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

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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).*

Respectfully Submitted,

May 10, 20123

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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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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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