

RECEIVED

Aug 11 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

---

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.

---

**RESPONDENT’S RESPONSE TO APPELLANT’S MOTION TO SUPPLEMENT THE  
AMENDED RECORD ON APPEAL AND MOTION FOR APPELLANT TO CORRECT  
THE AMENDED RECORD ON APPEAL**

---

Respondent Library Associates, LLC (“Respondent”), by and through its undersigned counsel, respectfully submits this Response to Appellant Balfour Beatty Construction, LLC’s (“Appellant”) Motion to Supplement the Amended Record on Appeal, filed August 10, 2026, and

respectfully moves the Court for an order directing correction of the Amended Record on Appeal served by Appellant.

### **I. Respondent Consents to the Requested Supplement**

Respondent consents to the relief requested in Appellant's Motion.<sup>1</sup> The materials Appellant seeks to add (Appellant's Exhibit 300, Library Associates' Exhibits 42 and 43, and the identified trial transcript pages) were included in the original Record on Appeal, and Respondent does not oppose their inclusion in the Amended Record. Respondent notes that two of the transcript pages identified in the Motion (Tr. 3058 and Tr. 4121) are already contained in the Amended Record as served (at R-1311 and R-1428, respectively), and their duplication in a supplement is unnecessary.

### **II. The Amended Record as Served Contains Significant Errors That Must Be Corrected**

In reviewing the Amended Record on Appeal served by Appellant on July 23, 2026, Respondent has identified significant errors in the preparation of the trial transcript excerpts. As required by the Rules, the transcript pages in the Amended Record (R-523 through R-1506) add witness and examination headers that do not appear in the original court reporter's transcript and were inserted in the preparation of the Amended Record. However, on more than 150 of the 984 transcript pages, those headers misidentify the witness testifying, the examining attorney, and/or the type of examination, or apply an examination header to a transcript index page or colloquy

---

<sup>1</sup> Although Appellant's Motion seeks leave to correct omissions that are entirely of Appellant's own making, the majority of the Motion is devoted to casting aspersions on Respondent. Respondent declines to respond in kind, and notes only that, had Appellant contacted Respondent before filing its Motion, Respondent would have gladly consented to, or not opposed, Appellant's request, just as Respondent does in this Response. It is in that same spirit of cooperation that Respondent identifies, in Section II below, the errors in the Amended Record on Appeal that Appellant prepared and served.

page that contains no witness testimony. A complete list of the errors, verified against the original court reporter's transcript, is attached as Exhibit A.

These errors fall almost entirely on the testimony of Respondent's principal witness, Mark Boe. Among other errors: seventy-eight (78) consecutive pages of Mr. Boe's direct examination (R-1155 to R-1232) are attributed to a different witness altogether; fifty-three (53) pages of Mr. Boe's cross-examination (R-1233 to R-1285) are labeled as direct examination; and seventeen (17) pages of Mr. Boe's direct examination are attributed to Appellant's counsel rather than Respondent's counsel. By way of illustration, the headers on R-1155 through R-1232 read "Grady Query-Direct Examination by Mr. Bundy," but the witness testifying on all seventy-eight (78) of those pages was Mark Boe. The Record itself confirms this: Mr. Boe is sworn at R-1052 (Tr. 2599), and his cross-examination begins at R-1233 (Tr. 2872) with opposing counsel's greeting, "Hello, Mr. Boe. We met virtually. I took your deposition. I'm Tom Hildebrand." Grady Query was not called to the stand and sworn until Tr. 2938, and his direct examination began at Tr. 2939. Likewise, the headers on R-1052 to R-1059, R-1074 to R-1076, and R-1149 to R-1154 attribute Mr. Boe's direct examination to "Mr. Hildebrand," Appellant's trial counsel, when that examination was in fact conducted by Respondent's trial counsel, Mr. Bundy.

As served, the Amended Record would misinform the Court about who was testifying, and who was examining, throughout the testimony of the witness at the center of Respondent's case. Exhibit A also identifies certain additional defects, including a duplicated set of front matter bound into Volume 12 and the need for confirmation that the video deposition testimony of George Michael Baumbach, referenced at R-9876 as provided to the Court via OneDrive, has (or will) in fact been delivered to the Court.

Because Appellant prepared the Amended Record, these errors are Appellant's to correct, and correction should not alter the pagination of the Amended Record or require revision of any citation in the parties' briefs.

### **III. The Corrections Need Not Delay the Current Schedule**

Because neither Appellant's proposed supplement nor the corrections identified in Exhibit A need affect the pagination of the Amended Record, Respondent will file its amended final brief and its supplemental electronic record on the schedule set by the Court.

