

THE STATE OF SOUTH CAROLINA

ORIGINAL

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellant Case No: 2012-212896

Charles Taylor,

Appellant,

v.

Thomas Davis and

State Farm Mutual Automobile Insurance Company, Respondent,

3RD AMENDED
RECORD ON APPEAL

RECEIVED

JUL 24 2014

SC Court of Appeals

Charles Taylor,
Post Office Box 3652
Sumter, South Carolina 29151-3652
(803) 883-7005
Appellant

Thomas Davis
P O Box 773
Manning SC 29105
Respondent

James B. Lybrand, Jr., Esq.
P O Box 58
Columbia SC 29202
(803) 252-0500
State Farm/Respondent

RECEIVED

JUL 24 2014

SC Court of Appeals

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The South Carolina Court of Appeals

Charles Taylor,

Appellant,

v.

Thomas Davis,

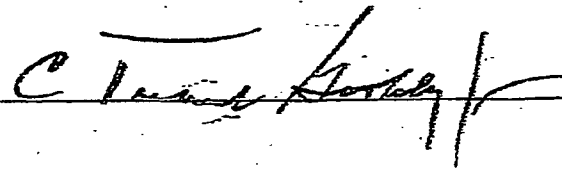
Respondent.

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2007-CP-40-08423

ORDER

Pursuant to Rule 260(b), SCACR, the parties have filed an agreement to dismiss this appeal. It is therefore ordered that this appeal is dismissed and the case is remitted to the Clerk of Court for Richland County.

IT IS SO ORDERED.



Columbia, South Carolina

Original to: The Honorable Jeanette W. McBride

cc: Charles Taylor

James B. Lybrand, Jr, Esquire

FILED
6/27/11

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

Thomas Davis.....Respondent,

v.

Charles Taylor.....Appellant,

AGREEMENT TO DISMISS APPEAL

That based on defendant's affidavit agreement attached to dismiss the appeal, plaintiff hereby accept that agreement and accordingly move to dismiss this appeal and have the case return to the original court for entry of a consent order judgment in accordance with the dismissal agreement between the parties.

CHARLES TAYLOR/PLAINTIFF

Post Office Box 3652
Sumter, S.C. 29151
803-883-4356

Sumter, South Carolina

June 12, 2011

CASE NUMBER: 2007-CP-400-8423 TAYLOR v. DAVIS
RE: TO DISMISS APPEAL/AFFIDAVIT OF DEFENDANT DAVIS

UNIVERSITY
JUN 15 2011
S.C. Court of Appeals

- (1). That my name is Thomas Davis, the defendant in this case and looking out for my own best interest, I have authorized no one else to represent, act or speak for me but me;
- (2). That to bring some finality to this case after litigation since 2007 and now a pending appeal, and not being able to know for certain what will be that outcome, and whether or not I will be put at risk again thereafter, for up to the maximum amount of damages as amended, demanded by plaintiff, I believe the latest up to \$40,000,000.00 for all of his losses, including lifetime disability, all of which are well documented throughout this case and regrettably I caused.
- (3). That because I have no protection against such damages, as the covenant that was in place to do that are now null and void, due to that agreement having been violated by insurer's attorney, who then said that they would not pay such damages above if such were to occur;
- (4). Therefore, to protect myself, I am here offering the following as an inducement to the plaintiff to dismiss his appeal and no further litigation;
 - a. Voluntary agree to medical bills of \$125,000.00;
 - b. Property damages of \$110,000.00 plus;
 - c. Re-enter same amount as accepted judgment entered by Judge Childs on June 18, 2009 for all other damages, including lifetime disability, \$1,500,000.00 and;
 - d. Vacate any existing judgment(s) for this new total \$1,735,000.00 consent judgment;
- (5). This is only a fraction of the total amount demanded in #2 above for all the damages caused and this case could have and should have been resolved by the insurer a long time ago for a much-much smaller-token-sum to avoid putting me in this situation but they've refused;
- (6). That if accepted by plaintiff, this agreement supersedes all else in this case and shall end the appeal and all litigation thereafter, as my best guarantee protection against any potentiality of a mega judgment for such damages as in #2 above, if plaintiff were successful in his appeal and thereafter. Plaintiff has five days to accept this offer-agreement and move to dismiss the appeal and provide me proof of such or counter.

Sworn to before me this 10 day

2011

Notary Public For SC

My Commission Expires

6/11/2018

THOMAS DAVIS

Thomas Davis

cc:

James B. Lybrand, Jr.

Post Office Box 58

Columbia, South Carolina 29202

Attorney

ROA

p. 4



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 27, 2011

Charles Taylor
P.O. Box 3652
Sumter, SC 29151

Re: Taylor, Charles v. Davis, Thomas
Case #2011193648

Dear Counsel:

Enclosed is a copy of an Order of the Court regarding the agreement between parties in the above case.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt

cc: James B. Lybrand, Jr, Esquire

was signed by the Defendant, contained a judgment about of one thousand five hundred dollars (\$1,500.00) in consideration and exchange for Plaintiff dismissing his claim against Defendant.

State Farm was made aware of Taylor's lawsuit in the summer of 2008. Taylor was advised that State Farm could not formally appear and participate in the case unless and until Taylor served State Farm with pleadings through the South Carolina Department of Insurance in accordance with S.C. Code Ann. § 38-77-160. Service on State Farm pursuant to S.C. Code Ann. § 38-77-160 did not occur until October 13, 2009.

On November 19, 2008, Budget agreed to pay Taylor \$25,000, Budget's available liability limits, in exchange for Taylor signing a Covenant Not to Execute which would purportedly protect Davis from any further personal exposure for damages yet allow Taylor to proceed with his claim against other applicable coverage. After this agreement, attorneys Matt Tyler and Robert Brown filed motions to be relieved as counsel for Davis. Following hearings on the motions, Orders relieving Tyler and Brown from further representation were issued on March 13, 2009. As a consequence, this suit remained active on the court docket although no defense attorney of record was involved in the case.

On June 19, 2009, Taylor obtained an uncontested judgment against Davis in the amount of \$1,500,000. The basis for the judgment was an Offer of Judgment which Davis purportedly accepted in writing in April or May of 2008, a time during which Davis is believed to have been represented by Attorney Matthew Tyler. State Farm was never a party to any discussions or settlement negotiations which occurred between Taylor and Davis.

Taylor served State Farm with copies of the pleadings in October 2009. A timely Answer was filed on behalf of State Farm in accordance with Section 38-77-160. A Motion to Set Aside the Judgment was filed by State Farm and, after a hearing on the motion, this Court set aside the \$1,500,000 judgment by Order on January 20, 2010 so as to allow State Farm to defend the case on the merits. Between 2009 and April 2011, State Farm paid Taylor \$25,000 in UIM benefits. Taylor contended that these payments were an "advance" of his UIM benefits and was not a full and final settlement.

On May 16, 2011, a jury trial was commenced in Richland County with Taylor representing himself. Taylor testified but did not call any other witnesses. Davis has never appeared in court. On May 17, 2011, the jury returned a verdict in favor of Taylor in the amount

of \$615. All of Taylor's post-trial motions were denied by the Court. Since Taylor had previously been paid \$25,000 by Budget on behalf of Davis, State Farm received credit for this payment and no UIM money was owed Taylor.

Taylor then filed a Notice of Intent to Appeal the verdict with the South Carolina Court of Appeals on June 23, 2011. While the appeal was pending, communications took place between Taylor and Davis directly. Taylor and Davis advised the South Carolina Court of Appeals that the case had been settled on appeal; consequently, the appeal was dismissed on June 28, 2011. Following the Court of Appeals' dismissal, Taylor filed a "Post Trial Voluntary Agreement to Augment Award Judgment" on June 30, 2011 and a "Motion for Consent Order Judgment" on July 7, 2011. In the "Post Trial Voluntary Mutual Agreement to Augment Award Judgment," Taylor agreed to "give up his legal right to any further post trial legal actions against Davis...in exchange for defendant Davis agreeing to voluntarily augment up [sic] the award (\$615) judgment." Taylor thereafter filed his "Motion for Ruling as to the Legality of State Farm Requiring Consent to Settlement" and "Motion to Enter Consent Judgment that Dismissed Appeal."

Plaintiff is seeking to have the Court determine that State Farm is liable for the Consent Judgment dated June 10, 2011 between Plaintiff and Mr. Davis in the amount of \$1,735,000.00. On June 11, 2012, after the hearing on the pending motion, the Court received a letter from Mr. Davis' former counsel, Matthew Tyler, informing the Court that Plaintiff contacted Budget seeking money beyond what was paid under the 2008 Covenant between the parties.

DISCUSSION

The statutory purpose of underinsured motorist coverage 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. This section provides that the UIM carrier has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability. "In the event the automobile insurance insurer for the putative at-fault insured chooses to settle in part the claims against its insured by payment of its applicable liability limits on behalf of its insured, the underinsured motorist insurer may assume control of the defense of action for its own benefit." *Id.* The intent of Section 38-77-160 is to protect an insurance carrier's right to contest its liability for underinsured benefits. Williams v. Selective

and #3

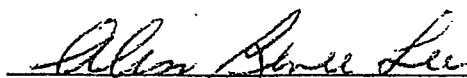
Ins. Co., 315 S.C. 532, 446 S.E.2d 402 (1994). In the event the insured [Taylor] chooses to settle with the at-fault party's liability carrier [Budget], the underinsured carrier [State Farm] has the option to assume control of the defense of the action as provided in Section 38-77-160. Id. No attorney-client relationship exists between a UIM carrier's attorney and a named defendant. Crawford v. Henderson, 356 S.C. 389, 589 S.E.2d 204 (Ct. App. 2003). "Although the UIM carrier [State Farm] 'steps into the shoes' of the underinsured motorist [Davis], it has rights separate and distinct to those of the underinsured motorist." Id. "Underinsured motorist coverage is optional coverage provided by an insurance carrier to its insured [Taylor] in the event damages are sustained by the insured in excess of the at fault driver's liability coverage, recovery therefrom being additional to any recovery from the at fault motorist, total recovery not to exceed the damages sustained." Garris v. Cincinnati Ins. Co., 280 S.C. 149, 311 S.E.2d 723 (1984).

State Farm was not the insurer for the at-fault party [Davis] and never purported to represent him in this action. State Farm's only involvement was defending this action under the statutory rights granted UIM carriers in Section 38-77-160. Once Taylor agreed to settle with Davis, State Farm had the right to assume defense of the action for its own benefit. State Farm's obligations in this matter were exhausted when a jury found that the Defendant was liable for \$615, less than the settlement paid by Budget to the Plaintiff. Because the damages in this case were found by a jury to be \$615, Plaintiff's recovery from State Farm cannot exceed that amount. State Farm, as the Taylor's UIM carrier, therefore has no other financial duty to the Taylor in this matter. State Farm never represented Thomas Davis and therefore cannot be liable for judgments entered against Mr. Davis or for any consent judgments signed by Mr. Davis.

ORDER

For the aforementioned reasons, Plaintiff's request for State Farm to participate in the settlement between Plaintiff and Defendant is DENIED. Pursuant to the agreement between Plaintiff and Defendant, judgment will be entered against the Defendant personally in the amount of \$1,735,000.00.

AND IT IS SO ORDERED.



ALISON RENEE LEE
Fifth Judicial Circuit

Columbia, South Carolina
July 17, 2012

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2007CP4008423

Charles Taylor

Thomas Davis

PLAINTIFF(S)

State Farm

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on 17th day of July, 2012 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20 _____ to attorneys of record or to parties (when appearing pro se) as follows:

Charles Taylor

James B. Lybrand Jr.

Thomas Davis

Charles Taylor

Thomas Davis

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court, Jeanette McBride

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Charles Taylor,

Plaintiff,

v.

Thomas Davis,

Defendant.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2007-CP-40-8423

ORDER

RICHLAND COUNTY
FILED
09 JUN 19 PM 1:26
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter came before the Court on May 21, 2009 pursuant to Plaintiff's Motion to Enter Offer of Judgment. Present at the hearing were Plaintiff, Charles Taylor, appearing *Pro Se*. Defendant was not present; however, the Court's file contains an affidavit stating that he did not oppose the entry of the accepted Offer of Judgment.

This cause of action arose out of an automobile accident occurring on September 7, 2007. According to the allegations in the Complaint, Plaintiff suffered severe and permanent injuries and incurred various expenses as a result of those injuries. Subsequently, Plaintiff filed suit against Defendant seeking damages in excess of ten million dollars (\$10,000,000.00). On April 16, 2008, Plaintiff filed an Offer of Judgment that had been presented to Defendant and his counsel for their review and consideration. This Offer of Judgment, which was signed by the Defendant, contained a judgment amount of one thousand five hundred dollars (\$1,500.00) in consideration and exchange for Plaintiff dismissing his claim against Defendant for ten thousand two hundred dollars (\$10,200.00). On May 9, 2008, counsel for Defendant filed a separate Acceptance of Plaintiff's Offer of Judgment.

