

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**  
FEB 08 2018  
SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas  
R. Keith Kelly, Judge

Case No. 2017-001009

Caitlyn Langham.....Appellant,

v.

Officer Russell Porter, City of Spartanburg,  
And Wal-Mart, Inc.....Respondents,

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**RESPONDENT WAL-MART, INC.’S REPLY TO  
APPELLANT’S RETURN TO RESPONDENT WALMART’S MOTION TO STRIKE  
MATTERS FROM APPELLANT’S DESIGNATION OF MATTER**

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Respondent Wal-Mart, Inc. (hereinafter, “Walmart”), by and through its undersigned counsel, hereby submits this Reply to Appellant’s Return to Respondent Walmart’s Motion to Strike Matters from Appellant’s Designation of Matter.

Contrary to Appellant’s representation that she presented full transcripts of Ronnee Miller’s deposition, Caitlyn Langham’s deposition, and Officer Porter’s testimony from the trial of the underlying criminal charge, to the trial court, Appellant presented only a limited number of pages from each of the aforementioned transcripts to the trial court. Thus, Walmart maintains its objections to the following pages of the three (3) transcripts that Appellant failed to present to the trial court and respectfully requests that this Honorable Court strike these improperly

included pages (identified in **bold**) from Appellant's Designation of Matter on Appeal (hereinafter "Designation"):

a. Appellant's matter number 15, Transcript of Ronnee Miller Deposition, dated January 18, 2017, **pp. 16, 21, 23, and 38-39**. As reflected in Exhibit E to Walmart's Motion to Strike (Plaintiff's Opposition to Defendants Officer Russel Porter, City of Spartanburg and Spartanburg Police Department's Motion for Summary Judgment), Appellant failed to present the identified pages of the Transcript of Ronnee Miller Deposition, dated January 18, 2017, to the trial court;

b. Appellant's matter number 16, Transcript of Caitlyn Langham Deposition, dated January 18, 2017, **pp. 19-22**. As reflected in Exhibit D to Walmart's Motion to Strike (Motion to Dismiss and/or Motion for Summary Judgment by Defendants Porter, City of Spartanburg, and Spartanburg Police Department), the identified, improperly included pages of the Transcript of Caitlyn Langham Deposition, dated January 18, 2017, were never presented to the trial court. Furthermore, to the extent that the improperly included pages of the Transcript of Caitlyn Langham Deposition reiterate her statement of facts as alleged in Appellant's underlying Complaint, which Walmart denies, Appellant may rely upon her Complaint that is properly included in Appellant's Designation; and

c. Appellant's matter number 17, Transcript of Officer Porter Trial Testimony, dated September 17, 2014, **pp. 14, 15, 16, 19-20**. As reflected in Exhibit E to Walmart's Motion to Strike (Plaintiff's Opposition to Defendants Officer Russel Porter, City of Spartanburg and Spartanburg Police Department's Motion for Summary Judgment), Appellant failed to present the identified pages of the Transcript of Officer Porter Trial Testimony, dated September 17, 2014, to the trial court.

As the aforementioned matters were not presented to the trial court nor admitted into evidence in the underlying action, this Court must strike these portions of the three (3) foregoing transcripts from Appellant's Designation pursuant to Rules 209 and 210(c), SCACR. *See* Walmart's Exhibits A-H.

Based upon the foregoing, Walmart hereby moves this Honorable Court for an Order striking all improper matters, as set forth above, from Appellant's Designation.

Respectfully submitted,



Lee Ellen Bagley, SC Bar No. 77672  
Randi Lynn Roberts, SC Bar No. 78888  
**GAFFNEY LEWIS & EDWARDS, LLC**  
3700 Forest Drive, Suite 400  
Columbia, SC 29204  
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February 8, 2018

*Attorneys for Respondent Wal-Mart, Inc.*

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas  
R. Keith Kelly, Judge

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Caitlyn Langham.....Plaintiff,

v.

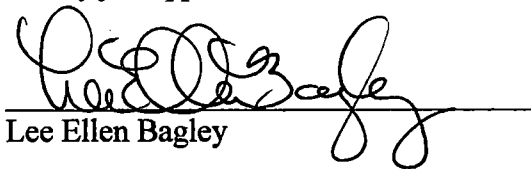
Officer Russell Porter, City of Spartanburg,  
And Wal-Mart, Inc.....Respondents,

**CERTIFICATE OF SERVICE**

I do hereby certify, on this 8<sup>th</sup> day of February, 2018, that a copy of the foregoing  
**Respondent Wal-Mart, Inc.'s Reply to Plaintiff's Return to Motion to Strike Matters from  
Plaintiff's Designation of Matter** was served by depositing a copy of the same in the United  
States Mail, first-class, postage prepaid, addressed to counsel of record as follows:

James D. Jolly, Jr., Esquire  
**Logan Jolly & Smith**  
1805 North Blvd.  
Anderson, South Carolina 29622  
*Attorney for City of Spartanburg*

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Columbia, South Carolina



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February 7, 2018

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

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SC Court of Appeals

**Re: *Caitlyn Langham v. Officer Russell Porter, City of Spartanburg Police Department and Wal-Mart, Inc.***  
***Case No : 2017-001009***

Dear Clerk Kitchings:

Enclosed for filing please find the original and seven (7) copies of Respondent's Reply to Plaintiff's Return to Motion to Strike Matters from Plaintiff's Designation of Matter and Proof of Service, along with a check in the amount of \$25.00 for the filing fee in the above-referenced matter. We would appreciate you filing the original with the Court and returning the clocked copy for our records to the courier.

By copy of this letter, I herewith serve all counsel of record with same. Should you have any questions or need additional information please do not hesitate to contact our office.

Sincerely,

  
Kelli F. Hall  
Paralegal

/kfs

Enclosures

cc: Donald L. Smith, Esquire  
James D. Jolly, Jr., Esquire