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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Appellate Case No. 2017-002618

RECEIVED
OCT 18 2018
SC Court of Appeals

Harold Estes Blackwell, Jr..... Appellant,

v.

Miracle Hill Ministries, Inc., Anita Jane Miller
(aka Anita M. Blackwell), and Williams Fisk Respondents,

MOTION TO COMPEL CORRECTED RECORD ON APPEAL

Respondent Miracle Hill Ministries, Inc. respectfully moves this Court for an order compelling Appellant Harold Estes Blackwell, Jr. to file a corrected record on appeal to include all matter designated to be included in the record on appeal by Respondent Miracle Hill Ministries, Inc.. This motion is based on the following grounds:

FACTUAL BACKGROUND

This matter concerns a lawsuit initiated by a *pro se* litigant seeking damages relating to his former wife’s treatment at a rehabilitation treatment center operated by Respondent Miracle Hill Ministries, Inc. (“Miracle Hill”). On June 18, 2018, Miracle Hill served its designation of matter to be included in the record on appeal. A copy of Miracle Hill’s designation is attached hereto as **Exhibit A**. Miracle Hill’s designated twenty (20) documents to be included in the record on appeal which were cited in its initial brief. *See id.*

On July 17, 2018, Appellant Harold Estes Blackwell, Jr. (“Blackwell”) filed a corrected record on appeal, which had originally been filed on May 29, 2018. An excerpt of the corrected record on appeal is attached hereto as **Exhibit B**¹. The corrected record on appeal contains the following nine items: (i) Blackwell’s summons and complaint; (ii) Miracle Hill’s motion to dismiss; (iii) Blackwell’s memorandum in opposition to miracle Hill’s motion to dismiss; (iv) Miracle Hill’s memorandum in support of its motion to dismiss; (v) the trial court’s order granting Miracle Hill’s motion to dismiss; (vi) Blackwell’s motion to reconsider; (vii) the trial court’s order denying Blackwell’s motion to reconsider; (viii) Blackwell’s motion to amend the complaint; and (ix) the trial court’s order denying Blackwell’s motion to amend. *See Ex. A, p. 3.*

On July 25, 2018, Miracle Hill sent a letter to the Clerk of Court notifying the Court of Blackwell’s failure to include numerous items designated by Miracle Hill in the record on appeal. A copy of Miracle Hill’s letter is attached as **Exhibit C**. Miracle Hill identified the following eleven (11) items which were designated by Miracle Hill but omitted from the record on appeal by Blackwell: (i) Blackwell’s motion for leave to proceed in forma pauperis; (ii) order denying Blackwell’s motion for leave to proceed in forma pauperis; (iii) Respondent Miller’s motion to dismiss; (iv) Respondent Fisk’s motion to dismiss; (v) Blackwell’s motion for a temporary injunction; (vi) Blackwell’s memorandum in support of his motion for temporary injunction; (vii) Miracle Hill’s motion to quash subpoenas; (viii) transcript of the October 4, 2017 hearing; (ix) order granting Respondent Fisk’s motion to dismiss; (x) order granting Respondent Miller’s motion to dismiss; and (xi) Blackwell’s notice of appeal. *See id.*

Blackwell submitted a response to Miracle Hill’s letter on July 30, 2018. A copy of Blackwell’s letter is attached as **Exhibit D**. On August 13, 2018, the Clerk of Court replied to

¹ In lieu of attaching the complete filing which is 188 pages to this motion, Miracle Hill has attached an excerpt showing the cover page and index. Miracle Hill will submit the complete filing if requested by the Court.

Miracle Hill's letter and stated that Miracle Hill must file a motion to correct the record on appeal. A copy of the Clerk of Court's letter is attached as **Exhibit E**.

ARGUMENT

Under Rule 210(c), SCACR, the "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." Here, Blackwell has failed to comply with Rule 210(c)'s mandate that the record on appeal "shall include" all matters designated by "any party," including Miracle Hill.