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jmd

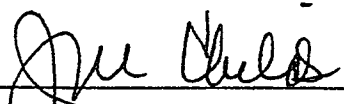
On May 16, 2008, Plaintiff filed an Amended Clarification of Plaintiff's Offer of Judgment and Defendant's Acceptance of Plaintiff's Offer of Judgment. In the Amended Clarification, Defendant admitted that he was at fault for the accident and accepted full responsibility for the damages and suffering caused to Plaintiff. Defendant also acknowledged that he knew and understood from Plaintiff's cover letter to the original offer, dated April 7, 2008, that the Offer of Judgment was in the amount of one million five hundred thousand dollars and no cents (\$1,500,000.00), in consideration of and exchange for Plaintiff agreeing to not pursue his claim against Defendant for damages the amount of ten million two hundred thousand dollars and no cents (\$10,200,000.00).

Rule 68(a), SCRCF, which provides for an offer of judgment, states that upon filing of a written acceptance of the offer of judgment, "the court shall immediately issue the judgment and the clerk shall enter the judgment as provided in the offer of judgment." Rule 68(a), SCRCF. Here, the accepted Offer of Judgment was never entered by the Clerk of Court, possibly due to simple oversight.

Upon consideration of Plaintiff's Motion to Enter Acceptance of Plaintiff's Offer of Judgment, and the record before the Court, and it appearing that no timely objection to the Motion has been filed,

IT IS HEREBY ORDERED that the Clerk of Court enter judgment in favor of Plaintiff as provided in the Amended Clarification of Offer of Judgment filed on May 16, 2008 with payment in the amount of one million five hundred thousand dollars (\$1,500,000.00) to be thereafter made to Plaintiff in satisfaction of such judgment.

IT IS SO ORDERED.



The Honorable J. Michelle Childs

Circuit Court Judge
Fifth Judicial Circuit

June 18, 2009
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Charles Taylor,)

Civil Action No. 07-CP-40-8423

Plaintiff,)

v.)

ORDER RELIEVING ROBERT C.
BROWN AND BROWN & BREHMER

Thomas Davis,)

Defendants.)

RICHLAND COUNTY
FILED
2009 MAR 13 PM 2:47
JEANETTE W. HARRIS
C.C.P. & C.S.

This matter came before the Court on Motion of Robert C. Brown and the law firm of Brown & Brehmer to be relieved of any further representation of the Defendant in this matter. A hearing was held on February 2, 2009 with Attorney Robert C. Brown and Attorney Matthew N. Tyler appearing for the Defendant and the Plaintiff appearing *pro se*. It appears that the Defendant, Thomas Davis, was notified both of this Motion and of this hearing. It also appears that by letter of April 15, 2008, Mr. Davis indicated that he had never heard of Mr. Brown and that Matthew Tyler is not representing Mr. Davis. Clearly, that letter indicates that Mr. Davis is not represented by Attorneys Brown or Tyler and does not wish to be represented by these attorneys. An additional letter dated June 12, 2008 reiterates these comments.

Robert C. Brown of the law firm of Brown & Brehmer was originally retained by Peak Property & Casualty Insurance Company as a purported excess liability insurance carrier for Thomas Davis in that Thomas Davis was driving a Budget rental vehicle that was self insured for some amount of coverage that would be in front of Mr. Davis' own liability insurance coverage provided by Peak Property & Casualty Insurance Company. Now, Peak Property & Casualty Insurance Company has denied coverage to Mr. Davis for the accident which occurred on September 7, 2007. In short, Peak Property & Casualty Insurance Company is no longer willing to pay Robert C. Brown or his law firm any fee associated with the continued defense of Mr. Davis in this matter.

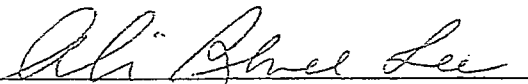
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There has also been some dispute about the effect of an Offer of Judgment that was made by the Plaintiff and accepted by Attorney Matthew N. Tyler and then amended by the Plaintiff and accepted by Mr. Thomas Davis personally. Although this Court will not deal with the Offers of Judgment, it appears that the Offer of Judgment was agreed to by Thomas Davis without the advice of either Attorney Robert C. Brown or Matthew N. Tyler and could affect any defense that Mr. Thomas Davis may have had in this matter.

Based on all of the above, it appears that Robert C. Brown and the law firm of Brown & Brehmer should be relieved of any further representation of Thomas Davis in this matter. The Plaintiff does not oppose this motion and has indicated to the Court that he intends to pursue any and all available insurance coverages that may provide any insurance protection for the accident which occurred on September 7, 2007. Therefore,

IT IS ORDERED, that Robert C. Brown and the law firm of Brown & Brehmer are hereby relieved of any further representation of Thomas Davis in the above referenced matter.

AND IT IS SO ORDERED.


ALISON RENEE LEE
Fifth Judicial Circuit

Columbia, South Carolina
March 11, 2009

ail
#2

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Charles Taylor,)
)
Plaintiff,)
)
v.)
)
Thomas Davis,)
)
Defendant.)
)
_____)

IN THE COURT OF COMMON PLEAS

C/A NO.: 2007-CP-40-8423

ORDER RELIEVING COUNSEL

JANETTE W. McBRIDE
C.C.P. & G.S.

2009 MAR 13 PM 2:47

RICHLAND COUNTY
FILED

This matter comes before the Court upon motion of Matthew N. Tyler, appearing on behalf of the Defendant, Thomas Davis. A hearing was scheduled and took place February 2, 2009 with the Pro-Se Plaintiff, Charles Taylor, appearing. I find that proper notice was provided to all parties, including the Defendant Davis who did not appear.

This is a motor vehicle accident case wherein Mr. Davis was operating a vehicle which he rented from Budget Truck Rental. Upon learning of the lawsuit, Budget retained Attorney Tyler to represent and defend Mr. Davis, with an Answer being filed on behalf of Mr. Davis protecting his interest. This Court is informed, and the record reflects, that the Plaintiff and Mr. Davis had a number of exchanges and communications outside the presence of Mr. Tyler, including the execution by Mr. Davis of an Amended Offer of Judgment in the amount of One Million, Five Hundred Thousand and No/100 (\$1,500,000.00) dollars. This was apparently signed by Mr. Davis and later provided to Attorney Tyler.

The Court further takes note of the fact that, on a number of occasions, Mr. Davis has written to Mr. Taylor stating that he does not wish Attorney Tyler to represent him and denying any representation by Mr. Tyler or anyone else, adding that he has talked with his own attorney about

ad
#1

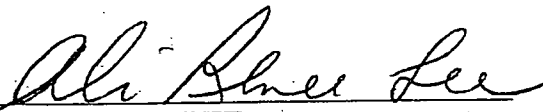
this matter, and with Mr. Taylor forwarding those letters to the Richland County Clerk of Court, thus made part of the record. The Court finds that Mr. Tyler has attempted, on a number of occasions, to meet with Mr. Davis, but Mr. Davis has refused.

On behalf of the Defendant Davis, Attorney Tyler tendered the \$25,000.00 (self-insured) minimum limits coverage to Mr. Taylor in exchange for a Covenant Not to Execute, such Covenant being dated November 8, 2008, and introduced as an exhibit to the February 2, 2009, hearing by Mr. Tyler, the same being acknowledged and admitted by the Plaintiff Charles Taylor.

I find that the Answer submitted on behalf of Mr. Davis protects his interests, and that the November 8, 2008 Covenant likewise protects the interests of Mr. Taylor. I further find that Mr. Tyler is and shall be relieved from any further representation of the Defendant Davis, as it is apparent that Mr. Davis does not understand the involvement of Mr. Tyler nor does he wish to be represented by Attorney Tyler.

Accordingly, it is therefore **ORDERED**, that Matthew N. Tyler is hereby relieved as counsel for the Defendant Davis, with Attorney Tyler to forward a copy of this Order, first class mail, to the attention of Thomas Davis and independent counsel for Mr. Davis to thereafter enter an appearance within 30 days of the filing date of this Order, or in the alternative, for Mr. Davis to appear Pro-Se.

IT IS SO ORDERED.


ALISON RENEE LEE
FIFTH JUDICIAL CIRCUIT

Columbia, South Carolina
March 11, 2009

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF RICHLAND

CASE NO: 2007CP4008423

IN THE COURT OF COMMON PLEAS

Charles Taylor

vs.

Budget Truck Rental

Plaintiff

Defendant

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC;
 SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

☐ See attached order;☐ Statement of Judgment by the Court:

Defendant's motion to set aside the June 19th judgment of this Court is granted and Plaintiff's motion to enforce the June 19th judgment is denied.

Plaintiff failed to comply S.C. Code Section 38-77-160 stating that "no action may be brought under the underinsured motorist provision unless copies of the pleadings in the action establishing liability are served in the manner provided by law." Under S.C. law, the S.C. Department of insurance is the legal agent for service of process on insurance companies. S.C. Code Ann. § 38-5-70. Plaintiff did not serve the summons and complaint until October 13, 2009. Therefore, Defendant State Farm did not have an opportunity to appear and defend against the June 19th judgment. See *Donaldson v. Tixier*, 339 S.C. 202, 528 S.E.2d 679 (Ct. App. 2000) (holding the requirement of service within S.C. Code Section 38-77-160 is absolute). Moreover, Plaintiff consented in open court to the setting aside of the June 19th judgment, in favor of pursuing his claim for underinsured motorist coverage against Defendant State Farm.

Defendant's motion to enforce a settlement has not been heard and should be scheduled.

Dated at Columbia, South Carolina, this 20th day of January, 2010.


 PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 2009, and a _____ y mailed first class this
21st day of Jan., 2009, to attorneys of record or to parties (when appearing pro se) as follows:

Charles Taylor

ATTORNEY(S) FOR THE PLAINTIFF(S)

James B. Lybrand, Jr.

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. Lybrand

Clerk of Court

SCRCP APP-24/FORM 4

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2007-CP-40-8423

Charles Taylor

Thomas Davis

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

Verdict for Plaintiff in amount \$615.00. Defendant's request for offset is granted based upon previous settlement. Judgment satisfied. Post trial motions of Plaintiff were denied.

Dated at Chloride, South Carolina, this 17 day of May, 2011.

Alfred Lee
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 18 day of May, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Pro Se

James B. Lybrand Jr.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. McBride
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2007-CP-40-8423

Charles Taylor,)
Plaintiff,)

vs.)

Budget Truck Rental and/or)
Thomas Davis,)

Defendants.)

ANSWER

(Jury Trial Demanded)

2009 OCT 30 PM 3:26
JEANETTE H. McDRIDE
C.C.P. & G.S.

FILED

State Farm Mutual Automobile Insurance Company (hereinafter "State Farm"), appearing and defending this action as an alleged underinsured motorist carrier in accordance with Section 38-77-160, answers Plaintiff's Complaint as follows:

FOR A FIRST DEFENSE

1. That it expressly denies each and every allegation of the Complaint not hereinafter specifically admitted, qualified or explained.
2. That upon information and belief the Defendant Budget Truck Rental has previously been dismissed as a party to this action by order of the Court and that Thomas Davis is now the only remaining Defendant.
3. Answering paragraph one (1) of the Complaint, it would admit upon information and belief that an automobile accident occurred on or about September 7, 2007 at or around the time and location alleged in the Complaint involving vehicles driven by Plaintiff, Defendant Davis and a third vehicle believed to be driven by Elise Brown. It is further admitted upon information and belief that the vehicle driven by Defendant Davis struck the rear of Plaintiff who then struck the rear of the

J B Z Jr
#1

Brown vehicle. It has insufficient information to form a belief as to the remainder of said paragraph and therefore denies same and demands strict proof thereof.

4. That it has insufficient information to form a belief as to the allegations of paragraphs two (2) and three (3) of the Complaint and therefore denies same and demands strict proof thereof.

5. That is has insufficient information to form a belief as to the allegations of paragraphs four (4), five (5), six (6), seven (7) and eight (8) of the Complaint and therefore denies same and demands strict proof thereof.

6. Answering paragraphs nine (9) and ten (10) of the Complaint, it believes that no response to these paragraphs is required since Defendant Budget is no longer a party to this action. However, to the extent that the Complaint is interpreted as requiring a response, it denies said allegations and demands strict proof thereof.

7. That it expressly denies the allegations of paragraphs eleven (11) and twelve (12) of the Complaint and demands strict proof thereof.

