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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

Case No. 2018-CP-29-01127
Appellate Case No. 2022-001589
Opinion No. 6115 (S.C. Ct. App. July 9, 2025)

Paul David Hess, APRN-BC,..... Respondent-Appellant

v.

Morphis Pediatric Group of Lancaster, P.A.; Elizabeth J.
Morphis, M.D.; Gregory M. Alexander, CPA; and
Moore Beauston and Woodham, LLP,..... Defendants

Of whom Morphis Pediatric Group of Lancaster, P.A. and
Elizabeth J. Morphis, M.D. are. Appellants-Respondents

RESPONDENT-APPELLANT’S PETITION FOR WRIT OF CERTIORARI ON
PREJUDGMENT INTEREST ISSUE ONLY

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CERTIFICATE OF COUNSEL

The undersigned counsel for Respondent-Appellant hereby certifies that he timely filed a Petition for Rehearing in Part, on Pre-Judgment Interest Issue Only, and Suggestion for Rehearing En Banc with the South Carolina Court of Appeals on July 23, 2025. The Court of Appeals denied Respondent-Appellant's Petition on September 22, 2025.

QUESTION PRESENTED

(1) Did the Court of Appeals err in reversing the Circuit Court's award of prejudgment interest on the award of back pay in this case, where the back-pay calculation was based on a bonus formula set forth in an Appendix to the Employment Agreement, where the amounts used in the calculation were in existence at the time the damages claims arose, although the jury did not agree with Respondent-Appellant's arguments to exclude from the calculation of net profits certain expenses, such as Appellant Morphis's luxury car payments and some of her compensation, and where the Court of Appeals did not explain how the trial judge abused her discretion in awarding prejudgment interest?

STATEMENT OF THE CASE

Respondent-Appellant, Paul David Hess, APRN-BC (hereinafter "Mr. Hess"), seeks a writ of certiorari with respect to the decision of the Court of Appeals to reverse the Circuit Court's award of prejudgment interest in the amount of \$407,021.15. The underlying case was tried before then-state Circuit Court Judge, the Honorable DeAndrea Gist Benjamin, in the York County Court of Common Pleas. After a six-day trial in late January and early February 2022, Mr. Hess received jury verdicts in his favor in the total amount of \$548,290.42 on all of the causes of action he raised in his Complaint, which included breach of contract, breach of contract accompanied by a fraudulent act,

violation of the South Carolina Payment of Wages Act, fraud, and negligent misrepresentation against Appellants-Respondents, Morphis Pediatric Group of Lancaster, P.A. (hereinafter “MPGL”) and Elizabeth J. Morphis, M.D. (hereinafter “Defendant Morphis,” collectively “Morphis Defendants”).¹ After additional closing arguments and jury instructions on punitive damages during the bifurcated portion of the trial as requested by the Accounting Defendants, the jury returned a verdict of \$475,000 in punitive damages against the Morphis Defendants on February 2, 2022, based on the causes of action for breach of contract accompanied by a fraudulent act, fraud, and negligent misrepresentation.

Plaintiff filed an Election of Remedies on February 3, 2022, electing to pursue his full remedies under the South Carolina Payment of Wages Act, including treble damages and attorney’s fees and costs, for all years in question (2010-2015), and to forego the jury’s verdict on punitive damages. On February 14, 2022, Plaintiff filed a Petition for Treble Damages, Attorney’s Fees and Costs, and Pre-Judgment Interest.

On November 2, 2022, the Circuit Court entered an order denying the Morphis Defendants’ Motion for JNOV and Motion for Remittitur. Also on November 2, 2022, the Court entered an order granting Plaintiff’s Petition for Treble Damages, Attorney’s Fees and Costs, and Pre-Judgment Interest.

¹The complaint also included claims for fraud, negligent misrepresentation, and tortious interference with contract against Defendants Gregory M. Alexander, CPA, and Moore Beauston and Woodham, LLP (hereinafter “Accounting Defendants”). The Accounting Defendants provided accounting service to the Morphis Defendants throughout the relevant period covered by the complaint. The jury awarded a verdict in favor of Mr. Hess, including punitive damages, against the Accounting Defendants on some of the causes of action for one of the years in dispute. The Accounting Defendants reached a settlement with Mr. Hess while the post-trial motions were pending.

