

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge

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Case No. 2017-CP-42-2072  
Appellate Case No. 2019-000344

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**RECEIVED**  
APR 01 2019  
SC Court of Appeals

Donald and Carlee Simmons ..... Respondents,

v.

Benson Hyundai, LLC ..... Appellant.

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**APPELLANT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

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Appellant Benson Hyundai, LLC proposes the following matter to be included in the Record on Appeal:

Orders:

1. Order Denying Defendant's Motion to Compel Arbitration dated April 30, 2018
2. Order Denying Defendant's Motion for Reconsideration dated February 4, 2019

Pleadings:

1. Complaint dated June 14, 2017 (including Exhibit A – Federal Trade Commission Article dated September 29, 2016, and Exhibit B – Retail Buyer's Order)
2. Benson Hyundai's Motion to Stay and Compel Arbitration dated August 9, 2017, (including Exhibit A – July 26, 2016 Arbitration Agreement, Exhibit B – Arbitration Complaint filed by Benson dated May 9, 2017, Exhibit C – Simmons Answer to

Arbitration Complaint, Counterclaim and Motion to Dismiss dated June 12, 2017, Exhibit D – Complaint filed in state court dated June 14, 2017, and Exhibit E – correspondence from Bradford N. Martin, Esq. to Warren Moise, Esq.)

3. Benson Hyundai's Memorandum in Support of Motion to Stay and Compel Arbitration dated September 20, 2017 (including Exhibit A – Arbitration Agreement dated July 26, 2016, Exhibit B – Credit Application, Exhibit C Middle Georgia State University Faculty and Staff Directory, and Affidavit of Brian Perry)
4. Plaintiffs' Memorandum and Exhibits in Opposition to Defendant's Motion to Stay and Compel Arbitration dated September 22, 2017 (including Exhibit A – Retail Buyer's Order dated July 26, 2016, Exhibit B – Federal Trade Commission Article dated September 29, 2016, Exhibit C - Arbitration Policies and Procedures, Exhibit D - Retail Installment Sales Contract dated July 26, 2016, Exhibit E – AAA Consumer Arbitration Rules, Exhibit F – Special Delivery Agreement dated July 26, 2016, and Affidavit of Donald Lee Simmons dated September 22, 2017, including Exhibit A – July 26, 2016 Retail Buyer's Order, Exhibit B – July 26, 2016 Retail Sales Installment Contract)
5. Affidavit of Donald Lee Simmons dated September 22, 2017
6. Affidavit of Daryl Turner dated September 25, 2017
7. Affidavit of Nate Burden dated September 25, 2017
8. Supplemental Affidavit of Brian Perry dated September 25, 2017
9. Amended Affidavit of Donald Lawrence Simmons dated September 27, 2017
10. Benson Hyundai's Reply in Support of Motion to Stay and Compel Arbitration dated September 28, 2017
11. Benson Hyundai's Motion to Alter or Amend dated May 4, 2018
12. Plaintiff's Memorandum in Opposition to Defendant's Motion to Reconsider dated May 30, 2018
13. Benson Hyundai's Reply Memorandum in Support of its Motion to Alter or Amend dated June 4, 2018

Transcripts

1. Transcript of Hearing dated September 25, 2017

**Certificate of Counsel**

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The undersigned hereby certifies that this designation contains no matter which is irrelevant to this appeal.

29 March 2019

*Bradford N. Martin*

Bradford N. Martin, Esq. SC Bar #3658  
Bradford Neal Martin & Associates, PA  
Post Office Box 10410  
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(864) 552-9990  
Attorneys for Appellant

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Case No. 2017-CP-42-02072  
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Donald and Carlee Simmons ..... Respondents,

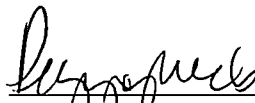
v.

Benson Hyundai, LLC ..... Appellant.

**PROOF OF SERVICE**

I certify that I have served Appellant's Initial Brief and Designation of Matter by depositing a copy in the U.S. Mail, postage prepaid, on March 29, 2019, addressed to attorney of record, Warren Moise, Esq., Grimball & Cabaniss, LLC, 1180 Sam Rittenberg Boulevard, Suite 120, Charleston, SC 29407.

March 29, 2019



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Peggy McComb, Legal Assistant to  
Bradford N. Martin, Esq., SC Bar No. 3658  
Laura W. H. Teer, Esq., SC Bar No. 16698  
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# BRADFORD NEAL MARTIN & ASSOCIATES, PA

ATTORNEYS AT LAW

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March 29, 2019

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

Re: *Donald and Carlee Simmons v. Benson Hyundai, LLC*  
C/A No. 2017-CP-42-02072  
Appellate Case No. 2019-000344

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Dear Ms. Kitchings:

Enclosed for filing is an original and one copy of Appellant's Initial Brief, Appellant's Designation of Matter to Be Included in the Record on Appeal, and Proof of Service in the above captioned matter. Please file the originals with your Court and return clocked copies to me in the enclosed envelope.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

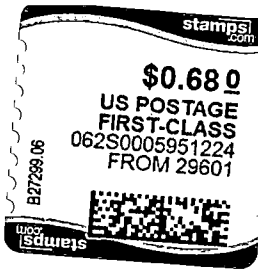
Sincerely,



Bradford N. Martin

/pm

cc: Warren Moise, Esq.



# FIRST CLASS MAIL

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APR 01 2019

SC Court of Appeals

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TO:

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