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**Mar 06 2026**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 13-CP-40-0319  
Appellate Case No. 2025-000801

Daniel O’Shields and Roger W. Whitley, a Partnership d/b/a O & W Cars,..... Appellants,

v.

Columbia Automotive Company, LLC d/b/a Midlands Honda,.....Respondent.

**RETURN TO MOTION TO STRIKE**

Columbia Automotive Company, LLC d/b/a Midlands Honda (“Midlands Honda”) files this return in opposition to the motion to strike citations to unpublished opinions made by Daniel O’Shields and Roger W. Whitley, a Partnership d/b/a O & W Cars (“O&W”). As an initial matter, nothing in Rule 268, SCACR, forbids citation to unpublished decisions or provides that such citations should be struck from briefs, nor has O&W cited any case for that proposition. Instead, the rule states, “[m]emorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved.”

Here, Midlands Honda has not cited unpublished opinions as if they were binding precedent. With respect to the reference to prior cases involving O&W’s counsel, those unpublished opinions are cited to show a pattern on the part of O&W’s counsel, not as legal precedent. (*See* Midlands Honda Initial Brief at n. 7 (“This unwillingness to accept an attorney’s

fee award of anything less than the full amount claimed is standard operating procedure for O&W's counsel. *See Greenawalt v. Nissan N. Am., Inc.*, No. 2023-001124, 2025 WL 1517016, at \*1 (S.C. Ct. App. May 28, 2025) (“The circuit court awarded \$75,000 in fees. Appellants concede the court performed the appropriate legal analysis up until the portion of the order reducing the award. Appellants argue this was error because they are statutorily entitled to all hours ‘actually expended,’ or ‘full compensation.’ We respectfully disagree and affirm.”), *cert. denied* January 16, 2026; *West v. Am. Honda Motor Co., Inc.*, No. 2022-000162, 2025 WL 1514479, at \*1 (S.C. Ct. App. May 28, 2025) (“Appellant requested \$92,385 in fees and \$2,386.28 in costs. The circuit court awarded \$27,585. On appeal, Appellant asserts the circuit court erred in not awarding all of the requested fees and in failing to award costs. We affirm the amount of awarded fees but amend the award to include the requested costs.”), *cert. denied* December 16, 2025.”) and p. 17 (“As this court has repeatedly reminded O&W’s counsel, the circuit court is not required to award all fees requested. *See Greenawalt*, 2025 WL 1517016 at \*1 (“Appellants argue this was error because they are statutorily entitled to all hours ‘actually expended,’ or ‘full compensation.’ We respectfully disagree and affirm.”); *West*, 2025 WL 1514479, at \*1 (“On appeal, Appellant asserts the circuit court erred in not awarding all of the requested fees and in failing to award costs. We affirm the amount of awarded fees but amend the award to include the requested costs.”).”).

With respect to the other unpublished citation, the reference is relegated to a footnote clearly indicating that the citation is to an unpublished opinion and presented as a summary of published authority. (*See Midlands Honda Initial Brief* at n. 11). Midlands Honda has included citations to published authority on these points and relies on those as precedent.

Nothing in Rule 268, SCACR prevents citation under the circumstances here. *See Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 555–56, 813 S.E.2d 292, 298–99

(Ct. App. 2018) (finding circuit court’s citation to unpublished opinion was not reversible error where circuit judge cited published authority, noted that the citation was merely persuasive reasoning, and the cited case involved “some of the same parties were making the same arguments in a case with similar facts.”). Parties should be free to make their arguments and to try to persuade the Court as they see fit. Litigants often cite to non-precedential and non-binding authority, be it from secondary sources, unpublished opinions, or out of state authority. The Court is then free to take these citations for what they are worth, which the Court may decide is nothing.

For these reasons, Midlands Honda asks that the motion be denied. In the event the Court is inclined to grant the motion, Midlands Honda asks that it be given leave to file an amended initial brief.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

*s/ Sarah P. Spruill*

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*Attorneys for Respondent*

Dated: March 6, 2026

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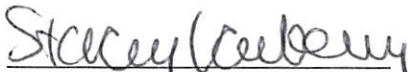
**PROOF OF SERVICE**

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I certify that I have served the Respondent's Return to Motion to Strike on all attorneys of record by electronic mail on March 6, 2026 addressed to:

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Stacey Carberry, Legal Assistant

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SINKLER BOYD**

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March 6, 2026

**VIA EMAIL**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

Re: *Daniel O'Shields v. Columbia Automotive*  
Appellate Case No. 2025-000801

Dear Ms. Kitchings:

This firm represents the Respondent in the above-captioned matter. Enclosed for filing, please find the Respondent's Return to Motion to Strike together with our Proof of Service for the same.

If you have any questions, please give me a call. Thank you for your assistance in this matter.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/sac  
Enclosures

cc: Brooks R. Fudenberg (Brooks.R.Fudenberg@FudenbergLaw.com)  
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