### **CONCLUSION**

For the foregoing reasons, Respondent respectfully requests that the Court: (1) grant Appellant's Motion to Supplement the Amended Record on Appeal; (2) direct Appellant to correct the errors in the Amended Record identified in Exhibit A and to serve a corrected Amended Record; and (3) grant such other and further relief as the Court deems just and appropriate. Respondent thanks the Court for its time and attention to this matter.

[Signature on following page]

Respectfully submitted,

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/ Jesse Sanchez

Jesse Sanchez, Esq. (S.C. Bar No. 101906)

751 Johnnie Dodds Boulevard, Suite 200

Mount Pleasant, SC 29464

(843) 814-8181

jesse@jessesanchezlaw.com

BUNDY McDONALD, LLC

W.H. Bundy, Jr., Esquire (S.C. Bar No. 1012)

1516 Old Trolley Rd, 2nd Floor

Summerville, SC 29485

walter@bundymcdonald.com

Attorneys for Respondent Library Associates, LLC

August 11, 2026

Mount Pleasant, South Carolina

## **Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.**

Appellate Case No. 2024-000788

### **ERRORS IDENTIFIED IN THE AMENDED RECORD ON APPEAL**

(Served by Appellant on July 23, 2026)

#### **I. Erroneous Witness/Examination Headers on Trial Transcript Pages**

The trial transcript pages in the Amended Record (R-523 through R-1506) bear witness/examination headers that do not appear in the original court reporter's transcript and were added in the preparation of the Amended Record. On the pages identified below, those headers misidentify the witness, the examining attorney, or the type of examination, or apply examination headers to transcript index and colloquy pages containing no testimony. These errors fall almost entirely on the testimony of Respondent's principal witness, Mark Boe, including 78 consecutive pages of his direct examination attributed to a different witness and 53 pages of his cross-examination labeled as direct examination. Each entry was verified against the original court reporter's transcript.

| <b>Record Pages</b>                                             | <b>Transcript Pages (Tr.)</b>                                | <b>Header as Served</b>                                     | <b>Correct Designation</b>                                                                                                                                                                            | <b>Nature of Error</b>                                                                                   |
|-----------------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| R-601                                                           | 204                                                          | Tim Spano-Direct<br>Examination by Mr. Bundy                | Tim Spano-Direct<br>Examination by Mr.<br>Hildebrand                                                                                                                                                  | Wrong attorney                                                                                           |
| R-1052–R-1059;<br>R-1074–R-1076;<br>R-1149–R-1154<br>(17 pages) | 2599; 2607–<br>2613; 2629–<br>2631; 2714–<br>2716; 2759–2761 | Mark Boe-Direct<br>Examination by Mr.<br>Hildebrand         | Mark Boe-Direct<br>Examination by Mr. Bundy                                                                                                                                                           | Wrong attorney                                                                                           |
| R-1155–R-1232<br>(78 pages)                                     | 2794–2871                                                    | Grady Query-Direct<br>Examination by Mr. Bundy              | Mark Boe-Direct<br>Examination by Mr. Bundy                                                                                                                                                           | Wrong witness                                                                                            |
| R-1233–R-1285<br>(53 pages)                                     | 2872–2924                                                    | Mark Boe-Direct<br>Examination by Mr.<br>Hildebrand         | Mark Boe-Cross-<br>Examination by Mr.<br>Hildebrand (Tr. 2924:<br>Cross-Examination by Mr.<br>Terry)                                                                                                  | Wrong<br>examination<br>type                                                                             |
| R-1292                                                          | 3039                                                         | Grady Query-Cross-<br>Examination by Mr.<br>Hildebrand      | Court reporter's "Index of<br>Witnesses" page for the Day<br>13 volume (October 27,<br>2021); the page contains no<br>testimony                                                                       | Examination<br>header applied<br>to a transcript<br>index page                                           |
| R-1454                                                          | 4275                                                         | David Simonton-Redirect<br>Examination by Mr.<br>Hildebrand | Proceedings before the<br>Court (colloquy) preceding<br>testimony on November 4,<br>2021; no witness testimony<br>appears on the page. Mr.<br>Simonton's redirect<br>examination began at Tr.<br>4276 | Examination<br>header applied<br>to a colloquy<br>page; the<br>witness had not<br>yet taken the<br>stand |
| R-1477–R-1478                                                   | 4340–4341                                                    | David Simonton-Redirect<br>Examination by Mr.<br>Hildebrand | Casey Thompson-Redirect<br>Examination by Mr.<br>Hildebrand                                                                                                                                           | Wrong witness                                                                                            |

