

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Thomas Russo, Circuit Court Judge

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Appellate Case No. 2018-001581

Edward Spears

Petitioner,

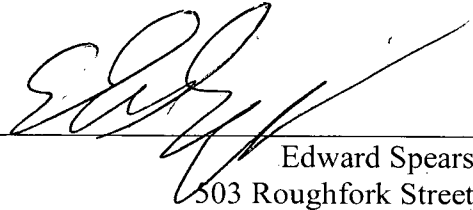
V.

R & R Cleaning Service  
Natalie Harris

Respondent.

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Reply to Return to Petition for Writ of Certiorari



Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
843-496-3711  
Edward4920@att.net

**RECEIVED**  
OCT 09 2018  
SC Court of Appeals

Pursuant to Rule (242g) the petitioner hereby file a reply to respondent's return to the petition for writ of certiorari dated September 26, 2018.

**Questions Presented:**

1. Did the Court of Appeals err when saying (petitioner) should have included items 123 (in his) record on appeal?
2. Did Court of Appeals err when they said (petitioner) only included the first page of motion to dismiss from respondent dated August 4, 2018?
3. Did Court of Appeals err when they dismissed (petitioner) case for handwriting?

**Argument:**

The respondent has continued to display his ignorance of the law by requesting I include items he thinks should be included in my Record of Appeals. He has repeatedly made these requests in his motion to dismiss beginning January 8, 2018 (see appendix pp. 32-35). It is easy to understand that the respondent is a little slow of knowledge when it comes to civil law. However, Jude McDonald erred when she dismissed the case on June 8, 2018 citing I did not include the items the respondent wanted me to include in my Record of Appeals (see appendix p. 39). Her decision was 100% bias.

Let me explain. On the website S.C. Courts.org under Court of Appeals FAQs I have enclosed a copy (see exhibit XX) (p. 3). In the question "What is the respondent's initial brief and designation of matter?" It clearly states if the appellant has not designated an item that the respondent deems should be included in the appeal, the respondent should designate that ~~time~~ <sup>item</sup>. That should be clear and convincing evidence that her decision was bias and should be reversed.

On page 2 of his return to petition the respondent spoke of Chief Judge Lockemy orders dated March 6, 2018 (enclosed copy). In his orders I was ordered to send what he describes as a corrected record of appeals, no handwritten notations, etc. His orders were not only ridiculous but bias as well. Let me explain, I did research on the internet of appellate court judge duties. I have enclosed a copy of their duties (see exhibit AAA) highlighted. The duties of the appellate judge is primarily to review cases from the lower courts or trial courts to see if the judge(s) made an error or violate court rules. They don't hear new arguments, or allow new evidence that was not heard in lower courts. Their decisions are based on both parties' briefs. In this case however, the respondent never even sent a final brief even after given more than reasonable time. Judge Lockemy decision was total bias in his March 6, 2018, when he ordered me to send new documents, rid of ink, ect. All this injects new arguments, new evidence in an existing appeal case. These arguments never came up in lower courts or never appeared in my final brief (see final brief A pg 3). Therefore like Judge McDonald's decision, Judge Lockemy orders were 100% bias and should be looked at as an error and be reversed.

**Conclusion:**

These judges (Judge McDonald) and (Judge Lockemy) has shown total lack of knowledge when it comes to civil court laws and civil court rules. They fail to understand the functions of the Court of Appeals and what it stands for. The Court of Appeals primarily reviews cases from lowers courts to see if any errors were made in the judge(s) decisions. Nothing else. I would like to refer the courts again to look at (exhibit XX page 2). The question to look at is what the South Carolina Court appeals. It states that an appeal is not a new trail, parties are not permitted to conduct discovery or offer new evidence that was not presented first to the court below. They base their decisions on the briefs of both parties not some ridiculous motions filed by respondents. Therefore the petitioner urge the petition for a writ of certiorari be granted.

