

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**SC Court of Appeals**

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APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

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Appellate Case No. 2024-000557  
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Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

\_\_\_\_\_  
**RESPONDENT’S RETURN IN OPPOSITION TO  
APPELLANT’S MOTION TO CORRECT APPEAL**  
\_\_\_\_\_

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**NOW COMES** Respondent Rebecca Giesler (“Respondent”), by and through her undersigned counsel, and pursuant to Rule 240(e), SCACR, Respondent hereby submits this Return in Opposition to Appellant Roberta Moore’s Motion to Correct Appeal (the “Motion”). For the reasons that follow, the Court should deny the Motion.

### **BACKGROUND**

Appellant Roberta Moore (“Appellant”) filed her initial brief in this cause on July 5, 2024. On July 17, 2024, the Clerk of Court informed Appellant that her initial brief was deficient because she failed to file a designation of matter to be included in the record on appeal.

Based upon the above deficiency, along with numerous others committed by Appellant, Respondent filed a Motion to Dismiss on July 19, 2024. Appellant filed a designation of matter on July 26, 2024. Thereafter, on August 19, 2024, Appellant unilaterally filed an amended initial brief, along with other inappropriate filings.

The Clerk of Court informed Appellant that she would have to motion the Court to allow for the submission of an amended initial brief and that the designation of matter filed on July 26, 2024, was being returned because “the designation of matter may only propose to include portions of the transcript, pleadings, orders, exhibits, or other material which may be properly included in the record on appeal.” After numerous motions, deficiencies, and corrections by Appellant, the Court allowed Appellant to file her amended initial brief and designation of matter on January 28, 2025. Respondent’s Motion to Dismiss was denied.

Respondent filed her initial brief and designation of matter on February 27, 2025. On March 31, 2025, Appellant filed her final brief and the record on appeal. Appellant’s record on appeal contained numerous irrelevant matters and/or matters that were not presented to the lower court. Appellant further failed to include all matters designated by Respondent on her designation

of matter. As such, on March 31, 2025, Respondent filed a Motion to Dismiss or, in the alternative, a Motion to Strike and Correct Record on Appeal. Further, Appellant received another deficiency letter from the Clerk of Court for the record on appeal for failing to provide a proof of service with the record on appeal.

On June 20, 2025, the Court issued an Order striking Appellant's record on appeal and granted Appellant's Motion to Correct the Record on Appeal. In the aforementioned Order, the Court specifically ordered that Appellant serve and file an amended record on appeal that includes all matter designated by Respondent, be organized as provided by Rule 210(c), and shall not contain any other matter not designated by either Respondent or Appellant in their respective designations of matter. The Court further stated that failure to comply with said Order may result in the dismissal of the appeal.

On July 21, 2025, Appellant filed an amended record on appeal. Despite the clear instructions provided by the Court, Appellant again failed to file a proper record on appeal.

***Respondent has been unable to comply with Rule 211, SCACR, to file Respondent's final brief since March 31, 2025, pursuant to Appellant's continued failure to file a correct record on appeal.***

## **ARGUMENT**

### **I. APPELLANT'S MOTION TO CORRECT THE RECORD ON APPEAL SHOULD BE DENIED BASED UPON CONSISTENT FAILURE TO COMPLY WITH THE SOUTH CAROLINA APPELLATE COURT RULES.**

The South Carolina appellate courts have consistently emphasized the importance of adhering to appellant procedural rules. “[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). “It

is incumbent upon counsel [or litigants] to provide material that complies with the Rules and facilitates appellate review.” *Id.* “Though South Carolina affords. . . the opportunity to appeal, the right to an appeal may be lost through a variety of actions by an appellant, such as: (1) failure to timely serve a notice of appeal under Rule 203, SCACR; (2) failure to serve and file an initial brief and designation of matter under Rule 208(a)(4), SCACR. . .” *State v. Serrette*, 375 S.C. 650, 652, 654 S.E.2d 554, 555 (Ct. App. 2007). All litigants, whether pro se or represented by counsel, are held to the same standards and are expected to adhere to the Rules of the Court. *See State v. Barnes*, 407 S.C. 27, 31, 753 S.E.2d 545, 547 (2014).

1. The Appellant has failed to comply with the South Carolina Appellate Court Rules with every filing made in this appeal.

Failure to comply with procedural requirements should result in dismissal of the appeal. For example, in *McPherson v. Anderson*, the Supreme Court of South Carolina dismissed an appeal because the appellant failed to serve the transcript of the record and did not seek an extension of time to perfect the appeal. *McPherson v. Anderson*, 202 S.C. 312, 24 S.E.2d 516 (1943). Similarly, in *Sellars v. Nicholson*, the Supreme Court affirmed the dismissal of an appeal where the appellant failed to file the return within the time required by statute and did not seek an extension. *Sellars v. Nicholson*, 243 S.C. 340, 133 S.E.2d 837 (1963).

In this appeal, Appellant has received a deficiency letter from the Court for nearly every single filing made by Appellant. Appellant filed the Notice of Appeal and received a deficiency letter for failure to pay the filing fee, failing to file a copy of the notice of appeal with the circuit court, and failing to file a notice of appeal in a correct format. Thereafter, the Clerk of Court sent a letter to Appellant regarding Appellant’s failure to order the transcript within the prescribed deadline, thus necessitating a motion to allow late ordering of the transcript. The transcript(s) were received nearly two months after the filing of the initial notice of appeal.

