

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellant Case No: 2012-212896

Charles Taylor,

Appellant,

v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondent,

FINAL BRIEF OF APPELLANT

RECEIVED

MAY 13 2013

SC Court of Appeals

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

THAT ONCE A NOTICE OF APPEAL WAS FILED 6/8/11, DID THE LOWER COURT HAVE JURISDICTION-AUTHORITY (SCACR 205) &/or ERRED;
As Detailed Specifically In (B-1 thru b-5) on p.4 following?

STATEMENT OF THE CASE

(In a Nutshell); That on 12/14/07, Charles Taylor-Appellant, brought a \$10ML action, (later amended up to \$40ML), for gross negligence against Thomas Davis-Respondent, for damages he cause in a truck accident on 9/7/07. Taylor suffered severe personal injuries, including but not limited to, lifetime disabling re-injured spinal cord surgery w/more needed; sample-(R.p.15-16), among others, w/medical bills @ \$50,000.00 to \$60,000.00 & up to \$125,000.00, past \$135,000.00 & continues & property damages of \$110,000.00 due to load of business materials just picked up in brand new automobile---all destroyed in accident-(admitted)-(R.p.4); All resulting from being rear ended/ sandwiched-into another car--the brown family--by a rental truck driven by underinsured at fault driver-Davis, (R.p.4); which Truck Co. paid their limits \$25T to Taylor; who then turned to his under insurer-State Farm; who paid Taylor \$25T of \$100T **contract coverage** & later renege on the other \$75T; forcing a trial & risking a potential ultimate judgment for up to the \$40ML; which Davis had no indemnification, per State Farm, that he'd have to pay himself beyond \$75T.

That on 5/17/11, the Taylor v. Davis case was tried with; Taylor's own contract-non-party under insurer-State Farm atty. defended Davis (R.p.21,22,10,18) who could not attend. A jury found for Taylor, awarding him \$615 in damages; wherein no one ever took the stand to even attempt to refute dispute Taylor losses, as such was so thoroughly & without question documented. On 6/8/11 Taylor filed an appeal, on among other appealable grounds, that a juror acquaintance with the defense wasn't reveal, (R.p.17), until later after trial per the \$615 for all damages above.

RELEVANT FACTS

With appeal pending, the parties reached & filed a settlement agreement for \$1,735,000.00 of the \$40,000,000.00 that was being sought; in exchange to dismiss the appeal & no further litigation against (Davis). That pursuant to the agreement-(R.p.2-4); the Appeals Court dismissed the appeal by its order of 6/27/11 and **thus closed the case**-(R.p.2); remitting same to the Clerk of Court for Richland County. That Taylor later on 8/18/11 filed a motion--(R.p.12)--to the Lower Court asking administratively per, (SCRCP 58b, the Appeals Court Order, & the agreement), to enter the final \$1,735,000.00 judgment-(R.p.13).

The Lower Court entered final judgment pursuant to the agreement which, among other things, vacated-(R.p.4 L.4d) the initial erroneous \$615 damages award, replacing it retroactively with the final \$1,735,000.00 (R.p.4 L.4d) total damages to appellant in its 7/17/12 order--(R.p.9 L.4); & the lower Court then went beyond-to rule as follows on p.4 below-reason for this appeal.

ARGUMENT

(Discussion and Citation of Authority)

APPELLANT ARGUES: THAT ONCE NOTICE OF APPEAL WAS FILED 6/8/11,
(R.p.11) THE LOWER COURT HAD NO JURISDICTION-AUTHORITY (SCACR 205)
&/or ERRED; (As Detailed Per B-1 thru B-5 Below):

(A-1). [Except of course to enter the final \$1,735,000.00 judgment--(R.p.9 L.4 & p.4 L.4d)
per Appeals Court Agreement Order of 6/27/11 (R.p.2-4); & per appellant motion
Request 8/18/11 (R.p.12) to enter same per SCRCP 58-b (R.p.13)]; Otherwise erred;

