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**Aug 28 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

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Op. No. 2025-UP-184 (S.C. Ct. App. filed June 11, 2025)

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Jill S. Amoruso.....Petitioner,

v.

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

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PETITION FOR A WRIT OF CERTIORARI

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## INTRODUCTION

Petitioner hereby petitions this Court, pursuant to Rule 242, SCACR, for a Writ of Certiorari to review the South Carolina Court of Appeals' final decision dated June 11, 2025. Petitioner filed a Petition for Rehearing of that decision with the Court of Appeals on June 26, 2025. The Court of Appeals denied the Petition for Rehearing by Order dated August 8, 2025.

## QUESTIONS PRESENTED FOR REVIEW

1. Did the Court of Appeals err in holding that two trailers which USAA insured as vehicles on the subject motor vehicle insurance policy were not "motor vehicles" as defined by S.C. CODE ANN. § 38-77-30(9)?
2. Did the Court of Appeals improperly invade the province of the General Assembly and thereby violate the separation of powers doctrine by substituting its own policy decision in applying the language of S.C. CODE ANN. § 38-77-30(9)?
3. Should the Court of Appeals have held that USAA was required to offer underinsured motorist coverage on all six vehicles insured by the subject motor vehicle liability insurance policy, that the policy should be reformed to include underinsured motorist coverage on all six vehicles, and that Amoruso can recover stacked underinsured motorist coverage for all six vehicles?

## STATEMENT OF THE CASE

### 1. Procedural History.

Petitioner Jill S. Amoruso ("Amoruso") commenced this action on August 18, 2022. (R. p. 16). In her Complaint, she sought a declaratory judgment that her motor vehicle liability insurance policy (the "Policy") issued by Respondent United Services Automobile Association ("USAA") provided underinsured motorist ("UIM") coverage with limits of \$300,000 per person

for all six insured vehicles listed on the Policy and an order reforming the Policy accordingly. (R. pp. 19-20, ¶¶ 30-39). In addition, Amoruso sought a declaration that she could stack all UIM coverage afforded by the Policy. (R. pp. 19-20, ¶¶ 32, 34). Finally, she sought a declaration that the stacked UIM coverage applied to her judgment for bodily injury damages as a result of a collision that occurred while the Policy was in effect. (R. pp. 17-19, ¶¶ 11-15, 24-33, 39).<sup>1</sup>

In its Amended Answer filed on March 15, 2023, USAA admitted most of the Complaint's operative factual allegations but denied that the Policy provided UIM coverage for two of the six insured vehicles. (R. pp. 24-27, ¶¶ 7-19, 24-29).<sup>2</sup>

On January 23, 2023, Amoruso filed a Motion for Partial Summary Judgment. (R. p. 32). USAA filed its Motion for Summary Judgment on March 15, 2023. (R. p. 34). On July 12, 2023, USAA filed a Memorandum in Support of its Motion for Summary Judgment. (R. p. 36).

The pending motions came before Circuit Court Judge Jennifer B. McCoy for a hearing on July 13, 2023. (R. p. 40). By Form 4 Orders dated November 13, 2023, Judge McCoy granted USAA's Motion for Summary Judgment and denied Amoruso's Motion for Partial Summary Judgment. (R. pp. 7, 10). The Form 4 Orders stated a formal Order would follow. On November 30, 2023, Judge McCoy filed a formal Order granting USAA's Motion for Summary Judgment and denying Amoruso's Motion for Partial Summary Judgment. (R. p. 2).

On December 4, 2023, Amoruso filed a Motion to Alter or Amend Judge McCoy's Order. (R. p. 135). Judge McCoy denied the Motion to Alter or Amend without a hearing via a Form 4 Order dated January 19, 2024. (R. p. 13).

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<sup>1</sup> Amoruso also alleged causes of action for breach of contract and bad faith. (R. pp. 20-24, ¶¶ 41-63). Those claims are not at issue in this appeal.

