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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appellate Case No. 2024-2189

APPEAL FROM OCONEE COUNTY

**The Honorable R. Lawton McIntosh, Circuit Court Judge
2024-CP-37-00080**

Dorothy Pierce.....Appellant,

v.

Danny Singleton.....Respondent.

**RETURN TO APPELLANT'S MOTION TO STRIKE RESPONDENT'S
DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL**

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INTRODUCTION

By her Motion filed September 17, 2025, Appellant moves this Honorable Court, "under Rule 210(b)(1), SCACR," to strike Respondent's Designation of Matter to be Included in the Record on Appeal, (Mot. to Strike Resp.'s DOM at 1), and offers a variety of arguments for her position.¹ (*See id.* at 1-6) Appellant concludes with a request for relief which includes, among others, a prayer that Respondent's Designation of Matter be struck "in its entirety for violating Rule 210(b)(1), SCACR," along with alternate prayers for relief flowing from the same premise.² (*See id.* at 7) Thus, Respondent respectfully shows this Honorable Court the following:

ARGUMENT

I. Appellant's Motion must be denied because there is no Rule 210(b)(1) of the South Carolina Appellate Court Rules.

Subsection (b) of Rule 210 of the South Carolina Appellate Court Rules is titled "Time for Filing," contains only three sentences, and no subsections. *See* Rule 210(b), SCACR. It mandates the Record on Appeal must be filed with the clerk by the due date provided in Rule 211, one copy is to be "filed unbound or filed by electronic means," and the court "may require an appellant to file additional copies of the Record on Appeal." *Id.* While Appellant explicitly states subsection (b)(1) of Rule 210 is the basis of her Motion and entitles her to relief, (*see* Mot. to Strike Resp.'s DOM at 1-4, 7), in actuality the language Appellant cites from subsection (b) simply does not exist, and thus cannot be the premise for granting any form of relief to

¹ Respondent notes Appellant filed two additional motions with her Motion to Strike Respondent's Designation of Matter to be Included in the Record on Appeal the same day. The first of these, titled "Motion to Strike Respondent's Initial Brief," is also premised upon Appellant's contentions Respondent violated the "fundamental rule" set forth in Rule 210(b)(1). (*See* Mot. to Strike Resp.'s Br. at 3, 5) Likewise, the third motion, titled "Request for Sanctions," is also premised upon "Rule 210(b)(1), SCACR." (Req., 9/17/25, at 2)

² While Appellant also contends without citation she was "never properly served," thus "rendering [Respondent's Designation] procedurally defective," Appellant makes no further assertions as to service within her Motion. (*See* Mot. to Strike Resp.'s DOM at 1; *but see* Ex. A)

Appellant. (*See id.*) *Cf. id.* Accordingly, Appellant's Motion must be denied.

II. Appellant's Motion must be denied because Appellant implicitly included within her Designation of Matter to be Included in the Record on Appeal the materials Respondent explicitly included within her Designation.

The rules governing appellate practice dictate "[a] party shall not include any matter in his Designation which is not *relevant* to the appeal," and the Record on Appeal is not to include "*matter* which was not presented to the lower court." Rules 209(b) & 210(c), SCACR (emphases added). Within her Designation, Appellant designated "[a]ll pleadings . . . filed in the above-captioned civil case." (App.'s DOM ¶ 1) Without providing any limitation as to which case or cases to which she referred, Appellant very generally designated "[a]ll written orders and rulings issued by the Circuit Court," (*id.* at ¶ 2), as well as "[t]he *full probate court record* in Estate of Doyle Elton Pierce, Case No. 2020-ES-37-0685, including orders, motions, transcripts, audio recordings, notices, hearing correspondence, and exhibits cited or relied upon in the civil lawsuit." (*Id.* at ¶ 3) Lastly, Appellant designated "[a]ny other *relevant filings*, evidence, or rulings expressly cited by the parties or the court in the summary judgment motion, hearing, or final order." (*Id.* at ¶ 10) (emphasis added)

Significantly, Appellant identified within her Complaint a) the Last Will and Testament of Doyle Elton Pierce, b) the probate court order setting it aside, and c) Appellant's subsequent appeal of that order, thus implicitly dictating each were "presented" to the circuit court.³ (*See Comp.* at 2; *compare* App.'s DOM ¶ 1 *with* Resp.'s DOM ¶¶ 1-5) Rule 210(c), SCACR. Moreover, the "full probate court record in Estate of Doyle Elton Pierce, Case No. 2020-ES-37-0685" contains documents pertaining to each appeal filed by Appellant of the various rulings associated with that estate case, including the documents forming the bases of such rulings and

