

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Keith Kelly, Circuit Court Judge

Case No. 2014-CP-04-1426 *consolidated with* Case No. 2015-CP-04-2206

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Appellate Case No. 2017-000267

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Carla Denise Garrison and Clint Garrison.....Appellants/Respondents,

v.

Target Corporation.....Respondent/Appellant.

**RECEIVED**  
JAN 28 2020  
SC Court of Appeals

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**Memorandum in Support of Petition for Rehearing**

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Anticipating that Respondent/Appellant Target Corporation (“Target”) intends to petition this Court for rehearing, Appellants/Respondents Carla Denise Garrison and Clint Garrison (“the Garrisons”) petition this Court for rehearing as well, but **only** as to the prejudgment interest portion of this Court’s decision. The Garrisons respectfully submit that the following points may have been overlooked or misapprehended:

In the opinion, this Court correctly held that Target’s sufficiency of the evidence challenges as to liability and punitive damages were without merit. This Court also correctly held that Target waived application of the punitive damages cap by never raising the cap until

after the jury returned its verdict,<sup>1</sup> that the jury's punitive damages award is subject only to a constitutional analysis, and that Target is not entitled to a new trial. The Garrisons file this rehearing petition only as to the holding that the February 2015 offer of judgment entitled the Garrisons to prejudgment interest on the compensatory damages alone and not on the whole award, including punitive damages.

Respectfully, South Carolina's offer of judgment rule is punitive in nature, seeking to punish litigants who prolong litigation unreasonably. Unlike the non-offer of judgment cases relied on in the decision, Target was aware that it could be subject to punitive damages because the Garrisons requested punitive damages in their pleadings. There is nothing in Rule 68 that limits pre-judgment interest to compensatory damages, and the only other state to have addressed the issue held that pre-judgment interest applies to a punitive damages award. The Garrisons respectfully submit that they are entitled to 8% pre-judgment interest on the entirety of their ultimate award, including punitive damages, consistent with the plain language of the rule and with rulings by other courts.

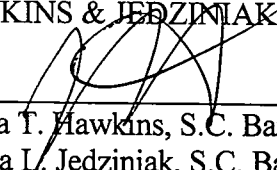
For the reasons explained herein and in the prior briefs, the Garrisons respectfully request that this Court amend its opinion with respect to the offer of judgment analysis only.

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<sup>1</sup> Because this Court held that Target waived the cap, there was no need to address the Garrisons' argument that the caps are unconstitutional. The Garrisons of course preserve their right to make that argument should it ever become necessary.

Respectfully submitted,

HAWKINS & JEDZINIAK, LLC



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January 27, 2020

**CERTIFICATE OF SERVICE**

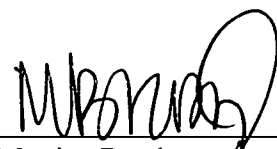
I, Monica Brody, certify that I filed this memorandum with the Clerk of the Court and sent a copy to the following by certified mail:

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THIS, the 27 day of January 2020.

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Monica Brody *as* on behalf of  
Paralegal for Joshua T. Hawkins and Helena  
Jedziniak