<sup>2</sup> USAA previously paid Amoruso UIM coverage on four of the six vehicles insured by the Policy; as a result, UIM coverage on those four vehicles is not in dispute. (R. pp. 17-18, ¶¶ 8, 10, 27; pp. 25-26, ¶¶ 8, 10, 27).

On January 23, 2024, Amoruso filed a timely Notice of Appeal from Judge McCoy's Order granting USAA's Motion for Summary Judgment and denying Amoruso's Motion for Partial Summary Judgment as well as her Order denying Amoruso's Motion to Alter or Amend.

After the parties submitted final briefs, the Court of Appeals considered the appeal without oral argument. In an unpublished opinion, *Amoruso v. United Services Auto. Assoc.*, Op. No. 2025-UP-184 (S.C. Ct. App. filed June 11, 2025) ("Opinion"), it affirmed the Circuit Court. On June 26, 2025, Amoruso filed a Petition for Rehearing with the Court of Appeals. The Court of Appeals denied that petition in an Order dated August 8, 2025.

## 2. Undisputed Factual Record.

In the Circuit Court, the facts related to the parties' cross motions for summary judgment were undisputed. Therefore, the factual record on appeal is likewise undisputed.

USAA issued the Policy. (R. p. 17, ¶ 7; p. 24, ¶ 7; p. 87). Amoruso was the named insured on the Policy. (R. p. 92). The Policy insured six vehicles. (R. p. 17, ¶ 8; p. 25, ¶ 8; pp. 92-94). The Policy provided several types of insurance coverages, including liability coverage. (R. p. 17, ¶ 9; p. 25, ¶ 9; pp. 92-94).

However, the Policy only insured four of its six vehicles for liability and UIM coverage. (R. p. 17, ¶ 9; p. 25, ¶ 9; pp. 92-94). The two insured vehicles without liability and UIM coverage were listed on the Policy as a 2016 Montana camper ("Montana") and a 2007 Adams horse trailer ("Adams"), both of which USAA described as "vehicles" on the Policy's declarations pages. (R. pp. 92-94). USAA did not offer Amoruso liability coverage or UIM coverage on the Montana or the Adams. (R. p. 20, ¶ 38; p. 28, ¶ 38; p. 71, ¶¶ 8-10). Rather, those vehicles were only insured for "physical damage coverage," which included collision coverage and comprehensive coverage. (R. pp. 93-94).

On January 7, 2017, while the Policy was in effect, Amoruso was seriously injured in a motor vehicle collision while occupying one of the insured vehicles. (R. p. 17, ¶¶ 10-12; p. 25, ¶¶ 10-12). She filed suit against the at-fault motorist and served USAA, as her UIM insurer, with the pleadings. (R. p. 17, ¶¶ 14-15; p. 25, ¶¶ 14-15). After the liability insurer tendered its \$100,000 in coverage, USAA assumed defense of the lawsuit. (R. p. 18, ¶¶ 17, 19; pp. 25-26, ¶¶ 17, 19). The action was tried to verdict, resulting in a judgment in favor of Amoruso in the amount of \$2,400,000 after the setoff for liability coverage. (R. p. 18, ¶¶ 24-25; p. 26, ¶¶ 24-25).

USAA agreed it provided UIM coverage with limits of \$300,000 on the vehicle Amoruso occupied at the time of the collision and on three other vehicles listed on the Policy; it also agreed Amoruso was entitled to stack that UIM coverage as a Class 1 insured. (R. pp. 18-19, ¶¶ 26-27, 31; pp. 26-27, ¶¶ 26-27, 31). Thus, USAA tendered to Amoruso a total of \$1,200,000 in UIM coverage. (R. p. 18, ¶ 27; p. 26, ¶ 27). This left \$1,200,000 of the judgment unsatisfied.

