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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In the Supreme Court of the State of South Carolina

APPELLATE CASE NO. 2023-001165

Charles A. Trant, M.D. , ... Respondent,

vs.

Mag Mutual Insurance Company, ... Petitioner.

RESPONDENT'S BRIEF

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STATEMENT OF THE CASE

This is a third-party insurance bad faith action.

Petitioner/Defendant, Mag Mutual Insurance Company ("Mag Mutual"), petitioned the Court for the extraordinary relief of a common law writ of certiorari to review the Trial Court's denial of their Motion to Stay.

This Court granted Mag Mutual's request of a temporary stay of the trial scheduled for June 15, 2026 to allow the Court to consider the petition for certiorari and instructed the parties to brief the matter.

Dr. Trant offers his arguments, herein; and asks the Court to deny certiorari; or, in the alternative, to affirm the Trial Court and allow prompt trial of the merits to go forward below.

STANDARD OF REVIEW

The appropriate standard of review is abuse of discretion.

In Carolina Water Serv. v. Lexington County Joint Mun. Water & Sewer Comm'n, 367 S.C. 141, 148 (Ct. App. 2006), the Court of Appeals reviewed a circuit court order lifting a stay; noting "[t]he circuit court has discretion whether to grant a stay of a matter pending before the court. Talley v. John-Mansville Sales Corp., 285 S.C. 117, 119, 328 S.E.2d 621, 623 (1985); City of Spartanburg v. Belk's Dep't Store of Clinton, 199 S.C. 458, 480, 20 S.E.2d 157, 167 (1942). Accordingly, *the appropriate standard of review is abuse of discretion*. 'An abuse of discretion arises where the [circuit] court was controlled by an error of law or where its order is based on factual conclusions that are without evidentiary support.' Steinke v. South Carolina Dep't of Labor, Licensing and Regulation, 336 S.C. 373, 398, 520 S.E.2d 142, 155 (1999)." (Emphasis added).

This Court reversed the Court of Appeals on other grounds; finding that, pursuant to Edwards v. SunCom, 369 S.C. 91 (2006) and S.C. Code Ann. § 14-3-330, the Court did not have jurisdiction to review a circuit order lifting a stay. See Carolina Water Serv. v. Lexington County Joint Mun. Water & Sewer Comm'n, 373 S.C. 96 (2007).

Thus, this Court has held that trial court orders granting or lifting stays are not immediately appealable. However, assuming that this Court has jurisdiction to review the circuit court's denial of a stay, the trial court's decision should be reviewed for abuse of discretion and disturbed only where "controlled by an error of law or where its order is based on factual conclusions that are without evidentiary support." See Carolina Water Serv. v. Lexington County Joint Mun. Water & Sewer Comm'n, 367 S.C. 141, 148 (Ct. App. 2006).

EVIDENCE OF THE CASE

The well-documented and voluminous history of this case is a catalog of bad faith. (See Appx. p. 55-139, Statement of Facts).

Mag Mutual delayed from the beginning: ignoring repeated pleas to settle the underlying medical malpractice action ("Price case") from their own defense trial counsel, J. Boone Aiken, III; as well as pleas from general counsel for Dr. Trant's co-defendant, McLeod, Sonny Barnes and Christie Henderson; as well as pleas from Dr. Trant himself through his personal counsel. (See, e.g., Appx. p. 138-139).

Mr. Aiken, Mr. Barnes, and Mrs. Henderson, all experienced trial lawyers who have tried many cases in the area, each warned Mag Mutual that the underlying case would likely result in a plaintiff's verdict and that the likely award would exceed the policy limits. (See, e.g., Appx. pp. 81-84, 100-102, 105-107, 113-115, 123-124, 126).

Mag Mutual also ignored the settlement recommendations, and requests for settlement authorization, from their own claims' analyst, from his supervisor, the claims' team lead, and from the Mag Mutual settlement committee. (See Appx. p. 90-91).

Instead, one individual at Mag Mutual, Chief Claims Officer, Peter Rogers, made the decision, on the Friday afternoon before a mandatory mediation scheduled for Monday, July 1, 2024, to cancel mediation, "no-pay" the case, and try it to verdict. (See Appx. p. 91).

After Mr. Rogers' decision and Mag Mutual's cancellation of mediation, Mr. Aiken dutifully advised Dr. Trant to retain personal counsel.

Dr. Trant's personal counsel then repeatedly wrote Mag Mutual; urging them to either settle the case, or at a minimum, offer Dr. Trant protection from any excess verdict. (See, e.g., Appx. pp. 94-99, 108-109,121-122, 124, 128-130).

Mag Mutual refused; placing their own interests above their duty to their insured and refusing to protect Dr. Trant from the very real mental, physical, reputational, and economic injury that he has suffered and continues to suffer.

The trial in the underlying case, presided over by the Hon. R. Ferrell Cothran, Jr., went exactly as Mr. Aiken, Mr. Barnes, and Mrs. Henderson had predicted – badly. (Appx. pp. 116-134).

By the third day of trial, which Mr. Aiken described as a "train wreck" and "disastrous," Mag Mutual belatedly offered the policy limits of $1.2 million. (Appx. pp. 123-124).

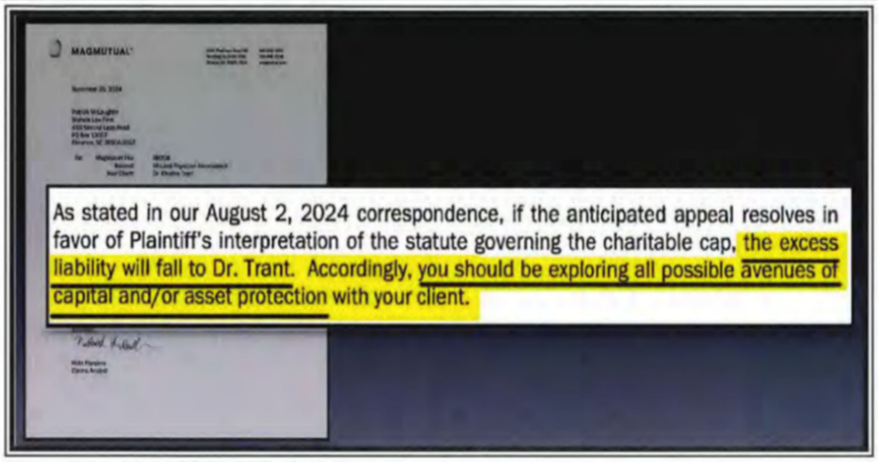
When, unsurprisingly, the plaintiff declined that offer, Dr. Trant offered an additional $1.5 million of his own money, without success. (Id.).

