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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM S.C. WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2016-000790

Ann Stevenson, Claimant,

Appellant,

v.

Wal-Mart Stores, Inc., Employer, and  
New Hampshire Insurance Co., Carrier,

Respondents.

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DEC 30 2016  
SC Court of Appeals

RESPONDENTS' MOTION OBJECTING TO MATERIALS IMPROPERLY INCLUDED IN  
APPELLANT'S DESIGNATION OF MATTER AND MOTION TO STRIKE MATERIALS IN  
VIOLATION OF SCACR 209 AND 210 FROM APPELLANT'S DESIGNATION

Respondents hereby move before this Court for an order striking materials which were improperly included in Appellant's Designation of Matter. In this regard, the Respondents respectfully assert:

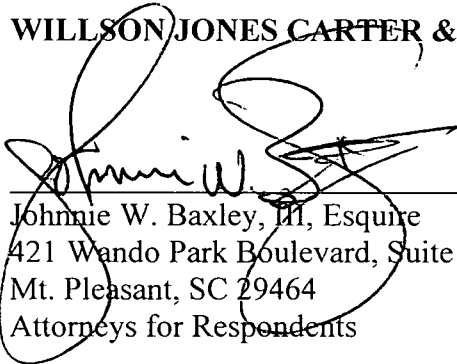
1. South Carolina Appellate Court Rule 209(b) states that the Designation may only proposed to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal. South Carolina Appellate Court Rule 210(c) states that the Record shall not include matter which was not presented to the lower court or tribunal.
2. The Appellant has included numerous documents, materials, and other matter in her Designation of Matter which may not properly be included in the Record on Appeal, and the Respondents move for an order striking these materials from Appellant's Designation.
3. Due to the sheer number of materials that Appellant has listed in her Designation of Matter, the

Respondents have attached as Exhibit A to this Motion a chart listing by number each matter listed by Appellant, whether there are any objections by Respondents, and the legal basis for said objections. Exhibit A is incorporated herein as if specifically set forth in the Motion.

4. For the reasons set forth above, and the reasons specifically set forth in Exhibit A, the respondents request that all objectionable materials and matters included in Appellant's Designation of Matter be stricken from Appellant's Designation so that said materials are not included in the Record on Appeal.

Respectfully submitted,

**WILLSON JONES CARTER & BAXLEY, P.A.**



Johnnie W. Baxley, III, Esquire  
421 Wando Park Boulevard, Suite 100  
Mt. Pleasant, SC 29464  
Attorneys for Respondents

Date: December 28, 2016

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EXHIBIT A

SC Court of Appeals

Appellant's Designation Number	Objection?	Legal Basis for Objection
1	No	No objection
2	Yes	This Order is not on appeal
3	Yes	There is no objection to the order of Commissioner Campbell dated 10/13/15 but there is an objection to the request for proposed order - this document is not an official document of the Commission nor is it under appeal
4	No	No objection
5	No	No objection
6	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
7	No	No objection to deposition of Dr. Merritt or the attached pictures
8	Yes	SC Code of Laws not properly part of Record; SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
9	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission; this subpoena was just found by the Commission to be null and void as the Commission is without jurisdiction to issue any subpoenas or endorse any discovery since the claim is on appeal
10	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
11	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; also, this document is not relevant to the issues on appeal
12	No	No objection
13	Yes	The Order stemming from this hearing is not on appeal; the Commission reversed that order, a new hearing was held, and the new order is the Order that is now under appeal
14	No	No objection - these documents were properly submitted at the hearing before the Commission
15	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission (the only emails that were submitted before the Commission were Claimant's Exhibit 1 pages 1-5 which was an email chain between the Appellant and the adjuster from 3/14/13 - 3/16/13)
16	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission (the only emails that were submitted before the Commission were

		Claimant's Exhibit 1 pages 1-5 which was an email chain between the Appellant and the adjuster from 3/14/13 – 3/16/13)
17	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission (the only emails that were submitted before the Commission were Claimant's Exhibit 1 pages 1-5 which was an email chain between the Appellant and the adjuster from 3/14/13 – 3/16/13)
18	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission (the only emails that were submitted before the Commission were Claimant's Exhibit 1 pages 1-5 which was an email chain between the Appellant and the adjuster from 3/14/13 – 3/16/13)
19	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission (the only emails that were submitted before the Commission were Claimant's Exhibit 1 pages 1-5 which was an email chain between the Appellant and the adjuster from 3/14/13 – 3/16/13)
20	No	No objection
21	Yes	No objection to Defendants' APA pp 1-90; objection to missing page FCE and other missing pages identified by Appellant – SCACR 210- those documents were not submitted into evidence before the Commission
22	No	No objection - these documents are part of Defendants' APA (pp 40-55)
23	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission (the only emails that were submitted before the Commission were Claimant's Exhibit 1 pages 1-5 which was an email chain between the Appellant and the adjuster from 3/14/13 – 3/16/13)
24	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; this document was generated by the Appellant after the hearing before the Commission and was never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence
25	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; this document was generated by the Appellant after the hearing before the Commission and was never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence
26	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; this