Amoruso claimed that USAA was required by statute to offer UIM coverage on the Montana and the Adams and, because it failed to do so, the Policy should be reformed to include UIM coverage on those vehicles, with limits on each equal to the \$300,000 liability coverage limits afforded by the Policy. USAA disagreed. Plaintiff then filed this action seeking a resolution of the parties' justiciable controversy.

### ARGUMENT

#### 1. Review via a Writ of Certiorari is proper.

The Court should review this matter via a Writ of Certiorari because it involves a novel question of law and a substantial constitutional issue. *See* Rule 242(b)(1) & (4), SCACR.

Specifically, no reported cases directly address the coverage issues presented by this declaratory judgment action. However, as discussed below, the Court of Appeals' holding is at

odds with the express language of a statute. If this Court were to grant certiorari, it would review this matter *de novo*, allowing it to provide a final statement on the legal issues presented. *See State Farm Mut. Auto. Ins. Co. v. Windham*, 438 S.C. 156, 159, 882 S.E.2d 754, 756 (2022); *Crossmann Communities of N.C. v. Harleysville Mut. Ins. Co.*, 395 S.C. 40, 46, 717 S.E.2d 589, 592 (2011); *DW Properties v. City of Sumter*, 342 S.C. 6, 10, 535 S.E.2d 631, 632 (2000); *J.K. Construction v. W. Carolina Reg. Sewer Auth.*, 336 S.C. 162, 166, 519 S.E.2d 561, 563 (1999).

In addition, as explained further below, because the Court of Appeals' construction of the applicable statute has the effect of adding language that the General Assembly declined to adopt and narrowing the scope of the statutory language that the General Assembly did enact, its decision violates the constitutional principle of separation of powers. *See Smith v. Tiffany*, 419 S.C. 548, 559-60, 799 S.E.2d 479, 485 (2017); *Hampton v. Haley*, 403 S.C. 395, 403, 743 S.E.2d 258, 262 (2013). Certiorari would enable this Court to correct that error.

Given the legal issues presented by this petition and the fact that any review by this Court would be *de novo*, Amoruso submits the following arguments without deference to the conclusions of the Court of Appeals or the Circuit Court.

2. The Court of Appeals erred in holding that the Montana and the Adams, which USAA insured as vehicles on the Policy, were not "motor vehicles" as defined by S.C. CODE ANN. § 38-77-30(9).

At its core, this case presents the straightforward question of whether the Montana and the Adams are "motor vehicles" as defined by the General Assembly. The unambiguous statute at issue states that "motor vehicles" are self-propelled highway vehicles, including trailers designed for use with those vehicles. It is undisputed that the Montana and the Adams are trailers designed for use with self-propelled highway vehicles. (Opinion, p. 2). However, the Court of Appeals held they were not "motor vehicles" within the scope of the statute. It therefore erred in failing to apply the governing statute as written.

The subject statutory definition reads, in pertinent part:

“Motor vehicle” means every self-propelled vehicle which is designed for use upon a highway, *including trailers and semitrailers designed for use with these vehicles* but excepting traction engines, road rollers, farm trailers, tractor cranes, power shovels and well-drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

S.C. CODE ANN. § 38-77-30(9) (1976, as amended) (emphasis added).

The statute lists three categories of vehicles, the first two of which are “included” in the definition of “motor vehicles” and the third of which is not:

1. Self-propelled vehicles designed for highway use.
2. Trailers designed for use with self-propelled highway vehicles.
3. “[T]raction engines, road rollers, farm trailers, tractor cranes, power shovels and well-drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.”

The lynchpin of the Court of Appeals’ decision was its conclusion that the General Assembly’s use of the phrase “trailers ... designed for use with [self-propelled] vehicles [designed for use upon a highway]” 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 so reasoning, it effectively rewrote the statute in a manner inconsistent with its express language.

