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Jul 12 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., All State Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

**MOTION FOR LEAVE TO FILE AMENDED DESIGNATION
OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

On March 29, 2021, Appellant filed his Designation of Matter on the above-mentioned case, together with Appellant's Initial Brief.

On April 23, 2021, Respondents filed their Motion to Dismiss the Appeal, alleging among others the appeal for the challenged Order filed on July 10, 2015 (but signed by the Judge on July 8, 2015).

On April 27, 2021, Respondents filed their Initial Brief, with Designation of Matter to be Included in the Record on Appeal.

On June 16, 2021, this Honorable Court issued its Order, granting in part Respondents' motion to dismiss the Order granting Respondent's Motion for Summary Judgment and Motion to Dismiss.

Due to this Court's recent ruling, Appellant moves for leave to file an Amended Designation of Matter to reflect the documents relevant to the remaining Orders and issues relating to the imposition of sanctions.

Appellants are requesting this Honorable Court to allow them to submit this Amended Designation of Matter. Respondents will not be prejudiced by this Amendment since the same is being made to conform to the evidence, and the materials have already been provided to them during the course of the appeal.

WHEREFORE, Appellants respectfully move for this Honorable Court to allow them to amend their previously filed Designation of Matter to be Included in his Record on Appeal.

s/Donald L. Smith
Donald L. Smith (Bar No.: 6699)
Attorney for Appellant
122 N. Main Street
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Anderson, South Carolina
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**FORM 7
PROOF OF SERVICE**

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Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

PROOF OF SERVICE

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I certify that I have served a copy of Appellant's Motion for Leave to File Amended Designation of Matter to be Included on Record on Appeal, and Proof of Service of same, upon The Honorable Jenny Abbott Kitchings, Clerk of South Carolina Court of Appeals, through the AIS, and the Respondents, by and through their respective counsel of record, via electronic mail to the addresses as follows:

Ms. Jenny Abbott-Kitchings ctappfilings@sccourts.org

Attorney for Respondents

Mr. Steven M. Krause, Esquire steve@krauselaw.org
Mr. Daniel I. Draisen, Esquire daniel@injuredSC.com

The above-mentioned documents have been served on July 12, 2021.

s/Donald L. Smith

Donald L. Smith (Bar No. : 6699)

Attorney for Appellant

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SC Court of Appeals

**FORM 8
LETTER TO THE APPEALS COURT CLERK
FILING MOTION FOR LEAVE TO FILE AMENDED DESIGNATION OF MATTER
AND AMENDED DESIGNATION OF MATTER
TO BE INCLUDED ON RECORD ON APPEAL**

July 12, 2021

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

**RE: Ex Parte: Donald L. Smith (In Re: Battersby v. Kirkman)
Appellate Case No. 2020-000070**

Dear Ms. Kitchings:

Please find attach the following documents for filing:

- (1) Appellant's Motion for Leave to File Amended Designation of Matter to be Included in Record on Appeal;
- (2) Amended Designation of Matter to be Included on Record on Appeal, and,
- (3) Proof of Service for same.

Sincerely,

s/Donald L. Smith

Donald L. Smith, (Bar#6699)

Attorney for Appellant

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cc: Mr. Steven M. Krause, Esquire
Mr. Daniel L. Draisen, Esquire