

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

South Carolina Automobile and Truck Dealers Association,

Civil Action No: 2022-CP-40-05552

Plaintiff,

v.

South Carolina Department of Consumer Affairs,

Defendant.

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SC Court of Appeals

ORDER REGARDING POST TRIAL MOTIONS

This matter came before the Court for a non-jury trial from October 8 – October 10, 2025. Plaintiff South Carolina Automobile and Truck Dealers Association (“SCADA”) sought declaratory relief against Defendant South Carolina Department of Consumer Affairs (the “Department”). On November 6, 2025, the Court entered an Order granting SCADA’s request for declaratory relief and made the following conclusions of law:

The Department exceeded or misused its statutory authority and otherwise acted arbitrarily, capriciously, or improperly in the following particulars:

(1) conducting “compliance review” investigations of 20 SCADA member dealerships for compliance with the Closing Fee Statute;

(2) issuing the February 18, 2022, memorandum to South Carolina motor vehicle dealers entitled “Misleading and Deceptive Motor Vehicle Dealer Practices;” and

(3) publishing the social media posts directed at the automobile dealer industry from February 24 through December 12, 2022.

(Order, p. 36).

SCADA and the Department then filed numerous post-trial motions, including:

1. The Department's motion pursuant to Rules 52(b) and 59(e) SCRCP to alter or amend the Court's Order Granting Plaintiff's Request for Declaratory Relief filed November 6, 2025, or in the alternative, for a new trial absolute pursuant to Rule 59(a) SCRCP;
2. SCADA's Motion for Attorney's Fees accompanied by affidavits of James Y. Becker and Vincent A. Sheheen;
3. SCADA's Motion to Amend its Complaint.
4. The Department's Motion to Strike.

After considering the Parties written briefs and affidavits, and as explained below, this Court **DENIES** the Department's Motion to Alter or Amend, or in the alternative, for a New Trial Absolute; **GRANTS** SCADA's Motion to Amend its Complaint; **DENIES** the Department's Motion to Strike; and **GRANTS** SCADA's Motion for Attorney's Fees.

I. Defendant's Motion to Alter or Amend Order Granting Plaintiff's Request for Declaratory Relief or, in the alternative, for a new trial.

The Department moved to reconsider the Court's Order pursuant to Rules 52(b) and 59(e), or in the alternative, for a new trial absolute, and, in the alternative, 59(a) SCRCP. The Department's Motion for Reconsideration was based on 13 grounds and its Motion, in the alternative, for a New Trial Absolute was based on 3 grounds.

A. The court is not persuaded that any matter raised by the Department warrants relief pursuant to Rule 59(e), SCRCP.

As an initial matter, the Court concludes that a hearing is not necessary to rule on Defendant's Motion for Reconsideration. *See* Rule 59(f), SCRCP (stating a Rule 59(e) motion "may in the discretion of the court be determined on briefs filed by the parties without oral argument."); *see also Pollard v. Cnty. of Florence*, 314 S.C. 397, 401, 444 S.E.2d 534, 536 (Ct. App. 1994) (holding there was "no merit in Pollard's assertion that the circuit court committed

reversible error in denying her motion to alter or amend the judgment under Rule 59(e), without first conducting a hearing or allowing [the parties] ‘to fully brief’ the issues raised in [the] motion”). After reviewing the applicable law, the parties’ filings, and the briefing submitted, the Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded, and the Court further finds no error of law or fact not appropriately considered. Therefore, the motion is denied.

B. A new trial is not warranted. The Court fully and fairly considered the evidence before it.

Upon motion of a party, or on the court’s own initiative, the trial judge may grant a new trial “for any of the reasons for which rehearings have heretofore been granted in the courts of [South Carolina]” in nonjury cases. Rule 59(a)(2), SCRCF. The judge may open the judgment, take additional testimony, amend or make new findings of fact and conclusions of law, and direct entry of a new judgment. Rule 59(a)(2), SCRCF.

The Department seeks a new trial based on an alleged admission of improper evidence, namely, evidence regarding consumer complaints and whether the Department had consumer complaints against certain dealers and evidence regarding the Department’s attempted service of a subpoena on SCADA.