“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). “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.” *Id.* “What a legislature 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 legislature.” *Id.*; see *McClanahan v. Richland Cnty. Council*, 350 S.C. 433, 438, 567 S.E.2d 240, 242 (2002) (“All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.”). The automobile insurance statutes ... fall within a comprehensive statutory scheme, so they must be read as a whole, not in isolation. See *Higgins v. State*, 307 S.C. 446, 449, 415 S.E.2d 799, 801 (1992).

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

In short, the wording of the statute dictates the outcome of the Court’s analysis. The proper application of the statutory language hinges on the General Assembly’s use of the word “including” before “trailers and semitrailers” in the statutory definition.

This statutory definition was adopted as part of the Automobile Reparation Reform Act, 1974 S.C. Act No. 1177. The first sentence has remained unchanged for over 50 years.<sup>3</sup> No court has ever found it to be ambiguous – and it is not ambiguous.

The term “including” refers back to the statute’s initial term “Motor vehicle” and is the same as if the General Assembly had stated: “‘Motor vehicle’ means (1) every self-propelled vehicle which is designed for use upon a highway, *and (or in addition to)* (2) trailers and semitrailers designed for use with these vehicles.”

Contrary to this, the Court of Appeals construed the term “including” to require a physical connection between the category of vehicles following that term and the first category of vehicles encompassed by the definition. As a result, it held the statute means the same as: “‘Motor vehicle’ means (1) every self-propelled vehicle which is designed for use upon a highway, *and (2) only ... when attached to a self-propelled vehicle which is designed for use upon a highway*, trailers and semitrailers designed for use with these vehicles.” (Opinion, p. 2).

Generally, the term “including” can list a specific thing that is included within a previous broad category (for example, “domesticated animals, including cats”) but can also mean “and or in addition to.” *Lealaimatafao v. Woodward-Clyde Consultants*, 75 Haw. 544, 556, 867 P.2d 220, 226 (1994), *quoting Black’s Law Dictionary* 763 (6th ed. 1990). Similarly, “including” has been construed “as a particular specification of something to be included *or to constitute a part*

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<sup>3</sup> A sentence regarding mopeds was added by 2017 S.C. Act No. 89 but is not relevant to the issue before the Court. Another unrelated sentence was added by 1997 S.C. Act No. 154.

*of some other thing.*” *Sims v. Moore*, 288 Ala. 630, 635, 264 So. 2d 484, 487 (1972) (emphasis added). As such, it “is not a word of limitation, rather *it is a word of enlargement*, and in ordinary significance also may imply that *something else* has been given *beyond the general language which precedes it.*” *Id.* (emphasis added).

In short, unless a term or phrase that follows “including” is an example or subset of a generally described category or thing which precedes it, “including” means “and” or “in addition to.” Here, “trailers and semitrailers designed for use with [self-propelled] vehicles [designed for use upon a highway]” is not a subset of “every self-propelled vehicle which is designed for use upon a highway.” Therefore, the Court of Appeals should have held that, in this context, the General Assembly intended the term “including” to mean “and” or “in addition to.”

This is consistent with our General Assembly’s use of the term “including” in other statutes pertaining to insurance. For example, “automobile insurance” is defined as meaning:

automobile bodily injury and property damage liability insurance, *including* medical payments and uninsured motorist coverage, and automobile physical damage insurance such as automobile comprehensive physical damage, collision, fire, theft, combined additional coverage, and similar automobile physical damage insurance and economic loss benefits....

S.C. CODE ANN. § 38-77-30(1) (1976, as amended) (emphasis added). Although the two types of insurance described before the term “including” are liability insurance, nothing after that term is liability insurance; thus, clearly, the General Assembly intended the word “including” to mean “and” or “in addition to.” *See also, e.g.*, S.C. CODE ANN. §§ 38-3-110(5)(c)(i) & (iii), 38-61-70(B)(1), 38-61-80(A)(1) & (D), 38-75-30, 38-77-30(13)(a), 38-77-112, 38-77-190 (1976, as amended).