The Morphis Defendants served their Notice of Appeal on November 9, 2022. Plaintiff Hess served his Notice of Cross Appeal on December 2, 2022, challenging Judge Benjamin's decision sua sponte to reduce hourly rate sought in the fee petition from \$450.00 per hour to \$300.00 per hour.

The Court of Appeals heard argument on the appeal and cross-appeal on November 7, 2024. The Court of Appeals entered its opinion on July 9, 2025, ruling in favor of Respondent-Appellant on all issues, other than reversing the trial court's award of prejudgment interest.

On July 23, 2025, Appellants-Respondents filed a Petition for Rehearing and Suggestion for Rehearing En Banc, with respect to all of the issues decided against them by the Court of Appeals. Also on July 23, 2025, Respondent-Appellant filed a Petition for Rehearing in Part, on Pre-Judgment Interest Issue Only, and Suggestion for Rehearing En Banc.

After requesting and receiving returns to both petitions, the Court of Appeals entered an order on September 22, 2025, denying both Petitions for Rehearing and declining en banc consideration.

Respondent-Appellant seeks a writ of certiorari only to review the Court of Appeals's decision on prejudgment interest.

FACTS

This is a claim for wage theft. Mr. Hess is a nurse practitioner and was employed by MPGL, a pediatrics practice in Lancaster, SC, from January 2009 to July 31, 2018. Pursuant to a written Employment Agreement starting January 1, 2010, Mr. Hess was promised an annual base salary of \$100,000 (which never changed throughout his entire tenure with MPGL), plus a bonus based on 50% of the Lancaster practice's net profits. (2010 Employment Agreement, and Appendix A thereto) (R. 835-836, 839).

With regard to the bonus payments, the contract provides, "All or any bonuses shall be at the

discretion of the Board or as determined in any appendix that is hereby signed and agreed upon by both parties.” (2010 Employment Agreement, at 4, ¶ 4) (emphasis added) (R. 836). Mr. Hess’s contract contained an Appendix A, sub-titled “Bonus Compensation,” which states as follows:

Provided that the employee meets criteria as decided upon by the Board, the employee will be eligible for an annual bonus paid by the company based on the following formulation.

All end of the year profits generated by this above-mentioned business shall be divided and the employee is granted 50% (fifty percent) of the said monies after all debts, expenses, royalties and expenditures have been allowed. These monies will be determined by the Company Accountant after the close of the year on December 31st of each calendar year and payable by the 15th of February.

(2010 Employment Agreement, Appendix A) (emphases added) (R. 839). Appendix A was signed by Dr. Morphis and Mr. Hess and was witnessed by Sandra Tyner, who was the office manager of MPGL. (Id.).

Mr. Hess received bonuses at the end of each year from 2010 to 2014, although he was never given any details about how his bonus was calculated, and he was repeatedly denied access to the financial records of the practice whenever he raised questions about the profitability of the practice. (Hess Testimony, Tr. Vol. 1, at 28, ll. 9-22; at 39, ll. 2-10) (R. 513, 524). In 2014, no bonus was included in Mr. Hess’s W-2 for that year. (Id. at 40, ll. 11-17) (R. 525). When Mr. Hess questioned Dr. Morphis about the omission, she said that she was late in getting the information to the accountant, which caused the bonus to be paid in early 2015 instead of by December 31, 2014. When the 2014 bonus (paid in 2015) was identical to the bonus Mr. Hess received in 2013, he asked the practice’s accountant about the coincidence, and the accountant told him that the practice had switched from a C-Corp to an S-Corp in 2014, and that Dr. Morphis did not think it was fair to Mr. Hess to burden him with the additional legal and accounting expenses from the conversion, so they

decided to leave the bonus the same as it had been the prior year. (Pl. Ex. 5, at 2) (R. 848); (Pl. Ex. 2, at 3) (R. 842).

