

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Appellate Case #2016-002177

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
Donald B. Hocker, Circuit Court Judge  
Case No. 2016-CP-32-1968  
ORIGINAL MAGISTRATES DOCKET 2016-CV-32-1060854

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**RECEIVED**  
JAN 12 2018  
SC Court of Appeals

Bob Rice Realty, Inc., Respondent,

v.

Gerald J. Nagy, Appellant.

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**MOTION FOR MODIFICATION OF APPELLANT’S RECORD ON APPEAL**

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Respondent is respectfully seeking a modification of the Appellant’s Record on Appeal based on the following grounds:

- I. Matters not Presented to Trial Court
  - A. In the underlying case, Magistrate Court Case, Docket Number 2016-CV-32-1060854, the only exhibit entered into evidence was the lease at issue in this appeal.
  - B. In the Appeal to the Circuit Court, Lexington Circuit Court, Case Number 2016-CP-32-01968, Appellant presented an email involving settlement negotiations between the parties that was subsequent to the lower court hearing.
  - C. Pursuant to Rule 220 (c), SCACR, the Record on Appeal shall not include matter which was not presented to the lower court or tribunal.
  - D. Therefore, Respondent moves to exclude from Appellant’s record on appeal, pages 37 – 45. Respondent further moves to include the email Appellant presented to the Circuit Court during the appeal (which was also designated by the Respondent in it’s Designation of Matter, number 5.)

II. Matters Designated by Respondent

A. Alternatively, Respondent requests that the Appellant's Record on Appeal be modified to include the Respondent's Designation of Matter, as the Record on Appeal filed by the Appellant includes only his own designated matters and fails to include those matters designated by the Respondent.

B. Pursuant to Rule 220 (b), SCACR,

C. Pursuant to Rule 220 (c), SCACR, "[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."

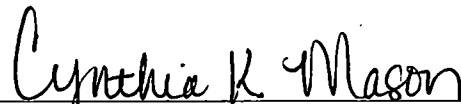
III. Rule 267, SCACR.

A. Neither the Record on Appeal nor Appellant's Final Brief comply with Rule 267 (e), SCACR.

B. The record on appeal filed by the Appellant has a blue cover and includes Appellant's name and contact information. Rule 267, SCACR requires the record on appeal to be bound with a white cover and to contain nothing but the caption.

C. Appellant's Brief is bound with a white cover. Rule 267, SCACR requires the Appellant's Brief to be bound with a blue cover.

Respectfully Submitted,



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January 12, 2018

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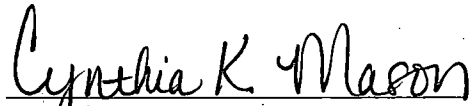
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**PROOF OF SERVICE**

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I certify that I have served Respondent's Motion for Modification of Appellant's Record on Appeal on the following by depositing a copy of it in the United States Mail, postage prepaid, on January 12, 2018, addressed as follows:

Gerald J. Nagy  
911 Old Barnwell Road  
Mail Stop 149  
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January 12, 2018