As set forth above, Miracle Hill designated twenty items which Blackwell is obligated to include in the record on appeal under Rule 210(c). *See Ex. A*. On July 17, 2018, Blackwell filed the record on appeal which includes only nine of those twenty items designated by Miracle Hill. *See Ex. B*. As identified by Miracle Hill's July 25, 2018 letter to the Clerk of Court, the filed record on appeal does not contain the following eleven items designated by Miracle Hill: (i) Blackwell's motion for leave to proceed in forma pauperis; (ii) order denying Blackwell's motion for leave to proceed in forma pauperis; (iii) Respondent Miller's motion to dismiss; (iv) Respondent Fisk's motion to dismiss; (v) Blackwell's motion for a temporary injunction; (vi) Blackwell's memorandum in support of his motion for temporary injunction; (vii) Miracle Hill's motion to quash subpoenas; (viii) transcript of the October 4, 2017 hearing; (ix) order granting Respondent Fisk's motion to dismiss; (x) order granting Respondent Miller's motion to dismiss; and (xi) Blackwell's notice of appeal. *See Ex. C*.

Substantial prejudice may result to Miracle Hill due Blackwell's failure to comply with Rule 210. Pursuant to Rule 210(h), SCACR, "the appellate court will not consider any fact which does not appear in the Record on Appeal." Miracle Hill cites to these eleven items on multiple occasions throughout its initial brief in support of its arguments, however if none of these items

appear in the record on appeal, this Court may not consider them, effectively foreclosing Miracle Hill's arguments. Furthermore, Miracle Hill is unable to prepare its final brief in accordance with Rule 211, SCACR, because it cannot cite to multiple materials which are not included in the record on appeal.

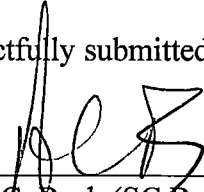
As the appellant is charged with the responsibility to assemble the record on appeal under the *South Carolina Appellate Court Rules*, Blackwell should bear the burden of assembling and filing a corrected record on appeal. It appears that Blackwell does not oppose the filing of a corrected record on appeal as he has already corrected the record on one previous occasion. *See* Ex. D ("Appellant would like permission to submit these documents as an appendix and numbered accordingly."). Therefore, Miracle Hill would request the entry of an order requiring Appellant Harold Estes Blackwell, Jr. to submit a corrected record on appeal to include all eleven items previously designated to be included in the record on appeal by Respondent Miracle Hill Ministries, Inc. or, in the alternative, to require Appellant to file said materials as part of an Appendix to the Record on Appeal pursuant to Rule 212(c), SCACR.

CONCLUSION

For the foregoing reasons, Respondent Miracle Hill Ministries, Inc. respectfully submits that this Court should grant its motion to require the filing of a corrected record on appeal to include all items previously designated to be included in the record on appeal by Respondent or, in the alternative, to require Appellant Harold Estes Blackwell, Jr. to file said materials as part of an Appendix to the Record on Appeal pursuant to Rule 212(c), SCACR

[Signature page to follow.]

Respectfully submitted,



Adam C. Bach (SC Bar # 74885)
R. Hudson Smith (SC Bar # 101369)
ELLER TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Telephone: (864) 236-5013
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hsmith@etblawfirm.com

Attorneys for Respondent Miracle Hill
Ministries, Inc.

October 16, 2018

Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
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Robin B. Stilwell, Circuit Court Judge

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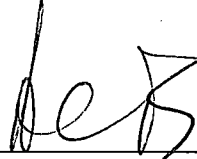
PROOF OF SERVICE

The undersigned certifies that he served Respondent Miracle Hill Ministries, Inc.'s Motion to Compel Corrected Record on Appeal by depositing a copy of same in the United States Mail, postage prepaid, on this the 16th day of October 2018, addressed to the self-represented Appellant and counsel for Respondents at the addresses listed below:

Harold Estes Blackwell, Jr.
315 Glendale Rd.
Union, SC 29379

Carrie Hailman O'Brien
Willson Jones Carter & Baxley, P.A.
6701 Carmel Road, Suite 475
Charlotte, NC 28226

Melegia Lee Daniels, Jr.
M. Lee Daniels, Jr., P.C.
1200 Woodruff Road, Suite A-3
Greenville, SC 29607



Adam C. Bach (SC Bar # 74885)
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Attorneys for Respondent Miracle Hill
Ministries, Inc.