On May 28, 2015, Dr. Morphis, Defendant Alexander (MPGL's outside accountant), and Tom Hinson (MPG Hartsville's office manager) met with Mr. Hess to discuss a proposal to change his bonus formula, from being based on 50% of net profits to 5% of gross revenues of the Lancaster practice. Mr. Alexander brought some financial analysis to the meeting purporting to demonstrate the fairness of the new proposed bonus formula and to show Mr. Hess that his bonuses from 2010 to 2014 had historically averaged approximately 5% of gross revenues. When Mr. Hess asked Mr. Alexander whether he had been receiving 50% of the net profits of the Lancaster practice since 2010, Mr. Alexander refused to answer, instead stating that Mr. Hess's question would require him to reveal confidential information about Dr. Morphis's tax situation. (Hess Testimony, Tr. Vol. 1, at 44 to 51) (R. 529-536). Shortly after the meeting, Mr. Alexander sent an email to Mr. Hess and Dr. Morphis with a copy of the financial information he had discussed during the meeting comparing the bonus amounts with gross revenues from 2010 to 2014. (Pl. Ex. 4) (R. 845-846). Mr. Alexander also sent an email only to Dr. Morphis, in which Mr. Alexander included two additional lines to the spreadsheet he created only for her to see: "Dr. Bonuses" and "Net income before Doctor Bonuses." (Pl. Ex. 3) (R. 844). In the cover email he sent only to Dr. Morphis, Mr. Alexander told Dr. Morphis, "I thought it may be helpful for you to see what kind of profit you are receiving from the practice in Lancaster. This is for your benefit only. I won't share this with David [Hess]." (Pl. Ex. 3) (R. 843) (emphasis added).

At the end of 2015, the Morphis Defendants presented to Mr. Hess a proposed Employment Agreement changing the bonus formula as discussed during the May 28, 2015 meeting. Mr. Hess

signed the new employment contract on December 30, 2015, purporting to be retroactive as of March 1, 2015, which would have changed the bonus calculation from 50% of the net profits to 5% of gross receipts of the Lancaster Practice. (2015 Employment Agreement, and Exhibit A thereto) (R. 912-922). Unbeknownst to Mr. Hess at that time, the new bonus calculation resulted in a bonus for 2015 that was over \$190,000 less than he would have earned under the 2010 Employment Agreement. Mr. Hess was paid bonuses in 2015, 2016, and 2017 under the new contract, based on 5% of the gross revenues of the practice.

Only in the summer of 2018, when Dr. Morphis announced that she had decided to sell the Lancaster practice, was Mr. Hess finally able to see some of the accounting records for the practice. (Hess Testimony, Tr. Vol. 1, at 61, ll. 7-20) (R. 546). Mr. Hess and one of the other providers in Lancaster decided to make a bid to purchase the Lancaster practice from Dr. Morphis, so they were able to obtain the prior five full years of accounting records for the practice as part of the due diligence process. (Id. at 61, ll. 7-20) (R. 546). As soon as Mr. Hess saw the accounting records going back to 2013, he knew that he had not been paid properly according to his contract, and that he was misled into signing the 2015 contract at the end of December 2015.

In 2010, Mr. Hess received a bonus of \$75,000, and Dr. Morphis received over \$148,000. In 2011, Mr. Hess's bonus dropped to \$25,000; yet Dr. Morphis took a bonus of \$180,000. In 2012, Mr. Hess's bonus was just under \$47,000, but Dr. Morphis received a bonus of \$330,000. In 2013, Mr. Hess's bonus was \$48,000, and Dr. Morphis's bonus was \$151,000. As discussed above, in 2014, Mr. Hess's bonus was not paid until early 2015 and was exactly the same as it had been in 2013 (\$48,000), and Dr. Morphis took a salary of \$81,212, plus pass-through income of over \$196,000 in profit from the Lancaster practice, which had been converted to an S-Corporation that

year for the first time. Finally, in 2015, Mr. Hess received a bonus of \$70,267.41, and Dr. Morphis took a salary of \$80,000 and received pass-through income of over \$374,000 in profits from the Lancaster practice. (Pl. Ex. 19) (R. 923). In summary, Mr. Hess never received 50% of the profits of the Lancaster practice as his bonus, as he was promised in the 2010 Employment Agreement.

Mr. Hess brought this lawsuit on September 27, 2018, approximately two months after Dr. Morphis rejected his and the other provider's offer to purchase the Lancaster practice and immediately terminated their employment without cause.