The jury returned a verdict of $30 million; along with a gross negligence finding against Dr. Trant. After Judge Cothran denied post-trial motions, the resulting judgment of $29,870,000 was entered against Dr. Trant on February 5, 2025; accruing interest at 11.5% compounded annually; i.e. approximately $286,254 per month. (Appx. pp. 130-136).

That is to say, in the seventeen months since that judgment was entered, it has already *increased* by approximately $4.8 million dollars and continuing.[1]

Following the verdict, Dr. Trant again sought protection from Mag Mutual; asking them to "satisfy any judgment this verdict will result in against Dr. Trant personally, including any Offer of Judgment and post-judgment interest that may be due/ become due." (Appx. p. 134). Mag Mutual responded:

[1] Notably, over $450,000 in interest has accrued since Mag Mutual filed its Petition with this Court on May 20, 2026.



(Mag Mutual Ltr., 11/20/2024).

(Appx. p. 134).

This is not a close case of bad faith.

The trial court found that Dr. Trant has made a prima facie showing of bad faith (November 14, 2025 Order, p.2, Appx. p. 1420); and also found sufficient evidence to support a finding of punitive damages. (October 27, 2025 Order, p. 9, Appx. p. 1408).[2]

In their Reply to Dr. Trant's Return to the Petition for Certiorari, Mag Mutual made the offhand, though serious, allegation that Dr. Trant's Return to this Court contained "many inaccurate representations" of fact. (Mag Mutual Reply, p. 1, fn. 1). Mag Mutual made this allegation in a footnote, without any support.

Dr. Trant presented the Trial Court, for in camera[3] review, an extensive, itemized, statement of facts and supporting documents establishing the facts of the record; identified as exhibit B, and

[2] The October 27, 2025 and November 14, 2025 Orders were issued by the Hon. Michael G. Nettles in rulings on Dr. Trant's Motion to Compel discovery.

[3] Most of the supporting documents in exhibit B were produced by Mag Mutual from their claim file and designated as confidential by Mag Mutual pursuant to a confidentiality order governing discovery (though not applicable to trial); thus, in opposition to the pre-trial Motion to Stay, Dr. Trant presented exhibit B to the Trial Court for in camera consideration.

sub-exhibits B(1)-B(65) to Plaintiff's Opposition to Mag Mutual's 2nd Motion to Stay. (Appx. pp. 51-52, 55-1423).

That exhibit, along with the relevant Orders of the Trial Court, are contained in Respondent's Appendix to this brief, and now presented to this Court for in camera review.[4]

[4] Dr. Trant moves separately for the Court to determine whether, or not, the Appendix should be sealed.

ARGUMENT

This case is a textbook example of bad faith.

In Hood v. USAA, this Court considered a bad faith case with equally bad facts - in the opposite direction. There, the Court considered a plaintiff's counsel's frivolous attempt to manufacture a bad faith case. The Court "granted certiorari to say, in the strongest terms, that bringing a meritless claim fails to meet [an attorney's obligations to opposing parties, their profession, and the courts]." Hood v. U.S.A.A., 445 S.C. 1, 16-17 (2025).

Justice James wrote separately in concurrence "to comment further on the positions taken by Hood's lawyer throughout this bad faith case." Hood, at 17. Justice James prefaced his condemnation of the bad faith case in Hood with the caution "[i]nsurance carriers should be held to account if they act in bad faith, and no carrier should consider the majority opinion or this concurring opinion as a license to play fast and loose with obligations owed to the insureds." Hood, at 17.

Mag Mutual has done just that; choosing to hear what they want to hear from the Court's pronouncement in Hood - and disregarding the rest.

Mag Mutual has treated their duties to Dr. Trant as if, after Hood, bad faith no longer exists in South Carolina. The carrier is confident that they may "play fast and loose" with their obligations to Dr. Trant; safe in their belief that they may absolve their bad faith delay with further, indefinite, years of delay on appeal; treating the insurance policy as a mere contract of indemnity.

Mag Mutual seeks that delay here; dismissing the clear evidence of their reckless conduct, and its catastrophic consequences, with the casual argument that "luckily, an easy fix exists" – further years of appeal. (Petition, p.2).

There is no "easy fix" to the reputational, emotional, physical, and economic injury Mag Mutual's delay has caused and continues to cause Dr. Trant. The only relief that the law has to offer an insured to remedy such blatant bad faith conduct by their insurance carrier is the threat of prompt tort action.

This Court recognized this reality in Nichols v. State Farm, 279 S.C. 336 (1983). In explaining its rationale for adopting the first party bad faith cause of action, the Nichols Court found that "[a]bsent the threat of a tort action, the insurance company can, with complete impunity, deny any claim they wish, whether valid or not. *During the ensuing period following such a denial, the insurance company has the benefit of profiting on the use of the insured's money."* Nichols, at 340 (emphasis added).

Mag Mutual argues that the underlying judgment is on appeal; and that the Plaintiff has not yet, and may not ever, pay the excess judgment entered against him. Thus, Mag Mutual argues, Dr. Trant's Complaint is contingent, hypothetical, not ripe for adjudication, and should be stayed pending the underlying appeal(s).

Mag Mutual would have this Court find that, after years on appeal, a successful reversal of the underlying judgment - followed, perhaps, by a new trial and further years on appeal - could cure the bad faith conduct that lead to the entry of the judgment in the first place.

Meanwhile, the passage of time during those years on appeal will compound the substantial economic and non-economic damage resulting from Mag Mutual's conduct; while, at the same time, profit Mag Mutual.

Mag Mutual urges this Court to find that their bad faith conduct will be absolved if the appeal in the underlying action is successful; rendering any bad faith action contingent, hypothetical, and unripe until the underlying appeal is resolved.

Such a finding would "transform the insurance policy into a mere contract of indemnity…the implied duty of good faith and fair dealing demands more…" Campbell v. State Farm Mut. Auto. Ins. Co., 840 P.2d 130, 140-141 (Utah Ct. App. 1992)(cited with approval by Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498, 504, fn. 4 (1996)).

It is precisely the insurance carrier's profit motive for unreasonable delay that led this Court to adopt the tort of bad faith. Mag Mutual would have this Court render the duty of good faith and fair dealing meaningless; leaving insurance carriers free to "play fast and loose;" placing their interests above those of their insureds without consequence.

For the reasons set out below, this Court should deny certiorari; or, in the alternative, affirm the Trial Court's denial of Mag Mutual's motion to stay.

