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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

James J. Wegmann, Master-In-Equity

Lower Court Case No. 2018-CP-07-00793

Benny Hudson Seafood Corp., Respondent,

v.

Geraldine White and Craig White, Defendants,

of whom Geraldine White is the Appellant.

Appellate Case No. 2026-000660

RESPONDENT'S MOTION TO STRIKE THE RECORD ON APPEAL

Respondent Benny Hudson Seafood Corp. moves under Rules 210 and 240 of the South Carolina Appellate Court Rules to strike the Record on Appeal Appellant filed on September 23, 2026, and to require Appellant to file a corrected Record on Appeal. Rule 210(c), SCACR, requires the Record on Appeal to contain all matter designated by the parties. The Record filed by Appellant omits designated matter, skips 34 pages, and has an index that does not match its contents.

"[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." *Henning v. Kaye*, 307 S.C. 436, 415 S.E.2d 794, 794 (1992). "It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review." *Id*. Furthermore,

the "Appellant has the burden of providing this Court with a sufficient record upon which this Court can make its decision." *Germain v. Nichol*, 278 S.C. 508, 509, 299 S.E.2d 335, 335 (1983) (citing *Wilson v. American Casualty Co.*, 252 S.C. 393, 166 S.E. (2d) 797 (1969)). And "[b]ecause court rules require the appealing party to prepare the record on appeal, *see* Rule 210(a), SCACR, South Carolina courts have traditionally held the appealing party accountable for failing to present the court with an adequate record on appeal for review." *Johnson v. S.C. Dep't of Prob.*, 372 S.C. 279, 283, 641 S.E.2d 895, 897 (2007). These requirements apply regardless of whether the appellant is represented by counsel or appears pro se. *See e.g. State v. Burton*, 589 S.E.2d 6, 9, n. 5 (S.C. 2003) (dismissing appeal because appellant failed to preserve issue for appeal and explaining that "[a] pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law").

1. **The Record on Appeal filed by Appellant has the incorrect cover page, it is missing pages, and it fails to include matter designated by both parties.**

As an initial matter, the cover page of the Record on Appeal incorrectly names "John R.C. Bowen and Kori Brett McKeithan" as Respondents. The Record is also missing pages 156–189, so items 17, 18, and 19 of the Index cite to pages that are not included in the Record.

The Record also does not include matter designated by Respondent, and matter designated by Appellant. Respondent designated Appellant's Declaration in Support of Motion to Set Aside Entry of Default, filed October 30, 2018. (Respondent's DOM p. 1, par. 4). This document is not included in the Record on Appeal. The Record also jumps from page 155 to page 190. Based on the index's page references, the missing pages include the remainder of Appellant's 2019 Motion to Reinstate Appeal, all of Appellant's December 3, 2025 Motion to Set Aside or Vacate Default Judgment, and the body of Appellant's December 8, 2025 Amended Motion. Appellant designated

each of these documents. (Appellant's First DOM p. 3, pars. 16–17; Appellant's Second DOM p. 2, par. 13 and p. 3, pars. 16–17).

Appellant also designated "[a]ny response, memorandum, affidavit, exhibit, or argument filed by Benny Hudson Seafood Corp., John R.C. Bowen, or any other party in opposition to the December 2025 motions." (Appellant's First DOM p. 3, par. 18). However, only the seven-page memorandum filed by Respondent on January 12, 2026 appears in the Record on Appeal. (R. pp. 215–221). Its Exhibits 1–13—including Respondent's motion to dismiss or for summary judgment, Judge Mullen's November 24, 2025 order, and Judge Wegmann's December 3, 2025 order—are omitted, although Appellant designated the memorandum "with all attachments and exhibits." (Appellant's Second DOM p. 3, par. 18).

Appellant designated the transcripts of the August 21, 2018, January 14, 2019, and January 20, 2026 hearings. (Appellant's First DOM p. 2, par. 13 and p. 3, par. 20; Appellant's Second DOM p. 2, pars. 6, 11 and p. 3, par. 19). The Record on Appeal Index lists each as "Not available," and none are included. These transcripts, however, were available to Appellant if she ordered and paid for them.

Several other items Appellant designated are also missing. Appellant designated "all exhibits from the August 21, 2018 default-damages hearing" and any "estimate . . . or other material submitted to obtain the August 22, 2018 Order of Judgment." (Appellant's First DOM p. 2, pars. 13–14; Appellant's Second DOM p. 2, par. 6). She designated "the Court's November 21, 2019 letter." (Appellant's Second DOM p. 2, par. 13). She designated any "[j]udgment roll, book-of-abstracts entry, electronic index entry, case-action entry, clerk certificate, or other record purporting to show entry and indexing of the August 22, 2018 Order of Judgment," and "[a]ny judgment-roll or indexing material for the appellate cost order." (Appellant's First DOM p. 3, pars.

22–23). She designated "[t]he December 3, 2025 Order on Pending Motions in Case No. 2018-CP-07-00804" and "[a]ny order, pleading, or exhibit from Case No. 2025-CP-07-00718 that the lower court referenced, relied upon, or considered." (Appellant's First DOM p. 4, pars. 32–33). And she designated the "[d]ocket sheets, case-action reports, and register-of-actions entries" for this case and both related cases. (Appellant's First DOM p. 4, par. 34). None of these are included in the Record on Appeal.

2. The mistakes in the Record on Appeal prevent Respondent from being able to file its Final Brief in compliance with Rule 211, SCACR because several items cited to in Respondent's Initial Brief are not included in the Record on Appeal.

Respondent's initial brief cites several documents that do not appear in the Record. Unless the Record is corrected, these citations cannot be converted to Record citations in Respondent's final brief. The brief cites Appellant's Declaration in Support of Motion to Set Aside Entry of Default, filed October 30, 2018. (RIB p. 3). It cites Judge Wegmann's December 3, 2025 Order on Pending Motions in Case No. 2018-CP-07-00804. (RIB pp. 4–5). It also cites Judge Mullen's November 24, 2025 order in Case No. 2025-CP-07-00718. (RIB pp. 5, 14, 17).

The brief also cites Appellant's December 3, 2025 Motion to Set Aside or Vacate Default Judgment and the transcript of the January 20, 2026 hearing. (RIB p. 6). And it cites Appellant's December 8, 2025 Amended Motion to show what Appellant did and did not raise below. (Resp't Initial Br. pp. 6, 12, 15–16). Several of these citations are the only support for the statements they follow, including Respondent's issue-preservation arguments. Without a corrected Record, Respondent cannot file its Final Brief.

CONCLUSION

Respondent respectfully requests this Court to strike the Record on Appeal filed September 23, 2026, order Appellant to serve and file, a corrected Record on Appeal and suspend the time for serving and filing the final briefs until the corrected Record is filed.

Respectfully submitted,

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This 1st day of October 2026.

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Appellate Case No. 2026-000660

PROOF OF SERVICE

Pursuant to Rule 262(c)(2), SCACR, undersigned counsel hereby certifies that a true copy of the motion to strike the record on appeal in the above-referenced case has been served upon Geraldine White, by depositing it in the US Mail with sufficient postage attached addressed to 141 Lamotte Drive, Apt. A3, Hilton Head Island, SC 29926, on October 1, 2026.

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