October 16, 2018

Greenville, South Carolina

Exhibit A

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Appellate Case No. 2017-002618
Lower Court Case No. 2017-CP-23-03754

RECEIVED
JUN 21 2018
SC Court of Appeals

Harold Estes Blackwell, Jr..... Appellant,

v.

Miracle Hill Ministries, Inc., Anita Jane Miller
(aka Anita M. Blackwell), and William Fisk..... Respondents.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Respondent Miracle Hill Ministries, Inc. ("Miracle Hill") requests that the following documents be included in the Record on Appeal:

1. Complaint, June 8, 2017;
2. Motion for Leave to Proceed in Forma Pauperis, June 8, 2017;
3. Order Denying Motion for Leave to Proceed in Forma Pauperis, June 29, 2017;
4. Respondent Miracle Hill's Motion to Dismiss, July 20, 2017;
5. Respondent Miller's Motion to Dismiss, August 9, 2017;
6. Respondent Fisk's Motion to Dismiss, August 21, 2017;
7. Motion for Temporary Injunction, September 11, 2017;
8. Memorandum in Opposition to Miracle Hill's Motion to Dismiss, August 18, 2017;
9. Memorandum in Support of Motion for Temporary Injunction, September 11, 2017;
10. Motion to Quash Subpoenas, October 3, 2017;

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Appellate Case No. 2017-002618
Lower Court Case No. 2017-CP-23-03754

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SC Court of Appeals

Harold Estes Blackwell, Jr.....Appellant,

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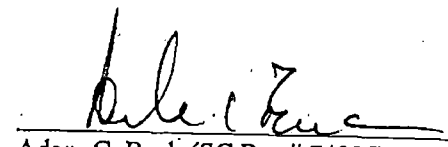
PROOF OF SERVICE

I certify that I have served Respondent Miracle Hill Ministries, Inc.'s initial brief and designation of matter to be included in the record on appeal on the following parties by depositing a copy of same in the United States Mail, postage prepaid, on this the 18th day of June 2018, addressed to the parties and attorneys of record at the addresses listed below:

Harold Estes Blackwell, Jr.
315 Glendale Rd.
Union, SC 29379

Carrie Hailman O'Brien
Willson Jones Carter & Baxley, P.A.
6701 Carmel Road, Suite 475
Charlotte, NC 28226

Melegia Lee Daniels, Jr.
M. Lee Daniels, Jr., P.C.
1200 Woodruff Road, Suite A-3
Greenville, SC 29607



Adam C. Bach (SC Bar # 74885)
R. Hudson Smith (SC Bar # 101369)
ELLER TONNSEN BACH, LLC
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hsmith@etblawfirm.com

Attorneys for Respondent Miracle Hill
Ministries, Inc.

Exhibit B

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Robin Stilwell, Circuit Court Judge

Case No. 2017-CP-23-3754
Appellate Case No. 2017-002618

Harold Estes Blackwell, Jr. Appellant,
v.
Miracle Hill Ministries, Inc. Respondents.

RECORD ON APPEAL

July 17, 2018

Harold Estes Blackwell, Jr.
315 Glendale Road
Union, South Carolina 29379
(864) 303-7000
halblackwell@gmail.com
Appellant appears *pro se*

Adam Bach
1306 South Church Street
Greenville, South Carolina 29605
Attorney for Respondent Miracle
Hill Ministries, Inc.
(864) 236-5013

RECEIVED
JUL 17 2018
SC Court of Appeals

CERTIFICATE OF COUNSEL
THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Harold Estes Blackwell, Jr.....Appellant

Miracle Hill Ministries, Inc.....Respondent

Case No. 2017-002618

CERTIFICATE OF COUNSEL
RECORD ON APPEAL

The undersigned certified that this Record of Appeals complies with Rule 210(g) SCRPC
and Appellant, pro se, certifies as described in said Rule.

July 16, 2018.



Harold E. Blackwell, Jr.
315 Glendale Road
Union, South Carolina 29379
(864) 303-7000
Appellant, pro se

Adam Bach
1306 S. Church Street
Greenville, SC 29605
864-236-5013

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THE STATE OF SOUTH CAROLINA
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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Robin Stilwell, Circuit Court Judge

Case No. 2017-CP-23-3754
Appellate Case No. 2017-002618

Harold Estes Blackwell, Jr.

