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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Judicial Circuit

Hon. Marvin H. Dukes, III, Master in Equity

Appellate Case No. 2018-002170

Steven Craig Molloy and Island Group, Inc., d/b/a Carolina
Cleaning Plaintiffs

Of which Steven Craig Molloy is the Appellant

v.

Beaufort County; Gary Kubic, Individually, and as Beaufort
County Administrator; Josh Gruber, Individually and as former
Beaufort County In-House Attorney; Bryan Hill, Individually and
as former Beaufort County Deputy Administrator; Shannon Loper,
Individually, and as Employee of the Beaufort County Parks and
Leisure; Stu Rodman, as finance Chair of Beaufort County
Council; and Dave Thomas, Procurement Director for Beaufort
County, South Carolina; Disabilities and Special Needs (Non-
Profit); and Beaufort County DSN Board,..... Respondents

MOTION TO STRIKE APPELLANT'S FINAL BRIEF

M. Dawes Cooke, Jr., Esq.
John-W. Fletcher, Esq.
BARNWELL WHALEY PATTERSON &
HELMS, LLC
288 Meeting Street, Suite 200
Charleston, SC 29401
(843) 577-7700 Fax: (843) 577-7708
Counsel for Respondents

AND NOW COME Respondents Beaufort County, Gary Kubic (Individually, and as Beaufort County Administrator), Josh Gruber (Individually and as former Beaufort County In-House Attorney), Bryan Hill (Individually and as former Beaufort County Deputy Administrator), Shannon Loper (Individually, and as employee of the Beaufort County Parks and Leisure), Stu Rodman (Finance Chair of Beaufort County Council), Dave Thomas (Individually and as Procurement Director for Beaufort County), and Disabilities and Special Needs (NON-PROFIT) Beaufort County DSN Board (collectively "Respondents"), by and through their undersigned counsel, and file this Motion to Strike Appellant's Final Brief:

1. This is an appeal from an order of the trial court granting summary judgment for Respondents as to all claims asserted by the plaintiffs' (including Appellant Steven Craig Molloy, who is the *only* appellant in this matter).
2. Appellant filed several different versions of his Initial Brief of Appellant in this matter, including filings on February 4, 2019 and February 25, 2019.
3. Respondents timely filed their Initial Brief of Respondents and Designation of Matter for Inclusion in the Record on Appeal on or about March 25, 2019.
4. Appellant also filed his Initial Reply Brief on April 26, 2019.
5. After serial issues concerning the record on appeal, Respondents were finally able to file and serve their Final Brief of Respondent on August 25, 2020.
6. On October 8, 2020, well after the expiration of his time for filing final briefs under S.C.A.C.R., Rule 211(a) ("Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of his final brief(s) on every other party to the appeal."), appellant filed a document entitled "Final Brief of Appellant" ("Putative Final Brief").
7. Appellant did *not* file a Final *Reply* Brief at that time.
8. Upon close inspection, it is apparent that the Putative Final Brief is materially different from all of the previously filed briefs.
9. Rule 211(b) requires that all final briefs be essentially identical to the initial briefs, except for two minor changes:

The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) **References to the Record.** The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) **Correction of Typographical Errors and Misspellings.** The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

Appellant was required to also file a " certificate that his final brief(s) complies with Rule 211(b)." *See* S.C.A.C.R., Rule 211(a).

10. Respectfully, Appellant's Putative Final Brief is not in compliance with Rule 211, in that it is substantively different from his various "initial briefs." Although Respondents recognize that Respondent is proceeding *pro se*, this is a material deviation from the governing rules.

11. Additionally, Appellant has still not filed a Final Reply Brief.

12. Appellant's consistent refusal to comply with the Rules of Appellate Procedure has caused Respondents to incur unnecessary expense and has delayed the disposition of this appeal.

13. In light of the foregoing, the Court should strike the Putative Final Brief and dismiss this appeal with prejudice.

CONCLUSION

14. For the foregoing reasons, Respondents respectfully request that the Court of Appeals strike the recently filed Appellant's Final Brief and dismiss this appeal.

October 9, 2020

BARNWELL WHALEY PATTERSON &
HELMS, LLC

By: 

M. Dawes Cooke, Jr.,

John W. Fletcher, Esq.

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Counsel for Respondents

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County, South Carolina; Disabilities and Special Needs (Non-
Profit); and Beaufort County DSN Board,..... Respondents

PROOF OF SERVICE

I certify that I have served the Motion to Strike Appellant's Final Brief on the above-referenced Appellant by depositing a copy of it in the United States Mail, postage prepaid, on October 9, 2020, addressed to him at the following address:

Steven Craig Molloy
43 Big Woods Drive
Hilton Head, SC 29926
Appellant

BARNWELL WHALEY PATTERSON &
HELMS, LLC

By: 

M. Dawes Cooke, Jr., Esq.

John W. Fletcher, Esq.

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Counsel for Respondents



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REPLY TO SOUTH CAROLINA OFFICE

John W. Fletcher, Esquire
jfletcher@barnwell-whaley.com

October 9, 2020

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

RE: Steven Craig Molloy and Island Group, Inc. d/b/a Carolina Cleaning v. Beaufort County; et al
Appellate No. 2018-002170
BWPH File No.: 1.626

Dear Ms. Kitchings:

Please find enclosed the original Motion to Strike Appellant's Final Brief and Proof of Service of the same, along with our firm's check for \$50.00 for the filing fee.

Thank you for your assistance.

Sincerely,

s/John W. Fletcher

John W. Fletcher

JWF/jgc
Enclosures

cc: Steven Craig Molloy, *pro se*

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www.barnwell-whaley.com

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REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Julia Childers

From: Julia Childers
Sent: Friday, October 9, 2020 3:19 PM
To: 'ctappfilings@sccourts.org'
Cc: scmolloy@gmail.com; John Fletcher; Diana Murray
Subject: Molloy v. Beaufort County, et al; Appellate Case No. 2018-002170
Attachments: Respondent - Motion to Strike Appellant's Final Brief (10.9.20) (01036957xA18B7).pdf;
Respondent - Motion to Strike Appellant's Final Brief - POS - 10.9.20 (01036959xA18B7).pdf

As provided in the South Carolina Supreme Court's Order Re: Operation of Appellate Courts During the Coronavirus Emergency (as Amended May 29, 2020), attached hereto for filing please find Respondent's Motion to Strike Appellant's Final Brief and Proof of Service of the same. A check for \$50.00 for the filing fee is being sent to the Court via first class mail. A hard copy is also being mailed to the *pro se* Appellant.

Please let me know if there are any issues opening the attachments. Thank you for your assistance in this regard.

Sincerely,

JULIA CHILDERS, Legal Assistant to
David S. Cox, John W. Fletcher and Jeffrey M. Bogdan
BARNWELL WHALEY PATTERSON & HELMS, LLC
288 Meeting Street | Charleston SC 29401 | 843.577.7700 | 843.329.5328 (D)



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WE ARE MOVING!

**As of November 2nd, our office location will be 211 King Street, Suite 300
Charleston, SC 29401**

CONFIDENTIAL

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**BARNWELL
WHALEY**

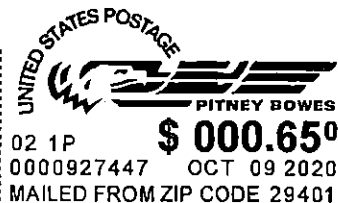
PATTERSON & HELMS LLC

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YEARS ■ 1938-2018

P.O. Drawer H | Charleston SC 29402-0197

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