

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
In The Court of Common Pleas

L. Casey Manning, Circuit Court Judge

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MAY 30 2014

S.C. Supreme Court

Opinion No. 27391
Submitted May 20, 2014 - Filed May 28, 2014

Allegro, Inc.,Respondent-Petitioner,

v.

Emmett J. Scully, Synergetic, Inc.,
George C. Corbin, and Yvonne Yarborough,Petitioners-Respondents.

MOTION TO CLARIFY

Respondent-Petitioner (Plaintiff) respectfully seeks clarification of this Court’s intent in denying Plaintiff’s petition for a writ of certiorari in the context of remanding other issues to the Court of Appeals. Plaintiff is not seeking a rehearing of that denial, as such is prohibited by Rule 221(a), SCACR. Plaintiff only seeks clarification as set forth below.

The Plaintiff obtained judgments against the Petitioners-Respondents (Defendants) and filed those judgments. The Court of Appeals granted Defendants a new trial based on the admission of an injunction order into evidence. The Court of Appeals refused to rule on Defendants’ directed verdict issues, finding that its new trial ruling was dispositive of those issues. Plaintiff petitioned this Court for certiorari, arguing *inter alia* that the issue of admitting

the injunction order into evidence was not preserved for appeal because Defendants' objection stated no grounds, and it was barred by the law of the case doctrine because Defendants had not challenged the trial court's alternative ruling. Defendants also petitioned this Court for certiorari, arguing *inter alia* that the Court of Appeals should have ruled on their directed verdict issues, because the new trial ruling was not dispositive of those issues. This Court granted Defendants' petition, dispensed with further briefing, agreed with the Defendants on the directed verdict issues, and remanded the case to the Court of Appeals for a ruling on the directed verdict issues. In so ruling, this Court also denied Plaintiff's certiorari petition without further comment.

After receiving this Court's opinion, the Defendants demanded that Plaintiff cancel the judgments against the Defendants, *i.e.*, Defendants have demanded that Plaintiff relinquish the judgment liens so that Defendants may deal freely with their assets during the pendency of the litigation. They make this demand under the following reading of this Court's opinion:

1. This Court's denial of Plaintiff's certiorari petition was final and absolute, such that the Defendants are at least entitled to a new trial regardless of the outcome in the Court of Appeals on remand.
2. Thus, regardless of the outcome in the Court of Appeals on remand, Plaintiffs cannot again raise any issue regarding the Court of Appeals' first opinion granting a new trial. For example, if the Court of Appeals denies Defendants' "directed verdict" appeal and therefore reinstates or continues the grant of a new trial, Plaintiffs cannot thereafter petition this Court for certiorari on the new trial ruling.

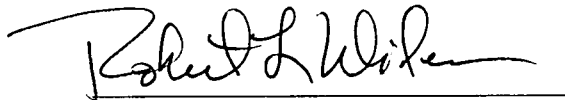
Plaintiff submits that, because this Court was remanding other issues to the Court of Appeals, it denied Plaintiff's certiorari petition for the present but not as an absolute final ruling on the propriety of the new trial ruling. In other words, this Court's analysis and intent was as follows:

1. The Court of Appeals erred in not reaching the directed verdict issues and, therefore, this case must be remanded to the Court of Appeals for a ruling on those issues.

2. Since the case must be remanded to the Court of Appeals, and since this may impact the outcome of the case, judicial economy is best promoted by denying Plaintiff's certiorari petition at this time.
3. After the Court of Appeals issues its ruling on remand, any party would then be free to petition for certiorari regarding any result on remand. For example, if the Court of Appeals rejects Defendants' directed verdict arguments on remand and therefore reinstates or continues the prior grant of a new trial, Plaintiff could then petition this Court for certiorari on the new trial ruling.
4. The foregoing approach best serves judicial economy by allowing this Court to address the merits of all potential certiorari issues in a single opinion after the Court of Appeals has ruled upon all issues that required a ruling.

The requested clarification of this Court's intent in denying Plaintiff's certiorari petition will allow the parties to make informed decisions regarding the status of the filed judgments and whether any action regarding those judgments is needed at this time. For this reason, and for the reasons set forth above, Plaintiff respectfully requests clarification of this Court's opinion and an amended opinion stating that Plaintiff may seek certiorari of the new trial ruling if appropriate after the Court of Appeals issues its opinion on remand.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that I have served a copy of the Respondent-Petitioner's Motion to Clarify by depositing a copy of same in the United States Mail, sufficient postage prepaid, on May 30, 2014 addressed to the attorneys for the Petitioners-Respondents, as follows and via email at the email address shown below:

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May 30, 2014

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Via Courier

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

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S.C. Supreme Court

Re: Allegro, Inc. v. Emmett J. Scully, et al.
Opinion No. 27391 - Submitted May 20, 2014 - Filed May 28, 2014

Dear Mr. Shearouse:

Enclosed for filing, please find the original and seven copies of the Respondent-Petitioner's Motion to Clarify with regard to the above referenced case. Please file the motion and return the file stamped extra copy to me via our courier.

By copy of this letter, we are serving counsel for the Petitioners-Respondents with a copy of the motion.

Respectfully yours,

McNAIR LAW FIRM, P.A.



Robert L. Widener

RLW/as
Enclosures

cc: Amy L. Gaffney, Esquire
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