Thanks for your consideration.



---

Edward Spears  
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Florence, SC 29501  
843-496-3711

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

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Thomas A. Russo, Circuit Court Judge

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Appellate Case No. 2018-001581

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Edward Spears.....Petitioner,

V.

R&R Cleaning Services and Natalie Harris..... Respondents.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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(843) 669-0089  
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Attorney for Respondents

Pursuant to Rule 242(f), SCACR, the Respondents hereby file their Return to the Petition for Writ of Certiorari dated August 29, 2018, and personally served on counsel for the Respondents on that same date. A copy of the Petition for Writ of Certiorari that was received by counsel for the Respondents is attached hereto as Exhibit 1.

### **QUESTIONS PRESENTED**

1. Did the Court of Appeals err when saying (Petitioner) should have included items 1 and 3 (in his) Record (on) Appeal?
2. Did Court of Appeals err when they said (Petitioner) only included the first page of motion to dismiss from Respondent dated August 4, 2016?
3. Did Court of Appeals err when they dismissed (Petitioner's) case for handwriting?

### **ARGUMENT**

In Respondents' Designation of Matter to be Included in the Record on Appeal, the first item on that list was a copy of the original Complaint in the underlying Magistrate's Court case, which was specifically identified as follows: "Complaint dated December 31, 2015 in case number 2015CV2110108515." The third item listed in the Designation of Matter was "a letter from Michael S. Hopewell to Edward Spears dated June 23, 2016 and Certificate of Service of the same date."

In the Record on Appeal that the Petitioner filed with the Court of Appeals, those two items were not included. In addition, item 7 of the Designation of Matter identified the following: "Notice of Appeal dated October 17, 2016 filed by Respondents in Case Number 2016-CP-21-02533. Only the first page of this multi-page document is included and it is covered with handwriting of an argumentative nature...." A copy of pages 2

through 5 of Respondents' Motion to Strike dated January 8, 2018 are included in Petitioner's Appendix as Exhibits 32-35. A copy of page 1 of said motion, which was omitted from the Appendix, is attached hereto as Exhibit 2.

In an Order dated March 6, 2018, Chief Judge Lockemy, *inter alia*, denied the Respondents' Motion to Dismiss dated January 8, 2018, but granted Respondents' Request to Require Correction of the Record on Appeal and struck the previously filed Record on Appeal. Petitioner was instructed in the order to serve a corrected Record on Appeal including all matters designated by both parties and further ordered that the documents be free of any handwritten notations.

It does not appear that a copy of Judge Lockemy's Order was included in Petitioner's Appendix, therefore, a copy is attached hereto as Exhibit 3. After Petitioner's second copy of the Record on Appeal was still incomplete and in violation of Chief Judge Lockemy's Order, counsel for the Respondents filed a second Motion to Dismiss dated April 12, 2018. A copy of that motion is contained within the Appendix on pages 35-38.

Judge McDonald's Order of June 8, 2018, contained on page 39 of the Appendix, correctly ruled that Respondents' Order to Dismiss was granted. The appeal was ultimately dismissed for Petitioner's continued failure to follow the South Carolina Appellate Court rules and the Order of the Court of Appeals.

In his Petition, Petitioner does not cite any case law to indicate that the Order was wrongly decided or that he should not be required to file a proper Record on Appeal and follow the Order of the South Carolina Court of Appeals. Rather, he seems to argue that

he is not required to include matter designated by the Respondents or follow the directive of the Court as contained in Chief Judge Lockemy's Order.

The arguments set forth in the Petition are baseless and without support of any kind.

**CONCLUSION**

The Petitioner's appeal was dismissed after he failed, though given multiple opportunities, to provide a proper Record on Appeal to the Court. There is no basis for this Court to review the matter. The Petition does not contain anything that could be construed to fall under Rule 242(b), SCACR, and while the Respondents understand that this Court has the authority to consider matters outside Rule 242(b), SCACR, there is nothing in the Petition that would rise to that level. Therefore, the Respondents urge that the Petition for a Writ of Certiorari be denied.

