

THE STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIFIED QUESTION FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Joseph F. Anderson, United States District Judge

Appellate Case No. 2017-001540

RECEIVED

Government Employees Insurance Company Plaintiff,

JAN 02 2018

v.

S.C. SUPREME COURT

Jack A. Poole, individually and as Personal Representative
of the Estate of Jennifer Knight Poole Defendants.

MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF
BY THE SOUTH CAROLINA ASSOCIATION FOR JUSTICE

Pursuant to Rule 213, SCACR, the South Carolina Association for Justice (“SCAJ”) hereby moves this Honorable Court for leave to file an *amicus curiae* brief on the certified questions before the Court in this matter.

SCAJ is a professional organization comprised of many South Carolina lawyers who regularly represent individuals in personal injury claims. SCAJ member attorneys regularly represent victims of motor vehicle collisions and individuals whose constitutional or other legal rights are jeopardized; therefore, SCAJ is interested in this matter because the decision of the Court on the certified questions could have a dramatic effect on the rights, remedies, and damages available to many of the people its members routinely and currently represent in

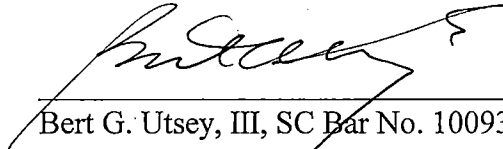
tort and related insurance coverage litigation. Consequently, the development, scope, and refinement of the law as related to these personal injury and wrongful death clients are of keen interest to members of SCAJ.

The Court's determination of the subject issues will impact the ability of SCAJ members to represent their clients in motor vehicle collision and related insurance claims because it will affect, among other things: decisions on whether to and how to settle with potential tortfeasors and their insurers; strategy considerations related to commencing litigation; trial strategy; the ability to recover from defendants and their insurers; and access to the civil justice system given additional costs and delays. Resolution of these issues could affect not only future litigation, but also pending litigation in which settlement and strategy decisions have already been implemented based upon the current state of the law.

The South Carolina Legislature has enacted a comprehensive statutory scheme governing motor vehicle insurance coverage. It mandates bodily injury and property damage liability and uninsured motorist insurance coverage on South Carolina motor vehicles, requires that motor vehicle insurers offer underinsured motorist coverage to South Carolina insureds, and obligates insurers to cover both actual damages and punitive damages under all of these coverages. In the matter at hand, Plaintiff seeks to have this Court create substantive and procedural changes to motor vehicle collision trials that will alter this State's statutory insurance law. Unlike the General Assembly, this Court's constitutional role is not to legislate in this field; rather, its role is to interpret and to give effect to the policy determinations made by the Legislature. Moreover, the Court must be mindful of the impacts the Plaintiff's proposed changes will likely have on the efficient functioning of our trial courts and on motor vehicle victims' access to the courts.

An *amicus* brief will provide the Court with an outline of the above considerations it should weigh in deciding this appeal. Consequently, we respectfully ask the Court to consider SCAJ's *amicus* brief, a copy of which it has conditionally filed with this motion.

Respectfully submitted,



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December 29, 2017
Charleston, South Carolina

On behalf of the South Carolina Association
for Justice

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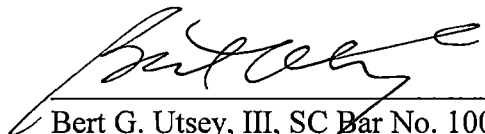
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PROOF OF SERVICE

I certify that I have served the MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF BY THE SOUTH CAROLINA ASSOCIATION FOR JUSTICE on all parties herein by depositing a copy of it in the United States Mail, postage prepaid, on December 28, 2017, addressed to the attorneys of record as follows:

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December 28, 2017
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