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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge

Case No. 2021-CP-23-00244
Appellate Case No. 2023-001053

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

v.

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

PETITION FOR WRIT OF CERTIORARI

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CERTIFICATION BY COUNSEL

Counsel for Petitioners Dealer Financial Holdings, LLC, Steve Lanzl, and Daniel B. Haight certifies that a Petition for Rehearing was made and finally ruled on by the Court of Appeals on March 5, 2026.

QUESTION PRESENTED FOR REVIEW

1. Whether the Court of Appeals erred in holding the parties' contractual jury-trial waiver inapplicable by treating the alleged termination of the 2016 Financing Agreement as dispositive, without separately addressing Appellants' preserved argument that the waiver provision's own broad language could apply to this dispute notwithstanding the parties' disagreement over whether the Financing Agreement remained in effect.

INTRODUCTION

This case arises out of disputes between the parties concerning their commercial floorplan financing relationship, which was established by a 2016 Loan and Security Agreement (the "Financing Agreement") between Dealer Financial Holdings, LLC ("Dealer Financial") and Respondents Penland Automotive, LLC ("Penland Automotive"), Penland Properties II, LLC ("Penland Properties"), and Charles W. Penland, Jr. ("Charles Penland") (collectively, "Respondents"). The Financing Agreement and the documents executed contemporaneously therewith contained a broadly worded bilateral jury-trial waiver. Appellants Dealer Financial, Steve Lanzl ("Lanzl"), and Daniel B. Haight ("Haight") (collectively, "Appellants") seek review of the Court of Appeals' decision holding that contractual jury-trial waiver inapplicable to Respondents' claims in this case.

The question presented is whether the Court of Appeals erred by treating the alleged termination of the Financing Agreement, or the alleged failure of its terms to continue into the parties' 2020 relationship, as dispositive, rather than deciding whether the waiver provision's own language was broad enough to reach Respondents' claims. The Court of Appeals' analysis, however, turned on the panel's view that the broader Financing Agreement was no longer controlling as to the parties' later dealings. By taking that approach, the panel did not separately

address Appellants' preserved argument that the waiver provision's own language applied to Respondents' claims regardless of the parties' dispute over the continued effect of the broader agreement.

The question presented warrants this Court's review. South Carolina law is settled that parties may contractually waive the right to a jury trial and that such waivers are enforced according to ordinary principles of contract interpretation, while being strictly construed in light of the right involved. But a critical question remains unresolved: when a jury-waiver clause is drafted such that it encompasses not only disputes arising under the agreement itself but also extra-contractual facts and conduct occurring before, during, or after the contract, may a court treat the disputed status of the broader contract as effectively dispositive without separately addressing the scope of the clause itself? The Court of Appeals did not answer that question, and this Court should.

This case is particularly suitable vehicle for review. Appellants preserved the issue at every stage, arguing before the Court of Appeals and again in their petition for rehearing that the plain language of the jury-waiver provision covered Respondents' claims regardless of whether other provisions of the Financing Agreement remained in effect, and that the clause's breadth required independent analysis on its own terms. Appellants further argued that, to the extent the Financing Agreement's continuing force was relevant to the waiver question, that issue remained genuinely disputed below. The Court of Appeals nonetheless affirmed on reasoning that appears to have rested on the premise that the Financing Agreement had expired and was not carried forward into the parties' later relationship, a premise that was itself contested.

The issue extends beyond the facts of this case. Commercial relationships evolve, and disputes frequently arise over which documents remain operative and binding when circumstances have changed. In that setting, lower courts need clear guidance on whether a jury-waiver provision

must be analyzed on its own terms before the status of the surrounding agreement is allowed to control. Without such guidance, the enforceability of a negotiated jury-waiver clause may turn less on the language the parties chose and more on an antecedent dispute over the continuing force of the broader contract. Allowing a threshold contract dispute to swallow a jury-waiver clause without independent analysis of the clause's own language undermines the parties' freedom to structure their own dispute resolution. This Court should grant review to ensure that plain, unambiguous, and expressly drafted jury-waiver clauses, particularly in the context of commercial transactions between sophisticated parties, receive the independent scrutiny their language demands.