I. THE TRIAL COURT'S ORDER IS NOT IMMEDIATELY APPEALABLE

Dr. Trant is mindful of the Court's direction to brief the issue of ripeness, and he does so below.

Respectfully, as a threshold matter, Dr Trant asks the Court to consider its jurisdiction to grant this extraordinary writ to review a non-final order in a case pending trial in the circuit court.

Article V, Section 5 of the South Carolina Constitution and S.C. Code §14-3-310 provide, "The Supreme Court shall have power to issue writs or orders of . . . certiorari . . . ."

Pursuant to this authority, this Court may use a common-law writ of certiorari to correct errors of law, particularly where a trial court exceeded its authority. State v. Price, 441 S.C. 423, 433 (2023). See also, City of Columbia v. S.C. Pub. Serv. Comm'n, 242 S.C. 528, 532 (1963)("A writ of certiorari is used to keep an inferior tribunal within the scope of its powers.").

Mag Mutual does not argue that the Trial Court lacked the authority to issue the Order denying Mag Mutual's Motion to Stay; they simply disagree with the Trial Court's ruling and seek to appeal.

Mag Mutual makes no attempt to establish this Court's jurisdiction to hear this interlocutory appeal of the Trial Court's Order.

The Legislature has, by statute, limited this Court's jurisdiction to hear interlocutory appeals to certain circumstances. See, S.C. Code Ann. §14-3-330 (Supp. 2010). The Court should first determine, as a threshold matter, whether the appeal falls within the categories prescribed by the Legislature in S.C. Code §14-3-330.

Respectfully, the Trial Court's denial of Mag Mutual's motion to stay does not fall within the Court's appellate jurisdiction as set out by §14-3-330. See Edwards v. SunCom, 369 S.C. 91 (2006)(order granting a stay not immediately appealable); Carolina Water Serv. v. Lexington County Joint Mun. Water and Sewer Comm'n., 373 S.C. 96 (2007)(order lifting stay not immediately appealable).

In Edwards v. SunCom, this Court held that an Order granting a stay is not immediately appealable. Edwards at 94. Applying §14-3-330 to an appeal of a ruling on a motion to stay, the Edwards Court held that the relevant analysis is whether the order "involve[d] the merits, affect[ed] a substantial right, or prevent[ed] a judgment from which an appeal may later be taken." Id. at 94.

The Court reasoned "[a]n order which involves the merits is one that must finally determine some substantial matter forming the whole or a part of some cause of action or defense." Id. (Internal citation and quotation omitted). Moreover, the Court defined an order "affecting a substantial right" as one that "discontinued an action [or] prevent[ed] an appeal." Id. (Internal citation and quotation omitted).

Finding that the order, which granted a motion to stay, did not discontinue the proceeding, the Edwards Court held "an order granting a stay is not immediately appealable." Id. at 95.

One year later, in Carolina Water Service, Inc. v. Lexington County Joint Mun. Water & Sewer Comm'n, 373 S.C. 96 (2007) this Court held, on the same rationale, that an order *lifting* a stay was also not immediately appealable; and therefore, beyond the Court's jurisdiction.

Likewise, the trial court's Order denying a stay does not fall within the Court's appellate jurisdiction; as it did not discontinue the action, nor prevent an ultimate appeal.

This Court has cautioned that it "will not, however, use a common-law writ of certiorari as a substitute for a party's right of appeal." Ex Parte Gregory, 58 S.C. 114, 115-116 (1900). Nor has the Court been willing to "generally accept matters on a writ of certiorari that can be entertained in the trial court or on appeal, a writ of certiorari may be used *when exceptional circumstances exist.*" In Re: Breast Implant Product Liability Litigation, 331 S.C. 540, 543 fn.2 (1998)(emphasis added).

The trial court's interlocutory order should be no exception.

II. THE CASE IS RIPE

"Before any action can be maintained, a justiciable controversy must be present. A justiciable controversy is a real and substantial controversy appropriate for judicial determination, as opposed to a dispute or difference of a contingent, hypothetical or abstract character." Sloan v. Greenville County, 356 S.C. 531, 546 (Ct. App. 2003) (citation omitted). "Our courts will not address the merits of any case unless it presents a justiciable controversy." Jowers v. S.C. Dep't of Health & Env't Control, 423 S.C. 343, 353(2018). "This [c]ourt will not . . . make an adjudication where there remains no actual controversy." Id. (omission in original) (quoting Byrd v. Irmo High Sch., 321 S.C. 426, 430-31(1996)).

"The concept of justiciability encompasses the doctrines of ripeness, mootness, and standing." Sloan, 356 S.C. at 547. "A justiciable controversy is a real and substantial controversy [that] is ripe and appropriate for judicial determination . . . ." Id. at 552 (quoting Pee Dee Elec. Coop., Inc. v. Carolina Power Light Co., 279 S.C. 64, 66(1983)). This Court has "explained ripeness by defining what is not ripe, stating 'an issue that is contingent, hypothetical, or abstract is not ripe for judicial review.'" Jowers, 423 S.C. at 353-54 (quoting Colleton Cnty. Taxpayers Ass'n v. Sch. Dist. of Colleton Cnty., 371 S.C. 224, 242, (2006)).

"The principles of justiciability developed by South Carolina appellate courts have grown out of the federal court's interpretation of 'the case or controversy' requirement contained in Article III of the United States Constitution." Jean Hoefer Toal et al., Appellate Practice in South Carolina 125 (3d ed. 2016).

"In determining a ripeness issue under the 'case or controversy' requirement of Article III of the United States Constitution, federal courts use a two-factor test: (1) the fitness of the issues for judicial decision, and (2) the hardship to the parties of withholding court consideration." Waters v. S.C. Land Res. Conservation Comm'n, 321 S.C. 219, 227-228 (1996) (quoting Fort Sumter Tours, Inc. v. Andrus, 564 F.2d 1119 (4th Cir. 1977)); see also Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm'n, 461 U.S. 190, 201 (1983)("[T]he question of ripeness turns on 'the fitness of the issues for judicial decision' and 'the hardship to the parties of withholding court consideration.'" (quoting Abbott Lab'ys v. Garner, 387 U.S. 136, 149 (1967), abrogated on other grounds by Califano v. Sanders, 430 U.S. 99 (1977)). "The question of 'the fitness of the issues for judicial decision' in essence comes down to a decision as to whether the court is presented with an abstract question or a concrete controversy." Browning-Ferris Indus. Of Ala. Inc. v. Ala. Dep't of Env't Mgmt., 799 F.2d 1473, 1478 (11th Cir. 1986).

