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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Appeal From York County
Court of Common Pleas
S. Jackson Kimball, Special Circuit Court Judge

DEC 16 2015

SC Court of Appeals

Appellate Case No. 2015-000079

Nadine Brantley Appellant,

v.

The City of Rock Hill, South Carolina,
a body politic and subdivision of the
State of South Carolina, and Wherry
Construction Co., Inc.,

Of which the City of Rock Hill is Respondent.

MOTION TO REJECT APPELLANT'S RECORD ON APPEAL

Respondent City of Rock Hill ("Respondent") hereby moves this Court to reject the Record on Appeal submitted by Appellant Nadine Brantley ("Appellant") for its material failure to conform with the requirements of Rule 210, SCACR. To the extent Appellant is given an opportunity to cure the deficiencies, Respondent respectfully requests an extension of time to file a Final Brief that fairly correlates with the filing of a conforming Record by Appellant. Pursuant to Rule

240, SCACR, Respondent submits the following in support of its Motion.

On or about December 9, 2015 Appellant served upon the undersigned a proposed Record on Appeal (the "Proposed Record") in this matter. The Proposed Record fails to conform to the requirements of Rule 210, SCACR, in a number of material respects. Though not intended to be an exhaustive listing of deficiencies, Respondent specifically identifies the following.

First, the Proposed Record does not contain any of the matter designated by the City in its Designation of Matter to be Included in the Record on Appeal ("City Designation") properly served on September 9, 2015. Rule 210, SCACR, directs that "[t]he Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267."

Second, the Proposed Record is replete with improper highlighting, commentary and annotations which were not part of the record before the trial court nor generated by the trial court. For example, please see the Order for Summary Judgment (Proposed Record, pp. 28-34) which contains annotations which were not inserted by the Honorable S. Jackson Kimball. These improper annotations are confusing at best and misleading at worst.

Third, Appellant's Proposed Record loosely includes documents identified as "Exhibits" (Proposed Record, pp. 39-65) which have no identified grounding in the record that was before the trial court.

The Proposed Record has at least two additional deficiencies which from Respondent's perspective are less troublesome, but which nonetheless may cause inconvenience for the Court in its review of this matter: The documents are not organized, indexed and arranged in the order prescribed by Rule 210, SCACR, and the witness testimony included in the Proposed Record does not reflect the name of the witness, phase of examination and name of counsel conducting the examination as required under Rule 210, SCACR.

WHEREFORE, Respondent respectfully requests that the Court reject the Record on Appeal submitted by Appellant and in the event Appellant is given an opportunity to cure deficiencies, that Respondent's deadline to file its Final Brief be extended to a date that fairly correlates with the date a conforming Record is submitted by Appellant.

Respectfully Submitted,

SPENCER & SPENCER, P.A.

Date: December 15, 2015

By: 

W. Mark White

Jeremy D. Melville

226 East Main Street

P.O. Box 790

Rock Hill, SC 29731

Tel: (803)327-7191

Fax: (803)327-3868

ATTORNEYS FOR RESPONDENT

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PROOF OF SERVICE

I certify that the foregoing Motion to Reject Appellant's Record on Appeal has been served by depositing a copy thereof in the United States Mail, postage prepaid, on December 15, 2015, addressed to:

Nadine Brantley
9501 Greyson Ridge Drive
Charlotte, North Carolina 28277

SPENCER & SPENCER, P.A.

Date: December 15, 2015

By: 
Jeremy D. Melville
226 East Main Street
P.O. Box 790
Rock Hill, SC 29731

ATTORNEY FOR RESPONDENT

ORIGIN ID: MEOA (803) 327-7191
JEREMY MELVILLE
SPENCER & SPENCER, P.A.
226 EAST MAIN STREET
SUITE 200
ROCK HILL, SC 29730
UNITED STATES US

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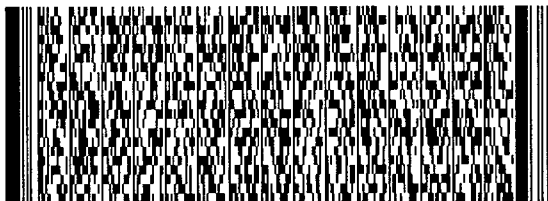
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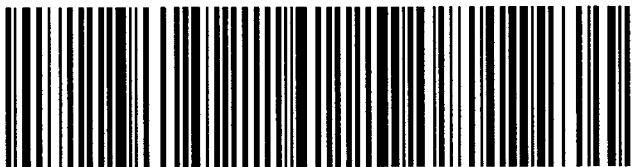
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