FOR A SECOND DEFENSE

8. That it would allege that on or about June 19, 2009 Plaintiff obtained a judgment in this action in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) against Defendant based upon an alleged offer of judgment exchanged between the parties. This Order was issued prior to State Farm being served with process and prior to its entry into this case. Section 38-77-160 provides that no action seeking to recover underinsured motorist benefits may be brought unless copies of the pleadings in the subject action are served on the underinsured motorist carrier who then has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability. Plaintiff's failure to serve State Farm prior to obtaining the judgment

JBZ Jr.
#2

against Defendant thereby prevents and precludes Plaintiff from asserting any claims against State Farm for underinsured motorist benefits since State Farm was not afforded its statutory rights to appear and defend the action prior to the judgment being entered. Accordingly, Plaintiff's action against State Farm should be dismissed or alternatively, the Court should set aside the Order of Judgment and allow State Farm to appear and fully defend this action since the claims asserted by Plaintiff potentially affect its liability in the matter.

FOR A THIRD DEFENSE

9. That upon information and belief, prior to Plaintiff formally serving State Farm through the South Carolina Department of Insurance on or about October 13, 2009, Plaintiff and representatives of State Farm entered into settlement negotiations related to the Plaintiff's claims for underinsured motorist benefits and negotiated a settlement of that claim whereby State Farm offered to pay and Plaintiff agreed to accept the sum of \$25,000 in full, complete and final settlement of the Plaintiff's claim for underinsured motorist benefits. In August 2009 State Farm tendered the funds referred to above to Plaintiff by settlement draft which Plaintiff accepted, cashed and received the funds pursuant to the agreement between the parties. Accordingly, Plaintiff's claims for underinsured motorist benefits in this action are now barred by the doctrine of accord and satisfaction and the Court should enforce the negotiated settlement and dismiss this action with prejudice.

WHEREFORE, having fully answered State Farm Mutual Automobile Insurance Company

JBL
#3

prays that the Complaint be dismissed with costs.

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY:


JAMES B. LYBRAND, JR.
Attorneys for State Farm Mutual
Automobile Insurance Company

Columbia, South Carolina

October 30, 2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2007-CP-40-8423

Charles Taylor,)
)
Plaintiff,)

vs.)

Budget Truck Rental and/or)
Thomas Davis,)
)
Defendants.)

NOTICE OF MOTION AND MOTION TO
SET ASIDE ORDER OF JUDGMENT

NEANE L. E. W. McBRIDE
C.C.P. & G.S.

2009 OCT 30 PM 3:25

FILED
RICHLAND COUNTY

TO: CHARLES TAYLOR, PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that State Farm Mutual Automobile Insurance Company, by and through its undersigned counsel, will move before the Presiding Judge of the Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina on the tenth day after service hereof or as soon thereafter as counsel may be heard for an Order setting aside the Judgment entered against Defendant filed on June 19, 2009.

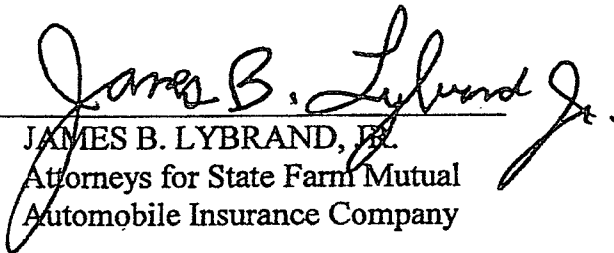
This Motion is based upon Rule 60 SCRPC and Section 38-77-160 of the S. C. Code (1976
as anotated). The grounds for this Motion are as follows. This is a negligence action filed by Plaintiff arising from an automobile accident occurring on September 7, 2007. During the pendency of the action the insurance carrier for Defendant Davis upon information and belief settled its claim with Plaintiff in exchange for a Covenant Not to Execute which purportedly reserved Plaintiff's right to pursue underinsured motorist benefits. The Judgment in question was obtained before State Farm, Plaintiff's underinsured motorist carrier, was formally brought into this action on October 13, 2009. Section 38-77-160 provides in part as follows:

"No action may be brought under the underinsured motorist provisions unless copies of the pleadings in the action establishing liability are served in the manner provided by law upon the insurer writing the underinsured motorist provision. The insurer has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability and has thirty (30) days after service of process upon it in which to appear."

Since State Farm was not a party to the action at the time the judgment was obtained, it could in no way be bound by the judgment as it had not been served nor had standing to participate and present a defense in the proceedings at that time. Accordingly, the Court should set aside the Order of Judgment if Plaintiff desires to proceed with this underinsured motorist claim against State Farm. In the event Plaintiff insists on preserving the judgment and opposes the setting aside of same, the Court should then dismiss this action with prejudice against State Farm and issue an order that Plaintiff has no legal right to proceed against State Farm for underinsured motorist benefits since the judgment against Defendant had been obtained prior to State Farm being formally brought into the case.

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY:


JAMES B. LYBRAND, JR.
Attorneys for State Farm Mutual
Automobile Insurance Company

Columbia, South Carolina
October 30, 2009

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Charles Taylor

Plaintiff,

vs.

Thomas Davis

Defendant,

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

CASE NUMBER: 2007-CP-40-8423

NOTICE OF MOTION AND MOTION TO

Enter consent judgment that dismissed appeal

(post trial motion)

2011 AUG 18 AM 11:18
JEANETTE M. MORRIS
C.C.P. & G.S.

TO: ALL PARTIES:

PLEASE TAKE NOTICE!, that pursuant to any and all applicable scrcp, plaintiff will move before the Presiding Judge of the Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 10th day after service hereof or as soon thereafter as PLAINTIFF & DEFENDANT may be heard, to have entered a CONSENT JUDGMENT.

That this motions is based on the attached agreement between the parties, which dismissed plaintiff's post trial appeal by the South Carolina Court Of Appeals, returning case to this Court for entry of Judgment upon the appeal dismissal agreement.

CHARLES TAYLOR

PLAINTIFF

Post Office Box 3652

Sumter, S.C. 29151

(803) 609-7990

Sumter, South Carolina

August 15, 2011

The South Carolina Court of Appeals

Charles Taylor,

Appellant,

v.

Thomas Davis,

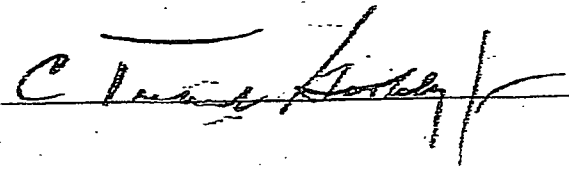
Respondent.

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2007-CP-40-08423

ORDER

Pursuant to Rule 260(b), SCACR, the parties have filed an agreement to dismiss this appeal. It is therefore ordered that this appeal is dismissed and the case is remitted to the Clerk of Court for Richland County.

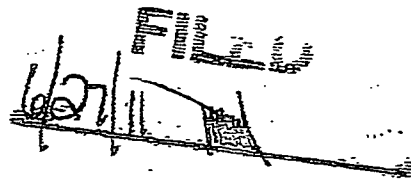
IT IS SO ORDERED.



Columbia, South Carolina

Original to: The Honorable Jeanette W. McBride

cc: Charles Taylor
James B. Lybrand, Jr, Esquire



THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

Thomas Davis,.....Respondent,
v.
Charles Taylor.....Appellant,

AGREEMENT TO DISMISS APPEAL

That based on defendant's affidavit agreement attached to dismiss the appeal, plaintiff hereby accept that agreement and accordingly move to dismiss this appeal and have the case return to the original court for entry of a consent order judgment in accordance with the dismissal agreement between the parties.

CHARLES TAYLOR/PLAINTIFF

Post Office Box 3652
Sumter, S.C. 29151
803-883-4356

Sumter, South Carolina

June 12, 2011

W. RIVET

JUN 15 2011

U.S. Court of Appeals

CASE NUMBER: 2007-CP-400-8423 TAYLOR v. DAVIS
RE: TO DISMISS APPEAL/AFFIDAVIT OF DEFENDANT DAVIS

(1). That my name is Thomas Davis, the defendant in this case and looking out for my own best interest, I have authorized no one else to represent, act or speak for me but me;

(2). That to bring some finality to this case after litigation since 2007 and now a pending appeal, and not being able to know for certain what will be that outcome, and whether or not I will be put at risk again thereafter, for up to the maximum amount of damages as amended, demanded by plaintiff, I believe the latest up to \$40,000,000.00 for all of his losses, including lifetime disability, all of which are well documented throughout this case and regrettably I caused.

(3). That because I have no protection against such damages, as the covenant that was in place to do that are now null and void, due to that agreement having been violated by insurer's attorney, who then said that they would not pay such damages above if such were to occur;

(4). Therefore, to protect myself, I am here offering the following as an inducement to the plaintiff to dismiss his appeal and no further litigation;

a. Voluntary agree to medical bills of \$125,000.00;

b. Property damages of \$110,000.00 plus;

c. Re-enter same amount as accepted judgment entered by Judge Childs on June 18, 2009 for all other damages, including lifetime disability, \$1,500,000.00 and;

d. Vacate any existing judgment(s) for this new total \$1,735,000.00 consent judgment;

(5). This is only a fraction of the total amount demanded in #2 above for all the damages caused and this case could have and should have been resolved by the insurer a long time ago for a much-much smaller-token-sum to avoid putting me in this situation but they've refused;

(6). That if accepted by plaintiff, this agreement supersedes all else in this case and shall end the appeal and all litigation thereafter, as my best guarantee protection against any potentiality of a mega judgment for such damages as in #2 above, if plaintiff were successful in his appeal and thereafter. Plaintiff has five days to accept this offer-agreement and move to dismiss the appeal and provide me proof of such or counter.

Sworn to before me this 10 day
of June 2011

Notary Public For SC

My Commission Expires

06/11/2018

THOMAS DAVIS

Thomas Davis

cc:

James B. Lybrand, Jr.

Post Office Box 58

Columbia, South Carolina 29202

Attorney

ROA

p. 31



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
WWW.SCCOURTS.ORG

June 27, 2011

Charles Taylor
P.O. Box 3652
Sumter, SC 29151

Re: Taylor, Charles v. Davis, Thomas
Case #2011193648

Dear Counsel:

Enclosed is a copy of an Order of the Court regarding the agreement between parties in the above case.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt

cc: James B. Lybrand, Jr, Esquire

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

5TH CIRCUIT
CASE NO: 2007-CP-400-8423

CHARLES TAYLOR

VS.

THOMAS DAVIS

DEFENDANT,

Notice of Motion and Motion

For Ruling As To The Legality of State Farm
Requiring Plaintiff Obtain Their Consent
To Settle With At Fault Party-Defendant
(after sc appeals court order)

2011 NOV 11 AM 11:02

RICHLAND COUNTY
FILED

TO ALL APPLICABLE AND/OR INTERESTED PARTIES:

YOU WILL PLEASE TAKE NOTICE, that pursuant to any and/or all applicable SCRCF,
Plaintiff will move before the presiding judge of the Fifth Judicial Circuit, Richland County,
Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 10th day after service hereof
or as soon thereafter as plaintiff may be heard, for a ruling as to the legality of State Farm
Insurance Company requiring plaintiff to obtain their consent to settle with the at fault party-
defendant, after S. C. Appeals Court Order.

This motion is based on and supported by ALL the attachments.


CHARLES TAYLOR, PLAINTIFF
POST OFFICE BOX 3652
SUMTER, SOUTH CAROLINA
ZIP CODE: 29153-3652
(803) 609-7990

Sumter, South Carolina

November 2, 2011

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

CHARLES TAYLOR

PLAINTIFF,

VS.

THOMAS DAVIS

DEFENDANT,

IN THE COURT OF COMMON PLEAS

5TH CIRCUIT

CASE NO: 2007-CP-400-8423

MOTION

For Ruling As To The Legality of State Farm
Requiring Plaintiff Obtain Their Consent
To Settle With At Fault Party-Defendant
(after sc appeals court order)

JEANETTE
MCCRINE

2011
AM 11:02

RICHLAND COUNTY
FILED

IN A NUTSHELL:

- (1). That this case arose from a truck accident back on 9-7-2007, whereby defendant Davis driving a Budget Rental Truck, rear ended plaintiff into another car driven by the Browns in Columbia, SC.; and that Davis was at fault;
- (3). That plaintiff suffered severe bodily injuries, including but not limited to, lifetime permanent disability from the spinal cord injury among other bodily injuries, with medical bills to date of over \$125,000.00 and ongoing, and property damages of over \$110,000.00 plus all other subsequent losses directly and indirectly for lifetime, and left on Social Security Disability;
- (4). That plaintiff brought a \$10,000,000.00 (Ten Million Dollars) Suit, later amended to \$40,000,000.00 (Forty Million Dollars), against defendant Davis;
- (5). That state farm entered this case pursuant to S. C. Codes Section 38-77-160, with a maximum liability of \$100,000 each, for personal injury and property damages;
- (6). That the case ultimately wound its way through trial

(1)

Page 2 of 2

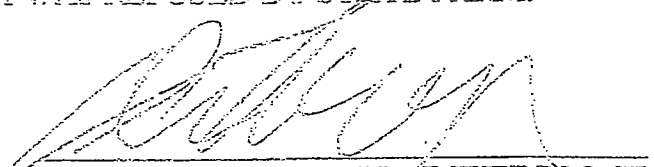
Appeals, whereby plaintiff and defendant reached a settlement agreement and submitted same to the Appeals Court to dismiss the appeal based on the agreement, which was granted by Order of the S.C. Court of Appeals, returning case to this court for entry of Judgment upon the agreement;

(PLEASE SEE SUBJECT AGREEMENT AND APPEALS COURT ORDER ATTACHED);

(7). Thus plaintiff now motions this court for a (RULING) as to the legality of state farm, (through its attorney), being counseled to require the under insured (plaintiff), (especially after the fact-see above), now-to obtain their consent to settle with the at fault party-defendant, which requirement plaintiff believe violates;

S. C. INSURANCE LAW SECTION 38-77-160, WHICH SECTION IN PART PROHIBITS ANY UNDER INSURED POLICY REQUIRING THE INSURER'S CONSENT TO SETTLE AT ANYTIME WITH THE AT FAULT PARTY, BE IT AFTER THE FACT OR BEFORE;
(see copy S. C. law attached).

