



**COURT OF APPEALS FOR THE
FIRST DISTRICT OF TEXAS AT HOUSTON**

ORDER

Appellate case name: Reehan Malik v. GEICO Advantage Insurance Company, Inc., Tara Carthew, Robert M. Miller, and Tony Nicely

Appellate case numbers: 01-19-00489-CV

Trial court case numbers: 2018-62710

Trial court: 333rd District Court of Harris County, Texas

Appellees GEICO Advantage Insurance Company, Inc., Tara Carthew, Robert M. Miller, and Tony Nicely have filed a Motion to Strike Appellant’s Reply Brief (the “Motion to Strike”). The Motion to Strike requests that the reply brief filed by appellant Reehan Malik on March 7, 2020 be struck in its entirety on the grounds that (1) the appendix to the reply brief includes a list of additional issues not presented in appellant’s opening brief; (2) appellant included argument in the appendix to avoid Texas Rule of Appellate Procedure 9.4(i)(2)(C)’s 7500-word limit for reply briefs; and (3) the reply brief “grossly mischaracterizes both [a]ppellees’ [b]rief and the record.” Appellant has responded, arguing that his reply brief should not be stricken because it is not in violation of any rule or statute.

The Court GRANTS in part and DENIES in part appellees’ Motion to Strike. The Court will not strike appellant’s entire reply brief. However, the Court will not consider the appendix to the reply brief filed on March 7 and partially GRANTS the Motion to Strike by striking that appendix. *See* TEX. R. APP. P. 9.4(k) (“If a document fails to conform with these rules, the court may strike the document or identify the error and permit the party to resubmit the document in a conforming format by a specified deadline.”); *see also Coleman v. Prospere*, 510 S.W.3d 516, 519 n.4 (Tex. App.—Dallas 2014, no pet.) (refusing to consider additional argument in appendices used to circumvented briefing rules); *Leonard v. Olawale*, No. 01-09-00180-CV, 2011 WL 486578, at *3 (Tex. App.—Houston [1st Dist.] Feb. 10, 2011, no pet.) (mem. op.) (striking portion of reply brief raising new issue). All other relief requested in appellees’ Motion to Strike is DENIED.

Appellant may allow the reply brief to stand as partially stricken by this Order, *i.e.*, without an appendix, or appellant may file an amended reply brief with a compliant appendix within 20 days of the date of this Order. If appellant elects to file an amended reply brief and appendix, appellant shall not include any new issues in the amended filing nor shall he include items in the appendix to avoid the 7500-word limit.

It is so ORDERED.

Judge's signature: /s/ Evelyn Keyes

Acting individually Acting for the Court

Date: June 18, 2020