

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**RECEIVED**

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

MAR 27 2018

**S.C. SUPREME COURT**

L. Casey Manning, Circuit Court Judge

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Op. No. 5524 (S.C. Ct. App. Filed Nov. 22, 2017)

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Wadette Cothran and Chris Cothran,.....Petitioners,

v.

State Farm Mutual Automobile Insurance Company  
and Robert Tucker, of whom State Farm Mutual Automobile  
Insurance Company is the .....Respondent.

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PETITIONER'S REPLY IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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I. This Court Has Not Addressed Whether S.C. Code § 38-77-144 Allows A Set Off  
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## INTRODUCTION

Petitioners respectfully submit this Reply Brief in response to the issues raised by respondent State Farm ("Respondent") in its Return to Petition for Writ of Certiorari of March 16, 2018. Respondent has set forth no rebuttal as to why Petitioners' Petition for Writ of Certiorari should not be granted for the reasons outlined in the Petition.

## ARGUMENT

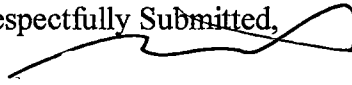
### **I. This Court Has Not Addressed Whether S.C. Code § 38-77-144 Allows A Set Off For Workers' Compensation Benefits.**

In a nutshell, all of Respondent State Farm's arguments ultimately depend upon *State Farm Mut. Auto. Ins. Co. v. Richardson*, 313 S.C. 58, 437 S.E. 2d 43 (1993) in order to rebut Petitioners' argument that the Petition should be granted because novel legal issues exist. Even if Respondent State Farm's interpretation that *Richardson* addresses the issue of a set off is correct (a contention Petitioners deny for the reasons stated in the Petition), *Richardson* nevertheless could only address the set off relationship between personal injury protection coverage and underinsured motorist coverage in a single insurance policy; it does not address the relationship between personal injury protection coverage and workers' compensation benefits—the issue before the Court in the present case. Accordingly, by any analysis, the interplay between personal injury protection and workers' compensation coverages is not addressed by *Richardson* and is therefore novel.

**CONCLUSION**

For the reasons discussed herein, Petitioners ask this Court to grant the Petition for Writ of Certiorari.

Respectfully Submitted,



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March 23, 2018

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**S.C. SUPREME COURT**

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

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Case No. 2015-CP-42-1578

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Wadette Cothran and Chris Cothran,.....Petitioners,

v.

State Farm Mutual Automobile Insurance Company  
and Robert Tucker, of whom State Farm Mutual Automobile  
Insurance Company is the .....Respondent.

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PROOF OF SERVICE

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I do hereby certify, on this 23<sup>rd</sup> day of March, 2018, that a copy of the foregoing Petitioner's Reply in Support of Petition for A Writ of Certiorari were served by depositing a copy of the same in the United States Mail, first-class, postage prepaid, addressed to: Charles R. Norris and Robert W. Whelen at Nelson Mullins Riley & Scarborough LLP, PO Box 1806, Charleston, SC 29402-1806.



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