(8). Finally, plaintiff seeks a (RULING) as to the liability of state farm TO PAY THE WHOLE AMOUNT, PER THE SETTLEMENT AGREEMENT ATTACHED, PER THEIR DEFENDING THIS CASE TO THE VERY END IN LIEU OF A SETTLEMENT OFFER AS LOW AS \$100,000 AT ONE POINT, WHICH WAS REFUSED BY STATE FARM.


CHARLES TAYLOR, PLAINTIFF PRO-SE
POST OFFICE BOX 3692
SUMTER, SOUTH CAROLINA 29151
(803) 509-7990

Sumter, South Carolina

November 2, 2011

(2)

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF RICHLAND)
)
)
CHARLES TAYLOR)
)
PLAINTIFF,)
)
VS.)
)
THOMAS DAVIS)
)
DEFENDANT, }

IN THE COURT OF COMMON PLEAS

5TH CIRCUIT

CASE NO: 2007-CP-400-8423

Plaintiff's Hearing Brief
Hearing For May 7, 2012 @ 2pm
The Hon. Alison R. Lee, Presiding

2012 APR 19 PM 1:51
CLEANED
C. S. S.
J. C. RIDE

RICHLAND COUNTY
FILED

- (1). **Simply Put:** After trial of this case on 5-17-11, **plaintiff filed an appeal:**
- (2). The above parties thereafter reached an agreement to dismiss the appeal, end litigation & submitted the agreement to the appeals court for review and final order;
- (3). **The appeals court final order,** (per the \$1,735,000.00 settlement agreement w/sc law sec. 38-77-160 last 2 lines as to under-insurer p4), ended the appeal and any further litigation 6/27/11 pursuant to SCACR 260b & remitted case to this court clerk office (SCRCP 58b) to:
Enter final \$1,735,000.00 judgment to plaintiff against defendant per the agreement & final order;
- (4). This was never entered accordingly;
- (5). **Thus plaintiff now motions this court to simply enter same accordingly.**
(please see attachments supporting motion).

Sumter, South Carolina

April 16, 2012

CHARLES TAYLOR, FOR THE PLAINTIFF

Po Box 3652 Sumter SC. 29151 (803) 883-7005

The South Carolina Court of Appeals

Charles Taylor,

Appellant,

v.

Thomas Davis,

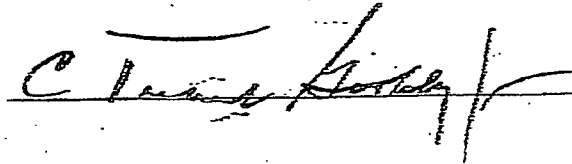
Respondent.

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2007-CP-40-08423

ORDER

Pursuant to Rule 260(b), SCACR, the parties have filed an agreement to dismiss this appeal. It is therefore ordered that this appeal is dismissed and the case is remitted to the Clerk of Court for Richland County.

IT IS SO ORDERED.



Columbia, South Carolina

Original to: The Honorable Jeanette W. McBride

cc: Charles Taylor

James B. Lybrand, Jr, Esquire

FILED
6/27/11

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

Thomas Davis,.....Respondent,
v.
Charles Taylor.....Appellant,

AGREEMENT TO DISMISS APPEAL

That based on defendant's affidavit agreement attached to dismiss the appeal, plaintiff hereby accept that agreement and accordingly move to dismiss this appeal and have the case return to the original court for entry of a consent order judgment in accordance with the dismissal agreement between the parties.

CHARLES TAYLOR/PLAINTIFF

Post Office Box 3652
Sumter, S.C. 29151
803-883-4356

Sumter, South Carolina

June 12, 2011

CASE NUMBER: 2007-CP-400-8423 TAYLOR v. DAVIS
RE: TO DISMISS APPEAL/AFFIDAVIT OF DEFENDANT DAVIS

RECEIVED
JUN 15 2011

Court of Appeals

(1). That my name is Thomas Davis, the defendant in this case and looking out for my own best interest, I have authorized no one else to represent, act or speak for me but me;

(2). That to bring some finality to this case after litigation since 2007 and now a pending appeal, and not being able to know for certain what will be that outcome, and whether or not I will be put at risk again thereafter, for up to the maximum amount of damages as amended, demanded by plaintiff, I believe the latest up to \$40,000,000.00 for all of his losses, including lifetime disability, all of which are well documented throughout this case and regrettably I caused.

(3). That because I have no protection against such damages, as the covenant that was in place to do that are now null and void, due to that agreement having been violated by insurer's attorney, who then said that they would not pay such damages above if such were to occur;

(4). Therefore, to protect myself, I am here offering the following as an inducement to the plaintiff to dismiss his appeal and no further litigation;

a. Voluntary agree to medical bills of \$125,000.00;

b. Property damages of \$110,000.00 plus;

c. Re-enter same amount as accepted judgment entered by Judge Childs on June 18, 2009 for all other damages, including lifetime disability, \$1,500,000.00 and;

d. Vacate any existing judgment(s) for this new total \$1,735,000.00 consent judgment;

(5). This is only a fraction of the total amount demanded in #2 above for all the damages caused and this case could have and should have been resolved by the insurer a long time ago for a much-much smaller-token-sum to avoid putting me in this situation but they've refused;

(6). That if accepted by plaintiff, this agreement supersedes all else in this case and shall end the appeal and all litigation thereafter, as my best guarantee protection against any potentiality of a mega judgment for such damages as in #2 above, if plaintiff were successful in his appeal and thereafter. Plaintiff has five days to accept this offer-agreement and move to dismiss the appeal and provide me proof of such or counter.

Sworn to before me this 10 day
of June 2011

Notary Public For SC

My Commission Expires

THOMAS DAVIS

Thomas Davis

cc:

James B. Lybrand, Jr.

Post Office Box 58

Columbia, South Carolina 29202

Attorney

ROA

p. 39



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
WWW.SCCOURTS.ORG

June 27, 2011

Charles Taylor
P.O. Box 3652
Sumter, SC 29151

Re: Taylor, Charles v. Davis, Thomas
Case #2011193648

Dear Counsel:

Enclosed is a copy of an Order of the Court regarding the agreement between parties in the above case.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt

cc: James B. Lybrand, Jr, Esquire

NOTICE OF MOTION SCHEDULING

April 10, 2012



Motion "MJUDGM - Motion To Enter Consent Judgment That Dismissed Appeal" for Case: 2007CP4008423 - Charles Taylor , plaintiff, et al vs Budget Truck Rental , defendant, et al has been added to the following Motions Roster:

MOTION ROSTER MAY 7, 2012 COURTROOM 3-B

This hearing of this motion has been scheduled for Monday, May 7, 2012 at 2:00 pm.

The above referenced case is scheduled for a Motion Hearing before Judge Alison R. Lee in Courtroom 3-B. The Plaintiff's Attorney is to notify the Defendant in writing of the time and date of all Default and Damages Hearings. All requests for continuances must be in writing with a \$25.00 filing fee and received by the Chief Administrative Judge prior to the hearing. A request for a continuance does not guarantee that a case will be continued. Please notify the Court in writing if the Motions are resolved prior to the hearing. Please file any briefs or memorandum the Wednesday before the week of the hearing. ALL ATTORNEYS MUST SEND A PROPOSED ORDER OR MEMORANDUM OF LAW BY Wednesday, May 2, 2012 FOR THE MOTION HEARING THAT IS BEING HEARD ON HARD COPY AND DISK: OR IT CAN BE SENT BY EMAIL TO aleesc@sccourts.org.

Mail Notice To:

Charles Taylor
P O Box 3652

Sumter, SC 29151

Court Info:

Richland County Common Pleas
Richland County Judicial Center
1701 Main Street
Columbia, SC 29201-9201

Judge James R. Barber, III
Chief Administrative Judge
Fifth Judicial Circuit

NOTICE OF MOTION SCHEDULING

April 10, 2012



Motion "MMFDAM - Motion For Ruling as To The Legality of State Farm Requiring" for Case: 2007CP4008423 - Charles Taylor , plaintiff, et al vs Budget Truck Rental , defendant, et al has been added to the following Motions Roster:

MOTION ROSTER MAY 7, 2012 COURTROOM 3-B

This hearing of this motion has been scheduled for Monday, May 7, 2012 at 2:00 pm.

The above referenced case is scheduled for a Motion Hearing before Judge Alison R. Lee in Courtroom 3-B. The Plaintiff's Attorney is to notify the Defendant in writing of the time and date of all Default and Damages Hearings. All requests for continuances must be in writing with a \$25.00 filing fee and received by the Chief Administrative Judge prior to the hearing. A request for a continuance does not guarantee that a case will be continued. Please notify the Court in writing if the Motions are resolved prior to the hearing. Please file any briefs or memorandum the Wednesday before the week of the hearing. ALL ATTORNEYS MUST SEND A PROPOSED ORDER OR MEMORANDUM OF LAW BY Wednesday, May 2, 2012 FOR THE MOTION HEARING THAT IS BEING HEARD ON HARD COPY AND DISK: OR IT CAN BE SENT BY EMAIL TO aleesc@sccourts.org.

Mail Notice To:

Charles Taylor
P O Box 3652

Sumter, SC 29151

Court Info:

Richland County Common Pleas
Richland County Judicial Center
1701 Main Street
Columbia, SC 29201-9201

Judge James R. Barber, III
Chief Administrative Judge
Fifth Judicial Circuit

State of South Carolina

Court of Common Pleas

County of Richland

2007-CP-40-08423

Charles Taylor

:

-VS-

:

TRANSCRIPT OF RECORD

:

Budget Truck Rental, et al

:

May 7, 2012

Columbia, South Carolina

B E F O R E:

The Honorable Alison R. Lee, Judge.

A P P E A R A N C E S:

Charles Taylor, Pro Se Plaintiff

James B. Lybrand, Jr., Esquire
Attorney for the Defendants

Also Present: Tom Hesse, Esquire

Daphne D. Helms

Circuit Court Reporter

1 **The Court:** The next matter I have is Charles Taylor
2 versus Budget Truck Rental, 2007-CP-40-08423. And actually
3 the defendant is Thomas Davis and not Budget Car Rental. Mr.
4 Taylor is representing himself. The defendant is represented
5 by Jim Lybrand.

6 We're here on two motions that have been filed by Mr.
7 Taylor. One is a motion on the ruling -- motion for a ruling
8 as to the legality of State Farm's request that they consent
9 to any settlement, and the other one is also filed by Mr.
10 Taylor to enter a consent judgment that he and Mr. Davis
11 entered into at the time that the appeal was dismissed.

12 I've read both of the motions. I've also read
13 information that was sent by Mr. Lybrand in opposition to the
14 motions, and so, Mr. Taylor, I'll hear from you. I
15 understand that after the case was tried that there was an
16 appeal filed, and then during the course of the appeal you
17 and Mr. Davis entered into an agreement which you presented
18 to the Court of Appeals and the Court of Appeals then
19 dismissed the appeal as a result of that agreement, and I
20 guess Mr. Lybrand representing the underinsured would not
21 consent to it and so you've filed both motions, one of which
22 is to approve the -- or enter judgment based upon the
23 agreement that you and Mr. Davis entered into while the case
24 was on appeal and the other one relates as to State Farm's
25 responsibility, if any, relating to the agreement. Yes, sir.

1 **Mr. Taylor:** Yes, Your Honor. Your Honor, before I
2 begin, could I pass up Exhibit A?

3 **The Court:** Yes, sir. Do you have a copy for Mr.
4 Lybrand?

5 (Mr. Taylor gives Mr. Lybrand a document.)