The Department has made no showing of prejudice. As the Court of Appeals has explained, “all evidence is meant to be prejudicial; it is only unfair prejudice which must be scrutinized under Rule 403.” *State v. Dennis*, 402 S.C. 627, 636, 742 S.E.2d 21, 26 (Ct. App. 2013). Evidence is not unfairly prejudicial merely because it is damaging. *Id.* (holding that “damage to a defendant’s case that results from the legitimate probative force of the evidence” does not result in unfair prejudice). Instead, the party asserting the claim must show that the evidence’s “probative value is *substantially outweighed* by the danger of unfair prejudice,” meaning “an undue tendency to

suggest decision on an improper basis.” *State v. Heath*, 433 S.C. 506, 860 S.E.2d 673 (Ct. App. 2021). For purposes of determining whether the probative value of evidence is outweighed by danger of unfair prejudice, “unfair prejudice” is a tendency of evidence to suggest decision based *on something other than legitimate probative force of evidence*. *State v. Phillips*, 430 S.C. 319, 844 S.E.2d 651 (2020). An improper basis to exclude evidence based on unfair prejudice would be if a decision would be made on an emotional basis rather than the legitimate probative force of the evidence. *State v. Williams*, 430 S.C. 136, 844 S.E.2d 57 (2020).

The Department argues that the complaint data was irrelevant and prejudicial because SCADA “could have made its case without the complaint data.” Whether or not SCADA could have made its case without presenting the complaint data is not the benchmark for relevance or prejudice. Rather, as the Order explains, the complaint data was probative of the Department’s reason for suddenly initiating the closing fee investigations, after conducting much less intrusive closing fee inspections for the previous 6 years as corroborated by the Department’s witnesses. In fact, the Hall letter states “the *purpose* of this letter is to *address the misinformation provided to the legislature regarding the Department’s actions*.” The Department made the complaint data, and specifically the suggestion that there had been a meaningful rise in consumer complaints regarding motor vehicle dealer sales and advertising practices, central and relevant to this case by presenting it to the legislature *as the rationale* for the compliance reviews. Therefore, the probative value is not *substantially outweighed* by the danger of unfair prejudice.

The Court also did not err in allowing evidence regarding the Department’s service of a subpoena upon SCADA. The evidence regarding the information sought through the subpoena, and the circumstances surrounding its service, is probative of the Department’s open hostility towards SCADA and its member dealers. The Department is right – the evidence is prejudicial,

but not unfairly so. Therefore, the Court's Order fully and fairly considered the evidence before it, and there is no basis for a new trial.

II. Plaintiff's Motion to Amend Complaint

SCADA's November 14, 2025, Motion to Amend its September 22, 2022, Complaint, pursuant to Rule 15 SCRCP is to clarify and confirm that SCADA seeks an award of attorney's fees, costs, and sanctions pursuant to the specific statutes and court rules identified in its motion for attorney's fees. The Motion is GRANTED.

A. Standard of Review

In *Pool v. Pool*, 329 S.C. 324, 328, 494 S.E.2d 820, 822 (1998), the South Carolina Supreme Court explained that the central inquiry when considering a motion to amend is whether the amendment will prejudice the opposing party. See *Soil & Material Eng'rs, Inc. v. Folly Assocs.*, 293 S.C. 498, 501, 361 S.E.2d 779, 781 (Ct. App. 1987) ("Simply because an amendment to conform to proof was made late in the trial affords no basis for holding that the amendment comes too late. Rather, as the rule makes clear, the question is one of prejudice to the opposing party."). See also *Foggie v. CSX Transp., Inc.*, 313 S.C. 98, 431 S.E.2d 587 (1993) ("It is well established that a motion to amend is addressed to the sound discretion of the trial judge, and that the party opposing the motion has the burden of establishing prejudice"); *Ball v. Canadian Am. Express Co.*, 314 S.C. 272, 275, 442 S.E.2d 620, 622 (Ct. App. 1994) ("Motions to amend pleadings to conform to proof may be made upon motion of any party at any time, even after judgment, and are within the sound discretion of the trial judge. Ordinarily, amendments to conform to proof should be liberally allowed.").

