

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. 2017-000902

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.

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

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SC Court of Appeals

Appellants propose the following be included in the Record on Appeal:

POST-TRIAL ORDERS

1. Order on Post-Trial Motions
2. Order on Rule 59 Motion
3. Order on Mot. for Supp. Atty's Fees Dec 2016-March 2017

TRIAL MATERIALS

4. Pls.' Trial Ex.s 1-96
5. Def's Req. to Charge ## 16, 17, 21, 24, Punitive Damages "B" and "C"
6. Verdict form (all causes of action, special interrogatories, and punitive damages)

PRETRIAL FILINGS and ORDERS

1. Summons and Complaint
2. Def. CAC's Answer 02-25-13
3. Def CAC's Mot. to Dismiss 02-25-13

4. Judgment 04-19-13
5. Pl.s' Mot. Amend Compl. 05-09-13
6. Order on Pl.s' Mot. Amend Compl. 05-09-13
7. Form 4 Order 05-16-13
8. CAC's Offer of Judgment 01-26-15
9. Pl.s' Offer of Judgment Filed 02-06-15
10. CAC's Mot. Summ. J. 07-10-15
11. Pl.'s Br. Opp. CAC's Mot. Summ. J. 07-10-15
12. Form 4 Order 10-01-15
13. Amended Answer 10-16-15
14. CSC's Mot. Dismiss 04-15-16
15. Answer to 2d. Am. Compl. 04-15-16
16. Pl.s' Pre-Trial Br. 04-18-16
- 17.

POSTRIAL MOTIONS, BRIEFS, and COMMUNICATIONS

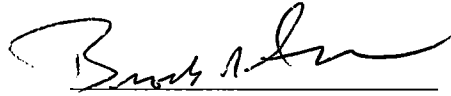
Unless the contrary is stated, a reference to a document includes all attachments, exhibits, cover letters and cover emails accompanying that document, other than proof of service and motion cover sheets.

1. CAC's Motion for Judgment Notwithstanding the Verdict ("JNOV"), or, in the Alternative, a New Trial, or a New Trial Nisi Remittitur
2. Motion to Require Election of Remedies
3. Motion to Enforce North Carolina Punitive Damages Cap of \$250,000
4. Motion for Setoff or Recoupment
5. Appellants' post-trial motion
6. Appellants' Brief in Support of: Trebling of Appellant's UTPA verdict (Br.);
7. Appellants' Brief in Support of: Interest under the Offer of Judgment Statute (Br.),
8. Appellants' Brief in Support of: Prejudgment interest under N.C.G.S. § 24-5
9. Appellants' Brief in Support of: Attorney's fees and costs accrued through May 1, 2016
10. email from Judge's clerk to all counsel of May 18 2016
11. Appellants' election of remedies, 05-23-16
12. Appellants' Motion to Reconsider, 05-23-16
13. Def.'s Response to Pl.s' Election of Remedies
14. Pl.s' Br. Opp. Mot. Enforce Cap

