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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
In the Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge

Case No. 2021-CP-23-00244

Appellate Case No. 2023-001053

Dealer Financial Holdings, LLC, Steve Lanzl, and Daniel B. Haight,

Appellants,

v.

Penland Automotive, LLC and Charles W. Penland, Jr.,

Respondents.

APPELLANTS' PETITION FOR REHEARING

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INTRODUCTION

Appellants Dealer Financial Holdings, LLC, Steve Lanzl, and Daniel B. Haight (“Appellants”) respectfully petition this Court for rehearing of its January 21, 2026 opinion affirming the denial of their motion to strike Respondents’ jury demand. The opinion rests on several misapprehensions of law and fact that warrant reconsideration under Rule 221(a), SCACR. First, the opinion overlooks a dispositive legal argument that Appellants plainly presented: the jury-trial waiver in the parties’ 2016 Financing Agreement (hereinafter the “Financing Agreement”) applies to all disputes arising from or relating to the parties’ financing relationship, regardless of whether other contractual provisions remained in effect. Because the panel resolved the appeal without analyzing this preserved and outcome-determinative point, the opinion rests on an incomplete legal framework. Next, the opinion proceeds on factual premises that conflict with the record and the circuit court’s ruling below. The opinion treats the Financing Agreement as terminated, even though the circuit court expressly found a genuine issue of material fact regarding the Agreement’s continued applicability to the parties’ renewed 2020 financing relationship. The record contains significant evidence supporting Appellants’ position on that issue, and the opinion’s contrary assumption materially shaped its analysis of the jury-trial waiver. Finally, the opinion narrows the nature of the dispute in a manner not supported by the pleadings or evidence. Both sides framed their claims as arising from the parties’ financing relationship, and the waiver expressly extends to disputes relating to extra-contractual facts “prior to, during, or subsequent to” the Agreement. By characterizing the claims as unrelated to that relationship, the panel disregards the scope of the waiver and the factual context presented in the record.

Each of these errors warrants rehearing. Absent rehearing, the opinion leaves unresolved important questions concerning the treatment of contractual jury-trial waivers and the procedural handling of disputes involving unresolved factual issues. Appellants respectfully request that the

Court grant rehearing so that the Court may address these issues and reconsider its analysis on an accurate understanding of the arguments presented and the record.

LEGAL STANDARD

A petition for rehearing is warranted when the Court has “overlooked or misapprehended” a point of law or fact material to the decision. Rule 221(a), SCACR. Rehearing allows the Court to correct substantive errors that affect the outcome, ensure consistency with controlling precedent, and prevent inadvertent expansion or distortion of established legal principles. *See, e.g., S.C. Coastal Conservation League v. Dominion Energy S.C., Inc.*, 432 S.C. 217, 219, 851 S.E.2d 699, 700 (2020) (granting petition for rehearing where the Court recognized it had misapprehended the applicable standard). A petitioner need not show extraordinary circumstances—only that the opinion rests on a misunderstanding or omission of law or fact that is material to the judgment.

ARGUMENTS

I. The opinion overlooks Appellants’ dispositive argument that the jury-trial waiver applies regardless of whether the Financing Agreement was terminated.

A. The opinion resolved the applicability of the jury-trial waiver without addressing Appellants’ survival argument.

In the opinion, the panel concluded that the jury-trial waiver provision within the Financing Agreement did not apply to the claims at issue. (Op. at 5.). In reaching that conclusion, the panel reasoned that the parties had effectively terminated the Financing Agreement in 2019, and that nothing in the record showed the parties intended to carry any terms of that Agreement, including the jury-trial waiver, into their later 2020 financing arrangement. (Op. at 6).

The opinion, however, does not address whether the jury-trial waiver provision could continue to apply regardless of whether other contractual obligations under the Financing Agreement no longer governed the dealings between the parties in 2020. The opinion likewise does not analyze whether the waiver provision was intended to survive termination or apply to disputes arising out of the parties’ financing relationship after termination of the agreement as a

whole. As a result, the opinion resolves the appeal without engaging with a legal argument that Appellants squarely presented and that was necessary to the panel’s analysis.

