

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jan 13 2021

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas for the Ninth Circuit

The Honorable Bentley Price, Circuit Court Judge

Case No. 2019-CP-10-00178
Appellate Case No. 2020-000925

J. DANIEL MAHONEY..... Respondent,

v.

THE MUHLER COMPANY, INC. and HENRY M. HAY, III, in his individual capacity,
Defendants/Appellants..... Appellants.

APPELLANTS' REPLY IN SUPPORT OF MOTION TO STRIKE

EPTING & RANNIK, LLC
Jaan G. Rannik, Esquire
46A State Street, Charleston, SC 29401
P: (843) 377-1871
F: (843) 377-1310
jgr@epting-law.com

ATTORNEY FOR APPELLANTS

Respondent argues that the additional materials are “relevant to the issues in this appeal and should be considered by this Honorable Court,” but that is not the question. Rule 210(c) is unambiguous:

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. The Record shall not, however, include matter which was not presented to the lower court or tribunal.

Rule 210(c), S.C.R.A.P. The materials in question were not presented to the trial court,¹ and Respondent’s opposition fails to establish otherwise. Accordingly, Appellant requests the Court strike the referenced materials from Mahoney’s Designation of Matter and direct Respondent to remove all references thereto from his brief.

Respectfully submitted:

This 13th day of January, 2021
Charleston, S.C.

/s/ Jaan G. Rannik
EPTING & RANNIK, LLC
Jaan G. Rannik, Esquire
46A State Street, Charleston, SC 29401
P: (843) 377-1871
F: (843) 377-1310
jgr@epting-law.com
ATTORNEY FOR APPELLANTS

¹ Respondent claims the materials were “referenced” in materials before the trial court, but does not dispute that they were never presented to the trial court as Rule 210(c) requires.