RECEIVED
Aug 10 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-In Equity

Appellate Case No. 2024-000788
Case No.: 2019-CP-10-01108

Balfour Beatty Construction, LLC, Appellant,

v.

Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendant

And

Library Associates, LLC, 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, 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, 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, Balfour Beatty Construction Group, Inc., Third-Party Defendants.

Of which Library Associates, LLC is the Respondent.

APPELLANT'S MOTION TO SUPPLEMENT THE AMENDED RECORD ON APPEAL

Pursuant to Rule 240(a) and Rule 210 of the South Carolina Appellate Court Rules, Appellant Balfour Beatty Construction, LLC ("Appellant") respectfully moves the Court to enter

an Order granting Appellant leave to Supplement the Amended Record on Appeal. In preparing Appellant's Amended Final Brief and Amended Final Reply Brief, Appellant identified several pages from the trial transcript and three exhibits that were inadvertently omitted from Appellant's Amended Designation of Matter, including:

1. Balfour Exhibit 300;

2. Library Associates, LLC's Exhibit 42 and 43; and

3. Trial Transcript Pages: 651-652; 2192-2193; 3058; 3339-3340; 3458; 4094-4096; 4121-4134; 4141-4142; 4163; 4195; 4392.

Each exhibit and transcript page listed above, was included in the original Record on Appeal and cited in Appellant's Final Briefs (filed November 17, 2025). However, those transcript pages and exhibits were unintentionally omitted from the Amended Designation of Matter Appellant prepared in the course of complying with orders issued by the Court after Appellant filed the original Record on Appeal and its Final Briefs. Attached hereto as **Exhibit A** is a copy of Appellant's proposed Supplement to the Amended Record on Appeal.

As the Court is aware, several disputes regarding the contents of the Record on Appeal have arisen during this appeal.[1] Those disputes first arose when Respondent Library Associates, LLC ("Respondent") filed a Designation of Matter that included more than 10,000 pages that were not cited in either party's initial brief. Appellant raised that issue to the Court in its Motion to Strike Respondent's Designation of Matter. In response, the Court issued an Order granting Appellant's Motion, in part, and admonishing Respondent to "exercise caution to ensure its designation of matter includes only relevant material as required by Rule 209(b)." However,

[1] Those disputes and Appellant's efforts to comply with the Court's Orders and the South Carolina Appellate Court Rules are more fully discussed and summarized in Appellant's Return to Respondent's Motion to Amend Designation of Matter, filed June 15, 2026.

Respondent did the bare minimum to comply with the Court's Order and amend its Designation of Matter.

As a result, Appellant was required to prepare a Record on Appeal consisting of fifty-one (51) volumes and more than 25,000 pages. Thereafter, on November 17, 2025, Appellant filed its Final Briefs and a copy of Record on Appeal with the Court. Respondent received several extensions of time to file its Final Brief, but ultimately filed its Final Brief on January 16, 2026.

Three (3) months after Respondent filed its Final Brief, the Court issued its March 16, 2026 Order directing the parties "to review the record, remove unnecessary materials from it, and include only those materials that are critical to the appeal." The Court's Order also directed the parties to notify the Court as to an agreement on "which pages in the record on appeal are unnecessary and, therefore, should be removed" by April 15, 2026.

Following receipt of the Court's Order, Appellant's counsel attempted to work with Respondent's counsel to reach an agreement as to the revised contents of the Amended Record on Appeal. However, the parties were unable to reach an agreement, and Appellant filed an Amended Designation of Matter to be Included in the Record on Appeal on April 22, 2026.

After receiving no response and no new information from Respondent, the Court issued its April 29, 2026 Order directing Appellant to prepare an amended record on appeal consisting of: "(1) the documents in Appellant's amended designation of matter and (2) materials cited in Respondent's final brief." The Order also directed Respondent "to provide Appellant with pinpoint citations in instances where Respondent's final brief cites the first page of a document or exhibit."

Following the issuance of that Order, Respondent filed several motions for extensions of time to comply with the Court's April 29, 2026 Order.[2] The Court granted Respondent's motions. On June 15, 2026, Respondent filed a Motion to Amend its Designation of Matter and requested the Court grant it leave to supplement the Amended Record on Appeal with materials that it did not cite directly in the Respondent's Brief. Respondent's Motion also included an Exhibit (Exhibit A) that listed citations to the transcript—several of which were overlapping—as well as references to what ultimately amounted to the entirety of each exhibit cited in the Respondent's Brief.

On June 23, 2026, the Court issued an Order ruling on Respondent's Motion and directing Appellant to prepare and serve an Amended Record on Appeal that included the matter designated in Appellant's Amended Designation and those materials listed on Exhibit A to Respondent's Motion. That Order also instructed the parties to serve and file their Final Briefs on or before August 12, 2026.