³ It is notable Appellant included similar language in the "Statement of Facts" contained in her initial brief. (*See* App. Br. at 9, ¶¶ 2-3)

appeals, and the language "all written orders and rulings" from the circuit court obviously includes each order for each such probate court appeal. (*Compare* App.'s DOM at ¶¶ 2-3 *with* Resp.'s DOM ¶¶ 1-34) Further, Respondent "expressly cited," (App.'s DOM ¶ 10), within his briefing for the instant summary judgment, that Appellant "previously filed a similar Complaint against [Respondent] in the District Court (8:23-CV-5609-TMC)" which was dismissed with prejudice on the basis of judicial immunity, thus the complaint in the federal case and the docket showing the federal court's ruling was appealed are certainly relevant now, and both clearly involved "matter" presented to the lower court. (*See* Def.'s SJ Mem. at 1; *compare* App.'s DOM ¶ 10 *with* Resp.'s DOM ¶¶ 36, 39) *See generally* Rules 209(b) & 210(c).

In short, in light of the format and language used by Appellant for her own Designation, and the vast array of documents potentially intended to be included by Appellant in light of that language, there was no feasible way for Respondent to coherently identify, examine, and discuss with particularity such documents in the context of the present appeal. (*See generally* App.'s DOM at ¶¶ 2-3, 10; *see e.g.*, App. Br. at 12 (without specifying to which appeal she referred, asserting "while the appeal was pending"); *id.* at 16 (arguing Respondent lacked jurisdiction "During Appeal" and was deprived of subject matter jurisdiction to act "while an appeal was pending," without specifying to which one of her many appeals Appellant referred)) Thus, Respondent identified with particularity each such document potentially referenced by Appellant's broad language within her Designation, and also alluded to within her Complaint and Initial Brief. (*Compare generally* App.'s DOM *with* Resp.'s DOM)

Additionally, the broad language used by Appellant within her Designation, along with the issues of which she complained in her operative pleading, and her lack of factual citation before this Honorable Court in her Initial Brief, all dictate Appellant is estopped from asserting

Respondent's Designation must be struck for violating any rule of appellate practice. (*See generally* App.'s DOM; App. Br. at 16-29 (minimal to no factual citation provided); *see also* Comp. at 2)) Rules 208(b)(1)(C), -(b)(1)(E), -(b)(4), & 209(a) (requiring a party's Designation to "set forth with specificity" the materials proposed for inclusion in the Record on Appeal), SCACR.

Equitable estoppel occurs where a party is denied the right to plead or prove an otherwise important fact because of something which he has done or failed to do. It may arise even though there was no intention by the party to relinquish or change any existing rights. The essential element of estoppel is prejudice to the party raising the [doctrine].

Parker v. Parker, 313 S.C. 482, 487, 443 S.E.2d 388, 391 (1994) (internal citation omitted).

Here, Appellant used broad language in her Designation which embraces virtually every document identified within Respondent's Designation, and Appellant provided an Initial Brief almost devoid of factual citations.⁴ (*See* App.'s DOM at ¶¶ 2-3, 10; *see generally* App. Br.) Respondent would have been prejudiced in drafting his Initial Brief by relying upon the broad, nonspecific language of Appellant's Designation, and given that such language embraces almost all documents identified by Respondent, Appellant must be estopped from asserting Respondent's Designation is improper.⁵ *See id.*

Alternatively, given the language of her Complaint, Designation, and Initial Brief, Appellant should be deemed to have waived any complaints of non-compliance with the Appellate Court Rules. *See Lyles v. BMI, Inc.*, 292 S.C. 153, 158-59, 355 S.E.2d 282, 285 (Ct. App. 1987) ("An implied waiver results from acts and conduct of the party against whom the

⁴ Respondent notes items 45 and 46, i.e., Appellant's Initial Brief and Appellant's Designation of Matter, were included in Respondent's Designation out of a desire for completeness and ease of citation when drafting said document. Respondent represents to this Honorable Court a phone call, letter, or email from Appellant to counsel for Respondent would have corrected those issues to the extent Appellant did not wish for them to be included in the Record on Appeal.