In affirming the trial court's decision to allow an amendment seeking attorney's fees, the *Pool* court further stated:

[Defendant] has not shown any prejudice resulting from the judge’s allowing the evidence or amendment. See *Ball*, 314 S.C. at 275, 442 S.E.2d at 622 (“Prejudice occurs when the amendment states a new claim or defense which would require the opposing party to introduce additional or different evidence to prevail in the amended action”). See also 6A Charles A. Wright et al., *Federal Practice & Procedure* § 1495 (2d ed. 1990) (“To justify the exclusion of the evidence, the rule contemplates that the objecting party must be put to some serious disadvantage”). The prejudice Rule 15 envisions is a lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it. *Folly Assocs.*, 293 S.C. at 501, 361 S.E.2d at 781 (“In considering potential prejudice to the opposing party, the court should consider whether the opposing party has had the opportunity to prepare for the issue now being raised formally.”).

Id. at 328–29, 494 S.E.2d at 822–23.

B. Analysis

SCADA seeks to amend the final paragraph of its Complaint, or prayer for relief, as follows

(additional language underlined):

WHEREFORE, Plaintiff prays that the Court find in its favor and render judgment declaring and ordering as requested above, for the award of SCADA’s attorney’s fees and costs pursuant to S.C. Code § 15-53-100, or any other applicable statute or rule providing for an award of attorney’s fees, costs, or sanctions, and for such other and further relief as the Court may deem just and proper.

The Department had adequate notice of SCADA’s intent to seek attorney’s fees and had a full opportunity to respond. SCADA’s Complaint requested an “award of SCADA’s costs pursuant to S.C. Code § 15-53-100, and for such other and further relief as the Court may deem just and proper.” Section 15-53-100 of the Declaratory Judgments Act provides that “[i]n any proceeding under this chapter the court may make such award of costs as may seem equitable and just.” S.C. Code § 15-53-100. In *Lollis v. Dutton*, the Court of Appeals identified section 15-53-100 as one of three potential grounds for attorney’s fees and costs requiring analysis on remand, alongside the Frivolous Civil Proceedings Sanctions Act and Rule 37(c). *Lollis v. Dutton*, 421 S.C. 467, 807 S.E.2d 723 (Ct. App. 2017); see also *Hegler v. Gulf Ins. Co.*, 270 S.C. 548, 549,

243 S.E.2d 443, 444 (1978) (allowing recovery of attorney’s fees for the defense of a declaratory judgment action brought by an insurer to avoid coverage).

In addition, the South Carolina “State Action Statute,” S.C. Code Ann. § 15-77-300(A), under which SCADA has also moved for attorney’s fees, provides that a party “contesting state action” who is “the prevailing party” may recover reasonable attorney’s fees, to be taxed as court *costs*, in the court’s discretion. S.C. Code Ann. § 15-77-300(A).

The Department also had notice of SCADA’s intent to seek attorney’s fees through SCADA’s memorandum in support of its April 12, 2023 motion to dismiss the Department’s civil conspiracy counterclaim, in which SCADA specifically requested dismissal of the counterclaim and “award [of] attorney’s fees and costs expended by SCADA in defending against” it.

Finally, SCADA filed its post-trial motion for an award of attorney’s fees and sanctions on November 14, 2025. The Department opposed the motion by filing a memorandum in opposition and requesting a hearing. The Court also permitted the Department to file additional briefing in opposition to the motion for attorney’s fees on December 2, 2025. Under these circumstances, the Department cannot demonstrate a “serious disadvantage” or “lack of opportunity to refute” the motion. *Pool*, 329 S.C. at 328–29, 494 S.E.2d at 822–23; see also *Hardaway Concrete Co. v. Hall Contracting Corp.*, 374 S.C. 216, 227–28, 647 S.E.2d 488, 494 (Ct. App. 2007) (affirming order allowing amendment to seek attorney’s fees where the opposing party had notice, argued the issue, and presented relevant authority). As such, the Court grants the motion to amend.