STATEMENT OF THE CASE

In 2016, Penland Automotive, Penland Properties, Charles Penland, and Dealer Financial entered into the Financing Agreement, pursuant to which Penland Automotive borrowed money from Dealer Financial in the form of cash advances to purchase used-car inventory for resale in its used-car business. (App. Vol. I, p. 323).¹ The Financing Agreement established the parties' commercial floorplan financing relationship and, together with the contemporaneously executed Demand Note and Unlimited Guaranty, contained the bilateral jury-trial waiver now at issue. (App. Vol. I, pp. 24, 323).

Section 17 of the Financing Agreement, which is titled in bold and italic font "*Waiver of Jury Trial*", contains the following language in all capital letters:

TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH GRANTOR AND DFH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AND AFTER AN OPPORTUNITY TO CONSULT WITH INDEPENDENT LEGAL COUNSEL, (A) **WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING IN CONNECTION WITH THIS AGREEMENT, ANY RELATED AGREEMENT, THE LIABILITIES, ALL MATTERS CONTEMPLATED HEREBY AND DOCUMENTS EXECUTED IN**

¹ Contemporaneously with the execution of the Financing Agreement, Penland Automotive executed a Demand Note, and Charles W. Penland, Jr. executed an Unlimited Guaranty. Both contain the same jury-waiver language as the Financing Agreement. (App. Vol. I, pp. 102-127).

CONNECTION HEREWITH, AND ANY AND ALL CAUSES OF ACTION IN ANY WAY RELATING TO ANY MATTER BETWEEN THEM WHETHER ARISING FROM OR RELATING TO THIS AGREEMENT OR ANY RELATED AGREEMENT, OR ARISING FROM ALLEGED EXTRA-CONTRACTUAL FACTS PRIOR TO, DURING, OR SUBSEQUENT TO THIS AGREEMENT AND REGARDLESS OF THE LEGAL THEORY UPON WHICH SUCH MATTER IS ASSERTED, AND (B) AGREE NOT TO SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE, OR HAS NOT BEEN, WAIVED. EACH GRANTOR CERTIFIES THAT NEITHER DFH NOR ANY OF ITS REPRESENTATIVES, AGENTS OR COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT DFH WOULD NOT IN THE EVENT OF ANY SUCH PROCEEDING SEEK TO ENFORCE THIS WAIVER OF RIGHT TO TRIAL BY JURY.

(App. Vol. I, pp. 398–399) (emphasis added).²

In 2019, the parties paused their business relationship with one another. (App. Vol. I, p. 272). The parties later resumed financing activity in 2020, but no new written financing agreement was executed. (App. Vol. I, pp. 272–273). In October 2020, a dispute arose among the parties in connection with their resumed financing relationship. (*Id.*)

Respondents thereafter filed this action and demanded a jury trial. (App. Vol. I, pp. 299–309). Appellants answered, denied liability, asserted counterclaims, and invoked the contractual jury-trial waiver contained in the Financing Agreement and related loan documents as an affirmative defense. (App. Vol. I, pp. 310–329).³ Dealer Financial moved to strike the jury demand, and Respondents moved for partial summary judgment, seeking a declaration that the reopened floorplan was not governed by the Financing Agreement or the related 2016 loan documents. (App. Vol. I, pp. 62–64).

The circuit court heard both motions on June 29, 2021. (App. Vol. I, p. 62). In its July 28, 2021 order, the court denied both motions without prejudice, expressly finding that “a genuine

² The term “DFH”, as used in the jury trial waiver, is defined at the beginning of the Financing Agreement as Dealer Financial, and the term “Grantor” is defined to include Penland Automotive and Charles Penland. (App. Vol. I, pp. 102–127).

³ Appellants’ counterclaims are based, in part, on the position that the Financing Agreement’s terms continued to govern the parties’ 2020 dealings, and Judge Verdin denied Respondents’ motion for summary judgment on those counterclaims because issues of material fact remained as to that question. (App. Vol. I, pp. 225, 278).

issue of material fact exists relating to the continued applicability of the 2016 Loan Documents to the reopened floor-plan financing relationship in 2020.” (App. Vol. I, p. 292). Following further discovery, Dealer Financial renewed its motion to strike the jury demand. (App. Vol. I, pp. 357–359). Following a hearing on January 4, 2023, the circuit court denied the renewed motion by Form 4 order entered on June 1, 2023. (App. Vol. I, pp. 67–69, 269). Appellants appealed that ruling.