Appellant,

v.

Miracle Hill Ministries, Inc.

Respondents.

RECORD ON APPEAL

July 17, 2018

Harold Estes Blackwell, Jr.
315 Glendale Road
Union, South Carolina 29379
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halblackwell@gmail.com
Appellant appears *pro se*

Adam Bach
1306 South Church Street
Greenville, South Carolina 29605
Attorney for Respondent Miracle
Hill Ministries, Inc.
(864) 236-5013

Exhibit C



ELLER TONNSEN BACH
Attorneys at Law

Adam C. Bach
Licensed in South Carolina and North Carolina
abach@etblawfirm.com

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Greenville, SC 29605
Telephone (864) 236-5013

RECEIVED

July 25, 2018

JUL 30 2018

SC Court of Appeals

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

Re: *Harold Estes Blackwell, Jr. vs. Miracle Hill Ministries, Inc., Anita Jane Miller (aka Anita M. Blackwell), and William Fisk*
Appellate Case No.: 2017-002618

Dear Ms. Kitchings:

We recently received a copy of the Record on Appeal from the Appellant Harold Estes Blackwell, Jr. dated July 17, 2018. Pursuant to Rule 210, 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.”

Upon our review, it appears that the Record on Appeal dated July 17, 2018 fails to comply with Rule 210 because it does not include numerous materials designated by Respondent Miracle Hill Ministries, Inc. (“Miracle Hill”) pursuant to its Designation of Matter to be Included in the Record on Appeal filed June 21, 2018. The documents listed below were designated by Miracle Hill but were not included in the Record on Appeal dated July 17, 2018:


- Motion for Leave to Proceed in Forma Pauperis, June 8, 2017;
- Order Denying Motion for Leave to Proceed in Forma Pauperis, June 29, 2017;
- Respondent Miller’s Motion to Dismiss, August 9, 2017;
- Respondent Fisk’s Motion to Dismiss, August 21, 2017;
- Motion for Temporary Injunction, September 11, 2017;
- Memorandum in Support of Motion for Temporary Injunction, September 11, 2017;
- Motion to Quash Subpoenas, October 3, 2017;
- Transcript of Hearing, October 4, 2017;
- Order Granting Fisk’s Motion to Dismiss, November 8, 2017;
- Order Granting Miller’s Motion to Dismiss, November 8, 2017; and
- Notice of Appeal, December 29, 2017.

Due to the deficiencies enumerated above, it is our belief that there is no deadline presently in effect for Miracle Hill to file its Final Brief pursuant to Rule 211(a), SCACR. Please let us know whether our understanding is correct.

With kind regards,

Sincerely,

ELLER TONNSEN BACH, LLC



Adam C. Bach

ACB/rhs

cc: Harold Estes Blackwell, Jr.
Carrie Hailman O'Brien
Melegia Lee Daniels, Jr.



ELLER TONNSEN BACH
Attorneys at Law

1306 South Church Street • Greenville, SC 29605

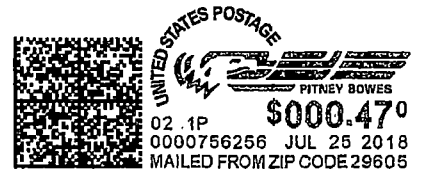
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JUL 30 2018

SC Court of Appeals

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

GREENVILLE
SC 29605
26 JUL 2018
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29211-162929



Exhibit D

Harold (Hal) E. Blackwell, Jr.
315 Glendale Road
Union, South Carolina 29379
halblackwell@gmail.com

July 30, 2018.

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

RECEIVED
AUG 02 2018
SC Court of Appeals

Re: Harold E. Blackwell, Jr. v Miracle Hill, Appellate Case No. 2017-002618

Dear Ms. Kitchings,

I am in receipt of Mr. Bach's letter of the 25th, regarding the above referenced case listing the documents included in Miracle Hill's Declaration of Matter but not in the Record on Appeal.

Pending before the court is Appellant's motion to dismiss which would make the production of these documents moot. Appellant would like to get a ruling on this motion before incurring the expense of printing and mailing these documents not necessary to produce their party's Final Brief. If this is not possible, Appellant would like permission to submit these documents as an appendix, and numbered accordingly.

