

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Eugene C. Griffith, Circuit Court Judge

Appellate Case No. 2014-000194

Evalena Catoe, individually and as  
Personal Representative of the Estate  
of Richard L. Catoe, Jr., deceased,

Appellant,

**RECEIVED**

AUG 13 2014

v.

The City of Columbia and Leon Lott,  
in his official capacity as Sheriff of  
Richland County,

Defendants,

**SC Court of Appeals**

Of whom Leon Lott, in his official  
capacity as Sheriff of Richland County, is

Respondent

**RETURN TO MOTION TO STRIKE MATERIALS  
DESIGNATED FOR INCLUSION IN THE RECORD ON APPEAL AND  
REQUEST FOR LEAVE TO REVISE, AMEND, AND CORRECT  
THE INITIAL BRIEF OF APPELLANT**

**I. RETURN TO MOTION TO STRIKE:**

Respondent moves to strike various materials which were designated by Appellant for inclusion in the Record on Appeal. Counsel for Appellant had mistakenly believed that the depositions and SLED investigative report with attachments were included in the trial court record. However, Counsel has reviewed the materials in the trial court record and agrees that materials designated by Appellant were not filed with the Circuit Court. Therefore, materials were mistakenly and improperly designated for inclusion in the Record on Appeal by Appellant. Accordingly, Appellant agrees to revise and amend her designation and to strike the improper materials from her Designation of Matter to be Included in the Record on Appeal.

Counsel for Appellant respectfully seeks leave to supplement the Designation to separately designate the affidavit of Jon Britton Blum which was submitted before the Circuit Court. Counsel for Appellant had originally believed that Mr. Blum's affidavit was attached to and included along with the Richland County Policies and Procedures for the use of force. However, upon review of the Court's file, the affidavit was submitted, but it was not attached to and not included with the Richland County Policies and Procedures. Therefore, Counsel for Appellant seeks leave to designate for inclusion in the Record only the affidavit and documents which were attached. The Richland County Policies and Procedures themselves will be omitted because not filed with the Circuit Court.

Appellant would propose designating for inclusion in the Record on Appeal only the following materials:

1. Order of Judge Griffith dated 1/9/2014;
2. Transcript of Circuit Court Hearing dated 11/13/2013;
3. Transcript of the Deposition of Chief Harold Dean Crisp, pages 1,48-50, and 71;
4. Transcript of the Deposition of Stephen Dauway, pages 1,41-45, and 53;
5. Transcript of the Deposition of Thomas Dodson, pages 1, 38, 40-41, 54, 56-58; and 68-69;
6. Transcript of the Deposition of Christopher Roberts, pages 1,30,35-37,44, and 54;
7. Transcript of the Deposition of Christopher White, pages 1, 29-30, 39-40, and 44-45;
8. Transcript of Deposition of Kelleye E. Hendrick, pages 38; 40; 41; 42; 43; 55; 56; 57;
9. Typed Statement of Kelleye E. Hendrick;
10. Written Statement of Ruben R. Huertabo, attached to the Affidavit of Ruben R. Hurtado (filed October 19, 2011);
11. Affidavit of Jon Britton Blum with attachments.

## **II. REQUEST FOR LEAVE TO REVISE, AMEND, AND CORRECT THE INITIAL BRIEF OF APPELLANT**

In light of Appellant's agreement to correct and revise Appellant's designation, Appellant's Initial Brief improperly includes several references to testimony and statements which were not included in the record before the trial judge. Therefore, Appellant respectfully

seeks leave of the Court to revise, amend, and correct her Initial Brief to conform to the revised and corrected Designation. Counsel for Appellant proposes removing or revising the brief's references to testimony and evidence so that only references to materials presented in the Circuit Court are included.

Respectfully submitted,

August 11, 2014

A handwritten signature in black ink, appearing to read "Pamela R. Mullis", is written over a horizontal line.

