



ALAN WILSON
ATTORNEY GENERAL

November 20, 2015

Hand Delivered

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

Re: Julie Freeman, Appellant/Respondent v. J.L.H. Investments, LP,
a/k/a Hendrick Honda of Easley, Respondent/Appellant
Appellate Case No. 2014-000642

Dear Mr. Shearhouse:

Enclosed please find a letter concerning the above-referenced case. Please feel free to contact me with any questions or concerns.

Sincerely,

Robert D. Cook
Solicitor General

Enclosure

cc via U.S. Mail:

James Y. Becker, Esq.
Mary M. Caskey, Esq.
Sarah P. Spruill, Esq.
Gedney M. Howe, III, Esq.
A. Camden Lewis, Esq.
Michael E. Spears, Esq.

Marvin D. Infinger, Esq.
John T. Lay, Esq.
David Butler, Esq.
Terry E. Richardson, Esq.
Brady Thomas, Esq.



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Re: Julie Freeman, Appellant/Respondent v. J.L.H. Investments, LP,
a/k/a Hendrick Honda of Easley, Respondent/Appellant
Opinion No. 27586

Dear Mr. Shearhouse:

In its recent Opinion in the above-referenced matter, the Court invited the General Assembly to “correct our interpretation and specifically direct how a dealer determines the amount of a closing fee.” See 2015 WL 6735752 (November 4, 2015) at 7, n. 21. Such an invitation was a recognition that the Court’s ruling will have a tremendous impact throughout South Carolina. Therefore, the State respectfully requests that the Court delay implementation of its decision to give the General Assembly ample opportunity to clarify the statutes involved so that “a closing fee charge . . . be directly related to the services rendered and expenses incurred in closing the purchase of a vehicle.” *Id.*

The State sought to file a brief as an *amicus curiae* in this case. In doing so, we recognized that this case would have a huge economic effect upon the State.

A delay in implementation of the Court’s decision has considerable precedent. The Court has frequently recognized over the years that the General Assembly possesses plenary legislative power, consistent with the Constitution, as interpreted by the Court. Accordingly, the Court has afforded the Legislature the opportunity to consider a matter where the impact of the Court’s ruling may have a profound effect. See e.g. *Knight v. Salisbury*, 262 S.C. 565, 206 S.E.2d 875 (1974) [impact of Home Rule]; *Henry v. Horry County*, 334 S.C. 461, 514 S.E.2d 122 (1999) [public safety]; *Abbeville Co. School Dist. v. State*, Order of November 5, 2015 [permitting General Assembly further time to “implement a constitutionally compliant education system]. In *Henry*, the Court concluded that “[m]indful of the profound ramifications our decision will have on public safety, we delay the effectiveness of the Opinion until July 1, 1999, so that the General Assembly will have an opportunity to examine this case and other laws similarly situated to the Acts. This delay allows the legislature time to make any necessary adjustments in light of this decision.” 334 S.C. at 468, 514 S.E.2d at 125.

Although not a party in this matter, the Attorney General is required to protect the public interest. *State ex rel. Condon v. Hodges*, 349 S.C. 232, 562 S.E.2d 623 (2002). Therefore, we respectfully request

The Honorable Daniel Shearhouse
Page 2
November 20, 2015

that the Court delay implementation of its November 4, 2015 decision. The decision will have a profound impact upon automobile dealers and customers throughout the State.

The legislative session is fast approaching. The Court could either delay implementation or expressly make its ruling prospective. Accordingly, consistent with the Court's decision, as well as prior precedent, the General Assembly should be given time and the opportunity to address the issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Cook", written in a cursive style.

Robert D. Cook
Solicitor General