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**Sep 26 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The 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,

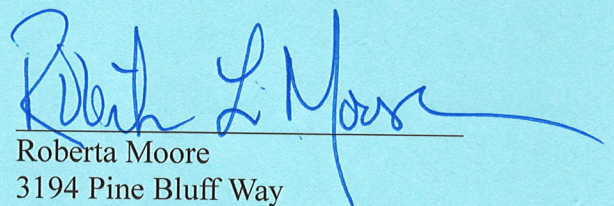
v.

Rebecca Giesler, ..... Respondent.

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**RESPONSE TO RESPONDENT'S RETURN TO APPELLANT'S MOTION TO DISMISS**

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Roberta Moore  
3194 Pine Bluff Way  
Fort Mill, SC 29707  
(803) 524-1842

**NOW COMES** the Appellant, Roberta Moore, in response to the Respondent's Return to Appellant's Motion to Dismiss. The Respondent filed a response on September 16, 2025, in opposition to Appellant's Motion.

### **BACKGROUND**

Appellant filed with the court on April 2, 2024, and April 19, 2024, the court sent a deficiency letter and the deficiency was corrected and submitted on April 26, 2024. On June 5, 2024, the Court documented that there was No Return from the Respondent in reply to the Motion to Allow Late Ordering of Transcript. On June 6, 2024, the Court made a Non-Dispositional Decision and granted the Motion to allow the late ordering of transcript.

On July 5, 2024, the Appellant filed Initial Brief. On July 17, 2024 a Notice of Deficiency was sent to the Appellant which was corrected and filed on July 26, 2024. On July 19, 2024 the Respondent filed a Motion To Dismiss. On July 23, 2024, the Respondent was sent a Notice of Deficiency which was corrected and filed on July 25, 2024.

On July 29, 2024, the Appellant filed a Return to the Respondent's Motion to Dismiss. On July 29, 2024, the Appellant filed correspondence to the Court regarding Respondent's ex parte communications as noted in Respondent's Initial Brief, Page 12, "...after realizing a formal order had not been signed, counsel forwarded the proposed orders to the Clerk of Court, at which point counsel was instructed to file the proposed orders...". At no point was the Appellant ever included in "proposed" orders that were filed. The Respondent admits to "proposing" orders, whereby presenting "options" for consideration to the Honorable Judge Brian Gibbons which directly affects the disposition of the case.

On August 19, 2024 the Appellant filed Motions to Accept Amended Initial Brief and Designation of Matter, along with A Motion To Deny Respondent's Motion to Dismiss and Overturn Lower Court Decision. On August 20, 2024, a Deficiency Letter was sent because court filing fees had not been received. On August 26, 2024 the Deficiency was corrected. On August 27, 2024, the Court recorded that there was No Reply from the Respondent to the Appellant's Return to Motion to Dismiss. On September 24, 2024, the Court Recorded that there was No Return from the Respondent to the Appellants Motion to Accept Amended Initial Brief, Motion to Accept Designated Matter, or to Deny Motion to Dismiss and Overturn Lower Court Decision. On January 28, 2025, the Court filed a Non-Dispositional Decision – Order to deny the Motion to Dismiss filed by the Respondent and to accept the Amended Initial Brief from the Appellant and the Designation of Matter.

On February 27, 2025, the Respondent filed her Initial Brief and Designation of Matter. On March 10, 2025, the Appellant filed her reply to the Respondent's Initial Brief. On March 31, 2025, the Appellant filed Final Brief and Record on Appeal.

On March 31, 2025 the Respondent filed a Motion To Dismiss, or in alternative, an Order striking the Record on Appeal because the Record on Appeal was not organized properly. On April 8, 2025, Appellant filed a Motion to Deny Respondent's Motion to Dismiss and Allow Appellant to Correct the Record on Appeal and on the same day, the Appellant filed a Reply to Respondent's Motion to Dismiss.