Furthermore, Section 38-77-30(9) says nothing about treating two vehicles as one when a trailer is involved; in fact, it does not even require a trailer to be towed or attached to be considered a vehicle, only that it be *designed for use* with a roadworthy, self-propelled vehicle.

The Court of Appeals, in effect, rewrote the statute to support its conclusion rather than simply construing the statute based upon its plain and unambiguous meaning, as it was required to do.

The Court of Appeals' 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 the Court of Appeals' approach overlooks the definition itself, which is what it was required to apply. Its use of the "ordinary and popular sense" of the term "motor vehicle" was inconsistent with the fact that the General Assembly decided it was 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.

Similarly, the General Assembly did not require that a trailer be self-propelled (*i.e.*, have its own motor) to be considered a "motor vehicle." The fact that it used the adjective "self-propelled" with regard to the first group of vehicles listed in the statute but not the second group shows it did not intend for "self-propelled" to modify trailers. *See State v. Leopard*, 349 S.C. 467, 472-73, 563 S.E.2d 342, 345 (Ct. App. 2002) ("The canon of construction '*expressio unius est exclusio alterius*' or '*inclusio unius est exclusio alterius*' holds that 'to express or include one thing implies the exclusion of another, or of the alternative.'"), *quoting S.C. Dept. of Consumer Affairs v. Rent-a-Center*, 345 S.C. 251, 256, 547 S.E.2d 881, 883-84 (Ct. App. 2001).

The Montana and the Adams were trailers designed for use with self-propelled vehicles on the highway and were thus statutorily defined as "motor vehicles." Consistent with this conclusion, USAA described both the Montana and the Adams as "vehicles" in the Policy,

insured both vehicles for physical damage (including collision coverage), and charged separate premiums for each. (R. pp. 92-94). Both the Montana and the Adams constitute “motor vehicles” within the statutory definition. Therefore, the Court of Appeals erred in holding otherwise.

This Court should grant a Writ of Certiorari to review the Court of Appeals’ decision and to apply the statutory definition of “motor vehicles” consistently with the General Assembly’s chosen language.

3. The Court of Appeals improperly invaded the province of the General Assembly and thereby violated the separation of powers doctrine by substituting its own policy decision in applying the language of S.C. CODE ANN. § 38-77-30(9).

When a statute is clear and unambiguous, a court must apply the statute as written by the legislature rather than imposing on it another meaning, *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000), even if the court were to disagree with the legislature’s policy decisions underlying the statutory language. *Smith v. Tiffany*, 419 S.C. at 565, 799 S.E.2d at 488. In summary, the actual language of the statute – not what a 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 a trailer be “designed for use” with a “self-propelled vehicle which is designed for use upon a highway.”<sup>4</sup> Significantly, the General Assembly did not impose the additional condition of requiring a trailer to be attached to a self-propelled vehicle to satisfy the statutory definition. The Court of Appeals’ 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

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<sup>4</sup> As the Court of Appeals noted, all parties agree the subject trailers “were designed to be used with self-propelled vehicles.” (Opinion, p. 2).

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 of Appeals' judicially fashioned definition only encompasses trailers at specific, varying points in time even though, as a necessary predicate of that definition, they are designed for use with highway vehicles, the only requirement imposed by the General Assembly.

As such, the Court of Appeals' holding 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 of Appeals' "only ... when attached to a self-propelled vehicle which is designed for use upon a highway" construction (Opinion, p. 2), the General Assembly's condition of "designed for use with these vehicles" becomes superfluous since a trailer would necessarily satisfy that condition to meet the court's definition.

Moreover, the Court of Appeals' 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. *Rafferty*, 439 S.C. at 135-36, 886 S.E.2d at 225. Instead, it creates an unreasonable and unmanageable situation where trailers would 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 this Court observed, in the context of workers' compensation coverage – a statutory scheme 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 consistently protecting the public without gaps in coverage depending on the use of the trailer.

