



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 23, 2013

Mr. Jonathan Scott Altman
PO Box 600
Charleston SC 29402

Mr. Adam J. Neil
PO Box 6648
Columbia SC 29260

Mrs. Ashley Berry Stratton
4406 B Forest Dr.
PO Box 6648
Columbia SC 29206-3160

Re: Victoria Fire v. Singleton, Charles
Lower Court Case No. 2010CP1007647
Appellate Case No. 2011-198468

Dear Counsel:

Please be advised that this appeal will be argued on 03/06/2013 at 12:00 PM in Courtroom 1. The following oral argument times have been allocated:

Acknowledgment received.

Signature: _____

Date: _____

Print Name: _____

Appellant: 10 minutes

Respondent: 10 minutes

Appellant in reply: 5 minutes

Arguments frequently begin before the time set. Please ARRIVE 30 MINUTES prior to your scheduled argument time.

Above is an acknowledgment verifying that you have received notification of the date and time set for argument. Please sign and date, then return the completed acknowledgment to:

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Very truly yours,


CLERK



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
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February 27, 2013

Mr. Jonathan Scott Altman
PO Box 600
Charleston SC 29402

Mr. Adam J. Neil
PO Box 6648
Columbia SC 29260

Mrs. Ashley Berry Stratton
4406 B Forest Dr.
PO Box 6648
Columbia SC 29206-3160

Re: Victoria Fire v. Singleton, Charles
Appellate Case No. 2011-198468

Dear Counsel:

The Court of Appeals has requested certification in the above matter from the Supreme Court. **Therefore oral argument scheduled for March 6, 2013, is cancelled.** Counsel will be notified of the action taken by the Supreme Court on the certification request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jenny A. Kitchings". The signature is fluid and cursive.

CLERK

The South Carolina Court of Appeals

Victoria Fire & Casualty Insurance Company,
Respondent,

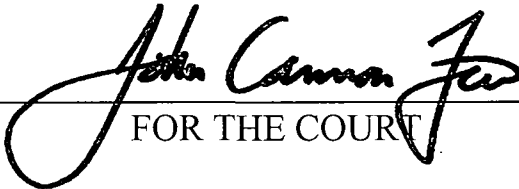
v.

Charles P. Singleton and Delissa Singleton, Appellants.

Appellate Case No. 2011-198468

ORDER

Appellants' motion to accept Appellants' Final Reply Brief out of time is granted.

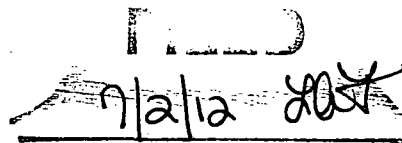

FOR THE COURT

Columbia, South Carolina

cc:

Jonathan Scott Altman

Adam J. Neil


7/2/12 JST

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No. 2010-CP-10-7647

Victoria Fire & Casualty Insurance Company,.....Respondent,

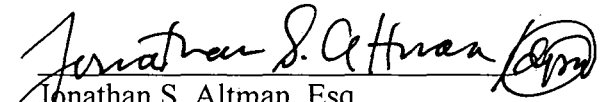
v.

Charles P. Singleton and Delissa Singleton,.....Appellants.

APPELLANTS' MOTION TO ACCEPT BRIEF OUT OF TIME

In accordance with Rule 240 of the South Carolina Appellate Court Rules, Appellants respectfully move the Court to accept Appellants' Final Reply Brief out of time. Appellants' Final Reply Brief was to have been served and filed by April 19, 2012. Appellants shall file and serve the Court and Respondents with Appellants' Final Reply Brief by Monday, April 30, 2012.

Date: April 20, 2012


Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
843-723-9804

Attorney for the Appellants

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APR 23 2012
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2010-CP-10-7647

Victoria Fire & Casualty Insurance Company,.....Respondent,

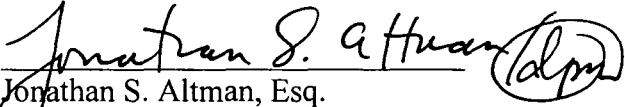
v.

Charles P. Singleton and Delissa Singleton,.....Appellants.

PROOF OF SERVICE

I certify that I have served Appellants' Motion to Accept Brief Out of Time on Respondent Victoria Fire & Casualty Insurance Company by depositing a copy of it in the United States Mail, postage prepaid, on April 20, 2012, addressed to its attorney of record, Adam J. Neil, Esq.

April 20, 2012


Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
Telephone: (843) 723-9804

Attorney for the Appellants

RECEIVED
APR 23 2012
SC Court of Appeals

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

April 20, 2012

The Honorable Tanya Gee, Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: *Victoria Fire & Casualty Insurance Company v. Charles P. Singleton and
Delissa Singleton*
Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court of Appeals)

Dear Ms. Gee:

In accordance with Appellant Court Rule 240, please find enclosed an original and one copy of the following:

1. Appellants' Motion to Accept Brief Out of Time;
2. Proof of Service of Appellants' Motion to Accept Brief Out of Time on counsel for Respondent; and
3. My firm's check in the amount of \$25.00 relative to the filing fee for said motion.

