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Jul 31 2026

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Appellate Case No. 2026-000231**

**APPEAL FROM BERKELEY COUNTY
Court of Common Pleas**

The Honorable Thomas J. Rode, Circuit Court Judge

Case No. 2014-CP-08-02072

Portfolio Recovery Associates, LLC

Respondent,

v.

Rhonda Chambers,

Appellant.

**RESPONDENT’S REPLY BRIEF IN SUPPORT OF ITS MOTION TO STRIKE
APPELLANT’S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
ON APPEAL**

NOW COMES Respondent Portfolio Recovery Associates, LLC (hereinafter “PRA”) by and through its undersigned counsel, and, pursuant to Rule 240, SCACR, files its reply in support of its Motion to Strike.

**A. A Motion to Strike, Made at the Time of Designation, Is the
Appropriate Procedural Device to Address Extraneous Matters.**

Rule 240, SCACR, governs *all* motions or petitions filed in the appellate court and is not limited to those motions specifically set forth in subparagraph (a) of the

Rule. *See* Rule 240, SCACR (“[t]his Rule governs all motions or petitions filed in the appellate court, *including but not limited to*: motions for extensions of time, motions to reinstate, petitions for rehearing”) (emphasis added).

A Motion to Strike, made at the designation stage, is the appropriate device to address issues with materials designated to be included in the record on appeal.

The record on appeal must not include matter not presented to the lower court or tribunal. Rule 210(c), SCACR. Thus, *if the opposing party includes matter not presented below, parties often make motions to strike that matter. In practice, motions to strike are (and should be) made at the designation stage* (see Rule 209, SCACR) because . . . parties [are] alerted to extraneous contents of the record at this point in the appeal

Jean H. Toal, Amelia W. Walker & Margaret E. Baker, *Appellate Practice in South Carolina*, § 13.III(C) (S.C. Bar Cont. Legal Educ. Div. 2016) (emphasis added); *see also Butts v. Mace*, 448 S.C. 39, 51, 930 S.E.2d 698, 704 (S.C. 2026) (“South Carolina courts...hold the power to resolve cases [and] the powers inherent in that function...”)(citations and quotation marks omitted; cleaned up).

B. The Emails Designated by Appellant Should be Stricken to the Extent They Were Not Presented to the Trial Court.

Rules 209 and 210, SCACR, when read together, provide the guard rails as to what may be included within the Record on Appeal. Rule 209, with reference to Rule 210(c), allows the Designation to include “portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal.” Rule 210(c), SCACR, makes clear that “[t]he Record shall not ... include matter which was not presented to the lower court or tribunal.” Rule 210(c), SCACR. Accordingly,

matters designated must be clearly identified and must have been presented to the lower court or tribunal.

Here, PRA seeks to strike a discrete portion of Appellant's designation of record. Specifically, PRA seeks to strike those emails generically described as "NEF emails from Rule 59(e) motion filing" to the extent that they relate to Chambers' rejected filing of the Rule 59 motion and were not included in the matters presented to the trial court. In support of its Motion, PRA included the Declaration of the undersigned which included detail as to which emails were of record and which were not. Notably, while Appellant questions the procedural propriety of a motion to strike, Appellant does not respond to or rebut PRA's position that the emails PRA seeks to strike were not presented to the trial court. Accordingly, such emails should be stricken.

Finally, the cases cited by PRA support its position that a timely brought motion to strike extraneous materials should be granted and the Rules of Appellate Procedure enforced. As the Supreme Court noted in *Argabright v. Argabright*, the appellate courts are "bound by the record established at trial." 398 S.C. 176, 179, 727 S.E.2d 748, 750 n.3 (2012). And in *Henning v. Kaye*, the Supreme Court made clear that "[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." 307 S.C. 436, 436, 415 S.E.2d 794, 794 (1992).

For the reasons set forth above and in PRA's initial briefing, this Court should grant PRA's Motion to Strike.

Dated: July 31, 2026.

Respectfully submitted,

Frost Echols LLC

/s/ David A. Grassi, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2026, I served a copy of the foregoing **RESPONDENT'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO STRIKE APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL** upon all counsel of record in this action by email to the following addresses::

John R. Cantrell, Jr.
johncantrelljr@gmail.com

/s/ David A. Grassi, Jr.

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