

RECEIVED

Feb 06 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY COURT OF COMMON PLEAS
Bentley D. Price, Circuit Court Judge

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

Forum Benefits, LLC,

Respondent,

v.

Brian Bannon and Assured Partners, NL,

Petitioners.

**RESPONDENT'S REPLY REGARDING
MOTION FOR RECOVERY OF INTEREST ON REVERSED MONEY JUDGMENT**

Respondent has moved the Court for an Order providing for the recovery by Respondent of interest from Petitioners on the funds provisionally paid by Respondent to Petitioners as ordered by the now-reversed trial court.

Petitioners' opposition to that motion warrants reply, on three bases.

1. The Supreme Court's Inherent Authority

At its core, Respondent's motion rests on the unfairness and inequity of Petitioners having had use of nearly half a million dollars of Respondent's money for nearly four years while a clearly erroneous Circuit Court judgment was on appeal. The Circuit Court's decision was so flawed that it was reversed *per curiam* by the Court of Appeals, and Petitioner's efforts to resuscitate the

Circuit Court's injustice were so meritless that this Court's writ of *certiorari* was dismissed as improvidently granted.

The Supreme Court holds broad inherent authority over the administration, functioning, and procedures of the state courts, even in the absence of explicit statutory authorization. This inherent judicial power is rooted both in the Constitution of South Carolina and in longstanding case law recognizing the judiciary's exclusive prerogative to regulate its own processes.

Article V, Section 4 of the South Carolina Constitution expressly vests the Supreme Court with authority to "make rules governing the administration of all the courts of the State" and to prescribe the "practice and procedure in all such courts," reflecting the constitutional recognition that regulating the courts is a judicial function. This structural allocation of authority flows from the separation of powers and ensures that the courts maintain the ability to administer justice independently and effectively.

The Court has consistently affirmed that this constitutional grant includes not only express rulemaking provisions but also the inherent power necessary to fulfill its judicial responsibilities. *See, e.g., South Carolina v. Langford*, 400 S.C. 421, 735 S.E.2d 471 (2012); *Spartanburg County Department of Social Services v. Padgett*, 296 S.C. 79, 370 S.E.2d 872 (1988).

Hopefully even Petitioners, who continue to scorch the earth at every step of this litigation, would not dispute this Court's inherent authority over court administration and procedure. It follows that this Court maintains inherent power to ensure that appellate remedies fully and fairly compensate parties. When the Court reverses a monetary judgment, it has the authority to order interest necessary to place the prevailing party in the position he or she would have occupied absent the erroneous judgment below. Failing to do so would:

- a. undermine the effectiveness of appellate review,

- b. create an unjust enrichment and an inequitable windfall to the party who benefitted from the erroneous Circuit Court order, and
- c. frustrate this Court's constitutional mandate to administer justice fairly and uniformly.

Just as the Court's inherent power allows it to maintain control over judicial procedure and docket management, so too does it allow the Court to employ remedies, like awarding interest, that ensure justice is not merely theoretical but fully realized in practice. Ordering interest on a reversed judgment is a remedial act necessary to ensure that prevailing parties are made whole, prevent unjust enrichment, and preserve the integrity of appellate review.

This remedial use of inherent authority aligns with the structural principles of Article V, Section 4 of the South Carolina Constitution and with the judiciary's long-standing prerogative to manage its own affairs (as recognized consistently in South Carolina cases concerning procedural uniformity and judicial control). The power to award post reversal interest falls squarely within the scope of the Court's inherent authority to provide meaningful and equitable relief.

2. Supreme Court or Circuit Court?

Petitioners argue that the issue is not for this Court but instead is for the Circuit Court. Petitioners' Return, p. 7.

Respondent has readily acknowledged that it has located no South Carolina case authority on point. Motion, p. 3. Petitioners' argument that only the Circuit Court can address this situation is similarly hand-crafted.

But at base the parties need this Court's Order addressing who should decide the question. Respondent believes this Court should provide the remedy.

3. Hostage Taking

Petitioners' brief suggests they intend to keep Respondent's money until after retrial of this case on remand:

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.

Petitioners' Return, p. 4.

The Circuit Court can properly decide to address this issue after the retrial of this case.

Petitioners' Return, p. 7.

This is the sort of "going nuclear" behavior by Petitioners that Respondent has had to deal with for the entirety of this dispute. It has no basis in the law, but Petitioners are evidently going to require a court order before they do what a reasonable litigant on it own initiative already would have done.

South Carolina follows the well-established principle that reversal of a judgment on appeal vacates the judgment and leaves the case as if no judgment had been rendered. The South Carolina Court of Appeals articulated this fundamental rule in *Brown v. Brown*, 286 S.C. 56, 331 S.E.2d 793 (1985), holding that "reversal of a judgment on appeal has the effect of vacating the judgment and leaving the case standing as if no such judgment had been rendered. Consequently, a party who receives payment under a judgment subsequently reversed must restore whatever advantage he obtained thereby to his adversary." 331 S.E.2d at 793-794 (interior citation omitted).

This principle was reinforced by this Court in *Moore v. North American Van Lines*, 319 S.C. 446, 462 S.E.2d 275 (1995), which established that "when the award of the Commission was

reversed by the circuit court, it became of no effect and was no longer in existence.” 462 S.E.2d at 276. The Court explained that when a benefit award is reversed because the original tribunal lacked jurisdiction, the reversal has the effect of vacating the judgment completely, creating an immediate obligation for restitution.

The legal basis for this restitution requirement rests on unjust enrichment theory. In *Moore*, the Court affirmed the circuit court’s award of judgment to respondents favor based on unjust enrichment after benefits had been paid pursuant to a subsequently reversed award. South Carolina courts recognize that to recover restitution in the context of unjust enrichment, the plaintiff must show: “(1) he conferred a non-gratuitous benefit on the defendant; (2) the defendant realized some value from the benefit; and (3) it would be inequitable for the defendant to retain the benefit without paying the plaintiff for its value.” *Inglese v. Beal*, 403 S.C. 290,297, 742 S.E.2d 687, 691 (2013). That legal basis is undisputed in the case at bar – every element of the *Inglese* test has been met and has been admitted in Petitioners’ briefing.

Petitioners should return the money now. They lost at the Court of Appeals and they lost at the Supreme Court. Release the hostage.

----- * -----

As is clear from the briefing on this issue, Respondent needs some help. Petitioners elect to take a hard line on every issue. Every issue. They should be ordered to return Respondent’s money now. And they should have to pay interest on that money for the nearly four years they used it. They appear to require an order to act, and an order they should get.

/

/

/

Respectfully submitted,

s/Timothy D. St. Clair

Timothy D. St.Clair (SC Bar # 5297)
PARKER POE ADAMS & BERNSTEIN LLP
110 East Court Street, Suite 200
Greenville, SC 29601
(864) 577-6371
timstclair@parkerpoe.com

Katon E. Dawson, Jr. (SC Bar # 101167)
PARKER POE ADAMS & BERNSTEIN LLP
1221 Main Street, Suite 1100
Columbia, SC 29201
(803) 255-8000
katondawson@parkerpoe.com

Tasneem A. Dharamsi (SC Bar # 104868)
PARKER POE ADAMS & BERNSTEIN LLP
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601
(919) 835-4570
tasneemdharamsi@parkerpoe.com

Attorneys for Appellant Forum Benefits, LLC

February 6, 2026