Please file the originals and return clocked-in copies to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC


Jonathan S. Altman

JSA/rs

Enclosures

cc: Adam J. Neil, Esq.

RECEIVED
APR 23 2012
SC Court of Appeals

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

April 24, 2012

South Carolina Court of Appeals
Attention: Seth Hunter
1015 Sumter Street
Columbia, SC 29201

RE: *Victoria Fire & Casualty Insurance Company v. Charles P. Singleton and
Delissa Singleton*
Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court of Appeals)

Dear Seth:

Pursuant to our multiple telephone conversations of last week, please find enclosed the following relative to the above action:

1. Sixteen (16) copies of Appellants' Record on Appeal including one (1) unbound original;
2. Sixteen (16) copies of Appellants' Final Brief including one (1) unbound original; and
3. An original and one copy of a Certificate of Counsel.

Please note, these documents are being re-filed with the Court as they previously contained the incorrect caption. Please file the originals and return clocked-in copies to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

RECEIVED

SC Court of Appeals

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC

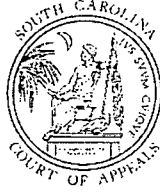
Rachel R. Savini

Rachel R. Savini, Paralegal
Assistant to Jonathan S. Altman, Esq.

JSA/rs

Enclosures

cc: Adam J. Neil, Esq.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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1015 SUMTER STREET
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April 19, 2012

Jonathan Scott Altman, Esquire
Derfner Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402

Re: Victoria Fire v. Singleton, Charles
2011198468

Dear Mr. Altman:

We have received your Record on Appeal and Brief of Appellants in the above entitled case on appeal.

Upon review, it appears that the caption on both of these documents is incorrect. According to our records, the caption should read:

Victoria Fire & Casualty Insurance Company,	Respondent,
v.	
Charles P. Singleton and Delissa Singleton,	Appellants.

It also appears that no certificate of counsel was included with your Brief of Appellants.

Please be advised, it will be necessary for you or a member of your staff to come to this office in the Edgar Brown Building 1205 Pendleton Street Columbia, SC 29201 within ten (10) days of the date of this letter to place labels on the covers of the Record on Appeal and Brief of Appellants and to provide the Court with an original certificate of counsel for the Brief of Appellants. Please call this office prior to your arrival so that the briefs will be immediately available to you.

Very truly yours,

Jenny A. Kitchings
CLERK

JAK/ma

cc: Adam J. Neil, Esquire



MURPHY & GRANTLAND, P.A.

Adam J. Neil
Direct dial 803-454-1232
aneil@murphygrantland.com

April 11, 2012

HAND DELIVERED

Tanya A. Gee, Clerk
South Carolina Court of Appeals
P.O. Box 11629
1205 Pendleton Street
Columbia, SC 29211

Re: Victoria Fire & Casualty Insurance Company v. Charles P. Singleton
and Delissa Singleton
Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court Appeals)
Claim No.: 45010003338
Date of Loss: 06/2009 and 01/2010
Our File No.: 1150-0464

Dear Ms. Gee:

Enclosed please find herewith for filing with the Court the original and eighteen (18) copies of Respondent's Final Brief in the above-referenced matter. I would appreciate your filing the original and returning three (3) clocked copies to me by individual delivering same.

By copy of this letter I am serving same on opposing counsel.

With best regards, I remain

Very truly yours,


Adam J. Neil

AJN/kbd

Enclosure

cc: Debra Kroviak
Jonathan Altman, Esquire

RECEIVED
APR 11 2012
SC Court of Appeals

Telephone 803-782-4100 • Facsimile 803-782-4140 / 803-454-1258
4406-B Forest Drive, Columbia, South Carolina 29206 • Post Office Box 6648, Columbia, South Carolina 29260

J. R. Murphy John M. Grantland Ron B. Diegel* Brent M. Boyd E. Ray Moore, III Anthony W. Livoti Adam J. Neil Charles G. Blackburn
Jeffrey C. Kull Alice P. Adams Tim J. Newton Peter E. Farr Chris A. Majure Ashley B. Stratton J. Ryan Oates Wesley B. Sawyer

* Member - American Board of Trial Advocates

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

April 5, 2012

The Honorable Tanya Gee, Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RECEIVED

APR 5 2012
SC Court of Appeals

RE: *Victoria Fire & Casualty Insurance Company v. Charles P. Singleton and
Delissa Singleton*
Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court of Appeals)

Dear Ms. Gee:

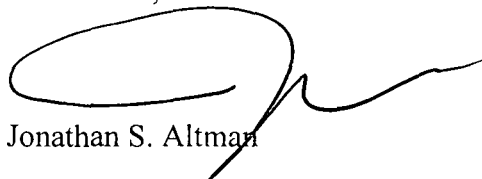
In accordance with Appellant Court Rule 211, please find enclosed the following relative to the above action:

1. One (1) original and fifteen (15) copies of Appellants' Final Brief; and
2. An original and one (1) copy of Proof of Service of Appellants' Final Brief on counsel for Respondent.

Please return a clocked-in copy of each of the above documents to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: Adam J. Neil, Esq.

