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Jul 31 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Appellate Case Number: 2024-000107

Jill S. Amoruso.....Appellant,

v.

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

REPLY TO RESPONDENT’S RETURN
TO PETITION FOR REHEARING

Respondent’s position is founded on the idea that a trailer cannot be a “motor vehicle” as defined by the General Assembly because it does not have a motor. Perhaps if the General Assembly had chosen to leave the term “motor vehicle” undefined in the motor vehicle insurance laws, there may be some appeal to the argument that the Court should employ a “common sense” approach to interpreting the term. (Return, p. 3).

However, that approach overlooks the fact that the General Assembly *did choose* to define the term rather than relying on readers’ various concepts of “common sense” when applying the insurance statutes. Given that choice, the Court’s inquiry must refocus on the language of the definition that the General Assembly adopted – and that it chose not to use in the definition – not the term “motor vehicle” alone, and whatever that term may suggest regarding self-propulsion.

If the General Assembly had intended, as Respondent argues, for its definition of “motor vehicle” to state “a motor vehicle includes a trailer designed for use with the motor vehicle when they are attached” (Return, p. 2; emphasis in original), it could have easily drafted the statute to say that. But it did not. Instead, the General Assembly adopted different language and *only* required that a trailer be “designed for use with these vehicles”¹ to constitute a “motor vehicle.” S.C. CODE ANN. § 38-77-30(9) (1976, as amended). The Court should honor the General Assembly’s choice of language.

Significantly, the General Assembly did not include the phrase Respondent so desperately wants the Court to add, “when they are attached.” If the Court were to add that limitation to the statutory definition, it would improperly invade the province of the General Assembly by substituting its own policy decision. As such, the Court would be legislating rather than applying the law as written and would violate the separation of powers doctrine. *See Smith v. Tiffany*, 419 S.C. 548, 559-60, 799 S.E.2d 479, 485 (2017) (“[W]here the General Assembly has spoken and established policy, separation of powers demands that courts honor the legislative policy determination. ... In honoring separation of powers, we adhere to the principle that a court must not reject the legislature’s policy determinations merely because the court may prefer what it believes is a more equitable result.”); *Hampton v. Haley*, 403 S.C. 395, 403, 743 S.E.2d 258, 262 (2013) (“Included within the legislative power is the sole prerogative to make policy decisions; to exercise discretion as to what the law will be.”); *State ex rel. McLeod v. Yonce*, 274 S.C. 81, 84, 261 S.E.2d 303, 305 (1979) (“The legislative department makes the laws; ... and the judicial department interprets and declares the laws.”).

¹ In the statute, “these vehicles” refers back to the statute’s earlier phrase “self-propelled vehicle[s] which [are] designed for use upon a highway.”

The Court should apply the statutory definition as written and hold that the subject trailers – which were designed for use by self-propelled vehicles designed for use upon a highway – are “motor vehicles” within that definition. As such, the Court should grant the Petition for Rehearing.

Respectfully submitted,

CLAWSON FARGNOLI UTSEY, LLC

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July 30, 2025
Charleston, South Carolina

Attorneys for Petitioner

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PROOF OF SERVICE

I certify that I have served the Appellant’s Reply to Return to Petition for Rehearing via electronic mail on July 30, 2025, addressed to:

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July 31, 2025
Charleston, South Carolina

Bert Utsey

From: Sharon Bernard
Sent: Thursday, July 31, 2025 11:34 AM
To: Charles Norris; Robbie Whelan
Cc: Bert Utsey
Subject: Jill S. Amoruso v. United Services Automobile Association d/b/a USAA; Appellate Case No.: 2024-000107
Attachments: Reply to Respondent's Return to Petition for Rehearing with Proof of Service.pdf
Importance: High

Good morning.

Attached please find the Appellant's Reply to Respondent's Return to 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



July 31, 2025

VIA EMAIL—CTAPPFILINGS@SCCOURTS.ORG AND U.S. MAIL

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SC Court of Appeals

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

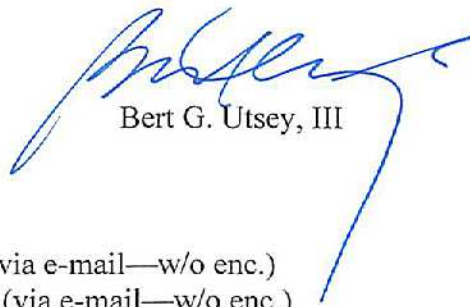
Re: Jill S. Amoruso v. United Services Automobile Association d/b/a USAA
Appellate Case No.: 2024-000107

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Appellant's Reply to Return to 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 same in the self-addressed, stamped envelope provided.

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.)
Robert W. Whelan, Esquire (via e-mail—w/o enc.)