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

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.

Reply in Support of Appellants' Motion to Strike from the Brief of Respondent Extended Discussions of Unpublished Cases

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Respondent's contempt for the Appellate Court Rules is manifested in its Return to the Motion to Strike. "[N]othing in Rule 268, SCACR, forbids citation to unpublished decisions," it states, ignoring that the Rule states they "should not be cited except in proceedings in which they are directly involved." (Ret. p. 1).

Its desire "to show a pattern on the part of O&W's counsel," *id.*, is improper in its own right. Cases are about the parties, not the attorneys. Attacks by one set of attorneys on another inevitably invites retaliation and an unpleasant experience for all.

Columbia Automotive then repeats the error by quoting itself quoting the unpublished opinions. (*Id*. pp. 1-2). This is an effort to get the improper material before the Court even if the Court deems it to be improper.

Columbia Automotive cites a case holding the error of citing an unpublished opinion is not necessarily *reversible*. (*Id*. pp. 2-3) (citing *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)). It cites no other authority to "support" its position. To state the obvious, courts should not engage in errors just because they might not be reversed. Further, Columbia Automotive apparently wants the Court to rely on the improper material. Because that position contradicts the Rule, Columbia Automotive then effectively calls for the Rule's elimination. "Parties should be free to make their arguments and to try to persuade the Court as they see fit." (*Id.* p. 3). "The Court is then free to take these citations for what they are worth, which the Court may decide is nothing." (*Id*.). What Columbia Automotive proposes may be a fine rule, a horrible rule, or something in between. But it is not the South Carolina rule.

The Court should grant the Motion to Strike and deny Respondent leave to further amend its Brief. Respondent requested and received 98 days from service of Appellant's Initial Brief to file its responsive brief. That is already a generous amount of time. No more should be given. Allowance for further amendment of Respondent's Initial Brief would necessitate restarting the clock for the Reply Brief. The Court should keep things simple and direct Respondent to excise only the improper content.

Respectfully submitted,

LAW OFFICE OF
BROOKS R. FUDENBERG, LLC

s/ Brooks R. Fudenberg
Brooks R. Fudenberg
S.C. Bar No. 72019
14 Ashe Street
Charleston SC 29403
Tel.: 843-696-8911
BRF@Fudenberglaw.com

March 10, 2026

C. STEVEN MOSKOS, P.A.

s/C. Steven Moskos
C. Steven Moskos
S.C. Bar No. 7938
6650 Rivers Ave., Ste 210
N. Charleston, SC 29406
Tel. (843) 763-5297
Steve@moskoslawfirm.com

Attorneys for Appellant

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PROOF OF SERVICE

I certify that I have served Appellants' Reply in Support of their Motion to Strike on Columbia Automotive Company, LLC d/b/a Midlands Honda by emailing a copy to its attorney of record, Sarah Spruill, Esq., at sspruill@hsblawfirm.com.

The email serving Respondent is attached.

March 10, 2026

s/Brooks R. Fudenberg

Brooks R. Fudenberg
Law Office of Brooks R. Fudenberg LLC
14 Ashe Street, Charleston SC 29403
843-696-8911

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