

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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Nov 16 2020

S.C. SUPREME COURT

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No. 2019-001596

Nationwide Mutual Fire Insurance Company.....Respondent,

v.

Sharmin Christine Walls, Randi Harper, Wendy Timms in her
capacity as Personal Representative of the Estate of Christopher
Adam Timms, Deborah Timms.....Defendants,

Of Whom

Sharmin Christine Walls and Randi Harper are the.....Petitioners.

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 of Justice (“SCAJ”) hereby moves this Honorable Court for leave to file an *amicus curiae* brief on the issues related to the construction and application of S.C. CODE ANN. § 38-77-142 (1976, as amended).

SCAJ is a professional organization comprised of many South Carolina lawyers who regularly represent individuals in personal injury and wrongful death claims. SCAJ member attorneys regularly represent victims of motor vehicle collisions; therefore, SCAJ is interested in this matter because the decision of the Court on the above-described issues could have a dramatic effect on the rights, remedies, and ability to recover liability insurance coverage of many of the

people its members routinely and currently represent. Consequently, the development, scope, and refinement of the law as it relates to the public policies behind the insurance laws of this State 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 personal injury and wrongful death actions because it will affect, among other things, decisions on whether to settle with potential tortfeasors, evaluation of available liability and underinsured motorist coverages applicable to clients' claims, and the ability to recover from tortfeasors. Resolution of these issues could potentially affect not only future litigation, but also pending litigation in which settlement and strategy decisions have already been implemented.

The South Carolina General Assembly has articulated the public policy of this State regarding motor vehicle liability insurance coverage. Thus, this Court has the responsibility for implementing that public policy through the proper construction and application of insurance legislation.

In the matter at hand, Respondent seeks to apply an insurance policy provision that reduces liability coverage contrary to the public policy of this State as articulated by the Legislature through its enactment of S.C. CODE ANN. § 38-77-142 (1976, as amended). If Respondents' view were accepted, it would have substantive effects on litigants' rights.

An *amicus* brief will assist the Court in reaching a fuller understanding of the General Assembly's public policy determinations regarding motor vehicle insurance coverage. 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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November 16, 2020
Charleston, South Carolina