Appellant, *pro se*, is also perplexed as to how he can certify the Record on Appeal contain no matter not pertaining to the appeal when he is forced to include items.

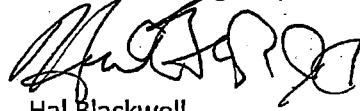
Appellant asks for the Court's requirements regarding the issue of opposing counsel not being copied on all of Appellant's mailings with respect to their fellow respondents. I can go back through each mailing per Respondent, print the documents from the website then mail the documents to the respective opposing counsels. Appellant, however, asks the Court to consider to each counsel copied per their access to the documents online. Appellant, however, stands at the ready to execute the Court's requirements immediately.

I also want to include in the declaration of matter my motion for the appointment of counsel and the Court's denial if documents not referenced in the brief are pertinent. Because I do not understand why such documents are pertinent, I would like this motion included as evidence the Court bears some culpability for my appearance as a *pro se* litigant. Intuitively one would expect in such a circumstance I should be afforded the maximum consideration allowable under the Rules and the law.

Transparently, I have sought to insure independent consideration of the two cases I have currently before the court by pacing each process differently. Receiving mail dated the same day on both cases causes me to feel the cases are being processed together despite my efforts. It seems regardless of the pace, the Woodard appeal is not going to be ready for consideration until the Miracle Hill appeal is ready for consideration. This concerns me.

Thank you so much for your help in this confusing, meticulous process. I appreciate your consideration and patience. I look forward to your justice.

With kindest regards,



Hal Blackwell

Plaintiff, pro se

(864) 427-2174

halblackwell@gmail.com

cc: Adam Bach
M. Lee Daniels
Carrie O'Brien

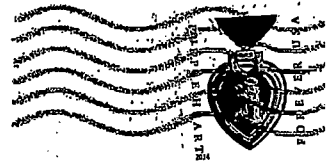
(864) 303-7000

halblackwell@gmail.com

Harold (Hal) E. Blackwell, Jr.
315 Glendale Road
Union, South Carolina 29379

GREENVILLE SC 296

31 JUL 2018 PM 4 1



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

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SC Court of Appeals

29211-162929

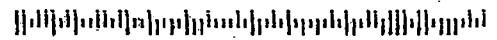


Exhibit E



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 13, 2018

Mr. Adam Crittenden Bach, Esquire
1306 S. Church Street
Greenville SC 29605

Re: Harold Blackwell, Jr. v. Miracle Hill Ministries, Inc.
Appellate Case No. 2017-002618

Dear Counsel:

We received your letter dated July 25, 2018 regarding the appellant's record on appeal. If you wish for this Court to take any action regarding the correction of the record on appeal, you must file a motion in accordance with Rule 240 of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Harold Estes Blackwell, Jr.
Carrie Hailman O'Brien, Esquire
Melegia Lee Daniels, Jr., Esquire



ELLER TONNSEN BACH
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October 16, 2018

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SC Court of Appeals

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

Re: Harold Estes Blackwell, Jr. vs. Miracle Hill Ministries, Inc., Anita Jane Miller (aka Anita M. Blackwell), and Williams Fisk
Appellate Case No.: 2017-002618

Dear Ms. Kitchings:

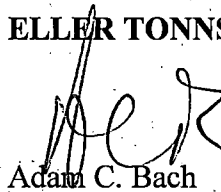
4 copies

Enclosed please find the original and ~~one copy~~ of Miracle Hill Ministries, Inc.'s motion to compel corrected record on appeal in the above-referenced case, along with a proof of service. We would appreciate your filing the original and returning a clocked copy to us in the envelope provided. It is our understanding that the filing fee is currently \$25.00 until on or about October 24, 2018. We have enclosed our check in the amount of \$25.00.

Thank you for your assistance, and please let us know if we may provide any additional information to you at this time.

Sincerely,

ELLER TONNSEN BACH, LLC



Adam C. Bach

ACB/tdk
Enclosures

cc: Harold Estes Blackwell, Jr.
Carrie Hailman O'Brien
Melegia Lee Daniels, Jr.



 **ELLER TONNSEN BACH**
Attorneys at Law

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