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Oct 19 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No.: 2026-000050

Dianne Cromwell as the Guardian Ad Litem for AY,
a minor under the age of Fourteen,Appellant,

v.

The Oaks Horizontal Property Regime, Inc., and
Diamond Management, Inc., Respondents.

**MOTION TO AMEND APPELLANT'S DESIGNATION OF
MATTER AND TO STAY THE DEADLINE TO SERVE
THE RECORD ON APPEAL**

Appellant Dianne Cromwell, as Guardian ad Litem for A.Y. ("Appellant"), by and through her undersigned counsel and pursuant to Rules 209, 210, and 240, SCACR, respectfully moves the Court for leave to amend her Designation of Matter to be Included in the Record on Appeal to include pages 92, 412, and 413 of the transcript of the trial of this action held on June 25 and 26, 2025, and to stay the deadline for service of the Record on Appeal until the Court has ruled on this motion and the Record on Appeal can be supplemented to include those pages.

In support of this motion, Appellant states as follows:

1. Appellant served her Initial Brief and her Designation of Matter to be Included in the Record on Appeal on June 29, 2026. Respondents served their Brief and their Designation of Matter on August 28, 2026. Appellant served her Reply Brief, together with a Supplemental Designation of Matter, on September 17, 2026.

2. Together, the parties' designations include specified pages of the trial transcript dated June 25 and 26, 2025, the transcript of the videotaped deposition of Brendan E. Smith, M.D., the transcript of the October 31, 2025 hearing on Plaintiff's Motion for a New Trial, and the orders, pleadings, trial exhibits, motions, and other materials identified in the designations.

3. While preparing the Record on Appeal and confirming that every citation in the parties' briefs is to designated matter, Appellant discovered that her Reply Brief cites pages 92, 412, and 413 of the trial transcript, and that those pages were inadvertently omitted from Appellant's designations and, consequently, from the matter designated for inclusion in the Record on Appeal.

4. Page 92 of the trial transcript contains the circuit court's preliminary instruction, given before opening statements, that what the attorneys say in their opening statements is not evidence and that the evidence comes from the witness stand. Pages 412 and 413 contain the portion of the circuit court's jury charge addressing the jury's evaluation of the credibility of witnesses. Copies of the omitted pages are attached as Exhibit A.

5. The omitted pages are part of the verbatim transcript of the trial before the circuit court and are therefore matter presented to the lower court within the

meaning of Rule 210(c), SCACR. Appellant does not seek to add any matter that was not before the circuit court.

6. The omitted pages are relevant to this appeal. Appellant cites them in her Reply Brief in response to contentions raised in the Brief of Respondents, and their inclusion will allow the Court to review in the Record on Appeal each portion of the transcript on which the parties rely. Appellant certifies that the additional pages contain no matter which is irrelevant to this appeal.

7. Counsel for Appellant conferred with counsel for Respondents regarding the omission on October 19, 2026.

8. The Record on Appeal has otherwise been prepared and is ready for service. So that the Record on Appeal served and filed in this matter contains all matter cited in the parties' briefs, and to avoid the service and filing of a separate supplemental record, Appellant requests that the deadline for service of the Record on Appeal be stayed while this motion is pending, and that Appellant be permitted to serve the Record on Appeal, including the omitted pages, within ten (10) days after the date of the Court's order granting this motion, with all subsequent appellate deadlines thereafter proceeding as provided by the South Carolina Appellate Court Rules or as otherwise directed by the Court.

9. The requested relief is sought in good faith and not for purposes of delay. Because Respondents consent, the omitted pages are limited to three pages of a transcript already in the parties' possession, and the Record on Appeal is otherwise complete, no party will be prejudiced by the requested amendment and stay.

WHEREFORE, Appellant Dianne Cromwell, as Guardian ad Litem for A.Y., respectfully requests that the Court grant this motion; permit Appellant to amend her Designation of Matter to be Included in the Record on Appeal to include pages 92, 412, and 413 of the June 25 and 26, 2025 trial transcript; permit the Record on Appeal to include those pages; stay the deadline for service of the Record on Appeal while this motion is pending; and permit Appellant to serve the Record on Appeal within ten (10) days after the date of the Court's order, with all subsequent appellate deadlines thereafter proceeding as provided by the South Carolina Appellate Court Rules or as otherwise directed by the Court.

