

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

March 14 2012

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re Priester v Cromer
Case No 06-CP-38-1071

RECEIVED

MAR 16 2012

Dear Mr Shearouse

This case was argued at the September term

S.C. SUPREME COURT

The appellant wishes to add a supplemental citation under Rule 208(b)(7),
SCACR

Following argument the respondent brought to the Court's attention the recent decision of the Tennessee Court of Appeals in *Lake v The Memphis Landmen, L L C*, No W2009-00526-COA-R3-CV (Tenn Ct App 2012) On March 6, 2012, the Tennessee Supreme Court granted the plaintiff's application for permission to appeal that decision to the Tennessee Supreme Court Attached is a copy of the order

The decision is pertinent to the issue of implied preemption

Thanking you, I remain

Yours very truly


James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Gregory C Garre, Esq
David B Salmons Esq
Bryan M Killian, Esq
Patrick Ardis, Esq
William C Wood, Esq
Gary T Culbreath, Esq
Brian A Comer, Esq
Larry Coben, Esq
Adam Silvernail Esq
Darrell Thomas Johnson, Jr, Esq
Leslie Brueckner, Esq
Matt Wessler, Esq

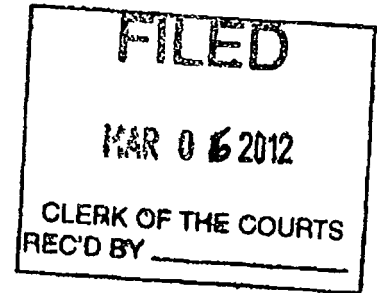
IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

CLIFTON A LAKE ET AL v. THE MEMPHIS LANDSMEN, LLC ET AL

Circuit Court for Shelby County
No CT00609400

No W2011-00660-SC-R11-CV

ORDER



Upon consideration of the application for permission to appeal of Clifton A Lake and Charleen J Lake and the record before us, the application is granted

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing

PER CURIAM

RECEIVED

MAR 15 2012

S.C. SUPREME COURT



Supreme Court Western Division
Supreme Court Building
#6 Highway 45 By Pass
P O 909
Jackson TN 38302 0909
(731)423 5840

Gary K Smith
Apperson Crump
6070 Poplar Ave 6th Floor
Memphis TN 38119 3954

Date Printed 03/06/2012
Notice Date 03/06/2012
Case Style Clifton Lake et al v The Memphis Landsmen, LLC et al
Case Number W2011 00660 SC R11 CV
Action Date Filed 03/06/2012 COURT ORDER FILED Related to Rule Specific Motion on
Application Granting FRAP Rule 11 Application
Trial Court Shelby County Circuit Court Trial Court Number CT00609400
Shelby County Circuit Court CT00609400

This is to notify you that the Supreme Court granted the application for permission to appeal in the abovestyled case. This case will be set for argument at the November 2012 term of Court tentatively scheduled for November 7 and 8 unless you notify the Clerk's Office within 15 days of receiving this notice of an irreconcilable conflict with any or all of these dates. Either party wishing to have this case heard at an earlier time should file a motion to transfer the case to another Grand Division for hearing.

Please use the following colors when filing briefs:

Appellant's Brief Blue
Appellee's Brief Red
Reply Briefs Grey
Amicus Curiae Green

Order that application of Clifton A. Lake and Charleen J. Lake is GRANTED.

SAT

C James Branson Summers
Kenneth R. Rudstrom
Molly A. Glover
Judge John R. McCarroll, Jr.

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

November 17, 2011

RECEIVED
NOV 18 2011
S C SUPREME COURT

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re Priester v Cromer
Case No 06-CP-38-1071

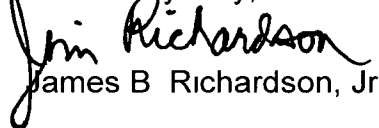
Dear Mr Shearouse

This case was argued at the September term

The appellant wishes to add a supplemental citation under Rule 208(b)(7), SCACR On October 11, 2011 the New York Court of Appeals decided *Doomes v Best Transit Corp*, 2011 N Y Slip Op 07256, 2011 WL 4916002 A copy of the opinion is enclosed The decision is pertinent to the issue of implied preemption

Thanking you, I remain

Yours very truly,


James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Gregory C Garre, Esq
David B Salmons, Esq
Bryan M Killian, Esq
Patrick Ardis, Esq
William C Wood, Esq
Gary T Culbreath, Esq
Brian A Comer, Esq
Larry Coben Esq
Adam Silvernail, Esq
Darrell Thomas Johnson Jr Esq
Leslie Brueckner, Esq
Matt Wessler Esq

2011 WL 4916002

THIS DECISION IS UNCORRECTED AND SUBJECT TO
REVISION BEFORE PUBLICATION IN THE NEW YORK
REPORTS

Court of Appeals of New York

Gloria DOOMES, & c , Appellant,

v

BEST TRANSIT CORP , et al Defendants,

Warrick Industries, Inc , & c , Respondent

Ana Jiminian, & c , Appellant,

v

Best Transit Corp , et al , Defendants,

Warrick Industries, Inc , & c , Respondent

Kelh Rivera, Appellant,

v

Best Transit Corp , et al , Defendants

Warrick Industries Inc , & c Respondent

Oct 18, 2011

Synopsis

Background Bus passengers brought action against bus manufacturer seeking to recover damages for injuries they sustained in rollover accident The Supreme Court Bronx County Stanley Green J awarded passengers damages for pain and suffering Manufacturer appealed The Supreme Court Appellate Division, 890 N Y S 2d 526, reversed and leave to appeal was granted

Holdings The Court of Appeals Jones J held that 1 federal regulation compelling only the inclusion of a driver seatbelt in buses did not preempt claims that bus was defective and its manufacturer was negligent because it did not have passenger seatbelts and 2 evidence was insufficient to support claim that bus was defective because of manufacturer's negligent modification of the weight distribution of the bus chassis

Reversed and remitted

Pigott J filed opinion dissenting in part

West Headnotes (10)

1 States

⚡ Congressional Intent

Under the Supremacy Clause preemption analysis requires courts to ascertain the intent of Congress U S C A Const Art 6 cl 2

2 States

⚡ Congressional Intent

Express preemptive intent is discerned from the plain language of a statutory provision

3 States

⚡ Conflicting or Conforming Laws or Regulations

States

⚡ Occupation of Field

Implied preemption may be found in two distinct ways when either the Federal legislation is so comprehensive in its scope that it is inferable that Congress wished fully to occupy the field of its subject matter (field preemption) or because State law conflicts with the Federal law

4 Products Liability

⚡ Seat Belts and Occupant Restraint Systems

States

⚡ Product Safety Food and Drug Laws

National Traffic and Motor Vehicle Safety Act did not expressly preempt claims that bus involved in rollover accident was defective and its manufacturer was negligent because it did not have passenger seatbelts 49 U S C A § 30103(e)

5 Products Liability

⚡ Automobiles

States

⚡ Product Safety, Food and Drug Laws

National Traffic and Motor Vehicle Safety Act was not intended to encompass the entire scheme of motor vehicle safety guidelines, so as to preempt state common law claims under implied field preemption 49 U S C A § 30103(e) 49 C F R § 571.208(S2)

6 Products Liability

⌘ Seat Belts and Occupant Restraint Systems

States

⌘ Product Safety Food and Drug Laws

Federal regulation promulgated by the National Highway Traffic Safety Administration (NHTSA) that compelled only the inclusion of a driver seatbelt in buses did not preempt under implied conflict preemption claims that bus involved in rollover accident was defective and its manufacturer was negligent because it did not have passenger seatbelts 49 U S C A § 30103(b) 49 C F R § 571.208

7 States

⌘ Conflicting or Conforming Laws or Regulations

Implied conflict preemption can arise in two situations when it is impossible for a private party to comply with both state and federal requirements or where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress

8 Evidence

⌘ Nature Condition and Relation of Objects

Products Liability

⌘ Automobiles

Products Liability

⌘ Nature of Product and Existence of Defect or Danger

Products Liability

⌘ Proximate Cause

Evidence in products liability action against manufacturer of bus involved in rollover accident was insufficient to support claim that bus was defective because of manufacturer's negligent modification of the weight distribution of the bus chassis although plaintiffs' expert opined that the purportedly negligent weight distribution was a substantial factor in causing the accident, any conclusions as to the bus' weight were based on speculative weight estimates of passengers fuel and luggage and not empirical data

9 Products Liability

⌘ Strict Liability

Products Liability

⌘ Proximate Cause

Generally, in a strict products liability claim the manufacturer of a defective product is liable to any person injured or damaged if the defect was a substantial factor in bringing about his injury or damages

10 Products Liability

⌘ Types of Defects Actionable

A claim of strict products liability can assert either a (1) manufacturing defect (2) a design defect or (3) a failure to provide adequate warning regarding the use of a product

Attorneys and Law Firms

Brian J Isaac for appellants

Steven J Ahmuty, Jr for respondent

American Bus Association, United Motorcoach Association Inc Product Liability Advisory Council Inc amici curiae

Opinion

JONES, J

In these personal injury actions arising from a single vehicle bus accident two questions are presented for our review First whether plaintiffs' seatbelt claims seeking to hold defendant liable for failure to install passenger seatbelts on the bus were preempted by federal regulations promulgated by the National Highway Traffic Safety Administration (NHTSA) Second whether plaintiffs' weight distribution claim alleging that the negligent modification of the bus' chassis altered the weight balance steering and handling of the bus was supported by legally sufficient evidence We hold that plaintiffs' seatbelt claims are not preempted by federal regulation and that plaintiffs' weight distribution claim is not supported by legally sufficient evidence

I

On April 23, 1994, a bus carrying approximately 21 passengers was returning from a visit to Raybrook State Correctional Facility. The bus was equipped with a seatbelt for the driver but not for the passengers. During the trip along the New York State Thruway, the driver, defendant Wagner M. Alcivar, dozed off while the bus was traveling approximately 60 miles per hour. The bus veered across the highway from the right hand lane into the passing lane and encountered a median strip and a sloping embankment. Alcivar awakened, but his belated attempts to regain control of the bus were futile as the vehicle rolled over several times, injuring many of the passengers.

Plaintiffs Gloria Doomes, individually and as mother and natural guardian of two infants, Ana Jiminian Kelly Rivera Sharon Rodriguez, and Heriberto Santiago, commenced actions against defendants Best Transit Corp. (Best), the owner of the bus; Ford Motor Company (Ford), the manufacturer of the chassis and cab of the bus; Warrick Industries, Inc. (Warrick), the manufacturer who completed the construction of the bus; J & R Tours, the prior owner of the bus; and Alcivar, the bus driver.¹ Plaintiffs alleged that the absence of passenger seatbelts and the improper weight distribution of the bus, created by the negligent modification of the bus' chassis, caused the injuries.

Prior to trial, Supreme Court dismissed the claims against J & R Tours; plaintiffs settled with Ford; and Alcivar was deported. Warrick moved to preclude any evidence that the bus was defective or that it was negligent due to a lack of seatbelts on the ground that FMVSS 208 (49 CFR 571.208), which did not require the installation of passenger seatbelts, preempted any claims of liability for failure to install such seatbelts. Supreme Court reserved decision on the motion.

Following trial, a jury determined that Best and Alcivar were negligent in the operation of the bus, and that Warrick defectively manufactured the bus and breached the warranty of fitness for ordinary purposes by modifying the chassis and altering the weight distribution of the bus. It also determined that Best negligently operated the bus without passenger seatbelts, and Warrick breached the warranty of fitness for ordinary purposes by failing to install seatbelts. These failures were deemed substantial factors in causing the accident, and the absence of seatbelts was determined as a substantial factor in causing injury to all plaintiffs. Consequently, with respect to fault for the accident, the jury apportioned 60% liability

to Best and Alcivar, and 40% liability to Warrick. As for fault for the lack of passenger seatbelts, the jury assigned Best 20% liability and Warrick 80% liability.² The defendants moved to set aside the verdict pursuant to CPLR 4404, and Supreme Court granted the motion to the extent of ordering a new trial on damages unless plaintiffs stipulated to a reduction in damages. Plaintiffs so stipulated, and Supreme Court also reduced awards for past pain and suffering pursuant to General Obligations Law § 15-108.³

The Appellate Division reversed the judgments and dismissed the complaints as against Warrick (68 A.D.3d 504, 890 N.Y.S.2d 526 [1st Dep't 2009]). The court held the seatbelts claims preempted, reasoning that these claims conflicted with the federal goal of establishing a uniform regulatory scheme for transit safety. With respect to plaintiffs' weight distribution claim, the court determined that the evidence was legally insufficient to establish that Warrick's modification of the chassis was a proximate cause of the accident.

This Court granted plaintiffs leave to appeal, and we now reverse.

II

1 2 3 Under the Supremacy Clause of the United States Constitution (U.S. Const. art. VI, cl. [2]), preemption analysis requires us to ascertain the intent of Congress. (*Matter of People v. Applied Card Sys., Inc.*, 11 N.Y.3d 105, 113 [2008], quoting *California Fed. Sav. & Loan Assn. v. Guerra*, 479 U.S. 272, 280 [1987]). Express preemptive intent is discerned from the plain language of a statutory provision (see *Balbuena v. IDR Realty LLC*, 6 N.Y.3d 338, 356 [2006]). Implied preemption may be found in two distinct ways when either the Federal legislation is so comprehensive in its scope that it is inferable that Congress wished fully to occupy the field of its subject matter (field preemption) or because State law conflicts with the Federal law (*Guice v. Schwab & Co.*, 89 N.Y.2d 31, 39 [1996] [internal quotation marks omitted]).

Plaintiffs contend that the Appellate Division erred in finding preemption because the relevant portions of FMVSS 208 compelling only the inclusion of a driver seatbelt neither reflects a pervasive scheme of regulation nor makes compliance with federal and state standards impossible. Moreover, it is argued that the United States Supreme Court's recent decision in *Williamson v. Mazda* (— U.S. — 131 S.Ct. 1131 [2011]) disposes of this appeal in plaintiffs' favor. Warrick claims that the statute affords manufacturers

the option to choose among different protective devices for installation at the driver's seat, and this availability of discretion places this appeal squarely within the holding of *Geier v American Honda Motor Co Inc* (529 U S 861 [2000])

4 First turning to express preemption the pertinent statutory clause of the National Traffic and Motor Vehicle Safety Act (Safety Act) provides that

When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter

(49 USC § 30103[b])

In *Geier* the Supreme Court considered the preemptive effect of a pre-1994 edition of the above preemption clause that similarly limited the authority of states to prescribe motor vehicle safety standards (*see* formerly 15 USC § 1392[d]). However, rather than parsing the precise significance of the plain language of the provision, the Supreme Court concluded that Congress did not intend the preemption clause to be construed so broadly as to preclude state claims because the saving clause explicitly reserved a right to assert common law claims (*see* 529 U S at 867–868).

As relevant here, the instant saving clause provides that Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law (49 USC § 30103[e]). When read in conjunction with the preemption provision, the saving clause permits the commencement of common law claims; compliance with applicable federal motor vehicle safety standards is not necessarily a preclusive bar. Accordingly, the presence of the saving clause limits a potentially broad reading of the preemption provision and does not expressly prohibit plaintiffs' seatbelt claims.

5 With respect to implied field preemption, it does not appear that the federal statutes were intended to so greatly envelop the field of motor vehicle safety standards as to leave

little room for state participation or operation. Certainly the guidelines, as the Appellate Division noted, are consonant with the federal goal of establishing uniform standards (68 AD3d at 506). And the preemption clause constrains states from enacting guidelines that deviate from federal standards (*see* 49 USC § 30103[b]). However, the goal of uniformity cannot be singularly pursued at the expense of the Safety Act's primary purpose to reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents (former 15 USC § 1381, *see also* 49 CFR § 571.208[S2]). This is evinced by the presence of the saving clause which expressly allows the commencement of state common law claims (*see* 49 USC § 30103[e]). As the Supreme Court has reasoned previously, the saving clause reflects a congressional determination that occasional nonuniformity is a small price to pay for a system in which juries not only create, but also enforce safety standards (*Geier*, 529 U S at 871). Further, the saving clause represents a purposeful intent to allow meaningful state participation as a finding of preemption would treat all such federal standards as if they were maximum standards, eliminating the possibility that the federal agency seeks only to set forth a minimum standard potentially supplemented through state tort law (*Williamson* — U S at —, 131 S Ct at 1139). Consequently, there is no implied field preemption, as the explicit permission of common law claims indicates that the federal statutes promulgated under the Safety Act are not so pervasive as to encompass the entire scheme of motor vehicle safety guidelines.

6 The significant point of contention between the parties is whether plaintiffs' seatbelt claims are barred under implied conflict preemption. We conclude they are not.

7 Implied conflict preemption can arise in two situations when it is impossible for a private party to comply with both state and federal requirements, or where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress (*Freightliner Corp v Myrick*, 514 U S 280, 287 [1995]). The Supreme Court has made clear that a state law will be preempted under the latter form of implied conflict preemption only where it would frustrate a significant objective of the federal regulation (*Williamson* — U S at —, 131 S Ct at 1136).

Here, the gross vehicle weight rating (GVWR) of the bus at issue was over 10,000 pounds, placing it within the ambit of S4.4.2.1 and S4.4.2.2 of FMVSS 208 (*see* 49 CFR 571.208). S4.4.2.1 states: First option—complete passenger protection system—*driver only*. The vehicle shall meet the crash requirements of S5 with respect to an anthropomorphic

test dummy in the driver's designated seating position by means that require no action by vehicle occupants S4 4 2 2 provides in relevant part Second option—belt system—*driver only* The vehicle shall at the driver's designated seating position, have either a Type 1 or Type 2 seat belt assembly that conforms to § 571 209 of this part and S7 2 of this standard A plain reading of S4 4 2 1 and S4 4 2 2 shows that they only mandate the inclusion of protective devices at the driver's seat of a bus and are absolutely silent regarding the installation of passenger seatbelts This does not make it impossible to comply with both the federal standards and the gravamen of plaintiffs' seatbelt claims which seek liability for the failure to install such protective devices (*see Spreitsma v Mercury Marine* 537 U S 51 67–68 [2002] *Freightliner* 514 U S at 289) Quite simply, Warrick could have installed passenger and driver seatbelts without running afoul of federal motor vehicle safety standards Hence plaintiffs' seatbelt claims are not preempted under the first category of implied conflict preemption

Warrick primarily contends that FMVSS 208 affords manufacturers of buses with a GVWR over 10 000 pounds the latitude to choose among certain safety devices as S4 2 2 1 and S4 2 2 2 specifically provide manufacturers the discretion to opt between either a seatbelt or complete passenger protection system for the driver And as a result of this deliberate provision of choice between differing protective devices for the driver's seat Warrick argues that plaintiffs' claims are preempted under the holding of *Geier* However this position is founded on an erroneous premise and an overly expansive reading of *Geier*

As an initial matter Warrick incorrectly contends that its ability to choose between safety devices for the *driver's seat* should preempt common law claims seeking the inclusion of passenger seatbelts That it had the discretion to choose the type of protective device for the driver's seat has no bearing on the issue of whether passenger seatbelts should have been installed particularly when the relevant portions of FMVSS 208 are silent regarding passenger seatbelts

Moreover *Geier* does not have the expansive effect Warrick seeks In that case the Supreme Court concluded that the plaintiffs' state claims which sought immediate installation of airbags were preempted because they conflicted with an expressed intent by the Department of Transportation to permit manufacturers to select from an array of protective devices and gradually incorporate them into motor vehicles ⁴ Absent such a deliberate policy or intent *Geier's* holding which is limited to its particular facts and regulations should

not be applied to any case where manufacturers are merely provided some form of choice

Indeed the case before us is more analogous to the Supreme Court's recent decision in *Williamson* which held that the plaintiffs' seatbelt claims were not preempted In that case the plaintiff's decedent who was situated on a rear inner seat of a passenger vehicle was killed in a motor vehicle accident while wearing a lap belt and the complaint alleged that a lap and shoulder belt should have been installed The relevant FMVSS regulation required the installation of lap and shoulder belts at seats next to the doors or frames of passenger vehicles But for rear inner seats manufacturers were permitted to choose between lap belts and lap and shoulder belts (*see* — U S at — 131 S Ct at 1133) The defendant manufacturer argued that the plaintiff's seatbelt claims were preempted because they would interfere with the explicit provision of choice in the federal regulation

The Supreme Court first limited the holding of *Geier* to its particular facts as the history [of the regulation] the agency's contemporaneous explanation and the Government's current understanding of the regulation convinced us that manufacturer choice was an important regulatory objective And since the tort suit stood as an obstacle to the accomplishment of that objective, we found the tort suit pre-empted (— U S at —, 131 S Ct at 1137) Second although like *Geier* the relevant regulations in *Williamson* permitted manufacturers a choice the Supreme Court concluded that there were critical differences between the regulations in the two cases ⁵ It was explained that [w]hile an agency could base a decision to preempt on its cost effectiveness judgment we are satisfied that the rulemaking record at issue here discloses no such pre-emptive intent (*id* at 1139) Here an examination of the relevant federal regulations confirms the lack of preemptive intent with respect to passenger seatbelts for buses with a GVWR over 10 000 pounds

The NHTSA has consistently acknowledged the enhanced safety benefits of seatbelts but it has neither imposed the installation of passenger seatbelts nor expressed an intention to provide such an option to manufacturers of the type of bus involved in the instant appeal In 1973 the gravamen of the regulation pertained to the modification of passenger seats because they were a significant factor in causation of injury by being too weak too low and too hostile (38 Fed Reg 4776 4776 [1973]) Any discussion of seatbelts did not reflect an intention to provide a discretionary option to manufacturers but rather, considered its impact on the

structure of passenger seats. If a seat is equipped with belts, the performance characteristics of the seats are modified in some respects (*id*).

In 1988 and 1989, the proposed rulemaking regulations considered the installation of lap-shoulder belts in passenger cars, light trucks, multipurpose passenger vehicles (e.g., passenger vans and utility vehicles) and small buses (53 Fed. Reg. 47982, 47982 [1988]; 54 Fed. Reg. 46257, 46257 [1989]) but did not consider the inclusion of such protective devices for buses with a GVWR over 10,000 pounds. Again, the NHTSA acknowledged the efficacy of passenger seatbelts in enhancing safety as a number of studies, evaluating thousands of cases, show that lap belts in the rear seat are effective in preventing deaths and reducing injuries. NHTSA knows of no comprehensive studies by any person or organization that suggests that rear seat lap belts are anything less than effective (53 Fed. Reg. 47982, 47984). But in both 1988 and 1989, buses of the type involved in the instant accident were specifically excluded from consideration.⁶ Any option of installing either lap-only belts or lap/shoulder belts in rear seats was limited to other forms of vehicles (54 Fed. Reg. 46257, 46258).

Further, any contention that manufacturers impliedly had an option to install rear passenger seatbelts in buses over 10,000 pounds because the NHTSA was cognizant of the safety benefits of rear passenger seatbelts is belied by the plain language of FMVSS 208 and the federal regulations which simply do not consider the inclusion of such protective devices for vehicles of this type.⁷ As such, like *Williamson*, there is simply no preemptive intent to be discerned from the regulations with respect to state common law claims seeking the inclusion of passenger seatbelts in buses of this type.

In sum, we find neither express nor implied preemption of plaintiffs' seatbelt claims.

III

8 Warrick asserts that the Appellate Division correctly concluded that the evidence was legally insufficient with respect to plaintiffs' weight distribution claim because it was speculative. We find this position persuasive.

9 10 Generally, in a strict products liability claim, the manufacturer of a defective product is liable to any person injured or damaged if the defect was a substantial factor in bringing about his injury or damages (*Voss v. Black & Decker Mfg. Co.*, 59 N.Y.2d 102, 106–107 [1983]). A claim

of strict products liability can assert either (1) a manufacturing defect, (2) a design defect, or (3) a failure to provide adequate warning regarding the use of a product (*see id.*). Here, where plaintiffs allege a design defect based on the negligent modification of the weight distribution of the bus chassis, the relevant inquiry is whether the product as designed was not reasonably safe (*id.*). Accordingly, plaintiffs carry the burden of showing that the product as designed, was not reasonably safe because there was a substantial likelihood of harm and it was feasible to design the product in a safer manner (*id.*). Moreover, plaintiffs must show that the design defect was a proximate cause of their injuries (*id.*).

For the chassis at issue, Ford specified an overall GVWR of 11,500 pounds with a gross rear axle rating of 7,810 pounds and a gross front axle rating of 4,600 pounds. Warrick modified the chassis, extending its length from 138" to 186". It also increased the overall gross vehicle weight rating from 11,500 pounds to 13,500 pounds by adding a leaf spring to the gross rear axle, increasing its rating from 7,810 pounds to 9,300 pounds. The front axle remained untouched. Plaintiffs contend that a proper apportionment of weight between the axles is 60% (rear axle) and 40% (front axle), but as modified, the bus chassis had an improper distribution of 68% and 32%, respectively. Moreover, Warrick failed to install a tag axle that would compensate for the modification and enhance steering and handling.

Plaintiffs' expert opined that the purportedly negligent weight distribution was a substantial factor in causing the accident, but any conclusions as to the bus weight were based on speculative weight estimates of passengers, fuel, and luggage, and not empirical data (*see Fotiatis v. Cambridge Hall Tenants Corp.*, 70 A.D.3d 631, 632, 895 N.Y.S.2d 456 [2d Dept. 2010]; *Briggs v. 2244 Morris L.P.*, 30 A.D.3d 216, 216, 817 N.Y.S.2d 239 [1st Dept. 2006]). More specifically, plaintiffs' expert testified that the evidence alluded to the inattentiveness of the driver as a contributing factor, that he attempted to calculate the weight of the bus, but there was insufficient information, and he could not tell with certainty whether the proper 60% to 40% weight ratio existed as his opinions were not from his experience and knowledge of [the] particular bus. While plaintiffs' expert discussed various weight ratings for different components of the bus, he failed to present any calculations that would indicate that the weight distribution contributed to the rollover accident. Therefore, any findings that the weight distribution adversely affected steering and handling were conclusory and based on speculative data that failed to establish a causal relationship.

to the accident (*see Cotter v Pal & Lee Inc* 86 A D 3d 463 466–467 928 N Y S 2d 262 [1st Dept 2011])

Accordingly the order of the Appellate Division should be reversed with costs and the case remitted to the Appellate Division for consideration of issues raised but not determined on the appeal to that court

PIGOTT J (dissenting in part)

Under implied conflict preemption the issue upon which all parties agree this case rises or falls, state common law claims are barred in situations where it is impossible for a private party to comply with both state and federal requirements (*English v General Elec Co* 496 U S 72 78–79 [1990]) or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress (*Hines v Davidowitz* 312 U S 52 67 [1941]) It seems evident to me that plaintiffs' state common law negligence and products liability claims as they relate to the lack of passenger seatbelts do just that by standing as an obstacle to the accomplishment and execution of the full purposes and objectives of the National Traffic and Motor Vehicle Safety Act of 1966 (Safety Act) and the Federal Motor Vehicle Safety Standards (FMVSS)

Whether or not a state law stands as an obstacle to the accomplishment of a federal regulation's significant objective is determined by examining the history of the regulation the promulgating agency's contemporaneous explanation of its objectives and the agency's current views of the regulation's pre-emptive effect (*Williamson v Mazda Motor of America Inc* — U S — [Feb 23 2011] — U S — — 131 S Ct 1131 1136 179 L Ed 2d 75 citing *Geir v America Honda Motor Co* 529 U S 861 [2000]) FMVSS 208 provides that buses like the one in this case which have a Gross Vehicle Weight Rating of over 10 000 pounds must meet one of the two following requirements pursuant to 49 CFR § 571 208 S4 4 2

S4 4 2 1 First option—complete passenger protection system—*driver only* The vehicle shall meet the crash protection requirements of S5, with respect to an anthropomorphic test dummy in the driver's designated seating position by means that require no action by vehicle occupants

S4 4 2 2 Second option—belt system—*driver only* The vehicle shall at the driver's designated seating position have either a Type 1 or a Type 2 seat belt assembly

that conforms to § 571 209 of this part and S7 2 of this Standard (emphasis supplied)

The history of this regulation as it relates to the passenger seatbelt requirements in buses such as we have in this case demonstrates that the National Highway Traffic Safety Administration (NHTSA) made considered policy judgments based on safety cost and practicability in distinguishing between those buses that must have passenger seatbelts and those that don't For instance although NHTSA has not mandated passenger seatbelts for buses in excess of 10 000 pounds (large buses) it has concluded that buses weighing 10,000 pounds or less (small buses) must have them (*see* 49 CFR § 571 208 S4 4 3 2)

The regulations for large and small buses must be viewed as part of NHTSA's overall regulatory scheme Because NHTSA purposefully made these distinctions it is clear that it did not leave unregulated the field of passenger seatbelts in large buses Rather it made a conscious decision that seatbelts in these vehicles were unnecessary for passenger safety given their size and function

This becomes apparent in a review of the regulation's history as it relates to the inclusion of seatbelts in buses There is a reason for this 10 000 pound dividing line such groupings reflect the differences in the vehicles functions and crash responses and exposure (53 Fed Reg 47982 47987 [1988]) Indeed it is the safety concerns here that distinguish this case from *Williamson* because in the latter case the United States Supreme Court concluded that DOT did not require lap-and shoulder belts in rear aisle seats because of its belief that such restraints would cause entry and exit problems for occupants and were not cost effective *not* because of safety concerns (*Williamson* — U S at — 131 S Ct at 1138–1139)

Here, it is apparent that safety was paramount in NHTSA's decision NHTSA at one time proposed a standard that would have required buses like the one in this case to contain passenger seatbelts (*see* 38 Fed Reg 4776 [1973]) only to retract that proposal because the seating in such buses as designed was deemed adequate for safety purposes (*see* 39 Fed Reg 27585 [1974]) This retraction was referred to by NHTSA's chief counsel in 1992 who commented that pending legislation in New York that would have required intercity buses operating within the State to install passenger seatbelts in buses weighing more than 10 000 pounds was likely preempted by federal law

NHTSA expressly determined that there is not a safety need for safety belts or another type of occupant crash protection at these seating positions. See 39 FR 27585, July 30, 1974. With respect to these large buses, the New York bill would be preempted to the extent that it requires seat belts to be installed at seating positions other than the driver's seating position. (Ltr from NHTSA to Littler MCI of Aug. 19, 1992, at 1–2).

