

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM RICHLAND COUNTY

COURT OF COMMON PLEAS

Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

Charles Taylor,

v.

Thomas Davis and State Farm
Mutual Automobile Insurance Company,

Appellant,

Respondents.

MOTION BY RESPONDENT STATE FARM TO STRIKE APPELLANT'S 3RD
AMENDED RECORD ON APPEAL, MOTION TO DISMISS APPEAL

AND/OR

MOTION TO PERMIT RESPONDENT
STATE FARM TO AMEND/SUPPLEMENT CONTENT OF ITS FINAL BRIEF

Respondent State Farm Mutual Automobile Insurance Company (hereinafter State Farm) respectfully moves for Order striking Appellant's 3rd Amended Record on Appeal of July 7, 2014 received by this Respondent on July 11, 2014. The undersigned submits that Appellant's 3rd Amended Record on Appeal fails to comply with this Court's Order filed June 9, 2014 in that it contains matter which does not appear in Appellant's "initial designation of matter" filed November

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SC Court of Appeals


19, 2012. In its recent Order this Court directed that Appellant's amended initial brief, amended designations of matter and second amended record on appeal be stricken as improperly filed. The Court's Order specifically limited Appellant's third amended record on appeal to matter contained in Appellant's "initial designations." Appellant's initial designation of matter which were filed November 19, 2012 contained eight (8) items with a total of eighteen (18) pages. By comparison Appellant's purported 3rd amended Record on Appeal contains additional items and a total of ninety-five (95) pages. The Order of June 9, 2014 advised and warned Appellant that his failure to comply with the Order in preparing the record may result in the dismissal of this appeal. Respondent State Farm urges the Court to dismiss the appeal based upon Appellant's non-compliance with the Court's Order, his pattern of improper filings and his failure to follow the South Carolina Appellate Court Rules.

Alternatively, should the Court determine Appellant's 3rd Amended Record on Appeal to be proper and in conformity with its Order, Respondent State Farm hereby moves for an Order allowing the contents of its Final Brief to contain argument and other material not contained in its initial briefs notwithstanding Rule 211 (b) SCACR. Since the filing of Respondent's initial briefs Appellant has prematurely and/or improperly filed three (3) purported Records on Appeal, and multiple briefs which have been stricken by the Court. Appellant has now filed a 3rd amended record on appeal which fails to comply with the Court's Order. Appellant's continuous, improper and untimely filings have created a confusing and unclear record which have necessitated the filing of numerous motions by Respondent State Farm which should have been unnecessary thereby creating additional time, costs and expense to Respondent State Farm. Appellant's purported 3rd Amended Record on Appeal contains matter which was not in the record on appeal at the time Respondent State Farm was required to file its initial briefs. Accordingly, Respondent State Farm submits that good cause exists

to allow the contents of its Final Brief to include additional matter and argument which are not limited under the terms of Rule 211 (b) SCACR. Respondent State Farm respectfully requests that if the Court allows Appellant's 3rd Amended Record on appeal to stand, the Court should grant State Farm an extension of time to file its Final Brief and to allow its final brief to contain new and additional content necessary to fairly and completely respond to Appellant's latest record on appeal.

Respectfully submitted,

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MILLER AND LYBRAND, L.L.P.
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BY: 
JAMES B. LYBRAND, JR.
Attorneys for Respondent State Farm
Mutual Automobile Insurance Company

Columbia, South Carolina

July 22, 2014

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Motion by Respondent State Farm to Strike Appellant's 3rd Amended Record on Appeal, Motion to Dismiss Appeal and/or Motion to Permit Respondent State Farm to Amend/Supplement Content of its Final Brief Dated July 22, 2014 was served upon the following by depositing said papers in the United States Mail, Columbia, South Carolina, on the 22nd day of July, 2014 with the first class postage duly affixed and a return address clearly indicated on the envelope, addressed as follows:

Charles Taylor
P. O. Box 3652
Sumter, SC 29151

Thomas Davis
P. O. Box 773
Manning, SC 29102



Bernadette Gebhardt
Legal Assistant to James B. Lybrand, Jr.

Columbia, South Carolina
July 22, 2014

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July 22, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Re: Charles Taylor, Appellant vs. Thomas Davis and State Farm Mutual
Automobile Insurance Company, Respondents
Appellate Case No: 2012-212896

Dear Ms. Kitchings:

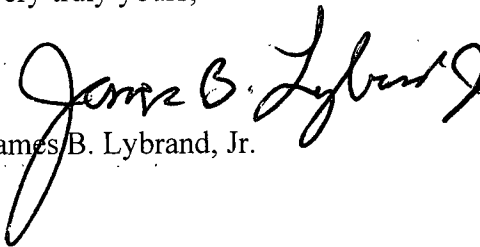
I enclose for filing an original and six copies of Respondent State Farm's Motion to Strike Appellant's Purported 3rd Amended Record on Appeal/Motion to Dismiss and Motion for Extension of time. I am also enclosing our filing fee.

By copy of this letter to Appellant and Respondent Thomas Davis, I am enclosing and serving upon them a copy of the matters identified above.

Should you require anything further, please let me know.

With kindest regards, I am

Very truly yours,


James B. Lybrand, Jr.

JBLjr/bg
Enclosure

cc: Charles Taylor
Thomas Davis

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