

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2017-002481

RECEIVED

MAR 29 2018

SC Court of Appeals

AEP2, LLC f/k/a 2AM Group, LLC .....Respondent

v.

BMW of North America, LLC .....Appellant

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

M. Dawes Cooke, Jr., Esq.  
S.C. Bar No. 1376  
Anna L. Strandberg, Esq.  
S.C. Bar No. 102432  
288 Meeting Street, Ste 200  
Charleston, SC 29401  
(843) 577-7700 Fax: (843) 577-7708

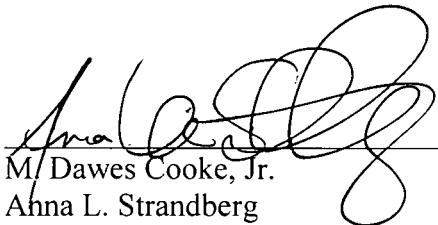
Ashley Bryan Abel  
15 South Main Street  
Suite 700  
Greenville SC 29601  
(864) 232-7000  
Attorneys for Appellant

In accordance with the SCACR, Rule 209, Appellant BMW of North America, Inc., hereby proposes the following materials to be included in the Record on Appeal in this matter. Appellant reserves the right to seek to supplement the record pursuant to Rule 212, SCACR.

1. Respondent's Complaint with all Exhibits, filed February 8, 2017.
2. Order of Entry of Default, filed March 24, 2017.
3. Notice to State Court of Defendant's Removal to Federal Court, filed March 24, 2017.
4. Remand Order of United States District Court, filed April 20, 2017.
5. Appellant's Motion to Set Aside Entry of Default with Exhibit 3, filed May 1, 2017.
6. Affidavit of Richard Spitaleri, Jr., Esquire, dated April 25, 2017.
7. Affidavit of Ashley B. Abel, Esquire, dated April 25, 2017.
8. Respondent's Memorandum in Opposition to BMW's Motion to Set Aside Default and Memorandum in Support of Plaintiff's Motion for Damages Hearing, filed June 8, 2017.
9. Appellant's Memorandum in Opposition to Plaintiff's Motion for Damages Hearing and Reply Memorandum in Support of Defendant's Motion to Set Aside Default Judgment, filed June 13, 2017.
10. Second Affidavit of Richard Spitaleri, Jr., Esquire, dated June 12, 2017.
11. Second Affidavit of Ashley B. Abel, Esquire, dated June 12, 2017.
12. Transcript of Hearing before the Honorable J.C. Nicholson, Jr. on June 12, 2017.
13. Order Denying Motion to Set Aside Entry of Default, filed July 12, 2017.
14. Appellant's Motion for Reconsideration, filed August 8, 2017.
15. Third Affidavit of Richard Spitaleri, Jr., Esquire, dated October 5, 2017.
16. Form 4 Order Denying Defendant's Motion for Reconsideration, filed October 4, 2017.
17. Transcript of Damages Hearing before the Honorable John C. Hayes, III, on October 12, 2017, pp 3:1-7:2; 26:25-35:5.
18. Order of Default Judgment, filed November 2, 2017.

19. Order of Default Judgment, filed November 27, 2017.

CERTIFICATION: By signing below, counsel for the Appellant certifies that all matters set forth herein are relevant to this appeal.

  
\_\_\_\_\_  
M. Dawes Cooke, Jr.  
Anna L. Strandberg  
Barnwell Whaley Patterson & Helms, LLC  
P.O. Drawer H  
Charleston, SC 29402  
(843) 577-7700  
Attorneys for Appellant BMW of North  
America

Dated March 28, 2018  
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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AEP2, LLC f/k/a 2AM Group, LLC.....Respondent

v.

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PROOF OF SERVICE

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I certify that I have served the Designation of Matter to be Included in the Record on Appeal on the above-referenced Respondent by depositing a copy of it in the United States Mail, postage prepaid, on March 28, 2018, addressed to its attorneys of record:

Thomas H. Pope, III, Esq.  
Pope & Hudgens, Attorneys, P.A.  
P.O. Box 190  
Newbery, SC 29108

John P. Freeman, Esq.  
200 W. Highland Dr. Unit 107  
Seattle, WA 98119

BARNWELL WHALEY PATTERSON &  
HELMS, LLC

By: 

M. Dawes Cooke, Jr., Esq.

S.C. Bar No. 1376

Anna L. Strandberg, Esq.

S.C. Bar No. 102432

S.C. Bar No. 69550

288 Meeting Street, Ste 200

Charleston, SC 29401

(843) 577-7700 Fax: (843) 577-7708



**REPLY TO SOUTH CAROLINA OFFICE**

**M. Dawes Cooke, Jr.**  
mdc@barnwell-whaley.com

**Anna L. Strandberg**  
astrandberg@barnwell-whaley.com

March 28, 2018

**RECEIVED**  
MAR 29 2018  
SC Court of Appeals

**VIA U.S. MAIL**

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

Re: AEP2, LLC f/k/a 2AM Group, LLC v. BMW of North America, LLC  
Appellate Case No.: 2017-002481  
Our File No.: 5330.001

Dear Madame Clerk:

Enclosed for filing please find the original and one (1) copy of each of the following:

- (1) Appellant BMW of North America's Appellant's Initial Brief;
- (2) Appellant BMW of North America's Designation of Matter to be Included in the Record on Appeal; and,
- (3) Proofs of Service.

We would appreciate if you would file the original documents and return the filed, stamped copies to us in the self-addressed, stamped envelope provided.

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[www.barnwell-whaley.com](http://www.barnwell-whaley.com)

**SOUTH CAROLINA OFFICE:**  
288 Meeting Street, Suite 200, Charleston, SC 29401  
P 843.577.7700 F 843.577.7708

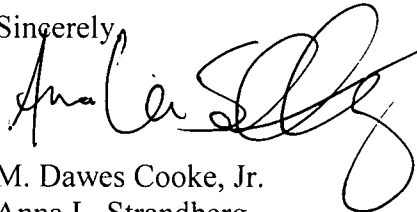
**NORTH CAROLINA OFFICE:**  
1427 Military Cutoff Road, Suite 202, Wilmington, NC 28403  
P 910.679.1388 F 910.679.4663

REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

The Honorable Jenny Abbott Kitchings  
March 28, 2018  
Page 2 of 2

By copy of this letter, we are serving copies of the enclosures upon counsel of record.

Sincerely,

A handwritten signature in black ink, appearing to read "Anna L. Strandberg". The signature is fluid and cursive, with a large, stylized initial "A".

M. Dawes Cooke, Jr.  
Anna L. Strandberg

MDCjr/ALS/jgc  
Enclosures

cc: John P. Freeman, Esquire  
Thomas H. Pope, III, Esquire  
Ashley B. Abel, Esquire