Respectfully submitted,

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ATTORNEYS FOR APPELLANT

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Hampton, South Carolina

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PROOF OF SERVICE

I hereby certify that on this date, the foregoing Motion to Amend Appellant's Designation of Matter and to Stay the Deadline to Serve the Record on Appeal, together with Exhibit A thereto, was served on counsel of record for Respondents via email, as follows:

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Isabella H. Hagan, Esquire
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Attorneys for Respondents

I further certify that all parties required by rule to be served have been served.

Respectfully submitted,

PARKER LAW GROUP, LLP

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October 19, 2026

Hampton, South Carolina

EXHIBIT A

Trial Transcript, June 25 and 26, 2025

Pages 92, 412, and 413

1 need it, but, again, if you would like them,
2 then, of course, you can simply ask me for them
3 and we will provide them for you, all right?

4 Ladies and gentlemen, in just a moment
5 both of the attorneys are gonna make what are
6 called opening statements, and I want you to
7 understand that what these attorneys tell you
8 in their opening statements is not evidence in
9 this case. Again, it's just the lawyers
10 contention as to what they believe the evidence
11 is going to show. I'll remind you that the
12 evidence comes from the witness stand right
13 here, as well as any other exhibits that are
14 entered into the trial of this case, all right?
15 So in order to preserve everyone's rights, any
16 exceptions or additions from the Plaintiff?

17 MR. PARKER: None, Your Honor.

18 THE COURT: From the defense?

19 MR. MCNAIR: No, Your Honor.

20 THE COURT: Ladies and gentlemen,
21 we're gonna go ahead and begin the trial of
22 this case. If you'll give Mr. Parker your
23 attention.

24 MR. PARKER: Thank you, Your Honor.

25 **OPENING STATEMENT**

1 Incorporated. In bringing this lawsuit the
2 Plaintiff claims the Defendant should
3 compensate him for injuries or damages. Now,
4 under our Constitution and Code of Laws, you,
5 the jury, make the findings of fact in this
6 case. I'm not permitted to tell you how I feel
7 about the evidence, which has been presented,
8 and throughout this trial I have intended to be
9 fair and impartial to both parties. Now, to
10 determine the facts in this case, you'll have
11 to evaluate the credibility of the witnesses
12 who have testified in this case, and
13 credibility simply means believability. It
14 becomes your duty, as jurors, to evaluate the
15 evidence, and determine which evidence
16 convinces you of its truth. In determining the
17 believability of witnesses who have testified
18 in this case, you may believe one witness over
19 several witnesses, or several witnesses over
20 one witness. You may believe a part of the
21 testimony of a witness and reject the remaining
22 part of the testimony of that same witness.
23 You may believe the testimony of a witness in
24 its entirety or reject the testimony of a
25 witness in its entirety. And you may consider

1 whether the witness has an interest in the
 2 result of the trial, whether the witness is
 3 prejudiced towards either the Plaintiff or the
 4 Defendants, and you can look at the opportunity
 5 that the witnesses had to have seen the matters
 6 and things about which the witness may testify,
 7 and you can also look at the way the witness
 8 acts on the witness stand. You do not
 9 determine the truth merely by counting the
 10 number of witnesses presented by each side.
 11 And throughout this case, you had but one
 12 objective, and that is to seek the truth
 13 regardless of its source.

14 Now, the same Constitution and laws
 15 which designate and make you the finder of
 16 facts, makes me the instructor of the law. You
 17 must accept the law as I give it to you. If
 18 I'm wrong, there's another place and time for
 19 that error to be considered, and if necessary,
 20 corrected, but for now you must accept the law
 21 as I give it to you. This means that you
 22 should not be concerned with what you may think
 23 the law should be, but only with what I charge
 24 you the law is.

25 Now, the burden of proof in this case