A legislative decision to require protection on a continuous 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 of Appeals 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. *See Nationwide Ins. Co. of Am. v. Knight*, 433 S.C. 371, 376, 858 S.E.2d 633, 635 (2021), quoting *S.C. Farm Bureau Mut. Ins. Co. v. Mumford*, 299 S.C. 14, 19, 382 S.E.2d 11, 14 (Ct. App. 1989) (“Once the Legislature has made that choice, there is no room for the courts to impose a different judgment based upon their own notions of public policy.”).

The *Mumford* case amply demonstrates this point. There, the Court of Appeals addressed the validity of a motor vehicle liability insurance policy exclusion for intentional acts in light of the General Assembly’s requirement that such policies provide coverage for “loss from liability imposed by law.” S.C. CODE ANN. § 38-77-140 (1976, as amended). In holding that the exclusion was contrary to the statute and therefore invalid, the court relied upon the express language of the statute and deferred to the General Assembly’s policy choices, holding:

The statute requires any automobile insurance policy issued in this State to insure against “loss from liability imposed by law” for damages arising out of the use of a covered motor vehicle. It draws no distinction between intentional acts and negligent acts of the insured – if liability for damages is “imposed by law,” coverage must be provided. Without question, the law imposes liability on one who intentionally uses an automobile in a manner that causes damage to another.

...

South Carolina Farm Bureau argues that the Financial Responsibility Act requires only that “accidents” be covered by a third party liability insurer. The Bureau contends that reasonable exclusionary clauses which do not conflict with the plain wording or legislative purpose of the Act are permissible. Moreover, it asserts that to invalidate an “intentional acts” exclusion in the insurance contract violates the well established public policy that prohibits persons from insuring themselves against their own intentionally harmful acts.

*These arguments overlook both the actual wording of the statute and a critical distinction between voluntary insurance and compulsory insurance.*

The statute does not say insurers must cover “accidents” arising from the use of the insured vehicle; it says they must cover “liability imposed by law” on the insured. ... Since the Act mandates coverage if the law imposes liability for damages on the at fault insured, the exclusionary clause conflicts with the plain wording of the Act.

The exclusion also conflicts with the legislative purpose of the Act. Insurance against third party loss arising out of the use of a motor vehicle is compulsory under South Carolina law. The primary purpose of compulsory insurance is to compensate victims who have been injured by at fault motorists, not, like that of voluntary insurance, to save harmless the insured himself. Accordingly, the victim’s right to recover from the insurance carrier does not depend upon whether the conduct of its insured was intentional or negligent.

The principle that one should not be permitted to insure against his own intentional wrongdoing applies to voluntary insurance, not compulsory insurance. Where the Legislature makes coverage compulsory, instead of leaving it to the voluntary market, *it has already balanced the public interest in prohibiting insurance for intentionally harmful acts against the public interest in compensating the victims of at fault motorists.* By making coverage compulsory, it chooses to weigh the latter interest more heavily than the former. *Once the Legislature has made that choice, there is no room for the courts to impose a different judgment based upon their own notions of public policy.*

*S.C. Farm Bureau Mut. Ins. Co. v. Mumford*, 299 S.C. at 16-19, 382 S.E.2d at 13-14 (citations omitted; emphasis added).<sup>5</sup>

Requiring liability insurance on trailers designed for use with highway vehicles is not absurd. While a trailer owner or operator can cause damage and incur liability using a trailer

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<sup>5</sup> While *Mumford* is a Court of Appeals decision, this Court has cited it with approval on several occasions. See *Nationwide Ins. Co. of Am. v. Knight*, 433 S.C. 371, 858 S.E.2d 633 (2021); *Peagler v. USAA Ins. Co.*, 368 S.C. 153, 628 S.E.2d 475 (2006); *State Auto Property & Cas. Ins. Co. v. Gibbs*, 314 S.C. 345, 444 S.E.2d 504 (1994).

while attached to another vehicle (*e.g.*, a driver causes a trailer to block the lane of oncoming traffic while completing a turn), he can also be liable for damages caused when the trailer strikes persons or property after it negligently becomes unattached from a towing vehicle (at which time, paradoxically, it would no longer be a “motor vehicle” as defined by the Court of Appeals) 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.<sup>6</sup>

If the General Assembly had intended for the statutory definition to read as the Court of Appeals held, 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” to constitute a “motor vehicle.”

