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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Hon. B. Alex Hyman, Circuit Court Judge

Case No. 2020-CP-40-01934
Appellate Case No. 2025-000063

Stivers Brothers Automotive, Inc. Respondent,

v.

W. Warner Peacock and Peacock Automotive, LLC..... Appellants.

APPELLANTS' REPLY TO RESPONDENT'S RETURN TO
APPELLANTS' MOTION TO STRIKE
RESPONDENT'S DESIGNATION OF MATTER

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Respondent argues that its designation of matter is proper because it contains matter discussed in Respondent's Initial Brief. Rule 209(b), SCACR provides that a party shall not include any matter in the Designation which is irrelevant to the appeal. Matter that is otherwise irrelevant to an appeal is not made relevant merely because Respondent discusses it in its Brief.

The appeal in the present case is from Order issued by Judge B. Alex Hyman. Respondent's Return does not address the fact that it argued before Judge Hyman rejected Respondent's argument that Appellants' Motion for Partial Summary Judgment filed May 12, 2022, was barred by Rule 43(1), SCRCR based on the filing of and ruling by Judge Newman on Appellants' 2020 Motion. Respondent did not appeal this ruling; therefore, it is not before this Court. *Austin v. Specialty Transp. Servs.*, 358 S.C. 298, 320, 594 S.E.2d 867, 878 (Ct. App. 2004) (a portion of a judgment that is not appealed presents no issue for determination by the reviewing court).

The matters designated by Respondent are, therefore, irrelevant to this appeal and Appellants request that these items be removed from the Designation of Matter and not included in the Record on Appeal.

Respectfully submitted,

July 1, 2025



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PROOF OF SERVICE

I, Peggy McComb, Legal Assistant to attorneys for Appellants W. Warner Peacock and Peacock Automotive, LLC, certify that I have served a copy of Appellants' Reply to Respondent's Return to Appellants' Motion to Strike Respondent's Designation of Matter *via email* and by depositing a copy in the U.S. Mail, sufficient first class postage prepaid, on July 1, 2025 addressed to J. Gregory Studemeyer, Esq. and Ryan Studemeyer, Esq., Studemeyer Law Firm, P.C., Post Office Box 1014, Irmo, SC 29063 and J. Michael Baxley, Esq., Douglas Jennings Law Firm, LLC, 225 Seven Farms Drive, Suite 202, Charleston, SC 29492.

July 1, 2025



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