Based on the foregoing, it is clear that NHTSA has concluded that larger buses are safer than smaller buses and that the latter should have passenger seatbelts while the former need not. In holding that plaintiffs' claim is not preempted, this Court has, in essence, required that motor carriers of large buses must comply with small bus regulations. I don't find that to be Congress's intent.

It is evident from the regulatory scheme that NHTSA made considered policy judgments in promulgating a standard that did not mandate passenger seatbelts on large buses. This was not a failure to regulate on NHTSA's part, as is evidenced by its regulation requiring seatbelts on small buses. When these regulations are considered in light of NHTSA's reasons for using a 10,000 pound dividing line, it is fair to say that NHTSA intended to be the decision maker in this area, which would preempt common law tort suits like the one at bar, which stand as an obstacle to the Act's objectives of safety and cost. (see 49 USC § 30111[a] [providing that (t)he

Secretary of Transportation shall prescribe motor vehicle safety standards (that) shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.])¹ Not only that, the imposition of a common law requirement that large bus carriers must, in essence, comply with the small bus regulations is completely at odds with Congress's goal of uniformity in the motor vehicle industry (HR Rep. No. 1776 [1966], at 17; S. Rep. No. 1301 [1966]). [The centralized mass production, high volume character of the motor vehicle manufacturing industry in the United States requires that motor vehicle safety standards be not only strong and adequately enforced, but that they be uniform throughout the country.]) Therefore, I would affirm the order of the Appellate Division.

Order reversed, with costs, and case remitted to the Appellate Division, First Department, for consideration of issues raised but not determined on the appeal to that court.

Chief Judge LIPPMAN and Judges CIPARICK, GRAFFEO, READ and SMITH concur.

Judge PIGOTT dissents in part and votes to affirm in an opinion.

Parallel Citations

2011 NY Slip Op 07256

Footnotes

- 1 Plaintiffs Doomes and Jiminian also named as a defendant. Operation Prison Gap, a company that leased buses from Best and provided transportation to prisons. Operation Prison Gap never appeared in the action and a default judgment was entered against it.
- 2 The jury awarded Doomes \$8 million, Rodriguez \$2.5 million, Santiago \$1 million, Rivera \$5 million, and Jiminian \$10 million.
- 3 Supreme Court entered the following judgments, with interest, in favor of plaintiffs: Rivera, \$2,728,194.30; Jiminian, \$3,874,654.59; and Doomes, \$3,388,992.38. Rodriguez and Santiago settled for \$850,000 and \$550,000, respectively, and are beyond the scope of this appeal.
- 4 The FMVSS regulation in *Geier* intentionally encouraged a variety of safety devices because the Department of Transportation hoped that this variety would result in better information about the comparative effectiveness of the devices and the eventual development of alternative, cheaper and safer passive restraint systems. (*Geier*, 529 U.S. at 879).
- 5 Unlike the airbag regulation in *Geier*, the federal agency in *Williamson* was not concerned about consumer acceptance; it was convinced that lap and shoulder belts would increase safety; it did not fear additional safety risks arising from use of those belts; it had no interest in assuring a mix of devices; and, though it was concerned about additional costs, that concern was diminishing. (*Williamson* — U.S. at — 131 S.Ct. at 1138). Rather, the most important reason why DOT did not require lap and shoulder belts for rear inner seats was that it thought that this requirement would not be cost effective. (*id.* at 1139).
- 6 4. Vehicle Types NOT Covered by This Proposal
 - a. Vehicles with a Gross Vehicle Weight Rating of More Than 10,000 Pounds

NHTSA has traditionally used gross vehicle weight ratings as dividing lines for the purposes of applying occupant crash protection standards. These groupings reflect the differences in the vehicles' functions and crash responses and exposure. This proposal would also use such a dividing line, by addressing only vehicles with a gross vehicle weight rating of 10,000 pounds or less. (53 Fed. Reg. 46257, 46261; 54 Fed. Reg. 47982, 47987).

- 7 The NHTSA has not considered the inclusion of passenger seatbelts for buses with a GVWR over 10 000 pounds until recently. In its notice of proposed rulemaking of August 18, 2010, the NHTSA reviewed the nature of injuries caused by rollover accidents and espoused a goal of reduc[ing] occupant ejections. (75 Fed. Reg. 50958–50959 [2010]). To that end, it has considered a definition of motorcoach that would specifically apply to buses above 10 000 gross vehicle weight rating (*id.* at 50966). In the event the definition includes buses with a GVWR over 10 000 pounds, the inclusion of seatbelts is being considered as they are estimated to be 77 percent effective in preventing fatal injuries in rollover crashes, primarily by preventing ejection (*id.* at 50971).
- 1 As recently as August 2010, NHTSA issued a Notice of Proposed Rulemaking discussing amending FMVSS 208 to require lap/shoulder seat belts for each passenger seating position in *new* motorcoaches, the main purpose of the proposed rule being to reduce occupant ejections. (75 Fed. Reg. 50958–50959 [2010]) [emphasis supplied]. NHTSA noted that although it was not proposing at this time that used buses be required to be retrofitted with the lap/shoulder belt system, given that [t]he service life of a motorcoach can be 20 years or longer, it estimated that the cost of retrofitting could range from \$6 000 to \$34 000 per vehicle (*id.* at 50960).

End of Document

© 2011 Thomson Reuters. No claim to original U.S. Government Work.

October 21, 2011

Daniel E. Shearhouse
Clerk of the Court
Supreme Court of South Carolina
PO Box 11330
Columbia, SC 29211

Re: Tape of arguments for *Priester v. Ford Motor Company*

Dear Mr. Shearhouse:

We are requesting a copy of the oral arguments in *Priester v. Ford Motor Company*, argued in your court on September 20, 2011. Please find enclosed a check for \$20 to cover copying costs, and a self-addressed stamped envelope appropriate for mailing a tape safely back to us.

Thank you so much. Please contact me or Leslie Brueckner at 510-622-8150 if you have any questions.

Sincerely,



Mary Kidwell
Legal Assistant for Leslie Brueckner

/mlk

RECEIVED

OCT 27 2011

SC SUPREME COURT

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail CSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

October 25, 2011

RECEIVED

OCT 25 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

SC Supreme Court

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc., and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

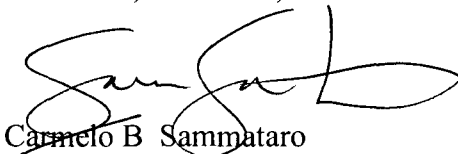
In accordance with Rule 208(b)(7) of the South Carolina Appellate Court Rules, I write to advise the Court of the decision of the Court of Appeals of Tennessee in the matter of *Lake v Memphis Landsmen L L C*, 2011 Tenn App LEXIS 568 (Oct 21, 2011) I have also attached a copy of the opinion for ease of reference The holding of the case is relevant to the preemption question raised in the above-referenced appeal

Thank you in advance for your time and attention, and please do not hesitate to contact me should the need arise

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/tj

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202

Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

October 25, 2011

Page 2

Enclosures

cc James B Richardson, Jr , Esquire
Darrell Thomas Johnson, Jr , Esquire
Leslie A Brueckner, Esquire
Matthew H Wessler, Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire
David B Salmons, Esquire
Bryan M Killian, Esquire
William C Wood, Jr , Esquire
Adam T Silvernail, Esquire
Patrick M Ardis, Esquire
Larry E Coben, Esquire
(w/enc , via regular mail)



RECEIVED

OCT 25 2011

S.C. Supreme Court

**CLIFTON A LAKE and CHARLEEN J LAKE ET AL v THE MEMPHIS
LANDSMEN, L L C , ET AL**

No W2011-00660-COA-RM-CV

COURT OF APPEALS OF TENNESSEE, AT JACKSON

2011 Tenn App LEXIS 568

**August 25, 2011, Session
October 21, 2011, Filed**

PRIOR HISTORY [*1]

Tenn R App P 3 Appeal as of Right Judgment of the Circuit Court Reversed and Remanded Direct Appeal from the Circuit Court for Shelby County No CT 00 6094 00 John R McCarroll Jr Judge

DISPOSITION Judgment of the Circuit Court Reversed and Remanded

COUNSEL Gary K Smith and C Philip M Campbell Memphis Tennessee for the appellants Clifton A Lake and Charleen J Lake

James B Summers Kirk A Caraway and Heather W Fletcher Memphis Tennessee for the appellee Budget Rent A Car System Inc

Molly M Glover Steven N Snyder, Jr , Aaron R Parker and Eric J Lewellyn Memphis Tennessee for the appellee Metrotrans Corporation

Kenneth R Rudstrom Memphis Tennessee and James E Singer Atlanta Georgia for the appellee Memphis Landsmen L L C

JUDGES J STEVEN STAFFORD J delivered the opinion of the Court in which ALAN E HIGHERS P J W S and DAVID R FARMER J joined

OPINION BY J STEVEN STAFFORD

OPINION

This case is before us upon mandate from the Tennessee Supreme Court for reconsideration of our previous opinion *Lake v Memphis Landsmen, L L C , et al*

No W2009 00526 COA R3 CV 2010 Tenn App LEXIS 200 2010 WL 891867 (Tenn Ct App March 15 2010) in light of the United States Supreme Court's [*2] decision in *Williamson v Mazda Motor of America, Inc , et al* 131 S Ct 1131 179 L Ed 2d 75 (2011) Our conclusion in *Lake* that Appellants' claims based upon the type of glass and the lack of passenger seatbelts are pre-empted is not disturbed by the *Williamson* decision because the basis of our holding involved more than preservation of the manufacturers' ability to choose under the safety regulations Under the law of the case doctrine and because further review would exceed the scope of the Tennessee Supreme Court's mandate we decline to revisit our decision concerning the perimeter seating issue Reversed and Remanded

OPINION

Before addressing the decision in *Williamson*, we first pause for a truncated review of the relevant factual and procedural history of this case A thorough recitation is set out in this Court's previous opinion, *Lake v Memphis Landsmen, L L C , et al* *No W2009-00526 COA-R3 CV 2010 Tenn App LEXIS 200 2010 WL 891867 (Tenn Ct App March 15 2010)* ("*Lake I*")

Clifton Lake was injured on March 18 1998 when the shuttle bus, in which he was a passenger collided with a concrete truck *Lake I* 2010 Tenn App LEXIS 200 [WL] at *1 The bus which was owned by Memphis Landsmen L L C , was [*3] on its way to the Budget Rent a Car location in Memphis Memphis Landsmen operated the bus under a franchise agreement with Budget *Id* When the concrete truck struck the bus the bus spun into a light pole before coming to a stop *Id* At some point Mr Lake was ejected from the bus and

hit his head on the concrete curb thus sustaining severe brain injury *Id* The bus had perimeter seating which is seating facing the center of the bus tempered glass windows and no passenger seatbelts ' *Id*

1 As explained in *Lake I* tempered glass is a glass that has been subjected to a heat treatment to make it resistant to breaking Laminated glass is glass that is made up of two layers of glass, with a plastic layer between the two layers of glass Glazing refers to different types of glass i.e. tempered versus laminated Advanced glazing refers to laminated or glass plastic glazing " *Lake I* 2010 Tenn App LEXIS 200 [WL] at *1 n 2 (citing *O'Hara v General Motors Corp* 508 F 3d 753 n 1 (5th Cir 2007))

Mr Lake and his wife (together "Appellants") filed suit against Memphis Landmen Metrotrans Corporation (the bus manufacturer) and Budget (together Appellees') alleging that the shuttle bus was unreasonably dangerous [*4] because it did not have passenger seatbelts had tempered glass windows and used perimeter seating *Lake I* 2010 Tenn App LEXIS 200 [WL] at *1 The Lakes also asserted negligence against Memphis Landmen in the operation and driving of the bus *Id* The Defendants/Appellees answered raising the defenses of comparative fault and preemption *Id*

Beginning on August 4 2008 the case was tried to a jury *Lake I* 2010 Tenn App LEXIS 200 [WL] at *3 At the close of Plaintiffs/Appellants' proof the trial court denied Appellees' motions for directed verdict and again denied the renewed motions for directed verdict at the close of all proof *Id* The jury found that the Lakes had suffered \$8 543 630 00 in damages however the jury determined that one hundred percent of the fault lay with the driver of the concrete truck which was owned and operated by a non party Horn Lake Redi Mix barring recovery *Id* An order on the jury verdict was entered on October 10 2008 *Id* The Lakes' motion for new trial was denied by order of January 27 2009 and they appealed to this Court

As is relevant to the instant remand, in *Lake I* this Court determined that the Lakes' state law claims concerning the use of tempered glass in the bus side windows were impliedly [*5] preempted by Federal Motor Vehicle Safety Standards (FMVSS) 205 *Id* 2010 Tenn App LEXIS 200 [WL] at *9 Concerning the lack of seatbelts in the bus we concluded that this claim too was preempted under FMVSS 208 *Id* 2010 Tenn App LEXIS 200 [WL] at *11 Moreover we concluded that the Appellees' motion for directed verdict on the Lakes' negligence and products liability claims based on the use of perimeter seating should have been granted because the Lakes failed to present evidence as to where Mr

Lake was seated (or if he was seated) at the time of the accident *Id* 2010 Tenn App LEXIS 200 [WL] at *13 Based upon the lack of such evidence, we concluded that the Lakes had failed to meet their burden to provide evidence that "affords a reasonable basis for the conclusion that it is more likely than not that the conduct of the [Appellees] was a cause in fact of [Mr Lake's injuries]" *Id*

Following the March 15 2010 filing of our opinion in *Lake I*, the Lakes filed a *Tennessee Rule of Appellate Procedure* 11 application for permission to appeal to the Tennessee Supreme Court on May 14 2010 On May 27 2010 the Lakes filed a Citation to Supplemental Authority pursuant to *Tennessee Rule of Appellate Procedure* 27(d) noticing the Tennessee Supreme Court of the fact [*6] that the United States Supreme Court had granted a petition for writ of certiorari in the case of *Williamson v Mazda Motor of America* The Supreme Court issued its opinion in *Williamson* on February 23 2011

On March 24 2011 the Tennessee Supreme Court issued its order granting the Lakes' *Tennessee Rule of Appellate Procedure* 11 application for the narrow purpose of remanding the case to this Court for reconsideration in light of the United States Supreme Court's opinion in *Williamson v Mazda Motor of America, Inc., et al* 131 S Ct 1131 179 L Ed 2d 75 (2011) We now turn to address the relevant facts and holdings in *Williamson*

In 2002, the Williamson family riding in their 1993 Mazda minivan, was struck head on by another vehicle *Williamson* 131 S Ct at 1134 Thanh Williamson was sitting in a rear aisle seat wearing a lap belt she died in the accident *Id* Delbert and Alexa Williamson were wearing lap and shoulder belts they survived *Id* They along with Thanh's estate subsequently brought a California state tort suit against Mazda claiming that Mazda should have installed lap and shoulder belts on rear aisle seats and that Thanh died because Mazda equipped her seat with a lap belt [*7] instead *Id*

The California trial court dismissed the tort claim and the California Court of Appeals affirmed *Williamson* 131 S Ct at 1134 In affirming the California Court of Appeals relied upon the case of *Geier v American Honda Motor Co* 529 US 861 120 S Ct 1913 146 L Ed 2d 914 (2000), and held that the federal regulation at issue gives the manufacturer a choice between two different types of seatbelts i.e. lap belts or lap and shoulder belts for use in rear inner seats *Id* Consequently the California intermediate appellate court concluded that a state lawsuit that premises tort liability on a failure to install a particular kind of seatbelt namely lap and shoulder belts, would in effect deprive the manufacturer of the choice contemplated under the regu

lation and thus found that the Williamsons suit was pre-empted *Id*

The United States Supreme Court granted certiorari in *Williamson* to address the question of whether its holding in *Geier* had been misinterpreted by lower courts, which had held that FMVSS 208 pre-empted state tort suits that allege liability based upon the fact that manufacturers should have installed lap and shoulder belts, not lap belts [*8] on rear inner seats of passenger vehicles *Williamson* 131 S Ct at 1135 In finding that the Williamsons' claims were not pre-empted the Supreme Court distinguished their case from the *Geier* case In *Geier* the Supreme Court found that the state law stood as an obstacle to the accomplishment of a significant federal regulatory objective namely the maintenance of manufacturer choice *Geier* 529 US at 886 The gravamen of the *Geier* decision was the Supreme Court's determination that giving an automobile manufacturer a choice among different types of passive restraint devices was a "significant objective of the federal regulation" *Id*, *Williamson* 131 S Ct at 1136 In *Williamson* the Supreme Court determined that unlike *Geier*, manufacturers' choice was not a significant regulatory objective of FMVSS 208 *Id* at 1137 This holding was further explained by Justice Sotomayor in her separate concurrence wherein she notes

[T]he mere fact that an agency regulation allows manufacturers a choice between two options is insufficient to justify implied pre-emption courts should only find pre-emption where evidence exists that an agency has a regulatory objective e.g. obtaining [*9] a mix of passive restraint mechanisms as in *Geier* -whose achievement depends on manufacturers having a choice between options A link between a regulatory objective and the need for manufacturer choice to achieve that objective is the lynchpin of implied pre-emption when there is a saving clause

Williamson 131 S Ct 1140

As noted by Justice Sotomayor important to the *Williamson* holding was the fact that the federal regulation at issue also contains a saving clause which states that "[c]ompliance with a federal safety standard "does not exempt any person from any liability under common law" *Williamson* 131 S Ct at 1135 (emphasis in original) The *Williamson* Court was careful to note that the mere existence of a saving clause does not *ipso facto*

foreclose the operation of ordinary conflict pre-emption considerations

In light of *Geier* the statute's express pre-emption clause cannot pre-empt the common law tort action but neither can the statute's saving clause foreclose or limit the operation of ordinary conflict pre-emption principles

Williamson 131 S Ct at 1135²

2 In his separate concurrence Justice Thomas opines that the plain language of the saving clause should end the [*10] pre-emption inquiry and that the majority goes too far in deciding the issue on the grounds of whether the law suit "stands as an obstacle to the accomplishment and execution of the full purposes and objectives" of FMVSS 208 Justice Thomas specifically rejects "purpose and objectives pre-emption as inconsistent with the Constitution because it turns entirely on extratextual judicial suppositions" *Williamson* 131 S Ct 1142 (quoting *Wyeth v. Levine* 555 US 555 129 S Ct 1187 1214 173 L Ed 2d 51 (2009)) As noted above the majority opinion in *Williamson* does not reject the *Geier* analysis rather the majority holding is based upon its conclusion that manufacturer choice was not a significant objective of the specific regulation at issue

From our reading the *Williamson* holding is narrow it does not upset the *Geier* holding Consequently as a threshold matter, our reliance upon *Geier* in *Lake I* was not error Rather *Williamson* merely clarifies that manufacturer choice alone is not sufficient to find implied pre-emption of state tort claims Rather the inclusion of manufacturer choice must be in furtherance of a specific regulatory objective in order to form the basis of implied pre-emption of the state [*11] suit See e.g. *Morris v. Mitsubishi Motors North America, Inc.* No CV-08-0396 RMP 2011 US Dist LEXIS 30229 2011 WL 1085873 at *8 (E.D. Wash. March 23, 2011) (interpreting *Williamson* to hold that "[a] tort claim may proceed even if it may have the effect of restricting the manufacturer's choice when a Court finds that the choice allotted to manufacturers by a regulation is not intended to further a significant regulatory objective) With this in mind we turn to address our holdings in *Lake I* concerning both the Lakes glass claim and their seatbelt claim

Pre-emption of Glass Claims

FMVSS 205 specifies the requirements for glazing materials used in motor vehicles and is codified at 49 C.F.R. §571.205. The National Highway Transportation Safety Administration (NHTSA) has stated that the purpose of FMVSS 205 is to 'reduce injuries resulting from impact and glazing surfaces to ensure a necessary degree of transparency in motor vehicle windows for driver visibility and to minimize the possibility of occupants being thrown through the vehicle windows in a collision.' 49 C.F.R. §571.205 S2. FMVSS 205 incorporates by reference the American National Standards Institute ("ANSI") Standards for Safety Glazing [*12] Materials ANSI/SAE Z26.1. At the time of the accident at issue in *Lake I* and currently FMVSS 205 provides a choice in the installation of laminated glass, tempered glass, and glass plastics with tempered glass allowed in any window other than the windshield. 49 C.F.R. §571.205 S2 (citing ANSI/SAE Z26.1 (1996)). Under the *Williamson* holding, the inclusion of manufacturer choices in the regulation is not by itself sufficient to support a finding of preemption of a state tort claim. However, manufacturer choice was not the sole basis of our determination of preemption in *Lake I*. Therein, we specifically stated that 'it is undisputed that the windows of the bus at issue complied with FMVSS 205.' *Lake I* 2010 Tenn App LEXIS 200 [WL] at *6. The question then became whether the Lakes' claim that laminate as opposed to tempered glass should have been installed in the shuttle bus stood as "an obstacle to the accomplishment or execution of congressional objectives under the Safety Act" when both types of glass were specifically allowed under FMVSS 205. *Id.* Consistent with *Williamson*, in addressing this question, we necessarily examined the regulation, its history, its objectives, and the agency's view on the [*13] regulation. In addition to noting the stated purpose of FMVSS 205 *supra*, we also discussed NHTSA studies on glazing.

The NHTSA studied the use of advanced glazing in windows in the early 1990's. Following a mandate from Congress, the NHTSA issued notice of proposed rulemaking on both rollover prevention and occupant ejection prevention. In 2002, the NHTSA terminated rulemaking on advance glazing, stating that it would focus on "establishing safety performance requirements for ejection mitigation that will allow vehicle manufacturers the discretion to choose any technology that fulfills the requirements." The agency noted that it had concluded in its studies on ejection mitigation that it would not require advanced glazing due to safety and cost concerns. The NHTSA

explained that the two primary reasons for this conclusion were (1) the advent of other ejection mitigation systems' and (2) the fact that advanced side glazing increased the risk of neck injury in some cases. NHTSA also cited an additional reason of the cost associated with modifying vehicles to allow use of windows with advanced glazing.

Lake I 2010 Tenn App LEXIS 200 [WL] at *8 (internal citations and footnotes omitted)

3. As noted in *Lake I*, "advanced" [*14] glazing" refers to laminated glass and glass plastic glazing materials, the type of glass that the Lakes suggest should have been used. *Lake I* 2010 Tenn App LEXIS 200 [WL] at *8 n.9 (relying on *O'Hara*, 508 F.3d at 755 n.1).

Based upon the foregoing studies and in light of the specific purpose of FMVSS 205 to prevent both ejection and injuries resulting from impact, we concluded that

Requiring laminated glass in side windows may decrease the risk of ejection but would increase the risk of injury from impact with the glass. It appears that the NHTSA left the options for glass open so that the manufacturers could choose the safety features that best accomplished both purposes.

Id.

As in *Geier*, we determined that the Lakes' claims "would present an obstacle to the variety and mix of devices that the federal regulation sought and would also serve as an obstacle to the accomplishment and execution of a federal policy." 2010 Tenn App LEXIS 200 [WL] at *9. This holding was not, however, based solely upon the preservation of manufacturer choice. Rather, the manufacturer choice allowed under FMVSS 205 promotes the ultimate purpose of the regulation, which is to provide the best protection against passenger ejection, a decision that the NHTSA clearly [*15] determined was best left to the manufacturer.

Based upon the foregoing, we conclude that our analysis concerning the Lakes' claim *vis-a-vis* the type of glass used in the shuttle bus is not disturbed by the Supreme Court's holding in *Williamson*, as our determination was not based solely upon the preservation of manufacturer choice but was instead based upon considera

tion of NHTSA studies and the stated goal of the regulation

Preemption of Seatbelt Claim

As noted in *Lake I* FMVSS 208 49 CFR § 571.208 does not require seatbelts for passengers on buses with a gross vehicle weight of 10 000 pounds or more *Lake I* 2010 Tenn App LEXIS 200 [WL] at *10. It is undisputed that the shuttle bus at issue in this case had a gross weight in excess of 10 000 pounds *Id*. In their brief the Lakes argue *inter alia* that the NHTSA "is on the verge of requiring passenger seatbelts in large buses." Thus the Lakes contend that this imminent requirement renders our holding in *Lake I* inconsistent with a significant regulatory objective, i.e. requiring seatbelts on all buses. We respectfully disagree with the Lakes' argument. In the first instance this Court cannot speculate as to what the NHTSA may do at some future date. Rather [*16] we are charged with deciding the case upon the regulations and policies that exist at the time. Moreover it appears that the Lakes' assertion that the NHTSA will soon require passenger seatbelts on all buses is misplaced as it relies upon pending regulation aimed at motorcoaches, a vehicle category that is separate and distinct from the shuttle bus at issue here.

In a report dated August 18, 2010, NHTSA responded to the National Traffic Safety Board's recommendation that all buses be required to have passenger seatbelts. *Federal Motor Vehicle Safety Standards Motor Coach Definition Occupant Crash Protection 75 Fed Reg 50958 (Aug 18 2010)*. In response to this recommendation NHTSA extensively reviewed national crash and fatality data for buses from 1999 to 2008. *Id*. Based upon its review of this data NHTSA concluded that only 12% of passenger fatalities occurred on buses less than 26 000 pounds. *Id*. Accordingly rather than requiring seatbelts on all buses the NHTSA identified buses over 26 000 pounds as the vehicles that presented the most significant risk for passengers and developed a new classification of buses known as motorcoaches, which were defined as weighing more [*17] than 26 000 pounds, having sixteen or more seating positions, and two or more rows of forward facing seats behind the driver. *Id*. It is the newly designated classification of motorcoaches that would be required to have seatbelts at every seating position. However NHTSA has declined to recommend passenger seatbelts for buses such as the shuttle bus at issue here which weighed more than 10 000 pounds but less than 26 000 pounds. Having determined that the Lakes' reliance upon regulations addressing requirements for motorcoaches is misplaced we now turn to address the substantive question of whether the *Williamson* holding has any effect upon our decision that the Lakes' seatbelt claim is preempted.

