

EXHIBIT
A

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)
)
Sherica Powell,)
)
Plaintiffs)
)
vs.)
Jolly Ehiabhi, et al.,)
)
Defendants)

IN THE COURT OF GENERAL SESSIONS
FOR THE 15TH JUDICIAL CIRCUIT

Case #: 2025CP2200086

RECEIVED
Jan 13 2026
SC Court of Appeals

**ORDER DENYING MOTION TO
DISMISS**

THIS MATTER came before the court on September 25, 2025, upon Defendant South Carolina Ports Authority’s (“SCPA”) Motion to Dismiss. The Motion was based upon SCPA’s position that, because Plaintiff settled with Jolly Ehiabhi, Anagkaso, LLC, Randy Anderson, and SCPA pursuant to a settlement agreement, or Covenant Not to Execute, SC Code § 15-78-70(d) bars further action in this case. Both sides were represented by counsel, and both sides submitted material to the court for its review. Upon hearing arguments from counsel, and reviewing associated materials and case law, the court finds the following:

I. Brief Facts as Alleged

On or about January 24, 2023, Defendant Randy Anderson was driving a tractor-trailer northbound on County Line Road in Georgetown County, South Carolina when he allegedly collided with the rear of a vehicle being operated by Delores Holloway, who was stopped in traffic going northbound. Plaintiff Powell was a passenger in Holloway’s vehicle at the time of the collision. Anderson allegedly hit Ms. Holloway’s vehicle with such force that it hit a vehicle in front of it operated by Rene Lazarus, who then collided with a vehicle in front of her operated by LaTonya Spivey. The tractor operated by Anderson was owned by Anagkaso. The chassis and

container used by Anagkaso was owned or under the control of the South Carolina Ports Authority (“SCPA”).

II. The Settlement Agreement

Anagkaso, LLC and the SCPA had an agreement referred to as the Chassis Interchange Agreement, wherein the responsibilities of the parties were outlined. In addition to other matters, the agreement provided that Anagkaso was to indemnify the SCPA “from and against any and all direct and third-party suits, losses, fines, penalties, damages, claims, injuries including death, damage to property, damage to or loss any Chassis, other demands and liabilities of every nature, including reasonable attorney’s fees, arising directly or indirectly from or in connection with Anagkaso’s possession, use, condition, or operation of the Chassis, including actions or claims for negligence or strict liability in tort, with the exception of any liability for that portion of loss or damage resulting from the negligence or intentional acts or omissions of SCPA or its employees.” Moreover, Anagkaso was to list SCPA as an additional insured on its policy.

In this case, there was one settlement document to consider. It had been executed on October 19, 2024. The settlement document included all of the named defendants, including SCPA, in its terms. It appears from the terms of the settlement that American Millenium Insurance Company, who insured all named defendants, has exhausted its policy limits in the settlement of this matter, and a related matter with another plaintiff, Holloway.

III. Tort Claims Act

The Tort Claims Act (TCA) is found in South Carolina Code of Laws §§ 15-78-10, *et seq.* Relevant to this matter, § 15-78-70(d) states, “A settlement or judgment in an action or a settlement of a claim under this chapter constitutes a complete bar to any further action by the claimant against an employee or governmental entity by reason of the same occurrence.” The issue in this matter

is whether the settlement by an independent insurance company serves as a settlement under the Tort Claims Act, such that the settlement acts as a bar to any further action by the plaintiff.

IV. Law and Analysis

In the case of *Wade v. Berkeley County*, Wade, a motorist, was struck by a county-owned vehicle driven by Pierce, a county employee. See generally *Wade v. Berkeley County*, 348 S.C. 224, 559 S.E.2d 586 (2002). Wade sued Pierce and eventually settled with him on a Covenant Not to Execute. *Id.* at 226. Wade then sued Berkeley County. *Id.* The County moved for Summary Judgment, claiming the Covenant barred the claim against the County. *Id.* The trial judge granted Summary Judgment. *Id.* On appeal, the Court of Appeals reversed, holding that the Covenant was not a settlement as contemplated by the TCA, and therefore, Wade was not barred from pursuing his claim. *Id.* at 226-27.

The State Supreme Court held that the Covenant was, in fact, a settlement agreement. *Id.* at 228. The County further argued that the phrase “under this chapter” only modifies “settlement of claim,” not “settlement or judgment in an action.” *Id.* The Court held that “this chapter” is defined as the “South Carolina Tort Claims Act.” *Id.* at 229. Accordingly, it went on to say, the phrase “under this chapter” means within the South Carolina Tort Claims Act. *Id.* Using the rules of statutory construction, the Court found that § 15-70-70(d) is ambiguous because it is unclear what phrase “under this chapter” modifies. *Id.* Ultimately, the Court concluded that “the General Assembly intended ‘under this chapter’ to modify both a ‘settlement or judgment in an action’ and a ‘settlement of a claim.’” *Id.* “Consequently, to invoke the provisions of § 15-78-70(d), there must be a settlement or judgment in an action under the Act or a settlement of a claim under the Act.” *Id.* at 230. The Court ultimately held that Wade’s settlement was not an action “under this chapter,” and therefore did not invoke the provisions of § 15-78-70(d). *Id.*

In the case at bar, a private insurance carrier settled with a Plaintiff. As part of the agreement between one of its insureds and another entity, its insured agreed to indemnify that other entity, and make it an additional insured under its policy. SCPA, being that additional named insured, was properly added to the Covenants or settlement agreements with the Plaintiff, Ms. Powell. The settlement, however, was pursuant to an indemnity agreement between two parties, and by a private insurance company, thus not under the Tort Claims Act. Therefore, the settlement was not one “under the Act.” Because of this, further action against the SCPA is not barred by statute. Therefore, SCPA’s Motion to Dismiss is respectfully denied.

IT IS SO ORDERED.

13 October 2025

The Honorable David P. Caraker, Jr.
Resident Judge, 15th Judicial Circuit



Georgetown Common Pleas

Case Caption: Sherica Powell VS Jolly Ehiabhi , defendant, et al

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Type: Order/Dismissal

IT IS SO ORDERED

s/ David P. Caraker, Jr.