

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Case No. 2013-CP-10-3901  
Appellate Case No. 2016-001842

**RECEIVED**

APR 07 2017

**SC Court of Appeals**

Charleston Electrical Services, Inc., and Selective  
Insurance Company of South Carolina, as subrogee  
of Charleston Electrical Services, Inc..... Appellants,

v.

Wanda G. Rahall, .....Respondent.

**RESPONDENT’S MOTION TO STRIKE  
DESIGNATIONS NO. 4 AND NO. 7 FROM  
APPELLANTS’ DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL  
AND EXCLUDED FROM THE RECORD ON APPEAL**

Respondent, Wanda G. Rahall (hereinafter referred to as “Respondent”), by and through her undersigned counsel, hereby moves before this Honorable Court for an Order striking portions of Appellants’ Designation of Matter to be Included in the Record on Appeal, submitted on January 17, 2017, specifically Designation No. 4, described as “Plaintiff’s Pre-Trial Brief” and Designation No. 7, described as “Plaintiff Ex. 1.”

## Discussion

The South Carolina Appellate Court Rules discuss what matters may be properly included in the Designation of Matter to be Included in the Record on Appeal (hereinafter referred to as the “Designation of Matter”). Rule 209(a), SCACR instructs parties to serve a Designation of Matter, which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. The Designation of Matter must clearly identify what the party desires to have included in the Record on Appeal, and the Designation of Matter may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal. *See*, Rule 209(b), SCACR.

Rule 210(c), SCACR, provides “[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. The Record shall not, however, include matter which was not presented to the lower court or tribunal.”

The Record on Appeal is the record of the case, which has been characterized as “substantially a written history of the case from beginning to end.” 5 Am. Jur. 2d Appellate Review § 484. The record on appeal must generally contain everything necessary to the resolution of the issues presented to the appellate court, including evidence, statutes or ordinances on which the parties are relying, and written memorials of any judicial action which triggered the appeal or which is necessary for the resolution of the appeal. *Id.* The record is deemed to consist of all papers and exhibits filed with the trial court. *Id.* at § 485.

Further, matters the parties deem not to be relevant to the appeal should be excluded from the record. *See Former v. Butler*, 319 S.C. 275, 277 n. 1, 460 S.E.2d 425, 427 n. 1 (Ct.App.1995); Rule 209(b), SCACR.

Here, Appellants have included their Pre-Trial Brief as No. 4 in their Designation of Matter. Trial briefs are expressly prohibited from being included in the Record on Appeal. *See, Gurley v. United Servs. Auto. Ass'n*, 279 S.C. 449, 453, 309 S.E.2d 11, 13 (Ct. App. 1983); *Hays v. Adair*, 267 S.C. 291, 227 S.E.2d 665 (1976) (Trial briefs do not constitute a part of the record on appeal). Moreover, Appellants' Pre-Trial Brief was not filed with the trial court. Accordingly, Designation No. 4 must be stricken from Appellants' Designation of Matter and excluded from the Record on Appeal.

Next, Appellants Designation No. 7, simply described as "Plaintiff Ex. 1" is irrelevant and duplicative. Plaintiff Ex. 1 refers to the exhibit introduced by Appellants at the bench trial of this proceeding and consists of excerpts from Respondent's two deposition transcripts. Designation No. 7 is duplicative of Designations No. 9 and No. 10 which designate the full deposition transcripts of Respondent. Thus, Appellants' Designation No. 7 should be stricken as it is no relevant and cannot be included in the Record on Appeal.

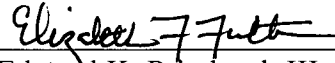
### **Conclusion**

Wherefore, based on the foregoing, Respondent Wanda Rahall, respectfully requests this Honorable Court enter an Order striking Designations No. 4 and No. 7 from Appellants' Designation of Matter to be Included in the Record on Appeal and to exclude from the Record on Appeal.

*Signature Page to Follow*

Respectfully Submitted,

**PRITCHARD LAW GROUP, LLC**



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*ATTORNEYS FOR RESPONDENT*

April 5, 2017  
Charleston, South Carolina

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Case No. 2013-CP-10-3901

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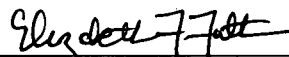
v.

Wanda G. Rahall, ..... Respondent.

**PROOF OF SERVICE**

I certify that I have served *Respondents Motion To Strike Designations No. 4 And No. 7 Of Appellants' Designation Of Matter To Be Included In The Record On Appeal and Excluded from the Record on Appeal* on Appellants Charleston Electrical Services, Inc. and Selective Insurance Company of South Carolina as Subrogee of Charleston Electrical Services, Inc., by depositing a copy of it in the United States Mail, postage prepaid, to their attorney of record, Andrew F. Lindemann, Esquire, at his office at 1611 Devonshire Drive, PO Box 8568, Columbia, SC 29202 on April 5, 2017.

**PRITCHARD LAW GROUP, LLC**

  
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April 5, 2017

**VIA U.S. MAIL**

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

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SC Court of Appeals

**RE: Charleston Electrical Services, Inc. v. Rahall**  
Appellate Case No. 2016-001842

Dear Ms. Kitchings:

Please find enclosed an original and seven (7) copies of *Respondent's Motion to Strike Designations No. 4 and No. 7 from Appellants' Designation of Matter to be Included in the Record on Appeal and Excluded from the Record on Appeal*, along with a check for \$25.00 in connection with the above-referenced matter. I would appreciate you returning a clocked copy of the motion in the enclosed self-addressed postage prepaid envelope.

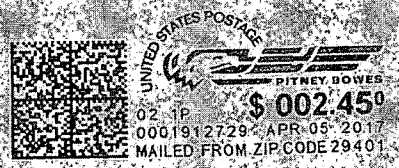
With warmest personal regards, I am

Yours very truly,

Elizabeth F. Fulton

Enclosures

cc: Andrew F. Lindemann, Esq.



**PRITCHARD LAW GROUP, LLC**

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129 Broad Street | Charleston, SC 29401

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