In *Lake I* we conceded that if a manufacturer chooses to install passenger seatbelts in large buses (i.e. more than 10 000 pounds but less than 26 000 pounds) that manufacturer would still be in compliance with FMVSS 208. *Id*. However our analysis of this issue did not rest upon the concession that a manufacturer has a choice in whether to install seatbelts.

We agree with the *MCI [Sales & Service, Inc. v Hinton]* 272 S.W.3d 17 (Tx Ct App 2008)] that it is not impossible to install passenger [*18] seatbelts and still be in compliance with federal regulations. That finding however does not end our analysis on the preemption issue. Instead we must determine whether the Lakes' claims would be an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.

Lake I 2010 Tenn App LEXIS 200 [WL] at *10 (citation omitted). In pursuit of the answer to the obstacle question we specifically reviewed FMVSS 208 itself along with its history and the agency's interpretation of it. *Id*. Concerning the regulation itself we concluded that

FMVSS 208 addresses the necessity of seatbelts in all buses. It requires seatbelts for passengers in smaller buses [i.e. less than 10 000 pounds] but only requires a seatbelt for the driver in larger buses. This does not mean that there is not a federal standard for large buses. If a manufacturer wishes to build a bus without seatbelts it must build that bus so that its gross vehicle weight is greater than 10 000 pounds.

2010 Tenn App LEXIS 200 [WL] at *11. Following this determination we specifically turned to address "the policy behind that standard and whether the Lakes' claim would be an obstacle to that policy." *Id*. In our policy inquiry we noted that

As with the [*19] windows the NHTSA has studied the need for seatbelts in large buses and has decided not to adopt a requirement for seatbelts in these vehicles. In an August 19, 1992 letter, Paul Jackson Rice, chief counsel of the NHTSA, explained NHTSA expressly determined that there is not a safety need for safety belts or another type of occupant crash protection at [the passenger] seating positions."

Id The Lakes argue that our reliance upon Mr. Rice's letter was erroneous. We disagree. While we recognized that Mr. Rice was not a safety expert, Carl Nash, former NHTSA employee, testified that letters such as Mr. Rice's are reviewed by the safety experts at NHTSA and are approved before being disseminated. *Id*. At any rate, we did not rely upon this letter for its pre-emptive effect on FMVSS 208 because it addressed the question of whether a proposed state statute would be pre-empted and so was not directly on point. *Id*. Rather, we considered the letter "for the policy and reasons behind the requirements of FMVSS 208." *Id*. In our review of this letter, we concluded that the NHTSA had determined that seat belts should not be required for passengers on large buses due to both safety and cost. [*20] concerns *Id*. While we recognized that Mr. Rice had relied upon a decision made in 1974 in reaching his conclusion, we noted that FMVSS 208 adopted new seatbelt requirements for buses effective September 1, 1991, and that these revisions did not require passenger seatbelts in large buses. *Id*. Therefore, we concluded that the Lakes' claim *vis a vis* the lack of seatbelts on the bus

directly conflicts with the findings and requirements of the NHTSA. If we were to find that the claims were not pre-empted, and a jury were to find that the Appellees breached their duty by failing to install seatbelts, then all large buses in Tennessee would be required to have passenger seatbelts, a requirement that is a direct obstacle to the policies and decisions of the NHTSA. Further, such a decision would, in effect, require large buses across the country to have passenger seatbelts. This would absolutely conflict with Congress' goal of uniformity in the motor vehicle industry.

Id (citation omitted). In short, our decision was not based upon the protection of the manufacturers' choice of whether to install seatbelts in large buses; rather, it was based upon a review of the plain language of FMVSS [*21] 208 and the policies and reasoning behind that regulation. Consequently, our determination that the Lakes' seatbelt claim is pre-empted is not contrary to the Supreme Court's holding in *Williamson*.

4. We specifically determined that it is the purview of this Court to look at the reasons behind the policy in determining if the claim would frustrate the purpose of the policy as the Supreme Court itself had looked at the reasons behind

FMVSS 208 on a no air-bag claim in *Geier* and again on a claim against the Coast Guard based upon its failure to adopt a propeller guard policy in *Sprietsma v Mercury Marine*, 537 U.S. 51, 123 S.Ct. 518, 154 L.Ed.2d 466 (2002). *Lake I*, 2010 Tenn App LEXIS 200 [WL] at *11.

Directed Verdict on Perimeter Seating Issue

Upon remand from the Tennessee Supreme Court, the Lakes ask us to also revisit our holding that the Lakes' claim based on the use of perimeter seating, should have been dismissed by grant of directed verdict because of the lack of evidence presented at the trial. For the reasons set out below, we decline this invitation.

As noted above, the Tennessee Supreme Court's mandate in remanding this case to us was limited and specific as it directed this Court to reconsider its decision [*22] in *Lake I* in light of the United States Supreme Court's opinion in *Williamson*. As discussed in detail above, the *Williamson* decision concerned only the issue of pre-emption, i.e., whether a FMVSS standard that gave automobile manufacturers choices as to the type of seatbelts installed in certain passenger seating positions pre-empted state law claims for negligence against the manufacturer for failing to install the option not chosen.

Our Supreme Court has held that inferior courts must abide by the orders, decrees, and precedents of higher courts. *Weston v State of Tennessee*, 60 S.W.3d 57, 59 (Tenn. 2001). Moreover, "[n]either a trial court nor an intermediate court has the authority to expand the directive or purpose of [the Tennessee Supreme Court] imposed upon remand." *Id*. Under the *Weston* holding, this Court has no authority to expand the purpose of the remand by considering issues not related to *Williamson* and its holdings on pre-emption.

Even if we assume *arguendo* that this Court has the authority on remand to reconsider the perimeter seating issue, our prior decision on this issue in *Lake I* constitutes the law of the case. The law of the case is a "legal doctrine that generally [*23] prohibits reconsideration of issues that have already been decided in a prior appeal of the same issue." *Memphis Publ'g Co v Tenn Petroleum Underground Storage Tank Bd*, 975 S.W.2d 303, 306 (Tenn. 1998). Under this doctrine, "an appellate court's decision on an issue of law is binding in later trials and appeals of the same case if the facts on the second trial or appeal are substantially the same as the facts in the first trial or appeal." *Id*. The doctrine is "based on the common sense recognition that issues previously litigated and decided by a court of competent jurisdiction ordinarily need not be revisited." *Id*. Only in certain limited, circumstances may courts deviate from the law of the case. These exceptions are triggered when (1) the

evidence offered at a trial or hearing after remand was substantially different from the evidence in the initial proceeding, (2) the prior ruling was clearly erroneous and would result in a manifest injustice if allowed to stand (3) the prior decision is contrary to a change in the controlling law which has occurred between the first and second appeal *Id* at 306

In *Lake I* we held that the Lakes failed to present any evidence upon which [*24] a jury could find that Mr Lake was seated in the bus ' *Lake I* 2010 Tenn App LEXIS 200 [WL] at *13 On that issue the evidence now before us is the same as that considered in reaching our decision in *Lake I* Furthermore there has been no decision rendered that is contrary to the law applied in *Lake I* and there are no grounds for finding that our decision

concerning the perimeter seating was erroneous In short, none of the exceptions to the law of the case doctrine are applicable here Consequently, were this Court to revisit the issue of directed verdict on the perimeter seating issue that decision would not only be outside the scope of the Tennessee Supreme Court's remand but it would also be a direct violation of the law of the case

For the foregoing reasons we conclude that the United States Supreme Court's decision in *Williamson* does not effect our previous holding in *Lake I* Consequently that decision is affirmed Costs of this appeal are assessed against the Appellants Clifton A Lake and Charleen J Lake and their surety

J STEVEN STAFFORD JUDGE

133QPV

***** Print Completed *****

Time of Request Tuesday October 25 2011 16 10 27 EST

Print Number 2828 314088383

Number of Lines 366

Number of Pages

Send To SAMMATARO CARMELO B
TURNER PADGET GRAHAM & LANEY PA
1901 MAIN ST FL 17
COLUMBIA SC 29201-2443

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

September 8, 2011

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

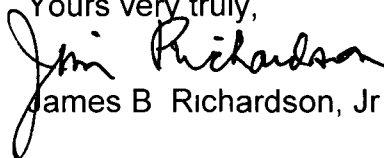
Re Priester v Cromer
Case No 06-CP-38-1071

Dear Mr Shearouse

The above-captioned case was argued in the Supreme Court on March 16, 2010. I would appreciate it if I could obtain a copy of the tape of the oral argument. Enclosed is my check to cover the cost.

Thanking you, I remain

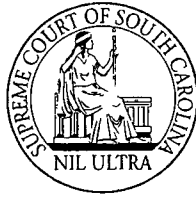
Yours very truly,


James B Richardson, Jr

RECEIVED

SEP 09 2011

SC SUPREME COURT



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

September 12, 2011

Darrell T. Johnson, Jr., Esquire
P O Box 1125
Hardeeville, SC 29927

James B. Richardson, Jr., Esquire
1229 Lincoln St
Columbia, SC 29201

Leslie A. Brueckner, Esquire
555 12th Street, Suite 1620
Oakland, CA 94607

Matthew W. H. Wessler, Esquire
1825 K Street, NW, Suite 200
Washington, DC 20006

Curtis L. Ott, Esquire
Carmelo B. Sammataro, Esquire
Turner, Padgett, Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

Gregory G. Garre, Esquire
Latham & Watkins, LLP
555 Eleventh St NW, Suite 1000
Washington, DC 20004

Robert W. Powell, Esquire
Dickinson Wright, P L L C
500 Woodward Avenue, Suite 400
Detroit, MI 48226

Re Priester, M v Cromer, P (Ford Motor)

Dear Counsel

The record in the above case has been reviewed and the time allotment for oral argument for this case is as follows

Appellant 15 minutes

Respondent 15 minutes

Appellant in Reply 5 minutes

This case is scheduled for hearing on Tuesday, September 20, 2011 at 9 30 a m

Very truly yours,

Daniel E Shearouse, Clerk

By Debbie M Hopkins
Administrative Assistant

DES/dmh

cc Adam Tremaine Silvernail, Esquire
David B Salmons, Esquire
Bryan M Killian, Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire
Larry E Coben, Esquire
Patrick M Ardis, Esquire
William C Wood, Jr, Esquire

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail SSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

September 7, 2011

RECEIVED

SEP - 7 2011

VIA HAND DELIVERY

SC Supreme Court

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc., and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

Enclosed please find the original and fifteen copies of Respondent's Reply To Center For Auto Safety's *Amicus Curiae* Brief regarding the above-referenced matter Also enclosed are the originals and one copy each of the Certificate of Counsel and the Proof of Service Please file the original documents and return clocked copies to me via our office courier Thank you for your assistance with this matter, and please contact me if you have any questions

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/tj
Enclosures

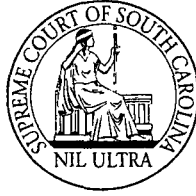
BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

September 7, 2011

Page 2

cc James B Richardson, Jr , Esquire
Darrell Thomas Johnson, Jr , Esquire
Leslie A Brueckner, Esquire
Matthew H Wessler, Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire
David B Salmons, Esquire
Bryan M Killian, Esquire
William C Wood, Jr , Esquire
Adam T Silvernail, Esquire
Patrick M Ardis, Esquire
Larry E Coben, Esquire
(w/enc)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

August 29, 2011

Adam Tremaine Silvernail, Esquire
P O Box 1898
Columbia, SC 29202

Larry E. Coben, Esquire
Anapol Schwartz
1710 Spruce Street
Philadelphia, PA 19103

Patrick M. Ardis, Esquire
Wolff Ardis, P.C.
5810 Shelby Oaks Drive
Memphis, TN 38134

Re: Priester, M. v. Cromer, P. (Ford Motor)

Dear Counsel:

The following Order has been endorsed on your Motion of the Center for Auto Safety for Leave to File Its Motion for Leave to File an Amicus Curiae Brief Out of Time in the above entitled matter:

“Granted

s/ Jean H. Toal C.J.
For the Court

August 29, 2011 ”

By copy of this letter we are advising all counsel of record any reply to the amicus curiae brief should be served and filed within ten (10) days of the date of this letter.

Priester, M v Cromer, P (Ford Motor)

Page Two

August 29, 2011

Very truly yours,



CLERK

DES/dmh

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 David B Salmons, Esquire
 Bryan M Killian, Esquire
 Gray T Culbreath, Esquire
 Brian A Comer, Esquire
 William C Wood, Jr , Esquire

**LAW OFFICE OF
ADAM T. SILVERNAIL, LLC**

POST OFFICE BOX 1898
1218 TAYLOR STREET
COLUMBIA SOUTH CAROLINA 29202

August 24, 2011

By Hand Delivery

The Honorable Daniel E Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

RECEIVED

AUG 24 2011

SC Supreme Court

Re Mary Robyn Priester, Individually and as Natural Mother/Next of Kin and
Personal Representative of the Estate of James Lloyd Priester v Preston
Williams Cromer, Stage Light Management d/b/a Showgirls(z), Nikki D's,
Inc , and Ford Motor Company
Civil Action No 2006-CP-38-1071

Dear Mr Shearouse

Delivered herewith are an original and seven (7) copies of the Motion for Leave to file
Motion for Leave to File an *Amicus* Brief Out of Time, along with an original and one (1) copy
of a Proof of Service for the same

Please file the originals and return a file-stamped copies to me By copy of this letter to
counsel for all parties to this appeal, I am serving them with copies of the reply

Thank you for your assistance with this matter

Sincerely,



Adam T Silvernail

Enclosures

cc Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
William C Wood, Esquire
James B Richardson, Jr , Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

RECEIVED

AUG 24 2011

James C Williams, Jr , Circuit Court Judge

S C Supreme Court

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

MOTION OF THE CENTER FOR AUTO SAFETY FOR LEAVE TO FILE ITS
MOTION FOR LEAVE TO FILE AN AMICUS BRIEF OUT OF TIME

The Center for Auto Safety (the "Center") hereby moves this Court for an Order granting it leave to file its motion for leave to file an amicus curiae brief in the above-captioned matter out of time. The grounds of this motion are as follows:

1 The Center was unaware of this Court's Order dated April 7, 2011 until it received Respondent's return to its motion for leave to file an *amicus* brief. Respondent asserts that said Order set a deadline of May 19, 2011 for *amici* to file any briefs supporting Appellant's position herein.

2 The Center first became aware of this action until late June 2011

3 The Center has an interest in the outcome of this action, as
demonstrated in its brief and motion for leave to file an *amicus* brief

4 All parties have been served with the *amicus* brief, and have
adequate time to formulate a response to the argument therein prior to the
scheduled oral argument

Accordingly, the Center for Auto Safety requests that this Court grant it
leave to file its motion leave to file an *amicus curiae* brief out of time herein

Respectfully submitted,

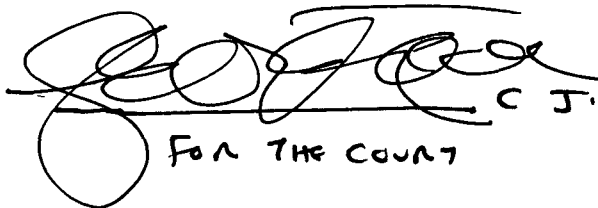
Larry E Coben, *pro hac vice*
Anapol Schwartz
8700 E Vista Bonita Drive
Suite 288
Scottsdale, Arizona 85255
Phone 480/515-4745
Fax 480/515-4744

Patrick M Ardis, *pro hac vice*
Wolff Ardis, P C
5810 Shelby Oaks Drive
Memphis, Tennessee 38134
Phone 901/763-3336
Fax 901/763-3376

Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

Attorneys for the Center for Auto Safety

GRANTED


C J.
FOR THE COURT

August 29, 2011

August 24, 2011

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

PROOF OF SERVICE

I certify that I have served the Motion of the Center for Auto Safety for
Leave to File its Motion for Leave to File an Amicus Brief Out of Time by mailing a
copy of same, via United States Mail on August 24, 2011 to the following

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Turner Padgett Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

William C Wood, Esquire
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

James B Richardson, Jr , Esquire
1229 Lincoln Street
Columbia, SC 29201

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy, P C
1330 Lady Street
P O Box 12487
Columbia, SC 29211



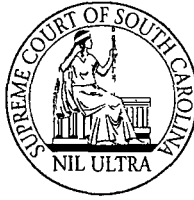
Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

Larry E. Coben, *pro hac vice*
Anapol Schwartz
8700 E. Vista Bonita Drive
Suite 288
Scottsdale, Arizona 85255
Phone 480/515-4745
Fax 480/515-4744

Patrick M. Ardis, *pro hac vice*
Wolff Ardis, P.C.
5810 Shelby Oaks Drive
Memphis, Tennessee 38134
Phone 901/763-3336
Fax 901/763-3376

Attorneys for the Center for Auto Safety

August 24, 2011



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

August 22, 2011

Adam Tremaine Silvernail, Esquire
P O Box 1898
Columbia, SC 29202

Re Priestester, M v Cromer, P (Ford Motor)

Dear Mr Silvernail

The following Order has been endorsed on your Motion in Support of *Pro Hac Vice* Application of Larry E Coben in the above entitled case on appeal

“Granted

Jean H Toal C J
For the Court

By s/ Daniel E Shearouse
Clerk

August 22, 2011 ”

By copy of this letter we are advising all interested parties of the action of the Court in this matter

Very truly yours,



CLERK

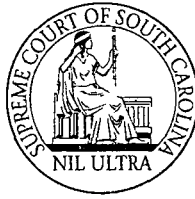
DES/dmh

Priester, M v Cromer, P (Ford Motor)

Page Two

August 22, 2011

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 David B Salmons, Esquire
 Bryan M Killian, Esquire
 Gray T Culbreath, Esquire
 Brian A Comer, Esquire
 Larry E Coben, Esquire
 Patrick M Ardis, Esquire
 William C Wood, Jr , Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

August 22, 2011

Adam Tremaine Silvernail, Esquire
P O Box 1898
Columbia, SC 29202

Re Priestester, M v Cromer, P (Ford Motor)

Dear Mr Silvernail

The following Order has been endorsed on your Motion in Support of *Pro Hac Vice* Application of Patrick M Ardis in the above entitled case on appeal

“Granted

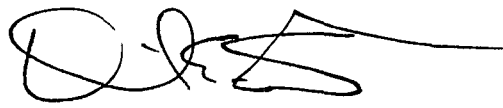
Jean H Toal C J
For the Court

By s/ Daniel E Shearouse
Clerk

August 22, 2011 ”

By copy of this letter we are advising all interested parties of the action of the Court in this matter

Very truly yours,



CLERK

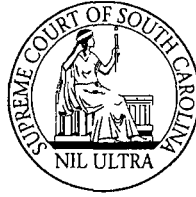
DES/dmh

Priester, M v Cromer, P (Ford Motor)

Page Two

August 22, 2011

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 David B Salmons, Esquire
 Bryan M Killian, Esquire
 Gray T Culbreath, Esquire
 Brian A Comer, Esquire
 Larry E Coben, Esquire
 Patrick M Ardis, Esquire
 William C Wood, Jr , Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

August 19, 2011

Adam Tremaine Silvernail, Esquire
Law Office of Adam T. Silvernail
P O Box 1898
Columbia, SC 29202

Re Priestester, M v Cromer, P (Ford Motor)

Dear Mr. Silvernail:

Enclosed is the order issued in the above entitled matter.

By copy of this letter and order, we are advising all interested parties of the action by the Court.

Very truly yours,

CLERK

DES/dmh

Enclosure

Priester, M v Cromer, P (Ford Motor)

Page Two

August 19, 2011

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 David B Salmons, Esquire
 Bryan M Killian, Esquire
 Gray T Culbreath, Esquire
 Brian A Comer, Esquire
 William C Wood, Jr , Esquire

The Supreme Court of South Carolina

Mary Robyn Priester,
Individually and as Natural
Mother/Next of Kin, and
Personal Representative of the
Estate of James Lloyd Priester, Appellant,

v

Preston Williams Cromer,
Stage Light Management, d/b/a
Showgirls(z), and Lloyd
Brown, individually and doing
business as Showgirls(z), and
Nikki D's Inc and Ford Motor
Company, Defendants,
of whom Ford Motor
Company, is Respondent

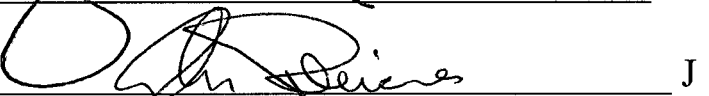
ORDER

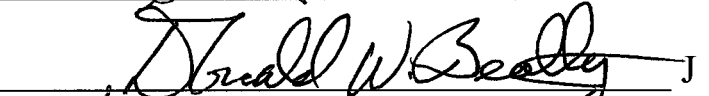
The Center for Auto Safety has filed a Motion for Leave to File an Amicus Brief Respondent Ford Motor Company opposes the motion The amicus brief is accepted upon the condition that the Center For Auto Safety file, within five days of the date of this order, a motion for the Motion for Leave to File an Amicus Brief to be accepted out of time, along with the required filing fee See Rule 240(d), SCACR The Center is also directed to

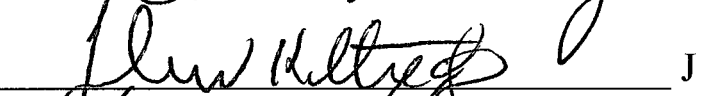
take immediate measures to correct the color of the cover of the amicus briefs
filed with this Court so that they comply with Rule 267(e), SCACR

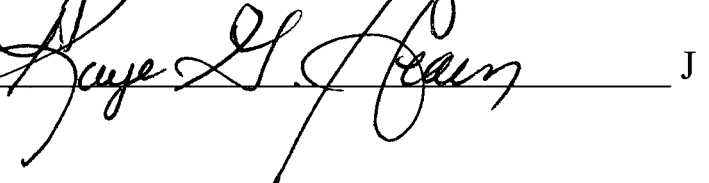
IT IS SO ORDERED

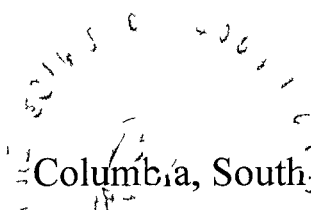











Columbia, South Carolina
August 19, 2011

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

August 18, 2011

RECEIVED

AUG 18 2011

S.C Supreme Court

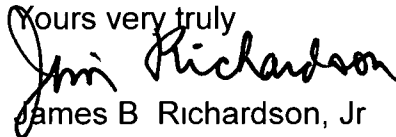
Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re Priest v Cromer
Case No 06-CP-38-1071

Dear Mr Shearouse

Enclosed for filing is appellant's reply to the return filed by respondent in regard to the motion of the Center for Auto Safety for leave to file a brief amicus curiae

Thanking you, I remain

Yours very truly

James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
William C Wood, Esq
Gary T Culbreath, Esq
Brian A Comer, Esq
Darrell Thomas Johnson, Jr, Esq
Leslie Brueckner, Esq
Matt Wessler, Esq
Adam Silvernail, Esq

THE STATE OF SOUTH CAROLINA
IN THE Supreme COURT

RECEIVED

AUG 18 2011

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

S C Supreme Court

James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

APPELLANT'S REPLY TO FORD'S RETURN
TO MOTION OF CENTER FOR AUTO SAFETY

Contrary to Ford's statement in its Return to the Motion of the Center for Auto Safety for leave to file a brief as amicus curiae, the Court's Order of April 7, 2011 did not set a deadline for motions seeking leave to file such a brief. The Order did not address that subject at all.

The Court's briefing order of April 7th was directed to the only amicus curiae to have appeared in the case to that point, Product Liability Advisory Council. The Order stated:

If the amicus curiae desires to serve and file a brief, its brief shall be served and filed at the same time as the party it supports, and any return or reply shall follow the same briefing schedule established for the briefs of the parties.

It is now apparent to all that this Court's upcoming post-*Williamson* decision will

be the decisive bellwether, nationally, in regard to the preemption matter at issue, hence Ford's recruitment of a second amicus — like the first, an organization to which Ford contributes financially (The appellant did not oppose the motion of Ford's second amicus for leave to file a brief) The Center for Auto Safety (unconnected with appellant Priester) has likewise perceived the importance of the case, not too late to make its contribution to the Court's consideration thereof

Respectfully submitted,

D. Thomas Johnson
Post Office Box 1125
Hardeeville, South Carolina 29927
(843) 784-2142

James B. Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

Leslie A. Brueckner
Public Justice P C
555 12th St , Suite 1620
Oakland, California 94607
(510) 622-8205

Matthew W. H. Wessler
Public Justice, P C
1825 K St , NW Suite 200
Washington, D C 20006
(202) 797-8600

by 
Attorneys for Appellant

August 18, 2011

THE STATE OF SOUTH CAROLINA
IN THE Supreme COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

CERTIFICATE OF SERVICE

I certify that I served a copy of appellant's reply to the return of respondent to the motion of the Center for Auto Safety for leave to file a brief as amicus curiae upon respondent by first class mail, postage prepaid, addressed to its attorneys at their address of record, namely

Curtis L Ott Esq
Carmelo B Sammataro, Esq
Turner Padgett Graham & Laney
P O Box 1473
Columbia, SC 29202

and upon the *amici curiae* by the same means, addressed to their attorneys at their respective addresses of record, namely

William C Wood, Jr , Esq
Nelson Mullins Riley & Scarborough
Meridian, 17th Floor
1320 Main Street
Columbia, SC 29201

-and-

Gary T Culbreath, Esq
Brian A Comer, Esq
Collins & Lacy
P O Box 12487
Columbia, SC 29211

and upon the attorney for the movant, Center for Auto Safety, by the same means,
addressed to its attorney at his address of record namely

Adam T. Silvernail, Esq
Attorney at Law
P O Box 1898
Columbia, SC 29202-1898

on August 18, 2011


James B. Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

August 18, 2011

Attorney for Appellant

**LAW OFFICE OF
ADAM T. SILVERNAIL, LLC**

POST OFFICE BOX 1898
1218 TAYLOR STREET
COLUMBIA SOUTH CAROLINA 29202

August 18, 2011

RECEIVED

AUG 18 2011

SC Supreme Court

By Hand Delivery
The Honorable Daniel E Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

Re Mary Robyn Priester, Individually and as Natural Mother/Next of Kin and
Personal Representative of the Estate of James Lloyd Priester v Preston
Williams Cromer, Stage Light Management d/b/a Showgirls(z), Nikki D's,
Inc , and Ford Motor Company
Civil Action No 2006-CP-38-1071

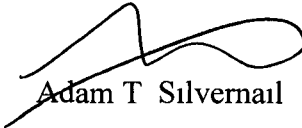
Dear Mr Shearouse

Delivered herewith are an original and seven (7) copies of the Reply of *Amicus Curiae*
Center for Auto Safety to Respondent's Return to Motion for Leave to File an *Amicus* Brief

Please file the original and return a file-stamped copy to me By copy of this letter to
counsel for all parties to this appeal, I am serving them with copies of the reply

Thank you for your assistance with this matter

Sincerely,


Adam T Silvernail

Enclosures

cc Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
William C Wood, Esquire
James B Richardson, Jr , Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

RECEIVED

AUG 18 2011

James C Williams, Jr , Circuit Court Judge S C Supreme Court

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

REPLY OF *AMICUS CURIAE* CENTER FOR AUTO SAFETY TO
RESPONDENT'S RETURN TO MOTION FOR LEAVE TO FILE *AMICUS* BRIEF

Respondent's assertion that the Court's April 7, 2011 order precluded the Center for Auto Safety from seeking leave to file an *amicus* brief is unsupported by the language of the Order itself

The order states, "[i]f the *amicus curiae* desires to serve and file a brief, its brief shall be served and filed at the same time as the party it supports " [4/7/11 Order, p 2 (emphasis supplied)] The order refers only a single *amicus curiae* Logically, that *amicus curiae* would be the Product Liability Advisory Council, which filed a brief in the previous proceedings before this Court

The order contains no prohibition against or deadline for any additional *amicus curiae* seeking to file a brief in this matter. Indeed, the Alliance of Automobile Manufacturers has since filed an *amicus* brief in support of Respondent. That brief, although conditionally filed with a motion on June 20, 2011, was not accepted or filed until the Court issued its July 7, 2011 order to that effect. Respondent did not object to the timing or filing of that brief.