Next, Appellant filed an initial brief. Appellant received a deficiency letter for failure to include a designation of matter. Appellant then attempted to file an amended initial brief and other inappropriate materials with the Court. The Clerk of Court sent a deficiency letter stating that a motion had to be filed for the Court to consider the amended initial brief and any other material Appellant attempted to file with the Court. The Clerk of Court further returned the designation of matter filed because it failed to comply with Rule 209(b), SCACR. All of these errors necessitated the filing of more motions to accept corrected documents. In the filing of these motions, Appellant received deficiency letters for each motion for failing to pay the required filing fee.

Once all motions were decided, Appellant filed a final brief and record on appeal. Again, the Clerk of Court sent a deficiency letter because Appellant failed to provide proof of service with the record on appeal. Respondent was forced to file a motion to dismiss this appeal because Appellant's record on appeal failed to comply with the Rules and Respondent could not concede to the record on appeal as filed. The Court struck Appellant's record on appeal and allowed Appellant to file an amended record on appeal. Appellant filed said amended record on appeal and, again, failed to comply with the Rules. Notably, Appellant failed to include all matters designated by Respondent, which was specifically instructed by the Court in its Order striking the initial record on appeal.

Appellant now requests the Court to allow her to amend her record on appeal for the second time because Appellant failed to include all matters in Respondent's designation. Pursuant to Rule 210, SCACR, "the appellant *shall* serve a copy of the Record on Appeal. . . ." and ". . . *shall* include all matter designated to be included by any party. . ." Rule 210(a) and (c), SCACR. Even more, the Court advised Appellant, **with specific instructions**, on how to properly file the amended

record on appeal, detailing that ALL matters designated shall be included in the amended record on appeal.

Appellant has failed to comply with the Rules throughout the entirety of this appeal and should not be permitted to correct the record on appeal for the second time. Respondent has been unable to file her final brief for nearly six months based upon Appellant's failure to properly file a record on appeal and said delay is creating undue hardship on Respondent. Respondent is the title owner of the dwelling in which Appellant is residing and has no authority to take any action for recovery until this appeal is decided. Appellant's consistent errors have unjustly elongated the appeal process.

This Court and the Supreme Court of South Carolina have both been clear that a *pro se* litigant shall be treated no differently than counsel. Although the Court routinely permits time extensions and amendments to *pro se* litigants and counsel alike, Respondent believes that counsel would not be granted permission to correct a record on appeal for a second time after having numerous deficiencies for failing to comply with the Rule and the Court providing detailed instructions to Appellant specifically about how to properly amend the record on appeal. Based upon the aforementioned, Appellant's Motion should be denied, and Appellant should not be permitted to amend the record on appeal.

2. Appellant's Motion provides no justification or argument for the Court to consider.

Appellant's Motion is labeled "Motion to Deny Respondent's Motion for Dismissal and to Allow Appellant to Correct Record on Appeal to Include Additional Items Now Being Identified by Respondent that Were Not Listed on Previous Motion to Dismiss." However, Appellant fails to include any argument or reasoning as to why the Court should grant the Motion and allow for a second amendment of the record on appeal.

In the Motion, Appellant states that she did not comply with the Rules with initial files but has complied with all timelines provided after deficiencies were discovered. Appellant further states that certain correspondence in the record on appeal, mainly the orders of this Court, are proper matters to be included in the record on appeal. Appellant then states that her delays are not prejudicial to Respondent. Lastly, Appellant argues that her complaint regarding a purported ex-parte communication should be included in the record on appeal.

There is no argument listed in the Motion as to why Appellant failed to include those matters designated by Respondent and/or why the Court should allow for an additional amendment of the record on appeal based upon her failure. The only mention as to why the record on appeal should be amended is in the Motion's title where Appellant attempts to shift the burden of providing a correct record on appeal to Respondent because Respondent did not list each and every matter designated on a prior motion to dismiss.

Based upon the above, and the failure to provide any argument as to why Appellant should be permitted to amend the record on appeal, the Court should deny Appellant's Motion and dismiss this appeal as argued in Respondent's Motion to Dismiss.

**II. APPELLANT'S MOTION TO CORRECT THE RECORD ON APPEAL SHOULD BE DENIED BECAUSE APPELLANT'S FAILURE TO COMPLY WITH THE RULES HAS COMPROMISED RESPONDENT'S ABILITY TO ADVOCATE FOR RESPONDENT.**

In this appeal, Appellant's failure to comply with the procedural requirements mandated by the South Carolina Appellate Court Rules has directly compromised Respondent's ability to advocate in this appeal.

Appellant's failure to file a proper record on appeal, as required by Rule 210, SCACR, has precluded Respondent's ability to file a complete final brief. Despite the clear mandate in Rule

210 and a prior opportunity to amend the record on appeal, Appellant has failed to comply with the procedural requirements of Rule 210, SCACR. Without a correct record on appeal, Respondent is unable to file and serve a final brief with the appropriate cites to the places in the record supporting her positions and arguments.

Appellant's repeated failure to comply with the Rules, including filing an incorrect Notice of Appeal, failing to notify the lower court of the appeal, failing to timely order the transcript, failing to properly organize filings, attempting to unilaterally file amended briefs and/or irrelevant documents, failure to serve a certificate of service, failing to file a designation of matters, failing to file a correct record on appeal and failure to properly amend the record on appeal, constitutes a pattern of procedural noncompliance that warrants denial of Appellant's Motion and dismissal of the appeal. The Appellant's status as a *pro se* litigant does not excuse her repeated procedural deficiencies.

### **III. CONCLUSION**

Appellant's continued pursuit of this baseless appeal not only wastes judicial resources but also imposes unnecessary burdens on Respondent. Based upon the above, Respondent respectfully requests that the Court deny Appellant's Motion, dismiss the appeal in its entirety, and affirm the trial court's decision.

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September 16, 2025  
Rock Hill, South Carolina