"The difference between an abstract question and a 'case or controversy' is one of degree, of course, and is not discernible by any precise test." Babbit v. United Farm Workers Nat'l Union, 442 U.S. 289, 297 (1979). "[W]hether particular facts are sufficiently immediate and real to constitute an actual controversy and thus present an issue fit for judicial decision is something that must be worked out on a case-by-case basis." Browning-Ferris Indus., 799 F.2d at 1478.

The Trial Court did not abuse its discretion in finding that, on these particular facts, the question of whether Mag Mutual acted in bad faith in handling the underlying action against its insured is fit for judicial determination; that is, it presents a concrete controversy rather than an abstract question.

A. THE FITNESS OF THE ISSUE FOR JUDICIAL DETERMINATION

1. THE CASE PRESENTS A CONCRETE CONTROVERSY

This Court has repeatedly held that bad faith can arise from, "not just nonpayment of a legitimate claim *but how that claim was processed*." Hood v. United Services Auto Assoc., 445 S.C. 1, 9 (2025)(emphasis added)(citing Mixon, Inc. v. American, 349 S.C. 394, 400 (Ct. App. 2002)(citing Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498, 504 (1996) and holding "the covenant of good faith and fair dealing extends not just to the payment of a legitimate claim, but also the manner in which it is processed.").

Plaintiff has set out voluminous concrete facts upon which a jury could find that Mag Mutual unreasonably delayed making any offer to the Price estate until the third day of trial – when it was far too late; and, thus, handled the third-party claim in bad faith. (See Appx., pp. 55-1423)(See also Tyger River Pine Co. v. Maryland Cas. Co., 170 S.C. 286 (1933)(holding that insurer had duty to settle a case against their insured "if that was the reasonable thing to do.").

Moreover, even if the appeal in the Price action were successful, or Mag Mutual, ultimately, satisfied the excess judgment, the Defendant's bad faith would not be absolved; nor would Dr. Trant's action arising from the Defendant's *handling* of the Price claim be extinguished. See Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498 (1996).

In its Order denying Mag Mutual's Second Motion for a Stay, the Trial Court specifically noted that Mag Mutual had conceded the established law in South Carolina that, even if their appeal of the underlying medical malpractice verdict was successful, Dr. Trant could still have a viable bad faith action. Judge DeBerry found:

> Our Courts have defined a bad faith claim "to include not just nonpayment of a legitimate claim but how that claim was processed." Hood v. United Services Auto Assoc., 2025 S.C. LEXIS 1 (Opinion No. 28249, January 8, 2025)(citing Mixon, Inc. v. American, 349 S.C. 394, 400 (Ct. App. 2002)(citing Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498, 504 (1996) and holding "the covenant of good faith and fair dealing extends not just to the payment of a legitimate claim, but also the manner in which it is processed.").
>
> In Tadlock, our Supreme Court held that an action for bad faith in the carrier's *handling* of an insurance claim could continue, even in the absence of any breach of an express contractual provision. See, Tadlock, at 504.
>
> Thus, even if the appeal in the Price action were successful, or if Defendant Mag Mutual, ultimately, satisfied the excess judgment, the Defendant's bad faith would not be absolved, nor would Plaintiff's actions arising from the Defendant's handling of the Price claim and the resulting Judgment entered against him, be extinguished. Id.
>
> In their Reply Brief [to Defendant's Second Motion for Stay], the Defendant concedes this point. **The Defendant acknowledges "Defendant does not dispute that Plaintiff may ultimately possess a bad-faith claim – *even in the event these underlying judgment is reversed*." (Def. Reply Brf., April 8, 2026, p. 1)(emphasis added).**

(Appx. pp. 39-40, Order, April 23, 2026, p.17-18)(emphasis in original).

Mag Mutual now takes a contrary position; arguing "[l]ike there being no legal malpractice cause of action until the underlying appeal discussed in Stokes-Craven was resolved,

there can be no cause of action for bad faith until the appeal in the Underlying Case is resolved. Just like a stay was the remedy in Stokes-Craven, a stay is needed here too." (Pet. p. 10)(emphasis added).

In their reply to Dr. Trant's response to their Rule 59(e) motion below, Mag Mutual argued, for the first time, that the case is actually already stayed because Rule 205 SCACR has "already divested this Court of jurisdiction"; citing Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517 (2016). (May 15, 2026, Reply, p. 3-4).

Even assuming that this argument is preserved for appellate review,[5] Stokes-Craven involved a *legal malpractice* cause of action, not a bad faith action. Moreover, under the specific facts of that case, the Stokes-Craven Court found:

> However, the case that we address today is a legal malpractice cause of action that is predicated on an injury or damage caused by the failure of an underlying suit due to an attorney's alleged malpractice. ***In that particular scenario, there can be no legal malpractice cause of action without an adverse verdict, judgment, or ruling***.

Stokes-Craven, at 534 (emphasis added).

In the bad faith context, however, the Court has not made an excess verdict, much less one affirmed after an appeal, a prerequisite to a *bad faith* cause of action.

To the contrary, in Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498, 504 (1996), this Court held that an action for bad faith in an insurance carrier's handling of an insurance claim could continue, even in the absence of any breach of an express contractual provision.

[5] This argument is contrary to a previous position taken by Mag Mutual, and was raised for the first time in a Rule 59(e) motion. See Hayne Federal Credit Union v. Bailey, 327 S.C. 242, 251 (1997) ("Judicial estoppel precludes a party from adopting a position in conflict with one earlier taken in the same or related litigation."); Johnson v. Sonoco Prods. Co., 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) ("An issue may not be raised for the first time in a motion to reconsider.").

In Tadlock, an insured painting company performed an industrial spray-painting job for their client at the client's job site and paint overspray damaged approximately 90 cars. The client brought a claim against the painting company for the resulting damage, and the painting company's insurer delayed paying the claim; disputing, with their insured, whether one or multiple deductibles applied. Ultimately, the insured personally settled each of the client's claims for amounts within the deductible limits. See, Tadlock, at 499.

Because of the delay in cleaning the cars, the client (the insured's primary customer) refused to consider the insured for future jobs. Id.

The insured brought an action against the carrier alleging breach of contract and bad faith. The federal district court granted the carrier's motion for summary judgment on the contractual deductible issue (which the insured did not appeal). See, Tadlock Painting Co. v. Maryland Cas. Co., 1996 U.S. App. LEXIS 24747, fn. 2 (4th Cir. 1996). The district court, however, allowed the case to proceed to verdict on the bad faith tort action, and the jury returned a verdict for compensatory and punitive damages against the carrier. Id.

