

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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May 14 2021

S.C. SUPREME COURT

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas  
Honorable R. Keith Kelly, Circuit Court Judge

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Supreme Court Case No. 2020-000523

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

v.

Target Corporation..... Respondent/Petitioner.

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MOTION OF DANIEL O'SHIELDS AND ROGER W. WHITLEY  
TO FILE AMICI CURIAE BRIEF IN SUPPORT OF  
CARLA DENISE GARRISON AND CLINT GARRISON  
ON THE ISSUE OF OFFER OF JUDGMENT INTEREST

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**Interest of *Amici Curiae***

Daniel O'Shields and Roger W. Whitley move to file the attached amicus brief concerning Part IV of the Court of Appeals' decision in the above-captioned case. Part IV of that opinion concerns offer-of-judgment interest on an award of punitive damages. 429 S.C. 324, 376-79. Amici are appellants in a case currently pending in the Court of Appeals that includes an issue of a significant recovery

under an Offer of Judgment where punitive damages constitute the bulk of the damages awarded by the jury. *Daniel O'Shields And Roger W. Whitley, A Partnership d/b/a O&W Cars, v. Columbia Automotive Company, LLC d/b/a Midlands Honda*, Case No. 2017-000902. The opposing party in *O'Shields* presented the *Garrison* opinion to the Court of Appeals as supplemental authority pursuant to Rule 208(b)(7), *see* Ex. 1, indicating that it too sees the outcome in *Garrison* as potentially impacting their case.

**The Brief Is Desirable Because It Fills Important Gaps In What Has Been Presented to This Court.**

The proposed brief of amici fills important gaps in the law and analysis presented by the Court of Appeals that the Parties' briefs overlook. The analysis presented to the Court so far (1) is based on the incorrect assumption that South Carolina does not have a separate pre-judgment interest statute, whereas South Carolina does have such a statute; (2) ignores the long history of offer-of-judgment provisions under South Carolina law, and the light that sheds on the issue; and (3) fails to explore the effects going forward of the Panel's opinion.

Amici's brief demonstrates the implications for the current matter of the existence of South Carolina's pre-judgment interest statute and the long history of South Carolina's offer-of-judgment provisions, and describes the effects on future cases if the Court of Appeals' opinion is not reversed.

Because the Court’s decision on the issue in the present case may determine the outcome of the Offer of Judgment issue in their case, and because the present brief fills important gaps in the law and analysis so far presented to this Court, Amici should be heard.

Movants so move pursuant to Rule 213, SCACR. As permitted by that Rule, the proposed brief is being conditionally filed with this motion.

Respectfully submitted,

*s/ Brooks R. Fudenberg*

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