Pamela R. Mullis  
MULLIS LAW FIRM  
P.O. Box 7757  
Columbia, SC 29202  
(803) 799-9577  
Attorney for Appellant

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Of whom Leon Lott, in his official  
capacity as Sheriff of Richland County, is

Respondent.

**CERTIFICATE OF SERVICE**

I, the undersigned, attorney of the MULLIS LAW FIRM do hereby certify that I have served Appellant's Return to Motion to Strike Materials Designated for Inclusion in the Record on Appeal and Request for Leave to Revise, Amend and Correct the Initial Brief of Appellant this 11th day of August, 2014, by regular U.S. mail, with proper postage affixed, addressed to the following:

Robert D. Garfield, Esquire  
DAVIDSON & LINDEMANN, P.A.  
P.O. Box 8568  
Columbia, SC 29202  
Attorney for Respondent



Pamela R. Mullis  
MULLIS LAW FIRM  
P.O. Box 7757  
Columbia, SC 29202

**COUNSEL FOR APPELLANT**

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Respectfully submitted,

August 11, 2014

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Pamela R. Mullis  
MULLIS LAW FIRM  
P.O. Box 7757  
Columbia, SC 29202  
(803) 799-9577  
Attorney for Appellant

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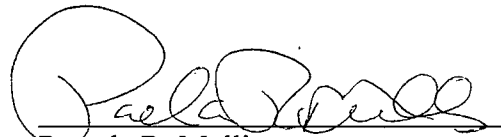
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DAVIDSON & LINDEMANN, P.A.  
P.O. Box 8568  
Columbia, SC 29202  
Attorney for Respondent



Pamela R. Mullis  
MULLIS LAW FIRM  
P.O. Box 7757  
Columbia, SC 29202

**COUNSEL FOR APPELLANT**

# MULLIS LAW FIRM

1229 ELMWOOD AVENUE  
THE HALTIWANGER HOUSE  
P.O. Box 7757  
COLUMBIA, SOUTH CAROLINA 29202-7757  
Office (803) 799-9577 • Fax (803) 254-8956

PAMELA R. MULLIS  
ATTORNEY AT LAW

J. MARVIN MULLIS, JR.  
1940 - 2012

August 11, 2014

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

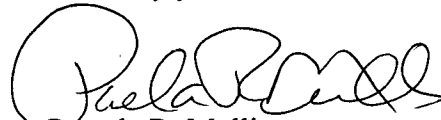
RE: Evalena Catoe, individually and as Personal Representative of the Estate  
of Richard L. Catoe, Jr., deceased v. The City of Columbia and Leon Lott,  
in his official capacity as Sheriff of Richland County  
Case No 2014-000194

Dear Ms. Kitchings:

Please find enclosed for filing the original and six copies of Appellant's Return to  
Motion to Strike Materials Designated for Inclusion in the Record on Appeal and Request  
for Leave to Revise, Amend and Correct the Initial Brief of Appellant.

By copy of this letter, I am serving all counsel of record.

Sincerely yours,

  
Pamela R. Mullis

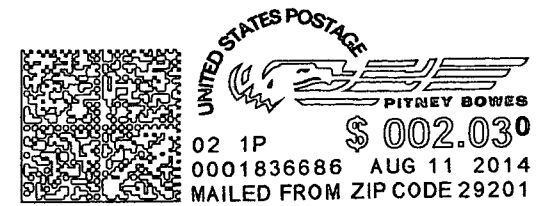
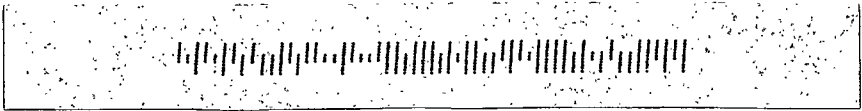
PRM/etk  
Enclosures

cc: Robert D. Garfield, Esquire

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P.O. BOX 7757  
COLUMBIA, SOUTH CAROLINA 29202-7757

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The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211