ARGUMENT

1. THE COURT OF APPEALS ERRED IN REVERSING THE CIRCUIT COURT'S AWARD OF PREJUDGMENT INTEREST ON THE AWARD OF BACK PAY IN THIS CASE, WHERE THE BACK-PAY CALCULATION WAS BASED ON A BONUS FORMULA SET FORTH IN AN APPENDIX TO THE EMPLOYMENT AGREEMENT, WHERE THE AMOUNTS THE JURY USED IN ITS CALCULATIONS EXISTED AT THE TIME THE DAMAGES CLAIMS AROSE, ALTHOUGH THE JURY DID NOT AGREE WITH RESPONDENT-APPELLANT'S ARGUMENT TO EXCLUDE FROM THE CALCULATION OF NET PROFITS CERTAIN EXPENSES, SUCH AS APPELLANT MORPHIS'S LUXURY CAR PAYMENTS AND SOME OF HER COMPENSATION, AND WHERE THE COURT OF APPEALS DID NOT EXPLAIN HOW THE TRIAL JUDGE ABUSED HER DISCRETION IN AWARDING PREJUDGMENT INTEREST.

Respectfully, although the Court of Appeals's opinion was thorough and well-reasoned with respect to every other issue on appeal, the court's reversal of the circuit court's award of prejudgment interest in the amount of \$407,021.15 is in conflict with prior decisions of the South Carolina Supreme Court, specifically Babb v. Rothrock, 310 S.C. 350, 426 S.E.2d 789 (1993). In Babb, the Supreme Court established the appropriate standard for an award of prejudgment interest:

The law allows prejudgment interest on obligations to pay money from the time

when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty. The fact that the sum due is disputed does not render the claim unliquidated for the purposes of an award of prejudgment interest. The proper test for determining whether prejudgment interest may be awarded is whether or not the measure of recovery, not necessarily the amount of damages, is fixed by conditions existing at the time the claim arose.

Id. at 353, 426 S.E.2d at 791 (emphases added).

Here, the ability to calculate the Lancaster practice's annual profits—and, thus, Mr. Hess's proper bonus payments—was clearly “fixed by conditions existing at the time” Mr. Hess's claims for damages arose. The circuit court's factual determination that “the measure of recovery for Plaintiff's annual bonus was fixed by the 2010 Employment Agreement as 50% of the annual net profits of the Lancaster practice, which is plainly an amount that could have been reduced to a sum certain at the time such bonuses were payable,” (Order, at 14) (R. 38), is amply supported by the record. Not only was the amount of annual profit of the Lancaster practice capable of being reduced to a certainty, but Dr. Morphis's accountant, Defendant Alexander, actually performed the profit calculations for 2010-2014 in advance of the meeting he had with Dr. Morphis and Mr. Hess in May of 2025, as reflected in the spreadsheet that he provided only to Dr. Morphis. (Pl. Ex. 3) (R. 844). Net profit is one of the simplest calculations in business: Profit = Revenues - Expenses. Mr. Hess's annual bonus should have been 50% of that net profit number for the Lancaster practice. This calculation is even consistent with Dr. Morphis's hand-written, back-of-the-napkin bonus calculations she performed every year before the practice's books were actually finalized for the year. (Pl. Ex. 7) (R. 853-856). To determine Plaintiff's damages at the conclusion of the trial, the jury merely had to compare what Mr. Hess's bonuses should have been, per the formula, versus what he was actually paid as a bonus each year in question. That is quintessentially an example of an amount that is “capable of being

reduced to a certainty” so as to warrant an award of prejudgment interest.

The Court of Appeals’s acceptance of Respondents-Appellants’ factual argument that “uncertainty was involved because many of the terms in Hess’s employment agreement were unclear and undefined,” (Op., at 17), is plainly inconsistent with the court’s prior holding that “it was MPG and Dr. Morphis’s obligation to define the terms such as ‘criteria,’ ‘eligible,’ ‘profit,’ ‘royalties,’ ‘monies,’ ‘debts,’ ‘expenses,’ and ‘expenditures,’” and that any dispute about the meaning of those terms should have been construed in the light most favorable to Mr. Hess because he was not involved in any way in the drafting of the 2010 Employment Agreement or Appendix A to that Agreement. (Op., at 11).

The only real disputes at the trial of this case about the actual calculation of the bonuses were Mr. Hess’s arguments that Dr. Morphis should not have run her personal BMW lease and maintenance payments through the Lancaster practice and that she should not have taken any compensation from the Lancaster practice before the calculation of net profits was performed to determine Mr. Hess’s annual bonus. Although the jury did not award Plaintiff all of the actual damages he requested in his damages summary (Pl.’s Ex. 19) (R. 923), the jury’s verdict form was obviously based on a calculation from numbers that were in the record from accounting reports and that existed at the time the bonuses were payable, using the simple formula for net profits (just not adding back the value of the car payments and a portion of Dr. Morphis’s compensation). (Verdict Form, Special Interrog. Ans. 3 & 4) (R. 43).