On June 20, 2025 pursuant the Court Order, the Court denied the Respondent's Motion to Dismiss and granted Appellant's Motion to Deny Respondent's Motion to Dismiss and granted Appellants Motion to Deny Respondent's Motion to Dismiss and granted Appellant's Motion to Correct the Record on Appeal (June 20, 2025, Non-Dispositional Decision – Order).

On July 21, 2025, the Appellant filed an amended Record On Appeal according to Rule 210( c) which included title page, index, orders, judgments, decrees, decisions, transcripts, exhibits, and other materials and documents. The Appellant included all documents as identified in the Respondent's Motion to Dismiss as missing in the Record of Appeal and had no noted deficiencies by the Court. The Respondent has failed to file a final brief in accordance with Rule 211, SCACR since that time.

The Respondent filed a Motion for Extension of Time to file a Return to Motion to Deny and Correct Record on Appeal on September 8, 2025. On September 12, 2025, a Non-Dispositional Decision was granted for the extension.

### **RESPONSE TO ARGUMENT**

The Respondent argues that the motion to correct the Record on Appeal should be denied based upon consistent failure to comply with the South Carolina Appellate Court Rules. The Corrected Record on Appeal is in accordance with Rule 210, SCACR and all Matter is included that was noted as deficient by the Respondent in her prior argument requesting dismissal because of deficiencies. The Respondent now argues that there are other documents not included which were not a part of her previous argument where she clearly documented what was missing. If there are documents outside of what the Respondent previously indicated was missing that she is now documenting as missing that need to be included, the Appellant respectfully requests approval to correct the Record on Appeal.

The Respondent argues that the South Carolina Appellate courts have consistently emphasized the importance of adhering to appellant procedural rules which they have done and

the Appellant has adhered to all the mandates of the courts by correcting all deficiencies and filing all paperwork in accordance with the South Carolina Appellate Court rules. The Respondent notes that the Appellant's rights for an appeal may be lost if (1) failure to timely serve a notice of appeal under Rule 203, SCACR. This does not apply to the Appellant because the Appellant filed the Notice of Appeal in accordance to Rule 203. (2) failure to serve and file an initial brief and designation of matter under Rule 208(a)(4). This does not apply to Appellant because the Initial Brief and Designation of Matter were both filed in accordance to Rule 208(a)(4) and all deficiencies as noted by the court were corrected and filed in accordance to Appellant Court Rules and designated timelines.

2. The Respondents states that the Appellant has failed to comply with the South Carolina Appellate Court Rules with every filing made in the appeal. However, Appellant has complied with the rules outline for deadlines and all deficiencies were corrected and submitted in accordance with the communication and guidelines given by the court. Based on the Rules and Procedures as outlined by the court, all paperwork has been filed in accordance with the SCACR and all deficiencies have been corrected in accordance with the mandates from the SC Court of Appeals.

Respondent states that the Appellant now request 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. In Respondent's request for dismissal previously, the Respondent outlined all matter that was missing. The Appellant included all matter that the Respondent has listed as missing from the Record on Appeal. None of the items which was documented as missing by the Respondent was excluded. The Appellant is now requesting the Court to allow for the amendment of the Record on Appeal to include those items which the Respondent failed

to include as missing in her detailed outline for reason for dismissal previously filed with the court.

3. Respondent argues that the Appellant's Motion for Dismissal provides no justification or argument for the Court to Consider. The error by the Appellant of the omission of items from the Respondent's Record on Appeal was not willful or flagrant in disregard to the rules of the Appellant Court or intended to prejudice the opposing party. The missing items do not prevent the Appellate Court from being able to meaningfully review the case and resolve the issues on merit. The dismissing of an appeal for a curable record omission is a drastic sanction that should only be used as a last resort. The Appellate has acted in good faith throughout the court and appeal process and has continued to do so by promptly taking steps to request to correct the Record to include missing documents. The Appellate hereby requests the court to either correct the Record on Appeal or to supplement the Record with the missing items in accordance with Rule 222, SCACR.

4. The Respondent argues that the Appellant's Motion to Correct the Record on Appeal should be denied because Appellant's failure to comply with the rules has compromised the Respondent's ability to advocate for respondent.