15. Pl.s' Br. re: D.'s Response to Election of Remedies
16. Pl.s' Br. Re: Election of Remedies
17. Pl.s' Br. Opp. Mot. for Setoff
18. Pl.s' Br. Opp. Mot. JNOV
19. C. Steven Moskos 1st Supp. Aff. of Att'y Fees
20. Brooks. R. Fudenberg Affidavit w/timesheets and Aff. of Jason Luck
21. D.'s Br. Opp. Pl.s' Mot. to Treble Damages
22. D.'s Br. Opp. Pl.s' Mot. for Interest under Offer of Judgment Statute
23. D.'s Br. Opp. Pl.s' Mot. for Prejudgment Interest
24. D.'s Mem. in Further Supp. of Mot. for JNOV
25. D.'s Br. Opp. Pl.s' Mot. for Att'y Fees
26. Aff. C.S. Moskos in Supp. Pl.s' Mot. for Att'y Fees 08-30-16
27. 2d Am. Compl. 09-13-16
28. Pl.s' Election of Remedy 09-08-16
29. Pl.s' Rule 59 Mot. and Mem. in Support, 12-15-16
30. Pl.s' Mot. for Supp. Att'y Fees, 12-15-16
31. 1/13/17 email to all counsel from Judge's Clerk
32. 1/13/17 D.'s Response with proposed order and email
33. 1/20/17 email to Court from B.R. Fudenberg with attachment
34. 1/23/17 email to Court from H. Clayton Walker, Jr. with attachment\
35. 1/26/17 email from Court's Clerk to all counsel
36. 02/06/17 email from Mr. Walker to Court with attachments
37. 02/07/17 email from Mr. Fudenberg to Court with Reply and attachments
38. 02/22/17 email from Mr. Walker to Court
39. Pl.'s Mot. for Supp. Fees through March 2017 with 03/30/17 cover email and attachments
40. Email from Mr. Fudenberg to Judge's Clerk 04/11/17 with Notice of Appeal
41. Email from Judge's Clerk to all counsel 06-02-17
42. Email from CAC to Court 06/12/17
43. Pl.s' Mem Opp. Def.'s Proposed Order with attachments and 2 cover emails 06/28/17
44. 07/25/17 letter from CAC to Court, with cover email
45. 08/07/17 email from CAC to Court with letter and proposed Order
46. 08/08/17 emails (2) from Judge's Clerk to all counsel.

I certify that this designation contains no matter which is irrelevant to this appeal.

February 26, 2018



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Attorney for Appellants

THE STATE OF SOUTH CAROLINA
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R. Ferrell Cothran, Jr., Circuit Court Judge

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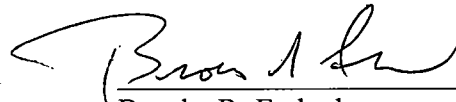
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LLC d/b/a Midlands Honda,

Respondent.

PROOF OF SERVICE

I certify that I have served the Initial Brief of Appellants and their Designation of Matter to Be Included in the Record on Appeal on Columbia Automotive Company, LLC d/b/a Midlands Honda by depositing a copy of it in the United States Mail, postage prepaid, on today's date, addressed to its attorney of record Harry Clayton Walker Jr., Esq., Haynsworth Sinkler Boyd, PA, PO Box 11889, Columbia, SC 29211-1889.

2/28/2018



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February 27, 2018

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Daniel O'Shields and Roger W. Whitley A Partnership d/b/a O&W Cars v. Columbia
Automotive Company, LLC d/b/a Midlands Honda
Appellate Case No. 2017-000902

Dear Ms. Kitchings:

Please find enclosed:

- * an original and seven (7) copies of a Motion to File our of Time in this case,
- * an original proof of service regarding the same,
- * a check in the amount of \$25.00 as the filing fee, and
- * an original of the Initial Brief of Appellants in this case;
- * an original Designation of Matter;
- * an original proof of service regarding the Brief and Designation;
- * a copy of this letter; and
- * a self-addressed, stamped envelope.

I ask that you return a stamped copy of this letter in the enclosed self-addressed envelope.

Sincerely,



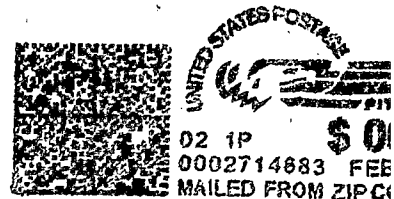
Brooks R. Fudenberg
Law Office of Brooks R. Fudenberg LLC
Attorney for Appellants

cc: Harry Clayton Walker Jr., Esq.
Sarah P. Spruill, Esq.

Robert Reibold, Esq.
C. Steven Moskos, Esq

James Y. Becker, Esq.

Law office of B.R. Fudenberg
171 Church St, # T60
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SC Court of Appeals

The Hon. JIMMY ABBOTT KITCHINGS
Clerk, SOUTH CAROLINA COURT OF APPEALS
PO Box 11629
Columbia SC 29211