Appellants consistently argued, both below and on appeal, that the jury-waiver issue presented a distinct question. In the renewed motion to strike, Appellants argued that the dispute concerned whether the parties were bound by the Loan Documents or by some other terms, but that the jury-trial waiver applied regardless of whether the Loan Documents themselves ultimately governed the complaint. (App. Vol. I, pp. 217–219). In the Court of Appeals, Appellants likewise contended that the waiver’s text extended beyond claims brought strictly “under” the Financing Agreement and, relying on the express language in the waiver, reached claims relating to matters between the parties and alleged extra-contractual facts “prior to, during, or subsequent to” the agreement. (App. Vol. I, p. 15). Appellants therefore argued that the narrow issue was whether the jury-trial waiver was broad enough to apply to Respondents’ claims, not whether every other provision of the Financing Agreement ultimately governed the parties’ 2020 dealings. (App. Vol. I, pp. 15–16).

The Court of Appeals affirmed the denial of Appellants’ renewed motion to strike the jury demand, concluding that the parties had effectively ended the Financing Agreement in 2019, that nothing in the record showed all parties intended to carry all terms of that Financing Agreement into the 2020 financing arrangement, and that Respondents’ claims concerned disagreements regarding the later arrangement and conduct following those disagreements rather than extra-

contractual facts surrounding the Financing Agreement. (App. Vol. I, pp. 6–7).⁴ On that basis, the Court of Appeals held the waiver inapplicable. (*Id.*) Appellants then filed a petition for rehearing, arguing that the panel had overlooked the preserved and central issue on appeal concerning whether the waiver could apply independently of whether other provisions of the Financing Agreement remained in effect, that the opinion treated as settled a factual issue that the circuit court had expressly found remained genuinely disputed—namely, the continued applicability of the Financing Agreement, and that the opinion narrowed the nature of the dispute in a manner not supported by the pleadings or record. (App. Vol. I, pp. 51–52, 55–58). The Court of Appeals denied rehearing, and this petition follows. (App. Vol. I, p. 8).

ARGUMENTS

Rule 242(b) of the South Carolina Appellate Court Rules supports review where a Court of Appeals decision fails to apply settled legal principles and where review is warranted to resolve an important unsettled legal issue. Rule 242(b), SCACR. This petition presents both circumstances. The Court of Appeals treated the disputed status of the Financing Agreement as effectively dispositive of the jury-waiver issue without separately addressing Appellants’ preserved argument that the waiver provision’s own language could reach this dispute. In doing so, the panel failed to apply settled South Carolina principles requiring contractual jury-waiver provisions to be construed according to ordinary rules of contract interpretation and the language the parties used. At minimum, this case presents an important and recurring question about how courts should analyze a contractual jury-waiver provision when the broader agreement’s continued effect is disputed, and it does so in a procedural posture that makes this case a particularly suitable for review.

⁴ The circuit court expressly found that a genuine issue of material fact exists as to the continued applicability of the Financing Agreement, and Respondents have likewise acknowledged that the issue remains disputed. (App. Vol. I, p. 225).

I. The Court of Appeals treated the disputed status of the Financing Agreement as effectively dispositive without separately addressing Appellants’ preserved argument that the jury-waiver provision’s own language applies to this dispute.

This petition warrants review because the Court of Appeals did not decide the narrow issue Appellants presented. Appellants did not ask the court to resolve every consequence of the parties’ 2019 pause in financing or every question concerning the continued force of the Financing Agreement and related loan documents before reaching the jury-waiver issue. Indeed, that will first be the responsibility of the circuit court in conducting a trial on the merits. Appellants instead presented a distinct and narrower question: whether the jury-trial waiver, by its own terms, applied to Respondents’ claims regardless of whether other provisions of the Financing Agreement remained in effect. (*See e.g.*, App. Vol. I, pp. 16–17).⁵

Appellants consistently preserved that framing at all stages of the litigation. In the renewed motion to strike, Appellants argued that the waiver applied regardless of whether the Loan Documents themselves ultimately governed the complaint. (App. Vol. I, p. 130). In the Court of Appeals, Appellants likewise argued that “the narrow issue is whether the jury trial waiver remains effective,” not whether the Financing Agreement executed in 2016 was terminated or whether every other provision of that Financing Agreement governed the parties’ 2020 dealings. (App. Vol. I, pp. 15–17). Appellants renewed that same point in their Petition for Rehearing. (App. Vol. I, p. 53).

