

The South Carolina Court of Appeals

Balfour Betty Construction, LLC, Appellant,

v.

Library Associates, LLC, and Metropolitan Life, a New York Corporation, Defendants,

And

Library Associates, LLC, Defendant/Third-Party Plaintiff,

v.

Lithko Contracting, LLC; Guy M. Beaty, Inc.; Bernard MMC, LLC; Gulf Stream Construction Company, Inc.; Precision Walls, Inc.; Palmetto Automatic Sprinkler Company, Inc.; Cook & Boardman, LLC; 1st Choice Glass, Inc.; Strong Tower Construction, LLC d/b/a Koch Corporation; Watson Electrical Construction Co., LLC; Trimark Foodcraft, LLC; Pleasant Places, Inc.; David Allen Company, Inc.; Premier Exteriors, LLC; Robert Thomas Iron Design, LLC; Warco Construction, Inc.; Old North State Masonry, LLC; Tom Rochester & Associates d/b/a Southeastern Architectural Systems; Forton Company, LLC; Low Country Case & Millwork, Inc.; Quantum Coatings, LLC; and Balfour Beatty Construction Group, Inc.; Third-Party Defendants,

of which Library Associates, LLC is the Respondent.

Appellate Case No. 2024-000788

ORDER

On May 21, 2025, Respondent filed its designation of matter, proposing the following be included in the record on appeal: (1) the entirety of the trial transcript, including all offered deposition testimony; (2) the entirety of post-trial transcripts and orders; (3) the March 17, 2020 order of the trial judge; (4) the June 17, 2020 order of the trial judge; and (5) all respondent's exhibits admitted into evidence.

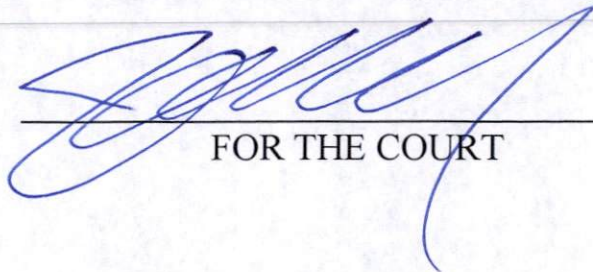
On June 5, 2025, Appellant filed a motion to strike or limit Respondent's designation of matter. Appellant explained Respondent's designation would require the inclusion of 5,054 pages of trial transcript, 820 pages of deposition transcripts, 18 videos of deposition testimony, and 155 trial exhibits. Appellant noted Respondent's brief only cited to 334 pages of trial transcript, 18 trial exhibits, and one video of a deposition. Appellant argues Respondent's designation of matter violates Rule 209(b) of the South Carolina Appellate Court Rules by designating matter that is not relevant to the appeal.

On June 26, 2025, Respondent filed a return arguing the Respondent would suffer prejudice "[w]ithout the inclusion of the totality of the record" in light of the standard of review for the issues raised and the ability of the appellate court to affirm for any reason appearing in the record. Respondent acknowledged that "[i]f . . . it is one day determined by this [c]ourt that portions of the record designated by Respondent were justifiable, then Respondent may be responsible for the costs of printing those portions." On July 3, 2025, Appellant filed a reply.

After careful consideration, we grant Appellant's motion in part. Within ten days of the date of this order, Respondent shall serve and file an amended designation of matter to specify the portions of the videos of deposition testimony using timestamps that Respondent would like for the court to consider when deciding the appeal.

Further, we direct Respondent to exercise caution to ensure its designation of matter includes only relevant material as required by Rule 209(b), and should Respondent determine that it would like to cull any matter currently designated, Respondent may do so in its amended designation of matter. *See State v. Harris*, 278 S.C. 46, 46, 292 S.E.2d 40, 40 (1982) (admonishing and denouncing attorneys for failing to "cull irrelevant matter from the record" and noting the "shocking waste such disobedience begets"); *id.* at 47, 292 S.E.2d at 40 (explaining that attorneys sign a certificate of relevance which is a personal assurance to the appellate court that the record contains no material that is irrelevant); *id.* (reserving "the right to impose sanctions, including an order that the offending lawyer pay the cost of reproducing the irrelevant material"); Rule 222(c), SCACR ("A party who

has unjustifiably designated irrelevant matter to be included in the [r]ecord on [a]ppeal shall not be entitled to tax the cost of printing this matter in the [r]ecord on [a]ppeal. Further, a party not otherwise entitled to costs under this [r]ule shall be entitled to collect the cost the party incurred for printing irrelevant matter which another party unjustifiably designated to be included in the [r]ecord on [a]ppeal.").



FOR THE COURT J.

Columbia, South Carolina

cc:

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FILED
Aug 26 2025