6 **Mr. Taylor:** Your Honor, after we had the last trial, as
7 you well know, I filed an appeal. I'm going to make this
8 very short. I filed an appeal. After I filed the appeal,
9 the defendant and I reached an agreement that was submitted
10 to the appeals court, and the appeals court got the agreement
11 and dismissed our appeal as requested. And so it was sent
12 back to this court for -- I understand for the clerk to enter
13 that final judgment. Of course, it has never been entered.

14 So what I'm asking the Court for today and what that
15 motion is for is simply asking the Court to enter that final
16 judgment whereby the appeals court dismissed the appeal and
17 then sent it here. I have all the documents attached to that
18 Exhibit A.

19 There are not many; they're very simple. Mr. Lybrand
20 has had these several times over, so he's well familiar with
21 them. And so basically I'm just asking them to enter the
22 final judgment upon the agreement that we submitted to the
23 appeal court that ended the case on 6/27/11. So that's what
24 that motion is in regards to.

25 If you want me to, I can go right to the second motion

1 because they are all -- they're both kind of intertwined with
2 the other.

3 **The Court:** Yes, sir.

4 **Mr. Taylor:** If I can pass up an exhibit. This will be
5 Exhibit B. Your Honor, this motion is simply whereby State
6 Farm was saying that they was -- they had to -- they had to
7 consent to the other party and I reaching a settlement
8 agreement. Since that time, just before now, they have
9 basically taken that back and said, okay, you don't have to
10 have our consent. They said at first that's why the motion
11 was filed. So I passed up the exhibit which shows that they
12 have already said that, well, we're sorry; that's not the
13 case. So that's -- so that should be very simple on that
14 one.

15 Your Honor, the last thing I have here, if I may,
16 Exhibit C. -- Your Honor, this Exhibit C. is nothing more
17 than a response in regards to the memorandum that he sent to
18 me. Of course, I had already faxed a letter which I assume
19 you have a copy and he have a copy, and since he did it at
20 the last minute, it's just a cover sheet there stating my
21 position, and I put one into evidence in regards to that
22 memorandum.

23 I can elaborate on that more, but these exhibits, I put
24 them into evidence verbatim as if I had spoken every word of
25 them so that I don't forget anything. So that's -- that's

1 basically -- one of the motions is just asking to have the
2 judgment entered because the case has long since ended on
3 6/27 by the appeals court. I just want to have it officially
4 entered. The other motion they've already said, no, you
5 don't need our consent to settle. And this other one here is
6 just my response in regards to the document being sent which
7 basically is that all he's saying in those things -- we've
8 litigated all that and I don't want to go over all that and
9 we've been over all that, and I hope we don't have to get
10 into that. And it's very simple: Just enter that motion and
11 the other one he's already consented to.

12 **The Court:** And it's my understanding, Mr. Taylor, that
13 what you and Mr. Davis have done is that you've entered into
14 an agreement in which there would be a judgment entered
15 against Mr. Davis in the amount that you agreed to which I
16 believe is \$1,735,000. Is that correct?

17 **Mr. Taylor:** Yes, ma'am. That is correct, Your Honor,
18 and I've expressed that judgment is against Davis. He's the
19 one that injured me and so forth and so once -- I kind of
20 want to keep him on track. I know Mr. Lybrand will get off
21 track, but he's State Farm, but that's essentially it in
22 regards to the judgment that I'm asking simply to enter. I'm
23 not taking anything, money, from anybody. I just want it
24 entered, and then we'll take one step at a time from there.

25 **The Court:** Mr. Lybrand?

1 **Mr. Lybrand:** Thank you, Your Honor. May it please the
2 Court?

3 **The Court:** Yes, sir.

4 **Mr. Lybrand:** Just briefly, let me address the issue --
5 one of the issues that Mr. Taylor raised. I got Mr. Taylor's
6 letter Friday. He -- I interpreted his letter as taking some
7 offense at my submission of the memorandum to your office by
8 electronic means on May the 2nd. That was done per Judge
9 Barber's order in the notice of appearance which indicated
10 that by May 2nd any memorandum or proposed order had to be
11 sent to Your Honor, not to the clerk, not to Judge Barber,
12 but to you. So I was simply complying with the terms of the
13 notice and directions contained in the motion.

14 Mr. Taylor is not -- I don't believe communicates by
15 computer or e-mail. I couldn't send it to him any way other
16 than by hard-copy mail. The same day I sent it to you, I put
17 it in the mail to him. He received it on Friday. I gather
18 he interpreted that as me attempting to gain some advantage
19 in connection with this motion, but I would simply point out
20 that I was simply complying with the notice of the rule.

21 Your Honor, these motions are a little intertwined. Let
22 me address the first issue about the consent. Procedurally
23 what happened, Your Honor -- and Your Honor probably
24 remembers the trial of this case. After the jury verdict
25 came in of \$615, the plaintiff noticed an appeal, and the

1 appeal went to the South Carolina Court of Appeals, and
2 within several months before there were really any other
3 required filings - there were no briefs, there were no
4 matters to be included in the record, there was no other
5 required filings - I received notification that the appeal
6 had been dismissed or was in the process of being dismissed
7 based upon some communication and some discussions between
8 Mr. Taylor and Mr. Davis directly.

9 As I have pointed out throughout the history of this
10 litigation, I do not represent Mr. Davis and he is not a
11 client of mine. The record does indicate, Your Honor, that
12 money has been paid prior to trial to Mr. Taylor in which
13 certain documents were signed that I was not a party to, my
14 client, State Farm, was not a party to, the result of which,
15 Your Honor, was that we tried this case and a jury returned a
16 verdict for \$615 which essentially would have been wiped out
17 by all of the monies that Mr. Taylor had been paid before the
18 case went to trial.

19 So, in essence, one would think that the judgment
20 against Mr. Davis would be zero. Monies had been paid on his
21 behalf that would -- he would be entitled to credit for. The
22 case is tried. The case is then appealed. I have no contact
23 with Mr. Davis.

24 I was not advised that Mr. Taylor and Mr. Davis were
25 entering into some discussions which might result in the

1 dismissal of the appeal. I'm not here stating that I was
2 required to be, but there was no -- there was no consent
3 withheld by me or there was no effort made by me to sort of
4 block or blunt Mr. Taylor's discussions or his settlement
5 agreement with Mr. Davis while the case was on appeal
6 because, quite frankly, I didn't know there was any
7 communications going on between the two of them until I was
8 notified, received affidavits, and the case was -- the case
9 on appeal was dismissed. So that's what I meant in that part
10 of my memorandum that Mr. Taylor produced as Exhibit 1 where
11 it just says State Farm concedes that his consent is not
12 required to approve or validate any settlement agreement
13 between Taylor and Davis.

14 The odd thing that I wanted to make clear to the Court,
15 Your Honor, is we have what purports to be a history of a
16 case in which a defendant essentially would have no further
17 financial responsibility. A case goes to a jury verdict.
18 The case is then appealed, a case that -- whose result was
19 favorable to the defendant, and while the appeal was going
20 on, discussions are had in which the defendant, unless I'm
21 missing something, totally against his own financial interest
22 decides not to take advantage of what has gone on in the past
23 but instead obligates himself to pay the plaintiff a million
24 -- whatever it is, \$1,750,000.

25 All we've had from Mr. Davis is -- are affidavits. Mr.

1 Davis, to my knowledge, has not appeared at any hearing. He
2 has not filed any pleadings. He did not testify at trial.
3 We just found it extremely unusual for a case that had
4 proceeded so long through a contested trial and an appeal,
5 partially appealed, to end up like this.

6 But as I hear what Mr. Taylor is saying, Your Honor, he
7 wants the judgment entered between he and Mr. -- between him
8 and Mr. Davis. I simply want to make clear on the record
9 that if they have an agreement, that does not involve my
10 client. And, again, we did not agree to that agreement. We
11 didn't participate in it.

12 In fact, our interest in the case and our involvement in
13 the case was hotly contested at trial, a trial which we ended
14 up prevailing upon. So we don't want the Court or this
15 record to in any way indicate that we are consenting to a
16 settlement agreement that results in a large judgment for
17 which they will later come back and try to get recovery from
18 State Farm because in one of Mr. Taylor's motions, which is
19 his ruling on the legality of State Farm requiring to obtain
20 consent -- and this is page two, paragraph eight, of his
21 motion which I believe Your Honor should have.

22 **The Court:** Yes, sir.

23 **Mr. Lybrand:** In paragraph eight it says, "Finally,
24 plaintiff seeks a ruling as to the liability of State Farm to
25 pay the whole amount per the settlement agreement attached

1 per their defending this case to the very end in lieu of a
2 settlement offer as low as a hundred thousand dollars at one
3 point which was refused by State Farm." The only
4 interpretation I can make of that, Your Honor, is the
5 plaintiff wants to have this consent settlement agreement
6 entered into, have a judgment entered against Mr. Davis for
7 1,750,000 or whatever it is, and then he seeks a ruling from
8 the Court saying State Farm is liable to pay that agreement
9 which we are not liable to. We were not bound by it.

10 In fact, our interests we defended at trial, and we have
11 no -- we would ask that any order entering this judgment
12 simply recite enough of the context of the settlement so that
13 we're not having to come back here at some future date and
14 proceed to fight off an attempt by the plaintiff to collect
15 on the judgment that we were not a part of; he and Mr. Davis
16 were.

17 **Mr. Hesse:** Your Honor, if I may speak, my name is Tom
18 Hesse. I'm with the Pratt-Thomas firm. I'm here as the---

19 **The Court:** What was the last name again?

20 **Mr. Hesse:** It's Hesse. H-E-S-S-E. I've been involved
21 in this matter, Your Honor, for about eight days.

22 Technically, I guess I represent Peak Property and Casualty
23 Insurance Corporation as the excess liability carrier for --
24 well, the putative excess liability carrier for Mr. Davis.

25 **The Court:** Tell me -- tell me who you represent again.

1 **Mr. Hesse:** It's Peak Property and Casualty Insurance
2 Corporation.

3 **The Court:** Yes, sir.

4 **Mr. Hesse:** And the only thing -- I guess I'm here as a
5 friend of the Court, Your Honor, to advise about -- I guess
6 in talking to Mr. Lybrand I got a part of the piece of the
7 puzzle of what has transpired in this case, but we also
8 anticipate further litigation from Mr. Taylor as to the
9 excess liability coverage with Peak Property and Casualty
10 Insurance Corporation. And, Your Honor, if I may hand up a
11 document, if I could show it -- it's Mr. Taylor's document.
12 And, Your Honor, this document is dated April -- wait a
13 minute. Let me make sure I've got it... April 11th of 2012.
14 It's---

15 **Mr. Taylor:** Your Honor?

16 **Mr. Hesse:** I'm sorry. And the purpose, Your Honor, of
17 handing this document up is it shows on the second line --
18 this is coming litigation. This is an assignment by Mr.
19 Davis to Mr. Taylor for any cause of action he has against
20 Peak Property and Casualty Insurance Corporation. I bring
21 this up, Your Honor, because, well, technically we're -- Peak
22 is in the same boat as State Farm. We can either litigate
23 this matter down the road -- because, as Mr. Taylor
24 indicates, it's coming litigation against Peak when it would
25 be Peak's position that if there was any excess liability

1 coverage, that issue was resolved by the trial in which a
2 jury brought back a verdict in Mr. Taylor's favor for \$615.

3 And my sole purpose, Your Honor, is just to bring it to
4 your attention what may be down the road and what your ruling
5 here in this case -- what bearing it may have on Peak as the
6 supposed excess liability carrier. Thank you, Your Honor.

7 **The Court:** Yes, sir. Yes, sir, Mr. Taylor?

8 **Mr. Taylor:** Your Honor, I will, if I may, address Mr.
9 Lybrand first. All of those documents I believe have where
10 Mr. Lybrand had received copies of them. So he was aware of
11 everything that's gone back and forth. And so for him to say
12 that he doesn't know what's gone on, that is simply not true.
13 Everything goes to him. He gets a copy of it, and I see it
14 always throughout this case. That's one point I want to
15 make.

16 Another point that I want to make is that State Farm in
17 any case has only about \$75,000 worth of liability at stake
18 here. So I don't see -- why are they so up in arms about
19 whatever the judgment amount is? That shouldn't concern them
20 any. Now, if there's some issues to be litigated later, then
21 we'll deal with that when we get to it. He's basically
22 asking you to -- well, let's do a preemptive strike right now
23 and let's leap over to what might come down the line.

24 Well, I only brought up in the course of State Farm and
25 -- because he brought it up in the memorandum he sent you.

1 My intentions here today was to deal strictly with the
2 entering of the judgment and the fact that they said that,
3 well, now we don't have to give our consent. Those are the
4 only two things.