(B-1).To rule, without motion, (SCRCP 7-b), for non-party State Farm (R.p.18)—in the closed
Appeals Court Case (R.p.2)
b-2. That state farm had no other financial duty to appellant in the matter; (R.p.8 L.20);
(& R.p.21,22,10);
b-3. That state farm obligations in the matter were exhausted w/initial \$615; (R.p.8 L.17);
(& paragraph below & R.p.21,22,10);
b-4. That state farm not required to participate in the \$1,735,000.00 judgment; (R. p. 9);
(& R.p.21,22,10);
b-5. That state farm attorney did not represent defendant Davis; (R.p.8 L.21-22 & 13-14)
(& R.p.21,22,10);

Further

& Another Main Point: Note with great emphasis that the initial \$615 award was vacated and
replaced w/the \$1,735,000.00 (R.p.9L4 & p.4Ld) & thus the b-3 ruling above should especially,
specifically & accordingly be [reversed] as prima facie contradictory err; [IN THAT] the initial
award for all purposes was legally \$1,735,000.00--not the \$615--thus State Farm obligations
per b-3 above, exhausts accordingly--(EMPHASIS!!)--to this most salient err by the Lower
Court; even if it had Jurisdiction--Authority, to rule in the case and on the subject matter;

& further reason to reverse (B-1 thru b-5 p.4 above) is because: The Lower Court rulings on these was done without motion (R.p.5, 1st paragraph) of any party (SCRCP 7b) and in a closed Appeals Court Case that had ended, (R. p. 2-4). Appellant simple motion per [A-1 p.4], required only simple entry per, SCRCP 58b, (R. p.13 L.6). Thus the ruling beyond that, evidently and unjustifiably, was intended to exonerate or shield the offending insurer from all liability-bad faith & otherwise, **beforehand**--as to the \$1,735,000.00 judgment they---State Farm---themselves had earlier caused in several instances & in each and every instance, they could have avoided such if they wanted; (R.p.19, 20, 21).

CONCLUSION

Accordingly; Appellant Seeks the Following Relief:

Declare the Lower Court Rulings;

(B-1 thru b-5)

p.4 above--was done without

Jurisdiction-Authority &/or Erred

Pursuant to SCACR 205, SCRCP 58b, 7b,

& Any/All other Applicable Authorities

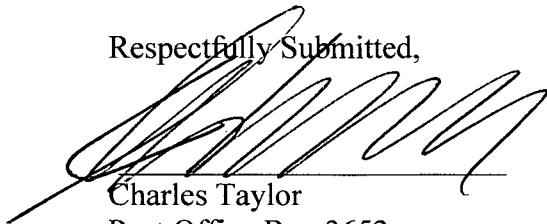
& accordingly should be

REVERSED &

That the Final Judgment \$1,735,000.00 be properly included on & recorded per form 4 (R.p.10); to include correctly named: State Farm Mutual Automobile Insurance Company; (which it managed to evade before per R.p.18,21; (until their inclusion in this Court's 2/15/13 order—1st time as a proper defendant / respondent—reason for any necessary minor corrections herein).

May 10, 20123

Respectfully Submitted,



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THE STATE OF SOUTH CAROLINA

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that Appellant's Final Brief complies with rule 211(b), [including any minor corrections made necessary by Respondent State Farm Mutual Automobile Insurance Company being include for 1st time as a proper defendant / respondent in with this Court's 2/15/13 Order].

May 10, 2013

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THE STATE OF SOUTH CAROLINA

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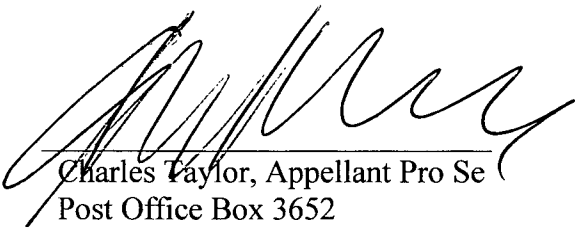
v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondents,

PROOF OF SERVICE

I hereby certify that a copy of Appellant's Final Brief; was served upon the Respondents Thomas Davis & State Farm Mutual Automobile Insurance Company to its counsel below by depositing same in the U.S. Mail, from Sumter, SC. on the 10th day of May, 2013, w/1st class duly affixed postage & a return address indicated clearly thereon the envelope, addressed as follows:

May 10, 2013



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