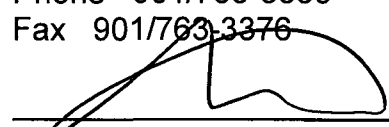
Because the arguments in Respondent's return are without merit, *amicus curiae* the Center for Auto Safety asks that the Court grant its motion for leave to file its brief for the reasons stated in its motion.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

* Larry E Coben
Anapol Schwartz
8700 E Vista Bonita Drive
Suite 288
Scottsdale, Arizona 85255
Phone 480/515-4745
Fax 480/515-4744

* Patrick M Ardis
Wolff Ardis, P C
5810 Shelby Oaks Drive
Memphis, Tennessee 38134
Phone 901/763-3336
Fax 901/763-3376



Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

* Pending Motions for *pro hac vice*
admission

August 18, 2011

Attorneys for the Center for Auto Safety

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

PROOF OF SERVICE

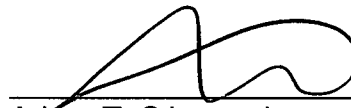
I certify that I have served the Reply of *Amicus Curiae* Center for Auto Safety to Respondent's Return to Motion for Leave to File an *Amicus* Brief by mailing a copy of same, via United States Mail on August 18, 2011 to the following

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Turner Padgett Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

James B Richardson, Jr , Esquire
1229 Lincoln Street
Columbia, SC 29201

William C Wood, Esquire
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy, P C
1330 Lady Street
P O Box 12487
Columbia, SC 29211



Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/403-8092

August 18, 2011

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

AUG 16 2011

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

S C Supreme Court

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin, and Personal
Representative of Estate of James Lloyd
Priester

Appellant,

v

Preston Williams Cromer, Stage Light Management,
d/b/a Showgirls(z), and Lloyd Brown, individually
and doing business as Showgirls(z), and Nikki D's,
Inc , and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

RETURN TO MOTION OF CENTER FOR AUTO
SAFETY FOR LEAVE TO FILE AMICUS BRIEF

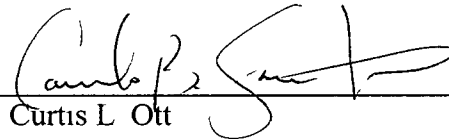
The Center for Auto Safety's motion for leave to file an amicus brief in support of Appellant should be denied because it was filed months after the deadline set by this Court's supplemental briefing order without even a sentence of explanation as to why a late filing was necessary or warranted. When this Court ordered supplemental briefing on "what impact, if any, *Williamson v Mazda*, 131 S Ct 1131 (2011), may have on this case," it directed that the amicus curiae's brief "shall be served and filed at the same time as the party it supports" (April 7, 2011 Order). After this Court granted an extension,

Appellant's brief was due on May 19, 2011 (*Id*) The Center for Auto Safety did not serve its amicus brief in support of Appellant until August 9, 2011—over two and a half months after the deadline It was also long after Ford's response brief was filed on June 20, 2011 Moreover, oral argument has been scheduled for September 20, 2011 The Center for Auto Safety does not acknowledge much less attempt to offer any explanation for the patent untimeliness of its amicus brief Accordingly, this Court should deny the Center for Auto Safety's motion for leave to file its amicus brief

If, however, this Court grants the motion, then Ford requests that, in accordance with Rule 213, SCACR, the court specify a period of ten days for Ford to file a response, if any See Rule 213, SCACR ("If leave to file an amicus curiae brief is granted, the appellate court will specify the period in which a response to the brief may be filed ")

August 16, 2011

By



Curtis L. Ott

Carmelo B. Sammataro

TURNER PADGET GRAHAM & LANEY P A

Post Office Box 1473

Columbia, SC 29202

Phone (803) 254-2200

Fax (803) 799-3957

Gregory G. Garre, *Pro Hac Vice*

LATHAM & WATKINS, LLP

555 Eleventh Street NW, Suite 1000

Washington, DC 20004

Phone (202) 637-2200

Fax (202) 637-2201

ATTORNEYS FOR RESPONDENT
FORD MOTOR COMPANY

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

RECEIVED

AUG 16 2011

James C Williams, Jr , Circuit Court Judge

SC Supreme Court

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin, and Personal
Representative of Estate of James Lloyd
Priester

Appellant,

v

Preston Williams Cromer, Stage Light Management,
d/b/a Showgirls(z), and Lloyd Brown, individually
and doing business as Showgirls(z), and Nikki D's,
Inc , and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

PROOF OF SERVICE

I certify that I have this 16th day of August 2011 served a copy of the RETURN
TO MOTION OF CENTER FOR AUTO SAFETY FOR LEAVE TO FILE AMICUS
BRIEF by regular U S mail on the following

James B Richardson, Jr , Esquire
Richardson Law Firm
1229 Lincoln Street
Columbia, SC 29201

William C Wood, Jr , Esquire
Nelson Mullins Riley & Scarborough LLP
Meridian, 17th Floor
1320 Main Street
Columbia, SC 29201

Darrell Thomas Johnson, Jr , Esquire
Law Office of Darrell Thomas Johnson,
Jr , LLC
Post Office Box 1125
Hardeeville, SC 29927

**ATTORNEYS FOR PRODUCT
LIABILITY ADVISORY COUNCIL,
INC**

Leslie A Brueckner, Esquire
Public Justice, P C
555 12th St , Suite 1620
Oakland, CA 94607

Matthew H Wessler, Esquire
Public Justice, P C
1825 K St , NW, Suite 200
Washington, DC 20006

ATTORNEYS FOR APPELLANT

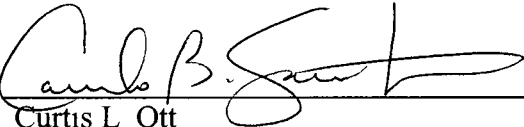
Adam T Silvernail, Esquire
Law Office of Adam T Silvernail, LLC
P O Box 1898
Columbia, SC 29202-1898

**ATTORNEYS FOR CENTER FOR
AUTO SAFETY**

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy, P C
P O Box 12487
Columbia, SC 29211

David B Salmons, Esquire (*Pro Hac Vice*)
Bryan M Killian, Esquire (*Pro Hac Vice*)
Bingham McCutchen LLP
2020 K Street N W
Washington, DC 20006

**ATTORNEYS FOR ALLIANCE OF
AUTOMOBILE MANUFACTURERS**

By 
Curtis L Ott
Carmelo B Sammataro
TURNER PADGET GRAHAM & LANEY P A
Post Office Box 1473
Columbia, SC 29202
Phone (803) 254-2200
Fax (803) 799-3957

Gregory G Garre, *Pro Hac Vice*
LATHAM & WATKINS, LLP
555 Eleventh Street NW, Suite 1000
Washington, DC 20004
Phone (202) 637-2200
Fax (202) 637-2201

**ATTORNEYS FOR RESPONDENT
FORD MOTOR COMPANY**

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

RECEIVED

AUG - 9 2011

James C Williams, Jr , Circuit Court Judge **SC Supreme Court**

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

MOTION OF THE CENTER FOR AUTO SAFETY
FOR LEAVE TO FILE AN AMICUS BRIEF

Pursuant to Rule 213, SCACR, the Center for Auto Safety (the "Center")
moves this Court for an Order granting it leave to file an amicus curiae brief in the
above-captioned matter

The brief is being conditionally filed herewith

INTEREST OF AMICUS CURIAE

The Center for Auto Safety is a nonprofit consumer-advocacy organization
with approximately 15,000 members Among other things, the Center works for

strong federal standards to protect drivers and passengers. The Center was founded in 1970 to provide consumers a voice for auto safety and quality in Washington and to help “lemon” owners fight back across the country. The Center advocates for auto safety, efficiency, and quality before the Department of Transportation, the Federal Trade Commission, Environmental Protection Agency, and in the courts.

Amicus curiae seeks to file its brief herein because it vehemently disputes the thrust of the manufacturer’s argument, supported by its *Amici*, that the ejection mitigation standard (FMVSS 205) was intended by NHTSA to make “safety optional”, thereby requiring a finding of federal preemption of the Plaintiff’s common law cause of action. That argument is, the Center submits, the antithesis of all federal motor vehicle safety standards. Further, as both NHTSA and the U.S. Supreme Court have repeatedly observed, the applicability of federal preemption to a minimum federal standard offering the auto industry optional methods to comply with these standards would have a dire impact upon the common law rights of the citizens of this and every other state in the union, and it would undermine the intent of Congress in enacting the National Highway Traffic Safety Act.

The importance of the common law in motivating and stimulating improvements in vehicle safety is a critical component of the American system of justice, and a finding of preemption under the circumstances presented here will, in our view, threaten consumer safety and protection, which should be afforded to

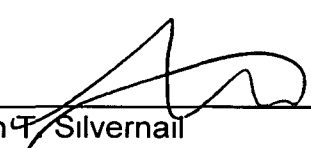
all motorists Accordingly, the Center for Auto Safety and its members have a strong interest in the proper resolution of this issue

Accordingly, the Center for Auto Safety requests that this Court grant it leave to file an *amicus curiae* brief herein

Respectfully submitted,

* Larry E Coben
Anapol Schwartz
8700 E Vista Bonita Drive
Suite 288
Scottsdale, Arizona 85255
Phone 480/515-4745
Fax 480/515-4744

* Patrick M Ardis
Wolff Ardis, P C
5810 Shelby Oaks Drive
Memphis, Tennessee 38134
Phone 901/763-3336
Fax 901/763-3376



Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

* Motion for Pro Hac Vice Admission to be filed

Attorneys for the Center for Auto Safety

Columbia, South Carolina
August 9, 2011

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

AUG - 9 2011

SC Supreme Court

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

PROOF OF SERVICE

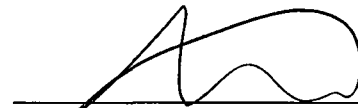
I certify that I have served the Motion of the Center for Auto Safety for
Leave to File an Amicus Brief by mailing a copy of same, via United States Mail
on August 9, 2011 to the following

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Turner Padgett Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

William C Wood, Esquire
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

James B Richardson, Jr , Esquire
1229 Lincoln Street
Columbia, SC 29201

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy, P C
1330 Lady Street
P O Box 12487
Columbia, SC 29211



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

* Larry E. Coben
Anapol Schwartz
8700 E. Vista Bonita Drive
Suite 288
Scottsdale, Arizona 85255
Phone 480/515-4745
Fax 480/515-4744

* Patrick M. Ardis
Wolff Ardis, P.C.
5810 Shelby Oaks Drive
Memphis, Tennessee 38134
Phone 901/763-3336
Fax 901/763-3376

* Pending Motion for Pro Hac Vice
Admission

Attorneys for the Center for Auto Safety

August 9, 2011

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail CSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227-4253

Writer s Direct Fax (803) 400-1532

August 16, 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RECEIVED

AUG 16 2011

SC Supreme Court

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc., and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

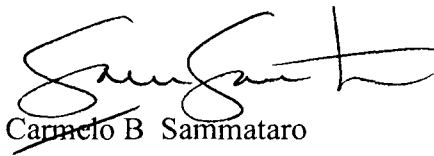
Dear Mr Shearouse

Enclosed please find the original and seven copies of the Return To Motion Of Center For Auto Safety For Leave To File Amicus Brief regarding the above-referenced matter Also enclosed are the original and one copy of our Proof of Service Please file the original filings and return clocked copies to me via our office courier Thank you for your assistance with this matter, and please contact me if you have any questions

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/tj
Enclosures

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

August 16, 2011

Page 2

cc James B Richardson, Jr , Esquire
Darrell Thomas Johnson, Jr , Esquire
Leslie A Brueckner, Esquire
Matthew H Wessler, Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire
David B Salmons, Esquire
Bryan M Killian, Esquire
William C Wood, Jr , Esquire
Adam T Silvernail, Esquire

(w/enc)

**LAW OFFICE OF
ADAM T. SILVERNAIL, LLC**

POST OFFICE BOX 1898
1218 TAYLOR STREET
COLUMBIA SOUTH CAROLINA 29202

August 11, 2011

RECEIVED

AUG 12 2011

S C Supreme Court

By Hand Delivery

The Honorable Daniel E Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

Re Mary Robyn Priester, Individually and as Natural Mother/Next of Kin and
Personal Representative of the Estate of James Lloyd Priester v Preston
Williams Cromer, Stage Light Management d/b/a Showgirls(z), Nikki D's,
Inc , and Ford Motor Company
Civil Action No 2006-CP-38-1071

Dear Mr Shearouse

Delivered herewith are an original and seven (7) copies of the Motion in Support of *Pro Hac Vice* Application of Larry E Coben for filing in the above-referenced action, along a check for \$25 00 for the filing fee

Also delivered herewith are the original and seven (7) copies of the Motion in Support of *Pro Hac Vice* Application of Patrick M Ardis for filing, along with an additional check for \$25 00 for the filing fee

Please file the originals and return a file-stamped copy to me By copy of this letter to counsel for all parties to this appeal, I am serving them with copies of the Motions

Thank you for your assistance with this matter

Sincerely,



Adam T Silvernail

Enclosures

cc Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
William C Wood, Esquire
James B Richardson, Jr , Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

MOTION IN SUPPORT OF *PRO HAC VICE* APPLICATION
OF LARRY E COBEN

The undersigned local counsel, Adam T Silvernail, hereby moves that
Larry E Coben be admitted *pro hac vice* in the above-captioned case as
associate counsel for the Center for Auto Safety Mr Coben's Verified Application
for Admission *Pro Hac Vice* has been filed with the Office of Bar Admissions,
along with the appropriate filing fee As local counsel, the undersigned
understands that

RECEIVED

AUG 12 2011

S C Supreme Co

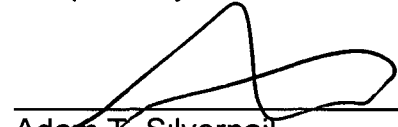
1 The undersigned will personally sign each pleading, motion, discovery request/answer, or other document that the undersigned files in this Court

2 All pleadings and documents the undersigned files in this case will contain the name, firm name, address and phone number of the undersigned and those of his associate counsel admitted *pro hac vice*

3 Service of all pleadings and notices as required shall be sufficient if served upon the undersigned, who is responsible for serving his associate counsel admitted *pro hac vice*

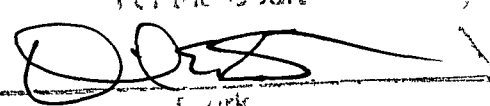
4 Unless excused by the Court, the undersigned will be present at all pretrial conferences, hearings, and trials and may attend discovery proceedings
The undersigned will be prepared to actively participate if necessary

Respectfully submitted,


Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

Attorneys for the Center for Auto Safety

GRANTON

Jean H. Toal CJ
for the Court
By 
August 22, 2011

August 11, 2011

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

AUG 12 2011

S C Supreme Court

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

PROOF OF SERVICE

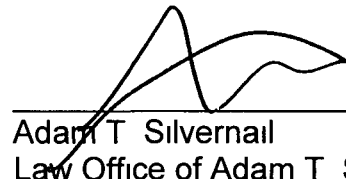
I certify that I have served the Motion in Support of *Pro Hac Vice*
Application of Larry E Coben by mailing a copy of same, via United States Mail
on August 11, 2011 to the following

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Turner Padgett Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

William C Wood, Esquire
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

James B Richardson, Jr , Esquire
1229 Lincoln Street
Columbia, SC 29201

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy, P C
1330 Lady Street
P O Box 12487
Columbia, SC 29211



Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/403-8092

August 11, 2011



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 734-1080
FAX (803) 734-0384

August 11, 2011

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RECEIVED
AUG 11 2011
S.C. Supreme Court

RE Mary Robyn Priester v. Ford Motor Company,
Docket No. 06-CP-38-1071

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received a verified application requesting Larry E. Coben be admitted *pro hac vice* in the above matter. The \$250 filing fee for the applicant has been paid.

Yours truly,

Gayle B. Watts, st
Deputy Clerk for Bar Admissions

GBW/st

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

Mary Robyn Priester
Plaintiff

06-CP-38-1071
Case No

South Carolina Supreme Court
Court

vs

Ford Motor Company, Inc, et al
Defendant

Mailing Address of Court Supreme Court Building, 1231 Gervais
Street, Columbia, SC, 29201

Comes now Larry E. Coben, applicant herein, and respectfully represents the following

RECEIVED

AUG 11 2011

1 Applicant resides at
10155 E Happy Valley Road
Street Address
Scottsdale
City
480-515-4745
Telephone

Maricopa
County

AZ
State

SC SUPREME COURT
85255
Zip Code

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of) Anapol
Schwartz, with offices at, at
1710 Spruce Street
Street Address
Philadelphia
City
215-735-1130
Telephone

Philadelphia
County

PA
State
480-515-4744
Fax Number

19103
Zip Code

3 Applicant has been retained personally or as a member of the above named law firm by Adam Silvernail to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina

4 Since October of 1973, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Pennsylvania where applicant regularly practices law Attached is a certificate of good standing

5 Applicant has been admitted to practice before the following courts (List all of the following courts applicant has been admitted to practice before United States District Courts, United States Circuit Courts of Appeals the Supreme Court of the United States, and courts of other states or the District of Columbia)

Court	Date Admitted
US District Court of Eastern Pennsylvania	10/17/73
US Court of Appeals 3 rd Circuit	10/23/73
US Supreme Court	7/17/92
US District Court, District of Arizona	1/30/95

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

N/A

6 Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e g , jurisdiction, court, date)

N/A

7 Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e g , date, court, docket number, judge circumstances, attach a copy of any order of denial or revocation)

N/A

8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e g , date, administrative body, date of suspension and reinstatement)

N/A

9 Local counsel of record associated with applicant in this case is Adam Silvernail, of the Law Office of Adam T Silvernail LLC law firm, which has offices at

1218 Taylor Street

Street Address

Richland

County

803-779-1770

Telephone

Columbia

City

SC

State

29201

Zip Code

If applicable list all other firms/attorneys you are associated with in this matter

N/A

10 Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted)

N/A

11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct

12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this 4th day of August, 2010

[Signature]
APPLICANT

VERIFICATION

STATE OF ARIZONA)

COUNTY OF MARICOPA)

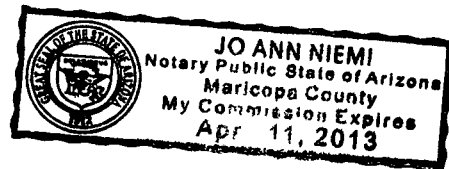
I, Larry E. Coben, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true

[Signature]
APPLICANT/AFFIANT

Subscribed and sworn to before me this 4th day of Aug, 20 11

[Signature]
Notary Public for the State of Arizona

My Commission Expires 4/11/2013



LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar

DATED this _____ day of _____, 20____

[Signature]

LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this _____ day of _____, 20____

[Signature]
APPLICANT/AFFIANT



Supreme Court of Pennsylvania

CERTIFICATE OF GOOD STANDING

Larry E Coben, Esq

DATE OF ADMISSION

October 2, 1973

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania and is now a qualified member in good standing



Witness my hand and official seal

Dated July 21, 2011

Patricia A. Johnson

Patricia A. Johnson
Chief Clerk

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

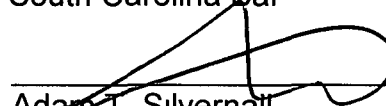
Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

LOCAL COUNSEL CONSENT

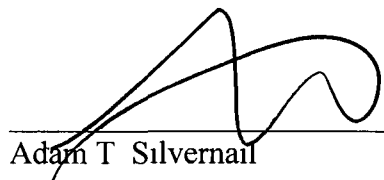
I hereby consent, as local counsel for the Center for Auto Safety, to the
association of applicant Larry E Coben in this case pursuant to the rules
governing admission *pro hac vice* to the South Carolina Bar


Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/403-8092

August 11, 2011

CERTIFICATE OF SERVICE

I certify that I have served a copy of this application upon the South Carolina Supreme Court by hand delivery to the Office of Bar Admissions, 1231 Gervais Street, Columbia, South Carolina 29201, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on the 11th day of August, 2011



Adam T Silvernail

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

AUG 12 2011

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

S C Supreme Court

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

MOTION IN SUPPORT OF *PRO HAC VICE* APPLICATION
OF PATRICK M ARDIS

The undersigned local counsel, Adam T Silvernail, hereby moves that
Patrick M Ardis be admitted *pro hac vice* in the above-captioned case as
associate counsel for the Center for Auto Safety Mr Ardis's Verified Application
for Admission *Pro Hac Vice* has been filed with the Office of Bar Admissions,
along with the appropriate filing fee As local counsel, the undersigned
understands that

1 The undersigned will personally sign each pleading, motion, discovery request/answer, or other document that the undersigned files in this Court

2 All pleadings and documents the undersigned files in this case will contain the name, firm name, address and phone number of the undersigned and those of his associate counsel admitted *pro hac vice*

3 Service of all pleadings and notices as required shall be sufficient if served upon the undersigned, who is responsible for serving his associate counsel admitted *pro hac vice*

4 Unless excused by the Court, the undersigned will be present at all pretrial conferences, hearings, and trials and may attend discovery proceedings The undersigned will be prepared to actively participate if necessary

Respectfully submitted,

GRANTON

for the Court
By [Signature]
Clerk
August 22, 2011

[Signature]
Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/779-1770

Attorneys for the Center for Auto Safety

August 11, 2011

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

AUG 12 2011

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

S C Supreme Court

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

PROOF OF SERVICE

I certify that I have served the Motion in Support of *Pro Hac Vice*
Application of Patrick M Ardis by mailing a copy of same, via United States Mail
on August 11, 2011 to the following

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Turner Padgett Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

William C Wood, Esquire
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

James B Richardson, Jr , Esquire
1229 Lincoln Street
Columbia, SC 29201

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy, P C
1330 Lady Street
P O Box 12487
Columbia, SC 29211



Adam T Silvernail
Law Office of Adam T Silvernail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Phone 803/779-1770
Fax 803/403-8092

August 11, 2011

Mary Robyn Priester
Plaintiff

South Carolina Supreme Court
Court

Ford Motor Company, et
Defendant

[illegible]

AUG 15 2011

S C SUPREME COURT

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of) Wolff
Ardis, P C, with offices at, at
5810 Shelby Oaks Dr
Street Address
Memphis Shelby TN 38134
City County State Zip Code
901-763-3336 901-763-3376
Telephone Fax Number

3 Applicant has been retained personally or as a member of the above named law firm by Center for Auto Safety to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina

4 Since October 18 of 1975, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Tennessee where applicant regularly practices law Attached is a certificate of good standing

5 Applicant has been admitted to practice before the following courts (List all of the following courts applicant has been admitted to practice before United States District Courts, United States Circuit Courts of Appeals, the Supreme Court of the United States, and courts of other states or the District of Columbia)

[illegible]

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

Agreed

6 Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e g , jurisdiction, court, date)

Agreed

7 Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e g , date, court, docket number, judge, circumstances, attach a copy of any order of denial or revocation)

Agreed

8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e g , date, administrative body, date of suspension and reinstatement)

Agreed

9 Local counsel of record associated with applicant in this case is Adam Silvernail, of the _____ law firm, which has offices at

1218 Taylor St

Street Address

Richland

County

803-779-1770

Telephone

Columbia

City

Ce

State

29201

Zip Code

If applicable list all other firms/attorneys you are associated with in this matter

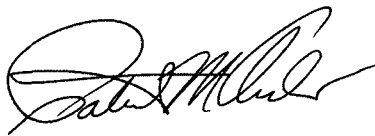
10 Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted)

None

11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct

12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this 12th day of August, 2011



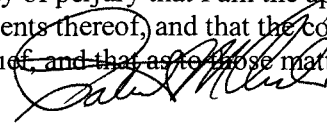
APPLICANT

VERIFICATION

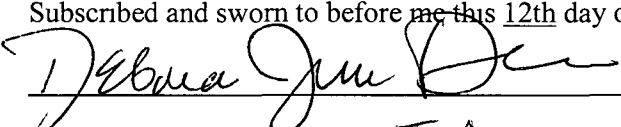
STATE OF TENNESSEE)

COUNTY OF SHELBY)

I, Patrick M. Ardis, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true


APPLICANT/AFFIANT

Subscribed and sworn to before me this 12th day of August, 2011


Notary Public for the State of TN

My Commission Expires 3/7/15



LOCAL COUNSEL CONSENT

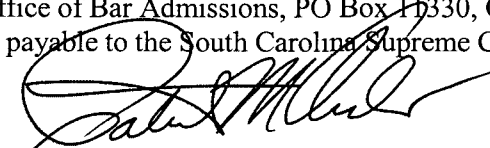
I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar

DATED this 15th day of August, 2011


LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 15th day of August, 2011


APPLICANT/AFFIANT

Admissions of Patrick M Ardis

List of all state and federal jurisdictions in which Patrick M Ardis has been licensed or admitted to practice law

<u>JURISDICTION</u>	<u>ADMIT DATE</u>	<u>STATUS</u>	<u>GOOD STANDING</u>	<u>LICENSE/BAR CODE NO</u>
State of Tennessee	10/18/1975	Active	Yes	008263
State of Missouri	06/12/2002	Active	Yes	53961
State of Colorado	04/06/1992	Active	Yes	21283
State of Oklahoma	01/11/1993	Active	Yes	15403
State of New York	10/07/1992	Active	Yes	2485696
State of Pennsylvania	12/04/1990	Active	Yes	59847
U S Supreme Court	11/13/1979	Active	Yes	N/A
U S Court of Appeals 5 th Circuit	07/23/1991	Active	Yes	N/A
U S Court of Appeals 6 th Circuit	10/02/1991	Active	Yes	N/A
U S D C Western District of Tennessee	06/04/1976	Active	Yes	N/A
U S D C Eastern & Western District of Arkansas	12/17/2003	Active	Yes	008263
U S D C Eastern District of Missouri	09/15/2004	Active	Yes	N/A
U S D C Middle District of Tennessee	07/12/2005	Active	Yes	N/A
U S D C Northern District of Florida	06/29/2010	Active	Yes	N/A
U S D C Eastern District of Texas	01/31/2011	Active	Yes	N/A



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 734-1080
FAX (803) 734-0384

August 8, 2011

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE Mary Robyn Priester v. Ford Motor Company,
Docket No. 06-CP-38-1071

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received a verified application requesting Patrick M. Ardis be admitted *pro hac vice* in the above matter. The \$250 filing fee for the applicant has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/st

**LAW OFFICE OF
ADAM T. SILVERNAIL, LLC**

POST OFFICE BOX 1898
1218 TAYLOR STREET
COLUMBIA SOUTH CAROLINA 29202

August 9, 2011

By Hand Delivery

The Honorable Daniel E Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

RECEIVED

AUG - 9 2011

S C Supreme Court

Re Mary Robyn Priester, Individually and as Natural Mother/Next of Kin and
Personal Representative of the Estate of James Lloyd Priester v Preston
Williams Cromer, Stage Light Management d/b/a Showgirls(z), Nikki D's,
Inc , and Ford Motor Company
Civil Action No 2006-CP-38-1071

Dear Mr Shearouse

Delivered herewith are an original and seven (7) copies of the Motion of the Center for
Auto Safety for Leave to File Amicus Brief for filing in the above-referenced action, along a
check for \$25 00 for the filing fee

Also delivered herewith are the original and sixteen (16) copies of the Brief of *Amicus*
Curiae Center for Auto Safety in Support of Appellants and Supporting Reversal of the Decision
of the Lower Court Please file the original and return a file-stamped copy to me

By copy of this letter to counsel for all parties to this appeal, I am serving them with
copies of the Motion and Brief

Thank you for your assistance with this matter

Sincerely,



Adam T Silvernail

Enclosures

cc Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
William C Wood, Esquire
James B Richardson, Jr , Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail SSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

July 25, 2011

VIA HAND-DELIVERY

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RECEIVED

JUL 25 2011

SC Supreme Court

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

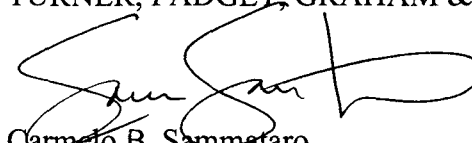
In response to your memorandum dated July 18, 2011, I write to advise that Mr Gregory G Garre, admitted *pro hac vice*, will argue on behalf of Respondent Ford Motor Company in the above-referenced case, which has been tentatively set for argument during the Court's September term Mr Garre also is set to present oral argument before the Supreme Court of the United States on October 4, 2011, and we therefore respectfully request that argument in *Priester* be scheduled for September 20, 2011, if at all possible

Thank you in advance for your kind attention and assistance in this matter

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202

Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

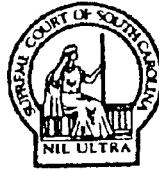
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To James B. Richardson, Jr., Esquire
From Daniel E. Shearouse
Date July 18, 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Gregory G. Garre Esquire
From Daniel E. Shearouse
Date July 18, 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)



The South Carolina Supreme Court

DANIEL E SHEAROUSE
CLERK OF COURT
BRENDA F SHEALY
DEPUTY CLERK

P O BOX 11330
COLUMBIA S C 29211
PHONE NO 734 1080

To Darrell T Johnson Jr Esquire
From Daniel E Shearouse
Date July 18 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20 21 and 22. Please notify this office in writing prior to July 25 2011 as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict please advise as to the specific nature of the conflict.