5 But since he in his memorandum brought up the issue
6 about what they might be liable for down the road, well,
7 we'll deal with that when we get down the road. He knows
8 what he's looking at farther down the road. Now, he has
9 \$75,000 worth of liability. He could have dealt with this
10 matter long ago. He chose to sit on it, so whatever he face
11 down the road, I would ask the Court to just let him face it
12 down the road. He can come in here and litigate. I'm not a
13 lawyer, but I can come. State Farm has got lots of lawyers.
14 They get paid well. They can come in and litigate. But as
15 for today I'm simply asking the Court to enter the judgment.
16 The other one -- so those are the only two things that matter
17 here.

18 Now, anything what he want to deal with, if he want to
19 talk about how we might settle this or whatever, I'm prepared
20 to do that once this is entered. So I would just sum it up
21 by saying all those things that he's wanting to get into has
22 nothing really to do with what I'm asking today.

23 And as far as Peak goes, Peak has said that they don't
24 have any coverage. I believe maybe they do; I don't know.
25 They would never, ever say. I sat in here today. I don't

1 have the slightest idea whether they're telling the truth or
2 not because they wouldn't said anything. I was just letting
3 them know that if you were telling the truth, you have
4 nothing to worry about, but if you're not telling the truth,
5 then there's going to be litigation down the road.

6 So if they don't have any, he shouldn't be worried. If
7 they do and are not telling the truth about it, then he
8 should be worried. So that's basically all I want to say for
9 the moment, to make a long story short, because like I said,
10 everything that Mr. Lybrand is talking about there -- I had a
11 right to file an appeal. The case continued, like all cases.
12 He's trying to put the impression that, oh, at the trial
13 everything stopped there. That's how the trial went. It's
14 there. Sometimes they appeal it. Sometimes they appeal it,
15 and sometimes they come back and so forth. So I was well
16 within my right for it to keep going. From the appeals
17 court, that's how it ended. Now, he may not---

18 **The Court:** And, Mr. Taylor, I'm only here to deal with
19 those issues that are before me today, but those issues
20 before me today involve State Farm because that's -- that's
21 -- that's where this case left after it was tried before the
22 jury. I understand that you appealed it, and no one's
23 complaining about your right to an appeal. You had that
24 opportunity.

25 When the difference comes in is when you enter into and

1 negotiate an agreement with Mr. Davis individually that does
2 not involve State Farm, and State Farm was, of course, the
3 party that was part of the trial that resulted in the appeal.

4 So you're well within your rights to negotiate whatever
5 you'd like to negotiate with Mr. Davis, but to the extent
6 that you expect or you wish to seek that State Farm would be
7 either in part or in whole responsible for the payment of
8 that judgment or the payment of that -- that judgment that
9 you've got against Mr. Davis, that's -- that's where I think
10 I still have jurisdiction over the particular issue. And
11 I -- I don't think that you can have State Farm be on the
12 hook without having them participate in any discussions that
13 you're having or any attempts that you're having to try to
14 resolve the underlying issues relating to damages, your
15 damages that you suffered as a result of that motor vehicle
16 accident.

17 You can't -- you can't go around State Farm and then
18 expect State Farm to be responsible for having to pay. Now,
19 maybe down the road -- I'm not addressing Peak. It's
20 something brought to my attention, and for whatever it is,
21 that tells me that there may or may not be something coming
22 down the road, but Peak is not before me today. Okay?

23 **Mr. Taylor:** May I respond?

24 **The Court:** Yes, sir.

25 **Mr. Taylor:** Your Honor, as of this point, I would think

1 that whenever I come to State Farm and ask them for
2 something, then they can say: Well, look, we're not going to
3 pay you. I haven't -- I haven't gotten past this point yet,
4 but I just kind of think it's odd that he's asking for a
5 ruling here because there may be issues that when we get to
6 that point, legitimate issues, that come up at that time
7 apart from what we already know, and I would just ask the
8 Court to just leave that as it is.

9 This judgment is not going to hurt anything as far as --
10 I can't just take anything from them with it. If I come to
11 them and they say, "We're not going to pay you anything,"
12 which they've already said -- and then whatever from that
13 point... But to put in a ruling on things which he's asking
14 for now, regardless of what issues that may be there that
15 just say -- just take us off the hook right now and let us
16 end. I would just ask to let the ruling go in, and then down
17 the line if there's something there or if there's no
18 liability or anything there, well, then they don't have
19 anything to worry about. So I would just like the Court to
20 kind of do it that way, take it one step at a time rather
21 than just giving them a blank check right now because, I
22 mean---

23 **The Court:** Well, I'm not giving them a blank check, but
24 what I am telling you, Mr. Taylor, is that to the extent you
25 are going to seek to recover on a judgment for damages

1 arising out of the motor vehicle accident, the claim that you
2 made against Mr. Davis in 2007 that started this whole
3 lawsuit, to the extent that you're seeking to be compensated
4 for personal injuries arising out of that motor vehicle
5 accident, I will tell you that I will follow and go along
6 with Mr. Lybrand that there's no obligation on State Farm's
7 part to pay you for a judgment because those issues have been
8 litigated and they've gone up, and you have chosen to enter
9 into an agreement separate and apart from that litigation.
10 And so I think that you are foreclosed from being able to
11 recover on that particular judgment for the personal injuries
12 arising out of the lawsuit.

13 Now, I'm not closing the door as to other things, but I
14 don't know what they may be and I'm not trying to get into
15 them, but I can tell you that -- that you'll have a pretty
16 high challenge to meet in order to be able to get past these
17 issues.

18 **Mr. Lybrand:** Your Honor?

19 **The Court:** Yes, sir, Mr. Lybrand.

20 **Mr. Lybrand:** May it please the Court? Your Honor, if I
21 might be heard? One of the things I want to make clear and I
22 want to impress upon Mr. Taylor is his assertion that we're
23 now trying to, through this brief or memorandum that I filed,
24 fire some preemptive strike. I would just call to the
25 Court's attention that the relief that is sought in his

1 motion was filed November the 2nd of last year.

2 **The Court:** Right.

3 **Mr. Lybrand:** And in that motion---

4 **The Court:** He wanted---

5 **Mr. Lybrand:** ---he brought up the fact that the relief
6 that he wanted to seek when this motion comes to court -- he
7 wanted relief in an order binding State Farm to any payment.
8 Now, he now says we're just bringing that up and that's not
9 really before it. He should be allowed to handle that later.
10 This is an issue he raised six months ago in a motion that he
11 filed and it's part of the relief he sought, and that's why
12 it was addressed in our memorandum.

13 **The Court:** I understand.

14 **Mr. Lybrand:** So this is not an issue that State Farm
15 has brought up as a preemptive matter. This is an issue that
16 we're raising in response to relief sought by Mr. Taylor in
17 his motion from last November. As far as Mr. Taylor saying I
18 was provided with everything, I was copied with everything -
19 I was copied with things after they were signed. I was never
20 copied with or participated in any discussions that Mr.
21 Taylor may have had with Mr. Davis which led to any
22 affidavits or consent judgments or anything of that nature.
23 So I simply want the record to reflect that.

24 **The Court:** It does. And so with that, Mr. Taylor, I
25 have no -- I have no problems having a judgment entered

1 against Mr. Davis based upon his execution of this particular
2 document, but to the extent that your motion seeks to impose
3 liability on State Farm to pay that settlement agreement, I
4 will deny that request and that's -- I'm looking at page two
5 of your -- of your motion, paragraph -- specifically
6 paragraph number eight which states that you were seeking a
7 ruling as to the liability of State Farm to pay the whole
8 amount per the settlement agreement attached per defending
9 this -- for their defending this case in lieu of settlement.

10 And so to the extent that you're seeking an order to
11 impose liability on State Farm to pay the judgment, at this
12 point I will deny that request, but I have no problem
13 entering a judgment against Mr. Davis individually since
14 that's apparently what he's agreed to on April the 11th of
15 2012.

16 **Mr. Taylor:** Your Honor, that's fine. I would just like
17 to say one thing. If it helps any, I'm not asking for an
18 order against State Farm, so I just wanted to make that
19 clear.

20 **The Court:** All right. Then I'll issue such an order.

21 **Mr. Taylor:** Your Honor, just one last thing there.
22 Could you just for the record hand up in regards to the --
23 the other motion? I have two there. They have already
24 consented to it, but just put something in a ruling so I can
25 just put it in the file for whatever they say that they---

1 **Mr. Lybrand:** If it deals with the judgment, Your Honor,
2 I would -- I would ask the Court not to say that we consent
3 to the motion but that we take no position and we're not --
4 we're not opposing the motion. I know it's a semantics
5 difference, but it's really an agreement over which we had no
6 participation and we have no authority to, I believe, object
7 or not object except to the extent that he attempts to
8 collect that from us later.

9 **Mr. Taylor:** Your Honor, I just wanted to say one thing.
10 Those words, in his words, the way what he stated it -- and
11 finally in regards to -- I don't have any control over Mr.
12 Davis. It's up to him to have the kind of discussions or
13 whatever that he wants. I don't see why he's blaming me for
14 his lack of discussion with the defendant. He seems to be
15 putting that blame on me. That's his problem. All I know --
16 if he's had discussions with him, I don't know, but that's
17 not my problem. I communicate with all of them the same.
18 Everybody gets copies of everything, and they send them to me
19 and I see where they sent him, so---

20 **Mr. Lybrand:** I would simply say, Your Honor, we had a
21 -- we had a contested trial here. I did not represent Mr.
22 Davis. I had no need after the trial to be in touch with Mr.
23 Davis. So I think Mr. Taylor is trying to impose some sort
24 of obligation on me or my client to communicate with somebody
25 with whom I need not speak.

1 **Mr. Taylor:** All right. Your Honor, that's it.

2 **The Court:** All right. Thank you, gentlemen.

3 **Mr. Lybrand:** Your Honor, you will---

4 **The Court:** I'll draft the order.

5 **Mr. Lybrand:** ---do the order?

6 **The Court:** Yes, sir.

7 **Mr. Lybrand:** Thank you, Your Honor.

8 **Mr. Taylor:** Thank you, Your Honor. I appreciate that
9 very much.

10 (Whereupon, the proceedings were concluded. There were
11 no exhibits marked into evidence.)

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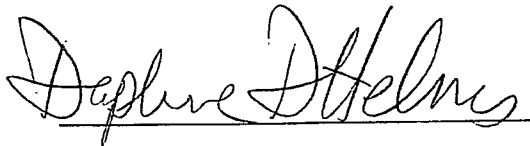
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25

I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Richland County, South Carolina, on the 7th of May, 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 21, 2012

A handwritten signature in cursive script that reads "Daphne D. Helms". The signature is written in dark ink and is positioned above a horizontal line.

Daphne D. Helms, court reporter

NOTICE OF APPEAL IN CIVIL CASE

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

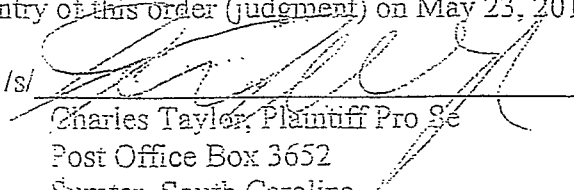
Thomas Davis.....Respondent,
v.
Charles Taylor.....Appellant,

NOTICE OF APPEAL

Charles Taylor appeals the order (judgment) of the Honorable Alison R. Lee dated May 18, 2011. Appellant received written notice of the entry of this order (judgment) on May 23, 2011.

June 8, 2011

/s/


Charles Taylor, Plaintiff Pro Se
Post Office Box 3652
Sumter, South Carolina
(803) 383-4356

Thomas Davis
Defendant
Post Office Box 33
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Other Counsel of Record:
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Attorney for (UIMC) State Farm

RECEIVED

JUN 10 2011

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

COVENANT NOT TO EXECUTE

FILED
3 NOV 19 2:41
C.C. & G.S.

KNOW ALL MEN BY THESE PRESENTS that I, Charles Taylor, of the County of Sumter, State of South Carolina, in consideration of the sum of Twenty-Five Thousand and No/100 (\$25,000.00) Dollars in cash to me paid upon the 8TH day of NOVEMBER, 2008, by or on behalf of Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental, before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, do hereby covenant with and forever discharge of Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental, their heirs, executors, administrators, assigns, representatives, insurers and any other persons, firms or corporations chargeable with liability on account, from any and all claims, demands, suits, actions and causes of action which I can or may have by reason of any matter, cause or thing whatsoever, including but not limited to all claims set forth in the Complaint pending in the Court of Common Pleas for Sumter County, South Carolina, and designated as Civil Action No. 07-CP-40-8423. Moreover, it is expressly understood and agreed that I hereby covenant with and forever discharge Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental, their heirs, executors, administrators, assigns, representatives, insurers and any other persons, firms or corporations chargeable with liability on Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental=s account from any and all injuries and damages, past, present and future, now developed and known, and also those which may hereafter be developed and ascertained resulting from an automobile accident which occurred on or about September 7, 2007, including but not limited to any and all claims for bodily injuries, disability, disfigurement, pain and suffering, loss of income, medical, surgical and hospital expenses, loss of consortium, companionship, aid, society and services, loss of income, loss of earning power, loss of family services, mental anguish, psychological trauma, loss of enjoyment of life, alteration of lifestyle, emotional trauma, grief, sorrow, loss of reputation, property damages, and any and all other losses or claims, past, present and future, which I may have had, now have or may have in any way arising out of or resulting from the injuries and damages to the undersigned.