As set out above, the waiver expressly extends to “any matter between” the parties and to alleged extra-contractual facts “prior to, during, or subsequent to” the Financing Agreement. (App. Vol. I, p. 340). The waiver’s text made the jury-waiver issue analytically distinct from the broader

⁵Appellants also argued on appeal that Section 13’s severability clause reinforced that point. The Financing Agreement provides that “[a]ny invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other provision of this Agreement.” (App. Vol. I, p. 340). Appellants thus argued that even if some other provision of the Financing Agreement were deemed inapplicable to the later dispute, the jury-waiver clause would not automatically fall with it. (App. Vol. I, p. 16). The Court of Appeals did not address that argument.

dispute over whether the Financing Agreement continued to govern every aspect of the parties' resumed financing relationship in 2020. Appellants' point was not that the Court of Appeals had to decide every issue concerning the continuing force of the Financing Agreement and related loan documents before addressing the waiver. The point was narrower: before treating alleged termination or non-carry-forward as controlling, the court had to decide whether the waiver provision's own language was broad enough to reach Respondents' claims notwithstanding the parties' disagreement over the broader agreement's continued effect.

Rather than answer this question, the Court of Appeals took a different path. The panel concluded that the parties had "effectively ended" the Financing Agreement in 2019, 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," and that Respondents' claims concerned disagreements regarding the later arrangement and conduct following those disagreements rather than extra-contractual facts surrounding the Financing Agreement. (App. Vol. I, pp. 6–7). On that basis, the Court of Appeals held the waiver inapplicable. (*Id.*) The record, however, contains evidence from individuals on both sides of the relationship reflecting disagreement as to whether the Financing Agreement continued to govern the parties' later dealings. Tim Yarger, the General Manager of Penland Automotive in 2020, and Daniel Haight, President of Dealer Financial, both 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. (App. Vol. II, pp. 825–826; App. Vol. III, pp. 1142–1146). Respondents likewise treated that issue as central to the case, while maintaining that it should be resolved by the factfinder rather than on a motion to strike. (App. Vol. I, p. 279).

The Court of Appeals' reasoning answered a different question from the one Appellants presented. The issue here is not simply whether the Financing Agreement remained operative in every respect after 2019. The issue is whether, when a jury-waiver provision is written broadly enough to reach disputes between the parties and alleged extra-contractual facts subsequent to the agreement, a court may treat the disputed status of the broader agreement as effectively dispositive without separately deciding whether the waiver's own text applies to the claims at issue. That question is squarely presented here and warrants this Court's review and guidance.

II. South Carolina law requires contractual jury waivers to be enforced according to ordinary rules of contract interpretation and the language the parties used, and at minimum, this case presents an unsettled and recurring issue warranting guidance from this Court.

South Carolina case law supplies the principles governing the interpretation of contractual jury-waiver provisions, even if it does not yet supply a case squarely on all fours with this one. The law is well-settled in South Carolina that the right to a jury trial may be waived by contract. *Wachovia Bank, Nat. Ass'n v. Blackburn*, 407 S.C. 321, 332, 755 S.E.2d 437, 443 (2014) (“A party may waive the right to a jury trial by contract.”). In construing jury-trial waivers, South Carolina courts apply ordinary rules of contract interpretation and look to the language the parties actually used, while strictly construing such waivers in light of the right involved. *See Richards v. Spicer*, --- S.C. ---, 915 S.E.2d 486, 490–91 (2025) (explaining that if a contract is neither illegal nor ambiguous, courts must enforce it according to its terms, and that it is not against South Carolina law or public policy for parties to contractually waive adjudicative rights, including the right to a jury trial); *see also Beach Co. v. Twillman, Ltd.*, 351 S.C. 56, 63–64, 566 S.E.2d 863, 866 (Ct. App. 2002) (recognizing that while contractual jury waivers are strictly construed, they are enforceable and must be construed according to their plain, ordinary, and popular meanings).

