

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED

APPEAL FROM OCONEE COUNTY  
Court of Common Pleas

NOV 13 2017

SC Court of Appeals

Ellis B. Drew, Master in Equity

Case No. 2014-CP-37-00143  
Appellate Case No.: 2015-001860

Polly A. Thompson, ..... Respondent,

v.

Cathy J. Swicegood, .....Appellant.

RESPONDENT’S RESONSE TO APPELLANT’S  
MOTION TO SUPPLEMENT THE RECORD ON APPEAL

Counsel for Respondent, Polly A. Thompson, hereby objects to Appellant’s motion to supplement the Record on Appeal with an Affidavit of Service from a separate action in family court.

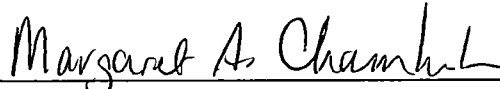
Rule 209(b) of the South Carolina Appellate Court Rules provides that “[t]he Designation must clearly identify what the party desires to have included in the Record on Appeal . . .” Rule 209(b), SCACR (2017). Moreover, “[t]he Record shall not, however, include matter not presented to the lower court or tribunal.” Rule 210(c), SCACR (2017). Material not presented to the lower court cannot be properly included in the Record on Appeal. *see State v. White*, 372 S.C. 364, 342 S.E.2d 607(Ct. App. 2007) (a co-defendant’s statement written after the issuance of a verdict and after a ruling on the motion for a new trial could not properly be included in the Record on Appeal).

Here, not only did the Appellant fail to include the Affidavit of Service in her Designation of Matter, she failed to present the document to either the Circuit Court or the Master in Equity for consideration. Respondent contends that by failing to submit the document to the lower court for consideration and by failing to include it in the

Designation of Matter, Appellant has waived her opportunity to submit the Affidavit of Service and to have this Court consider the document or any reference to it.

For the foregoing reason, Respondent respectfully requests this Court issue an order denying Appellant's motion.

Respectfully submitted,



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ATTORNEY FOR RESPONDENT  
POLLY A. THOMPSON

Greenville, South Carolina  
November 7, 2017

Other Counsel of Record:

Melissa H. Moore  
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(864) 300-4828  
Counsel for Respondent

Mr. John G. Reckenbeil  
Post Office Box 1633  
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Counsel for Appellant

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Counsel for Appellant

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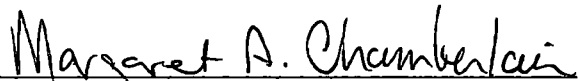
v.

Cathy J. Swicegood, .....Appellant.

PROOF OF SERVICE

I certify that I have served Respondent's Response to Appellant's Motion to Supplement the Record on Appeal on the attorneys for the Appellant, by depositing said document in the United States Mail, with adequate postage affixed, on November 7, 2017, to the attorneys of record listed on page two.

Respectfully submitted,



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ATTORNEY FOR RESPONDENT

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# Chamberlain Law Firm LLC

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Margaret A. Chamberlain  
Attorney at Law

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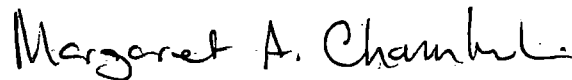
The Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: *Polly Thompson v. Cathy Swicegood*  
Appellate Case No.: 2015-001860

Dear Ms. Kitchings:

With this letter, I am enclosing *Respondent's Response to Appellant's Motion to Supplement the Record on Appeal* and *Proof of Service* in this case. If you need anything further, please do not hesitate to contact me. I appreciate your assistance.

Sincerely yours,



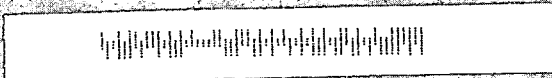
Margaret A. Chamberlain

cc: Other Counsel of Record:

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