

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,

AMENDED INITIAL BRIEF OF APPELLANT

Charles Taylor
Post Office Box 3652
Sumter, South Carolina 29151
(803) 883-7005
For the Appellant/Pro-Se

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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-6) on p.5 herein?

STATEMENT OF THE CASE

(In Brief); 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 (R.p.) including lifetime disabling re-injured spinal cord surgery with more needed; sample-(R.p.), among others, with medical bills from \$50,000.00 to \$60,000.00 & up to \$125,000.00, and 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 the accident-(admitted)-(R.p.); & 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.); 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 other \$75T; forcing further litigation & a potential ultimate judgment for up to the \$40ML against Davis with no indemnification, per State Farm, that he would have to pay himself beyond Appellant remaining \$75T coverage w/SF (R.p.);

¹ Note Respondent State Farm drumbeat complaint throughout its brief about not wanting to be held liable for the final \$1,735,000 judgment they caused (R.p.); and yet they never mention the untold offers to settle well within their—Appellant’s policy limit and they refused each & every time to date (R.p.). The problem is that they wanted their cake & eat it too. Appellant believes they can’t have it both ways; but Respondent State Farm disagrees! They believe that they can!

That on 5/17/11, the Taylor v. Davis case was tried with; Taylor's own contract-non-party under insurer-State Farm atty. defending Davis, (R.p.), who could not attend. A jury found for Taylor, awarding him \$615.00 in total damages, (R. p.); wherein there were no attempt to refute-dispute Taylor losses, as such was so obvious, thoroughly & without question documented. On 6-8-11 Taylor filed an appeal (R.p.) on among other appealable grounds, a juror acquaintance w/the defense wasn't reveal, (R.p.), until later after trial per the \$615 for all damages p.3 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.) the Appeals Court dismissed the appeal by its order of 6/27/11 and **thus closed the case**-(R.p.); remitting same to the Clerk of Court for Richland County (R.p.). That Taylor later on 8/18/11 filed a motion-(R.p.)-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.). The Lower Court entered final judgment pursuant to the agreement which, among other things, vacated, (R .p. L.), the initial erroneous \$615.00 damages award, **replacing** it retroactively with the final \$1,735,000.00 judgment (R.p. L.) total damages to appellant in its 7/17/12 order--(R.p. L.); **& the lower Court then went beyond-to rule as follows on p.5 B-1 thru B-6 on the next page—the reasons for this appeal.**

² Note Importantly That: If Appellant could just sum it up---essentially---Respondent State Farm don't want to acknowledge--for obvious reasons--that the Final \$1,735,000.00 Judgment entered 7/17/13 (R.p. L.) vacated & replaced (R.p. L.) the erroneous \$615.00 one (R. p.).

ARGUMENT

(Discussion and Citation of Authority)

APPELLANT ARGUES: THAT ONCE NOTICE OF APPEAL WAS FILED 6/8/11,
(R.p.) THE LOWER COURT HAD NO JURISDICTION-AUTHORITY (SCACR 205)

&/or ERRED; (As Detailed Per **B-1 thru B-6** Below):

(A-1). **[Except of course so as to enter the Court Final \$1,735,000.00 Judgment--(R.p.)**
per Appeals Court Agreement Order of 6/27/11 (R.p.); & per appellant motion
Request 8/18/11 (R.p.) to enter same per SCRCP 58-b (R.p.)]; Otherwise erred;

(B-1). **To rule, without motion, (SCRCP 7-b), for non-party State Farm (R.p.) in the closed**
Appeals Court Case (R.p.)

- b-2. That state farm had no other financial duty to appellant in the matter; (R.p.);
(see R.p.);
- b-3. That state farm obligations in the matter were exhausted w/initial \$615; (R.p.);
(see paragraph below & R.p.);
- b-4. That state farm not required to participate in the \$1,735,000.00 judgment; (R. p.);
(see R.p.);
- b-5. That state farm attorney did not represent defendant Davis; (R.p.);
(see R.p.);
- b-6. That appellant also alleges the lower court, even if it had authority to rule; erred
to rule as per above without even seeing--let alone reviewing, the subject under
insured contract provisions to see what they provided for between parties (R.p.)

Further

& Another Main Point: Note with great emphasis that the initial \$615 award was **vacated &**
replaced w/the \$1,735,000.00 (R.p.) and 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-6 p.5 above) is because: The Lower Court rulings on these was done without motion (R.p. _____) of any party (SCRCP 7-b) and in a closed Appeals Court Case that had ended, (R. p. _____). Appellant simple motion above [A-1 p.5] required only simple entry per, SCRCP 58b, (R. p. _____); Because beyond that, Respondent State Farm-themselves had earlier caused the subject \$1,735,000.00 final judgment in several instances & in each and every instance, they could have avoided such if they wanted to beforehand; (R.p. _____).