It is expressly understood and agreed that the settlement made hereunder is the compromise of doubtful and disputed claims; that the payment made hereunder is not to be construed as an admission of liability on the part of Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental.

The undersigned understands that it is his sole responsibility to be responsible for any and all liens or assignments (medical, governmental or otherwise including Medicare/Medicaid) which may have been generated because of this accident and in connection therewith, the undersigned does hereby covenant and agree to indemnify and hold harmless Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental from any and all claims, demands, actions, causes of action, suits or complaints that may be brought by any person, persons, firms, corporations or other entities against Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental for injury, damage or loss of the undersigned arising out of or having any connection with the above-mentioned

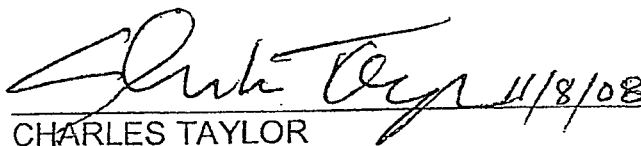
incident. Once the aforementioned payment has been accepted, the obligations of the entities making the payment and those on whose behalf the payment is being made and all those who could be responsible for the actions of these entities, are fully and completely ended and finally and forever discharged from any further responsibility in connection with this action.

I fully preserve any and all rights to pursue any other potentially applicable liability insurance or underinsured motorist coverage from any other source or provider, and it is my intent to covenant only with Mr. Davis and Avis Budget Group, Inc.

*SUBJECT CHECK TO BE RECEIVED ON OR BEFORE WEDNESDAY, November 12th, 08
OR THIS COVENANT SHALL BECOME NULL & VOID AFTER THAT DATE.*

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 8TH day of NOVEMBER, 2008.

IN THE PRESENCE OF:


CHARLES TAYLOR

↑ ↑ ↑ ↑
MR. TYLER:

*I Am Reluctantly Trusting
What You Said!*

THANKS! MR TAYLOR

McDONALD, McKENZIE, RUBIN, MILLER AND LYBRAND, LLP.

ATTORNEYS AT LAW

ROBERT A. MCKENZIE
HYMAN S. RUBIN, JR.
BEN N. MILLER III
JAMES B. LYBRAND, JR.†
RONALD E. ALEXANDER
KEVIN T. BROWN
JOHN F. MCKENZIE*
DAMON C. WLODARCZYK

POST OFFICE BOX 58
COLUMBIA, SOUTH CAROLINA 29202

2ND FLOOR, 1704 MAIN STREET
COLUMBIA, SOUTH CAROLINA 29201
www.mmmml.com

HEYWARD E. McDONALD
1925-2000

TELEPHONE (803) 252-0500
FAX (803) 929-3530

†CERTIFIED MEDIATOR AND ARBITRATOR
*ALSO ADMITTED IN TEXAS

June 23, 2008

Charles Taylor
P. O. Box 3652
Sumter, SC 29151

Re: Charles Taylor vs. Thomas Davis
Civil Action No: 2007-CP-40-8423

VERAFIED
UNDERINSURED'S
COVE

Dear Mr. Taylor:

Please be advised that State Farm has asked me to respond to your letter dated May 20, 2008 directed to Chip Russell regarding the above matter.

Based upon information provided it appears that you were involved in an automobile accident with Thomas Davis on or about September 7, 2007. We understand that Mr. Davis was operating a rental vehicle which had liability coverage through the rental car company. Additionally, we understand that Mr. Davis has additional liability coverage applicable to this accident through his personal insurer.

It is my understanding that you were insured by State Farm at the time of the accident under four separate policies. The State Farm policy covering the vehicle you were driving at the time of this accident had underinsured motorist coverage of \$25,000. Additionally, I am advised that you had three other State Farm policies in effect covering non-involved vehicles and that each of those three policies had underinsured motorist coverage limits of \$25,000. Accordingly, there would be a total of \$100,000 of underinsured motorist benefits available from State Farm applicable to the subject accident.

As you may know underinsured motorist coverage affords an insured protection in the event that damages are sustained by an insured in excess of the liability coverage limits carried by the at-fault driver in an accident.

State Farm is aware that you have brought a lawsuit against Mr. Davis which is currently being defended by the liability carriers for the rental company and Mr. Davis' personal carrier. Apparently, that case has not yet been set for trial. If and when State Farm is formally brought into

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Charles Taylor,)

Plaintiff,)

vs.)

Thomas Davis,)

Defendant.)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2007-CP-40-8423

RESPONSES TO PLAINTIFF'S
REQUESTS FOR ADMISSIONS
DIRECTED TO STATE FARM

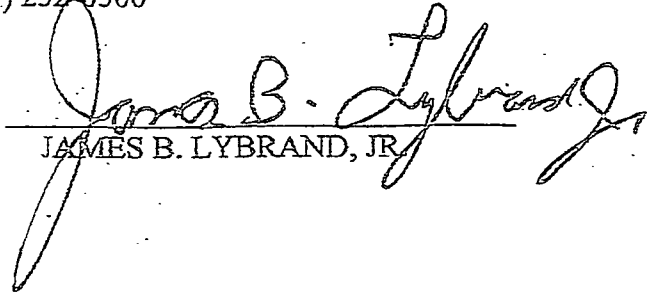
TO: CHARLES TAYLOR, PLAINTIFF:

Pursuant to Rule 26(b) and Rule 36 SCRPC, the following responses are hereby submitted to Plaintiff:

The undersigned objects to Request for Admissions directed to State Farm which is not a party defendant to this action. Pursuant to Rule 36 SCRPC request for admissions may only be directed to a "party" to a civil action. State Farm is not a named party and therefore would not be required to respond to Plaintiff's Request for Admission. Accordingly, objection is made to Request for Admissions 1 through 7 as directed to State Farm.

MCDONALD, MCKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2ND FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY:


JAMES B. LYBRAND, JR.

Columbia, South Carolina
November 10, 2010

JUN 13 2011

in Court of Appeals

Personally appeared before me, having been duly sworn, Thomas Davis, deposes and says as follows:

{Affidavit of Thomas Davis} Defendant in C/A No: 2007-CP-400-8423 re: Defense Team at Trial on 5/17/11 Headed By State Farm Fire and Casualty Insurance Company

That as to the mystery of the low {\$615} awarded to plaintiff, Mr. Taylor, in the above case at the damages trial, for all the damages and losses he suffered, for which I am sorry that I caused in the accident of September 7, 2007, including, but not limited to, his lifetime disability, among others; {which damages trial I was unable to attend}, that;

I, Defendant Thomas Davis Further Says:

(1). That a neighbor was in Columbia at a gathering when someone there, when the subject drifted up about what juries can do, was telling others about how they had been on a jury in an accident case and held out to give a *** guy from Sumter only \$615 bucks who should have gotten millions from being messed up in a truck accident, because they had known the lawyer but kept it secret, because the lawyer had defended their daughter in such a case, which if they had lost, they would have had to pay a lot of money out of pocket themselves, and that this was their way of secretly doing a favor for the lawyer that had saved their bacon as it was said.

(2). That it became clear to me after a short while putting a few thoughts together, that the above was the case that person, (Juror), was talking about in Columbia, which explains the mystery of the only \$615 award for such injuries & losses, which I relayed to Mr. Taylor.

FURTHER MORE I SAY NOT.

Cc: State Farm Insurance Company
Post Office Box 10003
Duluth, Georgia 30096-9403

Mr. James B. Lybrand, Jr., Attorney
Post Office Box 58
Columbia, SC. 29202

Case: 2007-CP-400-8423
Accident Date: September 7, 2007

Thomas Davis

Thomas Davis

DEFENDANT

Sworn to before me this 11 day

Of June - 2011

Ray Brinson

Notary Public for S. Carolina

My Commission Expires: 2-1-12

STATE OF SOUTH CAROLINA)
) AMENDED
) COVENANT NOT TO EXECUTE
COUNTY OF SUMTER)

FILED
2008 NOV 19 PM 2:40
C.C.C. & G.S.

KNOWN ALL MEN BY THESE PRESENTS that I, Charles Taylor, of the County of Sumter, State of South Carolina, hereby expressly makes clear, that nothing in the COVENANT NOT TO EXECUTED that was signed on November 8, 2008, was, is, nor shall it be construed to affect in any manner, the ACCEPTED RULE 68 SCRPC JUDGMENT that was accepted by all parties, which judgment is waiting to be entered by the court. This \$25,000.00 payment is being paid and received in advance thereof, and shall be subtracted from that judgment before it being satisfied by defendant's liability carrier(s).

Further, the above payment represents the minimum limits of liability required by South Carolina's financial responsibility act, relevant to the vehicle driven by the defendant (Davis) at the time of the accident of 9-7-07 in a Budget Rental Truck.

The additional coverage of, \$1,000,000.00 was excess coverage purchased by the defendant for his added protection, which was purchased through BUDGET TRUCK RENTAL, at the time of the rental. Defendant have additional coverage through his automobile insurer. As part of this covenant, plaintiff agrees not to execute upon the defendant, above these coverages, notwithstanding any amount of the above judgment, except that plaintiff may execute in regards to any under insured's coverage that may be available to him.

Further, as part of this covenant not to execute, defendant hereby agrees to forbid any party or representative, from attempting, in his name to, undo the subject pending judgment, WHICH JUDGMENT HAVE BEEN ACCEPTED BY ALL PARTIES. Also, defendant shall forbid same from attempting to undo this AMENDED COVENANT NOT TO EXECUTE, unless such parties first obtain his express written permission, so as to preserve the agreements entered into between plaintiff and defendant for their benefit in amicably bring to a close the civil suit against defendant by plaintiff. It is agreed that this amended covenant shall render all other void, unless those things are re-stated herein this amended covenant not to execute.

IF THE PARTIES ARE IN AGREEMENT, THEN PLEASE EXECUTE BELOW AS SHOWN:

DEFENDANT/THOMAS DAVIS

Thomas Davis
SWORN TO BEFORE ME THIS 13 DAY
OF Nov 13 2008,

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES April 2009

PLAINTIFF/CHARLES TAYLOR

Charles Taylor
SWORN TO BEFORE ME THIS 19 DAY
OF November 2008,

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES Sept 6, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

COVENANT NOT TO EXECUTE

FILED
2008 NOV 19 PM 2:40
C.C.C. & G.S.

KNOW ALL MEN BY THESE PRESENTS that I, Charles Taylor, of the County of Sumter, State of South Carolina, in consideration of the sum of Twenty-Five Thousand and No/100 (\$25,000.00) Dollars in cash to me paid upon the 8TH day of NOVEMBER, 2008, by or on behalf of Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental, before the ensembling and delivery hereof, the receipt whereof is hereby acknowledged, do hereby covenant with and forever discharge of Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental, their heirs, executors, administrators, assigns, representatives, insurers and any other persons, firms or corporations chargeable with liability on account from any and all claims, demands, suits, actions and causes of action which I can or may have by reason of any matter, cause or thing whatsoever, including but not limited to all claims set forth in the Complaint pending in the Court of Common Pleas for Sumter County, South Carolina, and designated as Civil Action No. 07-CP-40-8423. Moreover, it is expressly understood and agreed that I hereby covenant with and forever discharge Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental, their heirs, executors, administrators, assigns, representatives, insurers and any other persons, firms or corporations chargeable with liability on Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental=s account from any and all injuries and damages, past, present and future, now developed and known, and also those which may hereafter be developed and ascertained resulting from an automobile accident which occurred on or about September 7, 2007, including but not limited to any and all claims for bodily injuries, disability, disfigurement, pain and suffering, loss of income, medical, surgical and hospital expenses, loss of consortium, companionship, aid, society and services, loss of income, loss of earning power, loss of family services, mental anguish, psychological trauma, loss of enjoyment of life, alteration of lifestyle, emotional trauma, grief, sorrow, loss of reputation, property damages, and any and all other losses or claims, past, present and future, which I may have had, now have or may have in any way arising out of or resulting from the injuries and damages to the undersigned.

It is expressly understood and agreed that the settlement made hereunder is the compromise of doubtful and disputed claims; that the payment made hereunder is not to be construed as an admission of liability on the part of Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental.