*Illustration: the headers on R-1155 through R-1232 read “Grady Query-Direct Examination by Mr. Bundy,” but the witness testifying on all seventy-eight (78) of those pages was Mark Boe. The Record itself confirms this: Mr. Boe is sworn at R-1052 (Tr. 2599), and his cross-examination begins at R-1233 (Tr. 2872) with opposing counsel’s greeting, “Hello, Mr. Boe. We met virtually. I took your deposition. I’m Tom Hildebrand.” Grady Query was not called to the stand and sworn until Tr. 2938, and his direct examination began at Tr. 2939. Likewise, the headers on R-1052 to R-1059, R-1074 to R-1076, and R-1149 to R-1154 attribute Mr. Boe’s direct examination to “Mr. Hildebrand,” Appellant’s trial counsel, when that examination was in fact conducted by Respondent’s trial counsel, Mr. Bundy.*

Boundary pages: on R-1049 (Tr. 2331) and R-1475 (Tr. 4296), recross-examination by Mr. Bundy begins mid-page, but the header reflects only the concluding redirect examination.

## **II. Additional Defects**

1. Volume 12 contains a duplicate set of front matter: the title page, attorneys page, and index (10 pages) are bound in twice (PDF pages 1–10 and 11–20) before the content beginning at R-5501.
2. Appellant’s Motion to Supplement (filed August 10, 2026) identifies Tr. 3058 and Tr. 4121 as omitted from the Amended Record; both pages are already included (Tr. 3058 at R-1311; Tr. 4121 at R-1428).
3. The placeholder at R-9876 states the Video Deposition Testimony of George Michael Baumbach was “provided to Court of Appeals electronically via OneDrive folder”; the video was served on Respondent on disk. Respondent requests confirmation that the video has in fact been delivered to the Court.
4. The trial transcript excerpts include Tr. 3838 (R-1366), which does not appear in the page ranges listed in the Amended Record’s index.

**RECEIVED**

**Aug 11 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

---

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, counsel for Respondent Library Associates, LLC, hereby certifies that on August 11, 2026, he served Respondent's Response to Appellant's Motion to Supplement the Amended Record on Appeal and Motion for Appellant to Correct the Amended Record on Appeal, together with Exhibit A thereto, upon all counsel of record by electronic mail at the email addresses designated by counsel in the South Carolina Attorney Information System (AIS), as set forth below:



James Lynn Werner, Esq. (jimwerner@parkerpoe.com)  
Katon E. Dawson, Jr., Esq. (katondawson@parkerpoe.com)  
Thomas C. Hildebrand, Jr., Esq. (tomhildebrand@parkerpoe.com)  
Robert C. Byrd, Esq. (bobbybyrd@parkerpoe.com)  
Parker Poe Adams & Bernstein LLP  
William Greyson Land, Esq. (greysonland@hlpwlaw.com)

Respectfully submitted,

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/ Jesse Sanchez

Jesse Sanchez, Esq. (S.C. Bar No. 101906)

751 Johnnie Dodds Boulevard, Suite 200

Mount Pleasant, SC 29464

(843) 814-8181

jesse@jessesanchezlaw.com

Attorney for Respondent Library Associates, LLC

August 11, 2026  
Mount Pleasant, South Carolina

August 11, 2026

**VIA EMAIL AND U.S. FIRST CLASS MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211  
ctappfilings@sccourts.org



**RECEIVED**

**Aug 11 2026**

**SC Court of Appeals**

**RE: Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.  
Appellate Case No. 2024-000788**

Dear Ms. Kitchings:

Enclosed for filing on behalf of Respondent Library Associates, LLC, please find Respondent's Response to Appellant's Motion to Supplement the Amended Record on Appeal and Motion for Appellant to Correct the Amended Record on Appeal, together with Exhibit A thereto and Proof of Service.

To the extent deemed necessary, a \$50.00 filing fee has been deposited in today's mail.

By copy of this letter, all counsel of record are being served with the enclosures. Should the Court require anything further, please do not hesitate to contact me.

Sincerely,

s/Jesse Sanchez

Jesse Sanchez, Esq. (SC Bar No. 101906)

Attorney for Respondent

Library Associates, LLC

Enclosures: As stated.

cc: James Lynn Werner, Esq.  
Katon E. Dawson, Jr., Esq.  
Thomas C. Hildebrand, Jr., Esq.  
Robert C. Byrd, Esq.  
W.H. Bundy, Jr., Esq.  
M. Brent McDonald, Esq.  
William Greyson Land, Esq.

**THE LAW OFFICE OF JESSE SANCHEZ, LLC**

751 Johnnie Dodds Blvd., Suite 200, Mount Pleasant, SC 29464 P: 843.814.8181 F: 843.284.3953  
jesse@jessesanchezlaw.com jessesanchezlaw.com