³ Note with great emphasis: (R. p. para.) & especially in that light (R. p. Attorney Tyler letter) and square these with Respondent State Farm's assertions in its brief (p.1 2nd paragraph "*After defense counsel withdrew from the case and while there was no counsel for Davis, Appellant then sought and was awarded an uncontested judgment against Davis for \$1,500,000.00 on June 19, 2009 based upon a Rule 68 SCRCP Offer of Judgment which had been accepted by Davis*"); Again, see the just above referenced in the Record on Appeal for the truth of that matter and the deliberate falsehoods by Respondent State Farm-Attorney so they can prevail at whatever cost.

⁴ Also note w/same emphasis & light: Reference the (R. p. _____) Appellant's True Certified Correct Copies & (R. p. _____) Respondent State Farm altered copies & view same in light of their brief p.1 @ bottom and their brief p.4 2nd paragraph and @ bottom, as to the subject covenant and in light of the undisputed damages suffered herein on p.3 above.

CONCLUSION

Accordingly-Appellant Seeks the Following Relief:

Declare the Lower Court Rulings;

(B-1 thru b-6)

p.5 above was done without

Jurisdiction-Authority &/or Erred

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

& Any/All other Applicable Authorities

& accordingly should be

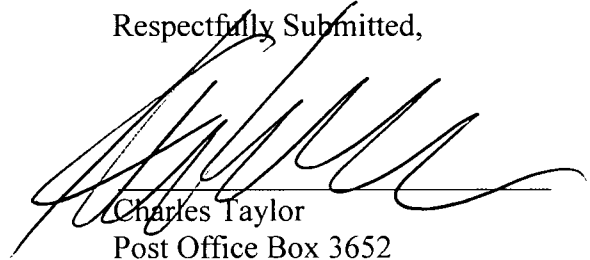
REVERSED &

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

5 Finally: Note that Respondent State Farm's whole argument essentially is that; Appellant asked the lower court via motion (R.p.); & that door then gave the lower court the necessary jurisdiction-authority to rule B-1 thru B-6 p.5 herein above to State Farm and Appellant says--even with an appellant's motion --can anyone who may want, for whatever reason--as State Farm in the instant case wanting--a different Appeals Court Ending than in the instant case (R.p.), can they say; well-we'll just go back to the lower court & ask for a different ruling B-1 thru B-6 p.5 herein above, and because it's asked via whatever appellant motion, then that confers jurisdiction-authority, otherwise not there, to the lower court to rule to Respondent State Farm, in the instant case, B-1 thru B-6 p.5 herein above; **Appellant Disagrees with Respondent State Farm's argument**, because if such rulings, B-1 thru B-6 p.5 herein above are affirmed, then the above—back to the lower court from the Appeals Court as State Farm here---will thereafter be the end result by this precedent.

Also Appellant believes that such requests by State Farm for the B-1 thru B-6 p.5 rulings herein, should not have been back to the lower court as in the instant case (R.p.L. _____); but that such requests by Respondent State Farm should have been instead in the Appeals Court Proceedings at the first appeal (R.p.) within the allotted time frame for filing such by Respondent State Farm or thereafter be barred from asking (R.p. L. _____) for such rulings as B-1 thru B-6 p.5 herein almost a year later from 6/27/11 case close at Appeals Court (R.p.) to 5-17-12 (R.p.L. _____) in a lower court hearing to enter the 6/27/11 final judgment that the lower court clerk office was ask to and should have entered promptly pursuant to SCRCP 58-b (R.p.L. _____) in the first instance; and then the B-1 thru B-6 rulings per p.5 herein above would--could never have occurred and thus such rulings B-1 thru B-6 p.5 herein should be reversed per conclusion on top of p.7 herein.

Respectfully Submitted,



Charles Taylor
Post Office Box 3652
Sumter, South Carolina 29151
(803) 883-7005 Appellant Pro-Se

July 15, 2013

6 VERY IMPORTANT LAST NOTE: That Appellant gave up his right to further appeal in exchange for the 6/27/11 Appeals Court Agreement Order (R.p.); note that Respondent State Farm never mentioned that they would have been liable for any final judgment up to the \$40,000,000.00 amount then being sought against Respondent Davis if when the 1st appeal was reversed, absent the subject agreement (R.p.). Simply put--Respondent State Farm could--should have settle within Appellant policy limits (R.p.) if in fact they wish not to be subject to the \$1,735,000.00 final judgment (R.p. L.) that they caused by their refusal to settle (R.p.) and otherwise (R.p. _____); which all led to everything else.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of: Appellant's Amended Initial Brief; was served upon the Respondent Thomas Davis & Respondent State Farm Mutual Automobile Insurance Company to counsel listed below, by depositing same in the U.S. Mail, from Sumter, South Carolina, on the 15th day of July, 2013, with 1st class duly affixed postage and a return address indicated clearly thereon the envelope, addressed as follows:

Mr. Thomas Davis
PO Box 773
Manning, S.C. 29105
Respondent &

State Farm Mutual
Automobile Insurance Company, Respondent
c/o: Mr. James B. Lybrand, Jr., Esq.
PO Box 58
Columbia, S.C. 29202

Sumter, South Carolina

BY: 
Charles Taylor, Appellant Pro Se
Post Office Box 3652
Sumter, South Carolina 29151-3652
(803) 883-7005