

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2015-CP-02-02389
Appellate Case No. 2017-002321

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MAY 03 2018

SC Court of Appeals

Edward Pugh,

Appellant,

v.

CB&I AREVA MOX
SERVICES, LLC and
Globalpundits Technology
Consultancy, LLC,

Respondents.

**RETURN TO APPELLANT'S MOTION FOR LEAVE TO SUPPLEMENT
THE RECORD ON APPEAL**

CB&I AREVA MOX SERVICES, LLC and Globalpundits Technology Consultancy, LLC ("Respondents") submit this return in opposition to Appellant pro se Edward Pugh's motion for leave to supplement the record on appeal.

In his motion, Appellant asks the Court for leave to supplement the record on appeal with several messages in an email chain between his former counsel and Respondents' former counsel regarding the comprehensive settlement agreement. However, as Appellant admits, Exhibit C to his "Memorandum to Deny Defendant's Motion to Enforce Written Agreement" only included

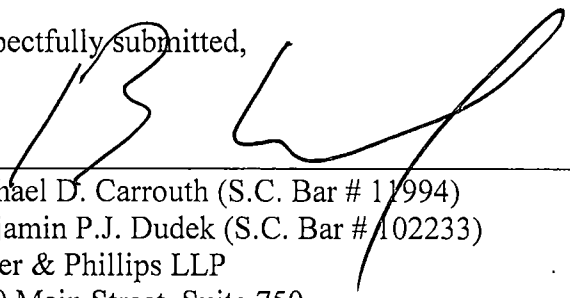
the first three pages of the email chain, which were actually the most recent messages between these former counsel. The prior messages in this email chain that Appellant now seeks to introduce to the appellate court were never presented to the circuit court below in Exhibit C or any other material. Accordingly, these messages may not be included in the record on appeal. *See* Rule 210(c), SCACR (“The Record shall not . . . include matter which was not presented to the lower court or tribunal.”).

Nonetheless, Appellant contends he may supplement the record on appeal with these prior email messages by virtue of another part of Rule 210(c), SCACR, which provides, “Where a portion of a page of the trial transcript or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included.” Appellant believes this language allows him to include the prior email messages in the record on appeal because the email chain was the basis of Appellant’s Exhibit C. This interpretation is misplaced.

This part of Rule 210(c) merely provides that parties who wish to include a portion of a page of an exhibit in the record on appeal must include the entire page presented in the lower court. This rule allows the appellate court to review the same page of an exhibit in its entirety in fairness to the fact-finder below. Indeed, supplemental material must still comply with the Rule 210(c)’s requirement that the record on appeal may only include material that was presented in the lower court.

As is obvious from Appellant’s motion, Appellant is not trying to include in the record portions of documents that were before the lower court. In fact, Appellant has made no claims that any document actually before the lower court is in any way incomplete. Because Appellant is attempting to use Rule 210(c) to add entirely new documents that were never presented in the lower court, Respondents request that the Court deny Appellant’s motion.

Respectfully submitted,



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Attorneys for Respondents

May 3, 2018

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **Return to Appellant's Motion for Leave to Supplement the Record on Appeal** in the above-captioned has been served upon *Pro Se* Appellant via electronic mail and First Class U.S. Mail, postage prepaid as follows:

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Dated this 3rd day of May 2018.