Priester, M v Cromer, P (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To: Curtis L. Ott Esquire
Carmelo B. Sammataro Esquire
From: Daniel E. Shearouse
Date: July 18, 2011
RE: September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To: Gray T. Culbreath Esquire
Brian A. Comer Esquire
From: Daniel E. Shearouse
Date: July 18, 2011
RE: September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)

•



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

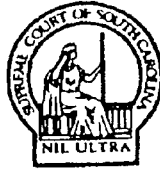
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To: David B. Salmons, Esquire
Bryan M. Killian, Esquire
From: Daniel E. Shearouse
Date: July 18, 2011
RE: September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

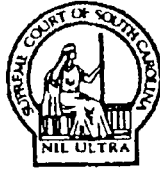
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Leslie A. Brueckner Esquire
From Daniel E. Shearouse
Date July 18, 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M v Cromer, P (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Matthew W. H. Wessler Esquire
From Daniel E. Shearouse
Date July 18, 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Robert W. Powell Esquire
From Daniel E. Shearouse
Date July 18, 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M v Cromer, P (Ford Motor)



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To William C. Wood Jr., Esquire
From Daniel E. Shearouse
Date July 18, 2011
RE September Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the September 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of September 20, 21, and 22. Please notify this office in writing prior to July 25, 2011, as to any scheduling conflicts for the September term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Priester, M. v. Cromer, P. (Ford Motor)

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

July 11, 2011

RECEIVED

JUL 11 2011

S C Supreme Court

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

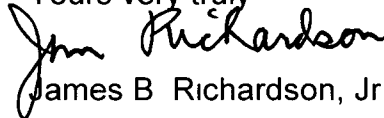
Re Priest v Cromer
Case No 06-CP-38-1071

Dear Mr Shearouse

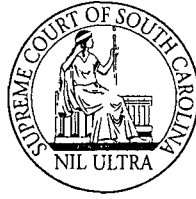
Enclosed for filing is appellant's supplemental reply brief

Thanking you, I remain

Yours very truly


James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
William C Wood Esq
Gary T Culbreath, Esq
Brian A Comer, Esq
Darrell Thomas Johnson, Jr , Esq
Leslie Brueckner, Esq
Matt Wessler, Esq



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

July 7, 2011

Gray T. Culbreath, Esquire
Brian A. Comer, Esquire
Collins & Lacy
P O Box 12487
Columbia, SC 29211

David B. Salmons, Esquire
Bryan M. Killian, Esquire
Bingham McCutchen LLP
2020 K Street N.W.
Washington, DC 20006

Re: Priester, M. v. Cromer, P. (Ford Motor)

Dear Counsel:

The following Order has been endorsed on your Motion of Alliance of Automobile Manufacturers for Leave to File an Amicus Curiae Brief in the above entitled case on appeal:

“Motion granted

s/ Jean H. Toal C.J.
For the Court

July 7, 2011”

Please be advised the amicus curiae brief received in this office on June 20, 2011 is being filed as of the date of this order.

Priester, M v Cromer, P (Ford Motor)

Page Two

July 7, 2011

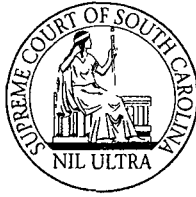
Very truly yours,

Daniel E Shearouse
BS

CLERK

DES/dmh

cc Darrell T Johnson, Jr , Esquire
James B Richardson, Jr , Esquire
Leslie A Brueckner, Esquire
Matthew W H Wessler, Esquire
Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Gregory G Garre, Esquire
Robert W Powell, Esquire
William C Wood, Jr , Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

July 7, 2011

William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough
P O Box 11070
Columbia, SC 29211

Re Priestester, M v Cromer, P (Ford Motor)

Dear Counsel

The following Order has been endorsed on your Motion of the Product Liability Advisory Council, Inc., for Leave to File Supplemental Brief as Amicus Curiae in the above entitled case on appeal

“Motion granted

s/ Jean H. Toal C J
For the Court

July 7, 2011 ”

Please be advised the supplemental brief received in this office on June 20, 2011 is being filed as of the date of this order

Very truly yours,



CLERK

DES/dmh

Priester, M v Cromer, P (Ford Motor)
Page Two
July 7, 2011

cc Darrell T Johnson, Jr , Esquire
James B Richardson, Jr , Esquire
Leslie A Brueckner, Esquire
Matthew W H Wessler, Esquire
Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Gregory G Garre, Esquire
Robert W Powell, Esquire
David B Salmons, Esquire
Bryan M Killian, Esquire
Gray T Culbreath, Esquire
Brian A Comer, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C. Williams, Circuit Court Judge

Case No. 06-CP-38-1071

RECEIVED
JUN 20 2011
S.C. Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc., and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

**MOTION OF ALLIANCE OF AUTOMOBILE MANUFACTURERS
FOR LEAVE TO FILE AN AMICUS BRIEF**

**TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE STATE OF SOUTH
CAROLINA**

Pursuant to Rule 213, SCACR, the Alliance of Automobile Manufacturers (the
"Alliance") moves this Court for an Order granting it leave to file an amicus curiae brief in the
above-captioned matter

The amicus curiae brief of the Alliance is being conditionally filed herewith

INTEREST OF AMICUS CURIAE

The Alliance of Automobile Manufacturers is a nonprofit national trade organization whose member companies represent all of the major manufacturers of passenger vehicles sold in the United States, including respondent Ford Motor Company. The Alliance frequently participates as amicus in cases addressing federal regulation of motor vehicles. *See e.g.*, *Alliance Br.*, *Geier v. American Honda Motor Co.* (S. Ct. No. 98-1811), *Alliance Br.*, *Williamson v. Mazda Motor of America, Inc.* (S. Ct. No. 08-1314). The Alliance also frequently participates in National Highway Traffic Safety Administration (NHTSA) rulemakings regarding passenger safety and vehicle design. *See e.g.*, *Alliance Comments, Ejection Mitigation* (FMVSS No. 226) (NHTSA Docket No. NHTSA-2009-0183). In doing so, the Alliance presents the broad perspective of vehicle manufacturers.

This case raises issues of great importance to the Alliance and its members. Because they sell vehicles all over the country, Alliance members need to know what liability regime they face. Members therefore have an interest in ensuring that state and federal courts throughout the country correctly understand and uniformly apply the Supreme Court's preemption framework for NHTSA regulations.

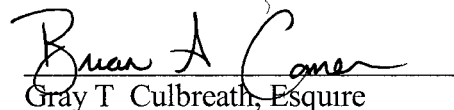
Additionally, over the years, Alliance members have invested substantial resources to develop improved and effective ejection-mitigation countermeasures, like side-curtain airbags, which NHTSA recently decided to promote. Members believe that NHTSA's decision not to mandate a particular type of side window glazing has been a primary driver of that innovation. Members therefore have an interest in ensuring that courts recognize the significance of NHTSA's decision to give manufacturers a choice among side window glazing technologies. And given that tempered glass was what manufacturers chose for the vast majority of passenger

vehicles manufactured pursuant to NHTSA's regulations, members also have an interest in ensuring that their choice does not subject them to massive liability in state common-law tort suits

Accordingly, the Alliance of Automobile Manufacturers requests the Court grant it permission to file an amicus curiae brief in the instant case

Respectfully submitted,

COLLINS & LACY, P C



Gray T. Culbreath, Esquire

Brian A. Comer, Esquire

COLLINS & LACY, P C

1330 Lady Street, Sixth Floor (29201)

Post Office Box 12487

Columbia, South Carolina 29211

(803) 256-2660

(803) 771-4484 (f)

* David B. Salmons

* Bryan M. Killian

BINGHAM MCCUTCHEN LLP

2020 K Street N.W.

Washington, District of Columbia 20006

(202) 373-6000

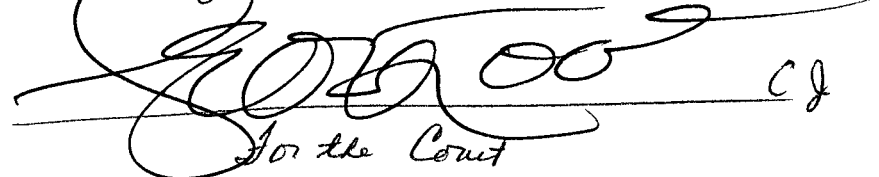
(202) 373-6001 (f)

* Pending Motion for Pro Hac Vice Admission

ATTORNEYS FOR THE ALLIANCE OF
AUTOMOBILE MANUFACTURERS

Columbia, South Carolina
June 20, 2011

Motion granted



For the Court
July 7, 2011

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

PROOF OF SERVICE

I certify that I have served the Motion of Alliance of Automobile Manufacturers for Leave to File an Amicus Brief by mailing a copy of same, via United States Mail, on June 20, 2011 to the following

D Thomas Johnson
Law Office of Darrell Thomas Johnson, Jr ,
LLC
Post Office Box 1125
Hardeville, SC 29927

Curtis L Ott
Carmelo B Sammataro
Turner Padget Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

Leslie A Brueckner
Public Justice, P C
555 12th St , Suite 1620
Oakland, California 94607

William C Wood, Jr
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

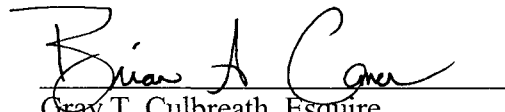
James B Richardson, Jr
1229 Lincoln Street
Columbia, SC 29201

Matthew W H Wessler
Public Justice, P C
1825 K St, NW, Suite 200
Washington, D C 20006

Robert W Powell, *Pro Hac Vice*
Dickinson Wright, P L L C
500 Woodward Avenue, Suite 400
Detroit, MI 48226

R Gordon Sproule, *Pro Hac Vice*
Huie, Fernambucq & Stewart
2801 Highway 280 S , Suite 200
Birmingham, AL 35223

Gregory G Garre, *Pro Hac Vice*
Latham & Watkins, LLP
555 Eleventh Street NW, Suite 1000
Washington, DC 20004

A handwritten signature in black ink, reading "Brian A. Comer", is written over a horizontal line.

Gray T Culbreath, Esquire
Brian A Comer, Esquire
COLLINS & LACY, P C
1330 Lady Street, Sixth Floor (29201)
Post Office Box 12487
Columbia, South Carolina 29211
(803) 256-2660
(803) 771-4484 (f)

* David B Salmons
* Bryan M Killian
BINGHAM MCCUTCHEN LLP
2020 K Street N W
Washington, District of Columbia 20006
(202) 373-6000
(202) 373-6001 (f)
* Pending Motion for Pro Hac Vice Admission

ATTORNEYS FOR THE ALLIANCE OF
AUTOMOBILE MANUFACTURERS

RECEIVED

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

JUN 20 2011

APPEAL FROM ORANGEBURG COUNTY

S C Supreme Court

Court of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

MARY ROBYN PRIESTER, Individually and as natural mother/next
of kin and personal representative of the Estate of James Lloyd
Priester,

Plaintiff-Appellant,

v

Preston Williams Cromer, Stage Light Management d/b/a
Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z),
and Nikki D's, Inc ,

Defendants,

of whom FORD MOTOR COMPANY, a Delaware corporation, is

Defendant-Respondent

**MOTION OF THE PRODUCT LIABILITY ADVISORY
COUNCIL, INC , FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF AS *AMICUS CURIAE***

Pursuant to Rule 213, SCACR, the Product Liability Advisory Council, Inc ("PLAC")
hereby moves for leave to file a supplemental brief as *amicus curiae* and states as follows

1 PLAC is a non-profit association with 100 corporate members representing a broad
cross-section of American and international product manufacturers

2 These companies seek to contribute to the improvement and reform of law in the
United States and elsewhere, with emphasis on the law governing the liability of manufacturers
of products

3 PLAC's perspective is derived from the experiences of a corporate membership that spans a diverse group of industries in various facets of the manufacturing sector, from automobiles to electronics to pharmaceutical products

4 Since 1983, PLAC has filed over 925 briefs as *amicus curiae* in both state and federal courts—including in this very case, before this very Court—presenting the broad perspective of product manufacturers seeking fairness and balance in the application and development of the law as it affects product liability

5 A list of PLAC's corporate members is attached as Appendix A

6 This case, which concerns the scope of the preemption doctrine, raises issues of considerable importance to PLAC and its members

7 Many of PLAC's members are governed by comprehensive federal safety regulations and statutes. Such uniform, national standards, mandated by Congress and developed by agencies with considerable expertise in the field, are vastly superior as a matter of both common sense and public policy to a system in which an agency's carefully designed standards may be supplanted or supplemented at will by trial courts or lay juries

8 PLAC's members, and ultimately the consumers of their products, benefit greatly both from the certainty and efficiency that comes with federal uniformity and from the security of knowing that lay juries will not second-guess the safety decisions of expert, deliberative bodies. Accordingly, PLAC and its members have a strong interest in the proper resolution of this challenge to the authority of a federal agency under a detailed regulatory scheme

9 Previously in this case, PLAC sought leave to file a brief as *amicus curiae* in support of respondent and affirmance. Over plaintiff's objection, the Court of Appeals (the matter was

subsequently certified to this Court pursuant to Rule 204, SCACR) granted PLAC leave to file its brief by order filed April 13, 2009

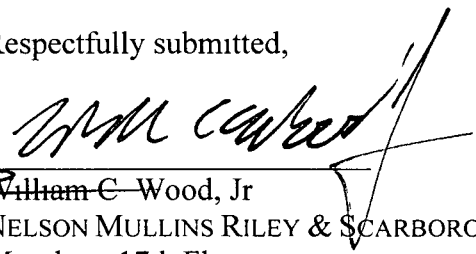
10 On April 7, 2011, this Court directed the filing of supplemental briefs addressing the impact, if any, of the Supreme Court's decision in *Williamson v Mazda Motor of America, Inc*, 131 S Ct 1131 (2011), on this case. The Court's order provided that, "[i]f the amicus curiae desires to file and serve a brief, its brief shall be served and filed at the same time as the party it supports"—i.e., at the same time that Ford Motor Company's brief is due, or June 20, 2011

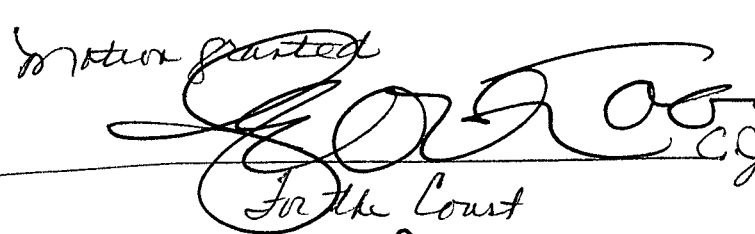
11 In light of the April 13, 2009, order granting PLAC leave to file a brief as *amicus curiae* and the Court's April 7, 2011 order requesting supplemental briefing, PLAC respectfully submits that no further motion on its part is necessary. Nonetheless, in an abundance of caution, pursuant to Rule 213 PLAC's brief has been conditionally filed with this Court pending the resolution of this motion

CONCLUSION

For the foregoing reasons, this Court should grant PLAC leave to file a supplemental brief as *amicus curiae*

Respectfully submitted,


William C. Wood, Jr
NELSON MULLINS RILEY & SCARBOROUGH LLP
Meridian, 17th Floor
1320 Main Street
Columbia, SC 29201
(803) 255-9534


For the Court
Dated June 20, 2011

July 7, 2011

*Counsel for Amicus Curiae the Product Liability
Advisory Council Inc*

Of Counsel

Kenneth S Geller
Erika Z Jones
Dan Himmelfarb
Brian J Wong
MAYER BROWN LLP
1999 K Street, N W
Washington, DC 20006
(202) 263-3000

Hugh F Young
PRODUCT LIABILITY ADVISORY COUNCIL, INC
1850 Centennial Park Dr , Ste 510
Reston, VA 20191
(703) 264-5300

**APPENDIX A CORPORATE MEMBERS OF THE
PRODUCT LIABILITY ADVISORY COUNCIL AS OF 4/4/2011**

3M	Johnson & Johnson
Altec Industries	Johnson Controls, Inc
Altria Client Services Inc	Joy Global Inc , Joy Mining Machinery
Arai Helmet, Ltd	Kawasaki Motors Corp , U S A
Astec Industries	Kia Motors America, Inc
Bayer Corporation	Kolcraft Enterprises, Inc
Beretta U S A Corp	Kraft Foods North America, Inc
BIC Corporation	Leviton Manufacturing Co , Inc
Biro Manufacturing Company, Inc	Lincoln Electric Company
BMW of North America, LLC	Magna International Inc
Boeing Company	Marucci Sports, L L C
Bombardier Recreational Products	Mazak Corporation
BP America Inc	Mazda (North America), Inc
Bridgestone Americas Holding, Inc	Medtronic, Inc
Brown-Forman Corporation	Merck & Co , Inc
Caterpillar Inc	Michelin North America, Inc
Chrysler Group LLC	Microsoft Corporation
Continental Tire the Americas LLC	Mitsubishi Motors North America, Inc
Cooper Tire and Rubber Company	Mueller Water Products
Crown Cork & Seal Company, Inc	Mutual Pharmaceutical Company, Inc
Crown Equipment Corporation	Navistar, Inc
Daimler Trucks North America LLC	Niro Inc
The Dow Chemical Company	Nissan North America, Inc
E I duPont de Nemours and Company	Novartis Pharmaceuticals Corporation
Eli Lilly and Company	PACCAR Inc
Emerson Electric Co	Panasonic
Engineered Controls International, Inc	Pella Corporation
Environmental Solutions Group	Pfizer Inc
Estee Lauder Companies	Porsche Cars North America, Inc
Exxon Mobil Corporation	Purdue Pharma L P
Ford Motor Company	Remington Arms Company, Inc
General Electric Company	RJ Reynolds Tobacco Company
General Motors Corporation	Schindler Elevator Corporation
GlaxoSmithKline	SCM Group USA Inc
The Goodyear Tire & Rubber Company	Segway Inc
Great Dane Limited Partnership	Shell Oil Company
Harley-Davidson Motor Company	The Sherwin-Williams Company
Hawker Beechcraft Corporation	Smith & Nephew, Inc
Honda North America, Inc	St Jude Medical, Inc
Hyundai Motor America	Stanley Black & Decker, Inc
Illinois Tool Works, Inc	Subaru of America, Inc
Isuzu North America Corporation	Synthes (U S A)
Jaguar Land Rover North America, LLC	Techtronic Industries North America, Inc
Jarden Corporation	Terex Corporation

TK Holdings Inc
The Toro Company
Toyota Motor Sales, USA, Inc
Vermeer Manufacturing Company
The Viking Corporation
Volkswagen Group of America, Inc
Volvo Cars of North America, Inc
Vulcan Materials Company
Whirlpool Corporation
Yamaha Motor Corporation, U S A
Yokohama Tire Corporation
Zimmer, Inc

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2011, I served two copies of the foregoing motion, by overnight delivery on the parties herein, at the following addresses

D Thomas Johnson
P O Box 1125
Hardeeville, SC 29927

Counsel for Plaintiff-Appellant

James B Richardson, Jr
1229 Lincoln St
Columbia, SC 29201

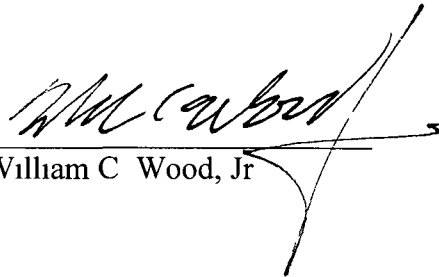
Leslie A Brueckner
Public Justice, P C
555 12th St , Suite 1620
Oakland, CA 94607

Matthew W H Wessler
Public Justice, P C
1825 K St , NW, Suite 200
Washington, DC 20006

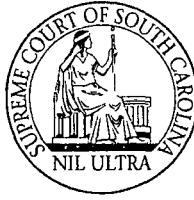
Curtis L Ott
Carmelo B Sammataro
Turner Padgett Graham & Laney P A
P O Box 1473
Columbia, SC 29202

Counsel for Defendant-Respondent

Robert W Powell
Dickinson Wright PLLC
500 Woodward Ave , Suite 4000
Detroit, MI 48226



William C Wood, Jr



The Supreme Court of South Carolina

DANIEL E SHEAROUSE
CLERK OF COURT

BRENDA F SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

June 28, 2011

Gray T Culbreath, Esquire
Brian A Comer, Esquire
Collins & Lacy
P O Box 12487
Columbia, SC 29211

Re Priester, M v Cromer, P (Ford Motor)

Dear Counsel

The following Order has been endorsed on your Motion in Support of *pro hac vice* Application on behalf of Bryan M Killian in the above entitled case on appeal

“Granted

Jean H Toal C J
For the Court

By s/ Daniel E Shearouse
Clerk

June 28, 2011 ”

By copy of this letter we are advising all counsel of record of the action of the Court in this matter

Priester, M v Cromer, P (Ford Motor)

Page Two

June 28, 2011

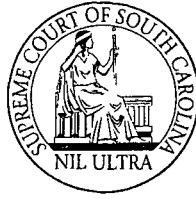
Very truly yours,

A handwritten signature in black ink, appearing to be "D. E. Clerk", written over the typed name "CLERK".

CLERK

DES/dmh

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 Bryan M Killian, Esquire
 William C Wood, Jr , Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

June 28, 2011

Gray T. Culbreath, Esquire
Brian A. Comer, Esquire
Collins & Lacy
P O Box 12487
Columbia, SC 29211

Re: Priester, M v Cromer, P (Ford Motor)

Dear Counsel:

The following Order has been endorsed on your Motion in Support of *pro hac vice* Application on behalf of David B. Salmons in the above entitled case on appeal.

“Granted

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

June 28, 2011 ”

By copy of this letter we are advising all counsel of record of the action of the Court in this matter.

Priester, M v Cromer, P (Ford Motor)

Page Two

June 28, 2011

Very truly yours,

A handwritten signature in black ink, appearing to be 'DES', with a long horizontal line extending to the right.

CLERK

DES/dmh

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 Bryan M Killian, Esquire
 William C Wood, Jr , Esquire
 David B Salmons, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUN 22 2011

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

S.C. Supreme Court

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

**MOTION IN SUPPORT OF PRO HAC VICE
APPLICATION**

The undersigned local counsel, Gray T Culbreath and/or Brian A Comer, of the law firm of Collins & Lacy, P C , hereby moves, together with the attached Verified Application for Admission *Pro Hac Vice*, that **BRYAN M KILLIAN**, be admitted *pro hac vice* in the above-captioned case as associate counsel for Alliance of Automobile Manufacturers in support of Respondent Ford Motor Company As local counsel, I understand that

- 1 I will personally sign each pleading, motion, discovery procedure, or other document that I serve or file in this court

- 2 All pleadings and documents that I file in this case will contain my name, firm name,
address, and phone number and those of my associate counsel admitted *pro hac vice*
- 3 Service of all pleadings and notices as required shall be sufficient if served upon me, and
it is my responsibility to serve my associate counsel admitted *pro hac vice*
- 4 Unless excused by the court, I will be present at all pretrial conferences, hearings, and
trials and may attend discovery proceedings I will be prepared to actively participate if
necessary
- 5 Prior to filing this Motion, I conferred with opposing counsel and they do not intend to
oppose this motion

Respectfully submitted,

COLLINS & LACY, P C

GRANTED
Jesse H. Tool CJ
For the Court
By [Signature] Clerk

June 28, 2011

Columbia, South Carolina
June 22, 2011

By [Signature]
GRAY T CULBREATH
BRIAN A. COMER
1330 Lady Street, Sixth Floor (29201)
Post Office Box 12487
Columbia, South Carolina 29211
(803) 256-2660
(803) 771-4484 (f)

ATTORNEYS FOR ALLIANCE OF
AUTOMOBILE MANUFACTURERS

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

PROOF OF SERVICE

I certify that I have served the Motion in Support of *Pro Hac Vice* Application by mailing a copy of same, via United States Mail, on June 22, 2011 to the following

D Thomas Johnson
Law Office of Darrell Thomas Johnson, Jr ,
LLC
Post Office Box 1125
Hardeville, SC 29927

Curtis L Ott
Carmelo B Sammataro
Turner Padget Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

Leslie A Brueckner
Public Justice, P C
555 12th St , Suite 1620
Oakland, California 94607

William C Wood, Jr
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

James B Richardson, Jr
1229 Lincoln Street

Robert W Powell, *Pro Hac Vice*
Dickinson Wright, P L L C

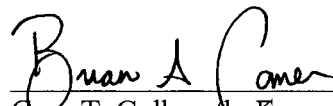
Columbia, SC 29201

Matthew W H Wessler
Public Justice, P C
1825 K St, NW, Suite 200
Washington, D C 20006

500 Woodward Avenue, Suite 400
Detroit, MI 48226

R Gordon Sproule, *Pro Hac Vice*
Huie, Fernambucq & Stewart
2801 Highway 280 S , Suite 200
Birmingham, AL 35223

Gregory G Garre, *Pro Hac Vice*
Latham & Watkins, LLP
555 Eleventh Street NW, Suite 1000
Washington, DC 20004



Gray T Culbreath, Esquire
Brian A Comer, Esquire
COLLINS & LACY, P C
1330 Lady Street, Sixth Floor (29201)
Post Office Box 12487
Columbia, South Carolina 29211
(803) 256-2660
(803) 771-4484 (f)

* David B Salmons
* Bryan M Killian
BINGHAM MCCUTCHEN LLP
2020 K Street N W
Washington, District of Columbia 20006
(202) 373-6000
(202) 373-6001 (f)
* Pending Motion for Pro Hac Vice Admission

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

ORDER FOR PRO HAC VICE ADMITTANCE OF BRYAN M KILLIAN

A Motion and Application/Affidavit for Admission *Pro Hac Vice* has been filed in these cases and considered by the undersigned

IT IS ORDERED THAT

Applicant BRYAN M KILLIAN who represents the Alliance of Automobile Manufacturers in support of Respondent Ford Motor Company be **granted** admission *pro hac vice* in this case

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

RECEIVED

JUN 22 2011

SC Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

**MOTION IN SUPPORT OF PRO HAC VICE
APPLICATION**

The undersigned local counsel, Gray T Culbreath and/or Brian A Comer, of the law firm of Collins & Lacy, P C , hereby moves, together with the attached Verified Application for Admission *Pro Hac Vice*, that **DAVID B SALMONS**, be admitted *pro hac vice* in the above-captioned case as associate counsel for Alliance of Automobile Manufacturers in support of Respondent Ford Motor Company As local counsel, I understand that

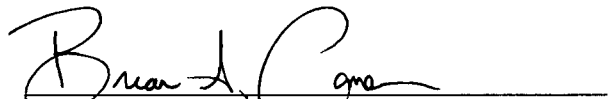
- 1 I will personally sign each pleading, motion, discovery procedure, or other document that I serve or file in this court

- 2 All pleadings and documents that I file in this case will contain my name, firm name,
address, and phone number and those of my associate counsel admitted *pro hac vice*
- 3 Service of all pleadings and notices as required shall be sufficient if served upon me, and
it is my responsibility to serve my associate counsel admitted *pro hac vice*
- 4 Unless excused by the court, I will be present at all pretrial conferences, hearings, and
trials and may attend discovery proceedings I will be prepared to actively participate if
necessary
- 5 Prior to filing this Motion, I conferred with opposing counsel and they do not intend to
oppose this motion

Respectfully submitted,

COLLINS & LACY, P C

By



GRAY T. CULBREATH

BRIAN A. COMER

1330 Lady Street, Sixth Floor (29201)

Post Office Box 12487

Columbia, South Carolina 29211

(803) 256-2660

(803) 771-4484 (f)

ATTORNEYS FOR ALLIANCE OF
AUTOMOBILE MANUFACTURERS

GRANTED

Clerk of Court

By  Clerk

June 28, 2011

Columbia, South Carolina
June 22, 2011

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

PROOF OF SERVICE

I certify that I have served the Motion in Support of *Pro Hac Vice* Application by mailing a copy of same, via United States Mail, on June 22, 2011 to the following

D Thomas Johnson
Law Office of Darrell Thomas Johnson, Jr ,
LLC
Post Office Box 1125
Hardeville, SC 29927

Curtis L Ott
Carmelo B Sammataro
Turner Padgett Graham & Laney, P A
P O Box 1473
Columbia, SC 29202

Leslie A Brueckner
Public Justice, P C
555 12th St , Suite 1620
Oakland, California 94607

William C Wood, Jr
Nelson Mullins Riley & Scarborough, LLP
P O Box 11070
Columbia, SC 29211

James B Richardson, Jr
1229 Lincoln Street

Robert W Powell, *Pro Hac Vice*
Dickinson Wright, P L L C

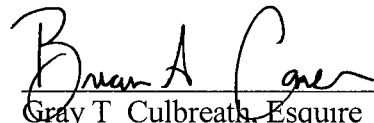
Columbia, SC 29201

Matthew W H Wessler
Public Justice, P C
1825 K St, NW, Suite 200
Washington, D C 20006

500 Woodward Avenue, Suite 400
Detroit, MI 48226

R Gordon Sproule, *Pro Hac Vice*
Huie, Fernambucq & Stewart
2801 Highway 280 S , Suite 200
Birmingham, AL 35223

Gregory G Garre, *Pro Hac Vice*
Latham & Watkins, LLP
555 Eleventh Street NW, Suite 1000
Washington, DC 20004

A handwritten signature in black ink, appearing to read "Brian A. Comer", is written over a horizontal line.

