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S.C. Supreme Court

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM PICKENS COUNTY

Court of Common Pleas

Doyet A. Early, Circuit Court Judge

Case No. 2012-CP-39-01554

Appellate Case No. 2014 - 001110

Julie Freeman.....Appellant – Respondent

v.

J.L.H. Investments, LP, a/k/a Hendrick Honda of Easley.....Respondent – Appellant

**APPELLANT-RESPONDENT JULIE FREEMAN’S MEMORANDUM IN OPPOSITION
TO MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF INSURANCE
AGENTS AND BROKERS OF SOUTH CAROLINA**

Plaintiff/Appellant-Respondent Julie Freeman Hair hereby submits this Memorandum in Opposition to the Insurance Agents and Brokers of South Carolina’s (“Insurance Agents”) Motion for Leave to File Brief as Amicus Curiae. The Motion for Leave to file Brief as Amicus Curiae should be denied for the following reasons.

1. The Insurance Agents Motion for Leave to file Brief as Amicus Curiae should be denied because the insurance industry has a financial interest in the outcome of this appeal. The proffered amici are agents of insurance carriers. Notably, these insurance carriers are paying some claims and paying to defend car dealer defendants in these cases. As such, the insurance

industry has a financial interest in the outcome of this appeal and is improperly attempting to submit additional unnecessary briefing on behalf of their car dealer insureds. The insurance industry's financial interest makes the proffered amici more akin to an agent of a party and not a true friend of the court. Accordingly, Ms. Freeman Hair respectfully requests that the Insurance Agents Motion for Leave to File Amicus Curiae Brief be denied.

2. The Insurance Agents' arguments about an unrelated statute have no bearing on the closing fee statute or its interpretation. Notably, Judge Early interpreted the closing fee statute the same way as: (i) the Department of Consumer Affairs¹; (ii) the South Carolina Automobile Dealers Association ("SCADA")²; and (iii) the Defendant in this case.³ The Insurance Agents' arguments about their own interpretation of an unrelated statute are irrelevant and it would be a waste of judicial resources to allow them to submit unnecessary briefing on this unrelated statute.

¹The Department of Consumer Affairs official interpretation of the statute includes language for a sign with the following limitation describing what the fee can be charged for: "THIS DEALERSHIP CHARGES A CLOSING FEE AS A MEANS OF REIMBURSING IT FOR CERTAIN OVERHEAD COSTS SUCH AS DOCUMENT RETRIEVAL AND DOCUMENT PREPARATION." R.p. 1732.

²SCADA's corporate representative testified as follows:

Q: From 1978 to this minute right now, is it still SCADA's position—

...

--that this fee, must be reasonable and for a service actually performed?

A: Yes.

...

Q: Okay. Why would you advise your dealers to make certain that the fee is reasonable for the service provided?

A: Because that's what the Department of Consumer Affairs had said to do.

R. p. 783, ll. 1-7 and R.p. 784, ll. 21-25.

³"[I]f a dealership is going to charge a fee and call it by a name, that the fee has to be for reimbursement of cost related to that name." R.p. 1413, ll.18-22.

In conclusion, Plaintiff/Appellant-Respondent Julie Freeman Hair respectfully requests that the Court exercise its discretion and deny the Insurance Agents' request to file an Amicus Curiae brief in this matter.

Respectfully submitted,

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February 17, 2015

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PROOF OF SERVICE

The undersigned of the law offices of Richardson, Patrick, Westbrook & Brickman, LLC attorneys for the Respondent, do hereby certify that service of:

APPELLANT-RESPONDENT JULIE FREEMAN’S MEMORANDUM IN OPPOSITION TO MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF OF INSURANCE AGENTS AND BROKERS OF SOUTH CAROLINA

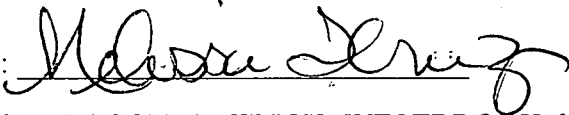
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