The fact that the jury appears to have partially rejected Plaintiff’s assertion that the implied covenant of good faith and fair dealing that exists in every contract in South Carolina should have precluded the Morphis Defendants from paying Dr. Morphis a salary and from running her luxury

automobile payments through the Lancaster practice before Mr. Hess's bonuses were calculated does not render the jury's damages calculation "unliquidated" for purposes of prejudgment interest. As the Court stated, "The fact that the sum due is disputed does not render the claim unliquidated for the purposes of an award of prejudgment interest." Babb, 310 S.C. at 353, 426 S.E.2d at 791 (emphases added).

The jury's verdict in favor of Mr. Hess for actual, economic damages in this case is not like an intangible award of non-economic, personal damages, such as for pain-and-suffering or for emotional distress, where the damages determination is entirely up to the jury to determine based on some type of undefined or amorphous standard and is not knowable until the jury concludes its deliberations and announces its verdict. Here, the jury's award of back-pay damages on Plaintiff's claim under the South Carolina Payment of Wages Act was calculated to the penny. The jury's damages award was undoubtedly "capable of being reduced to a certainty" based on numbers that were in the record that were known at the time the bonuses were payable; therefore, the verdict for Mr. Hess for lost wages met the standard for the Circuit Court properly to make an award of prejudgment interest.

In addition, the Court of Appeals improperly accepted Appellants-Respondents' argument that intermediate questions existed that would preclude an award of prejudgment interest, such as whether Mr. Hess met the "criteria" for a bonus each year, as required by the language of the 2010 Employment Agreement and its Appendix A. Importantly, the court previously rejected the "criteria" argument in Section B of the Opinion because Mr. Hess was, in fact, paid a bonus every year for which the 2010 Employment Agreement applied, demonstrating that he met any criteria to receive a bonus. The Court of Appeals has previously recognized that "It is the character of the

claim and not of the defense to it that determines whether prejudgment interest is allowable.” Lee v. Thermal Engineering Corp., 352 S.C. 81, 89, 572 S.E.2d 298, 302 (Ct. App. 2002) (quoting Southern Welding Works, Inc. v. K & S Constr. Co., 286 S.C. 158, 164, 332 S.E.2d 102, 106 (Ct. App. 1985)). Here, like in Lee, the calculation of profit of the Lancaster practice was a straightforward, mathematical calculation based on numbers that existed at the time the claims arose, which is clearly an amount that was “capable of being reduced to a certainty.” Whether the jury made certain determinations about what expenses to include or exclude from that calculation does not change the basic foundation of the underlying mathematical formula. Accordingly, the Circuit Court was correct in making the award of prejudgment interest in this case.

Although the Court of Appeals correctly recognized that an award of prejudgment interest is a matter within the trial judge’s discretion to be reviewed on appeal only for abuse of discretion (Opinion, at 8), the court did not expressly state how the circuit judge’s award of prejudgment interest constituted an abuse of discretion here. The definition of “abuse of discretion” is well settled under South Carolina law: “An abuse of discretion occurs when the ruling is based on an error of law or a factual conclusion without evidentiary support.” Historic Charleston Holdings, LLC v. Mallon, 381 S.C. 417, 434, 673 S.E.2d 448, 457 (2009). The Circuit Court’s order on prejudgment interest here was plainly not an abuse of discretion, because the judge correctly cited the Babb case as the applicable, legal standard for an award of prejudgment interest as established by binding precedent. (Order of Nov. 2, 2022) (R. 38) (quoting Babb, 310 S.C. at 353, 426 S.E.2d at 791). Furthermore, the Circuit Court’s factual determination that “the measure of recovery for Plaintiff’s annual bonus was fixed by the 2010 Employment Agreement as 50% of the annual net profits of the Lancaster practice, which is plainly an amount that could of been reduced to a sum certain at the time such

bonuses were payable,” (Order, at 14) (R. 38), is amply supported by the record.

Unfortunately, the Court of Appeals incorrectly focused primarily on the phrase “sum certain” instead of the equally important phrase “capable of being reduced to certainty” set forth in the Babb standard for awarding prejudgment interest.