Gray T Culbreath, Esquire
Brian A Comer, Esquire
COLLINS & LACY, P C
1330 Lady Street, Sixth Floor (29201)
Post Office Box 12487
Columbia, South Carolina 29211
(803) 256-2660
(803) 771-4484 (f)

* David B Salmons
* Bryan M Killian
BINGHAM MCCUTCHEN LLP
2020 K Street N W
Washington, District of Columbia 20006
(202) 373-6000
(202) 373-6001 (f)
* Pending Motion for Pro Hac Vice Admission

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

ORDER FOR PRO HAC VICE ADMITTANCE OF DAVID B SALMONS

A Motion and Application/Affidavit for Admission *Pro Hac Vice* has been filed in these cases and considered by the undersigned

IT IS ORDERED THAT

Applicant DAVID B SALMONS who represents the Alliance of Automobile Manufacturers in support of Respondent Ford Motor Company be **granted** admission *pro hac vice* in this case

The Honorable Jean H. Toal
Chief Justice

_____, South Carolina

_____, 2011

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail SSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

June 22, 2011

RECEIVED

JUN 23 2011

SC SUPREME COURT

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc., and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

As instructed by your staff, I write to advise that R Gordon Sproule, Esquire, does not wish to seek *pro hac* admission at the present time

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A

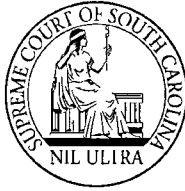

Carmelo B Sammataro

CBS/tj

cc James B Richardson, Jr , Esquire
Darrell Thomas Johnson, Jr , Esquire
Leslie A Brueckner, Esquire
Matthew H Wessler, Esquire

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 734-1080
FAX (803) 734-0384

June 23, 2011

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE Mary Robyn Priester, v. Preston Williams Cromer, et al
Docket No. 2006-CP-38-01071

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received verified applications requesting Bryan M. Killian and David B. Salmons be admitted *pro hac vice* in the above matter. The \$250 filing fee for the applicant has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/st

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

**VERIFIED APPLICATION FOR ADMISSION PRO HAC VICE
IN THE STATE OF SOUTH CAROLINA**

Comes now, **David B Salmons** applicant herein, and respectfully represents the following

1 Applicant resides at

Street Address 1407 Key Drive
City Alexandria
County
State and Zip Code VA, 22302
Telephone 703-548-2060

RECEIVED

JUN 22 2011

SC SUPREME COURT

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of) **Bingham McCutchen, LLP**, with offices at, at

Street Address 2020 K Street NW
City Washington
County
State and Zip Code District of Columbia 20006
Telephone 202-373-6191
Fax Number 202-373-6001

- 3 Applicant has been retained personally or as a member of the above named law firm by the **Alliance of Automobile Manufacturers** to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina
- 4 Since 2002, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia where applicant regularly practices law Attached is a certificate of good standing
- 5 Applicant has been admitted to practice before the following courts (List all of the following courts applicant has been admitted to practice before United States District Courts, United States Circuit Courts of Appeals, the Supreme Court of the United States, and courts of other states or the District of Columbia)

Court	Date Admitted
Supreme Ct of the United States	2005
Georgia Ct of Appeals and Georgia State Bar	1998
U S Ct of Appeals for the D C Circuit	1998
U S Ct of Appeals for the Fourth Circuit	2006
U S Ct of Appeals for the Second Circuit	2009

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below (List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

- 6 Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e g , jurisdiction, court, date)
- 7 Applicant never has had any application for admission pro hac vice in this or any other jurisdiction denied or any pro hac vice admission revoked, except as provided below

(give particulars, e g , date, court, docket number, judge, circumstances, attach a copy of any order of denial or revocation)

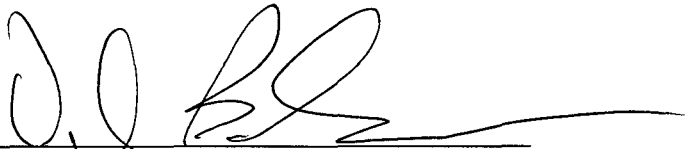
- 8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e g , date, administrative body, date of suspension and reinstatement)
- 9 Local counsel of record associated with applicant in this case is **Gray T Culbreath and Brian A Comer**, of the law firm of **Collins & Lacy, P C** , which has offices at

Street Address	1330 Lady Street, 6 th Floor
City	Columbia
County	Richland
State and Zip Code	South Carolina, 20201
Telephone	803-256-2660
Fax Number	803-771-4484

If applicable list all other firms/attorneys you are associated with in this matter

- 10 Applicant has previously filed an application to appear pro hac vice in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted)
- 11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct
- 12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this 20th day of June, 2011



DAVID B SALMONS

VERIFICATION OF DAVID B SALMONS

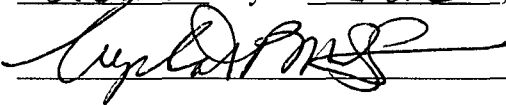
I, **DAVID B SLAMONS** do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated, on information and belief, and that as to those matters I believe them to be true





DAVID B SALMONS

Subscribed and sworn to before me this
20th day of June, 2011



Notary Public for the District of Columbia

My Commission Expires 5-31-15

Crystal P Moses
Notary Public, District of Columbia
My Commission Expires 5/31/2015

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

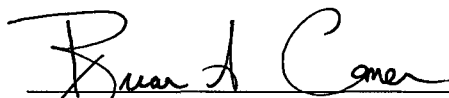
Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel for Alliance of Automobile Manufacturers, to the
association of applicant in this case pursuant to the Rules Governing Admission Pro Hac Vice to
the South Carolina Bar

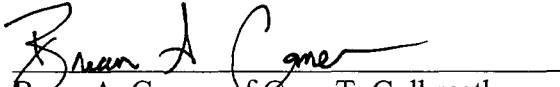
DATED this 22 day of June, 2011



BRIAN A. COMER or GRAY T. CULBREATH

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Court by hand delivery to South Carolina Supreme Court Office of Bar Admissions, P O Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on the 22nd day of June, 2011



Brian A Comer of Gray T Culbreath



District of Columbia Court of Appeals
Committee on Admissions
430 E Street, N.W. — Room 123
Washington, D. C. 20001
202/879-2710

I, JULIO A CASTILLO, Clerk of the District of Columbia
Court of Appeals, do hereby certify that

DAVID B SALMONS

was on the 11TH day of FEBRUARY, 2002

duly qualified and admitted as an attorney and counselor and
entitled to practice before this Court and is, on the date
indicated below, an active member in good standing of this Bar

In Testimony Whereof, I have
hereunto subscribed my name
and affixed the seal of this
Court at the City of
Washington, D C , on June
20, 2011

JULIO A CASTILLO
Clerk of the Court

By 
Deputy Clerk

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

VERIFIED APPLICATION FOR ADMISSION PRO HAC VICE
IN THE STATE OF SOUTH CAROLINA

Comes now, **Bryan M Killian** applicant herein, and respectfully represents the following

1 Applicant resides at

Street Address	6030 Haverhill Ct
City	Springfield
County	
State and Zip Code	Virginia, 22152
Telephone	703-407-7427

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of) **Bingham McCutchen, LLP**, with offices at, at

RECEIVED

JUN 29 2011

S.C. SUPREME COURT

Street Address 2020 K Street NW
City Washington
County
State and Zip Code District of Columbia 20006
Telephone 202-373-6191
Fax Number 202-373-6001

- 3 Applicant has been retained personally or as a member of the above named law firm by the **Alliance of Automobile Manufacturers** to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina
- 4 Since September of 2009 , applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia where applicant regularly practices law Attached is a certificate of good standing
- 5 Applicant has been admitted to practice before the following courts (List all of the following courts applicant has been admitted to practice before United States District Courts, United States Circuit Courts of Appeals, the Supreme Court of the United States, and courts of other states or the District of Columbia)

Court	Date Admitted
Connecticut Supreme Court	October 2006
Eighth Circuit Court of Appeals	2009
Fifth Circuit Court of Appeals	2007
Fourth Circuit Court of Appeals	2009
Federal Circuit Court of Appeals	2010
DC District Court	November 2010
Ninth Circuit Court of Appeals	April 2010
DC Circuit Court of Appeals	April 2011

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below (List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

- 6 Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e g , jurisdiction, court, date)
- 7 Applicant never has had any application for admission pro hac vice in this or any other jurisdiction denied or any pro hac vice admission revoked, except as provided below

(give particulars, e g , date, court, docket number, judge, circumstances, attach a copy of any order of denial or revocation)

- 8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e g , date, administrative body, date of suspension and reinstatement)
- 9 Local counsel of record associated with applicant in this case is **Gray T Culbreath and Brian A Comer**, of the law firm of **Collins & Lacy, P C** , which has offices at

Street Address	1330 Lady Street, 6 th Floor
City	Columbia
County	Richland
State and Zip Code	South Carolina, 20201
Telephone	803-256-2660
Fax Number	803-771-4484

If applicable list all other firms/attorneys you are associated with in this matter

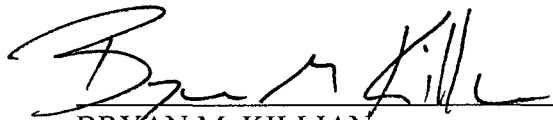
- 10 Applicant has previously filed an application to appear pro hac vice in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted)
- 11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct
- 12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this 20th day of June, 2011

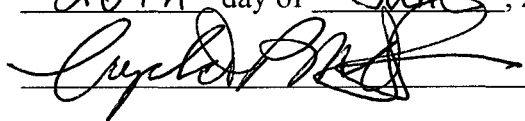

BRYAN M KILLIAN

VERIFICATION OF BRYAN M KILLIAN

I, **BRYAN M KILLIAN**, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true


BRYAN M KILLIAN

Subscribed and sworn to before me this
20th day of June, 2011



Notary Public for the District of Columbia

My Commission Expires 5-31-15

Crystal P Moses
Notary Public, District of Columbia
My Commission Expires 5/31/2015

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James Lloyd Priester

Appellant,

v

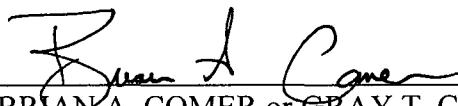
Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), Lloyd
Brown, individually and d/b/a Showgirls(z),
Nikki D's, Inc , and Ford Motor Company,
of whom Ford Motor Company is the

Respondent

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel for Alliance of Automobile Manufacturers, to the
association of applicant in this case pursuant to the Rules Governing Admission Pro Hac Vice to
the South Carolina Bar

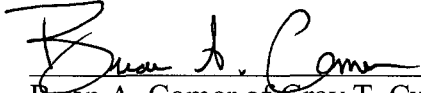
DATED this 22 day of June, 2011



BRIAN A. COMER or GRAY T. CULBREATH

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Court by hand delivery to South Carolina Supreme Court Office of Bar Admissions, P O Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on the 22nd day of June, 2011



Brian A Comer of Gray T Culbreath



District of Columbia Court of Appeals
Committee on Admissions
430 E Street, N.W. — Room 123
Washington, D. C. 20001
202 / 879-2710

I, JULIO A CASTILLO, Clerk of the District of Columbia
Court of Appeals, do hereby certify that

BRYAN KILLIAN

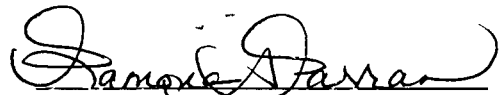
was on the 11TH day of SEPTEMBER, 2009

duly qualified and admitted as an attorney and counselor and
entitled to practice before this Court and is, on the date
indicated below, an active member in good standing of this Bar

In Testimony Whereof, I have
hereunto subscribed my name
and affixed the seal of this
Court at the City of
Washington, D C , on June
20, 2011

JULIO A CASTILLO
Clerk of the Court

By


Deputy Clerk

The Supreme Court of South Carolina

Mary Robyn Priester,
Individually and as Natural
Mother/Next of Kin, and
Personal Representative of the
Estate of James Lloyd Priester, Appellant,

v

Preston Williams Cromer,
Stage Light Management, d/b/a
Showgirls(z), and Lloyd
Brown, individually and doing
business as Showgirls(z), and
Nikki D's Inc and Ford Motor
Company, Defendants,

of whom Ford Motor
Company, is Respondent

The Honorable James C Williams, Jr
Orangeburg County
Trial Court Case No 2006-CP-38-01071

ORDER

For good cause having been shown, the time for serving and filing the
Appellant's Supplemental Reply Brief in the above entitled matter is hereby
extended until July 11, 2011

IT IS SO ORDERED

JEAN H TOAL, CHIEF JUSTICE

BY *Lucinda J. Shealy*
Clerk
Chief Deputy

Columbia, South Carolina

June 23, 2011

cc Darrell T Johnson, Jr, Esquire
James B Richardson, Jr, Esquire
Leslie A Brueckner, Esquire
Matthew W H Wessler, Esquire
Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Gregory G Garre, Esquire
Robert W Powell, Esquire
William C Wood, Jr , Esquire

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

June 21, 2011

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re Priester v Cromer
Case No 06-CP-38-1071

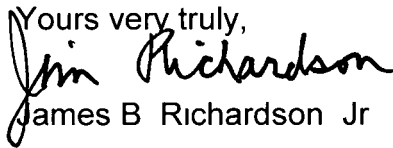
Dear Mr Shearouse

The supplemental brief of respondent was served yesterday, June 20th, making our appellant's supplemental reply brief due on June 30th

Because of the complexity of the respondent's brief and the logistical problems associated with appellant's representation by lawyers in four different places, I must ask for a ten-day extension of time for the supplemental reply brief

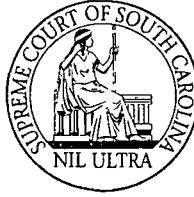
Your consideration of this request is, as always genuinely appreciated

Thanking you, I remain

Yours very truly,

James B Richardson Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Darrell Thomas Johnson, Jr, Esq
Leslie Brueckner, Esq
Matt Wessler, Esq

RECEIVED **RECEIVED**
JUN 23 2011
JUN 23 2011
SC SUPREME COURT SAC Supreme Court



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

June 22, 2011

Curtis L. Ott, Esquire
Carmelo B. Sammataro, Esquire
Turner, Padgett, Graham & Laney, P.A.
P.O. Box 1473
Columbia, SC 29202

Re: Priestester, M. v. Cromer, P. (Ford Motor)

Dear Counsel:

The following Order has been endorsed on your Motion to Admit Gregory G. Garre *pro hac vice* in the above entitled case on appeal.

“Granted

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

June 22, 2011 ”

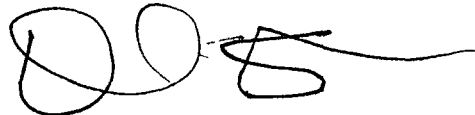
By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Priester, M v Cromer, P (Ford Motor)

Page Two

June 22, 2011

Very truly yours,



CLERK

DES/dmh

cc Darrell T Johnson, Jr , Esquire
 James B Richardson, Jr , Esquire
 Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Gregory G Garre, Esquire
 Robert W Powell, Esquire
 William C Wood, Jr , Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUN 20 2011

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

SC Supreme Court

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin, and Personal
Representative of Estate of James Lloyd
Priester

Appellant,

v

Preston Williams Cromer, Stage Light Management,
d/b/a Showgirls(z), and Lloyd Brown, individually
and doing business as Showgirls(z), and Nikki D's,
Inc , and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

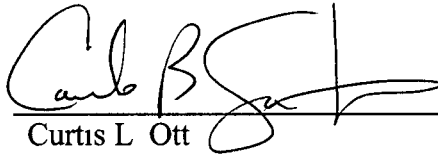
**RESPONDENT FORD MOTOR COMPANY'S
MOTION TO ADMIT GREGORY G GARRE PRO
HAC VICE**

The undersigned, a member of the bar of this Court, hereby moves special admission of Gregory G Garre for appearance as counsel of record in this case This motion is based upon the showings contained in the declarations attached hereto

The undersigned certifies that he has consulted with opposing counsel, who has no objection to this admission

June 20, 2011

By



Curtis L. Ott

Carmelo B. Sammataro

TURNER PADGET GRAHAM & LANEY P A

Post Office Box 1473

Columbia, SC 29202

Phone (803) 254-2200

Fax (803) 799-3957

R. Gordon Sproule, *Pro Hac Vice*

HUIE, FERNAMBUCQ & STEWART

2801 Highway 280 S., Suite 200

Birmingham, AL 35223

Phone (205) 297-8865

Robert W. Powell, *Pro Hac Vice*

DICKINSON WRIGHT, P L L C

500 Woodward Avenue, Suite 400

Detroit, MI 48226

Phone (313) 223-3664

Fax (313) 223-3598

Gregory G. Garre, *Pro Hac Vice*

LATHAM & WATKINS, LLP

555 Eleventh Street NW, Suite 1000

Washington, DC 20004

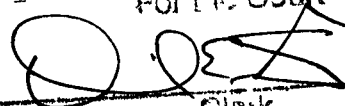
Phone (202) 637-2200

Fax (202) 637-2201

ATTORNEYS FOR RESPONDENT

FORD MOTOR COMPANY

GRANTED

Jean H. Tol
For the Court
By 
Clerk

June 22, 2011

VER. AND APPLICATION FOR ADMISSION P. IAC VICE
IN THE STATE OF SOUTH CAROLINA

Priester 2006-CP-38-01071 South Carolina Supreme Ct
Plaintiff Case No Court
vs

Cromer et al Mailing Address of Court Supreme Ct of South Carolina
Defendant P O Box 11330
Columbia SC 29211

Comes now Gregory G Garre applicant herein and respectfully represents the following

1 Applicant resides at
5709 Gloster Road

Street Address
Bethesda Montgomery Maryland 20816
City County State Zip Code
301-717-9969
Telephone

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of)
Latham & Watkins LLP with offices at at

555 Eleventh St NW, Suite 1000

Street Address
Washington DC 20004
City County State Zip Code
202-637-2200 202-637-2201
Telephone Fax Number

3 Applicant has been retained personally or as a member of the above named law firm by
Ford Motor Co to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina

4 Since February 2nd of 1994 applicant has been and presently is a member in good standing of the bar of the highest court of the District of Columbia or the State of _____ where applicant regularly practices law Attached is a certificate of good standing

5 Applicant has been admitted to practice before the following courts (List all of the following courts applicant has been admitted to practice before United States District Courts United States Circuit Courts of Appeals the Supreme Court of the United States and courts of other states or the District of Columbia)

Court	Date Admitted
See attached	

RECEIVED

JUN 20 2011

SC SUPREME COURT

Applicant is presently a member in good standing of the bars of those courts listed above except as listed below
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

None

6 Applicant presently is not subject to any suspension or disbarment proceedings and has not been formally notified of any complaints pending before a disciplinary agency except as provided below (give particulars e.g. jurisdiction court date)

None

7 Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked except as provided below (give particulars e.g. date court docket number judge circumstances attach a copy of any order of denial or revocation)

None

8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked except as provided below (give particulars e.g. date administrative body date of suspension and reinstatement)

None

9 Local counsel of record associated with applicant in this case is Curtis L. Ott of the
Turner Padgett Graham & Laney law firm which has offices at
1901 Main St Suite 1700

Street Address

Columbia

Richland

SC

29201

City

County

State

Zip Code

803-227-4253

Telephone

If applicable list all other firms/attorneys you are associated with in this matter:

Carmelo B. Sammataro - Turner Padgett Graham & Laney P.A.

10 Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation date of application local counsel of record in each case and state whether application is pending or was granted)

None

11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct

12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this 13th day of June, 20 11


APPLICANT

VERIFICATION

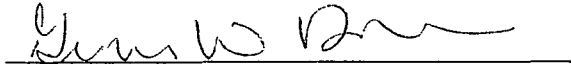
STATE OF District of Columbia

COUNTY OF _____)

I Gregory G Garre do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated on information and belief and that as to those matters I believe them to be true


APPLICANT/AFFIANT

Subscribed and sworn to before me this 17th day of June 2011



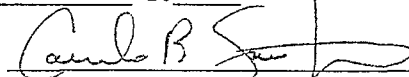
Notary Public for the State of Washington, DC

My Commission Expires _____
GENEVA D. DIXON
Notary Public, District of Columbia
My Comm Expires June 30 2014

LOCAL COUNSEL CONSENT

I hereby consent as local counsel of record to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar

DATED this 20th day of June 2011


LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to South Carolina Supreme Court Office of Bar Admissions PO Box 11330 Columbia SC 29211 accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 17th day of

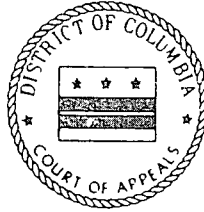
June 2011


APPLICANT/AFFIANT

ATTACHMENT

I am admitted to practice in the following courts

Court	Date of Admission
U S Supreme Court	1/6/1997
U S Court of Appeals for the 2 nd Circuit	12/10/2010
U S Court of Appeals for the 4 th Circuit	1/7/2000
U S Court of Appeals for the 5 th Circuit	2/25/2005
U S Court of Appeals for the 6 th Circuit	7/25/2005
U S Court of Appeals for the 7 th Circuit	6/21/1996
U S Court of Appeals for the 8 th Circuit	03/28/2011
U S Court of Appeals for the 9 th Circuit	4/21/2005
U S Court of Appeals for the 11 th Circuit	12/2/2009
U S Court of Appeals for the District of Columbia	2/10/1997
U S Court of Appeals for the Federal Circuit	8/23/2005
U S District Court – District of Columbia	12/2/2005
D C Court of Appeals	2/4/94



District of Columbia Court of Appeals
Committee on Admissions
430 F Street, NW — Room 123
Washington, D C 20001
202/879-2710

I, JULIO A CASTILLO, Clerk of the District of Columbia
Court of Appeals, do hereby certify that

GREGORY G GARRE

was on the 4TH day of FEBRUARY, 1994
duly qualified and admitted as an attorney and counselor and
entitled to practice before this Court and is, on the date
indicated below, an active member in good standing of this Bar

In Testimony Whereof, I have
hereunto subscribed my name
and affixed the seal of this
Court at the City of
Washington, D C , on June
15, 2011

JULIO A CASTILLO
Clerk of the Court

By

A handwritten signature in cursive script, appearing to read "M. Garre", is written over a horizontal line.

