

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

Appellate Case No. 2014-002055  
Case No. 04-CP-40-1915

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OCT 23 2015

S.C. Supreme Court

Allegro, Inc., .....Respondent,

v.

Emmett J. Scully, Synergetic, Inc.,  
George C. Corbin, and Yvonne Yarborough, ..... Defendants,

Of Whom Emmett J. Scully, George Corbin, and  
Yvonne Yarborough are..... Petitioners.

MOTION TO ARGUE AGAINST PRECEDENT

This matter is set for oral argument on November 18, 2015. Pursuant to Rule 217, SCACR, Respondent respectfully requests the permission of this Court to argue against the precedent of *Todd v. South Carolina Farm Bureau Mut. Ins. Co.*, 278 S.E.2d 607 (S.C. 1981) and its progeny as set forth at page 28 of the Brief of Respondent.

In *Todd*, this Court announced the rule that a party fails to state a cause of action for civil conspiracy if the same damages are sought under another claim against the same defendant in the same action. 278 S.E.2d at 611 In announcing this rule, this Court relied upon the then-existing

version 15A C.J.S. *Conspiracy*, § 33. That section, however, addressed the widely-recognized rule that a conspiracy claim for the same damages sought or awarded under another cause of action created an election of remedies situation. Respondent submits that this Court should overrule *Todd* and adopt this same rule. For this reason, Respondent respectfully requests the permission of this Court to argue against the precedent set by this Court's opinion in *Todd*.

October 23, 2015

Respectfully Submitted,



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CERTIFICATE OF SERVICE

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I certify that I have served a copy of the Respondent's Motion to Argue Against Precedent by depositing a copy of same in the United States Mail, sufficient postage prepaid, on October 23, 2015 addressed to the attorneys for the Petitioners, as follows and via email at the email addresses shown below:

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