

In
The State of South Carolina The Court of Appeals

Case No. 2023-001733

Jian-Yun (John) Dong, M.D., Ph.D., Appellant

v.

The Medical University of South Carolina, Respondent

APPELLANT’S REPLY TO RESPONDENT’S RETURN TO MOTION TO
STRIKE FINAL RESPONSE BRIEF

Appellant, appearing pro se, respectfully submits this Reply in further support of his Motion to Strike Respondent’s Final Brief pursuant to Rules 267, 211(b), 208(b)(1)(B), and 213, SCACR.

I. Respondent’s Return is Non-Responsive and Concedes the Issues

Respondent’s Return fails to address the specific deficiencies identified in Appellant’s Motion. The controlling principle is clear:

- “Where a respondent fails to address an issue raised in the appellant’s brief, the respondent is deemed to have conceded the issue.” *State v. Porter*, 389 S.C. 27, 37, 698 S.E.2d 237, 242 (Ct. App. 2010).
- Similarly, *Hickman v. Hickman*, 301 S.C. 455, 457, 392 S.E.2d 481, 482 (Ct. App. 1990), confirms that failure to respond to arguments may be treated as abandonment.

Appellant’s Motion identified two central defects: (1) Respondent’s Final Brief failed to respond to the preserved issues raised by Appellant, and (2) Respondent misrepresented facts from the record. Nowhere in the Return does Respondent substantively dispute these points. Instead, Respondent simply asserts that its brief “complies in all respects” with the rules, without citation or analysis. Such conclusory denial is not a response and is legally equivalent to concession.

II. This is Appellant’s First Motion to Strike

Respondent incorrectly asserts that the Court has “previously rejected the same or similar arguments” in prior orders dated October 23, 2024, January 31, 2025, May 22, 2025, and August 6, 2025. This assertion is both inaccurate and misleading.

- Those orders addressed disputes over the Record on Appeal and motions to amend—not any motion to strike Respondent’s Final Brief.
- Appellant has never before filed a motion to strike Respondent’s Final Brief.
- By mischaracterizing the procedural history, Respondent violates Rule 208(b)(1)(B), SCACR, which requires accurate representation of the record.

III. Respondent’s Misrepresentations Remain Unrefuted

Respondent does not deny that its Final Brief misrepresented the terms of the Agreement and mischaracterized Appellant’s statements. These remain uncontested.

- Rule 208(b)(1)(B), SCACR, requires factual statements to be supported by record citations.

- Rule 213, SCACR, authorizes sanctions for “frivolous, misleading, or improper arguments.”

Respondent’s silence on these issues amounts to concession, leaving its misrepresentations uncorrected before this Court.

IV. Respondent’s Procedural Attacks Are Meritless

Respondent argues that Appellant’s Motion should be deemed frivolous under Rule 269, SCACR. This attack fails for two reasons:

1. Appellant’s Motion is grounded in specific violations of Rules 211(b), 208(b)(1)(B), and 213, SCACR—well-established procedural grounds for striking a brief.
2. The Motion identifies precise misrepresentations and non-responsiveness; it is not a conclusory complaint or a dilatory tactic.

The accusation of delay is unfounded and constitutes a mischaracterization in itself. In fact, the record demonstrates that Respondent—not Appellant—has repeatedly filed motions to strike the Record on Appeal and Appellant’s briefs on frivolous grounds. The Court granted some of those motions only because Appellant, as a pro se litigant, did not respond, believing the motions unworthy of serious consideration.

Respondent now attempts to distract the Court by characterizing Appellant's legitimate Motion to Strike as an effort to delay proceedings. More troublingly, Respondent now attempts to distract the Court by characterizing Appellant's legitimate Motion to Strike as an effort to delay proceedings. More troublingly, Respondent goes so far as to request that this Court order Appellant to **"cease to file any further motions related to either final briefs or the record on appeal."** This extraordinary request, if granted, would bar Appellant from seeking redress even when Respondent's filings contain demonstrable misrepresentations. Such a request is baseless, contrary to the SCACR, and a transparent attempt to shield Respondent's misconduct from judicial review.

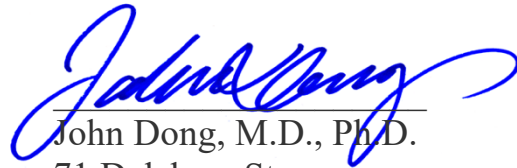
V. Conclusion

For the reasons stated in Appellant's Motion and this Reply, Appellant respectfully requests that this Court:

1. Reject Respondent's meritless arguments in its Return;
2. Grant Appellant's Motion to Strike Respondent's Final Brief;
3. Alternatively, disregard Respondent's Final Brief in adjudicating this appeal and treat Appellant's issues as conceded; and
4. Impose such sanctions or further relief as the Court deems just and proper.

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Respectfully submitted, pro se,



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