

**IN THE STATE OF SOUTH CAROLINA  
In the Supreme Court**

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Appeal From Anderson County  
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

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Appellate (Court of Appeals) Case No. 2016-000679

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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, Randi Harper and Wendy Timms in  
her capacity as Personal Representative of the Estate of Christopher Adam  
Timms, are the Petitioners.

Appellate Case No.: 2019-001569

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**PETITIONER'S MOTION FOR LEAVE TO SUPPLEMENT THE RECORD ON APPEAL  
PURSUANT TO RULE 212(b) S.C.A.C.R.**

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**S.C. SUPREME COURT**

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The Petitioners, Sharmine Christine Walls and Randi Harper, hereby petition the Court to Supplement the Record on Appeal after argument has commenced, pursuant to Rule 212(b) S.C.A.C.R.

The basis for the same is to provide the Court with adequate information with which to determine whether the finding of fact in Judge Maddox March 6, 2015 Order that the at-fault driver in the underlying matter was a “non-permissive user” (Appendix p. 12) was clearly erroneous and therefore not binding as the law of the case.<sup>1</sup>

The Petitioner proposes to submit the full transcript of hearing giving rise to Judge Maddox’s March 6, 2015 Order, which, together portions of the hearing *already in the record*, relates the stipulation of the parties to abandon an uninsured motorist coverage claim due to evidence establishing that the at-fault driver’s use of the vehicle was permissive (Appendix p. 127). Therefore, this evidence should assist the Court is

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In *Tfws, Inc. v. Franchot*, 572 F.3d 186 (4th Cir. 2009), it was noted that “[t]he law of the case doctrine “posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.” *United States v. Aramony*, 166 F.3d 655, 661 (4th Cir.1999) (quoting *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 815-16, 108 S.Ct. 2166, 100 L.Ed.2d 811 (1988)). As a practical matter, then, once the decision of an appellate court establishes the law of the case, it “must be followed in all subsequent proceedings in the same case in the trial court or on a later appeal [ ] unless: (1) a subsequent trial produces substantially different evidence, (2) controlling authority has since made a contrary decision of law applicable to the issue, or (3) the prior decision was clearly erroneous and would work manifest injustice.” *Aramony*, 166 F.3d at 661 (citations and internal quotations omitted); see also *United States v. Lentz*, 524 F.3d 501, 528 (4th Cir.2008).”

addressing the matter concerning the “law of the case” issue raised by Justice Hearn at oral argument on November 19, 2020.

Both the Petitioners and the Respondents are in agreement that the finding of non-permissive use in the March 2015 Order was clearly erroneous.

Respectfully submitted,

s/ Michael F. Mullinax

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