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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APR 19 2013

SC Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Court of Commons Pleas

R. Markley Dennis Jr., Circuit Court Judge

Case No. 2010-CP-07-03732

Jane Roe, as parent and natural guardian of Judy Roe, James Roe, and Joyce Roe, Minor Children Under the Age of Eighteen, (18) ..... Appellants,

v.

Daniel Bibby Sr. and Michelle Bibby, Defendants,

Of Whom Michelle Bibby is.....Respondent.

**RESPONDENT'S MOTION TO STRIKE**

Respondent, by and through her undersigned counsel, hereby moves this Court to enter an Order striking certain improper material from Appellants' Designation of Matter, filed with this Court on February 25, 2013 (attached as "Exhibit A"). This Motion is based on the fact that Appellants' Designation of Matter includes materials that were not presented to the lower court.

### Analysis

Rule 209(a) and (b), SCACR, require that the materials included in the Designation of Matter be set forth with "specificity" and that the Designation "clearly identify" what the party desires to have included. Further, Rule 209(b), SCACR incorporates the content requirements of Rule 210(c), SCACR, which provides that the record shall not include matter which was not presented to the lower court. Here, Appellant's Designation of Matter No. 7, "Dorchester Children's Center Interview Report (Exhibit B to Michelle Bibby Dep.)," is unclear in what exhibit it refers to, as there are two exhibits to Michelle Bibby's deposition, neither of which was identified as "Exhibit B." Regardless, it appears that neither exhibit was presented to the lower court. Additionally, Designation of Matter No. 8, "Deposition of Michelle Bernadette Quattlebaum" also was never presented to the lower court.

Both of these matters are incorporated into Appellants' Initial Brief on pages 3, 4, and 10. Pursuant to Rule 210(c), SCACR, these materials should not be included in the Designation of Matter or Appellants' Initial Brief. Further, their inclusion is prejudicial to Respondent.

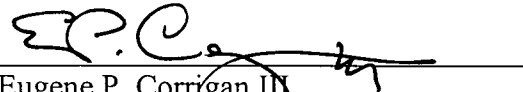
### Conclusion

For the reasons stated above, Respondent respectfully requests this Court grant Respondent's Motion and enter an Order striking No. 7 and No. 8 from Appellants' Designation of Matter and requiring Appellants to amend their Initial Brief, omitting any references to the stricken materials. Further, Respondent requests

that the Court extend the deadline for Respondent's Initial Brief and Designation of Matter to thirty (30) days after any amended filings by Appellants.

Counsel for Respondent attempted to address and resolve this matter without the necessity of a motion by letter dated April 9, 2013, to Appellant's counsel (attached as "Exhibit B"). Respondent requested a response by April 16, 2013, but as of today, no response has been received.

Respectfully submitted,



Eugene P. Corrigan III  
J.W. Nelson Chandler  
Elizabeth F. Fulton  
CORRIGAN & CHANDLER LLC  
PO Box 547  
Charleston, SC 29402  
Phone: (843) 577-5410  
Fax: (843) 577-5650

ATTORNEYS FOR RESPONDENT  
MICHELLE BIBBY

April 17, 2013

# EXHIBIT A

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2010-CP-08-3732

Jane Roe, as parent and natural guardian of  
Judy Roe, James Roe, and Joyce Roe, minor  
children under the age of eighteen (18).....Appellants,

v.

Daniel Bibby, Sr., and Michelle Bibby

Of whom, Michelle Bibby is.....Respondent.

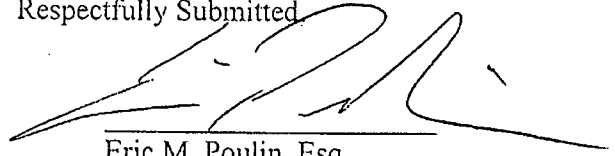
DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record on appeal:

1. Summons and Complaint;
2. Answer of Defendant Michelle Bibby;
3. Defendant Michelle Bibby's Response to Requests for Admission;
4. Deposition of Jane Roe;
5. Deposition of Michelle Bibby;
6. Statement of Daniel Bibby, Jr. (Exhibit A to Michelle Bibby Dep.);
- 7. Dorchester Children's Center Interview Report (Exhibit B to Michelle Bibby Dep.);
- 8. Deposition of Michelle Bernadette Quattlebaum
9. Motion for Summary Judgment
10. Plaintiffs' Memorandum in Opposition to Summary Judgment
11. Plaintiffs' Supplemental Memorandum in Opposition to Summary Judgment
12. Transcript of Summary Judgment Hearing of July 10, 2012
13. Order Granting Summary Judgment

[signature on following page]

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'E. Poulin', written over a horizontal line.

