

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

Case No. 2014-002032

James W. Trexler,

Appellant,

v.

Richland County and the
Sheriff of Richland County, in
his official Capacity, a/k/a
Richland County Sheriff's
Department,

Respondents.

APPELLANT'S REPLY BRIEF

TABLE OF CONTENTS

Table of Authorities.....	1
Reply Regarding Respondent's Failure to Properly Cite to Matter Included in the Record on Appeal.....	2
Conclusion.....	3

TABLE OF AUTHORITIES

S.C. Appellate Court Rules

208(b)(4), SCACR.....	2
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**REPLY REGARDING RESPONDENT'S FAILURE TO PROPERLY CITE TO
MATTER INCLUDED IN THE RECORD ON APPEAL**

Respondent's Initial Brief does not comply with the applicable Rules of Appellate Procedure regarding how citations to the record are to be made in an initial brief. Rule 208(b)(4), SCACR states:

The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. References shall also be made to where relevant objections and rulings occurred in the transcript. In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. After the Record on Appeal is prepared, these references shall be revised as provided by Rule 211(b)(1).

Rule 208(b)(4), SCACR.

The Statement of Facts section of Respondent's Initial Brief contains factual assertions that are disputed by Appellant and contrary to the evidence of Record. Furthermore, Respondent's Statement of Facts in its Initial Brief only makes one purported citation to the record on appeal, and the remainder of their Initial Brief only contains eight additional purported citations to the Record on Appeal, but contrary to the above-quoted requirement of Rule 208(b)(4), Respondent has, throughout its Initial Brief, in all but one Record citation, simply cited to "(R.____)." This makes it somewhat difficult for Appellant to address Respondent's arguments by way of reply without having to determine to what Respondent is citing by the context of their brief. More importantly, however, despite asserting numerous purported facts in its Initial Brief, Respondent apparently only cites to two items of actual record evidence, the true bill indictments against Appellant and Appellant's driver's license, to support Respondent's argument that

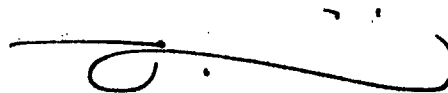
summary judgment was proper. The remaining citations in Respondent's brief are apparently to the trial court's orders (one of which Respondent drafted in its entirety) and to Respondent's motion for summary judgment on Appellant's malicious prosecution claim. Otherwise, Respondents fail to point to any evidence or material in the Record on Appeal that would support a grant of summary judgment on any of the issues.

The factual statements Respondent makes and improperly cites in its Initial Brief are in dispute and are either not supported or flatly contradicted by the evidence in the Record. Perhaps this is the reason Respondent fails to provide Record cites for the vast majority of its factual propositions it attempts to rely on to support the trial court's grant of summary judgment, ironically to which Respondent claims it is entitled as a matter of law.

Appellant has thoroughly briefed the true legal issues before the Court in his Initial Brief and will not rehash those arguments again here.

CONCLUSION

Respondent's improper and inaccurate factual assertions shed no light on any of the true issues in this appeal other than underscoring the material questions of fact that exist as to each issue before this Court, supporting Appellant's position that summary judgment was erroneously granted by the trial court.



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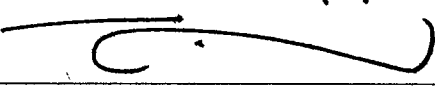
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PROOF OF SERVICE

I certify that I have served the enclosed Appellant's Reply Brief upon the Respondent, by depositing a copy in the United States Mail, postage prepaid, on April 16, 2015, addressed to Respondents' attorney of record, Robert D. Garfield, Davidson & Lindemann, P.A., P.O. Box 8568, Columbia, SC 29202-8568.


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April 16, 2015

VIA US MAIL

Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
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SC Court of Appeals

Re: *James W. Trexler v. Richland County (2014-002032)*


Dear Ms. Kitchings:

Please find enclosed the Appellant's Reply Brief in the above-referenced case, along with a Proof of Service.

I have copied Robert D. Garfield, Esquire with copies this letter and its enclosures for service of the same upon the Respondents.

Thank you for your attention to this matter. If you have any questions or concerns, please do not hesitate to contact me.

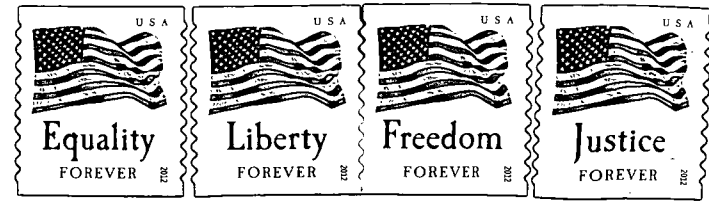
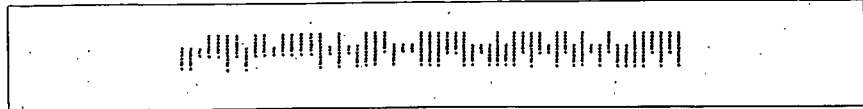
Very truly yours,



W. Westbrook Wills III

Enclosures

cc: Robert D. Garfield, Esq. (w/ enclosures)



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