The cases cited by the Court of Appeals in its Opinion are easily distinguished from the facts of this case. The case of Historic Charleston Holdings, LLC v. Mallon, 381 S.C. 417, 673 S.E.2d 448 (2009), involved a dissolution of a limited-liability company. The Mallon court ruled that the master-in-equity’s award of prejudgment interest was improper because a dispute existed about the method of accounting for the proceeds of the sale of one of the LLC’s properties that had been placed in escrow pending the outcome of a complete accounting amid allegations of self-dealing and expenses related to other projects. The Supreme Court concluded that an award of prejudgment interest was inappropriate because “the measure of recovery for prejudgment interest was unliquidated at the time the parties’ claims to the proceeds arose.” Id. at 458, 637 S.E.2d at 436. Here, by contrast, the income and expense numbers were readily determinable by Dr. Morphis and her accountant at the time, as was the formula for calculating Plaintiff’s bonuses as set forth in Appendix A to the 2010 Employment Agreement.

Similarly, Dibble v. Sumter Ice & Fuel Co., 283 S.C. 278, 322 S.E.2d 674 (Ct. App. 1984), involved a dispute over the ownership of a business entity. The crux of the dispute in Dibble focused primarily on the proper method for valuing the good-will of the corporation, an inherently intangible asset. The court of appeals noticed, “Stock of closely held corporations . . . cannot reasonably be valued by application of any inflexible formula; one tailored to the particular case must be found. That can be done only after a discriminating consideration of all relevant facts and circumstances

bearing upon the stock's value.” Id. at 284, 322 S.E.2d at 678. After extensive analysis, the court of appeals determined that the plaintiff's stock in the defendant corporation was undervalued by less than \$5,600.00. Because the value of the plaintiff's “claim was not capable of being reduced to a certainty” at the time the claim arose, the court reversed the award of prejudgment interest. Id. at 287, 322 S.E.2d at 679. Here, there was no dispute about the formula that should have been used to calculate Mr. Hess's bonus, only a deliberate effort by the Morphis Defendants and their accountant to hide the underlying numbers from Mr. Hess.

The final case cited by this court's opinion was Beckmann Concrete Contractors, Inc. v. United Fire & Cas. Co., 360 S.C. 127, 600 S.E.2d 76 (Ct. App. 2004). The Beckmann case did not involve prejudgment interest at all, but addressed the question of whether the plaintiff's claims were “unliquidated” such that the defendant was entitled to notice of a damages hearing under Rule 5(a), SCRCP, before a default judgment was entered. The court of appeals in Beckmann agreed that the amount of the claim at issue in that case was unliquidated because the additional construction work in dispute with the contractor was beyond the scope of the original construction bond provided by the insurer. Id. at 132, 600 S.E.2d at 79. The court of appeals stated that ““damages are unliquidated where they are an uncertain quantity, depending on no fixed standard, referred to with wise discretion of a jury, and can never be made certain except by accord or verdict.”” Id. (quoting 22 Am.Jur.2d Damages § 489 (2003)).

In most cases, the award of prejudgment interest is not nearly as significant as it is here. Because the jury found that Mr. Hess could go back to 2010 under the discovery rule and/or toll the statute of limitations for fraudulent concealment by the Morphis Defendants, and because the amount of actual damages for each year was substantial, the award of punitive damages was almost 75% of

the actual damages verdict in this case, prior the discretionary award of treble damages and attorney's fees and costs by the trial judge under the SC Payment of Wages Act. The Morphis Defendants had the benefit of being able to use that additional money not only during the pendency of this case, but also before Mr. Hess realized that he had a claim against her, which is one of the underlying bases for the statutory mandate of prejudgment interest found in S.C. Code Ann. § 34-31-20(A). See Butler Contr., Inc. v. Court Street, LLC, 369 S.C. 121, 134, 631 S.E.2d 252, 259 (2006) ("A judgment debtor is required to pay interest on his debt as compensation for his continued retention and use of the creditor's money beyond the date payment was due.").

CONCLUSION

For all of the foregoing reasons, Respondent-Appellant respectfully requests that this Court grant the petition for a writ of certiorari to review the Court of Appeals's mistaken ruling taking away prejudgment interest in this case. Pursuant to Rule 242(b)(3), the granting of a writ of certiorari is appropriate in this case because the decision of the Court of Appeals reversing the Circuit Court's award of prejudgment interest to Mr. Hess is in conflict with a prior decision of the Supreme Court, namely Babb v. Rothrock, 310 S.C. 350, 426 S.E.2d 789 (1993).

Respectfully submitted,

October 22, 2025

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