

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM FAIRFIELD COUNTY
Court of Common Pleas

AUG 19 2014

The Honorable R. Knox McMahon, Circuit Court Judge

SC Court of Appeals

Case No. 2012-CP-20-00316
Appellate Case No. 2014-001153

73274

Mary Wall Black,Plaintiff,

v.

BI-LO, LLC and Unifirst CorporationDefendants,

Of Which

BI-LO, LLC isAppellant

And Unifirst Corporation is.Respondent.

RESPONDENT UNIFIRST CORPORATION'S MOTION TO STRIKE

Gray T. Culbreath (S.C. Bar No. 11907)
Lindsay A. Joyner (S.C. Bar No. 77437)
GALLIVAN, WHITE & BOYD, P.A
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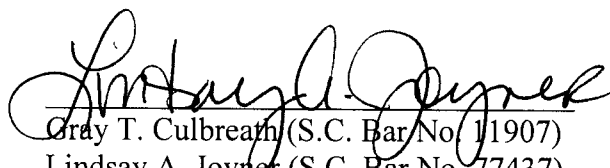
ATTORNEYS FOR RESPONDENT
UNIFIRST CORPORATION

Pursuant to Rule 210(c) of the South Carolina Appellate Court Rules (“SCACR”), Respondent Unifirst Corporation (“Unifirst”), by and through its undersigned counsel, moves to strike certain portions of Appellant’s Designation of Matter from the Record on Appeal. Rule 210 (c), SCACR, provides that “[t]he Record shall not, however, include matter which was not presented to the lower court or tribunal.”

Specifically, Unifirst moves to strike numbers 12, 13, and 14 from the Record on Appeal. These documents are not properly before this Court because they were never presented to the circuit court. The deposition transcript of Christopher Stone (Number 12 of Appellant’s Designation of Matter), which was not taken until after Appellant filed its Motion to Alter or Amend but before the circuit court ruled upon that Motion, was never presented to the circuit court. Additionally, the emails (Numbers 13 and 14 of Appellant’s Designation of Matter) were not presented to the circuit court in association with the instant action; instead, they were used as exhibits in Appellant’s Response to Unifirst’s Motion to Dismiss in a separate, yet similar action brought by Appellant between Appellant, on the one hand, and Unifirst, its insurer, and Mary Black, on the other hand. As evidenced by Appellant’s Memorandum in Opposition to Unifirst’s Motion for Summary Judgment and Motion to Alter or Amend, the only exhibits presented by Appellant to the circuit court in association with the motion being appealed here were the Textile Rental Service Agreement between Appellant and Unifirst and a deposition excerpt from the deposition of Mary Black.

Opposing counsel has been consulted regarding this matter, and they maintain their inclusion of the material. Accordingly, since these documents were never presented to the court below, Unifirst respectfully requests that they be stricken from inclusion in the Record on Appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lindsay A. Joyner". The signature is written in a cursive style with a large initial "L".

Gray T. Culbreath (S.C. Bar No. 11907)

Lindsay A. Joyner (S.C. Bar No. 77437)

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CORPORATION

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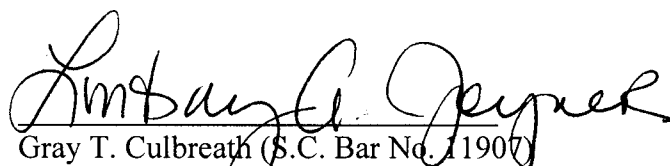
And Unifirst Corporation is also.Respondent.

PROOF OF SERVICE

I certify that on August 18, 2014, I served copies of Respondent Unifirst Corporation's Motion to Strike by United States mail, postage prepaid, addressed to:

Zack O. Atkinson
Speedy, Tanner and Atkinson, LLC
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Camden, SC 29020

Mark S. Barrow
Ryan C. Holt
Sweeny, Wingate & Barrow, P.A.
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ATTORNEYS FOR RESPONDENT
UNIFIRST CORPORATION



Gallivan, White & Boyd, P.A.
ATTORNEYS AT LAW

August 19, 2014

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VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29201

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AUG 19 2014

SC Court of Appeals

Re: Mary Wall Black v. Bi-Lo, LLC and UniFirst Corporation
Appellate Case No. 2014-001153
Case No.: 2014-cp-20-00011
GWB File No. 2-3182

Dear Ms. Kitchings:

Enclosed please find for filing the originals and one (1) copy of Respondent Unifirst Corporation's Motion to Strike in connection with the above listed matter. Please file the originals and return clocked-in copies of the same to me via the courier.

By copy of this letter, and as evidenced on the attached Proof of Service, I am serving counsel of record with the same.

If you have any questions, do not hesitate to contact me.

Sincerely,

Lindsay A. Joyner

Enclosures

cc: Zack O. Atkinson, Esq.
Mark S. Barrow, Esq.
Ryan C. Holt, Esq.