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The State of South Carolina
In the Court of Appeals

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Appeal from Chesterfield County
Court of Common Pleas

SC Court of Appeals

The Honorable Paul M. Burch, Circuit Court Judge

Case No. 2011-CP-13-271

Auto-Owners Insurance Company Appellant

v.

Elouise Woody Benjamin, Melvin Benjamin, Joshua
Lee Cail, Naida L. Singleton, and Pee Dee Heating
Cooling Specialists, Inc. Defendants

Of whom Elouise Woody Benjamin and Melvin
Benjamin are the..... Respondents

Motion to Strike the Initial Reply Brief

This appeal involves two insurance policies that Auto-Owners issued to the same insured. On page three of its Initial Brief, Auto-Owners began its Statement of Facts by saying that it issued the Commercial General Liability policy the day before it issued the Auto policy. The Benjamins cited and relied heavily on this time line in their Initial

Respondents' Brief. Auto-Owners's Initial Reply Brief now says that it issued the Auto policy first and chastises the Benjamins' "erroneous timeline" and lack of "factual grounding" — without mentioning its Initial Brief's Statement of Facts or the Benjamins' citation to its Initial Brief's Statement of Facts.

A Reply Brief cannot properly contradict an Initial Brief's Statement of Facts because, "Any matters stated or alleged in appellant's statement shall be binding on appellant." Rule 208(b)(1)(C), SCACR. The Reply Brief should be stricken for violating this rule; otherwise, Auto-Owners falsely portrays the Benjamins when they were simply relying on what Auto-Owners said.

The Benjamins have no objection if the Court grants Auto-Owners leave to file and serve a Reply Brief that does not contradict its Initial Brief's Statement of Facts.

Respectfully submitted,



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SC Bar # 65074

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Certificate of Service

I certify that I on December 20, 2013 served the Motion to Strike the Initial Reply Brief by first class mail, sufficient postage prepaid, addressed to:

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December 20, 2013

Hon. Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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DEC 20 2013

SC Court of Appeals

Re: Auto-Owners Insurance Co. v. Benjamin
Civil Action No. 2011-CP-13-271

Dear Ms. Kitchings:

Enclosed is the original and six copies of the Respondents' Motion to Strike the Initial Reply Brief. The certificate of service is attached, and a \$ 25 check is enclosed.

My best,



Robert Hill

cc: William P. Hatfield, Esq.
Dominic A. Starr, Esq.