Eric M. Poulin, Esq.  
S.C. Bar No.: 100209  
Anastopoulo Law Firm, LLC  
2557 Ashley Phosphate Road  
North Charleston, SC 29418  
(843) 614-8888

February 25, 2013

**Attorney for Appellants**

# EXHIBIT B

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# CORRIGAN & CHANDLER LLC

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ATTORNEYS AT LAW

Elizabeth F. Fulton  
(843) 577-5412 (direct)  
elizabeth@corriganhandler.com

REPLY TO:  
P.O. Box 547  
Charleston, SC 29402

April 9, 2013

Eric M. Poulin, Esq.  
Anastapoulo Law Firm  
2557 Ashley Phosphate Rd  
North Charleston, SC 29418

Re: *Roe v. Bibby*  
Case No. 2010-CP-08-3732 / App. Case No. 2012-213350  
Our File No. C1001.M0151

Dear Eric:

As a follow up to our telephone conversation, we are responding to Appellant's Initial Brief and Designation of Matter in connection with the appeal of the above-referenced case. A few of the items listed on the Designation of Matter are not described with enough specificity to identify and/or to determine whether they are properly included in the Record on Appeal. I write in an attempt to resolve this matter without having to file a motion or objections.

As you know, Rule 209(a) and (b), SCACR, require that the materials included in the Designation of Matter be set forth with "specificity" and that the Designation "clearly identify" what the party desires to have included. Rule 209(b) also incorporates the content requirements of Rule 210(c), which provides that the record shall not include matter which was not presented to the lower court.

Item No. 7, *Dorchester Children's Center Interview Report* is incorrectly referred to as "Exhibit B" to Michelle Bibby's Deposition. There are actually two separate reports; notated as "Exhibit 2" and "Exhibit 2A" to Michelle Bibby's Deposition. To which is Appellant referring? In any event, based on our review of the Court's file, we do not see where Item No. 7, whether it is Exhibit 2 or Exhibit 2A, and Item No. 8, *Deposition of Michelle Bernadette Quattlebaum* were presented to the lower court.

If your records indicate something to the contrary, please let me know. If not, please let me know by next Tuesday whether Appellant will submit an Amended Designation of Matter addressing these issues, and if necessary, an Amended Appellant Brief.

Eric M. Poulin, Esq.  
Anastapoulo Law Firm  
April 9, 2013  
Page 2 of 2

Thank you for your attention to this matter.

With best regards, I am

Yours very truly,

A handwritten signature in cursive script that reads "Liz Fulton" with a long horizontal flourish extending to the right.

Elizabeth F. Fulton

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
Court of Commons Pleas

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R. Markley Dennis Jr., Circuit Court Judge

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Case No. 2010-CP-07-03732

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Jane Roe, as parent and natural guardian of  
Judy Roe, James Roe, and Joyce Roe, minor  
Children under the age of eighteen (18) ..... Appellants,

v.

Daniel Bibby, Sr., and Michelle Bibby

Of whom Michelle Bibby is.....Respondent.

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**PROOF OF SERVICE**

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I certify that I have served the foregoing **RESPONDENT'S MOTION TO STRIKE** on all parties of record by depositing a copy of it in the United States Mail, postage prepaid, on April 17, 2013, addressed to their attorneys of record as follows:

Eric M. Poulin, Esq.  
Anastapoulo Law Firm, LLC  
2850 Ashley Phosphate Rd., Suite B  
North Charleston, SC 29418

*Attorney for Appellants*

***[SIGNATURE PAGE TO FOLLOW]***



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Eugene P. Corrigan III  
CORRIGAN & CHANDLER LLC  
PO Box 547  
Charleston, SC 29402  
Phone: (843) 577-5410  
Fax: (843) 577-5650

ATTORNEYS FOR RESPONDENT  
MICHELLE BIBBY

---

# CORRIGAN & CHANDLER LLC

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ATTORNEYS AT LAW

Eugene P. Corrigan III  
(843) 577-5450 (direct)  
rick@corriganchandler.com

REPLY TO:  
P.O. Box 547  
Charleston, SC 29402

April 17, 2013

**VIA U.S. MAIL**

The Honorable Jennie Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
1015 Sumter St.  
Columbia, SC 29211

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APR 19 2013

Court of Appeals

Re: *Jane Roe, as parent and natural guardian of Judy Roe, James Roe, and Joyce Roe, Minor Children Under the Age of Eighteen (18), Appellants, v. Daniel Bibby Sr. and Michelle Bibby, Defendants, Of Whom Michelle Bibby is Respondent.*  
Case No. 2010-CP-08-3732  
Appellate Case No. 2012-213350

Dear Ms. Kitchings:

We represent Respondent Michelle Bibby in the above-referenced case. Enclosed, please find one (1) original and six (6) copies of *Respondent's Motion to Strike* and a check in the amount of \$25.00 to cover the filing fee in accordance with Rule 240(d), SCACR.

By copy of this letter, we are serving opposing counsel of record with a copy of the motion.

Should you have any questions, please do not hesitate to contact me.

With highest professional regards, I am

Sincerely yours,



Eugene P. Corrigan III

cc: Eric M. Poulin, Esquire