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

RECEIVED

APR 02 2012

March 30, 2012

SC Court of Appeals

The Honorable Tanya Gee, Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: *Victoria Fire & Casualty Insurance Company v. Charles P. Singleton and
Delissa Singleton*
Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court of Appeals)

Dear Ms. Gee:


In accordance with Appellate Court Rule 210(a), please find enclosed the following documents relative to the above referenced case:

1. Sixteen (16) copies of Appellants' Record on Appeal including one (1) unbound copy; and
2. An original and one copy of Appellants' Proof of Service of Appellants' Record on Appeal on Respondent.

I would greatly appreciate you filing the Record on Appeal and Proof of Service and returning one clocked-in copy of each to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: Adam J. Neil, Esq.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
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FAX: (803) 734-1839
WWW.SCCOURTS.ORG

March 30, 2012

Jonathan Scott Altman, Esquire
Derfner Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402

Re: Victoria Fire v. Singleton, Charles
Case #2011198468

Dear Mr. Altman:

The following Order has been endorsed on your Motion for an Extension in the above entitled case on appeal.

“Granted.

John Cannon Few C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

March 30, 2012.”

Please be advised the Appellants’ Initial Reply Brief has been received and accepted as filed. All parties are advised that the Proof of Service of the Record on Appeal must be served and filed by April 9, 2012.

Very truly yours,

Handwritten signature of Jenny Abbott Kitchings in cursive.
CLERK

JAK/jt

cc: Adam J. Neil, Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2010-CP-10-7647

Victoria Fire & Casualty Insurance Company,.....Respondent,

v.

Charles P. Singleton and Delissa Singleton,.....Appellants.

PROOF OF SERVICE

I certify that I have served Appellants' Reply Brief on Respondent Victoria Fire & Casualty Insurance Company by depositing a copy of it in the United States Mail, postage prepaid, on March 9, 2012, addressed to its attorney of record, Adam J. Neil, Esq.

March 9, 2012



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
Telephone: (843) 723-9804

Attorney for the Appellants

RECEIVED

MAR 12 2012

SC Court of Appeals

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

March 9, 2012

RECEIVED

MAR 12 2012

SC Court of Appeals

VIA UPS OVERNIGHT DELIVERY

The Honorable Tanya Gee, Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: *Victoria Fire & Casualty Insurance Company v. Charles P. Singleton and
Delissa Singleton*

Civil Action No.: 2010-CP-10-7647

Case Tracking No.: 2011198468 (Court of Appeals)

Dear Ms. Gee:

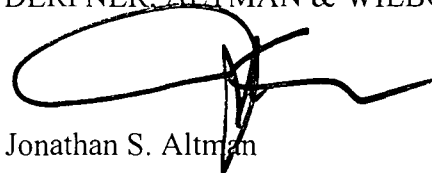
In accordance with Appellant Court Rule 208(b)(3), please find enclosed an original and one copy of the following:

1. Appellants' Reply Brief; and
2. Proof of Service of Appellants' Reply Brief on counsel for Respondent.

Please file the originals and return a clocked-in copy to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: Adam J. Neil, Esq.

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

March 1, 2012

South Carolina Court of Appeals
Attention: Seth Tucker
1205 Pendleton Street
Columbia, SC 29211

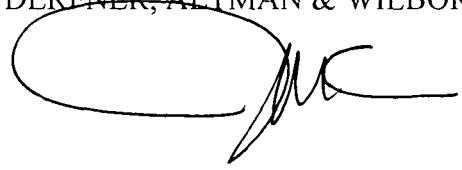
**RE: *Victoria Fire & Casualty Insurance Company v. Charles P. Singleton
and Delissa Singleton***
Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court of Appeals)

Dear Mr. Tucker:

Appellants Charles P. Singleton and Delissa Singleton, through their undersigned attorney, hereby respectfully request an additional ten (10) days to file and serve their Reply Brief to Respondent's Initial Brief. Appellants' Reply Brief would be due on March 12, 2012. Respondent's counsel does not object to this extension request. This request is being made pursuant to Rule 263(b), South Carolina Rules of Appellate Procedure. Please find enclosed my firm's check in the amount of \$25.00 related to the costs associated with this extension request. Thank you for your consideration.

Yours Very Truly,

DERENER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

GRANTED

JOHN CANNON FEW, C.J.
FOR THE COURT

By: V. Claire Allen
(Clerk) (Deputy Clerk)

FILED

JSA/rs

3/3/12 SD

Enclosures

cc: Adam J. Neil, Esq.

RECEIVED

MAR 05 2012

SC Court of Appeals

2/17/12
2/27/12

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge

Case No. 2010-CP-10-7647

Victoria Fire & Casualty Insurance Company,..... Respondents,

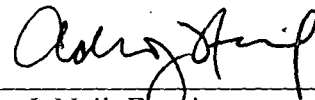
v.

Charles P. Singleton and Delissa Singleton,..... Appellants.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent proposes the following be included in the Record on Appeal:

1. Order of The Honorable Roger M. Young, Sr., Granting Plaintiff's Motion for Summary Judgment;
2. Declaratory Judgment Complaint;
3. Answer;
4. Plaintiff's Motion for Summary Judgment and Memorandum in Support thereof with attached Exhibits including Policy and Singleton Deposition Excerpts;
5. Defendant's Motion for Summary Judgment and Memorandum in Support thereof with attached Exhibits including Earning Statements and Allstate case;
6. Transcript of Hearing before The Honorable Roger M. Young, Sr., held on July 25, 2011.



