THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

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Appellate Case Number: 2024-000107

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Jill S. Amoruso……..Appellant,

v.

United Services Automobile Association d/b/a USAA……..Respondent.

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# PETITION FOR REHEARING

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## INTRODUCTION

Pursuant to Rules 221(a) and 240, SCACR, Petitioner Jill S. Amoruso petitions for a rehearing of the Court's decision in *Amoruso v. United Services Automobile Association d/b/a USAA*, Unpub. Op. No. 2025-UP-184 (S.C. Ct. App. filed June 11, 2025). The Court overlooked or misapprehended the applicable law and several of Amoruso's arguments and failed to account for these opposing points in its opinion.

## ARGUMENT[1]

This case presents the simple question of whether Amoruso's camper trailer and horse trailer are "motor vehicles" as defined by the General Assembly in an unambiguous motor vehicle insurance statute. The Court failed to apply the governing statute as written and therefore erred.

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[1] In this Petition, capitalized terms are as defined the same as in Appellant's Briefs.

The lynchpin of the Court's decision was its conclusion that the General Assembly's use of the phrase "trailers and semitrailers designed for use with [self-propelled] vehicles [designed for use upon a highway]," S.C. CODE ANN. § 38-77-30(9) (1976, as amended), means "trailers, which are not self-propelled, *only become a motor vehicle when attached to a self-propelled vehicle* which is designed for use upon a highway." Opinion, p. 2 (emphasis added). In doing so, the Court effectively rewrote the statute in a manner inconsistent with its express language and substituted the Court's own policy determinations for those of the General Assembly. To achieve this result, the Court overlooked or misapprehended Amoruso's arguments and the applicable law.

> "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the General Assembly." "Where the statute's language is plain and unambiguous[] and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." "*What a General Assembly says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the General Assembly.*" The automobile insurance statutes … fall within a comprehensive statutory scheme, so they must be read as a whole, not in isolation.

*USAA Cas. Ins. Co. v. Rafferty*, 439 S.C. 130, 132-33, 886 S.E.2d 222, 223 (2023) (citations omitted; emphasis added).

The Court must apply the express language of a statute even if it disagrees with the legislative policy decisions underlying the statutory language. *Smith v. Tiffany,* 419 S.C. 548, 565, 799 S.E.2d 479, 488 (2017). In summary, the actual language of the statute – not what the Court thinks the statute should say – must dictate the outcome of the Court's analysis.

Here, Section 38-77-30(9) includes trailers within the definition of motor vehicles subject to only one condition – that the trailer be "*designed for use*" with "vehicle[s] designed for use upon a highway."[2] Significantly, the General Assembly did not impose the additional condition of

[2] As the Court noted, all parties agree the subject trailers "were designed to be used with self-propelled vehicles." Opinion, p. 2. They therefore meet all requirements of the statutory definition.

requiring a trailer to be attached to such a vehicle to satisfy the statutory definition. The Court's decision created this additional condition without any statutory basis.

The difference between "designed for use with" and "when being used with" is significant. The former establishes a broader category of motor vehicles, whereas the latter is narrower. Under the express language of the statute, trailers designed for use with highway vehicles fall within the definition regardless of whether they are attached to those vehicles. The Court's definition would only encompass trailers at specific, varying points in time even though, as a necessary predicate of that definition, they are designed for use with highway vehicles.

As such, the Court's conclusion was contrary to the principle of statutory construction that "[a] statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage[] or superfluous…." *Rafferty*, 439 S.C. at 136, 886 S.E.2d at 225, *quoting In re Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995). Under the Court's "when attached to a self-propelled vehicle which is designed for use upon a highway" construction, the General Assembly's condition of "designed for use with these vehicles" becomes superfluous since the trailer would necessarily satisfy that condition to meet the Court's definition.

Moreover, the Court's holding runs afoul of this State's policy of construing motor vehicle insurance statutes liberally and broadly in favor of providing greater coverage for and public protection from vehicular risks. *USAA Cas. Ins. Co. v. Rafferty*, 439 S.C. 130, 135-36, 886 S.E.2d 222, 225 (2023). Instead, it creates an unreasonable and unmanageable situation where the trailers would have to be insured for liability at some points in time but not at others. *Cf. Harrell v. Pineland Plantation, Ltd.*, 337 S.C. 313, 324, 523 S.E.2d 766, 771 (1999) (Where the court observed, in the context of workers' compensation coverage – a different statutory scheme which is also based on the public policy of providing broad protection via coverage – that it would be

undesirable to construe a statute such that "employees of a subcontractor would constantly move in and out of workers' compensation coverage throughout the workday based on the type of work they were engaged in at that very moment."). The statutory definition *as written* avoids this uncertainty by requiring liability coverage on trailers designed for use with highway vehicles, thereby protecting the public at all times.

A legislative decision to require protection on a consistent and continuing basis, independent of a trailer's use at a specific point in time, is not absurd but is consistent with this State's public policy. However, when the Court concluded, without further explanation, that "Amoruso's interpretation would also lead to *an absurd result* of categorizing vehicles that are otherwise stationary and designed to be used with self-propelled vehicles as motor vehicles," Opinion, p. 2 (emphasis added), it applied its own policy determination rather than interpreting and implementing those of the General Assembly based on the express language of the statute.