On appeal, the Fourth Circuit asked this Court to answer the certified question "[m]ay an insured assert a cause of action on an implied covenant of good faith and fair dealing against an insurance company for consequential damages he allegedly suffered because of the insurance company's bad faith *handling* of third party claims?" Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498, 499 (1996)(emphasis added).

In response, this Court adopted the logic of the Arizona Supreme Court's decision in Deese v. State Farm Mut. Auto. Ins. Co., 838 P.2d 1265 (Ariz. 1992). See, Tadlock, 322 S.C. 498, 501.

In Deese, an insured brought an action for breach of contract and bad faith and the jury found for the insurer on the breach of contract action and found for the insured on the bad faith action.

The Arizona Supreme Court upheld the verdict; finding, "'[f]ailure to perform the express covenant to pay is not the sine qua non for an action for breach of the implied covenant of good faith and fair dealing.'" Tadlock, 322 S.C. 498, 501 (quoting Deese).

"The [Deese] Court reasoned that **an insured is not only bargaining for security from financial loss**, the primary goal motivating the purchase of insurance, when it enters into an insurance contract. **Rather, 'the insured also is entitled to receive the additional security of knowing that she will be dealt with fairly and in good faith.'**" Tadlock, 322 S.C. 498, 501 (quoting Deese)(emphasis added).

Therefore, the Tadlock Court held that the painting company's bad faith action based upon the carrier's handling of the claim could proceed, even in the absence of a breach of an express contractual provision to pay the claim. Tadlock, 322 S.C. 498, 503-504 (1996).

The Court held:

> We agree with the reasoning of Deese that the benefits due an insured are not limited solely by those expressly set out in the contract. **The fact that the claims were ultimately settled for an amount less than the applicable deductible (through the insured's efforts) is irrelevant to whether the [insurer] [sic] performed its duties in good faith**. See Howard v. State Farm Mutual Ins. Co., 316 S.C. 445, 450 S.E. 2d 582 (1994) (**whether insurer is liable for bad faith must be determined by the evidence before it at the time it denied the claim; evidence arising after denial irrelevant to propriety of insurer's conduct at the time of refusal**).

Tadlock, 322 S.C. 498, 503.

Likewise, the fact that the excess judgment, here, could potentially be reversed on appeal is irrelevant to the question of whether the insurer performed its duties in good faith in the manner in which it handled the claim - causing the entry of the excess judgment in the first place.

A potential reversal of the excess judgment after years on appeal, and following years of litigation below, would not cure the emotional injury, the damage to the insured's reputation and financial position, or any other legally cognizable injury from the insurer's failure to settle and the resulting entry of the judgment against him. See, Campbell v. State Farm Mut. Auto. Ins. Co., 840 P. 2d 130, 140-141 (Utah Ct. App. 1992)(subsequent decision rev'd on other grnds., 538 U.S. 408 (2003))(carrier's eventual payment of an excess judgment rendered against its insured in a suit by a third party did not bar the insured's claim that the insurer acted in bad faith by earlier refusing to settle the claim within policy limits)(cited with approval by Tadlock).

Nor could a potential reversal of the excess judgment absolve the carrier from the bad faith that led to the excess verdict to begin with.

Nor could it insulate the carrier from punitive damages. See, Robinson v. North Carolina Farm Bureau Ins. Co., 86 N.C. App. 44 (N.C. 1987)("We do not believe an action for punitive damages from tortious conduct is precluded when the company eventually pays, if bad faith delay and aggravating conduct is present.")(also cited with approval by Tadlock).

The Tadlock Court cited, with approval, cases from several jurisdictions reaching the same conclusion. See, Tadlock, 322 S.C. 498, 504, fn. 4 (1996).

Among them, the Tadlock Court cited the Utah Court of Appeals decision in Campbell v. State Farm Mut. Auto. Ins. Co., 840 P. 2d 130, 140-141 (Utah Ct. App. 1992)(subsequent decision rev'd on other grounds, 538 U.S. 408 (2003)).

In Campbell, the Utah Court held that a carrier's eventual payment of an excess judgment rendered against its insured in a suit by a third party did not bar the insured's claim that the insurer acted in bad faith by earlier refusing to settle the claim within policy limits. See, Campbell v. State Farm Mut. Auto. Ins. Co., 840 P. 2d 130.

The Court in Tadlock quoted, with approval, the Campbell Court's conclusion that "**an insured may purchase insurance not only to provide funds, *but to provide peace of mind*.**" Tadlock, at 504, fn. 4 (quoting Campbell)(emphasis added).

Certainly, Dr. Trant purchased the policy to provide funds to satisfy claims against him; funds which the carrier refused to offer the Price estate unreasonably and in bad faith.

But Dr. Trant also purchased the policy to provide him peace of mind. Because of the Carrier's bad faith refusal to even negotiate the claim against him for years, he has suffered the threat of his family's financial ruin during years of unnecessary litigation including a week-long trial, and he now faces the reality of a Twenty-Nine Million Eight Hundred Seventy Thousand and 00/100 ($29,870,000.00) Dollar Judgment, and additional years on appeal; all of which have devastated his emotional and physical well-being, his reputation, his financial position, and his peace of mind.

The carrier's potential success on appeal could not cure that damage; nor could it absolve the carrier from their conduct.

The Campbell Court acknowledged this reality, finding:

> Eventual payment of the excess judgment does not compensate the insured for emotional injury, damages to the insured's reputation and credit rating, any punitive damages awarded against the insured, or any other legally cognizable injury from the insurer's failure to settle. Nor does it "cure" the insurer's earlier wrongful conduct. . . **[A]n insurer's belated payment of a claim after intentionally refusing to pay it does not negate the insurer's liability for bad faith**.

***

> …[I]n accordance with our focus on the insurer's settlement conduct, we think that allowing an insurer to absolve itself of its earlier breach of duty by paying a judgment years later does not adequately encourage an insurer to properly discharge its fiduciary duty. Were we to decide that the insurer's fiduciary obligation would be satisfied by merely paying the excess judgment, we would transform the insurance policy into a mere contract of indemnity. As previously noted the implied duty of good faith and fair dealing demands more than this…

***

> **…[O]ur decision reinforces a policy of giving an insurer every incentive to treat the insured properly in the first instance, rather than encouraging a belated attempt to right a previous wrong by paying an excess judgment which should never have come into existence**.

Campbell v. State Farm Mut. Auto. Ins. Co., 840 P. 2d 130, 140-141 (emphasis added)(cited with approval by Tadlock).

Curiously, Mag Mutual argues that the Utah Court of Appeals decision in Campbell, actually "supports the exact argument MagMutual has been making to the Court." (May 15, 2026, Reply, p.2).