Adam J. Neil, Esquire
Ashley B. Stratton, Esquire
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
Attorneys for Respondent, Victoria
Fire & Casualty Insurance Company

February 7, 2012



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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www.sccourts.org

February 3, 2012

Jonathan Scott Altman, Esquire
Derfner Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402

Re: Victoria Fire v. Singleton, Charles
Case #2011198468

Dear Mr. Altman:

We have received the Appellants' Initial Brief and Designation of Matter in the above case. However, according to the Order being challenged on appeal, the caption of this matter should appear as follows:

Victoria Fire & Casualty Insurance Company,
v.

Respondent,

Charles P. Singleton and Delissa Singleton,

Appellants.

All future filings must feature the above caption.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt

cc: Adam J. Neil, Esquire

The South Carolina Court of Appeals

Victoria Fire & Casualty Insurance
Company,

Respondent,

v.

Charles P. Singleton and Delissa
Singleton,

Appellants.

The Honorable Roger M. Young
Charleston County
Trial Court Case No. 2010-CP-10-07647

ORDER

For good cause having been shown, the time for serving and filing the Respondent's Initial Brief and Designation of Matter in the above entitled matter is hereby extended until February 15, 2012.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For the Court

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina
cc: Jonathan Scott Altman, Esquire
Adam J. Neil, Esquire

FILED

2/13/12 SD



MURPHY & GRANTLAND, P.A.

Adam J. Neil
Direct dial 803-454-1232
aneil@murphygrantland.com

January 11, 2012

Tanya A. Gee, Clerk
South Carolina Court of Appeals
P.O. Box 11629
1205 Pendleton Street
Columbia, SC 29211

Re: Victoria Fire & Casualty Insurance Company v. Charles P. Singleton
and Delissa Singleton

Civil Action No.: 2010-CP-10-7647
Case Tracking No.: 2011198468 (Court Appeals)
Claim No.: 45010003338
Date of Loss: 06/2009 and 01/2010
Our File No.: 1150-0464

Dear Ms. Gee:

Respondent, Victoria Fire & Casualty Insurance Company, through their undersigned attorney, hereby respectfully requests a 30 day extension of time to serve and file their Initial Brief until February 15, 2012. This request is being made pursuant to Rule 263(b), South Carolina Rules of Appellate Procedure. I have enclosed a check in the amount of \$25.00 to cover the cost of this extension request. Thank you for your consideration of this request.

With best regards, I remain

Very truly yours,

Adam J. Neil

AJN/kbd
Enclosure

cc: Debra Kroviak
Jonathan Altman, Esquire

RECEIVED
JAN 19 2012
SC COURT OF APPEALS

1/16/12
2/15/12

Telephone 803-782-4100 • Facsimile 803-782-4140 / 803-454-1258
4406-B Forest Drive, Columbia, South Carolina 29206 • Post Office Box 6648, Columbia, South Carolina 29260

J. R. Murphy John M. Grantland Ron B. Diegel* Brent M. Boyd E. Ray Moore, III Anthony W. Livoti Adam J. Neil Charles G. Blackburn
Jeffrey C. Kull Alice P. Adams Tim J. Newton Peter E. Farr Chris A. Majure Ashley B. Stratton J. Ryan Oates Wesley B. Sawyer

* Member – American Board of Trial Advocates

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2010-CP-10-7647

Charles P. Singleton and Delissa Singleton,.....Appellants,

v.

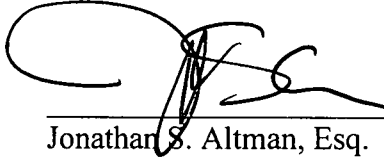
Victoria Fire & Casualty Insurance Company,.....Respondent.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellants propose the following to be included in the Record on Appeal:

1. Declaratory Judgment Complaint;
2. Answer;
3. Appellants' Motion for Summary Judgment;
4. Respondent's Motion for Summary Judgment;
5. Memorandum of Law in Support of Defendants' Motion for Summary Judgment and in Opposition to Plaintiff's Motion for Summary Judgment and exhibits;
6. Memorandum in Support of Plaintiff's Motion for Summary Judgment and in Opposition to Defendants' Motion for Summary Judgment and exhibits;
7. Order granting Plaintiff's Motion for Summary Judgment;
8. Victoria Insurance South Carolina Personal Automobile Policy; and
9. Deposition Transcript - Delissa Singleton.

I certify that this designation contains no matter which is irrelevant to this appeal.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
Telephone: (843) 723-9804

Attorney for the Appellants

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2010-CP-10-7647

Charles P. Singleton and Delissa Singleton,.....Appellants,

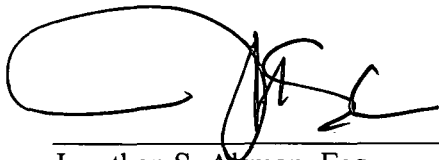
v.

