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**Jan 30 2026**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

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Circuit Court Case No. 2016-CP-07-2541  
Court of Appeals Appellate Case No. 2022-000231  
Supreme Court of South Carolina Appellate Case No. 2025-000436

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**Forum Benefits, LLC,**

**Plaintiff-Respondent,**

**v.**

**Brian Bannon and Assured Partners, NL,**

**Defendants – Petitioners.**

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**PETITIONERS' RETURN TO RESPONDENT'S MOTION FOR RECOVERY OF  
INTEREST ON REVERSED MONEY JUDGMENT**

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January 30, 2026

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*Attorney for Defendants-Petitioners*

Defendants/Petitioners Brian Bannon and Assured Partners, NL, (“Defendants” for ease of reference) hereby submit their Return to the Motion for Recovery of Interest on Reversed Money Judgment filed by Plaintiff/Respondent Forum Benefits, LLC (“Plaintiff” for ease of reference). Plaintiff’s Motion should be denied for several reasons.

First, Plaintiff’s request for interest payments on the now reversed and remanded judgment should be denied because such an award is not supported by any South Carolina statute, Appellate Court Rule, or case law. Plaintiff incorrectly relies on laws that only apply to an appeal from a Magistrate Court judgment to the Circuit Court and the federal rules. Plaintiff then argues that the lack of applicable legal authority on this issue creates a “problem” that this Court should remedy. However, the fact that the law does not permit such an interest award is not a problem, but a reality. The South Carolina Legislature has decided not to provide a basis for such an award at this stage of the case.

Second, just as with Plaintiff’s Motion for Costs, the issues raised by Plaintiff in the instant Motion should be reserved for the Circuit Court. This Court sent down the remittitur to the Circuit Court prior to Plaintiff filing the instant Motion. As a result, the issue of interest should now be reserved for the Circuit Court. See Muller v. Myrtle Beach Golf & Yacht Club, 313 S.C. 412, 416, 438 S.E.2d 248, 250 (1993). The Circuit Court should decide all of these issues after the retrial of this case and based on the new judgment rendered. For these reasons, Plaintiff’s Motion should be denied.

### **RELEVANT CASE HISTORY**

This case proceeded to trial on October 11, 2021. After Plaintiff presented its case in chief, the trial court granted Defendants’ motion for directed verdict on all claims and awarded Defendants their fees and costs. Plaintiff appealed this ruling to the Court of Appeals. On

December 11, 2024, the Court of Appeals reversed the ruling of the trial court. On January 9, 2025, Defendants filed a Petition for Rehearing. Defendants' Petition for Rehearing was subsequently denied. On March 7, 2025, Defendants filed a Petition for Writ of Certiorari with this Court. While the Petition was initially granted, on December 17, 2025, this Court dismissed the Petition as improvidently granted and issued a remittitur. On December 18, 2025, this Court sent down the remittitur to the Circuit Court. On December 22, 2025, the Beaufort County Clerk of Court date-stamped the remittitur as received by the Circuit Court.

On December 30, 2025, Plaintiff filed a motion for costs, seeking attorney's fees and costs related to this appeal. This Court denied Plaintiff's motion. On January 20, 2026, Plaintiff filed the instant Motion for Recovery of Interest on Reversed Money Judgment seeking payment of interest on the judgment reversed by the Court of Appeals and remanded for retrial.

### **ARGUMENT/AUTHORITY**

#### **A. There is no legal basis to award Plaintiff interest.**

Plaintiff's Motion all but concedes that there is no authority to support its request for interest in these circumstances. Plaintiff cannot cite one South Carolina Appellate Court Rule that provides such authority. Instead, Plaintiff relies on other completely inapplicable statutes and rules. Plaintiff then suggests that "other avenues might also be available," but fails to identify what those avenues may be. This is not sufficient to support Plaintiff's Motion, and as a result, the Motion should be denied.

First, Plaintiff improperly relies on S.C. Code Ann. § 34-31-20(A), South Carolina's general interest statute. See EllisDon Constr., Inc. v. Clemson Univ., 391 S.C. 552, 555, 707 S.E.2d 399, 401 (2011) (referring to S.C. Code Ann. 34-31-20(A) as the "general interest statute"). This provision, however, does not create an independent entitlement to interest or authorize a court to

award interest in the first instance. Rather, it merely establishes the applicable rate of interest in cases where interest is otherwise permitted by law. See Butler Contracting, Inc. v. Court St., LLC, 369 S.C. 121, 134, 631 S.E.2d 252, 259 (2006) (awarding prejudgment interest “set by statute at an annual rate of 8¾ percent” pursuant to § 34-31-20(A)). In the absence of some separate legal basis for an award of interest, § 34-31-20(A) has no application here.

Moreover, even assuming *arguendo* that § 34-31-20(A) could authorize an award of interest, interest would not begin to accrue until a court orders reimbursement of the funds previously paid by Plaintiff. The statute provides that interest may accrue only once “the sum or sums of money shall be ascertained and, being due ...” S.C. Code Ann. 34-31-20(A). That condition has not been met. Although the trial court’s decision was reversed on appeal, no court has yet ordered Defendants to return the judgment to Plaintiff. This is a decision for the Circuit Court. It would be entirely reasonable and proper for the Circuit Court to wait for the case to be retried before addressing this issue as Defendants may be entitled to keep this award and receive additional fees and costs based on the outcome of the retrial. As discussed further in Section B below, these are now issues for the Circuit Court to address. Accordingly, there is no sum “presently due” and no basis for the accrual of interest.