Selectively, and out of context, Mag Mutual cites footnote 20 in Campbell, in which the Utah Court of Appeals held that their holding "is not inconsistent with our view that the insured's cause of action does not accrue until final disposition of the underlying claim against the insured. In this regard we agree with the Larraburu court …". Campbell, at 141, fn. 20. (See Pet. p.18).

There, the Campbell Court cited a previous Utah appellate decision for the proposition that the statute of limitations clock does not start to run until the end of the underlying appeal – not that a plaintiff must wait until the resolution of the appeal to bring his bad faith case.

The footnote in Campbell goes on to provide, "[t]hus, until final disposition of the underlying claim, an insured *may not know* whether he has a 'colorable' claim that the insurer's conduct was unreasonable. Nevertheless, the fact '[t]hat [the insured] must await final disposition of the original action to determine whether he has a colorable claim against the insurer *does not alter the fact that the conduct alleged to be unreasonable occurred at an earlier stage of the original lawsuit, and that unreasonable conduct can be a proximate cause of injury before the final disposition as well as after.*" Campbell, at 141, fn. 20 (emphasis added).

Thus, the holding in Campbell that the Utah statute of limitations for bad faith does not start running until the end of the appeal in an underlying case does not conflict with their conclusion that a Utah plaintiff may have a cause of action for bad faith, and damages as a result, based on what happened before the conclusion of the appeal in the underlying case.

The Campbell Court never held that a plaintiff *could not* bring a bad faith case before the end of the underlying appeal – only that he was not required to do so.

Mag Mutual argued to the trial court that in Campbell,"the plaintiffs filed suit against their insurer for bad faith in July of 1986. In April of 1987, the plaintiff's bad faith action "*was dismissed without prejudice, pending the final disposition of the underlying action*." (May 15, 2026, Reply, p.2, citing to Campbell at 135).

Mag Mutual ignores the fact that the trial court in Campbell, whose stay they argued the trial court in this case should adopt, was reversed by the Utah Court of Appeals in that same case; in an opinion cited by this Court with approval in Tadlock.

The Tadlock Court also cited, with approval, the decision of the North Carolina Court of Appeals in Robinson v. North Carolina Farm Bureau Ins. Co., 86 N.C. App. 44 (N.C. 1987).

In Robinson, the insured brought a bad faith action against his carrier who, eventually, paid a fire claim after five months delay. The trial court granted summary judgment on the insured's claim, seeking punitive damages.

On appeal, the insured argued "that the defendant had a duty to deal in good faith; and, if it did not do so, it is not absolved from punitive damages because it later performed as it should." Robinson, at 49. The North Carolina Court of Appeals agreed, finding "[w]e do not believe an action for punitive damages from tortious conduct is precluded when the company eventually pays, if bad faith delay and aggravating conduct is present." Robinson, at 50 (emphasis added)(cited with approval by Tadlock).

See also, State Farm Mut. Ins. Co. v. Shrader, 882 P.2d 813, 828 (Wyo. 1994)("subsequent payment of a denied or unreasonably denied claim does not absolve an insurer from compliance with the duty of good faith and fair dealing…insured does not need to prevail on the contract claim to prevail on the claim for breach of implied covenant.")(emphasis added)(also cited with approval by Tadlock Painting Co. v. Maryland Cas. Co., 322 S.C. 498, 504, fn. 4 (1996)).

See also, Chitty v. State Farm Mut. Ins. Co., 38 F.R.D. 37 (D.S.C. 1965)(payment of excess judgment not prerequisite for bad faith action against insurer); Lee v. Nationwide Ins. Co., 286 F.2d 295, 295-296 (4th Cir. 1961)(payment of excess judgment not required before the insured may bring suit against insurer; even where insured had died and was insolvent, holding, "Had the insured survived, even insolvent, the outstanding judgments, as constant and life-long threats to his financial security and rating, would have caused him almost immeasurable damage."); Torrez v. State Farm Mut. Auto. Ins. Co., 705 F.2d 1192 (10th Cir. 1982)(payment of excess judgment not prerequisite to action against insurer, "We are persuaded that the majority view is the sounder one both in justice and logic. The very fact of the entry of judgment itself constitutes damage and harm sufficient to permit recovery.").

Mag Mutual cites the Federal District Court's decision in Permanent General Assur. Corp. v. Moore, 341 F.Supp. 2d 579, 581 (D.S.C. 2004), for the proposition that all appeals in the underlying case must be exhausted before a bad faith action is ripe. However, Moore does not support, or even address, that proposition.

Rather, in Moore, after refusing an offer to settle a case within policy limits, a carrier brought a declaratory judgment action in federal court prior to the trial of the underlying case; seeking a declaration that it had not engaged in bad faith for failing to settle. The district court granted the insured's motion to dismiss; finding that the carrier's attempt to "look into the future and stave off the threat of potential litigation" was not ripe because judgment had not been entered in the underlying case. See Moore, at 582.

The facts of Moore have no application here. Plaintiff Trant has suffered the entry of a very real and present Twenty-Nine Million Eight Hundred Seventy Thousand and 00/100 ($29,870,000.00) Dollar excess judgment against him, due to Mag Mutual's bad faith handling of the claim.

Insurers have a duty of good faith and fair dealing that is well established. They cannot "stave off" the consequences of their bad faith prior to an excess judgment; nor can they absolve their bad faith on appeal from an excess judgment.

Mag Mutual argues another district court opinion, Miller v. Mag Mutual, 2024 U.S. Dist. LEXIS 110655 (D.S.C. 2024), in support of their motion to dismiss. The District Court in Miller did dismiss, as unripe, an insured physician's action against this same carrier, Mag Mutual, for their failure to make any offer to settle a claim against him, also leading to an excess verdict.

The District Court noted "Dr. Miller argues that even if the judgment is reversed on appeal, there has been and will be 'damage done to him personally and professionally by way of the pendency of the excess judgment.'" Miller v. Mag Mutual, 2024 U.S. Dist. LEXIS 110655, fn. 4 (D.S.C. 2024).

The District Court did not confront that issue, finding "[h]owever, [the insured] did not allege any injury in his amended complaint apart from his liability under the excess judgment. As noted, in a facial attack, such as this one, the Court considers only the allegations in the applicable complaint." Id. (emphasis added).

In the present case, Dr. Trant did make specific allegations in his complaint, alleging the damage he sustained as a result of the carrier's bad faith handling of the claim, in addition to the loss of the policy's contractual benefit.