Respectfully submitted,



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Attorney for Respondents

# Frequently Asked Questions

EXB XX

10 copies  
5 Pts

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Introduction

Glossary

What is the South Carolina Court of Appeals?

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What is the Respondent's Initial Brief and Designation of Matter?

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When will the Court of Appeals hear my case?

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What can I do if I lose on appeal?

## Introduction

These questions and answers are designed in part to help non-lawyers prepare an appeal to the South Carolina Court of Appeals. This material is not legal advice and must not be cited as legal authority. The information here does not replace the South Carolina Appellate Court Rules, but you should use it together with a close reading of the Rules to complete your appeal.

The Appellate Court Rules are always subject to revision and amendment. Therefore, you should consult the current version of the Rules. You may call the Court of Appeals Clerk's Office if you have a specific procedural question about how to prepare or file your papers with the Court. Although the staff will try to help answer your procedural questions, you must remember employees of the Court of Appeals are not permitted to give legal advice or make specific recommendations to you on how you should pursue your claims on appeal or respond to an appeal.

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P 1

own behalf before the Court.

**Transcript.** A word-for-word typescript of the lower court proceedings.

**Writ.** An extraordinary remedy that may be issued by the Court of Appeals if the Court of Appeals has a pending appeal in the case. The Court of Appeals has no power to issue writs unless there is an appeal pending in the Court. Although there are several different types of writs, they usually are issued to prohibit a trial court from exceeding its jurisdiction or to compel a trial court to perform a mandatory duty. In general, a writ may be issued only when the party requesting the writ does not have any other alternative legal remedy.

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### **What is the South Carolina Court of Appeals?**

The South Carolina Court of Appeals is an intermediate appellate court. It consists of nine judges, including a Chief Judge. The Court sits in panels of three judges to decide most cases.

An appeal is not a new trial. Parties before the Court of Appeals will not be permitted to conduct discovery, call witnesses, or offer any evidence that was not presented first to the court below. The Court decides appeals strictly on the basis of the record that existed in the court below and the written briefs that are filed by the parties. The Court also may hear oral argument by the parties.

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### **Where is the South Carolina Court of Appeals?**

The Court and its Clerk's office are in the Calhoun State Office Building, 1220 Senate Street, Columbia, South Carolina 29201. For correspondence and filing, you may write to Post Office Box 11629, Columbia, SC 29211. Large packages should be sent to the Senate Street address. The telephone number is (803) 734-1890.

It is the policy of the Court that all communication with the Court of Appeals is to be conducted through the Clerk's Office. No party should contact a judge directly about any case.

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### **What orders may be appealed to the Court of Appeals?**

Generally, final orders of the family and circuit courts are appealable to the Court of Appeals. This description does not nearly exhaust the possibilities, however. In many cases, the question of the appealability of

The transcript referred to in this rule is the circuit court transcript, not the transcript from proceedings before a magistrate, municipal judge, probate judge, or the like.

This transcript must be ordered from the circuit court reporter. Do not attempt to order it from the Court of Appeals, from the Supreme Court, from the lower court judge, from the Circuit Court Clerk, or from the Office of Court Administration. If you do not know the name of the court reporter, you may contact the Office of Court Administration to learn the name. However, you must still order the transcript within the time limits established in the Rule.

If a transcript is not required for the appeal, you need not order it.

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**What is the Appellant's Initial Brief and Designation of Matter?**

The initial brief and designation of matter set forth the arguments and the evidence that you want to put before the Court of Appeals. For guidance in these matters, you must carefully study Rules 208 and 209 along with Forms 12 and 13.

Only one copy of the initial brief and the designation needs to be filed.

When filing the designations, you should not send copies of the documents themselves. Simply make a list of what you want included, in the manner shown in Form 13. Keep in mind that nothing can be designated that was not included in the proceedings before the lower court.