B. Appellants squarely raised the jury-trial survival argument in their briefing.

Appellants raised the overlooked argument plainly and repeatedly in their briefing. Appellants expressly argued that the jury-trial waiver was drafted broadly enough to apply to disputes arising from or relating to the parties’ relationship regardless of whether the Financing Agreement remained in effect. (See, e.g., Appellants’ Initial Brief at 2.). That legal point was central to the question on appeal and necessary to the panel’s resolution of the jury-demand issue.

Appellants made the argument explicitly:

Respondents have argued the Financing Agreement between the parties was terminated, therefore the jury trial waiver provision was also terminated. Appellants dispute the termination, and this is an issue that remains for trial. However, **regardless of whether the Financing Agreement executed in 2016 was terminated, the narrow issue is whether the jury trial waiver remains effective.** Because the specific language of the jury trial waiver is broader than just the specific contract in which it is included, it governs any relationship or any business between DFH and Penland.

(Appellants’ Final Brief at 4–5) (emphasis added).

The question is whether the jury trial waiver as written survives termination, if in fact, any alleged termination occurred. The narrow, discrete issue brought by DFH as well as before the Court is whether the specific language of the jury trial waiver applies to the lawsuit, regardless of whether any other provisions of the Financing Agreement are enforceable. The only question is whether the clear, unambiguous, and broad language of the jury trial waiver applies to the causes of action among the party - as it plainly does. The express language of the clause states that anything related to the business dealings among the parties, including arrangements subsequent to the specific Financing Agreement, all fall under the purview of the jury trial waiver language.

(Appellants’ Final Brief at 6).

The plain language is broader than just this Financing Agreement itself, and it is not unclear. By its plain and unambiguous language, the jury trial waiver clearly applies not only to all disputes arising under the Financing Agreement, it also apply to: (1) all disputes related to the Financing Agreement, (2) any and all causes of action “in any way relating to any matter” involving the parties, and (3) all causes of action arising from or related to “extra-contractual facts... subsequent to” the Financing Agreement. Essentially, the unambiguous language states that if these parties are going to engage in business with one another, whether under the specific Financing Agreement originally executed in 2016 or through some future arrangement, DFH and Penland agree to a jury trial waiver.

(Appellants' Final Brief at 4).

As their briefing demonstrates, Appellants consistently argued that the waiver's scope extended beyond the life of the contract and continued to govern the dispute regardless of any unresolved factual issues concerning termination. The legal question presented was whether the waiver, by its terms, applied to the claims at issue. The argument was thus preserved, fully developed, and presented as a central basis for enforcing the jury-trial waiver.

C. Rehearing is warranted under Rule 221 because the panel did not address a dispositive legal argument.

Rehearing is warranted because the opinion does not address a legal argument that was necessary to the Court's resolution of the jury-demand issue on appeal. Rule 221 permits rehearing where the Court has overlooked a point of law bearing directly on its decision. As discussed above, Appellants squarely presented the argument that the jury-trial waiver could apply regardless of whether other provisions of the Financing Agreement had been terminated. That argument went to the heart of whether the jury-trial waiver was enforceable and was central to the issue the panel resolved on appeal. The opinion, however, resolves the appeal without addressing that argument. It does not analyze whether the jury-trial waiver could apply independently of the continued force of the Financing Agreement, nor does it consider the scope of the waiver in relation to the claims asserted. By omitting analysis of the argument Appellants presented, the opinion reaches its conclusion without addressing a dispositive legal point. Because the Court did not address an argument necessary to its resolution of the jury-trial waiver issue, rehearing is warranted so that the Court may consider that question in the first instance.

II. The opinion misapprehends material facts in the record concerning the applicability of the jury-trial waiver.

A. The opinion misapprehends the record concerning whether the Financing Agreement was terminated.

In concluding that the jury-trial waiver did not apply, the opinion proceeds on the premise that the Financing Agreement had been terminated or otherwise did not govern the parties' later dealings and treats that premise as dispositive of the waiver's applicability. Specifically, the opinion states that "by closing Penland Automotive's floor-plan account associated with the 2016 Agreement upon Penland Automotive's request in 2019, the parties effectively ended their financing arrangement and terminated the 2016 Agreement." (Op. at 6–7). Based on that premise, the opinion further reasoned that "nothing in the record indicates that all parties intended to carry all the terms of the 2016 Agreement, including the jury-trial waiver provision, over to the 2020 financing arrangement between the parties." (Op. at 8). The opinion's analysis thus assumes that termination or non-applicability of the Financing Agreement was established in the record.