⁵ *See* n.4, *supra*.

doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable."); *see also* Parker, 313 at 487, 443 S.E.2d at 391 ("[T]he distinction between waiver and estoppel is close, and sometimes the doctrines merge into each other with almost imperceptible gradations.") (quoting Janasik v. Fairway Oaks Villas Horiz'l Prop. Regime, 307 S.C. 339, 344, 415 S.E.2d 384, 388 (1992)).

Finally, while Appellant makes a variety of repetitive or ultimately irrelevant contentions, (*see* Mot. to Strike Resp.'s DOM at 1-6), her Motion contains exactly one citation of caselaw in support of her assertions. (*See id.* at 6) For example, Appellant urges with regard to Rule 56(c), SCRCP, only the "pleadings . . . on file" in the case at bar, not those in "collateral files," may be considered by the trial court. (*See id.* at 3; *see also id.* ("Materials must be in the case file to be 'on file.'")) Yet Appellant does not support either assertion with any citation of authority, and to be clear, Respondent does not consider either of these statements to be accurate under South Carolina law. (*See id.*) Notably, Appellant does claim, "Under South Carolina law, appellate briefs cannot expand or supplement the record." (*Id.*) While Respondent does not necessarily disagree with that general principle, it is significant Appellant cites for this proposition "State v. Taylor, 360 S.C. 18, 23, 598 S.E.2d 735, 737 (Ct. App. 2004)."⁶ (*Id.*) Yet the Taylor decision dealt with chain of custody and admissibility issues related to cocaine seized during a traffic stop. *See* 360 S.C. 20, 598 S.E.2d at 735. It contains no language, whether dicta or otherwise, or whether at the pinpoint cites provided by Appellant or elsewhere in the decision, which support Appellant's citation. *See generally id.* at 20-28, 598 S.E.2d at 735-39. Accordingly, this citation provides another example of Appellant's attempt to commit intrinsic fraud upon this Honorable

⁶ The case name is not underlined within Appellant's Motion. (*See* Mot. to Strike Resp.'s DOM at 6)

Court, and her Motion must therefore be denied.⁷ (*See generally* Resp.'s Br. at 43-44)

III. Because Appellant's Motion is conclusory and without any valid citations of authority, it should be deemed abandoned and must therefore be denied.

As Appellant's Motion is premised upon Rule 210(b)(1), (Mot. to Strike Resp.'s DOM at 1-4, 7), a rule which does not exist, and cites no valid authority for the relief which Appellant seeks, Appellant's Motion should be deemed abandoned. *See R & G Constr., Inc. v. Lowcountry Reg'l Transp. Auth.*, 343 S.C. 424, 437, 540 S.E.2d 113, 120 (Ct. App. 2000) ("An issue is deemed abandoned if the argument in the brief is only conclusory."); *State v. Colf*, 332 S.C. 313, 322, 504 S.E.2d 360, 364 (Ct. App. 1998) (determining a conclusory argument which cited only an evidentiary rule as authority was deemed abandoned); *State v. Black*, 319 S.C. 515, 518 n.2, 462 S.E.2d 311, 313 n.2 (Ct. App. 1995) ("[A] conclusory argument of an issue by [the] appellant amounts to an abandonment of the issue."). Accordingly, Appellant's Motion must be denied.

CONCLUSION

FOR THE REASONS SET forth herein, Respondent prays this Honorable Court to DENY Appellant's Motion to Strike Respondent's Designation of Matter to be Included in the Record on Appeal.

(Signature page follows.)

⁷ Respondent thus respectfully notes Appellant's Motion is frivolous. *See* Rule 269, SCACR; *Chewing v. Ford Motor Co.*, 354 S.C. 72, 81, 579 S.E.2d 605, 610 (2003) (noting intrinsic fraud is "fraud which misleads a court in determining issues and induces the court to find for the party perpetrating the fraud.").

Respectfully submitted,

s/James W. Logan, Jr.

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This 27th day of October, 2025.

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PROOF OF SERVICE

I certify that I have served a copy of the following (1) Return to Appellant's Motion to Strike Respondent's Initial Brief, (2) Return to Appellant's Request for Sanctions, (3) Return to Appellant's Motion to Strike Respondent's Designation of Matter to be Included in the Record on Appeal, and (4) Exhibit A on the below date by electronic mail to the Appellant, Dorothy Pierce, at dorothypierce84@gmail.com.

Respectfully Submitted,

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