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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

Honorable Grace Gilchrist Knie, Circuit Court Judge

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Appellate Case No. 2024-001042  
Case No.: 2019-CP-46-01258

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Rachel Sanders, Respondent,

v.

Novant Health, Inc., Terracon Consultants, Inc., Panther Heating and Cooling, Inc., Modern Construction of South Carolina, LLC, Southern Realty, LLC, and, in their Individual capacities, George White, MD, Nicholas Tuttle, MD, and Malcolm Marion, MD, Defendants

Of which Modern Construction Services, LLC is the Appellant.

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**APPELLANT’S NOTICE OF NON-COMPLIANCE AND MOTION TO COMPEL**

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Pursuant to Rule 240, SCACR, Appellant Modern Construction Services, LLC (“MCS”) submits this Notice of Non-Compliance with Rule 208 of the South Carolina Appellate Court Rules and moves the Court to enter an Order compelling Respondent Rachel Sanders (“Sanders”), to file a conforming Amended Initial Brief.

Rule 208(b)(4), SCACR, requires the following:

The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. References shall also be made to where relevant objections and rulings occurred in the transcript.

**In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced, e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. After the Record on Appeal is prepared, these references shall be revised as provided by Rule 211(b)(1).**

(emphasis added).

On April 14, 2025, after receiving a thirty-day extension of time, Sanders filed her Initial Respondent’s Brief and Designation of Matter to be included in the Record on Appeal. However, Sanders’ Initial Respondent’s Brief does not contain any specific citations to trial, hearing, or deposition transcripts. Instead, Sanders uniformly uses the citation placeholder “(R. P. \_\_).”<sup>1</sup> For example, in Sanders’ Counter-Statement of the Case, Sanders states, “[w]hen Plaintiff received no timely answer then on July 8, 2021, Plaintiff sent the summons and complaint, via certified mail, to the registered agent Tracy Snowdy at ‘5900 Harris Technology Boulevard, Suite D, Charlotte, NC 28269’ (Tr. p.\_\_\_\_).” (Sanders Initial Brief p. 2). Similarly, Sanders’ includes alleged facts without including any reference to a transcript, pleadings, order, exhibit, or other material. For example, in Sanders’ Counter-Statement of the Case, Sanders states without including a reference, “[a] debt collection attorney contacted Defendant at the Charlotte, North Carolina, address with a deadline to respond to the judgment.” (Sanders Initial Brief p. 3).

Sanders’ failure to comply with Rule 208(b)(4), SCACR, places an undue burden on MCS as it works to confirm or refute the accuracy of Sanders’ representations to the Court, and inhibits MCS’s ability to review the alleged record evidence Sanders relies upon for its arguments. Thus,

<sup>1</sup> MCS does not dispute that the use of a placeholder citation may be appropriate as an intelligible abbreviation when the context of a sentence makes it clear as to the source of the information. For example, the use of such a placeholder may be appropriate when a sentence references the filing of particular pleading in the course of the procedural history and the document referenced is obvious based on the context of the sentence.

MCS's ability to prepare arguments in reply is seriously impaired. Accordingly, MCS requests the Court issue an order requiring Sanders to file an Amended Initial Brief that complies with Rule 208(b)(4), SCACR, and includes proper reference to a transcript, pleading, order, exhibit, or other material, including the page(s) and line number(s) for all citations to a specific transcript.

WHEREFORE, Appellant MCS respectfully requests that the Court issue an Order requiring Sanders file an Amended Initial Brief that is compliant with Rule 208(b)(4), SCACR, that includes proper references to a transcript, pleadings, order, exhibit, or other materials. Because of Sanders' current noncompliance with Rule 208(b)(4), MCS also requests that its deadlines to file and serve its Reply Brief be held in abeyance pending Sanders' service of an Amended Initial Brief.

Respectfully submitted,

WINDLE TERRY BIMBO

s/ Don R. Terry

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April 21, 2025  
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