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**What is the Respondent's Initial Brief and Designation of Matter?**

In form, the Respondent's Initial Brief and Designation of Matter is the same as that of the appellant. See Rules 208 and 209 and Forms 13 and 14.

The respondent's brief sets forth the reasons that the Court of Appeals should uphold the decision of the trial court.

The respondent need not designate any item that the appellant has designated. However, if the appellant has not designated an item that the respondent deems should be included in the appeal, the respondent should designate that item.

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**What is the Initial Reply Brief and Designation of Matter?**

EX 10 H H H

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duties of apellate court judges

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A: **Appellate court judges** do not re-try cases, and they do not hear new evidence. Rather, they review decisions made by the trial court. They are usually limited to reviewing only the arguments that were made in the trial court and raised by the parties.

OSBA | Appellate Judges Review Trial Court Decisions

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People also ask

What are the duties of the appellate court?

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What three decisions an appeals court judges issue after they hear a case?

**Appeals** are decided by panels of **three judges**. The court of appeals does not receive additional evidence or hear witnesses; rather **the judges** make their decision based on **the** written record of **the case** in the trial court, the briefs submitted by the parties, and possibly oral argument.

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The 94 federal judicial districts are organized into 12 regional circuits, each of which has a court of appeals. The **appellate court's** task is to determine whether or not the law was applied correctly in the trial court. **Appeals** courts consist of three judges and do not use a jury.

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B. Federal Judicial System 3. 1. An independent judiciary 3. 2. Role of **appellate courts**: To correct errors, develop legal precedent, and do justice 3. 3.

# The South Carolina Court of Appeals

Edward Spears, Appellant,

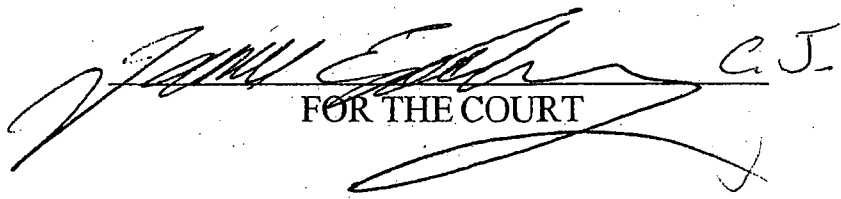
v.

R&R Cleaning Services and Natalie Harris, Respondents.

Appellate Case No. 2017-000746

\_\_\_\_\_  
ORDER  
\_\_\_\_\_

Respondents' motion to dismiss is denied. Respondents' request to require correction of the record on appeal is granted. The record on appeal that was previously filed is stricken. Within thirty days of the date of the order, Appellant must serve a corrected record on appeal and file a proof of service for the corrected record on appeal. The corrected record on appeal must include all matters designated by both parties and the documents must be free of any handwritten notations. Appellant's request to file a fewer number of copies of his final brief and record on appeal is granted to the extent that Appellant may file only seven copies of his final brief and seven copies of the record on appeal.

  
FOR THE COURT

Columbia, South Carolina

**FILED**

March 16, 2018

cc:  
Edward Spears  
Michael S. Hopewell, Esquire

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Court of Common Pleas

Thomas Russo, Circuit Court Judge

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Appellate Case No. 2018-001581

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Edward Spears

Petitioner,

V.

R & R Cleaning Service  
Natalie Harris

Respondent.

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PROOF OF SERVICE

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I certify that I have serviced copiers of Reply of Return to Petition for writ of certiorari to Mike Hopewell, 470 West Evans Street, Florence, SC 29501, Court of Appeals, 1220 Senate Street, Columbia, SC 29201, and S.C. Supreme Court, 1231 Gervais Street, Columbia, SC 29201.

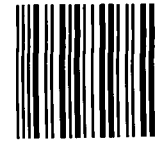


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