III. Defendant’s Motion to Strike

The Court’s Order granting declaratory relief in favor of SCADA was filed on November 6, 2025, and SCADA, as the prevailing party, timely filed its motion for attorney’s fees on November 14, 2025, with a supporting affidavit of SCADA’s counsel, James Y. Becker. The motion listed each of the legal grounds upon which SCADA sought an award of attorney’s fees or

sanctions in this matter, and the Court's 37-page Order granting SCADA's request for declaratory relief provides all background necessary to understand the facts which support the motion for fees and sanctions, particularly the Court's Introduction and specific findings regarding the Defendant's conduct of "compliance reviews" of 20 of SCADA's member dealers. (Order, p. 4-5, 25.) SCADA's motion also stated it would be further supported by "an affidavit of Vincent A. Sheheen, and a supporting memorandum of law to be filed prior to a hearing on this motion, or as otherwise directed by the court." (Motion, p. 3). Later that same day, the Court, by email, directed the Department to reply to the motion within 15 days. SCADA filed the Affidavit of Vincent A. Sheheen on November 26, 2025. The Department filed a 15-page memorandum and supporting affidavit in opposition to the attorney's fee motion on December 1, 2025, at approximately 2:00 p.m., and later the same day, at approximately 4:49 p.m., SCADA filed a memorandum of law in support of its motion for attorney's fees. SCADA's memorandum only elaborated on the grounds for relief set forth in the motion and recounted details from the procedural history of this case that are well-known to the Department and could reasonably have been expected based on the content of the attorney's fee motion.

In its opposition to the motion, the Department "object[ed] to the Court's consideration of the" Sheheen affidavit because it was "filed 20 days after the Court's order of judgment," and claiming, without citation to any authority, "[t]here is no provision in the rules allowing a party to submit additional facts after the running of the 10-day post-trial motions deadline." (Motion, p. 6). The next day, on December 2, 2025, the Department filed a motion to strike the SCADA's memorandum in support of its motion for attorney's fees and the Sheheen affidavit, claiming the materials were untimely and SCADA "should have had one shot at filing a properly supported motion for attorney's fees." (Motion, p. 3.)

SCADA filed a reply memorandum in support of its attorney's fee motion on December 8, 2025. The same day, the Department's counsel requested a status conference regarding the pending post-trial motions and any further briefing of the pending motions. At a status conference on December 15, 2025, the Court granted the Department's request to file additional memoranda as follows: Department's Reply to its Post-Trial Motions, Department's Supplemental Response in Opposition to SCADA's Motion for Attorney's Fees, and Department's Response in Opposition to SCADA's Motion to Amend Complaint. The Court further ordered that SCADA must seek leave of the Court to further respond to the Department's additional memoranda. The Department filed its additional memoranda on December 30, 2025, and the SCADA informed the Court on December 31, 2025, that it would not request leave of court to further respond.

After careful consideration of the above matters, the Court finds the SCADA's motion for attorney's fees was timely filed within 10 days of entry of the final order and judgment. The supporting affidavit of James Y. Becker was filed contemporaneously with the motion, and it specifically reserved the right to submit the Sheheen affidavit and a memorandum in support of the motion prior to any hearing. There is no requirement in the South Carolina Rules of Civil Procedure or in state court practice that a memorandum of law in support of the motion be filed simultaneously with the motion. Rule 7(b)(1), SCRCF requires only that a motion "shall be made in writing [and] shall state with particularity the grounds therefor." SCADA's attorney's fee motion met this requirement.

The Court has broad discretion to allow the submission of additional briefing and affidavits by parties seeking attorney's fees in post-trial motions timely filed within 10 days after entry of judgment. This discretion is grounded in Rule 6(d), SCRCF, which permits courts to allow additional affidavits at some other time than that prescribed in the rule. *See Glassmeyer v. City of*

Columbia, 414 S.C. 213, 218, 777 S.E.2d 835, 838 (Ct. App. 2015) (affirming fee award and holding the record open for prevailing party to submit an affidavit for attorney’s fees). Furthermore, the Court granted the Department’s request for additional time to submit further briefing and other material both in support of its own motion and in opposition to the SCADA’s post-trial motions and affidavits, which the Department did. The Department thus had ample time and opportunity to respond to all of SCADA’s post-trial submissions and any unfair surprise was abated. In this way, the Department had the “last word” on all post-trial motions before the Court and has suffered no prejudice. For these reasons, the Department’s Motion to Strike is DENIED.

