

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Robert E. Hood, Circuit Court Judge

Case No. 2016-CP-40-02859

South Carolina Department of Consumer Affairs Respondent,

v.

Cash Central of South Carolina LLC Petitioner

**MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF
OF SOUTH CAROLINA AUTOMOBILE DEALERS ASSOCIATION AND CAROLINAS
INDEPENDENT AUTO DEALERS ASSOCIATION**

Pursuant to Rule 213, SCACR, the South Carolina Automobile Dealers Association (“SCADA”) and Carolinas Independent Auto Dealers Association (“CIADA”) respectfully move this Court for leave to submit an amicus curiae brief in this matter to encourage this Court to grant the Petition for a Writ of Certiorari filed by Cash Central of South Carolina, LLC. Rule 213, SCACR, provides that an applicant may move for leave to file a brief as amicus curiae before this court. In making this motion, the applicant “shall identify the interest of the applicant and shall state the reasons why brief as amicus curiae is desirable.” *See also* Jean Hoefer Toal *et al.*, *Appellate Practice in South Carolina* 218 (2d ed. 2002).

SCADA and CIADA seek leave to file an amicus brief to present arguments relating to the impact of the decision of the Court of Appeals across the automobile dealership industry in this

state. SCADA is the only statewide entity in South Carolina dedicated to the economic and political interests of manufacturer-franchised new car and truck dealerships. Since 1937, SCADA has represented franchised dealerships across the state and advocated on behalf of its members in public policy, regulatory issues, and economic developments impacting the automotive industry. SCADA's membership includes 272 dealers, representing \$15.23 billion in total sales with 58.2% of all motor vehicle retail sales in this state. These dealerships are major employers (33,294 jobs attributable to SCADA members), taxpayers (\$315.85 million paid in state and local taxes), and charitable contributions (\$8.7 million donated). Similarly, CIADA is the only non-profit organization in South Carolina that represents the independent used car dealer. There are nearly 3,000 used car dealers in South Carolina, many of whom are CIADA members. Independent dealers employ approximately 24,000 individuals, and are responsible for approximately one-third of all automobile sales transactions in South Carolina.

The issues in this case are much broader than the fate of a single online consumer lender and the loans it made in a limited time window. The decision of the Court of Appeals has emboldened the Department of Consumer Affairs ("Department") to take a strict liability approach to any obligation imposed by the South Carolina Consumer Protection Code ("Code"), notwithstanding the clear legislative intent to the contrary. The Department has repeatedly taken the position with SCADA members that there is no defense to certain filing and posting requirements imposed by the Code. SCADA and CIADA seek to file a brief in this matter in the hopes of reminding the Department that the General Assembly has legislated and this Court has held that there are defenses available under the Code.

If leave is granted, SCADA and CIADA will not repeat arguments made by the parties, but rather will present arguments about the wider implications of the decision of the Court of Appeals and its implications for SCADA and CIADA members.

Respectfully submitted,

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