

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable G.D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2025-000529

James Dustin Lucas, Appellant,

v.

State Farm Mutual Automobile Insurance Company, Respondent.

**PETITIONER'S REPLY TO RESPONDENT'S RETURN TO PETITION FOR
WRIT OF CERTIORARI**

Petitioner respectfully submits this Reply to Respondent's Return to the Petition for Writ of Certiorari and appreciates the Court's consideration of the Petition.

The legal and constitutional reasons supporting certiorari review are clear and compelling. The lower courts departed from established precedent by resolving questions of material fact without a jury, infringing upon Petitioner's rights under Article I, Section 14 of the South Carolina Constitution. Our ADR rules have to have some meaning and violation of them must have some teeth. SCRCP 43(k) serves a necessary purpose, but it does not create a license to lie.

The decisions below seem to ignore detrimental reliance on material false statements set forth by State Farm, the scope of pre-mediation communications, and the intent and conduct of the parties during negotiation. Petitioner presented verified pleadings, deposition testimony, email correspondence, and contemporaneous documentation that support his position and rebuts

Respondent's version of events. The issue of breach—whether Respondent violated agreed-upon negotiation parameters—is not suitable for resolution by the Court because it must necessarily ignore allegations of nefarious conduct that, if true, must be actionable.

Moreover, Respondent's position concerning the admissibility of pre-mediation communications stretches the intended confidentiality protections of SCADR Rule 8. Communications independent of mediation, especially those establishing the negotiation framework, are not shielded and were improperly excluded. Petitioner's claims rest upon conduct and representations that occurred prior to the mediation session itself, making confidentiality an inaccurate shield in this instance.

The questions presented by this Petition are cert-worthy. The questions surrounding recourse for wilful violation of ADR rules and the intentional misrepresentation related to mediation contained in this case should be addressed by this Court, both so that some semblance of fairness may be effectuated and also lend guidance to members of the Bar going forward.

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for Certiorari so that significant and thus-far unaddressed legal issues may be examined and this area of the law more fully developed.

Respectfully submitted,

s/Joshua T. Hawkins

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