IV. Plaintiff’s Motion for Award of Attorney’s Fees

SCADA’s motion for an award of attorney’s fees and sanctions was based, in part, on the following statutes and rules:

A. The South Carolina Declaratory Judgment Act, S.C. Code Ann. § 15-53-100

This statute provides that “in any proceeding under this chapter the court may make such award of costs as may seem equitable and just.” S.C. Code Ann. § 15-53-100. The cited section of the Declaratory Judgments Act provides has been interpreted to include attorney’s fees as part of the costs that may be awarded in declaratory judgment actions. In *Lollis v. Dutton*, the South Carolina Court of Appeals identified section 15-53-100 as one of three potential grounds for a potential award of attorney’s fees and costs that required analysis on remand, alongside the Frivolous Civil Proceedings Sanctions Act and Rule 37(c). *Lollis*, 421 S.C. at 489 (“[W]e remand to the circuit court for consideration of the above three grounds for attorney’s fees and costs and for the required analyses of the underlying specific facts.”); see also *Hegler v. Gulf Ins. Co.*, 270 S.C. 548, 549, 243 S.E.2d 443, 444 (1978) (finding the circuit court erred in declining to award attorney’s fees to defendant insured in a declaratory judgment action brought by plaintiff insurer to avoid coverage under defendant’s policy, and remanding to trial court for entry of award of fees

to defendant insured); *State Auto Prop. & Cas. Ins. Co. v. Raynolds*, 357 S.C. 219, 226, 592 S.E.2d 633, 637 (2004) (stating “[i]t is well-settled in South Carolina that when a defendant insured prevails in a declaratory judgment action, the insured is entitled to recover attorney’s fees” and citing *Hegler*); *Marshall v. ISMIE Mut. Ins. Co.*, No. 2:24-CV-00223-DCN, 2024 WL 4495355, at *8 (D.S.C. Oct. 15, 2024), *motion to certify appeal denied*, No. 2:24-CV-00223-DCN, 2025 WL 92400 (D.S.C. Jan. 14, 2025).¹

The South Carolina Supreme Court has upheld an award of attorney’s fees to a county citizen and taxpayer challenging a county funding scheme for a wastewater treatment plant through a declaratory judgment action. *Cornelius v. Oconee Cnty.*, 369 S.C. 531, 540, 633 S.E.2d 492, 497 (2006) (rejecting the County’s argument that “attorney’s fees [were] improper” as the case was “merely a declaratory judgment action to define rights, duties and obligations,” and an award of attorney’s fees was proper under S.C. Code Ann. § 15-77-300 where the County acted without substantial justification, and no special circumstances render the attorneys’ fee award unjust.)

B. The “State Action Statute,” S.C. Code Ann. § 15-77-300

This statute provides:

In any civil action brought by . . . *any party who is contesting state action*, unless the prevailing party is the State or any political subdivision of the State, the court

¹ In *Marshall*, the court found an issue of fact precluded judgment for the insured at the pre-trial stage of the case, but stated as to a potential award of fees:

The S.C. Declaratory Judgment Act provides that “the court may make such award of costs as may seem equitable and just.” S.C. Code Ann. § 15-53-100. Under South Carolina law, an insured is generally entitled to attorney’s fees after prevailing in a declaratory judgment action against an insurance company over whether the insurance company is obligated to provide coverage to the insured. *See Security Ins. Co.*, 481 F. Supp. 2d at 499–02; *Hegler v. Gulf Ins. Co.*, 243 S.E.2d 443, 444 (S.C. 1978).