Significantly, the General Assembly did not include the phrase the Court of Appeals added, “when attached to a self-propelled vehicle which is designed for use upon a highway.” (Opinion, p. 2). By inserting that limitation into the statutory definition, the Court of Appeals improperly invaded the province of the General Assembly by substituting its own policy decision. As such, it legislated rather than applying the law as written and violated the separation of powers doctrine. *See Smith v. Tiffany*, 419 S.C. at 559-60, 799 S.E.2d at 485 (“[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. at 403, 743 S.E.2d at 262 (“Included within the legislative power is the sole prerogative to make

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<sup>6</sup> 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.

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.”).

This Court should grant a Writ of Certiorari to review the Court of Appeals’ decision to rewrite the statutory definition contrary to what the General Assembly enacted.

4. The Court of Appeals should have held that USAA was required by statute to offer UIM coverage on all vehicles insured by the Policy, that the Policy should be reformed to include UIM coverage on all six vehicles, and that Amoruso can recover stacked UIM coverage for all six vehicles.

Given its holding regarding the definition of “motor vehicles,” the Court of Appeals did not address the remaining issues raised by this action. (Opinion, p. 3, n.1). This Court should grant certiorari to address these purely legal issues without requiring a remand and further litigation to bring this matter to a conclusion.

Automobile insurers in South Carolina must offer to their insureds UIM coverage, the purpose of which is “to provide coverage in the event that damages are sustained in excess of the liability limits carried by an at-fault insured or underinsured motorist....” S.C. CODE ANN. § 38-77-160 (1976, as amended). Although UIM coverage is not mandatory like uninsured motorist coverage, it is “statutorily required coverage.” *Nationwide Ins. Co. of Am. v. Knight*, 433 S.C. at 380-81, 858 S.E.2d at 638. That is, insurers are required to offer UIM coverage and are also required to provide it when an insured chooses to purchase it.

If an insurer fails to make a meaningful offer of UIM coverage, a court must reform the policy to include UIM coverage as a matter of law, with limits equal to the policy’s liability coverage limits. *Butler v. Unisun Ins. Co.*, 323 S.C. 402; 405, 475 S.E.2d 758, 760 (1996); *Ackerman v. Travelers Indem. Co.*, 318 S.C. 137, 144, 456 S.E.2d 408, 411 (Ct. App. 1995).

Although USAA did not write liability coverage on the Montana or the Adams, that does not answer the question of whether it should have done so. USAA admits it is an insurer licensed to do business and to write automobile insurance policies in this State. (R. p. 16, ¶ 4; p. 24, ¶ 4). It was therefore prohibited from issuing a motor vehicle policy in this State without providing liability coverage on each insured motor vehicle. S.C. CODE ANN. § 38-77-140 (1976, as amended). Thus, by statute, liability coverage was required on the Montana and the Adams. USAA should not be allowed to avoid providing statutorily required UIM coverage based on its failure to provide mandatory liability coverage.

Because USAA should have offered UIM coverage on the Montana and the Adams but admittedly failed to do so, the Policy should be reformed to include that coverage. *See, e.g., Butler v. Unisun Ins. Co.*, 323 S.C. at 405, 475 S.E.2d at 760. The Policy provided bodily injury liability insurance coverage limits of \$300,000 per person. (R. pp. 92-94). The Court should therefore reform the Policy to include UIM coverage with limits of \$300,000 per person for the Montana and for the Adams.

