

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM BAMBERG COUNTY
Court of Common Pleas

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

Supreme Court Case No.: 2014-001192

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

v.

Ford Motor Company,.....Respondent.

REPLY TO THE RETURN TO THE
PETITION FOR WRIT OF CERTIORARI

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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.¹

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*.

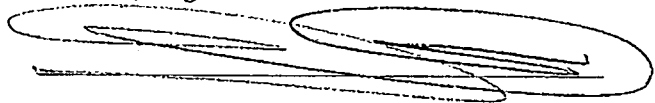
Ford is absolutely incorrect in its argument that the trial court "merely listed" non-economic damages instead of citing compelling reasons for granting *additur*. The

¹ 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*



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August 11, 2014
Ridgeland, S.C.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BAMBERG COUNTY
Court of Common Pleas

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

Appellate Case No.: 2012-207489

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

v.

Ford Motor Company,.....Respondent.

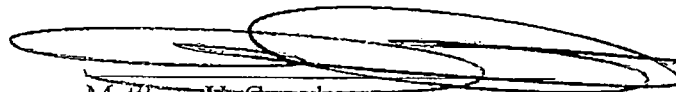
PROOF OF SERVICE

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:

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A handwritten signature in black ink, appearing to read "Matthew V. Creech", is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

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