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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Walton J. McLeod, Circuit Court Judge

**RECEIVED**  
MAY 14 2020  
SC Court of Appeals

CASE NO. 09-CP-40-01307  
CASE NO. 13-CP-40-02159

Frieda H. Dortch, ..... Appellant,

v.

City of Columbia, Planning & Development Services/Zoning Division a/k/a City of Columbia  
Board of Zoning Appeals, ..... Respondent.

MOTION TO STRIKE MATTER DESIGNATED BY RESPONDENT  
FOR INCLUSION IN THE RECORD ON APPEAL  
AND FOR LEAVE TO EITHER LEAVE OTHER MATTER ON FILE  
WITH THE CIRCUIT COURT  
OR FILE ONLY ONE COPY OF IT

M. Baron Stanton (S.C. Bar #7970)  
STANTON LAW OFFICES, P.A.  
1728 Main Street (29201)  
P. O. Box 245  
Columbia, SC 29202  
803-929-1484  
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ATTORNEY FOR APPELLANT  
FRIEDA H. DORTCH

Appellant Dortch moves the Court pursuant to Rule 210 (c), SCACR, for an order striking from Respondent's Designation of Matter to be Included in the Record on Appeal, the three items described as follows:

4. Transcript of Board of Zoning Appeals hearing, occurring July 8, 2008
5. Transcript of Board of Zoning Appeals hearing, occurring September 9, 2008
6. Transcript of Board of Zoning Appeals hearing, occurring February 12, 2013.

Appellant Dortch moves the Court pursuant to Rule 210 (f), SCACR, for an order allowing the items described as follows to remain on file with the Circuit Court and not be included in the prepared Record, or allowing only one copy of the items to be filed:

7. Audio/video recording of Board of Zoning Appeals hearing, occurring July 8, 2008
8. Audio/video recording of Board of Zoning Appeals hearing, occurring September 9, 2008
9. Audio/video recording of Board of Zoning Appeals hearing, occurring February 12, 2013.

Because of impediments resulting from COVID-19 emergency measures, work disruption and time constraints, opposing counsel has not been consulted, but if the parties determine an agreed course, the court will be updated.

The audio/video recordings were upon information and belief presented to the Circuit Court, but the transcripts of them were not and did not exist until after this appeal was filed.

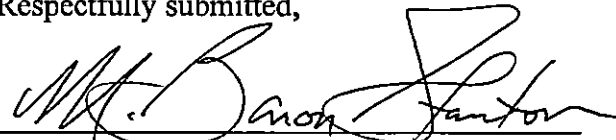
The grounds for the first part of this motion are that the undersigned is required to comply with the Appellate Court Rules, Rule 210 (c), SCACR prohibits inclusion in the record of "matter which was not presented to the lower court or tribunal," and the items designated as "4," "5," and "6" were not so presented. They also did not exist at the time the Circuit Court

considered the case, and Dortch's counsel has not examined them for accuracy, certification, completeness, etc.

The grounds for the second part of this motion are that the items designated as "7," "8," and "9" are 4 ½" DVDs (digital video disks) which are not paper, and which are potentially difficult or expensive to reproduce, and easily damaged. Upon information and belief, these disks were sent to the Circuit Court by respondent before this appeal (to this appellate court) was taken. However, the only Rule of Appellate Procedure addressing these disks appears to be Rule 210 (f), SCACR, dealing with "exhibits other than paper exhibits." The rule directs that such items "must be retained in the trial court and delivered to the appellate court only upon receipt of an order from the clerk of the appellate court." If it is determined that this rule does not apply or the Court wishes another disposition, Appellant requests leave to submit only one copy.

For the foregoing reasons, Appellant Dortch requests the relief set out herein. In lieu of separate affidavit, the undersigned hereby affirms under penalty of perjury, the material facts stated herein.

Respectfully submitted,



M. Baron Stanton  
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803-929-1484

ATTORNEY FOR APPELLANT  
FRIEDA H. DORTCH

SWORN TO ME THIS May 7, 2020

  
Norary Public for S.C. (My Comm'n Exp. 9/28/27)

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IN THE COURT OF APPEALS

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CASE NO. 13-CP-40-02159

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Frieda H. Dortch, ..... Appellant,

v.

City of Columbia, Planning & Development Services/Zoning Division a/k/a City of Columbia  
Board of Zoning Appeals, ..... Respondent.

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CERTIFICATE OF SERVICE

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I, M. Baron Stanton, do hereby certify that I have, on May 8, 2020 served the foregoing  
**Motion to Strike and to Leave With Circuit Court or File One Copy** upon the Respondent by  
causing a copy thereof to be e-mailed as indicated in the attached e-mail copy pursuant to S.C.  
Sup. Ct. Ord. 2020-03-20-1, to the address indicated below:

peteb@rplfirm.com  
(Peter M. Balthazor, Esquire)

s/M. Baron Stanton  
M. Baron Stanton

**B stanton**

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**From:** B stanton <bstanton@stantonlaw.com>  
**Sent:** Friday, May 8, 2020 2:02 PM  
**To:** 'Pete Balthazor'  
**Subject:** RE: Dortch v. City Motion For Additional One-day Extension and Motion to Strike and to Leave With Circuit Court  
**Attachments:** Scanned Dortch Motion for Additional One-Day Extension on Reply Brief and Addl DOM.pdf; Scanned Motion to Strike and For Leave.pdf

Pete, attached are a motion for an additional one-day extension on our brief and additional designation, already sent to you, and motion to strike and to leave material on file with the Circuit Court, which we are hereby serving.

Best,

Barry

Cell 803-530-2642  
Offc. 803-9291484  
POB 245  
Cola., SC 29202

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MAY 14 2020

SC Court of Appeals

STANTON LAW OFFICES, P.A.

POST OFFICE BOX 245  
COLUMBIA, SOUTH CAROLINA 29202  
May 8, 2020

1728 MAIN STREET  
COLUMBIA, SOUTH CAROLINA 29201  
The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211

TELEPHONE 803-929-1484  
TELECOPIER/FAX 803-929-0534

M. BARON STANTON  
ATTORNEY AT LAW

Re: **Frieda H. Dortch**, Appellant v. City of Columbia, Planning & Development  
Services/Zoning Division a/k/a City of Columbia Board of Zoning Appeals,  
Respondent  
Case No. 09-CP-40-1307  
Case No. 13-CP-40-02159  
Appellate Case No. 2019-000868

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SC Court of Appeals

Dear Ms. Kitchings:

We enclose the following:

1. Initial Appellant's Reply Brief, including proof of service.
2. Appellant's Additional Designation of Matter to Be Included in the Record on Appeal, including proof of service;
3. Motion for Additional One-Day Extension to file the above documents, including proof of service;
4. Motion to Strike and to Leave Matter With the Circuit Court, including proof of service;
5. A check for the \$50.00 filing fee for item. 4; and
6. Vestiges of our attempt to fax items 1. and 2. last night, which you may discard if you wish.

Thank you for your assistance.

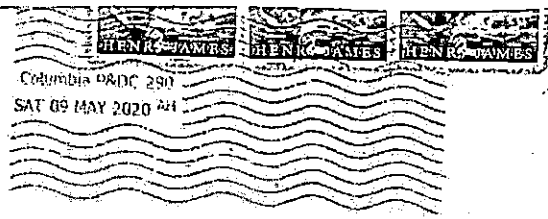
With kind regards,

Yours very truly,

  
M. Baron Stanton

MBS:dmy  
Enclosure

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#9332-109



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SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
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