The record, however, reflects that this issue remains disputed and unresolved. In 2021, the circuit court denied Respondents' motion for partial summary judgment on the question whether the Financing Agreement continued to govern the parties' later dealings, expressly finding that "a genuine issue of material fact exists relating to the continued applicability of the 2016 Loan Documents to the reopened floorplan financing relationship in 2020." (R. at 4). That ruling was entered without prejudice, with the trial court recognizing that further discovery could resolve the disputed issue at a later time. (*Id.*).¹

¹ When Appellants later renewed their motion to strike the jury demand in 2023, the trial court did not resolve that factual dispute. Instead, the court applied general principles governing contractual jury-trial waivers and concluded that the plaintiff had not waived its right to a jury trial. (R. at 7.) The Form 4 order does not make findings regarding termination of the Financing Agreement, does not determine whether the agreement continued to apply to the parties' later dealings, and does not address the prior ruling identifying a genuine issue of material fact on that issue. (*Id.*)

That factual dispute has not been resolved. The record on appeal includes testimony from individuals on both sides of the relationship reflecting disagreement as to whether the Financing Agreement continued to govern the parties' later dealings. For example, Tim Yarger, the General Manager of Penland Automotive in 2020, testified that Dealer Financial Holdings and Penland Automotive agreed to reopen the credit line "on the same terms as before," that "the original Credit Agreement would continue to govern," and that no new contracts were executed. (R. at 848–52). The disputed nature of this issue was also reflected in the parties' briefing. Appellants consistently maintained that whether the Financing Agreement had been terminated—or continued to apply to the parties' later dealings—remained unresolved. (Appellants' Final Brief at 5; Appellants' Final Reply Brief at 1–2). Further, by stating that nothing in the record indicates that "all parties" intended the 2016 terms to carry forward, the opinion implicitly acknowledges that some record evidence suggests continuity of terms. (Op. at 6). Resolving whether "all parties" or only some intended to carry forward the Agreement is precisely the type of factual determination the circuit court determined was disputed. (R. at 4). Accordingly, as of the order on appeal, the record reflects an unresolved factual dispute concerning whether the Financing Agreement applied to the parties' later dealings. By proceeding as though termination or non-applicability of the Financing Agreement has been established, the opinion rests on a factual premise inconsistent with the procedural posture reflected in the record.

B. The opinion misapprehends material facts by characterizing the claims as unrelated to the parties' financing relationship from which the jury-trial waiver arose.

The opinion also reflects a misapprehension of the relationship between the claims and the parties' financing dealings. Earlier in the opinion, the panel reproduced the full text of the jury-trial waiver, including language extending the waiver to "any and all causes of action in any way relating to any matter between them ... arising from alleged extra-contractual facts prior to, during,

or subsequent to this Agreement.” (Op. at 2–3). In its concluding analysis, however, the opinion characterizes the dispute more narrowly, describing it as involving “disagreements regarding the 2020 arrangement” and “conduct following those disagreements,” and recasts the waiver as applying only to “extra-contractual facts surrounding the 2016 Agreement.” (Op. at 7). That narrowed characterization informs the panel’s conclusion that the claims are unrelated to the parties’ financing relationship and therefore fall outside the waiver’s scope.

The record reflects otherwise. The circuit court framed the lawsuit as one arising out of the lending relationship and specifically identified the dispute as involving the applicability of the 2016 documents. (R. at 2–3). The pleadings on both sides frame the dispute as arising from and relating to the parties’ financing relationship. The complaint alleges claims “arising out of or related to the lending relationship” and centers on events surrounding the October 2020 repossessions and dispositions. (R. at 3, 16–17). Appellants’ counterclaims likewise proceed from the same financing relationship, alleging defaults “under the Financing Agreement,” asserting an “event of default,” and describing default notices and repossession of financed collateral. (R. at 22, 25–26, 41–42). These pleadings reflect that the dispute is rooted in the parties’ financing dealings and the continuing disagreement over the role of the Financing Agreement in the parties’ ongoing dealings in 2020.