Under South Carolina law, the foundational principle of contract interpretation is giving effect to the intent of the parties as reflected in the plain language of their agreement. *McGill v.*

Moore, 381 S.C. 179, 186, 672 S.E.2d 571, 575 (2009) (“The cardinal rule of contract interpretation is to ascertain and give legal effect to the parties’ intentions as determined by the contract language.”). Where the contract’s language is clear and unambiguous, “the language alone determines the contract’s force and effect.” *Id.* When a contract is unambiguous, it “must be construed according to the terms the parties have used, to be taken and understood in their plain, ordinary and popular sense,” *C.A.N. Enters., Inc. v. S.C. Health & Human Servs. Fin. Comm’n*, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988), and “the court’s only function is to interpret its lawful meaning, discover the intention of the parties as found within the agreement, and give effect to it,” *Koontz v. Thomas*, 333 S.C. 702, 709–10, 511 S.E.2d 407, 411–12 (Ct. App. 1999).

In this case, those settled principles make the waiver provision’s text and scope central to the analysis. That is particularly so where, as here, the parties were sophisticated commercial entities that negotiated the waiver provision at arm’s length. *Cf. Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 554–55, 606 S.E.2d 752, 758 (2004) (declining to find a dispute-resolution clause unconscionable where both parties were sophisticated entities represented by counsel, and enforcing the clause according to its terms). Appellants’ preserved argument was that the waiver’s own language was broad enough to cover the claims asserted in this case regardless of whether other provisions of the Financing Agreement ultimately remained in force. Under settled South Carolina principles, the analysis should therefore focus on the text and scope of the waiver provision itself. *See Beach Co.*, 351 S.C. at 63–64, 566 S.E.2d at 866; *C.A.N. Enters.*, 296 S.C. at 378, 373 S.E.2d at 587; *Koontz*, 333 S.C. at 709–10, 511 S.E.2d at 411–12; *McGill*, 381 S.C. at 186, 672 S.E.2d at 575. The Court of Appeals did not simply construe the clause narrowly after applying those principles. Instead, the panel treated the disputed status of the broader Financing Agreement as effectively controlling of the waiver issue. That approach

cannot be reconciled with South Carolina's ordinary interpretive rule that contractual scope is determined by the language the parties actually used.

The absence of directly controlling precedent is precisely what makes this petition appropriate. South Carolina's general principles are settled, but their application here is not. Our case law lacks guidance on how a court should analyze a broadly worded contractual jury-waiver provision in a commercial contract negotiated between sophisticated businesses when the parties dispute whether the larger agreement remained in effect, was carried forward, or otherwise continued to govern later dealings. Federal law has recognized the need for a structured analytical framework in analogous circumstances. For example, under the Federal Arbitration Act, when a party challenges arbitrability on the basis that the contract containing an arbitration clause has terminated or is otherwise inapplicable, a court is required to resolve that threshold question independently rather than treating the contract dispute as dispositive of the clause. *See* 9 U.S.C. § 4 (providing that where the making of an arbitration agreement is in issue, the court shall proceed to trial on that question); *Dillon v. BMO Harris Bank, N.A.*, 787 F.3d 707, 713 (4th Cir. 2015); *Sandvik AB v. Advent Int'l Corp.*, 220 F.3d 99, 107 (3d Cir. 2000). South Carolina has no analogous framework for jury-waiver clauses, and the absence of one left the courts below without clear guidance. Rule 242(b), SCACR, expressly identifies "novel questions of law" as a reason supporting certiorari, and this petition presents that kind of question. This Court's guidance is needed precisely because the case lies at the intersection of settled general principles and an unresolved application issue.