Victoria Fire & Casualty Insurance Company,.....Respondent.

PROOF OF SERVICE

I certify that I have served Appellants' Initial Brief and Designation of Matter to be Included in the Record on Appeal on Respondent Victoria Fire & Casualty Insurance Company by depositing a copy of it in the United States Mail, postage prepaid, on December 15, 2011, addressed to its attorney of record, Adam J. Neil, Esq.

December 15, 2011



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
Telephone (843) 723-9804

RECEIVED

DEC 16 2011
Attorney for the Appellants

SC Court of Appeals

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

December 15, 2011

The Honorable Tanya Gee, Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: *Charles P. Singleton and Delissa Singleton v. Victoria Fire &
Casualty Insurance Company*
Case No.: 2010-CP-10-7647

Dear Ms. Gee:

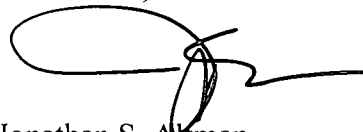
In accordance with Appellant Court Rules 208(a)(1) and 209, please find enclosed an original and one copy of the following:

1. Appellants' Initial Brief;
2. Designation of Matter to be Included in the Record on Appeal; and
3. Proof of Service of Appellants' Initial Brief and Designation of Matter to be Included in the Record on Appeal on counsel for Respondent.

Please file the originals and return clocked-in copies to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

cc: Adam J. Neil, Esq.

RECEIVED
DEC 16 2011
SC Court of Appeals

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

November 29, 2011

REC
NOV 30 2011

SC Court

Tanya Gee, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

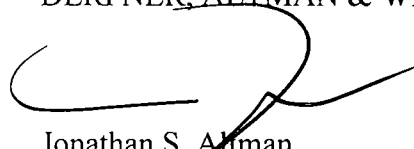
RE: *Charles P. Singleton and Delissa Singleton v. Victoria Fire & Casualty Insurance Company*
Case No.: 2010-CP-10-7647
Court of Appeals Tracking No.: 2011198468

Dear Ms. Gee:

Please be advised that Appellants received the Transcript of Record in the above referenced case on November 23, 2011. In accordance with ACR 207 (a)(1), Appellants' Initial Brief is due on December 23, 2011. Please contact me with any questions you may have regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

cc: Julie J. Armstrong, Clerk of Court
South Carolina Court of Appeals, Office of Court Administration
Adam J. Neil, Esq.

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

October 3, 2011

RECEIVED

OCT 04 2011

SC Court of Appeals

Amanda K. Haffenden, RPR, CRR
Post Office Box 424
Summerville, SC 29484

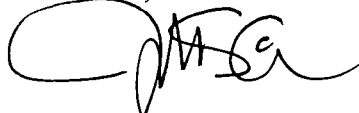
RE: *Charles P. Singleton and Delissa Singleton v. Victoria Fire & Casualty
Insurance Company*
Case No.: 2010-CP-10-7647

Dear Ms. Haffenden:

Thank you for your letter of September 26, 2011. Please find enclosed my firm's check in the amount of \$47.20 relative to preparation of the above referenced transcript. Please contact me if any additional expenses are incurred relative to this matter.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: The Honorable Jeanette Barber, South Carolina Supreme Court Clerk
South Carolina Supreme Court, Office of Court Administration
Julie J. Armstrong, Charleston County Clerk of Court
Adam J. Neil, Esq.

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

September 21, 2011

Amanda Haffenden, Court Reporter
P.O. Box 424
Summerville, SC 29484

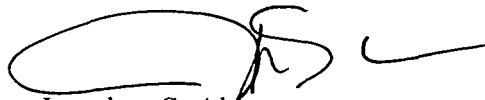
RE: *Charles P. Singleton and Delissa Singleton v. Victoria Fire & Casualty
Insurance Company*
Case No.: 2010-CP-10-7647

Dear Ms. Haffenden:

I represent the Appellants relative to the above referenced matter. A copy of Appellants' Notice of Appeal is included herewith. In accordance with Rule 207 (a) of the Appellant Court Rules, I am hereby ordering the transcript from the hearing before the Honorable Roger M. Young in the above matter. This matter was heard on July 25, 2011. Please contact me upon receipt of this request relative to payment for this transcript.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: The Honorable Jeanette Barber, South Carolina Supreme Court Clerk
South Carolina Supreme Court, Office of Court Administration
Julie J. Armstrong, Charleston County Clerk of Court
Adam J. Neil, Esq.

RECEIVED
SEP 26 2011

SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 12, 2011

Jonathan Scott Altman, Esquire
Derfner Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402

Re: Victoria Fire v. Singleton, Charles
Case #2011198468

Dear Mr. Altman:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

According to the Order being challenged on appeal, the caption of this matter should appear as follows:

Victoria Fire & Casualty Insurance Company,	Respondent,
v.	
Charles P. Singleton and Delissa Singleton,	Appellants.

All future filings must feature the above caption.