It is undisputed that Amoruso was a Class 1 insured who was entitled to stack all applicable UIM coverages. In addition to reforming the Policy to include UIM coverage on the Montana and the Adams, the Court should also declare that Amoruso is entitled to stack those coverages in addition to the UIM coverage she has already recovered and declare that she is entitled to recover those coverages given the amount of the judgment in the underlying action against the at-fault motorist.

#### CONCLUSION

For the reasons stated, Petitioner respectfully requests that the Court issue a Writ of Certiorari to review the Court of Appeals' decision.

Respectfully submitted,

CLAWSON FARGNOLI UTSEY, LLC

BY: /s/ Bert G. Utsey, III  
Bert G. Utsey, III  
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Charleston, SC 29403  
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August 27, 2025  
Charleston, South Carolina

Attorneys for Petitioner



## Sharon Bernard

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**From:** Sharon Bernard  
**Sent:** Thursday, August 28, 2025 2:15 PM  
**To:** Charles Norris; Robbie Whelan  
**Cc:** 'cromeo@romeodeters.com'; Bert Utsey  
**Subject:** Jill S. Amoruso v. United States Automobile Association d/b/a USAA  
**Attachments:** 8-28-2025 - BGU letter to Clerk, Supreme Court of South Carolina filing Petition for Writ of Certiorari.pdf; Petition for Writ of Certiorari with Proof of Service.pdf

**Importance:** High

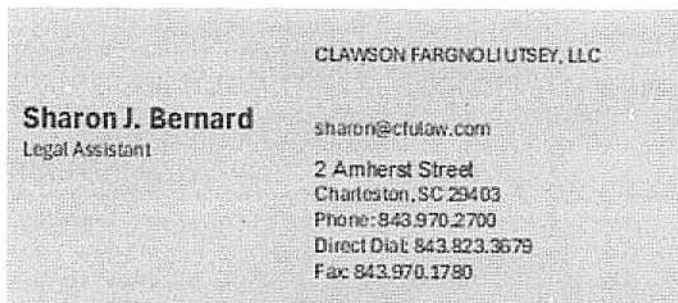
**Categories:** Smokeball

Good afternoon.

Attached please find attorney Bert Utsey's letter to the Clerk of the Supreme Court of South Carolina filing the attached Petition for a Writ of Certiorari with Proof of Service in the above-referenced matter. The Petition and Proof of Service are being filed with the Supreme Court and Court of Appeals today.

Thanks.

Sharon Bernard



CLAWSON | FARGNOLI | UTSEY  
TRIAL LAWYERS

August 28, 2025

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

The Honorable Patricia A. Howard  
Clerk, Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

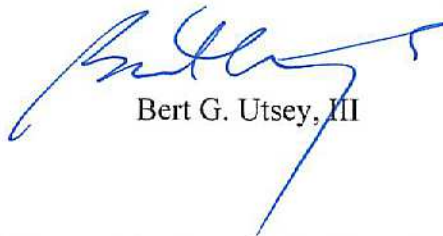
Re: Jill S. Amoruso v. United Services Automobile Association d/b/a USAA  
Op. No. 2025-UP-184 (S.C. Ct. App. Filed June 11, 2025)

Dear Ms. Howard:

Enclosed please find the original and one copy of the Petitioner's Petition for Writ of Certiorari with Proof of Service regarding the above matter. I would appreciate your returning file-stamped copies of same in the self-addressed, stamped envelope provided. These documents were filed electronically and served upon Respondent's counsel today.

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 only—[charles@whelanmellen.com](mailto:charles@whelanmellen.com))  
Robert W. Whelan, Esquire (via e-mail only—[robbie@whelanmellen.com](mailto:robbie@whelanmellen.com))  
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The Honorable Jenny Abbott Kitchings, Clerk, SC Court of Appeals (via email only—[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org))