Even if the Circuit Court ordered the return of the judgment prior to a retrial, it is clear that nothing in the general interest statute supports the imposition of interest dating back to Plaintiff’s initial payment – a time at which there were no funds “presently due” by Defendants to Plaintiff and years before the trial court’s decision was overturned on appeal. At most, the general interest statute could only apply to interest accruing after the Circuit Court orders the return of the judgment. Therefore, Plaintiff’s reliance on the general interest statute should be rejected.

Next, Plaintiff improperly relies on S.C. Code Ann. § 18-7-200, which only applies to appeals from the Magistrate Court to the Circuit Court. Plaintiff incorrectly asserts that this statute “by its literal terms, it would appear to apply to the case at bar.” This improperly asks this Court to evaluate the provision in isolation and wholly ignore the context, structure, and placement of this provision within the South Carolina Code of Laws. South Carolina courts do not construe statutes in isolation or by reference to selected phrases divorced from their statutory purpose and scheme. Instead, a statute must be read as a whole and in light of the chapter in which it appears. See State v. Brannon, 379 S.C. 487, 491, 666 S.E.2d 272, 274 (Ct. App. 2008)(“A court should not consider a particular clause in a statute as being construed in isolation, but should read it in conjunction with the purpose of the whole statute and the policy of the law.”).

Section 18-7-200 is located within the chapter governing “Appeals to Circuit and County Courts in Other Cases.” (emphasis added). As Plaintiff itself acknowledges, that chapter addresses restitution when a Magistrate Court’s judgment is reversed by the Circuit Court after being paid. It has no applicability and is not remotely persuasive authority to support the issue here where the Circuit Court’s judgment is reversed and remanded for retrial by the Court of Appeals and Supreme Court after the judgment has been paid. These situations are not remotely comparable. Magistrate Court cases involve judgments of \$7,500 or less, making any interest award minimal. Here, the Circuit Court’s judgment in favor of Defendants was \$484,312.10. Plaintiff is now seeking over \$160,000.00 in interest. In addition, an appeal from the Magistrate Court to the Circuit Court generally takes considerably less time than cases that are appealed to the Court of Appeals, then the Supreme Court, and fully briefed and argued in both courts. Here, the judgment against Plaintiff was rendered on February 1, 2022, and the remittitur was issued on December 17, 2025, three years and 10 months later. The circumstances of this case are not in any way similar to

appeals from Magistrate Court to Circuit Court. Accordingly, there is no reasonable basis to apply or rely upon S.C. Code Ann. § 18-7-200 to support Plaintiff's Motion.

Plaintiff next argues for the application of the Federal Rules of Appellate Procedure, which permit a federal appellate court to award interest on judgments reversed on appeal. That authority, however, arises from an express federal rule and has no application in South Carolina courts. The fact that the federal court system expressly adopted a rule authorizing interest on judgments reversed on appeal and South Carolina has not speak volumes as to the South Carolina Legislature's intent to not permit such awards.

Recognizing the lack of support for its Motion, Plaintiff suggests that this Court has authority to "remedy this problem," arguing that the absence of a rule entitling Plaintiff to interest reflects a "conspicuous hole" in South Carolina jurisprudence. But that alleged "gap" was intentional. Under the well-settled canon of statutory construction *expressio unius est exclusio alterius* – "to express or include one thing implies the exclusion of another" – the Legislature's decision to provide a remedy in one circumstance necessarily implies its exclusion in others. Berkeley Cty. Sch. Dist. v. S.C. Dep't of Revenue, 383 S.C. 334, 348, 679 S.E.2d 913, 920 (2009).

Here, the Legislature expressly authorized the recovery of interest when a Magistrate Court judgment is overturned on appeal to a Circuit Court. It decided not to provide a comparable remedy for Circuit Court judgments overturned on appeal to South Carolina's appellate courts. It decided not to adopt a rule similar to the federal court rules. That omission cannot be dismissed as an oversight or something to be judicially "remedied" by this Court. On the contrary, it reflects a deliberate legislative choice.

Finally, there is no "problem" or "gap" that needs to be remedied or addressed. This case has been remanded for a retrial. There will be a new judgment. Such judgment will permit the

prevailing party to seek an award of fees, costs, and interest from the Circuit Court. As discussed further below, these issues should be addressed by the Circuit Court after the retrial of this case.

**B. The issue of interest now rests with the Circuit Court and should be decided after a jury verdict is rendered.**

This Court should also deny Plaintiff's Motion because the Circuit Court now has the authority to consider the issue of interest after a jury verdict is rendered. See Muller v. Myrtle Beach Golf & Yacht Club, 313 S.C. 412, 416, 438 S.E.2d 248, 250 (1993) (ruling that the Circuit Court had jurisdiction after remittitur was sent down). Plaintiff's Motion was filed after this Court sent down the remittitur to the Circuit Court. The Circuit Court now has the authority and is in the best position to address this issue. The Circuit Court can properly decide to address this issue after the retrial of this case. Based on the jury verdict, Plaintiff's breach of contract claim permits the Circuit Court to award the prevailing party its full fees and costs. Similarly, Plaintiff's claim under the South Carolina Trade Secrets Act requires the Circuit Court to decide the issue of fees and costs. See S.C. Code Ann. § 39-8-80 ("If (1) a claim of misappropriation is made in bad faith, (2) a motion to terminate an injunction is made or resisted in bad faith, or (3) willful misappropriation exists, the court may award reasonable attorney's fees to the prevailing party.") There would clearly be no basis for awarding Plaintiff interest if Defendants are again awarded their fees and costs as the prevailing party. Any award of interest prior to the retrial of this case could result in inconsistent results. Either party will be able to seek its full fees and costs, and possibly interest, after the jury verdict. Therefore, Plaintiff's Motion should be denied.

**CONCLUSION**

Based on the facts, arguments, and authorities above, Respondent's Motion should be denied.

Respectfully Submitted,

s/Jeffrey A. Lehrer

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