This question is also important beyond this case. Commercial relationships may pause, resume, or continue under changed circumstances, and parties often negotiate provisions allocating how future disputes will be resolved, including bilateral waivers of jury trial. Without a clear framework, a clearly drafted jury-waiver provision may be rendered effectively meaningless

whenever one party reframes the dispute as a fight over whether the broader agreement was terminated or remained operative, and a court treats that dispute as dispositive without first analyzing the waiver provision itself. This Court’s guidance is therefore needed not only to address the decision below, but also to clarify the proper framework for trial and appellate courts confronting similar disputes.

This Court should therefore grant review. Whether viewed as a failure to faithfully apply settled South Carolina contract-interpretation principles to the waiver’s actual language, or at minimum, as an important and unresolved question about the proper framework for analyzing broad contractual jury-waiver provisions, the decision below presents a question warranting this Court’s guidance.

III. This case is appropriate for review because the Court of Appeals’ reasoning depended on an unresolved disputed material fact concerning the continued applicability of the Financing Agreement and related loan documents.

Review is especially appropriate in this case because the Court of Appeals based its waiver analysis on a factual issue the circuit court had already identified as disputed and unresolved: whether the Financing Agreement continued to apply to the parties’ resumed financing relationship in 2020. The panel reasoned that the parties had “effectively ended” the Financing Agreement in 2019 and 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.” (App. Vol. I, pp. 6–7).⁶ Those conclusions were not merely background observations. They supplied the basis for the Court of Appeals’ holding that the jury-waiver provision did not apply.

The procedural posture below makes that significant. In July 2021, the circuit court denied both Appellants’ initial motion to strike the jury demand and Respondents’ motion for partial

⁶ As noted above, the record does contain evidence supporting that the parties intended to carry the terms of the Financing Agreement to the 2020 financing arrangement. (App. Vol. II, pp. 825–826; App. Vol. III, pp. 1142–1146).

summary judgment, expressly finding that “a genuine issue of material fact exists relating to the continued applicability of the 2016 Loan Documents to the reopened floor-plan financing relationship in 2020.” (App. Vol. I, p. 64). The same question remained unresolved in 2022, when Respondents moved for summary judgment against Appellants’ counterclaims on the theory that the Financing Agreement had been terminated and did not govern the 2020 arrangement, and Judge Verdin denied that motion because issues of material fact remained. (App. Vol. I, pp. 225, 278). The circuit court therefore did not decide that question; it identified it as factually disputed and left it unresolved. Following further discovery, Dealer Financial renewed its motion to strike the jury demand, and the circuit court denied that renewed motion by Form 4 order. (App. Vol. I, pp. 295–297). As Appellants explained in their petition for rehearing, that later Form 4 order did not resolve the underlying factual dispute regarding termination or continued applicability of the 2016 documents. Instead, it denied the renewed motion without making findings on those matters. (App. Vol. I, p. 295). Appellants preserved that point in rehearing. (App. Vol. I, p. 56).

The Court of Appeals nevertheless proceeded as though the continued-applicability question was decided by the circuit court. That misstep is precisely what makes this case appropriate for review. The problem is not simply that the panel construed the waiver clause too narrowly; it is that the panel’s reasoning depended on a factual conclusion about the Financing Agreement’s status that the circuit court had already determined remained genuinely disputed. The consequences of that approach extend beyond a routine ruling on a jury demand. When an appellate court resolves a waiver question by adopting a factual premise that the circuit court expressly left open, it creates uncertainty on two fronts: the proper framework for interpreting broadly drafted jury-waiver provisions, and the appropriate course when the broader agreement’s continued effect remains factually contested. That uncertainty carries real consequences for commercial parties who negotiate dispute-resolution provisions at arm's length and rely on those provisions to

structure their exposure and plan for any possible future dispute. South Carolina has a strong interest in ensuring that sophisticated parties can contract with confidence that their agreements will be enforced according to their terms. This Court's review is warranted to make clear that the enforceability of a jury-waiver clause must be assessed on its own terms, not on an appellate court's resolution of a factual dispute that remains unresolved below.

CONCLUSION

This case presents an important question concerning the proper framework for analyzing a contractual jury-waiver provision when the broader agreement's continued effect is disputed. For the foregoing reasons, Appellants respectfully request that this Court grant the petition for writ of certiorari and review the decision of the Court of Appeals.

Respectfully submitted,

April 3, 2026

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