Public for the State of South Carolina
My Commission Expires: 6/15/2027



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Exhibit B

REPLY TO APPELLANTS' RETURN TO RESPONDENT'S MOTION TO STRIKE APPEAL AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF APPELLANT

**Invoice from Coastal Court Reporting, Inc.,
dated November 11, 2024**

Coastal Court Reporting, Inc.

Post Office Box 7349
 Hilton Head, South Carolina 29938
 843.785.5837 Fax 843.785.7739 (Ph)
 FED. ID. 57-0868811

Invoice

DATE	INVOICE #
11/11/2024	59697

BILL TO
ACCOUNTS PAYABLE Karl D. Twenge, Esquire Twenge & Twombly 311 Carteret Street Beaufort, South Carolina 29902

TERMS	REP
Due on receipt	NM

ITEM	DESCRIPTION	AMOUNT
Court report	CHARLES WOODS vs. VALERIA WOODS TUTEN, KATHY R. THOMAS, ROBERT THOMAS, JR., ROBERT THOMAS, III et al. Appearance & take down fee(s) for the untranscribed hearing/trial taken before Judge Coltrane, MIE on the date of November 8, 2024	
Court report	Untranscribed page(s) 155	465.00
Court report	Appearance fee - 3 hour(s)	525.00
discount	Important client discount Appearance fee(s) \$275 1st hour ea day \$125/hr ea hour thereafter +\$3.00/untranscribed page(s) **** (+ \$5.00/page - To Transcribe) ****	-190.00
Thank you for your business. Interest is charged at 1 1/2% per month on outstanding balances.		Total \$800.00

Phone #	Fax #	E-mail	Web Site
843-785-7739	843-785-5837	contact@coastalcourt.com	www.coastalcourt.com

RECEIVED

Apr 10 2025

SC Court of Appeals

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PROOF OF SERVICE

I certify that on April 10, 2025, I have caused the service of the **Return to Appellant's Return to Respondent's Motion to Strike Appeal and Require Filing of Amended Initial Brief** on the Other Counsel of Record and Pro Se Parties by depositing a copy of the same in the United States Mail, postage prepaid, to the addresses listed below:

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April 10, 2025