Marshall v. ISMIE Mut. Ins. Co., No. 2:24-CV-00223-DCN, 2024 WL 4495355, at *8 (D.S.C. Oct. 15, 2024).

may allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

- (1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and
- (2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

S.C. Code Ann. § 15-77-300(A) (emphasis added).

(B) Attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:

- (1) the nature, extent, and difficulty of the case;
- (2) the time devoted;
- (3) the professional standing of counsel;
- (4) the beneficial results obtained; and
- (5) the customary legal fees for similar services.

S.C. Code Ann. § 15-77-300(B).

SCADA is unquestionably the prevailing party as it prevailed in obtaining the requested declaratory relief on all three issues it pursued at the trial of this matter. SCADA's election not to pursue a trial on other issues should have no effect on its status as the prevailing party.

The Court's Order demonstrates that the Department had no substantial factual or legal justification for issuing the February 18, 2022, Memorandum, broadcasting the derogatory social media posts regarding motor vehicle dealers in 2022, and conducting the closing fee investigations of the 20 SCADA member dealers. The Department's arguments that SCADA lacked standing to pursue declaratory relief on these issues and that this action was rendered moot by the 2023 amendments to the Closing Fee Statute, have previously been rejected by this Court numerous times.

There are no special circumstances that would make an award of attorney's fees unjust.

The Department claims that it “should not be punished for looking out for consumers in South Carolina and for engaging in its statutory mandate.” (Dep’t Memo at 9.) The Department’s mandate also includes “having due regard for the interests of legitimate and scrupulous” businesses. S.C. Code Ann. § 37-1-102.

The Court’s Order concludes in numerous places and in numerous ways that the Department’s reliance on the language of the Closing Fee Statute alone as the basis to conduct warrantless searches of motor vehicle dealers’ books, accounts, and records was not warranted under existing law and blatantly ignored other provisions of the Consumer Protection Code limiting the Department’s investigatory power and federal and state constitutional protections against unreasonable searches. The Court’s Order also found that the Department “arbitrarily and capriciously” conducted these “warrantless searches of dealer sales and advertising records conducted as fishing expeditions seeking information that the Department could portray as misleading and deceptive practices” against motor vehicle dealers without any consumer complaint or probable cause. (Order at 4-5.) The Department still refuses to admit wrongdoing for wantonly and systematically violating motor vehicle dealer’s constitutional and statutory rights to be free from unwarranted governmental searches. A *failure* to award attorney’s fees in response to this conduct would be unjust.

C. Plaintiff’s request for attorney’s fees is reasonable considering the necessary factors.

The Department primarily disputes that SCADA’s “attorney’s hourly rates and the time spent on the litigation are reasonable.” (Dep’t Memo at 11.) The Department submitted the affidavit of the Department’s outside counsel, Pete Balthazor, in opposition to SCADA’s motion.

The hourly rates of Haynsworth Sinkler Boyd P.A.’s (“Haynsworth”) attorneys and other professionals can easily be determined by dividing the Billed Fees by the Billed Hours in the table

shown in paragraph 5 of the Affidavit of James Y. Becker, as demonstrated in the following chart.

Name	Position	Billed Hours	Billed Fees	Hourly Rates
Becker, James Y.	Shareholder	593.2	227,936.00	384.25
Spruill, Sarah P.	Shareholder	83.5	31,618.50	378.66
Pleicones, Costa, M.	Special Counsel	1.8	820.00	455.56
Harrington, Helen, F.	Paralegal	96.8	17,536.50	181.16
Gunt, Alexandra, C-LC*	Law Clerk	8.2	1,312.00	160.00
Eldridge, Mary, C.*	Associate	18.9	5,008.50	265.00
Smith, Kathleen, G.	Special Counsel	0.5	212.50	425.00
Smith, Brad, A.	Litigation Support Manager	7.1	1,241.50	174.86
Barnes, Scott, Y.	Special Counsel	0.4	170.00	425.00
Spate, Joseph, D.*	Associate	21.3	5,218.50	245.00
Williams, Alexandra, C.*	Associate	77	21,630.00	280.91
Dodson, William, L.	Litigation Support Specialist	0.3	52.50	175.00
Hodges, Sarah, A.	Associate	111.6	27,538.00	246.76
Faust, Krystal*	Paralegal	23.5	3,933.00	167.36
Rodgers, Riley, M.*	Law Clerk	5.3	1,086.50	205.00
Morrison, William, H.	Shareholder	0.3	115.50	385.00
Willoughby, Amanda, J.	Paralegal	1.5	277.50	185.00
Grand Total		1051.2	\$345,707.00	

