

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge, Dorchester County
Maite Murphy, Circuit Court Judge, Dorchester County

Appellate Case No. 2020-000935

RECEIVED
Mar 29 2021
SC Court of Appeals

Portfolio Recovery Associates, LLC Assignee of Synchrony Bank/HH Gregg.,
Respondent,

v.

Jennifer Campney, Appellant,

and

Jennifer Campney, Third-party Plaintiff,

v.

Cooling & Winter, LLC, Third-party Defendant,
of whom Jennifer Campney is the Appellant.

**PETITION AND MOTION FOR LEAVE TO APPEAR AS AMICUS CURIAE
FROM THE SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS**

**SOUTH CAROLINA DEPARTMENT OF
CONSUMER AFFAIRS**

Carolyn Grube Lybarker, Esquire
Administrator/Consumer Advocate

Kelly H. Rainsford, Esquire
General Counsel

Post Office Box 5757
Columbia, SC 29250-5757

Pursuant to Rule 213 of the South Carolina Appellate Court Rules, the South Carolina Department of Consumer Affairs (“the Department”) hereby respectfully moves before the South Carolina Court of Appeals in the exercise of its jurisdiction for leave to appear in this case as *amicus curiae* and to submit its brief on certain issues raised in the appeal filed in this matter.

The Department is the state’s consumer protection agency. Established in 1974, the Department regulates the consumer credit marketplace; helps to formulate and modify consumer laws, policies, and regulations; resolves complaints arising out of the production, promotion, or sale of consumer goods or services in South Carolina, whether or not credit is involved; and promotes a healthy competitive business climate with mutual confidence between buyers and sellers. By and through its duly appointed Administrator, the Department is required to administer, interpret, and enforce the South Carolina Consumer Protection Code, Section 37-1-101 et seq. The purposes of the Consumer Protection Code include: (a) to further consumer understanding of the terms of credit transactions; (b) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of credit, having due regard for the interests of legitimate and scrupulous creditors; and (c) to permit and encourage the development of fair and economically sound credit practices. S.C. Code Ann. § 37-1-102(c)–(e).

The Department is the sole state agency designated by the General Assembly to construe and provide official legal interpretations of the Consumer Protection Code, of which both consumer loans and the Notice of the Right to Cure are part. See S.C. Code Ann. §§ 37-6-104(1)(b); 37-6-506; 37-3-101 et seq.; and 37-5-110. Such interpretations of law are afforded deference by the courts and persons relying upon them are provided a safe harbor for compliance unless and until the interpretations are changed or deemed invalid. Lexington Law Firm v. S.C.

Dep't of Consumer Affairs, 382 S.C. 580, 677 S.E.2d 591 (2009); see S.C. Code Ann. §§ 37-6-104(4) and 37-6-506(3).

Several novel arguments were presented in the briefs of Appellant and Respondent that would affect the Department's mission of administering and enforcing the South Carolina Consumer Protection Code. Mainly, the Respondent argued that the use of lender credit cards are not subject to the Consumer Protection Code and suggested that certain duties of an original creditor such as sending a Notice of a Right to Cure do not transfer to an assignee of a consumer credit transaction upon assignment of the contract. Due to the importance of these issues, the Department desires to contribute a brief prior to a ruling being made.

The Department has an interest in the orderly administration of the Consumer Protection Code and in fulfilling its purposes in protecting consumers in the credit marketplace. Moreover, as the agency required to administer and enforce the Consumer Protection Code, the Department has expertise which may assist the Court in the resolution of issues before it. As such, the Department respectfully requests the Court grant its motion to appear as *amicus curiae* and file a brief.

Respectfully submitted,



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Administrator/Consumer Advocate

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March 29, 2021
Columbia, South Carolina

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Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge, Dorchester County
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Circuit Court Case No. 2018-CP-18-00729

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Respondent,

v.

Jennifer Campney, Appellant,

and

Jennifer Campney, Third-party Plaintiff,

v.

Cooling & Winter, LLC, Third-party Defendant,

of whom Jennifer Campney is the Appellant.

PROOF OF SERVICE

I, the undersigned employee of the South Carolina Department of Consumer Affairs, hereby certify that one copy of the Petition and Motion for Leave to Appear as Amicus Curiae from the South Carolina Department of Consumer Affairs in the above-referenced matter was served on the following counsel of record via United States mail, postage prepaid, as well as e-mail at the addresses listed below:

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March 29, 2021
Columbia, South Carolina



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PROTECTING CONSUMERS SINCE 1975

March 29, 2021

Commissioners
David Campbell
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Renee I. Madden
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Via U.S. Mail and Email to ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
 Clerk, South Carolina Court of Appeals
 1220 Senate Street
 Columbia, South Carolina 29201

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Mar 29 2021

SC Court of Appeals

RE: Portfolio Recovery Associates, LLC v. Jennifer Campney
 Appellate Case No. 2020-000935

Dear Ms. Kitchings:

Enclosed please find a Petition and Motion for Leave to Appear as Amicus Curiae from the South Carolina Department of Consumer Affairs along with a Proof of Service. In addition, please find enclosed our check in the amount of \$25.00 for payment of the filing fee.

If you have any questions, please do not hesitate to call me at (803)734-4236.

Best Regards,


 Kelly H. Rainsford

cc: John R. Cantrell, Jr., Esquire
 Caren D. Enloe, Esquire
 J. Ronald Jones, Jr., Esquire