

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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JUL 24 2014

Appeal from Newberry County  
Court of Common Pleas

S.C. Supreme Court

Eugene C. Griffith, Jr., Circuit Court Judge  
Civil Action No. 2008-CP-36-417

Appellate Case No. 2013-000602  
South Carolina Court of Appeals Unpublished Opinion No.  
2013-UP-015

Travelers Property Casualty Co.,

Respondent.

v.

Senn Freight Lines, Inc.,

Petitioner.

**RETURN TO RESPONDENT'S PETITION  
FOR REHEARING**

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ATTORNEYS FOR PETITIONER  
SENN FREIGHT LINES, INC.

Petitioner Senn Freight Lines, Inc. (“Senn”) hereby responds to Respondent Travelers Property Casualty Co.’s (“Travelers”) Petition for Rehearing and Memorandum in Support on the grounds set forth below.

### **BACKGROUND**

Memorandum Opinion No. 2014-MO-022 correctly reversed the South Carolina Court of Appeals’ Opinion No. 2013-UP-015 (Filed January 9, 2013). At a trial in this matter, the jury found against Travelers on their claim seeking unpaid worker’s compensation premiums and for Senn on breach of contract and bad faith cancellation of insurance policy counterclaims. Given the ample evidence presented to the jury to support the verdict, the trial court denied Travelers’ JNOV Motions. The Court of Appeals, ignoring the jury verdict and the ruling of the trial court, as well as all evidence which supported same, reversed the trial court’s decision.

This Court correctly granted Senn’s Petition for Cert and reversed the Court of Appeals decision. The Respondent’s Petition for Rehearing should be denied.

### **ARGUMENT**

Senn will be brief in its Reply to Traveler’s Motion as this Court’s Memorandum Opinion covers the applicable case law. However, Senn felt it necessary to briefly reply to each argument presented by Travelers.

#### **I. The Trial Court, S.C. Court of Appeals, and this Court properly considered and ruled on each issue raised by Travelers in its Petition.**

Travelers’ arguments that certain issues were not considered on appeal are without merit. Travelers and Senn fully briefed and argued all of the issues at the trial level and Court of Appeals level, including the bad faith cancellation of insurance policy

claim, the compensatory damage matter, and the punitive damages award complained of in its Petition for Rehearing. Travelers did not object to any of the trial court's jury charges on bad faith, punitive damages, or compensatory damages. Furthermore, these issues were specifically included in Senn's Petition for Writ of Certiorari and in Travelers' Reply to same. As evidenced by this Court's case citations, these issues were also fully considered in reaching the conclusions in Memorandum Opinion No. 2014-MO-022.

Most importantly, as pointed out by this Court, the jury and the trial judge considered all of Travelers' arguments which were presented in their JNOV Motion. The trial court, considering the evidence produced by Senn at trial, properly upheld the jury's verdict. An appellate court may affirm the trial court's ruling or judgment upon any grounds appearing in the record. (S.C. App. Ct. Rule 220(c)); Jones v. Lott, 387 S.C. 339, 692 S.E.2d 900 (2010); Law v. S.C. Dep't of Corr., 368 S.C. 424, 629 S.E.2d 642 (2006). There is ample evidence appearing in the Record in this matter to support this Court's ruling, as well as the trial court's initial ruling upholding the jury verdict. This Court correctly relied upon same in its Memorandum Opinion.

**II. Pursuant to the South Carolina Appellate Court Rules, this Court properly dispensed with further argument and issued Its Memorandum Opinion.**

This Court was well within its rights to issue a memorandum opinion granting certiorari, reversing the Court of Appeals' decision and reinstating the verdict of the jury. Rule 220(b)(1) grants the Supreme Court with the authority to file a memorandum opinion "affirming or reversing the judgment appealed from, or granting other appropriate relief, when, in unanimous decision, the Supreme Court determines that a

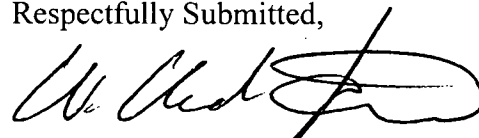
published opinion would have no precedential value...” This Court was not only within its rights, but correct in reversing the Court of Appeals and reinstating the jury’s verdict in this matter. It is clear from the Record in this matter that the jury verdict and the Trial Court’s denial of Traveler’s JNOV Motions were supported by the evidence at trial. Travelers’ arguments that this Court somehow overstepped its bounds are without merit or support.

**CONCLUSION**

For the foregoing reasons, as well as all arguments presented in Senn’s Petition for Writ of Certiorari, Briefs to the Court of Appeals, and other arguments presented to the Court, Travelers Petition for Rehearing should be denied.

Respectfully Submitted,

By:



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**PROOF OF SERVICE**

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The undersigned employee of Pope & Hudgens, P.A., Attorneys at Law, Post Office Box 190, 1508 College Street, Newberry, South Carolina 29108, does hereby certify that she has served the following named individual(s) with a copy of the pleading(s) indicated below by mailing a copy of same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on the 24<sup>th</sup> day of July 2014:

**COUNSEL SERVED:**

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**PLEADING SERVED:**

Return to Respondent's Petition for Rehearing



Katherine Barnett