

**RECEIVED**

**Jun 22 2026**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

---

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

The Honorable R. Kirk Griffin, Circuit Court Judge

---

Appellate Case No. 2026-001054

---

Jerry Cozby, Plaintiff,

vs.

Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Ouellette, and Quality Haulers, Inc.,  
Defendants,

of which Kent Hunley Oliver and Thompson Construction Group, Inc. are Respondents.

AND

Dean Alan Arender and Tamala Arender, Appellants,

vs.

Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Kent Ouellette, and DMX  
Transportation Services, Inc., Defendants,

of which Kent Hunley Oliver and Thompson Construction Group, Inc. are Respondents.

AND

Kent Huntley Oliver, Respondent,

vs.

Curtis Kent Ouellette, Quality Haulers, Inc., Dean Alan Arender, US XPRESS Leasing, Inc., and US  
XPRESS, Inc., Defendants,

of which Dean Alan Arender, US XPRESS Leasing, Inc., and US XPRESS, Inc. are Appellants.

---

**APPELLANTS DEAN ALAN ARENDER, U.S. XPRESS LEASING, INC., AND U.S.  
XPRESS, INC.'S REPLY IN SUPPORT OF THEIR  
PETITION FOR WRIT OF CERTIORARI**

---

Mark S. Barrow, SC Bar No. 7821  
Marshall C. Crane, SC Bar No. 102679  
Mary C. Eldridge, SC Bar No. 102698  
Sweeny, Wingate & Barrow, P.A.  
Post Office Box 12129  
Columbia, SC 29211  
(803) 256-2233

**ATTORNEYS FOR APPELLANTS  
DEAN ALAN ARENDER, U.S. XPRESS  
LEASING, INC., AND U.S. XPRESS,  
INC.**

## ARGUMENT

### **I. The Joinder Order and its Caption are Irreparably Contradictory.**

Respondents' contend that the Joinder Order does not affect the parties' substantial rights and does not involve the merits because it does not require plaintiffs in the joined action to assert claims against each defendant. In doing so, Respondents note the caption of the Joinder Order "clearly demarks the parties against whom plaintiff asserts claims." [Return at 2–3.] Petitioners have extensively briefed this issue in both their Petition and their briefing before the Court of Appeals and restate and incorporate those arguments fully herein. However, Respondents' reliance on the Joinder Order's caption highlights the unavoidable inconsistencies within the Joinder Order; namely, the Joinder Order adopts a *consolidated* case caption while purporting to order a *joinder* of all parties.

As the parties discussed in prior briefing, Thompson originally sought both joinder *and* consolidation of these actions under Rules 20(a) and 42(a), SCRCP, before clarifying that it only sought permissive joinder of all the actions. (R. at 4–5.) Accordingly, the substance of the Joinder Order purports to only address permissive joinder, and, indeed, purports to "join the Cozby Action, the Arender Action, and the Oliver Action around Case Number 2022-CP-43-01006, the number assigned to the Cozby Action." (R. at 13.) However, whereas a joined case joins all parties as plaintiffs or defendants "in one action," *see* Rule 20(a), SCRCP, the Joinder Order does *not* employ a joined caption whereby the parties are joined *in one action*. Rather, the circuit court adopted a *consolidated caption*: while it identifies a single case number, it simply stacks the pre-existing case captions on top of each other. While this format is commonplace in consolidated actions, it provides neither the parties nor the court itself any guidance as to how the caption should look moving forward.

The practical difficulties inherent to the Joinder Order's caption are apparent. Take Dean Alan Arender, for instance: while he is a plaintiff in the action he shares with his wife, he is a defendant in the action brought by Oliver. How, then, should that caption look? Should the joined caption identify Jerry Cozby, Dean Alan Arender, Tamala Arender, and Kent Huntley Oliver as plaintiffs in one action against Kent Huntley Oliver, Thompson Construction Group, Inc., Curis Ouellette, Quality Haulers, Inc., DMX Transportation Services, Inc., Dean Alan Arender, US Xpress Leasing, Inc., and US XPRESS, Inc.? Presumably, it should: permissive joinder joins together parties *in one action*. What, then, of the verdict form? As Petitioners have discussed at length, not only will Arender be identified as a "plaintiff" on the same form where USX, his employer, is identified as a "defendant," Arender himself will be both a "plaintiff" and a "defendant" on the same verdict form.

At bottom, Respondents seek to characterize this as a run-of-the-mill addition of parties. But this is not a run-of-the-mill scenario. This is not a scenario where, say, three separate plaintiffs each sued the same two defendants in separate actions and either party now seeks to join the actions for convenience. Rather, this matter is the result of a multi-vehicle collision and involves at least three separate lawsuits initially filed in different circuits where some parties are plaintiffs in some actions, some parties are defendants in some actions, and some parties only appear in one or two of the actions. The procedural complexity of this matter underscores the need for clarity in terms of *how* these claims will operate moving forward given the issues discussed above. Such clarity is sorely lacking at this point.

## **II. This Court May Address the Merits of the Circuit Court's Order.**

Petitioners respectfully request this Court reverse the Circuit Court's ruling on the Joinder Order. While Respondents maintain that doing so would lead to piecemeal litigation, Respondents'

proposal—that the Court remand this matter to the Court of Appeals for determination should it reverse the Court of Appeals’ decision—would itself lead to piecemeal appeals that would further extend this already protracted litigation. Petitioners appealed the Joinder Order on May 28, 2024, meaning that the underlying litigation has been on hold for over two years. It is in the interest of both efficiency and judicial economy for this Court to address the merits of the Joinder Order rather than remand the matter back to the Court of Appeals where it could remain pending for anywhere from a few more months to a few more years.

### **CONCLUSION**

For the reasons set forth above, in their Petition, and their briefing before the Court of Appeals, Petitioners respectfully request this Court grant their Writ of Certiorari, reverse the Court of Appeals’ decision that the Joinder Order is not immediately appealable, and reverse the Circuit Court’s ruling on the Joinder Order on the grounds the Joinder Order was not appropriately ordered and executed.<sup>1</sup>

Respectfully submitted,

**SWEENY, WINGATE & BARROW, P.A.**

s/ Mary C. Eldridge

Mark S. Barrow, SC Bar No. 7821

Marshall C. Crane, SC Bar No. 102679

Mary C. Eldridge, SC Bar No. 102698

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

**ATTORNEYS FOR APPELLANTS  
DEAN ALAN ARENDER, U.S. XPRESS  
LEASING, INC., AND U.S. XPRESS,  
INC.**

---

<sup>1</sup> Petitioners also incorporate arguments and request for relief raised by Arender in his Reply.

Columbia, South Carolina  
June 22, 2026