Dr. Trant's specific allegations, set out above, include:

> 170. That Mag Mutual unreasonably delayed and refused to make any attempt at all to effect a prompt, fair, and equitable settlement of the Price action in disregard of Dr. Trant's contractual rights, his reputation, his financial position, and his emotional and physical well-being.
>
> 171. That Mag Mutual's delay and refusal lasted, at a minimum, from November 7, 2022, on which date the Price Estate offered to settle the Price action for the $1.2 Million per occurrence policy limit, for two years, through November 6, 2024; when on the third day of trial, Mag Mutual made a belated offer of the $1.2 Million per occurrence policy limit, which was rejected by the Estate.
>
> **172. That, in addition to proximately causing Dr. Trant's liability for the excess verdict, Mag Mutual's unreasonable delay and refusal to offer any amount to settle the Price action for, at a minimum, two years from November 7, 2022 to November 6, 2024, proximately caused damage to Dr. Trant's personal and professional reputation, impaired his financial position, and severely damaged his emotional well-being to such a degree that he has suffered physical manifestations of his severe emotional distress; moreover, such damages would have resulted from Mag Mutual's unreasonable delay to attempt to effect a settlement for two years, even if the Estate had accepted Mag Mutual's offer on November 6, 2024.**

(Compl. ¶¶ 170-172)(emphasis added).

Evidence supporting those allegations has been established in discovery. (See, e.g., Appx., p. 1245-1246, 1248, 1252-1253, 1258-1262, 1266-1267, Trant deposition, pp.97-98, 100, 104-05, 110-114, and 118-119; see also Appx. p. 409, MAG 274, Aiken Day 3 Trial Report (reporting to Mag Mutual that Dr. Trant was “in tears” and “physically and mentally broken.”)).

Thus, Miller has no application here.

Faced with this Court’s precedent in Tadlock, Mag Mutual turns to other jurisdictions; arguing that the Trial Court’s ruling was clearly erroneous “and in conflict with virtually every other jurisdiction in America.” (Pet. p. 14).

A close inspection of the cases cited by Mag Mutual as representing the consensus view of “virtually every other jurisdiction in America” reveals cases representing the view of selected states that have adopted views of the law of bad faith directly contrary to those established in South Carolina by this Court.

For example, of the eleven cases that Mag Mutual cites as representing “every other jurisdiction in America” four are from Florida, or Federal cases interpreting Florida law. (See Pet. p. 15-16).

Mag Mutual particularly relies on Romano v. American Cas. Co. Of Reading, Pa., 834 F.2d 968 (11th Cir. 1987). (See Pet. p. 16). In Romano, the U.S. Eleventh Circuit Court of Appeals interpreted Florida state law on bad faith. The Romano court held that, *in Florida*, breach of an express contractual provision is a prerequisite to a bad faith cause of action. Romano, at 969-970 (citing a Florida case, Fidelity and Cas. Of N.Y. v. Cope, 462 So. 2d 459 (Fla. 1985)).

Romano’s holding and Florida’s law are directly contrary to this Court’s holding in Tadlock, wherein, the Court held that *in South Carolina* a breach of an express contractual provision *was not* a prerequisite to a bad faith cause of action. Tadlock, at 504.

As discussed above, in Tadlock this Court cited, with approval, the Utah Court of Appeals in Campbell v. State Farm, which, in turn, explicitly rejected the Florida position (as well as

Oregon's), "[w]e reject these cases, first, because Florida and Oregon frame the insurer's duty more narrowly as sounding only in contract, not tort, …" Campbell, at 141, fn. 22. See also Tadlock, at 503-504 (citing Campbell with approval, at fn. 4).

In similar fashion, Mag Mutual cites cases that do not actually stand for the proposition that a bad faith case is not ripe, and cannot be tried, until the judgment in the underlying case is final and non-appealable. Rather, the cases cited by Mag Mutual address a different issue: when should the statute of limitations clock begin to run in a bad faith action?

For example, Mag Mutual cites Connelly v. State Farm Mut. Life Ins. Co., 135 A.3d 1271 (Del. 2015). There, the Delaware Supreme Court noted "[t[he resolution of this appeal turns on a single issue: When does a claim that an insurer acted in bad faith by failing to settle a third-party insurance claim accrue *for the purposes of the statute of limitations*?" Id. (emphasis added). The Connelly Court did not determine, or even address, the question for which Mag Mutual cites it: whether a third-party bad faith action brought prior to the completion of the appeal in the underlying case is ripe for adjudication.

Likewise, Mag Mutual cites the Arizona Supreme Court's decision in Taylor v. State Farm Mut. Auto Ins. Co., 93 P.2d 1092 (Ariz. 1996). Taylor considered when the statute of limitations begins to run on bad faith actions.

The Trial Court considered each of these cases, and others, and concluded:

> Neither of these opinions involve facts, such as are presented to the Court in this case: a Defendant's Motion to Stay a Plaintiff's action alleging bad faith resulting in significant actual injury to [his] reputation, financial position, and emotional and physical well-being, which damage is increasing dramatically with every day that passes by operation of the accrual of post judgment interest: where the Plaintiff seeks judicial determination to remedy and protect himself from the escalation of prejudice.
>
> This Court looks to the precedent set by our own Supreme Court in Tadlock Painting Co. v. Maryland Cas. Co.; where, as set out above, the Court held that a

> breach of an express contractual provision of an insurance contract (as in the contractual obligation to pay a judgment) is not a prerequisite to a bad faith action.
(Appx. p. 39, Order, April 23, 2026, p.17).

The Trial Court did not abuse its discretion when it found that, on these facts, Dr. Trant presented an actionable and ripe cause of a for bad faith; resulting in damages to Dr. Trant's personal and professional reputation, emotional and physical well-being, and financial position, which could not be absolved by Mag Mutual potentially obtaining an ultimate reversal on appeal.

2. DR. TRANT'S DAMAGES ARE NOT SPECULATIVE

The Trial Court did not abuse its discretion in rejecting Mag Mutual's argument that the judgment pending against Dr. Trant was speculative.

The Trial Court found that the "entry of an excess judgment against Dr. Trant is more than reasonably certain to occur. It already has. Dr. Trant also offers evidence that he has already suffered irreparable damage (including damage to his reputation and emotional and physical well-being) that will not be reversed, even if the Judgment ultimately is." (Appx. p. 42, Order, April 23, 2026). The Trial Court reasoned "[w]hat is uncertain is the Defendant's prediction that the judgment, that exists today, may be reversed in the future." Id.

Citing Pearson v. Bridges, the Trial Court held that "[i]n any event, determining the extent of future damages is the role of the jury. 'It is the duty of the jury to estimate, as best it can, the future damages which are reasonably certain to be accrued by the Plaintiff.'" (Appx. pp. 41-42, Order, April 23, 2026).

