

LAW OFFICES  
**PETERS, MURDAUGH, PARKER, ELTZROTH & DETRICK**

JOHN E. PARKER  
J. PAUL DETRICK  
DANIEL E. HENDERSON  
MARK D. BALL  
RANDOLPH MURDAUGH, IV  
RONNIE L. CROSBY  
R. ALEXANDER MURDAUGH  
BERT G. UTSEY, III  
RANDOLPH MURDAUGH, III  
GRAHAME E. HOLMES  
LEE D. COPE  
MATHEW V. CREECH  
LEAGUE B. CREECH  
STEVEN D. MURDAUGH  
WILLIAM F. BARNES, III  
AUSTIN H. CROSBY

PROFESSIONAL ASSOCIATION  
690 NORTH GREEN STREET  
P.O. BOX 2500  
RIDGELAND, SOUTH CAROLINA  
29936-2500

RANDOLPH MURDAUGH, SR.  
(1887-1940)  
RANDOLPH MURDAUGH, JR.  
(1915-1998)  
J. ROBERT PETERS, JR.  
(1927-2008)  
CLYDE A. ELTZROTH, JR.  
(Retired)

TELEPHONE  
(843) 726-6131  
TOLL FREE  
(866) 943-2113  
FACSIMILE  
(843) 726-6057  
www.pmped.com

August 11, 2014

**RECEIVED**

AUG 13 2014

**S.C. SUPREME COURT**

VIA U.S. MAIL

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

RE: *Laura Riley as the Personal Representative of the Estate of Benjamin Riley  
v. Ford Motor Company*  
Civil Action No. 2008-CP-05-235  
Appellate Case No. **2014-001192**

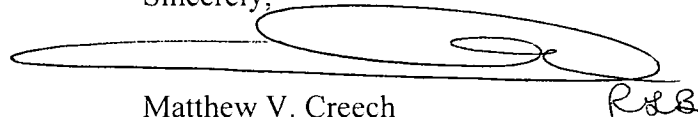
Dear Mr. Shearouse:

Enclosed please find the original and seven copies of Petitioner's Reply Brief in Support of her Petition for Writ of Certiorari in the above-referenced matter. Please file the original and return a clocked-in copy to us in the self-addressed stamped envelope I have provided.

By copy of this letter to counsel of record, we are serving them with a copy of this pleading.

With kind regards, I remain

Sincerely,

  
Matthew V. Creech

Enclosures: as stated

cc: C. Mitchell Brown, Esq.  
A. Mattison Bogan, Esq.  
Michael J. Anzelmo, Esq.  
Curtis L. Ott, Esq.  
Laura W. Jordan, Esq.  
J. Kenneth Carter, Jr., Esq.  
David C. Marshall, Esq.  
Carmelo B. Sammataro, Esq.

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM BAMBERG COUNTY  
Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

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Appellate Case No. 2014-00192

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Laura Riley as Personal Representative of the Estate  
of Benjamin Riley,.....Petitioner,

v.

Ford Motor Company,.....Respondent.

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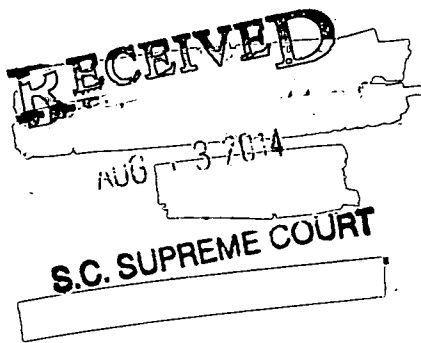
REPLY BRIEF OF PETITIONER

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Ronnie L. Crosby  
PETERS, MURDAUGH, PARKER,  
ELTZROTH & DETRICK, P.A.  
101 Mulberry Street, East  
Post Office Box 457  
Hampton, South Carolina 29924  
(803) 943-2111

Daniel E. Henderson  
Matthew V. Creech  
PETERS, MURDAUGH, PARKER,  
ELTZROTH & DETRICK, P.A.  
690 N. Green Street  
Post Office Box 2500  
Ridgeland, South Carolina 29936  
(843) 726-6131

ATTORNEYS FOR PETITIONER



## INTRODUCTION

Petitioner Laura Riley, as Personal Representative of the Estate of Benjamin Riley, respectfully submits this Reply Brief in response to the issues raised by Ford Motor Company's Return to Petition for Certiorari of August 1, 2014. With regard to the Statement of the Facts contained in Ford's Brief, Petitioner notes that Ford incorrectly states the trial court's order "presumed" that \$226,605.00 of the \$300,000.00 in damages was for economic damages. The Order does not say this. Ford misconstrues the Order to what best suits their argument.