The Department also notes that Mr. Sheheen's affidavit does not mention hourly rates and complains that the total amount billed by Mr. Sheheen's firm is unreasonably high relative to the amount of work apparently performed. Other than Mr. Sheheen's activities in the case which the Department's attorneys directly observed and discussed in its memorandum, the Department has no first-hand knowledge of the full measure of Mr. Sheheen's contribution to the prosecution of this case. According to the Plaintiff's submissions, Mr. Sheheen regularly reviewed pleadings, motions, and memoranda during the case, and he consulted with co-counsel and the client regarding discovery and motion practice and assisted with trial preparation and strategy. He also engaged with opposing counsel in settlement discussions. According to his affidavit, Mr. Sheheen does not bill clients on an hourly rate basis, but rather on a monthly retainer fee as full compensation for his experience, expertise, advice, and knowledge, and work on the matter.

Over the course of this case, a total of 16 different Haynsworth employees, including

shareholder, associate, and special counsel attorneys, paralegals, law clerks, and litigation support specialists worked on this matter. The four principal Haynsworth attorneys, as demonstrated by the total hours worked, were James Becker, Sarah Spruill, Alexandra Williams, who also worked on the matter while a law clerk and is no longer employed with the firm, and Sarah Hodges. Other attorneys with subject matter expertise or experience were consulted on an ad hoc basis and their relatively limited time was appropriately billed to the matter. According to the Becker Affidavit, all fees billed for Haynsworth personnel are based on the actual time reasonably spent on the particular task after exercising appropriate billing judgment to reduce the time spent, if necessary.

The time devoted to the case was considerable. This action was filed on September 20, 2022, and was tried by the Court from October 8 – 10, 2025, just over three years later. The matter involved considerable work prior to filing the complaint and involved numerous pre-trial motions, including multiple motions to reconsider, and an interlocutory appeal of a discovery order. Much of this work involved opposing unwarranted and ultimately unsuccessful motions or appeals of the Department or compelling the Department to produce information in discovery. Haynsworth attorneys, paralegals, and litigation support specialists then spent many hours reviewing over 5,380 pages of documents belatedly produced by the Department and conducting extensive analysis of the consumer complaint database produced in discovery. Haynsworth personnel also spent considerable time preparing the demonstrative exhibits utilized at trial to disprove the Department's stated rationale for its warrantless searches of 20 SCADA member dealers. A total of 1,051 billed hours for this amount of work over three years is not unreasonable.

The Department claimed that, by comparison "the Department's case was handled almost exclusively by one attorney," who "billed 461 hours of professional time" through October 31, 2025. Mr. Balthazor, the one attorney, did not appear in this matter until December 2, 2022, which

was after the Department filed an Answer and Counterclaim, an Amended Answer and Counterclaim, and a Motion to Transfer Venue. Presumably, Mr. Balthazor was also not involved in any of the events leading up to the filing of the Complaint. Thus, his 461 billed hours compare reasonably with Mr. Becker's total of 593 billed hours.

Furthermore, Mr. Balthazor's affidavit does not provide any hourly rates, and mentions only minimal time billed by two other attorneys in his firm and no time for any paralegal work. This is likely because a host of persons directly employed by the Department, including, but not limited to, in-house lawyers and paralegals, performed much of the work involved in defending this case – including gathering, reviewing, redacting and bates-stamping documents produced in discovery, conducting legal research, and drafting pleadings, motions, memoranda, and other documents. The Department's General Counsel also appeared at all motion hearings and was present during the entire trial and appeared to be very heavily involved in the defense at the trial. An honest comparison of SCADA's legal fees to the Department's legal fees is not possible without information about the time spent by the Department's lawyers and other personnel defending this action. The Department refused to provide this information.