		document was generated by the Appellant after the hearing before the Commission and was never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence
27	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; this document was generated by the Appellant after the hearing before the Commission and was never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence
28	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; this document was generated by the Appellant after the hearing before the Commission and was never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence
29	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; this document was generated by the Appellant after the hearing before the Commission and was never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence
30	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission
31	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
32	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission; the exception to this objection is that there were five pictures from the video that were properly submitted into the record as exhibits to the deposition of Dr. Merritt (see #7 above)
33	Yes	SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
34	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission; these documents were generated by the Appellant after the hearing and appeal before the Commission and were never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence; these documents were published by Appellant for the first time in her various Motions before the Court of Appeals
35	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission; these documents were generated by the Appellant after the hearing and appeal before the Commission and were never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence; these

		documents were published by Appellant for the first time in her various Motions before the Court of Appeals
36	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission; these documents were generated by the Appellant after the hearing and appeal before the Commission and were never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence; these documents were published by Appellant for the first time in her various Motions before the Court of Appeals
37	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission; these documents were generated by the Appellant after the hearing and appeal before the Commission and were never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence; these documents were published by Appellant for the first time in her various Motions before the Court of Appeals
38	Yes	SCACR 210 - these documents were not submitted into evidence at the hearing before the Commission; these documents were generated by the Appellant after the hearing and appeal before the Commission and were never submitted to the Commission at the hearing or on appeal with a Motion for Newly Discovered Evidence; these documents were published by Appellant for the first time in her various Motions before the Court of Appeals
39	No	This is part of Defendants' APA p84
40	No	This is part of Defendants' APA p33
41	Yes	SC Rules of Professional Conduct not properly part of Record; SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
42	Yes	SC Code of Laws Title 40 not properly part of Record; SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
43	Yes	North Carolina Medical Board Position Statement not properly part of record; SCACR 210 - this document was not submitted into evidence at the hearing before the Commission
44	Yes	The entire Workers Compensation Act and supporting Regulations are not properly part of the Record; SCACR 210 - this body of law was not submitted into evidence at the hearing before the Commission

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CERTIFICATE OF SERVICE

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I, Sylvia J. Hoff, do hereby certify that I am the Paralegal for Johnnie W. Baxley, III, Esquire, attorney for the Defendants with **WILLSON JONES CARTER & BAXLEY, P.A.** in Mt. Pleasant, South Carolina, and that on December 28, 2016, I mailed the foregoing Motion Objecting to Materials Improperly Included in Appellant's Designation of Matter to the following by placing a copy thereof in the United States mail, first class, proper postage affixed thereto:

Ann Stevenson  
2261 Greenleaf Dr.  
Conway, SC 29526

Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211



Sylvia J. Hoff

Paralegal to Johnnie W. Baxley, III, Esquire  
**WILLSON JONES CARTER & BAXLEY, P.A.**  
421 Wando Park Boulevard, Suite 100  
Mount Pleasant, SC 29464

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# WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

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www.wjcbllaw.net

December 28, 2016

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SC Court of Appeals

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

Re: Ann Stevenson vs. Wal-Mart Stores, Inc. & New Hampshire Insurance Co.  
**Appellate Case No.: 2016-00790**  
WJC&B File No.: 0170.02572

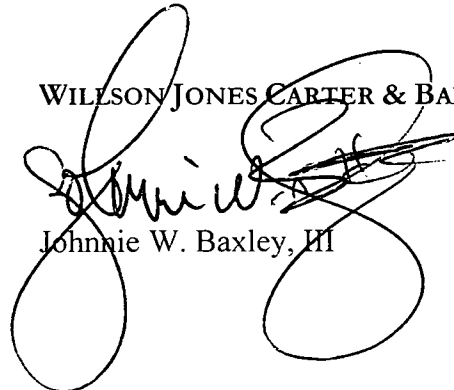
Dear Ms. Kitchings:

Please find enclosed the following documents for filing in regards to the above-referenced case.

1. One copy of the Initial Brief of Respondents with Certificate of Service;
2. One copy of the Designation of Matter to be Included in the Record on Appeal with Certificate of Service;
3. An original and six copies of Respondents' Motion Objecting to Materials Improperly Included in Appellant's Designation of Matter and Motion to Strike Materials in Violation of SCACR 209 and 210 from Appellant's Designation with Certificate of Service.
4. Filing fee of \$25.00 for the Motion.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



Johnnie W. Baxley, III

JWB/hsh

Enclosures

cc: Ann Stevenson  
Barbara Cowan (via e-mail)