The Respondent will not suffer any actual or substantial prejudice if the record is corrected. The Respondent has always been aware of the omitted material in that it is already a part of the trial court's file. Correcting the Record gives the Respondent a full and fair opportunity to address the corrected items in their responsive brief. The Respondent is not deprived of their ability to advocate, they are simply being asked to respond to a complete record.

The Appellant is not attempting to introduce entirely new evidence that was never before the trial court. That would be improper. Instead, the Appellant is asking to add items that were inadvertently omitted from the record.

The Respondent used the opportunity previously to highlight the items that were omitted from the initial Record on Appeal but failed to include all documents. The Appellant acted in good faith and included everything the Respondent indicated as missing and therefore the claim of any type of prejudice is unfounded and there would not suffer any actual or substantial prejudice if the record is corrected.

### CONCLUSION

The Appellant Court rules provide a mechanism for correcting inadvertent omissions and errors. The Appellant has acted in good faith and has adhered to all of the timelines as outline in the SCACR. The purpose of the Appellant rules is to serve the interest of justice, not to punish technical errors at the expense of substantive review. The court rules are designed to correct such oversights in the interest of justice and the Appellate has adhered to all of those timelines. The only delay that happened outside of the timeline was by the request of the Respondent for an extension of time to file their response.

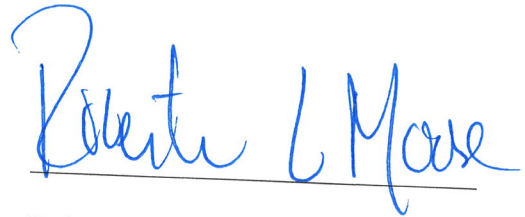
The Respondent states that the Appeal is baseless and wastes judicial resources. However, this appeal exists to ensure that justice is applied consistently and to correct legal errors and this appeal serves that purpose. One of which includes Counsel for the Respondent having ex-parte communications with the Clerk and the Judge of the lower court in regards to the judgment of the case regarding changing how the verbiage was written on the final Form 4. The Statement of Issues on Appeal include:

1. Did the trial court err in granting summary judgment on March 8, 2024, when court case continued based on Judge's disposition on July 25, 2023, for reasonable evidence to prove breach of contract accompanied by a fraudulent act.
2. Based on court rules and procedures counselor for the respondent failed to meet court ordered timeline for filing final paperwork, which in essence was the same reason she was granted summary judgement.
3. Did the Judge err in granting summary judgment when the Respondent failed to include all legal contracts in question that were a part of the court filings in her request for summary judgment? Contracts which were relevant and the basis of the case.
4. Did Counsel err in formal paperwork submitted where she indicated there were no objections in court when a list of notarized objections was present to her and the court during the time of the proceeding? All interrogatories that were asked and answered in writing were all a part of public record and had been supplied to the Respondent previously and were unnecessary and duplicative.

Based on the above, the Appellant respectfully request that the Court honor the Appellant's Motion to dismiss the Respondent's Motion for Dismissal and honor the Appellant's Request to either correct or supplement the Record on Appeal.

September 26, 2025

Respectfully Submitted,



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842

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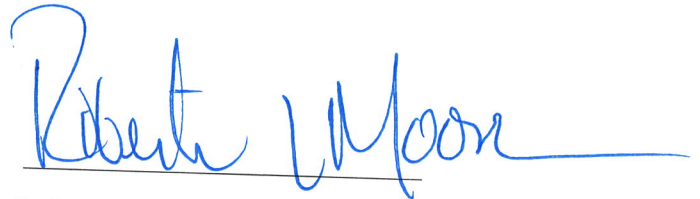
v.

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PROOF OF SERVICE

I certify that I have served the **RESPONSE TO RESPONDENT'S RETURN TO APPELLANT'S MOTION** on Rebecca Giesler via e-mail on September 26, 2025 and will be depositing a copy of it in the United States Priority Mail, postage prepaid on September 26<sup>th</sup>, 2025 addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732.

September 26, 2025



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3194 Pine Bluff Way  
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(803) 524-1842