



April 18, 2019

Chairman Peter McCoy
House Judiciary Committee
512 Blatt Building
Columbia, SC 29211

Dear Chairman McCoy:

In 2017, the South Carolina Supreme Court misconstrued the language in 2005's "Joint and Several" legislation which intended to fully apportion fault to all parties in a tort claim that contributed to the injuries or damages to a plaintiff. Twelve years after the legislation was passed by the General Assembly, the Court found there were conflicting words in the statute that prohibited the assignment of fault to any party who isn't named in the lawsuit.

Unanimously, the Court found that the result of the decision was unfair and inequitable but that the responsibility for changing policy rests with the General Assembly.

The result is that plaintiffs are already suing defendants with the deepest pockets for 100 percent of a claim, which is unfairly increasing the legal burden on all businesses, large and small, and the insurance companies that insure them. This is happening without regard to whether the business was 90 percent at fault or 5 percent at fault. **This was never the intent of the General Assembly, and it was never the intent of the 2005 agreement that allowed this legislation to move forward.** By reversing the intent of the legislation, our state has taken a great leap backward in judicial fairness. As we scrap and fight for new, higher-paying jobs against other states, being one of only a few states that doesn't fairly apportion fault will be a significant challenge for economic development.

Chairman Hiott's Fair Share Bill (H. 3758) fixes this injustice and will apportion fault to all parties and ensure a party with less than 50 percent of fault will not be forced to pay 100 percent of damages. However, a party found to be more than 50 percent at fault will still be liable to pay more than their fair share. Furthermore, it does not increase the liability of a party the plaintiff settles with before the trial.

We want to thank Speaker Lucas and Chairman Hiott for taking up this cause and understanding the need to fix this unfortunate ruling. **The Upstate business community respectfully asks for a hearing in the House Judiciary Committee on this legislation and that we get this crucial piece of legislation to the House floor for a vote.** If you have any questions, feel free to contact us or any of our partners with the South Carolina Coalition for Lawsuit Reform.

Sincerely,

Jason Zacher
Executive Director

Madison Hall
Government Affairs Manager

cc: Speaker Lucas, House Judiciary Committee, Upstate Delegation, H.3758 Sponsors