

79012

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM HORRY COUNTY
Court of Common Pleas

MAR 21 2016

Diane Schafer Goodstein, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2015-002095

Donna Jensen,Appellant,

v.

Matthew B. Wiseman and
Peoples Underwriters, Inc., Respondents.

**RESPONDENTS' MOTION TO STRIKE APPELLANT'S INITIAL BRIEF AND
EXTEND DEADLINE TO FILE RESPONDENTS' INITIAL BRIEF**

Susan Taylor Wall
Email: swall@mcnair.net
Henry W. Frampton, IV
Email: hframpton@mcnair.net
McNair Law Firm, P.A.
100 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 723-7831

*Attorneys for Respondents Matthew B.
Wiseman and Peoples Underwriters, Inc.*

Pursuant to Rule 240, SCACR, Respondents Matthew B. Wiseman and Peoples Underwriters, Inc. (“Respondents”) hereby move to strike Appellant Donna Jensen’s Initial Brief for failure to comply with Rule 208(b)(4), SCACR, and to extend Respondents’ deadline for filing their Initial Brief until 30 days after Appellant serves a brief that complies with the Rules. The grounds for this motion are as follows:

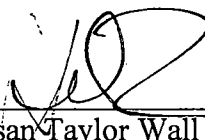
Under Rule 208(b)(4), SCACR, parties are required to include in their initial brief “references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal to support the salient facts alleged.” Rule 208(b)(4), SCACR. Those references must be made “to the page and line number of the transcript prepared by the court reporter or by page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231.”

In direct contravention of this Rule, Appellant’s Initial Brief contains no references to any specific materials that are included in the Record on Appeal. Indeed, Appellant rarely cites to the Record, instead setting forth fact after fact with no citation whatsoever. (*See, e.g.*, Appellant’s Br. pp. 2-5.) What is more, even when Appellant purports to cite to the Record, she cites only to the placeholder “(R.),” instead of citing to the actual material in the Record, such as a deposition transcript, discovery material, or hearing transcript. (*See* Appellant’s Initial Br. pp. 2-5, 7-13, 15.) This is impermissible, as it violates Rule 208(b)(4) and forces Respondents to guess at what material is being cited, which make the preparation of a response brief extraordinarily and unnecessarily difficult. Therefore, Appellant’s Initial Brief should be struck, and Appellant should be required to file a complaint brief within a very short period of time. Respondents’ deadline

to file their Initial Brief should not begin to run until Appellant files a brief that complies with the Rules.

WHEREFORE, Respondents respectfully request that Appellant's Initial Brief be struck, that Appellant be required to file an Initial Brief that complies with the Rules in short order, and that Respondents' deadline to file their Initial Brief run from the time that Appellant files a corrected brief that complies with the Rules.

Respectfully submitted,



Susan Taylor Wall
Email: swall@mcnair.net
Henry W. Frampton, IV
Email: hframpton@mcnair.net
MCNAIR LAW FIRM, P.A.
100 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 723-7831
Fax: (843) 722-3227

ATTORNEYS FOR RESPONDENTS
MATTHEW B. WISEMAN AND
PEOPLES UNDERWRITERS, INC.

March 16, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Appellate Case No. 2015-002095

Donna Jensen,Appellant,

v.

Matthew B. Wiseman and
Peoples Underwriters, Inc., Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on March 16, 2016, the foregoing **RESPONDENTS' MOTION TO STRIKE APPELLANT'S INITIAL BRIEF AND EXTEND DEADLINE TO FILE RESPONDENTS' INITIAL BRIEF** was served on all counsel of record via U.S. Mail, addressed as follows:

Thomas C. Brittain, Esq.
Mary Madison Brittain Langway, Esq.
The Brittain Law Firm, P.A.
4614 Oleander Drive
Myrtle Beach, SC 29577

George M. Hearn, Esq.
Hearn & Hearn, P.A.
1411 First Avenue
Conway, SC 29526

Attorneys for Appellant

Joselyn Harvey

MCNAIR LAW FIRM, P.A.

100 Calhoun Street, Suite 400

Charleston, South Carolina 29401

(843) 723-7831

MCNAIR
ATTORNEYS

March 16, 2016

RECEIVED

Henry W. Frampton, IV

MAR 21 2016

hframpton@mcnair.net

T 843.973.6852
F 843.722.3227

SC Court of Appeals

Via U.S. Mail

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

Re: *Donna Jensen vs. Matthew B. Wiseman and Peoples Underwriters, Inc.*
Appellate Case No.: 2015-002095

Dear Ms. Kitchings:

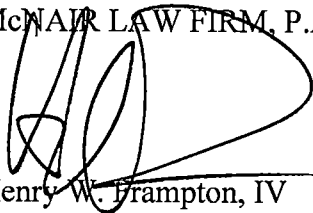
Enclosed for filing, please find the original and seven copies of Respondents' Motion to Strike Appellant's Initial Brief and Extend Deadline to File Respondents' Initial Brief. I have also enclosed my office check in the amount of \$25.00 to cover the filing fee. Please file these documents and return a stamp-filed copy to me in the enclosed self-addressed stamped envelope.

By copy of this letter, I have provided all counsel of record with a copy of the same.

If you have any questions, please do not hesitate to call my office. Thank you and with kind regards, I am

Very truly yours,

McNAIR LAW FIRM, P.A.



Henry W. Frampton, IV

HWF:jsh
Enclosures

cc: Thomas C. Brittain, Esq. (*w/enclosures, via U.S. Mail*)
George M. Hearn, Esq. (*w/enclosures, via U.S. Mail*)
Susan Taylor Wall, Esq.

McNAIR LAW FIRM, P.A.
100 Calhoun Street, Suite 400
Charleston, SC 29401

Mailing Address
Post Office Box 1431
Charleston, SC 29402

mcnair.net

PITNEY BOWES
02 1P \$ 002.52
0003181260 MAR 16 2016
MAILED FROM ZIP CODE 29401

M C N A I R
ATTORNEYS

Post Office Box 1431
Charleston, South Carolina 29402

HWF
047874-00004

RECEIVED

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

MAR 21 2016
SC Court of Appeals