On July 23, 2026, Appellant served Respondent with a copy of the Amended Record on Appeal. However, in preparing its Final Briefs Appellant identified the pages listed above as having been inadvertently omitted from Appellant's Amended Designation of Matter and, therefore, excluded from the Amended Record on Appeal. Those pages were all included in the original Record on Appeal and cited in Appellant's Final Brief and Final Reply Brief. As such, those materials are directly relevant to the issues raised in this appeal and appropriate for inclusion in the Record on Appeal. Their exclusion from the Amended Record on Appeal is merely the result of being unintentionally omitted from Appellant's Amended Designation of Matter.

[2] Respondent's Third Motion for Extension was based upon Respondent's Counsel Brent McDonald experiencing severe health issues. Counsel for Appellant expresses their sympathies toward Mr. McDonald as, upon information and belief, he is continuing to suffer from significant health issues and has withdrawn from the practice of law as a result.

Moreover, neither party will suffer prejudice from the Court granting Appellant leave to file a Supplement to the Amended Record on Appeal. As such, good cause exists for the Court to grant this Motion.

Accordingly, Appellant respectfully requests the Court issue an Order (1) granting Appellant leave to file a Supplement to the Amended Record on Appeal; and (2) accepting **Exhibit A** to this Motion as the Supplement to the Amended Record on Appeal. Furthermore and to avoid any further delay in the resolution of this Appeal, Appellant requests the Court's leave to conditionally file its Amended Final Brief and Amended Final Reply Brief with citations to the materials included in the Supplement to the Amended Record on Appeal on August 12, 2026.

PARKER POE ADAMS & BERNSTEIN LLP

s/Katon E. Dawson Jr.

James Lynn Werner (SC Bar No. 6029)
Katon Edwards Dawson, Jr. (SC Bar No. 101167)
1221 Main Street, Suite 1100
Columbia, SC 29201
(803) 255-8000
jimwerner@parkerpoe.com
katondawson@parkerpoe.com

Thomas C. Hildebrand, Jr. (S.C. Bar No. 2501)
Robert C. Byrd (S.C. Bar No. 1069)
850 Morrison Drive, Suite 400
Charleston, SC 29403
(843) 727- 2650 (Office)
tomhildebrand@parkerpoe.com
bobbybyrd@parkerpoe.com
Attorneys for Appellant Balfour Beatty Construction, LLC

August 10, 2026
Columbia, South Carolina

RECEIVED
Aug 10 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-In-Equity

Appellate Case No. 2024-000788
Case No.: 2019-CP-10-01108

Balfour Beatty Construction, LLC, Appellant,

v.

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

And

Library Associates, LLC, 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, 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, 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, Balfour Beatty Construction Group, Inc., Third-Party Defendants.

Of which Library Associates, LLC is the Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that on August 10, 2026, copies of **Appellant's Motion to Supplement the Amended Record on Appeal** was served on all counsel of record via email containing the above referenced documents to counsels' individual AIS email addresses:

Walter H. Bundy, Jr., Esquire
M. Brent McDonald, Esquire
Bundy McDonald, LLC
1516 Old Trolley Rd 2nd Floor
Summerville, SC 29485-8209
walter@bundymcdonald.com
brent@bundymcdonald.com

Jessie Sanchez, Esquire
The Law Office of Jesse Sanchez, LLC
751 Johnnie Dodds Boulevard, Suite 200
Mount Pleasant, SC 29464
jesse@jessesanchezlaw.com

Attorneys for Library Associates, LLC

PARKER POE ADAMS & BERNSTEIN LLP

By:/s/James Lynn Werner
James Lynn Werner (SC Bar No. 6029)
Katon E. Dawson, Jr. (SC Bar No. 101167)
1221 Main Street, Suite 1100
Columbia, SC 29201
(803) 255-8000
jimwerner@parkerpoe.com
katondawson@parkerpoe.com

Thomas C. Hildebrand, Jr. (S.C. Bar No. 2501)
Robert C. Byrd (S.C. Bar No. 1069)
850 Morrison Drive, Suite 400
Charleston, SC 29403
(843) 727- 2650 (Office)
tomhildebrand@parkerpoe.com
bobbybyrd@parkerpoe.com

Attorneys for Appellant Balfour Beatty Construction, LLC

August 10, 2026
Columbia, South Carolina

Katon E. Dawson, Jr.
t: 803.253.6854
f: 803.255.8017
katondawson@parkerpoe.com

Atlanta, GA
Charleston, SC
Charlotte, NC
Columbia, SC
Greenville, SC
Raleigh, NC
Spartanburg, SC
Washington, DC

August 10, 2026

RECEIVED
Aug 10 2026
SC Court of Appeals

VIA E-MAIL & HAND DELIVERY:

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
ctappfilings@sccourts.org

Re: ***Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.***
Appellate Case No.: 2024-000788; Trial Court Case No.: 2019-CP-10-01108

Dear Mrs. Kitchings:

Enclosed please find Check No. 529700 in the amount of $50.00 in satisfaction of the filing fee for Appellant's Motion to Supplement the Amended Record on Appeal regarding the above-referenced matter.

Should you have any questions or need anything further, please do not hesitate to contact me.

Sincerely,

s/Katon E. Dawson, Jr.

Katon E. Dawson, Jr.

KED/aeb
Enclosures
cc: Respondent's Counsel of Record (via email only)