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1205 Pendleton Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:

- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,

V. Claire Allen, Deputy
Tanya A. Gee
CLERK

TAG/jt

cc: Adam J. Neil, Esquire

The Honorable Julie J. Armstrong



The South Carolina Court of Appeals

TANYA A. GEE
CLERK
V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 12, 2011

Jonathan Scott Altman, Esquire
Derfner Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402

Re: Victoria Fire v. Singleton, Charles
Case #2011198468

Dear Mr. Altman:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt

cc: Adam J. Neil, Esquire
The Honorable Julie J. Armstrong

The Supreme Court of South Carolina

RE: Interim Guidance Regarding Personal Data Identifiers and
Other Sensitive Information in Appellate Court Filings

ORDER

Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006); Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). Therefore, with some few exceptions,¹ documents filed with this Court or the South Carolina Court of Appeals (appellate court) are available to the public unless sealed by order of the appellate court in which the matter is pending.

Several commercial vendors have recently requested copies of briefs filed with the appellate courts, and it is anticipated that these and other appellate filings will be available electronically from both private and public sources in the future. The ready availability of these documents raises significant privacy concerns. While this problem is currently under review by the Chief Justice's Task Force on Public Access to Court Records, we adopt the following interim guidance regarding personal data identifiers and other sensitive information in documents filed in the appellate courts.

Parties shall not include, or will partially redact where inclusion is necessary, the following personal data identifiers from documents filed with an appellate court:²

1. Social Security Numbers. If a social security number must be included, only the last four digits of that number should be used.
2. Names of Minor Children. If a minor is the victim of a sexual assault or is involved in an abuse or neglect case, the minor's name will be completely redacted and a term such as "victim" or "child" should be used. In all other cases, only the minor's first name and first initial of the last name (i.e., John S.) should be used.
3. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses. If a home address must be included, only the city and state should be used.

Parties wishing to file documents containing the personal data identifiers listed above may file unredacted documents under seal, together with redacted versions for the public file. The sealed unredacted documents shall be filed in a separate Appendix and the bottom of each page of the Appendix shall be marked "Sealed." No order of the appellate court will be required to file this sealed Appendix. The number of copies of the Appendix to be served and filed shall be the same as that required for the brief, record on appeal, motion or other filing that includes the redacted documents.

If the caption of the case contains the name of the party, a party should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above, must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in Ex parte Capital U-Drive-It, Inc. and Davis v. Jennings, supra, must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for insuring that information is redacted or sealed rests with counsel and the parties.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

Columbia, South Carolina

August 13, 2007

¹ See, e.g., Rule 12 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR; Rule 12 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502, SCACR; Rule 402(n), SCACR; and Rule 403(l), SCACR.

² This restriction shall not apply when this information is required or requested by the appellate court. For example, the application for admission to practice law under Rule 402, SCACR, requires many of these personal identifiers to be disclosed.

PM-9/2/11
POS-9/2/11

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2010-CP-10-7647

RECEIVED

SEP 06 2011

SC Court of Appeals

Charles P. Singleton and Delissa Singleton,.....Appellants,

v.

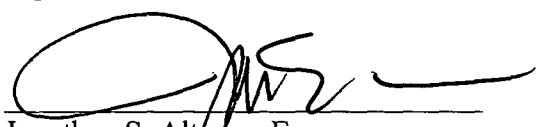
Victoria Fire & Casualty Insurance Company,.....Respondent.

JTB

NOTICE OF APPEAL

Charles P. Singleton and Delissa Singleton appeal the order of the Honorable Roger M. Young dated August 8, 2011. Appellants received written notice of entry of this order on August 13, 2011.

September 2, 2011



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
Telephone: (843) 723-9804

Attorney for the Appellants

Other Counsel of Record:

Adam J. Neil, Esq.
P.O. Box 6648
Columbia, SC 29260

Attorneys for the Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2010-CP-10-7647

RECEIVED

SEP 06 2011

SC Court of Appeals

Charles P. Singleton and Delissa Singleton,.....Appellants,

v.

Victoria Fire & Casualty Insurance Company,.....Respondent.

PROOF OF SERVICE

I certify that I have served Appellants' Notice of Appeal on Victoria Fire & Casualty Insurance Company, by depositing a copy of it in the United States Mail, postage prepaid, on September 2, 2011, addressed to its attorney of record, Adam J. Neil, Esq.

September 2, 2011



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402
Telephone: (843) 723-9804

Attorney for the Appellants

D · A · W

DERFNER
ALTMAN &
WILBORN

RECEIVED
SEP 06 2011
SC Court of Appeals

September 2, 2011

The Honorable Jeanette Barber, Clerk
South Carolina Supreme Court
1015 Sumter Street
Columbia, SC 29201

RE: *Charles P. Singleton and Delissa Singleton v. Victoria Fire & Casualty
Insurance Company*
Case No.: 2010-CP-10-7647

Dear Ms. Barber:

Please find enclosed an original and one copy of the following relative to the above referenced matter:

1. Appellants' Notice of Appeal;
2. Copy of the Honorable Roger M. Young's Order of August 8, 2011;
3. Proof of Service upon Respondent's counsel; and
4. My firm's check in the amount of \$100.00 representing the filing fee relative to said appeal.

Please file the original Notice of Appeal and Proof of Service and return clocked-in copies to me in the enclosed self-addressed stamped envelope. Please contact me with any questions you may have regarding the above matter.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: Adam J. Neil, Esq.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2010-CP-10-7647

Victoria Fire & Casualty Insurance Company,

Plaintiff,

vs.