Deputy Clerk

RECEIVED

JUN 20 2011

S C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUN 20 2011

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

SC Supreme Court

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin, and Personal
Representative of Estate of James Lloyd
Priester

Appellant,

v

Preston Williams Cromer, Stage Light Management,
d/b/a Showgirls(z), and Lloyd Brown, individually
and doing business as Showgirls(z), and Nikki D's,
Inc , and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

PROOF OF SERVICE

I certify that I have this 20th day of June 2011 served copies of the
SUPPLEMENTAL BRIEF OF RESPONDENT and MOTION TO ADMIT
GREGORY G GARRE *PRO HAC VICE* on Appellant's attorneys of record as
follows

James B Richardson, Jr , Esquire
Richardson Law Firm
1229 Lincoln Street
Columbia, SC 29201
(VIA HAND DELIVERY)

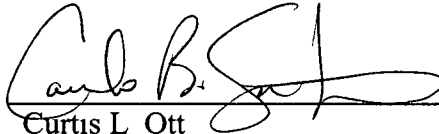
Leslie A Brueckner, Esquire
Public Justice, P C
555 12th St , Suite 1620
Oakland, CA 94607
(VIA U S MAIL)

Darrell Thomas Johnson, Jr , Esquire
Law Office of Darrell Thomas Johnson, Jr , LLC
Post Office Box 1125
Hardeeville, SC 29927
(VIA U S MAIL)

Matthew H Wessler, Esquire
Public Justice, P C
1825 K St , NW, Suite 200
Washington, DC 20006
(VIA U S MAIL)

June 20, 2011

By



Curtis L Ott

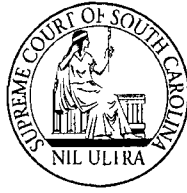
Carmelo B Sammataro
TURNER PADGET GRAHAM & LANEY P A
Post Office Box 1473
Columbia, SC 29202
Phone (803) 254-2200
Fax (803) 799-3957

R Gordon Sproule, *Pro Hac Vice*
HUIE, FERNAMBUCQ & STEWART
2801 Highway 280 S , Suite 200
Birmingham, AL 35223
Phone (205) 297-8865

Robert W Powell, *Pro Hac Vice*
DICKINSON WRIGHT, P L L C
500 Woodward Avenue, Suite 400
Detroit, MI 48226
Phone (313) 223-3664
Fax (313) 223-3598

Gregory G Garre, *Pro Hac Vice*
LATHAM & WATKINS, LLP
555 Eleventh Street NW, Suite 1000
Washington, DC 20004
Phone (202) 637-2200
Fax (202) 637-2201

ATTORNEYS FOR RESPONDENT
FORD MOTOR COMPANY



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 734-1080
FAX (803) 734-0384

June 20, 2011

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE Priest v. Cromer, et al
Docket No. 2006-CP-38-01071

Dear Mr. Shearouse

I certify that the Office of Bar Admissions has received a verified application requesting Gregory G. Garre be admitted *pro hac vice* in the above matter. The \$250 filing fee for the applicant has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/st

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
REPLY TO
MYRTLE BEACH

Carmelo B Sammataro

SSammataro@TurnerPadget.com
Writer s Direct Dial (803) 227-4253
Direct Fax (803) 400 1532

June 20, 2011

VIA HAND DELIVERY

South Carolina Supreme Court
Office of Bar Admissions
Post Office Box 11330
Columbia, SC 29211

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Sirs

Enclosed please find the original and two (2) copies of the Verified Application for Admission *Pro Hac Vice* of Gregory G Garre for admission *pro hac vice* in the State of South Carolina regarding the above-referenced matter Also enclosed is our check for \$250 00 for the filing fee Please file the original Application and return a clocked copy to me via our office courier Thank you for your assistance with this matter, and please contact me if you have any questions

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A


Carmelo B Sammataro

CBS/kg

Enclosures

cc James B Richardson, Jr , Esquire (via hand delivery)
Darrell Thomas Johnson, Jr , Esquire (via U S mail)
Leslie A Brueckner, Esquire (via U S mail)
Matthew H Wessler, Esquire (via U S mail)
(w/enc)

RECEIVED

JUN 20 2011

SC SUPREME COURT

Called on 6-20-11- left message on 6-20-11 for CGS

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

[illegible]

Cromer et al Defendant	Mailing Address of Court	<u>Supreme Ct of South Carolina</u> P O Box 11330 Columbia SC 29211
---------------------------------	--------------------------	---

1 Applicant resides at
5709 Gloster Road

Street Address			
Bethesda	Montgomery	Maryland	20816
City	County	State	Zip Code
301-717-9969			
Telephone			

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of)
Latham & Watkins LLP with offices at at
555 Eleventh St NW, Suite 1000

Street Address	DC	20004
Washington		
City	State	Zip Code
202-637-2200	202-637-2201	
Telephone	Fax Number	

3 Applicant has been retained personally or as a member of the above named law firm by
Ford Motor Co to provide legal representation in connection with the above case now
 pending before the above named court of the State of South Carolina

4 Since February 2nd of 1994 applicant has been and presently is a
member in good standing of the bar of the highest court of the District of Columbia or the State of _____
where applicant regularly practices law Attached is a certificate of good standing

5 Applicant has been admitted to practice before the following courts (List all of the following courts
applicant has been admitted to practice before United States District Courts United States Circuit Courts of Appeals the
Supreme Court of the United States and courts of other states or the District of Columbia)

[illegible]

Applicant is presently a member in good standing of the bars of those courts listed above except as listed below (List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

None

6 Applicant presently is not subject to any suspension or disbarment proceedings and has not been formally notified of any complaints pending before a disciplinary agency except as provided below (give particulars e g jurisdiction court date)

None

7 Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked except as provided below (give particulars e g date court docket number, judge, circumstances, attach a copy of any order of denial or revocation)

None

8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked except as provided below (give particulars e g date administrative body date of suspension and reinstatement)

None

9 Local counsel of record associated with applicant in this case is Curtis L. Otto of the Turner Padgett Graham & Laney law firm which has offices at 1901 Main St , Suite 1700

Street Address

Columbia

Richland

SC

29201

City

County

State

Zip Code

803-227-4253

Telephone

If applicable list all other firms/attorneys you are associated with in this matter

Carmelo B. Sammataro - Turner Padgett Graham & Laney, P A

10 Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation date of application local counsel of record in each case and state whether application is pending or was granted)

None

11 Applicant agrees to comply with the applicable statutes laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct

12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this 17th day of June 2011

[Signature]
APPLICANT

VERIFICATION

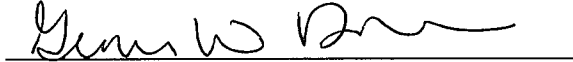
STATE OF District of Columbia

COUNTY OF _____)

I Gregory G Garre do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter that I have read the foregoing application and know the contents thereof and that the contents are true of my own knowledge except as to those matters stated on information and belief and that as to those matters I believe them to be true


APPLICANT/AFFIANT

Subscribed and sworn to before me this 17th day of June 2011



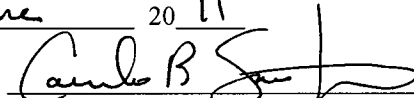
Notary Public for the State of Washington, DC

My Commission Expires _____
GENEVA D. DIXON
Notary Public, District of Columbia
My Comm. Expires June 30 2014

LOCAL COUNSEL CONSENT

I hereby consent as local counsel of record to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar

DATED this 20th day of June 2011


LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to South Carolina Supreme Court Office of Bar Admissions PO Box 11330, Columbia SC 29211 accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 17th day of

June 2011


APPLICANT/AFFIANT

ATTACHMENT

I am admitted to practice in the following courts

Court	Date of Admission
U S Supreme Court	1/6/1997
U S Court of Appeals for the 2 nd Circuit	12/10/2010
U S Court of Appeals for the 4 th Circuit	1/7/2000
U S Court of Appeals for the 5 th Circuit	2/25/2005
U S Court of Appeals for the 6 th Circuit	7/25/2005
U S Court of Appeals for the 7 th Circuit	6/21/1996
U S Court of Appeals for the 8 th Circuit	03/28/2011
U S Court of Appeals for the 9 th Circuit	4/21/2005
U S Court of Appeals for the 11 th Circuit	12/2/2009
U S Court of Appeals for the District of Columbia	2/10/1997
U S Court of Appeals for the Federal Circuit	8/23/2005
U S District Court – District of Columbia	12/2/2005
D C Court of Appeals	2/4/94



District of Columbia Court of Appeals
Committee on Admissions
430 F Street, N.W. — Room 123
Washington, D. C. 20001
202 / 879-2710

I, JULIO A CASTILLO, Clerk of the District of Columbia
Court of Appeals, do hereby certify that

GREGORY G GARRE

was on the 4TH day of FEBRUARY, 1994

duly qualified and admitted as an attorney and counselor and
entitled to practice before this Court and is, on the date
indicated below, an active member in good standing of this Bar

In Testimony Whereof, I have
hereunto subscribed my name
and affixed the seal of this
Court at the City of
Washington, D C , on June
15, 2011

JULIO A CASTILLO
Clerk of the Court

By


Deputy Clerk



Brian A. Comer | Direct Dial 803 255 0446 | E Mail bcomer@collinsandlacy.com
Of Counsel

June 20, 2011

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk of Court for the Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RECEIVED

JUN 20 2011

SC Supreme Court

Re Mary Robyn Priester, Individually and as Natural Mother/Next of Kin and
Personal Representative of the Estate of James Lloyd Priester v Preston Williams
Cromer, Stage Light Management d/b/a Showgirls(z), Lloyd Brown, individually
and d/b/a Showgirls(z), Nikki D's, Inc., and Ford Motor Company
Civil Action No. 06-CP-38-1071
C&L File No.

Dear Mr. Shearouse:

Enclosed please find an original and seven (7) copies of the Motion of Alliance of Automobile Manufacturers for Leave to File Amicus Brief for filing in the above-captioned case along with our firm's check in the sum of \$25.00 representing the filing fee. Also enclosed for filing, if approved, please find the original and sixteen (16) copies of the Brief of Amicus Curiae Alliance of Automobile Manufacturers. Please file the original and return the clocked-in copies to my courier.

By copy of this letter to the all counsel of record, we are serving them with a copy of said motion and brief.

Thank you for your assistance in this matter.

With kindest regards, I am

Sincerely,

A handwritten signature in black ink that reads "Brian A. Comer". The signature is fluid and cursive.

Brian A. Comer

BAC ccr
Enclosures
cc/enc David B. Salmons, Esquire
Bryan M. Killian, Esquire

The Honorable Daniel E Shearouse

June 20, 2011

Page 2

D Thomas Johnson, Esquire

Leslie A Brueckner, Esquire

Curtis Ott, Esquire

Carmelo B Sammataro, Esquire

William C Wood, Jr , Esquire

James B Richardson, Jr

Matthew W H Wessler, Esquire

Robert W Powell, Esquire

R Gordon Sproule, Esquire

Gregory G Garre, Esquire

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail SSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

June 20, 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RECEIVED

JUN 20 2011

SC Supreme Court

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

Enclosed please find the following

- 1 Original and seventeen (17) copies of the Supplemental Brief of Respondent,
- 2 Original and seven (7) copies of Respondent's Motion to Admit Gregory G Garre Pro Hac Vice,
- 3 Two (2) copies of the Verified Application for Admission Pro Hac Vice of Gregory G Garre,
- 4 Original and one (1) copy of the Proof of Service, and
- 5 Check for \$25 00 for the motion filing fee

Please file the enclosed documents and return clocked copies of each to me via our office courier Thank you for your assistance with this matter, and please contact me if you have any questions

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

June 20, 2011

Page 2

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A

A handwritten signature in black ink, appearing to read 'Carmelo B. Sammataro', written over a horizontal line.

Carmelo B Sammataro

CBS/tj

Enclosures

cc James B Richardson, Jr , Esquire (via hand delivery)
Darrell Thomas Johnson, Jr , Esquire (via U S mail)
Leslie A Brueckner, Esquire (via U S mail)
Matthew H Wessler, Esquire (via U S mail)
(w/enc)

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia SC 29201

Tel 803 799 2000 Fax 803 256 7500

www.nelsonmullins.com

William C Wood Jr

Tel 803 255 9534

bill.wood@nelsonmullins.com

June 20, 2011

Hand Delivered

The Honorable Daniel E Shearouse

Clerk of Court

South Carolina Supreme Court

1231 Gervais Street

Columbia, SC 29201

RECEIVED

JUN 20 2011

S.C Supreme Court

RE Priester, et al v Cromer, et al

Case No 06-CP-38-1071

Our file no 00339/01507

Dear Mr Shearhouse

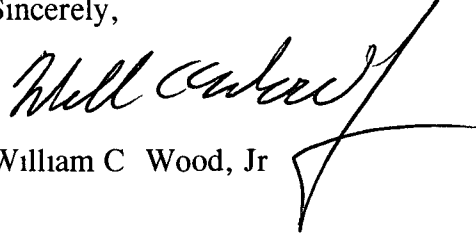
Enclosed are the original and seven (7) copies of the Motion of the Product Liability Advisory Council, Inc for Leave to File Supplemental Brief as *Amicus Curiae* in the above-referenced matter. We would appreciate it if you would file the original document and return a clocked in copy to us via our courier.

Also enclosed please find the original and sixteen (16) copies of the Supplemental Brief of the Product Liability Advisory Council, Inc, as *Amicus Curiae* in Support of Respondent and Affirmance. We would appreciate it if you would also file the original document and return a clocked in copy to us via our courier.

The Honorable Daniel E Shearouse
June 20, 2011
Page 2

By copy of this letter to all counsel, we are hereby serving them with copies of the Motion of the Product Liability Advisory Council, Inc for Leave to File Supplemental Brief as *Amicus Curiae* and Supplemental Brief of the Product Liability Advisory Council, Inc , as *Amicus Curiae* in Support of Respondent and Affirmance

Sincerely,

A handwritten signature in black ink, appearing to read "Will Wood", with a long, sweeping horizontal stroke extending to the right.

William C Wood, Jr

WCWJR kdm

Enclosures

cc D Thomas Johnson, Esq
James B Richardson, Jr , Esq
Leslie A Brueckner, Esq
Matthew W H Wessler, Esq
Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Robert W Powell, Esq

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail CSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400-1532

June 2, 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Supreme Court of South Carolina, Clerk
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

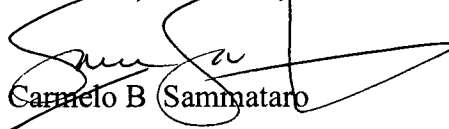
Pursuant to the Court's request, enclosed please find one unbound copy and ten bound copies of Brief of Appellant in Response to Amicus Curiae Brief of Product Liability Advisory Council, Inc previously filed with the South Carolina Court of Appeals

Thank you for your assistance with this matter, and please do not hesitate to contact me if you have any questions

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/kg

Enclosures

cc James B Richardson, Jr , Esquire
(via regular mail, w/o enc)

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

May 10, 2011

RECEIVED

MAY 19 2011

S C Supreme Court

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re Priest v Cromer
Case No 06-CP-38-1071

Dear Mr Shearouse

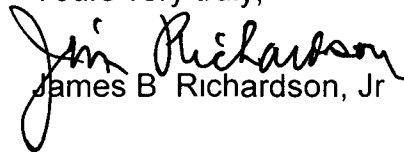
Enclosed for filing is appellant's supplemental brief

The applications of Ms Brueckner and Mr Wessler for admission pro hac vice have been filed,

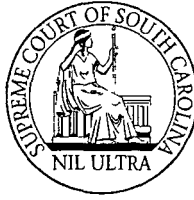
If any questions arise concerning this filing, kindly contact my cocounsel, Tom Johnson, as I will be out of country 10 May – 24 May

Thanking you I remain

Yours very truly,


James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Darrell Thomas Johnson, Jr , Esq
Leslie Brueckner, Esq
Matt Wessler Esq



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

May 18, 2011

Darrell T. Johnson, Jr, Esquire
Law Offices of Darrell Thomas Johnson, Jr
P O Box 1125
Hardeeville, SC 29927

James B. Richardson, Jr, Esquire
1229 Lincoln St
Columbia, SC 29201

Re Priester, M v Cromer, P (Ford Motor)

Dear Counsel

The following Order has been endorsed on your Motion to Admit Leslie Brueckner *pro hac vice* in the above entitled case on appeal

“Granted

Jean H. Toal C J
For the Court

By s/ Daniel E. Shearouse
Clerk

May 18, 2011 ”

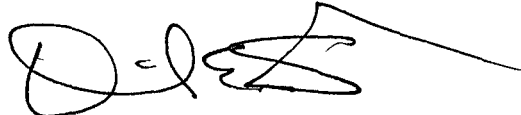
By copy of this letter we are advising all interested parties of the action of the Court in this matter

Priester, M v Cromer, P (Ford Motor)

Page Two

May 18, 2011

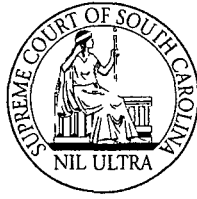
Very truly yours,



CLERK

DES/dmh

cc Leslie A Brueckner, Esquire
Matthew W H Wessler, Esquire
Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Robert W Powell, Esquire
William C Wood, Jr , Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

May 18, 2011

Darrell T. Johnson, Jr, Esquire
Law Offices of Darrell Thomas Johnson, Jr
P O Box 1125
Hardeeville, SC 29927

James B. Richardson, Jr, Esquire
1229 Lincoln St
Columbia, SC 29201

Re Priester, M v Cromer, P (Ford Motor)

Dear Counsel

The following Order has been endorsed on your Motion to Admit Matt Wessler *pro hac vice* in the above entitled case on appeal

“Granted

Jean H. Toal C J
For the Court

By s/ Daniel E. Shearouse
Clerk

May 18, 2011 ”

By copy of this letter we are advising all interested parties of the action of the Court in this matter

Priester, M v Cromer, P (Ford Motor)

Page Two

May 18, 2011

Very truly yours,

A handwritten signature in black ink, appearing to be "D. J. [unclear]", written in a cursive style.

CLERK

DES/dmh

cc Leslie A Brueckner, Esquire
 Matthew W H Wessler, Esquire
 Curtis L Ott, Esquire
 Carmelo B Sammataro, Esquire
 Robert W Powell, Esquire
 William C Wood, Jr , Esquire

**LAW OFFICES OF
DARRELL THOMAS JOHNSON, JR., LLC**
POST OFFICE BOX 1125
300 MAIN STREET
HARDEEVILLE, SOUTH CAROLINA 29927

DARRELL THOMAS JOHNSON JR *
MILLS LANE MORRISON JR **
WARREN PAUL JOHNSON
*certified mediator
ALSO LICENSED IN GEORGIA

843-784 2142
FAX 843 784 5770
tdjohnson1@hargray.com

May 13, 2011

The Honorable Daniel E Shearouse, Clerk
SUPREME COURT OF SOUTH CAROLINA
PO Box 11330
Columbia, SC 29211

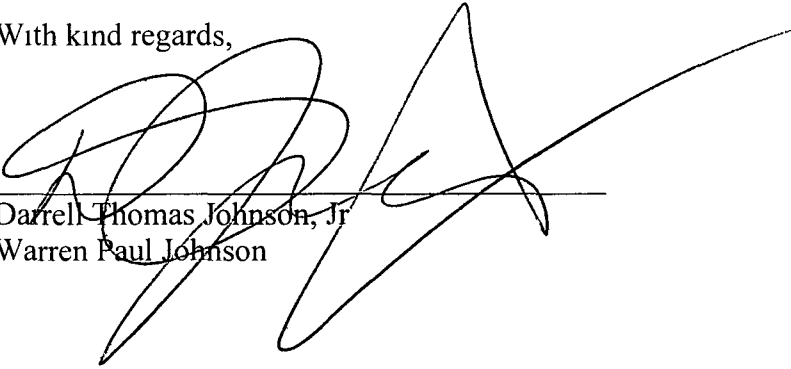
RE Mary Robyn Priester, individually and as Natural Mother/Next of Kin, and
Personal Representative of Estate of James Lloyd Priester VS Preston Williams
Cromer, and Ford Motor Company
C/A No 06-CP-38-1071
Law Office File No 17-374-02-200-04

Dear Clerk Shearouse

Per a conversation with a member of your staff, please find enclosed two (2) originals and seven (7) copies of each Motion for Admission Pro Hac Vice (there are 2) and Proofs of Service in the above matter, along with filing fees. It is my understanding that your Court is in possession of the actual applications. Please file the originals and return one stamped copy of each to me in the return envelope that I have provided.

If you should require anything further, please contact this office.

With kind regards,



Darrell Thomas Johnson, Jr.
Warren Paul Johnson

DTJ/lmo

Encs

Cc James B Richardson, Esquire
Matt Wessler, Esquire
Leslie Brueckner, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAY 17 2011

S.C. Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

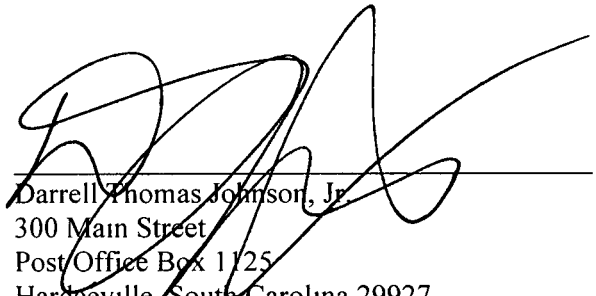
Appeal from Orangeburg County
James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

APPELLANT'S MOTION
TO ADMIT MATT WESSLER
PRO HAC VICE

The undersigned, a member of the bar of this Court, hereby moves for admission of Matt Wessler, Esquire, for appearance as additional counsel of record in this case, on behalf of Plaintiff/Appellant This motion is based upon the showings contained in the declarations presented separately to this Court

The undersigned certifies that opposing counsel has been notified and there appears to be no objection to this admission

May 13, 2011

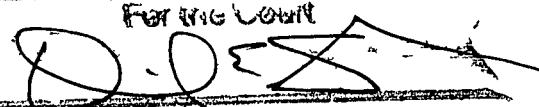


Darrell Thomas Johnson, Jr.
300 Main Street
Post Office Box 1125
Hardeeville, South Carolina 29927
(843) 784-2142
(843) 784 5770 (facsimile)

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412
(803) 799-9628 (facsimile)

ATTORNEYS FOR APPELLANT

GRANTED

Jean H Toal C.J.
For the Court
By 
Clerk

May 18, 2011

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

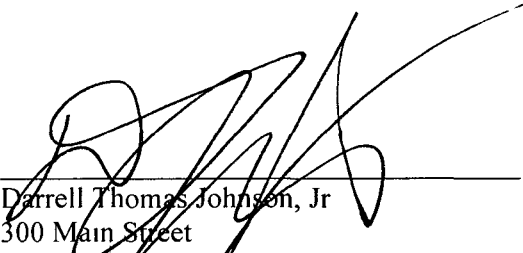
Appeal from Orangeburg County
James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

PROOF OF SERVICE

I certify that I have served the Respondent Ford Motor Company a copy of Appellant's Notice and Motion to Admit Matt Wessler, Esquire, Pro Hac Vice by depositing a copy of it in the United States Mail, postage prepaid, on May 13, 2011, to its attorneys of record, addressed to

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
TURNER, PADGET, GRAHAM & LANEY
Post Office Box 1473
Columbia, South Carolina 29202

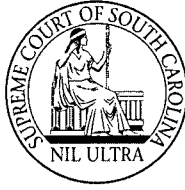
Robert W Powell, Esquire
DICKINSON WRIGHT, PLLC
500 Woodward Ave , Ste 400
Detroit, MI 48226



Darrell Thomas Johnson, Jr
300 Main Street
Post Office Box 1725
Hardeeville, South Carolina 29927
(843) 784-2142
(843) 784-5770 (facsimile)

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412
(803) 799 9628 (facsimile)

ATTORNEYS FOR APPELLANT



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 734 1080
FAX (803) 734 1499

May 9, 2011

The Honorable Daniel E. Shearouse
Clerk of Court, South Carolina Supreme Court
P O Box 11330
Columbia, SC 29211

RE Mary Robyn Priester v Ford Motor Co., et al
Case no 2006-CP-38-1071

Dear Clerk of Court

I certify that the Office of Bar Admissions has received a verified application requesting Matthew W. H. Wessler be admitted *pro hac vice* in the above action. The \$250 filing fee has been paid.

Yours truly,

Gayle B. Watts _{klb}

Deputy Clerk for Bar Admissions

GBW/klb

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

Mary Robyn Priester

26846

The Supreme Court of South
Carolina

Plaintiff

Case No

Court

vs

Ford Motor Co , et al

Defendant

Mailing Address of Court

1231 Gervais Street
Columbia, SC 29201

Comes now Matthew W H Wessler, applicant herein, and respectfully represents the following

RECEIVED
MAY - 9 2011
SC SUPREME COURT

1 Applicant resides at

4600 Connecticut Ave , NW #411

Street Address

Washington

City

County

(607) 316 1499

Telephone

DC

State

20008

Zip Code

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of) Public

Justice, P C, with offices at at

1825 K Street, NW Suite 200

Street Address

Washington

City

County

(202) 797 8600

Telephone

DC

State

20006

Zip Code

(202) 232-7203

Fax Number

3 Applicant has been retained personally or as a member of the above named law firm by Mary Robyn
Priester to provide legal representation in connection with the above case now pending before the above named court of
the State of South Carolina

4 Since December 8 of 2008, applicant has been, and presently is, a member in good standing of the bar of
the highest court of the District of Columbia or the State of _____ where applicant regularly practices law Attached is a
certificate of good standing

5 Applicant has been admitted to practice before the following courts (List all of the following courts
applicant has been admitted to practice before United States District Courts, United States Circuit Courts of Appeals, the
Supreme Court of the United States, and courts of other states or the District of Columbia)

Court	Date Admitted
U S District Court for the District of Columbia	April 4, 2011
District of Columbia	December 8, 2008
Massachusetts	May 12, 2006
U S Court of of Appeals for the Third Circuit	June 8, 2006
U S Court of of Appeals for the Ninth Circuit	December 4, 2009
U S Court of of Appeals for the Eleventh Circuit	October 16, 2009
U S Supreme Court	March 8, 2010

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

6 Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e g , jurisdiction, court, date)

7 Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e g , date, court, docket number, judge, circumstances, attach a copy of any order of denial or revocation)

8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e g , date, administrative body, date of suspension and reinstatement)

9 Local counsel of record associated with applicant in this case is James Richardson, of the _____ law firm, which has offices at

1229 Lincoln St
Street Address

County
(803) 799-9412
Telephone

Columbia
City

SC
State

29201
Zip Code

If applicable list all other firms/attorneys you are associated with in this matter

Darrell T Johnson, Esq
Law Offices of Darrell Thomas Johnson, Jr
P O Box 1125
Hardeeville, SC 29927

10 Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted)

11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct

12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this April day of 26, 2011

[Signature]
APPLICANT

VERIFICATION

STATE OF District of Columbia

COUNTY OF _____)

I, Matthew Wessler, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true

[Signature]
APPLICANT/AFFIANT

Subscribed and sworn to before me this 26 day of April, 2011

[Signature]

Notary Public for the State of DC

My Commission Expires 4/30/2014

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar

DATED this 26 day of April, 2011

[Signature]
LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 6th day of May, 2011

[Signature]
FOR APPLICANT/AFFIANT



District of Columbia Court of Appeals
Committee on Admissions
430 F Street, N.W. — Room 123
Washington, D. C. 20001
202 / 879-2710

I, JULIO A CASTILLO, Clerk of the District of Columbia
Court of Appeals, do hereby certify that

MATTHEW W H WESSLER

was on the 8TH day of DECEMBER, 2008
duly qualified and admitted as an attorney and counselor and
entitled to practice before this Court and is, on the date
indicated below, an active member in good standing of this Bar

In Testimony Whereof, I have
hereunto subscribed my name
and affixed the seal of this
Court at the City of
Washington, D C , on April
21, 2011

JULIO A CASTILLO
Clerk of the Court

By

Deputy Clerk

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAY 17 2011

S C Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

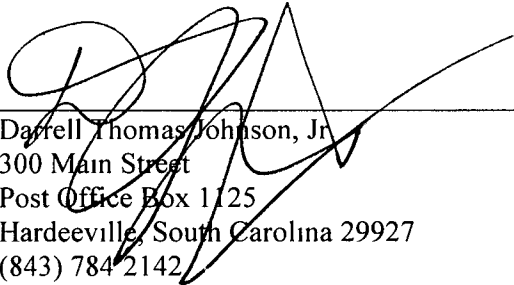
Appeal from Orangeburg County
James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

APPELLANT'S MOTION
TO ADMIT LESLIE BRUECKNER
PRO HAC VICE

The undersigned, a member of the bar of this Court, hereby moves for admission of
Leslie Brueckner, Esquire, for appearance as additional counsel of record in this case, on behalf
of Plaintiff/Appellant This motion is based upon the showings contained in the declarations
presented separately to this Court

The undersigned certifies that opposing counsel has been notified and there appears to be
no objection to this admission

May 13, 2011



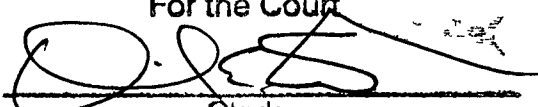
Darrell Thomas Johnson, Jr.
300 Main Street
Post Office Box 1125
Hardeeville, South Carolina 29927
(843) 784 2142
(843) 784 5770 (facsimile)

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799 9412
(803) 799-9628 (facsimile)

ATTORNEYS FOR APPELLANT

GRANTED.