## ARGUMENT

The Order below, in its ruling on the trial court's grant of *additur* begs for review by this Court, for the benefit of the Bench and Bar. As discussed at length through previous briefs, the Order below clearly conflicts with existing precedent.<sup>1</sup>

The trial court's order states clearly and specifically the compelling reasons why, in the trial court's sound discretion, the grant of *additur* was appropriate and required. No reported case on *additur* has ever included so many compelling reasons for the relief. However, in the Opinion below, the Court of Appeals simply concludes that the trial court could not substitute his opinion for jury. This is not what the trial court did. The trial court analyzed each element of wrongful death damages, discussed the extent and level of proof for each element presented by the Estate, and analyzed why these were compelling reasons for the award of *additur*.

Ford is absolutely incorrect in its argument that the trial court "merely listed" non-economic damages instead of citing compelling reasons for granting *additur*. The

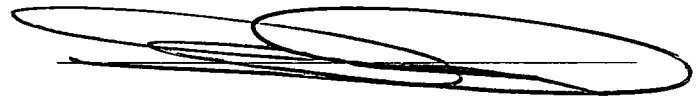
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<sup>1</sup> Petitioner specifically incorporates by reference those previous arguments. However, for the sake of brevity, only portions of Ford's Return are addressed in this limited Reply.

trial court listed all of the elements of damages which were convincingly proven by the Estate, finding that evidence to be compelling (as well as undisputed) and in the trial court's eye, *additur* was warranted. Ford, like the Court of Appeals, simply ignores the compelling nature of the trial court's reasoning and says mere disagreement with the verdict is not compelling. The Opinion below gives no analysis of the reasons provided.

The most important reason that this Court should review the Opinion below is while the parties to this litigation can argue over what constitutes "compelling reasons" for *additur*, there is no judicial guidance based on the Opinion below. Whether the "compelling reasons" analysis is nebulous and undefined or not, the Court of Appeals did not analyze the question at all. Based on the Opinion below, the only guidance the trial bench has for the analysis is what *does not* constitute compelling reasons, yet there is no definition – or even hint – as to what *do* constitute compelling reasons.

The Bench and Bar of this state would be well served by having this Court give guidance in the field of this narrow post-trial relief, the grant of *additur*. Here, the trial court was well within its discretion, as the trial court, to grant the relief of *additur*



Ronnie L. Crosby  
Daniel E. Henderson  
Matthew V. Creech  
PETERS, MURDAUGH, PARKER,  
ELTZROTH & DETRICK, P.A.  
Post Office Box 2500  
Ridgeland, SC 29936  
Phone: 843-726-6131  
Fax: 843-726-6057

ATTORNEYS FOR THE PETITIONER

August 11, 2014  
Ridgeland, S.C.

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM BAMBERG COUNTY  
Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

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Appellate Case No.: 2012-207489

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Laura Riley as Personal Representative of the Estate  
of Benjamin Riley,.....Petitioner,

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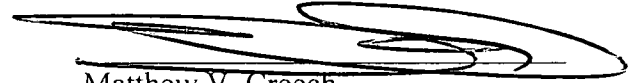
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I, the undersigned, of the law firm of Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A., attorneys for the Petitioner, do hereby certify that I have served all counsel in this action with the copy of the Petitioner's Reply Brief in the above matter by mailing a copy of the same by United States Mail, postage prepaid, to the following:

C. Mitchell Brown, Esquire  
A. Mattison Boganm Esquire  
Michael J. Anzelmo, Esquire  
Nelson Mullins Riley & Scarborough, LLP  
Post Office Box 11070  
Columbia, SC 29211-1070

J. Kenneth Carter, Esquire  
David C. Marshall, Esquire  
Carmelo B. Sammataro, Esquire  
Turner Padget Graham & Laney, PA  
Post Office Box 1473  
Columbia SC 29202

Curtis L. Ott, Esquire  
Laura W. Jordan, Esquire  
Gallivan White & Boyd, P.A.  
Post Office Box 7368  
Columbia SC 29202



Matthew V. Creech  
PETERS, MURDAUGH, PARKER,  
ELTZROTH, & DETRICK, P.A.  
Post Office Box 2500  
Ridgeland, S.C. 29936  
P: 843.726.6131  
F: 843.726.6057