Charles P. Singleton and Delissa Singleton

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

FILED
2011 AUG 11 AM 9:11
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This matter came before the Court on Motions for Summary Judgment filed by both parties. A hearing was held on Monday, July 25, 2011. Present for the Plaintiff was Adam Nejl, Esquire. Present for the Defendants was Jonathan Altman, Esquire. Having considered the arguments of counsel and the legal authorities submitted, the Court hereby grants Plaintiff Victoria Fire & Casualty Insurance Company's Motion for Summary Judgment.

The undisputed facts are as follows. In the course of her employment as a bus driver with Veolia Transportation, Inc., Defendant Delissa Singleton was injured as a result of two automobile accidents occurring in or about June of 2009 and again in January of 2010, which occurred while she was driving a Charleston Area Regional Transportation Authority ("CARTA") bus. Neither accident was deemed to be her fault. As a result of these two automobile accidents, Delissa Singleton has settled her liability claims with the respective at-fault drivers and their liability insurance carriers, receiving the full liability policy limits in exchange for signed covenants not to execute in favor of the two allegedly at fault drivers.

Mrs. Singleton is an insured person under a policy of automobile liability insurance issued to Charles P. Singleton as the Named Insured by Victoria (hereinafter "The Policy"). The Policy was in effect at the time of both accidents. In addition to providing liability coverage,

The Policy, number 62379093-3, also includes Underinsured Motorist ("UIM") coverage. The policy limit for the UIM coverage is \$25,000 per person and \$50,000 per accident. Delissa Singleton has demanded that Victoria pay her the policy limit of \$25,000.00 for each accident – a total of \$50,000.00.

Victoria denied Delissa Singleton's claim based on the following policy exclusion (hereinafter "The Exclusion") that appears in the UIM coverage terms:

COVERAGE EXCLUSIONS

Coverage does not apply:

* * *

7. To use of any **motor vehicle** by an **insured**:
- a) to carry persons or property for a fee; or
 - b) for retail or wholesale delivery, including but not limited to pizza, magazine, newspaper and mail delivery.

This exclusion does not apply to **motor vehicles** used in shared-expense car pools.

The policy also defines those terms that appear in bold-face type above as follows:

"'MOTOR VEHICLE' means land motor vehicle designed primarily to be driven on public roads. This does not include vehicles operated on rails or crawler treads;" "'INSURED' means one who is described as entitled to protection under each coverage."

At the time of both the June 2009 and January 2010 accidents, Mrs. Singleton was an "insured" using a "motor vehicle", specifically a CARTA bus, which was carrying persons who paid a fee to ride thereon. The passengers being transported by Mrs. Singleton either paid a "per ride" fee or, if a student, paid for a semester-long bus pass. Standard passengers paid \$1.50 per ride. Singleton was earning an hourly wage at the time of both the June 2009 and January 2010 accidents.



Under the plain and unambiguous terms of the policy, Singleton is not entitled to UIM coverage and, therefore, Victoria is entitled to summary judgment.

There is no reported South Carolina case analyzing this exclusion or an exclusion like it. However, Courts from across the country have interpreted this exclusion as valid and enforceable and effective to bar the payment of UIM benefits in situations that are virtually identical to those in this case. In Almendral v. Security National Insurance Co., 704 So.2d 728 (Fla. Dist. Ct. App. 1998), the Florida court upheld the exclusion of uninsured coverage for passengers in a van being used to transport Medicaid patients. Like Singleton, the driver in Almendral (Valdes) received a weekly salary from his employer (Red Top Transportation) for transporting Medicaid passengers to doctors' offices for their appointments. Almendral, 704 So.2d at 728. He did not receive any compensation directly from the passengers. Mr. and Mrs. Almendral were passengers in the van and were injured when it was involved in an accident with an uninsured vehicle. They sought UM benefits from Valdes' personal insurance policy (issued by defendant Security National) which provided UM coverage, but excluded it when the driver was operating the van "to carry persons or property for a fee." Id. The Almendrals apparently conceded that the coverage was not available to Mrs. Almendral because she was the fare-paying Medicaid patient. However, because Mr. Almendral was simply escorting his wife to her doctor's appointment he did not pay a fare. Thus, he claimed the exclusion was inapplicable to him. Id. at 729. Rejecting this argument, the court held:

By the *clear and unambiguous* terms of the business exclusionary provision, except for car pool expenses, [the driver] had no uninsured motorist coverage whenever his van was being used to transport any persons or property for a fee. The identity of the person(s) paying the fee or the status of the occupants in the van at the time are simply irrelevant.

Id. at 730 (emphasis added).

Similarly in both accidents, Singleton was driving a vehicle being used to transport persons for a fee. The fact that she may have been transporting a student who did not pay a fee directly to her but paid at the time he boarded the bus (though he must have paid the student semester fee of \$70) is of no consequence because the "identity of the person(s) paying the fee or the status of the occupants in the [vehicle] are simply irrelevant." Id.