Jean H. Teal C.J.
For the Court

By 
Clerk

May 18, 2011

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

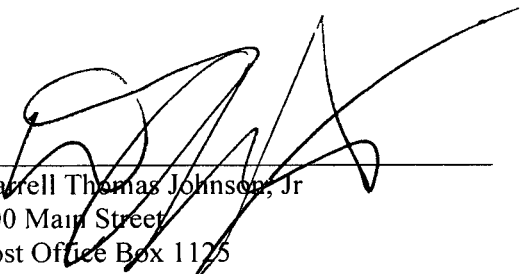
Appeal from Orangeburg County
James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

PROOF OF SERVICE

I certify that I have served the Respondent Ford Motor Company a copy of Appellant's Notice and Motion to Admit Leslie Brueckner, Esquire, Pro Hac Vice, by depositing a copy of it in the United States Mail, postage prepaid, on May 13, 2011, to its attorneys of record, addressed to

Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
TURNER, PADGET, GRAHAM & LANEY
Post Office Box 1473
Columbia, South Carolina 29202

Robert W Powell, Esquire
DICKINSON WRIGHT, PLLC
500 Woodward Ave , Ste 400
Detroit, MI 48226

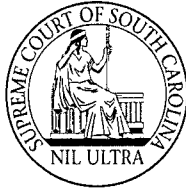


Darrell Thomas Johnson, Jr
300 Main Street
Post Office Box 1125
Hardeeville, South Carolina 29927
(843) 784-2142
(843) 784-5770 (facsimile)

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412
(803) 799-9628 (facsimile)

ATTORNEYS FOR APPELLANT

~~John W. Thiel CJ
For the Court
By Clerk~~



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 734 1080
FAX (803) 734 1499

May 9, 2011

The Honorable Daniel E. Shearouse
Clerk of Court, South Carolina Supreme Court
P O Box 11330
Columbia, SC 29211

RE Mary Robyn Priester v Ford Motor Co., et al
Case no 2006-CP-38-1071

Dear Clerk of Court

I certify that the Office of Bar Admissions has received a verified application requesting Leslie A. Brueckner be admitted *pro hac vice* in the above action. The \$250 filing fee has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/klb

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

Mary Robyn Priester

26846

The Supreme Court of South
Carolina

Plaintiff

Case No

Court

vs

Mailing Address of Court 1231 Gervais Street
Columbia, SC 29201

Ford Motor Co , et al

Defendant

RECEIVED

MAY - 9 2011

SC SUPREME COURT

Comes now Leslie A Brueckner, applicant herein, and respectfully represents the following

1 Applicant resides at
291 Lester Avenue, Apt #105

Street Address

Oakland

Alameda

California

94606

City

County

State

Zip Code

510-817 4561

Telephone

2 Applicant is an attorney and a member of the law firm of (or practices law under the name of) Public Justice, P.C., with offices at, at
555 12th Ctreet, Suite 1620

Street Address

Oakland

Alameda

CA

94607

City

County

State

Zip Code

(510) 622-8150

Telephone

(510) 622-8155

Fax Number

3 Applicant has been retained personally or as a member of the above named law firm by Mary Robyn Priester to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina

4 Since May 24 of 1989, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of California where applicant regularly practices law Attached is a certificate of good standing

5 Applicant has been admitted to practice before the following courts (List all of the following courts applicant has been admitted to practice before United States District Courts, United States Circuit Courts of Appeals, the Supreme Court of the United States, and courts of other states or the District of Columbia)

Court	Date Admitted
California	May 24, 1989
District of Columbia	July 26, 1991
U S Supreme Court	July 17, 1992
New York	August 28, 1989
U S District Court for the District of Columbia	July 6, 1992

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before)

6 Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e g , jurisdiction, court, date)

7 Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e g , date, court, docket number, judge, circumstances, attach a copy of any order of denial or revocation)

8 Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e g , date, administrative body, date of suspension and reinstatement)

9 Local counsel of record associated with applicant in this case is James Richardson, of the Richardson law firm, which has offices at
1229 Lincoln St
Street Address
Richland Columbia SC 29201
County City State Zip Code
(803) 799-9412
Telephone

If applicable list all other firms/attorneys you are associated with in this matter

Darrell T. Johnson, Esq.
Law Offices of Darrell Thomas Johnson, Jr
P.O. Box 1125
Hardeeville, SC 29927

10 Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted)

11 Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct

12 Applicant respectfully requests to be admitted to practice in the above named court for this case only

DATED this April day of 26, 2011



Supreme Court of California

FREDERICK K OHLRICH

Clerk of the Court

CERTIFICATE OF THE CLERK OF THE SUPREME COURT OF THE STATE OF CALIFORNIA

LESLIE AGNES BRUECKNER

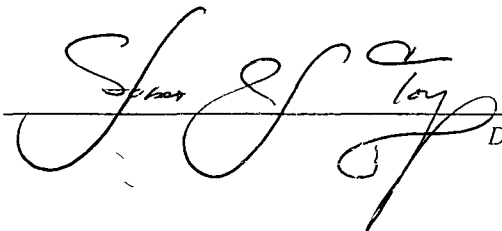
I, FREDERICK K OHLRICH, Clerk of the Supreme Court of the State of California, do hereby certify that LESLIE AGNES BRUECKNER was on the 24TH day of MAY, 1989 duly admitted to practice as an attorney and counselor at law in all the courts of this state, and is now listed on the Roll of Attorneys as a member of the bar of this state in good standing

*Witness my hand and the seal of the court
on the 19TH day of APRIL 2011*

FREDERICK K OHLRICH

Clerk of the Supreme Court

By


Deputy Clerk

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-5 to be completed only by document signer[s] *not* Notary)

1
2
3
4
5
6

Signature of Document Signer No 1

Signature of Document Signer No 2 (if any)

State of California

County of Alameda

Subscribed and sworn to (or affirmed) before me on this

26th day of April 2011, by
Date Month Year

(1) Leslie Brueckner
Name of Signer

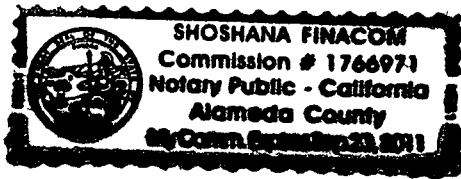
proved to me on the basis of satisfactory evidence
be the person who appeared before me () ()

(and

(2) _____
Name of Signer

proved to me on the basis of satisfactory evidence
be the person who appeared before me)

Signature Shoshana
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

*Though the information below is not required by law it may prove
valuable to persons relying on the document and could prevent
fraudulent removal and reattachment of this form to another document*

Further Description of Any Attached Document

Title or Type of Document verified Application for
Admission pro Hac Vice in
the State of South Carolina

Document Date 4/26/11 Number of Pages 4

Signer(s) Other Than Named Above N/A

RIGHT THUMBPRINT
OF SIGNER #1
Top of thumb here

RIGHT THUMBPRINT
OF SIGNER #2
Top of thumb here

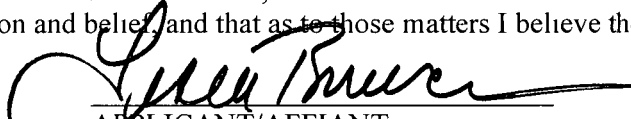

APPLICANT

VERIFICATION

STATE OF California)

COUNTY OF Alameda)

I, Leslie Brueckner, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter, that I have read the foregoing application and know the contents thereof, and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true


APPLICANT/AFFIANT

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public for the State of _____ *See attached Jurat*

My Commission Expires _____

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar

DATED this 26 day of April, 20 11


LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 6th day of May, 20 11


FOR APPLICANT/AFFIANT

**LAW OFFICES OF
DARRELL THOMAS JOHNSON, JR , LLC
POST OFFICE BOX 1125
300 MAIN STREET
HARDEEVILLE, SOUTH CAROLINA 29927**

DARRELL THOMAS JOHNSON JR *
MILLS LANE MORRISON JR **
WARREN PAUL JOHNSON
*certified mediator
ALSO LICENSED IN GEORGIA

843 784 2142
FAX 843 784 5770
tdjohnson1@hargray.com

April 26, 2011

Daniel E Shearouse, Clerk
SUPREME COURT OF SOUTH CAROLINA
PO Box 11330 (29211)
1231 Gervais Street (29201)
Columbia, SC

RE Mary Robyn Priester, individually and as Natural Mother/Next of Kin, and
Personal Representative of Estate of James Lloyd Priester VS Preston Williams
Cromer, and Ford Motor Company
C/A No 05-CP-38-730
Law Office File No 17-374-02-200-04

Dear Clerk Shearouse

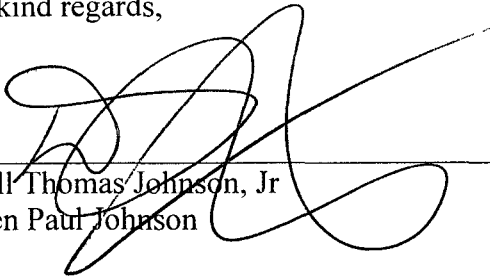
As requested by the Court, please find enclosed (in 3 separate boxes) ten (10) copies of
Volume I and II and Supplemental Record on Appeal in the above Mr Richardson will be
furnishing ten copies of the Second Supplemental ROA, Appellant's Final Brief and Reply Brief
If your Court requires anything further, please contact this office

RECEIVED

APR 28 2011

S.C Supreme Court

With kind regards,



Darrell Thomas Johnson, Jr
Warren Paul Johnson

DTJ/lmo
Encs
Cc James B Richardson, Esquire
Robyn Priester

The Supreme Court of South Carolina

Mary Robyn Priester,
Individually and as Natural
Mother/Next of Kin, and
Personal Representative of the
Estate of James Lloyd Priester, Appellant,

v

Preston Williams Cromer,
Stage Light Management, d/b/a
Showgirls(z), and Lloyd
Brown, individually and doing
business as Showgirls(z), and
Nikki D's Inc and Ford Motor
Company, Defendants,
of whom Ford Motor
Company, is Respondent

The Honorable James C Williams, Jr
Orangeburg County
Trial Court Case No 2006-CP-38-01071

ORDER

The request for an extension to serve and file the brief of appellant is
granted and extended until May 19, 2011

IT IS SO ORDERED

JEAN H TOAL, CHIEF JUSTICE

BY Doreida J. Stealy
Clerk
Claf Deputy

Columbia, South Carolina

April 27, 2011

cc Darrell T Johnson, Jr , Esquire
James B Richardson, Jr , Esquire
Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Robert W Powell, Esquire
William C Wood, Jr , Esquire

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

April 26, 2011

Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia South Carolina 29211

RECEIVED

APR 27 2011

SC SUPREME COURT

Re Priester v Cromer
Case No 06-CP-38-1071

Dear Mr Shearouse

I write to request the Court's consideration of a 10-day extension of time in which to serve and file the appellant's brief in this case, on remand from the U S Supreme Court

Tom Johnson and the undersigned were assisted in the appellant's representation in the U S Supreme Court by Leslie Brueckner, a member of the California bar and by Matt Wessler, a member of the District of Columbia bar. We have invited Ms Brueckner and Mr Wessler to participate in the proceedings now pending before the South Carolina Supreme Court, and they have agreed. Their applications for admission *pro hac vice* are in process.

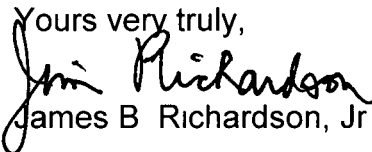
The addition of new counsel has slowed the briefing process, but we believe that a 10-day extension will enable us to complete the appellant's brief in a satisfactory manner.

I am authorized to say that the respondent has kindly consented to this request.

Your consideration of this request is appreciated, as always.

Thanking you, I remain

Yours very truly,


James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Darrell Thomas Johnson Jr Esq
Leslie Brueckner, Esq
Matt Wessler, Esq

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail SSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

April 21, 2011

RECEIVED

APR 22 2011

SC SUPREME COURT

The Honorable Daniel E Shearouse
Clerk, SC Supreme Court
P O Box 11330
Columbia SC 29211

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

The purpose of this correspondence is to request protection for May 20-23, 2010 I will be out of town on a family vacation and, therefore, request that no hearing in the matter of which I am attorney of record be scheduled for the above dates Please date stamp the enclosed copy of this letter and return it to me via the enclosed envelope I greatly appreciate the Court's assistance and consideration in this matter By copy of this letter, I am advising counsel of record of this request

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/tj

Enclosures

cc James B Richardson, Jr , Esquire
Darrell Thomas Johnson, Jr , Esquire

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail CSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

April 13, 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Supreme Court of South Carolina, Clerk
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RECEIVED

APR 13 2011

S.C. Supreme Court

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Appellate Case Tracking Number 2008104849
TPGL File No 5100 185

Dear Mr Shearouse

Pursuant to the Court's request, enclosed please find one unbound copy and ten bound copies of each of the following briefs previously filed with the South Carolina Court of Appeals

- 1 Final Brief of Respondent, and
- 2 Brief of the Product Liability Advisory Counsel, Inc , as *Amicus Curiae* in Support of Respondent and Affirmance

Thank you for your assistance with this matter, and please do not hesitate to contact me if you have any questions

BUSINESS LITIGATION SOLUTIONS

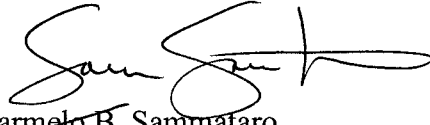
Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202
Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

April 13, 2011
Page 2

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/tj

Enclosures

cc James B Richardson, Jr , Esquire
(via regular mail, w/o enc)

The Supreme Court of South Carolina

Mary Robyn Priester,
Individually and as Natural
Mother/Next of Kin, and
Personal Representative of the
Estate of James Lloyd Priester, Appellant,

v

Preston Williams Cromer,
Stage Light Management, d/b/a
Showgirls(z), and Lloyd
Brown, individually and doing
business as Showgirls(z), and
Nikki D's Inc , Defendants,
of whom Ford Motor Co is Respondent

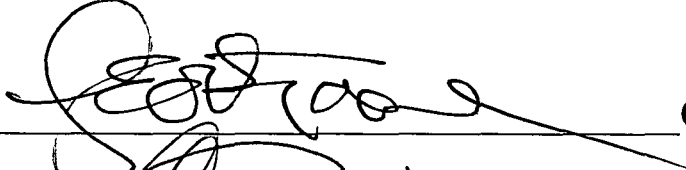
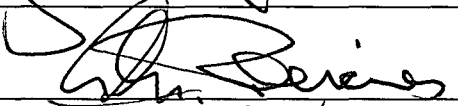
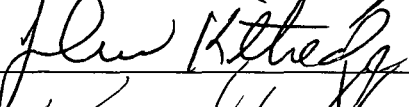
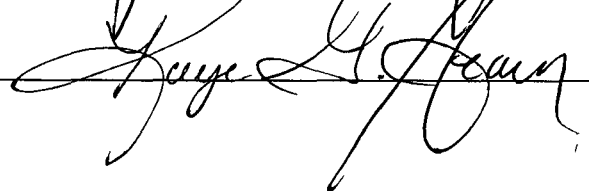
ORDER

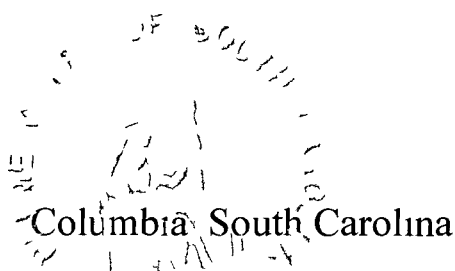
The Supreme Court of the United States vacated this Court's opinion in this matter and remanded for further reconsideration in light of Williamson v Mazda Motor of America, Inc., 562 U S __, 131 S Ct 1131, __ L E 2d __ (2011) Priester v Ford Motor Co , 2011 WL 676965 (U S S C Feb 28, 2011) The parties have filed a motion and a return addressing the need for supplemental briefing

We direct the parties to serve and file supplemental briefs addressing what impact, if any, Williamson may have on this case The brief

of appellant shall be served and filed within thirty (30) days of the date of this order, and the brief of respondent shall be served and filed within thirty (30) days after service of appellant's brief. Any reply brief by appellant shall be served and filed within ten (10) days after service of respondent's brief. The number of copies to be served and filed shall be the same as for final briefs under Rule 211, SCACR, and a copy of the briefs shall be served on the amicus curiae. If the amicus curiae desires to serve and file a brief, its brief shall be served and filed at the same time as the party it supports, and any return or reply shall follow the same briefing schedule established for the briefs of the parties. Once the briefs are filed, this matter shall be set for oral argument.

IT IS SO ORDERED

	C J
	J
	J
	J
	J



April 7, 2011

cc Darrell T Johnson, Jr , Esquire
James B Richardson, Jr , Esquire
Curtis L Ott, Esquire
Carmelo B Sammataro, Esquire
Robert W Powell, Esquire
William C Wood, Jr , Esquire

TURNER PADGET

TURNER PADGET GRAHAM & LANEY PA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Carmelo B Sammataro

E mail CSammataro@TurnerPadget.com

Writer s Direct Dial (803) 227 4253

Writer s Direct Fax (803) 400 1532

March 11, 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Supreme Court of South Carolina, Clerk
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RECEIVED

MAR 11 2011

S C Supreme Court

Re Mary Robyn Priester, individually and as natural mother/next of kin, and personal representative of Estate of James Lloyd Priester v Preston Williams Cromer, Stage Light Management, d/b/a Showgirls(z), Lloyd Brown, individually and d/b/a Showgirls(z), and Nikki D's, Inc , and Ford Motor Co
Civil Action No 06-CP-38-1071
Case Tracking No 2008104849
File No 5100 185

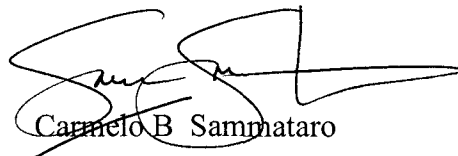
Dear Mr Shearouse

Enclosed please find the original and seven (7) copies of the Motion Of Respondent Ford Motor Company For Leave To File Supplemental Briefing Addressing The Opinion Of The United States Supreme Court In *Williamson v Mazda Motor Of America Inc* regarding the above-referenced matter Also enclosed are the original and one (1) copy of the Proof of Service and our check for the filing fee Please file the original documents and return clocked copies to me via our office courier Thank you for your assistance with this matter, and please contact me if you have any questions

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P A



Carmelo B Sammataro

CBS/tj

Enclosures

cc James B Richardson, Jr , Esquire (via hand delivery, w/enc)

BUSINESS LITIGATION SOLUTIONS

Bank of America Plaza 17th Floor 1901 Main Street (29201) PO Box 1473 Columbia SC 29202

Phone (803) 254 2200 Fax (803) 799 3957 turnerpadget.com

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

RECEIVED

MAR 11 2011

S C Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin, and Personal
Representative of Estate of James Lloyd
Priester

Appellant,

v

Preston Williams Cromer, Stage Light Management,
d/b/a Showgirls(z), and Lloyd Brown, individually
and doing business as Showgirls(z), and Nikki D's,
Inc , and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

**MOTION OF RESPONDENT FORD MOTOR
COMPANY FOR LEAVE TO FILE
SUPPLEMENTAL BRIEFING ADDRESSING THE
OPINION OF THE UNITED STATES SUPREME
COURT IN *WILLIAMSON v MAZDA MOTOR OF
AMERICA, INC***

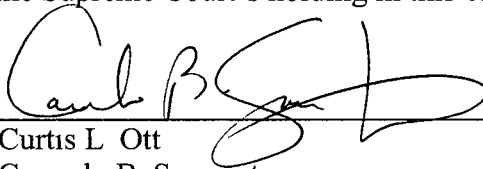
Respondent Ford Motor Company ("Ford") respectfully moves for leave to file supplemental briefing, as well as for a briefing schedule from the Court, to address the recent preemption opinion of the United States Supreme Court in *Williamson v Mazda Motor of America Inc* , 562 U S ____ (Feb 23, 2011) (No 08-1314) The grounds supporting Ford's motion are set forth in greater detail below

On August 2, 2010, this Court issued its order affirming the grant of summary judgment to Ford on the basis that the automotive glazing options afforded manufacturers pursuant to Federal Motor Vehicle Safety Standard 205 preempted Appellant's state law tort claim that Ford should have installed laminated glazing in the side windows of the 1997 Ford F-150 pickup truck. This Court denied rehearing September 2, 2010, and Appellant filed a petition for *certiorari* in the United States Supreme Court. In its order dated February 28, 2011, the Supreme Court granted Appellant's petition, vacated the opinion of this Court, and remanded the case for further consideration in light of its holding in *Williamson v Mazda Motor of America*, ___ S Ct ___, 2011 WL 676965.

In light of these developments, Ford respectfully seeks leave to file supplemental briefing, as well the establishment of a briefing schedule, so that the parties will have an opportunity to discuss *Williamson*, the critical distinctions between that case and the instant appeal, and the implications of the Supreme Court's holding in this case.

March 11, 2011

By



Curtis L. Ott

Carmelo B. Sammataro

TURNER PADGET GRAHAM & LANEY P A

Post Office Box 1473

Columbia, SC 29202

Phone (803) 254-2200

Fax (803) 799-3957

Robert W. Powell, *Pro Hac Vice*

DICKINSON WRIGHT, P L L C

500 Woodward Avenue, Suite 400

Detroit, MI 48226

Phone (313) 223-3664

Fax (313) 223-3598

ATTORNEYS FOR RESPONDENT
FORD MOTOR COMPANY

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

James C Williams, Jr , Circuit Court Judge

Case No 06-CP-38-1071

RECEIVED

MAR 11 2011

S.C. Supreme Court

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin, and Personal
Representative of Estate of James Lloyd
Priester

Appellant,

v

Preston Williams Cromer, Stage Light Management,
d/b/a Showgirls(z), and Lloyd Brown, individually
and doing business as Showgirls(z), and Nikki D's,
Inc , and Ford Motor Company,

of whom Ford Motor Company is the

Respondent

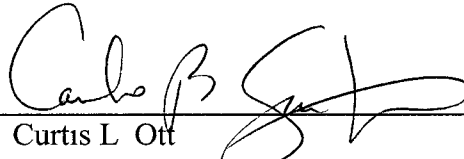
PROOF OF SERVICE

I certify that I have this 11th day of March 2011 served a copy of the **MOTION OF RESPONDENT FORD MOTOR COMPANY FOR LEAVE TO FILE SUPPLEMENTAL BRIEFING ADDRESSING THE OPINION OF THE UNITED STATES SUPREME COURT IN *WILLIAMSON v MAZDA MOTOR OF AMERICA, INC*** on Appellant by hand delivery to her attorney of record, James B Richardson, Jr , of Richardson Law Firm at 1229 Lincoln Street, Columbia, South Carolina, 29201

(Signature page to follow)

March 11, 2011

By

A handwritten signature in black ink, appearing to read 'Carmelo B Sammataro', written over a horizontal line.

Curtis L. Ott

Carmelo B. Sammataro

TURNER PADGET GRAHAM & LANEY P A

Post Office Box 1473

Columbia, SC 29202

Phone (803) 254-2200

Fax (803) 799-3957

Robert W. Powell, *Pro Hac Vice*

DICKINSON WRIGHT, P L L C

500 Woodward Avenue, Suite 400

Detroit, MI 48226

Phone (313) 223-3664

Fax (313) 223-3598

ATTORNEYS FOR RESPONDENT

FORD MOTOR COMPANY

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

March 22, 2011

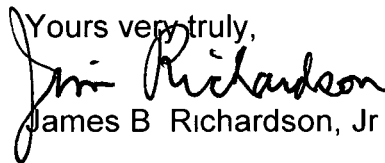
Honorable Daniel E Shearouse
Clerk of The Supreme Court of
South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re Priestor v Cromer
Case No 06-CP-38-1071

Dear Mr Shearouse

Enclosed for filing is appellant's return to respondent's motion to file briefs

Thanking you, I remain

Yours very truly,

James B Richardson, Jr

cc Curtis L Ott, Esq
Carmelo B Sammataro, Esq
Darrell Thomas Johnson, Jr , Esq

RECEIVED

MAR 23 2011

S C SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE Supreme COURT

RECEIVED

MAR 23 2011

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

S C Supreme Court

James C Williams, Circuit Court Judge

Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

APPELLANT'S RETURN TO FORD'S MOTION FOR BRIEFS

Appellant is confident that the Court will wish to follow its usual practice of receiving briefs when a case is remanded for further consideration in light of authority decided after the Court's earlier decision

Respectfully submitted,

D Thomas Johnson
Post Office Box 1125
Hardeeville South Carolina 29927
(843) 784-2142

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

by James B. Richardson, Jr.
Attorneys for Appellant

March 22, 2011

THE STATE OF SOUTH CAROLINA
IN THE Supreme COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James C Williams, Circuit Court Judge
Case No 06-CP-38-1071

Mary Robyn Priester, Individually and as
Natural Mother/Next of Kin and Personal
Representative of the Estate of James
Lloyd Priester,

Appellant,

v

Preston Williams Cromer, Stage Light
Management d/b/a Showgirls(z), and
Lloyd Brown, individually and d/b/a
Showgirls(z), Nikki D's, Inc , and
Ford Motor Company, Inc ,

Defendants,

of whom Ford Motor Company, Inc , is the

Respondent

CERTIFICATE OF SERVICE

I certify that I served a copy of appellant's return to the motion to file briefs upon respondent by first class mail, postage prepaid, addressed to its attorneys at their address of record, namely

Elbert S Dorn, Esq
Carmelo B Sammataro, Esq
Turner Padgett Graham & Laney
P O Box 1473
Columbia, SC 29202

on March 22, 2011


James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

March 22, 2011

Attorney for Appellant

RECEIVED

MAR 23 2011

SC SUPREME COURT

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

April 1 2011

William K. Suter
Clerk of the Court
(202) 479 3011

Clerk
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

APR 1 2011

**Re Mary Robyn Priester
v Ford Motor Company
No 10-668 (Your docket No 26846)**

S C Supreme Court

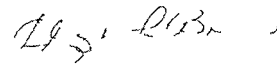
Dear Clerk

Attached please find a certified copy of the mandate and a certified copy of the judgment of this Court in the above entitled case. You may obtain a copy of the opinion cited in the mandate by visiting our website @www.supremecourt.gov

Sincerely

WILLIAM K. SUTER Clerk

By



Elizabeth Brown
Judgments/Mandates Clerk

Enc

cc Leslie A. Brueckner, Esq.
Stephen A. Husman, Esq.

Gregory G. Garre, Esq.

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K Suter
Clerk of the Court
(202) 479 3011

April 1, 2011

Ms Leslie A Brueckner
Public Justice P C
555 12th Street
Suite 1620
Oakland, CA 94607

Re Mary Robyn Priester
v Ford Motor Company
No 10-668

Dear Ms Brueckner

Today a certified copy of the mandate of this Court in the above entitled case was emailed to the Clerk of the Supreme Court of South Carolina

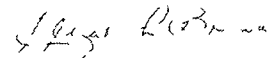
The petitioner is given recovery of costs in this Court as follows

Clerk's costs \$300 00

This amount may be collected from the respondent

Sincerely

WILLIAM K SUTER Clerk

By 

Elizabeth Brown
Judgments/Mandates Clerk

cc Gregory G Garre, Esq
Clerk Supreme Court of South Carolina
(Your docket No 26846)

Stephen A Husman Esq

**United States of America, ss
THE PRESIDENT OF THE UNITED STATES OF AMERICA**

10-668

MARY ROBYN PRIESTER,

Petitioner

v

FORD MOTOR COMPANY

To the Honorable the Justices of the Supreme Court of South Carolina

GREETINGS

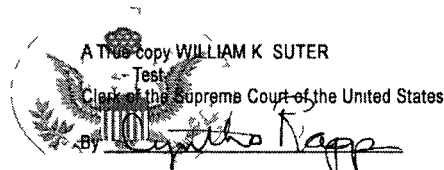
Supreme Court of South Carolina case, Mary Robyn Priester, Individually and as Natural Mother/Next Kin and Personal Representative of the Estate of James Lloyd Priester, Appellant v Preston Williams Cromer, Stage Light Management d/b/a Showgirls(z) and Lloyd Brown, individually and doing business as Showgirls(z), and Nikki D's Inc , and Ford Motor Co Defendants Of whom Ford Motor Co is Respondent No 26846 was submitted to the **SUPREME COURT OF THE UNITED STATES** on the petition for writ of certiorari, the response thereto, and the Court having granted the petition

It is ordered and adjudged on February 28 2011, by this Court that the judgment of the above court in this cause is vacated with costs and the cause is remanded to the Supreme Court of South Carolina for further consideration in light of *Williamson v Mazda Motor of America Inc* 562 U S ____ (2011)

THE CAUSE IS REMANDED to you in order that such proceedings may be had in the said cause, in conformity with the judgment of this Court above stated, as accord with right and justice and the Constitution and Laws of the United States

Witness the Honorable **JOHN G ROBERTS, JR** , Chief Justice of the United States the 28th day of February in the year Two Thousand and Eleven

Clerk's costs \$300 00



William K Suter
Clerk of the Supreme Court
of the United States

Supreme Court of the United States

No 10-668

MARY ROBYN PRIESTER,

Petitioner

v

FORD MOTOR COMPANY

ON PETITION FOR WRIT OF CERTIORARI to the Supreme Court of
South Carolina

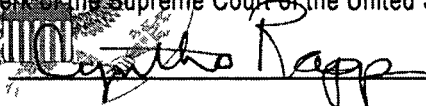
THIS CAUSE having been submitted on the petition for writ of certiorari
and the response thereto

ON CONSIDERATION WHEREOF it is ordered and adjudged by this Court
that the petition for writ of certiorari is granted The judgment of the above court in this
cause is vacated with costs and the cause is remanded to the Supreme Court of South
Carolina for further consideration in light of *Williamson v Mazda Motor of America, Inc* , 562
U S ____ (2011)

IT IS FURTHER ORDERED that the petitioner Mary Robyn Priester recover
from Ford Motor Company Three Hundred Dollars (\$300 00) for costs herein expended

February 28 2011

Clerk's costs \$300 00

A True copy WILLIAM K SUTER
Test
Clerk of the Supreme Court of the United States
By 

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K Suter
Clerk of the Court
(202) 479 3011

February 28, 2011

Clerk
Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

RECEIVED

MAR - 3 2011

S C Supreme Court

Re Mary Robyn Priester
v Forz Motor Company
No 10 668
(Your No 26846)

Dear Clerk

The Court today entered the following order in the above entitled case

The petition for a writ of certiorari is granted The judgment is vacated, and the case is remanded to the Supreme Court of South Carolina for further consideration in light of Williamson v Mazda Motor of America, Inc , 562 U S ____ (2011)

The judgment or mandate of this Court will not issue for at least twenty five days pursuant to Rule 45 Should a petition for rehearing be filed timely, the judgment or mandate will be further stayed pending this Court's action on the petition for rehearing

Sincerely,



William K Suter, Clerk