In Pearson v. Bridges, this Court considered a medical malpractice case in which the Defendant appealed the trial court's decision to admit evidence of four possible scenarios regarding the Plaintiff's future medical needs and expenses. The Defendant challenged the resulting verdict as based upon speculation and conjecture. See Pearson v. Bridges, 344 S.C. 366, 369-370 (2001).

This Court affirmed the trial court. Citing Haltiwanger v. Barr, 258 S.C. 27 (1972), the Court noted that "it is the duty of the jury to estimate, as best it can, the future damages which are reasonably certain to be accrued by the plaintiff." Pearson, at 373.

The Court held, "[t]he fact that Pearson's experts testified that the possibilities of scenarios two, three, and four occurring were 30 percent or less went to the weight of the evidence not its admissibility. Id. Whether Pearson proved the expenses were 'reasonably certain' to occur so she would be entitled to an award of future damages was a question for the jury to determine. Haltiwanger, supra." Pearson, at 373.

Further, in Garrison v. Target Corp., 433 S.C. 566 (2022), this Court addressed the proper consideration to be given *potential damage* as support for a punitive damages award. There, a child was pricked by a syringe in a store parking lot. The child's parents, naturally, feared she may contract a disease as a result; which, thankfully, never materialized.

In considering the resulting punitive damages award against the store, this Court held "[a]lthough [the child] did not ultimately contract a disease from the syringe, the trial court erred in failing to consider *any* potential harm in the ratio calculation, including the harm likely to result to other customers due to Target's failure to maintain the parking lot in a reasonably safe condition." Garrison, at 585 (emphasis in original).

Thus, in addition to the irreparable actual damages that Dr. Trant has suffered, and the future actual damages that are reasonably certain to occur, the jury, for punitive damages purposes, may also consider the *potential harm* to Dr. Trant, and other insureds due to Mag Mutual's failure to place the interests of their insureds above their own.

Such considerations are not speculative. They are the proper province of the jury. The Trial Court did not abuse its discretion in so finding.

B. THE HARDSHIP TO THE PARTIES OF WITHHOLDING COURT CONSIDERATION

Mag Mutual claims that they would suffer irreparable prejudice if the trial went forward and their trial strategy was "laid bare."

Judge DeBerry was unconvinced; finding "[i]ts hard to imagine what litigation strategy the Defense might employ in a hypothetical new trial that they did not already use in the underlying trial. Mag Mutual certainly does not identify the strategy they left un-utilized in the underlying trial." (Appx. pp. 43-44, Order, April 23, 2026).

Likewise, as to Mag Mutual's claim that they would suffer irreparable prejudice from the disclosure of privileged material if the case were tried, Judge DeBerry held that Dr. Trant was the client in the underlying case, and any attorney-client privilege was Dr. Trant's to waive. (See Appx. pp. 44-46, Order, April, 23, 2026, p. 22-24 (citing Chitty v. State Farm Mut. Auto Ins. Co., 36 F.R.D. 37 (D.S.C. 1964) among other authority for proposition that, even where common interest exists, otherwise privileged communications are not privileged as between co-clients in subsequent adverse proceeding between them)).

Further, Judge DeBerry found that "were the appellate courts to reverse the judgment and order a new trial in the Price action, the rules of evidence, as applied by the presiding judge, are designed by the Court precisely to protect the parties from the admission of privileged or any other improper or unduly prejudicial evidence during trial. Those rules protect all parties from the admission of evidence whose prejudicial effect outweighs their probative value. See, e.g., R. 401-403 S.C.R.E. The Defendant fails to explain why those rules that protect parties from undue prejudice in every other case are inadequate here." Id. at p. 24.

The Trial Court also weighed the prejudice to Dr. Trant of withholding determination of his action. The Trial Court held:

> For his part, the Plaintiff points to substantial hardship if the Court withholds consideration during years of appeal. This litigation, which as now, in one form or another, been going on for nearly four years, has by all accounts has taken a terrible toll on Dr. Trant. See, e.g., Compl ¶60, 62 (wherein Mr. Aiken describes the emotional toll that the litigation was taking on Dr. Trant and his concern for his financial security).
>
> Moreover, the Judgment entered against him increases at the staggering rate of $286,254.00 per month.
>
> The Plaintiff is entitled to a timely remedy. Our Courts have often cited the maximum that "justice delayed is justice denied." See In re: Atwater, 397 S.C. 518, 528 (2012).
>
> It should not be delayed any longer here.

(Appx. p. 46, Order, April 23, 2026).

The Trial Court has thoughtfully weighed, and will continue to weigh, the parties' competing interests in order to achieve a fair and prompt determination of the merits of this case; as is the Trial Court's authority, and its charge.

Mag Mutual asks this Court to take the extraordinary step of interrupting and delaying those proceedings. The Court should decline to do so.

CONCLUSION

Mag Mutual seeks an extraordinary writ to appeal an interlocutory order from the Trial Court; denying their second Motion to Stay the trial of this case. Mag Mutual appeals prematurely, and directly to this Court, in hopes of achieving the added delay that the Trial Court declined to allow after it considered the specific, voluminous, and appalling facts of this controversy.

This is not a close case of bad faith.

Mag Mutual's refusal to make any attempt to resolve the underlying case, including their cancellation of a scheduled, mandatory mediation, contrary to the pleas of their trial counsel and of counsel for their insureds, and contrary to the recommendations of their own internal claims' analysts, resulted in the entry of a Twenty-Nine Million Eight Hundred Seventy Thousand and 00/100 ($29,870,000.00) Dollar Judgment against their insured, Dr. Trant.

Because of the Carrier's bad faith refusal to negotiate the claim against him for years, Dr. Trant has suffered the threat of his family's financial devastation during prolonged and unnecessary litigation; and he now faces the reality of a ruinous judgment entered against him, along with indefinite years on appeal - all of which have devastated his emotional and physical well-being, his reputation, his financial position, and his peace of mind.

The carrier's potential success on appeal could not cure that damage; nor could it absolve the carrier from their bad faith conduct. Evaluating that damage, the future damage, and the appropriateness of punitive damages, is the province of the jury.

Were this Court to find that this case must be stayed because the ultimate reversal of the judgment could pardon the carrier's conduct, and its consequence, such a holding would transform insurance policies in South Carolina into mere contracts of indemnity and render the duty of good faith meaningless.

The Court should decline to do so and allow this case to proceed to trial on its merits.

Respectfully submitted,

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