The Department also compared the time spent by SCADA's attorneys with the time spent by the attorneys in *Layman v. State*, 376 S.C. 434, 658 S.E.2d 320 (2008). Haynsworth attorneys, paralegals, and others spent 1,051 hours prosecuting this case through trial. The *Layman* plaintiffs had approximately 13 different attorneys and an unspecified number of paralegals and law clerks, who collectively spent approximately 1,430 hours prosecuting the case to a decision and award of attorney's fees in the original jurisdiction of the South Carolina Supreme Court. The *Layman* attorneys and paralegals spent another approximately 1,650 hours litigating the issue of attorney's fees after a petition for rehearing and were awarded additional fees for that work. *Layman v. State*,

376 S.C. 434, 463, 658 S.E.2d 320, 335 (2008). The Haynsworth hourly rates ranged from \$160 to \$455 and were billed from late 2022 to late 2025. The *Layman* hourly rates for the first phase of the case ranged from \$70 to \$600 and were billed on average in about 2006. *Id.* at 463, 658 S.E.2d at 336.

This case and the *Layman* case involve very different facts and law. They defy comparison except to demonstrate that the Haynsworth attorneys, including approximately 200 hours for Mr. Sheheen² (a total of approximately 1,251 hours) spent less time than the *Layman* attorneys (approximately 1,430 hours) to prevail in the original trial phase of the case *and* at lower hourly rates, *before* adjusting for inflation in the 17 years from 2006 to 2023. Also, the *Layman* plaintiffs and their attorneys requested and were awarded a fee multiplier of 1.25, and SCADA and its attorneys have not requested any fee multiplier.

The total fees awarded in the first phase of the *Layman* case were \$445,226.60 after application of the 1.25 multiplier. *Id.* at 462, 658 S.E.2d at 335. And the fees awarded for both phases of the *Layman* case totaled \$1,029,375.63, also after application of the multiplier. *Layman v. State*, 376 S.C. 434, 463, 658 S.E.2d 320, 336 (2008). By contrast, SCADA's fee request in this case is \$575,507.

Finally, the Department misleadingly complains that it "provided detailed discovery responses on February 29, 2024, and the Plaintiff took no further action on the case for almost the entire year of 2024." This statement fails to account for all of SCADA's 18 months of motion practice and other work required to compel the Department to produce the requested discovery. Once the information was produced, it took months of work to review and analyze the 5,380 pages

² Mr. Sheheen estimates that he spent more than 200 hours of time on this case. However, as noted above, because Mr. Sheheen bills his clients by a monthly retainer his exact billable hours are not tracked and can only be estimated.

of documents. Then the parties engaged in several months of settlement discussions that involved the preparation and exchange of detailed proposed orders. The settlement efforts were for naught because, as the Department admitted in its Pretrial Brief, any “admissions of wrongdoing by the Department is a non-starter.” All the Department was willing to do was “to stipulate that it ha[d] changed its practices, and that the activities undertaken in 2022 would not be authorized under the New Closing Fee Statute.” (Dep’t. Pre-trial Brief at 12.)

Based on the analysis above, the Court finds that SCADA’s attorneys’ time necessarily devoted to the case and the hourly rates charged were reasonable given the customary legal fees for similar services, the professional standing of the attorneys, and the nature, extent, and difficulty of the case. Considering the beneficial results obtained in this case and that SCADA has not requested any fee multiplier, SCADA’s fee request, including Mr. Sheheen’s fees, is reasonable. For these reasons, SCADA’s motion for an award of attorney’s fees is GRANTED, and the Court awards attorney’s fees to the Plaintiff in the amount of \$575,751.

AND IT IS SO ORDERED.

[The Court’s electronic signature page follows]



Richland Common Pleas

Case Caption: South Carolina Automobile And Truck Dealers Association vs South Carolina Department Of Consumer Affairs

Case Number: 2022CP4005552

Type: Order/Other

So Ordered

s/ Daniel Coble, 2774