Requiring liability insurance on trailers designed for use with highway vehicles is not absurd. Not only can a trailer owner or operator cause damage and incur liability using a trailer while attached to another vehicle (*e.g.,* a driver causes a trailer to block the lane of oncoming traffic while completing a turn), but he can also be liable for damages caused when the trailer strikes persons or property after it negligently becomes unattached from a towing vehicle and (at which time it would no longer be a "motor vehicle" as defined by this Court) or when it rolls down a hill after being unhitched from a vehicle, parked, and inadequately secured. Coverage under these scenarios was certainly intended by the General Assembly given the public policy undergirding this State's automobile insurance statutes.[3]

[3] Likewise, the owner of a trailer would benefit from statutorily required first-party property damage coverage on his trailer when it is damaged by an uninsured or underinsured motorist, in addition to deriving additional first-party coverage for any bodily injuries so caused.

Additionally, the Court's analysis overlooked and failed to address the legislative history of the definition of "motor vehicle" in Section 38-77-30(9), as outlined in greater detail in Appellant's Reply Brief, pages 6-8. As discussed there, the General Assembly included trailers as "motor vehicles" regardless of their means of propulsion or whether they are propelled at all – it only required that they be designed for use with highway vehicles.

The Court's reasoning seems to have been influenced by the inclusion of the word "motor" in the defined term "motor vehicles" and the fact that the trailers at issue do not have motors. Opinion, p. 2 (*citing Anderson v. State Farm Mut. Auto. Ins. Co.*, 314 S.C. 140, 143, 442 S.E.2d 179, 181 (1994)). But such an approach overlooks the definition itself, which is what the Court was called upon to apply. The Court's use of the "ordinary and popular sense" of the term "motor vehicle" was inconsistent with the fact that the General Assembly deemed it proper to include trailers within the definition of "motor vehicles." If a vehicle must have a motor to meet the definition, this would have been an unnecessary inclusion since trailers do not have motors. That fact is clear proof that a vehicle need not have a motor to fall within the definition and that adding such a requirement to the definition is contrary to legislative intent.[4]

Lastly, the Court failed to address the fact that the Supreme Court's decision in *Miller v. Aiken*, 364 S.C. 303, 613 S.E.2d 364 (2005), supports Amoruso's position in this appeal, as discussed in Appellant's Brief, pages 14-15.

This Court should have applied the statute as written and reversed the Circuit Court's conclusion that the subject trailers were not "motor vehicles" within the statutory definition. Each trailer was designed for use with self-propelled vehicles on the highway. USAA insured both for

[4] Amoruso also directs the Court's attention to the discussion regarding the term "self-propelled" on pages 8-12 of Appellant's Brief, a topic not addressed in the Opinion.

physical damage, including collision coverage. This is an acknowledgement that the trailers would be used in an environment where they could be involved in collisions with other vehicles, a setting where liability coverage (as well as uninsured and underinsured motorist coverage) would be desirable and consistent with public policy. In line with this conclusion, USAA described both of the trailers as "vehicles" in the Policy and charged separate premiums for each.

Because the trailers were "motor vehicles" within the statutory insurance scheme, USAA was required to insure them for liability coverage and, consequently, to make a meaningful offer of underinsured motorist coverage for each (which it failed to do). As such, the Court erred in concluding otherwise and should instead hold that USAA insured both trailers for underinsured coverage in the amount of the Policy's liability coverage limits.

## CONCLUSION

Amoruso therefore requests that the Court grant her petition for rehearing, reverse the ruling of the Circuit Court, and grant her the relief requested in her Briefs.

Respectfully submitted,

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June 26, 2025
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**PROOF OF SERVICE**

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I certify that I have served the **Appellant's Petition for Rehearing** on Respondent via electronic mail only on June 26, 2025, as reflected on the email attached hereto and addressed to counsel of record as follows:

Charles R. Norris, Esquire
Robert W. Whelan, Esquire
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June 26, 2025
Charleston, South Carolina

**Sent:** 6/26/2025 11:13:32 AM
**To:** 'charles@whelanmellen.com'; Robbie Whelan
**Cc:** Bert Utsey
**Subject:** Jill S. Amoruso v. United Services Automobile Association d/b/a USAA; Appellate Case No.: 2024-000107
**Attachments:** Petition for Rehearing.pdf, Proof of Service of Petition for Rehearing.pdf, 6-26-2025 - BGU letter to Clerk of Court of Appeals filing Petition for Rehearing.pdf
**Importance:** High
**Categories:** Smokeball

Good morning.

Attached please find the Petition for Rehearing with Proof of Service regarding the above matter. The Proof of Service will be updated to include this email when same is filed with the Court.

Thank you.

Sharon Bernard


**Sharon J. Bernard**
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TRIAL LAWYERS

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SC Court of Appeals

June 26, 2025

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Jill S. Amoruso v. United Services Automobile Association d/b/a USAA
Appellate Case No.: 2024-000107

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Appellant's Petition for Rehearing with Proof of Service regarding the above matter. These documents were filed electronically and served upon Respondent's counsel today. I would appreciate your returning file-stamped copies of the documents in the self-addressed, stamped envelope provided. Also enclosed is my firm's check in the amount of $50.00 representing the requisite filing fee.

Thank you for your kind assistance in this regard. If you have any questions regarding the enclosed, please do not hesitate to contact me.

Sincerely,

Bert G. Utsey, III

BGU,III/sb
Enc.

cc: Charles R. Norris, Esquire (via e-mail—w/o enc.)
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