The opinion also notes an allegation that Appellants promised that written documents for a 2020 arrangement would contain the same terms offered by a nonparty financier and observes that “nothing in the record shows that Upstate Auto’s terms included a jury-trial waiver.” (Op. at 8.) The record, however, does not contain Upstate Auto’s contract or a complete set of its contractual terms. The absence of record evidence regarding a jury-trial waiver in those terms therefore does not establish that no such waiver existed, nor does it resolve the broader factual question concerning the applicability of the Financing Agreement to the parties’ reopened

financing relationship. More importantly, the presence or absence of a jury-trial waiver in a third-party financier's terms does not negate the record evidence and pleadings reflecting that this dispute arises from the parties' financing relationship and the ongoing disagreement concerning whether the Financing Agreement continued to govern that relationship. By characterizing the claims as unrelated to the parties' financing relationship and narrowing the waiver's reach in a manner aligned with that characterization, the opinion proceeds on factual premises that do not reflect the way the dispute is framed in the pleadings and supported in the record.

C. Rehearing is warranted under Rule 221 because these misapprehensions were central to the panel's analysis of the jury-trial waiver.

Rehearing is warranted because the opinion's analysis rests on factual premises the record does not support. The panel's conclusions, that the 2016 Agreement was effectively terminated, that "nothing in the record indicates that all parties intended to carry all the terms of the 2016 Agreement ... over to the 2020 financing arrangement," and that Penland's claims "do not concern extra-contractual facts surrounding the 2016 Agreement" (Op. at 6–8), depended on its view of the underlying facts. That view misapprehended both the trial court's ruling and the evidence within the record on appeal. Because the panel's ultimate holding depended on these misapprehended factual premises, and because Rule 221 authorizes rehearing when material facts have been overlooked or misapprehended, rehearing is warranted so that the jury-trial waiver issue may be considered on an accurate understanding of the record.

CONCLUSION

For the reasons set forth above, the Court should grant rehearing under Rule 221(a), SCACR. The opinion overlooks a dispositive legal argument concerning the scope and survival of the jury-trial waiver, rests on factual premises that conflict with the record and the circuit court's rulings, and characterizes the dispute in a manner inconsistent with the parties' pleadings and the waiver language quoted in the opinion. Rehearing is warranted so that the Court may reconsider

its analysis on an accurate understanding of the arguments presented and the record. Appellants respectfully request that the Court grant rehearing and reconsider the jury-trial waiver issue in light of the overlooked argument and misapprehended facts. In the alternative, Appellants request such further relief as the Court deems appropriate, including remand for proper consideration of the jury-trial waiver under an accurate understanding of the record and the governing legal framework.

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v.

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PROOF OF SERVICE

The undersigned hereby certifies that on February 4, 2026, s/he has caused to be served a copy of the foregoing Appellants' Petition for Rehearing on all parties of record via email and by placing the same in the United States Mail, postage prepaid, addressed as follows:

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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: ***Penland Automotive, LLC and Charles W. Penland, Jr. v. Dealer Financial Holdings, LLC, Steve Lanzl, and Daniel B. Haight***
Appellate Case Number 2023-001053

Dear Ms. Kitchings,

Enclosed for filing please find Appellants Dealer Financial Holdings, LLC; Steve Lanzl; and Daniel B. Haight's Petition for Rehearing and Proof of Service in the above-referenced matter.

Additionally, Check No. 526616 in the amount of \$50.00 which covers our filing fee, is being hand-delivered to your office.

By copy of this correspondence, we are serving all counsel of record with a copy of the Petition for Rehearing. Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Emily L. Bridges

EIB
Enclosures

cc: Jason M. Imhoff (jason@imhoff-law.com); (rachel@imhoff-law.com) (Email & U.S. Mail)