This conclusion is further supported by the Superior Court of Pennsylvania's opinion in Ratush v. Nationwide Mutual Insurance Co., 619 A.2d 733 (Pa. Super. Ct. 1992). In Ratush, a taxi cab driver was injured in an accident and submitted a claim under his wife's insurance policy which excluded coverage for a vehicle which was being "used to carry persons or property for a fee." Ratush, 619 A.2d at 733. The driver argued the policy exclusion was inapplicable to his accident because the taxi which he had been driving was not carrying a passenger at the exact moment of the accident. Id. Rejecting this argument, the court held:

Thus, in the instant case, the language of the policy was clear. A distinction was created between vehicles owned and operated privately, including vehicles used for car pooling purposes, and vehicles being used to carry passengers for hire. The vehicle being operated by [the driver] at the time of his accident was a taxicab whose purpose was to carry passengers for compensation. Applicability of the policy's exclusion did not vary according to whether the taxi was occupied or unoccupied at any given moment or whether its driver, at that time, did or did not intend to pick up passengers.

Id. at 734

Notably, the taxi driver in Ratush was not receiving a fee when the accident occurred. There was no one occupying the taxi cab, so there was no payment to the driver. However, the court recognized that the policy created an intentional distinction between private vehicles and vehicles like taxi cabs and buses which are used to carry passengers for hire. It does not matter who receives payment or whether payment is even received when the purpose of the vehicle is to

carry passengers for compensation. See also, Nationwide Assurance Co. v. Easley, 960 A.2d 843, 848 (Pa. Super. Ct. 2008) (holding fact that taxi driver did not have a passenger when the accident occurred does not render the exclusion invalid); Farmers Insurance Exchange v. Knopp, 50 Cal.App.4th 1415, 1421 (Cal. Dist. Ct. App. 1996) (finding that a very similar exclusion was *unambiguous* and upholding its application against a limousine driver even though not carrying passengers at time of accident because the use of the limousine lasted “during the entire process, from dispatch through return”).

Whether the passengers being transported by Singleton at the time of the accident paid a fee (which they did) or whether there were even passengers in the bus at the time of the accident is irrelevant. The key fact is that the purpose of the bus was to carry persons for a fee. Therefore, it also does not matter that Singleton herself was not paid for the journey. See Johnson v. Allstate Insurance Co., 505 So.2d 362 (Ala. 1987).

Because the sole purpose of the bus Singleton was operating was transporting people for a fee, the applicability of the exclusion does not depend on who was or was not riding the bus or whether any benefit inured directly to Singleton.

The validity and applicability of the exclusion is especially true when considering the purpose of the exclusion:

The duty owed by the operator to a person being transported for hire is much higher than that owed to a person who is not being transported for hire; and the risk assumed by the insurer where a car is being so used is much greater than in the case of an automobile which is being used for pleasure and ordinary business purposes.

Cartos v. Hartford Acc. & Indem. Co., 160 Va. 505, 505, 169 S.E. 594 (1933). The unambiguous terms of the policy exclude underinsured coverage and, therefore, Victoria is entitled to judgment as a matter of law.

Defendants urged the Court to rely on the unreported decision of the Federal District

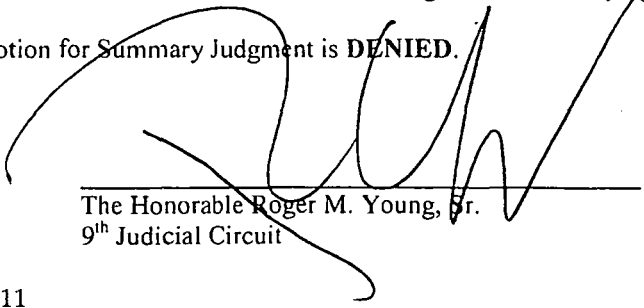
Court in United States v. Allstate Insurance Co., 2001 WL 1854501 (D.S.C. 2001), in which the court held that similar exclusionary language was ambiguous. The Court finds that this decision is not persuasive.

The facts before the District Court were quite different from the facts at issue here. The individual seeking coverage in United States was a rural mail carrier for the United States Postal Service who was driving his own vehicle to deliver mail when he was involved in an accident. The ambiguity in the policy as described by the District Court was "because it is unclear whether it refers only to a per-trip charge, or to any wages paid to an employee whose duties include delivering property." Id. at *3. Singleton urges that the Victoria policy exclusion does not apply because Singleton did not receive the fee. This is not correct. In this case, there was both a "per-trip charge" paid by the bus rider to CARTA and "wages paid to an employee", i.e. Singleton's pay from Veolia. Thus, the ambiguity, even if there were one, is not material to the coverage dispute between Singleton and Victoria because under either interpretation the exclusion is applicable.

CONCLUSION

For the reasons stated above, Victoria's Motion for Summary Judgment is **GRANTED** because there is no genuine issue as to material fact that the unambiguous terms of the policy exclude underinsured coverage for the accidents that occurred when Singleton was carrying persons for a fee. The Singleton's Motion for Summary Judgment is **DENIED**.

IT IS SO ORDERED.



The Honorable Roger M. Young, Sr.
9th Judicial Circuit

____ day of 8/8, 2011