The undersigned understands that it is his sole responsibility to be responsible for any and all liens or assignments (medical, governmental or otherwise including Medicare/Medicaid) which may have been generated because of this accident and in connection therewith, the undersigned does hereby covenant and agree to indemnify and hold harmless Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental from any and all claims, demands, actions, causes of action, suits or complaints that may be brought by any person, persons, firms, corporations or other entities against Thomas L. Davis and Avis Budget Group, Inc., d/b/a Budget Truck Rental for injury, damage or loss of the undersigned arising out of or having any connection with the above-mentioned

incident. Once the aforementioned payment has been accepted, the obligations of the entities making the payment and those on whose behalf the payment is being made and all those who could be responsible for the actions of these entities, are fully and completely ended and finally and forever discharged from any further responsibility in connection with this action.

I fully preserve any and all rights to pursue any other potentially applicable liability insurance or underinsured motorist coverage from any other source or provider, and it is my intent to covenant only with Mr. Davis and Avis Budget Group, Inc.

*SUBJECT CHECK TO BE RECEIVED ON OR BEFORE WEDNESDAY, NOVEMBER 12TH, 2008.
OR THIS COVENANT SHALL BECOME NULL & VOID AFTER THAT DATE.*

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 8TH day of NOVEMBER, 2008.

IN THE PRESENCE OF:

Thomas Davis

Charles Taylor 11/8/08
C.C. & G.S.
CHARLES TAYLOR

FILED
2008 NOV 19 PM 2:40

ON THE DATE(S) BELOW, THIS COVENANT HAVE BEEN HEREBY, AMENDED TO CLARIFY, AS STATED IN THE ATTACHED AMENDED COVENANT, AGREED TO AND EXECUTED BY THE PARTIES BELOW AND ON THE AMENDED COVENANT ATTACHED:

SOLE DEFENDANT PER THIS
CIVIL ACTION NO: 07CP408423

MR. THOMAS DAVIS

Thomas Davis

SWORN TO BEFORE ME THIS 13TH DAY
OF NOVEMBER, 2008

Thomas Davis
NOTARY PUBLIC FOR S. C.

MY COMMISSION EXPIRES 6/12/2008

SOLE PLAINTIFF PER THIS
CIVIL ACTION NO: 07CP408423

CHARLES TAYLOR

Charles Taylor

SWORN TO BEFORE ME THIS 12TH DAY
OF NOVEMBER, 2008

Thomas Davis
NOTARY PUBLIC FOR S. C.

MY COMMISSION EXPIRES 6/12/2008

CERTIFIED MAIL:

November 30, 2009

TO: Mr. James Inman/Adjuster & Fax to: 1-888-870-0317
State Farm Insurance Company
Post Office Box 10003
Duluth, Ga. 30096 & Fax to: Lybrand Atty. 18039293530

FROM: Thomas Davis
Post Office Box 32
Gable, Sc. 29105

Cc: Mr. Charles Taylor
Post Office Box 3652
Sumter, Sc. 29151

Dear Mr. Inman & State Farm: {WARNING} Case: 2007-CP-400-8423 Taylor versus Davis

I want to warn you that you will be held liable, pursuant to relevant law, to pay any ultimately final judgment entered in my name in this case, especially, if I am ultimately forced to accept such judgment, to protect my own best interest and to avoid risking my potential financial ruin, because you wouldn't settle, within policy limits with {your insured}, the plaintiff, Mr. Taylor, against me, as you should have done as required by his policy and for reasons under the law. I understand you only have a little bit of coverage anyway, so why not pay it to spare us all?

I demand you settle with your insured or give me written guarantee indemnification, that you will pay any ultimate judgment entered in my name against me in this case up to the Forty Million Dollars plaintiff is demanding in this suit. If you don't settle with him or give me such written guarantee, then I am here forbidding you from prosecuting this case further in my name, or {you are here on notice}, I will hold you liable, in accordance to relevant law, to pay {any} ultimate final judgment that end this case, {regardless}.

It's obvious by the amount of damages caused, especially lifetime disability and costs, among all other such related losses, that plaintiff is entitled to like compensation. So I don't understand why you want to gamble in this case, this way, whereby only I could come out a disastrous loser if your gamble in the end ultimately goes bad. It's obvious this case will not end by plaintiff, I don't believe, unless and until he receives appropriate compensation to the damages he suffered. He has said he will appeal all the way to the highest court in the land if necessary. So I certainly understand and I am sure you feel the same way to, if your bosses let the truth be told, of course their aim is only to save money at others expense by not paying claims, we all knew that, because I hear this happening to people all the time and indeed one of my family members was the victim at one time. Thus you have been duly warned and if you still further gamble to proceed, I will consider that evidence of your agreeing to pay any final judgment ultimately entered in this case, regardless, unless you reply by certified mail to the contrary.

THOMAS DAVIS
Thomas Davis
DEFENDANT IN THIS CASE
Sworn to before me this 30 day
Of December 2009
W. J. Jones
Notary Public For S. Carolina
My Commission Expires: 2013

TO: State Farm Insurance Company {June 3, 2011}
Post Office Box 10003
Duluth, Ga. 30096 & Fax To: 1-888-870-0317

FROM: Thomas Davis
Post Office Box 773
Manning, Sc. 29105

Cc: Mr. James B. Lybrand, Jr., Atty.
Post Office Box 58
Columbia, Sc. 29202 & Fax To: 1-803-929-3530

Cc: Mr. Charles Taylor
Post Office Box 3652
Sumter, Sc. 29151

Case: 2007-CP-400-8423 Taylor{v}Davis / Ref. Warning of Settlement Unless You...

Dear State Farm & James Lybrand Attorney:

{Certified To All Parties}

Unless you settle this case in my name with plaintiff, I'm sending you this to give you notice and warning of my impending settlement-agreement-attached; the lowest plaintiff indicated he would accept to end his appeal in this case against me, \$1,735,000.00 of the \$40,000,000.00 demanded in his suit, to which I have no written indemnification guarantee from State Farm, or otherwise, in a worst case scenario, in this case now on appeal going forward.

So I'm no longer going to risk up to a \$40 Million Dollar judgment or whatever amount thereof against me, in my name, that might ultimately come about on or after appeal, just to satisfy State Farm, who could and should have settle this case within plaintiff's policy limits & refused to do so at their own peril. You get one last chance here.

You have 7 days to act and respond (to all parties AND the South Carolina Court of Appeals where the subject appeal is pending) or I will settle this case once and for all against me, with the proposed-agreement attached, because you have forced me into this awful position, between a rock and a hard place, leaving me no other choice, as I wish not to risk a worst case scenario, of up to \$40 Million Dollars or whatever in between that might happen, with no written guarantee protection from anyone.

Remember I sent you a {WARNING} letter dated November 30, 2009, copy attach.

Sworn to before me this 3rd day
Of June 2011
Rowland J. P. Jones
Notary Public For S. C.
My Commission Expires 2-21-17

THOMAS DAVIS

Thomas Davis
DEFENDANT IN THIS CASE

Aiken Bridges Attorneys at Law

J. Boone Aiken, III •
Michael M. Nunn •
Saunders M. Bridges, Jr. •+
E. Glenn Elliott •
Matthew N. Tyler •
James M. Saleehy, Jr.
J. David Banner
Samuel F. Arthur, III
Jay R. Lee
Preston B. Dawkins
Bradford C. Andrews
Carrie A. Fox

MNT@AIKENBRIDGES.COM
843-669-8787, ext. 305
Facsimile: 843-664-0097

Alvin A. Coleman (1930-1995)

May 6, 2008

Of Counsel:
Saunders M. Bridges •

• Certified Mediator/Arbitrator
+ Also Admitted District of Columbia

The Honorable Barbara A. Scott
Clerk of Court
Post Office Box 2766
Columbia, SC 29202-2766

Re: Charles Taylor vs. Thomas Davis
C/A No.: 07-CP-40-8423
AB File No.: 26972

Dear Ms. Scott:

On April 16, 2008 the Plaintiff filed an Offer of Judgment. Upon the Offer being filed, and through his letter of April 23, the Plaintiff forwarded the Offer of Judgment to my attention.

On behalf of the Defendant, the Offer of Judgment has been accepted, thus I would ask your office to please review the filed Offer of Judgment and forward to me your entry of Judgment in that amount, consistent with Rule 68 SCRPC.

I look forward to receiving the Entry of Judgment from your office as quickly as possible. We will then be transmitting funds to Mr. Taylor along with the Satisfaction of Judgment. Of course, if you have any questions, please let me know.

With kind regards, I am

Sincerely yours,

MATTHEW N. TYLER

MNT/ljm
Enclosures

ROA P.76

Aiken, Bridges, Nunn, Elliott & Tyler, P.A.

181 East Evans St. Suite 409
Florence, South Carolina 29505

www.aikenbridges.com

Post Office Drawer 1931
Florence, South Carolina 29503

August 10, 2011

From: Thomas Davis
Defendant Representing self
Post Office Box 773
Manning, South Carolina 29105

To: The Clerk Of Court
Post Office Box 2766
Columbia, S. C. 29202

In The Case Of: Taylor v. Davis 2007-CP-400-8423

Dear Clerk:

In this case, I am the defendant. I would appreciate your seeing to it that I receive copies of any and all notices sent out from your office regarding this case. I have ~~not~~ been receiving such notices, even though I am representing myself in this case from the beginning and have not authorized anyone else to represent, act, nor speak for me in this case. I believe the law says that I must be properly served or all such proceedings may afterwards be nullified. Could you explain why I wasn't being sent notices?

I am sending the parties down below a copy of this letter, letting them know that I have not been so notified in this case and that I want them to know to serve me with all communications going forward, so that I may look out for and protect my own best interest as the defendant in this case, given all the litigation that have taken place in this case since 2007, and could yet come.

Thank You.



Thomas Davis
Defendant

I am sending a copy to:

Mr. Charles Taylor
Mrs. Elise S. Brown
Mr. James Lybrand, Attorney

BINDING AGREEMENT ON DISMISSAL OF APPEAL IN FAVOR OF VENUE U.S.
FEDERAL DISTRICT COURT

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison E. Lee, Circuit Court Judge

Case No: 2007-CP-40-3425

Thomas Davis,.....Respondent,
v.
Charles Taylor,.....Appellant,

BINDING AGREEMENT

(1). Because appellant had already initiated a Civil Tort Action in U.S. Federal Court for damages, against Lawyer James B. Lybrand, Jr. et al, whose illegal misconduct in original case, (detailed in federal complaint), gave rise to the appeal in the first place, and;

(2). Because appellant had already made a preliminary complaint of illegal misconduct against Lawyer James B. Lybrand, Jr., to the Office Of The Disciplinary Counsel, who will investigate and he, (Lybrand), then punish according to their rules, and;

(3). Because appellant had already made and/or will make a report, as to any and all other possible violations of law, as to (Lawyer James B. Lybrand), to the appropriate authorities, who will investigate and he, (Lybrand), then dealt with according to the law, and;

(4). Because appellant may, at anytime up to 1 year, in the lower court, pursuant to SCRCP (60) b (3), only as a partial remedy, seek to set aside the original judgment obtained due to the illegal misconduct of Lawyer James B. Lybrand; (but no added damages from HDV here as a setback), unless via an independent state or federal action, which already initiated per #1 above.

(Page 1 of 2)

THUS, THERE'S NO OTHER RELIEF BEING SOUGHT FROM THIS COURT (EXCEPT):

(a). (DISMISSAL OF APPEAL), by agreement of the parties to this case, appellant and respondent, including among all other provisions these, as follows:

(b). Because appellant have already, herein & hereby, confirm respondent's binding commitment by signature below, not to condone the illegal misconduct of Lawyer James B. Lybrand, and in fact, respondent agrees to aid appellant to the fullest extent possible, in seeing to it, that Lawyer Lybrand is brought to justice and dealt with according to law, as to his illegal misconduct, (detailed in federal complaint), and that the original case involving the illegal misconduct, respondent agree to its vacation and that all subsequent issues be dealt with as described in sub section C below, and or in any other manner described in this agreement and/or otherwise in accordance with applicable law and/or the SCRPC and/or the FRCP, and;

(c). That the actions and venues taken, (1-4 & A-B Herein), in regards to the illegal misconduct of, (Lawyer James B. Lybrand, Jr.), are the most appropriate, proper, and best, to adjudicate all subject matters, IN LIEU OF THE APPEALS COURT, which will not have a suitable remedy for such issues, AS WILL THE VENUES (1-4) ABOVE, and;

(d). That the respondent specifically agree, that with respect to the original suit bearing his name, that any and all matters and issues, not fully, fairly and/or impartially adjudicated, due to the illegal actions of (Lawyer James B. Lybrand, Jr.), must now be rolled into and resolved, (if not amicably by mutual agreement), then in the subject Federal Court and Federal Court Action, incorporating comprehensively, a demand therein for ALL damages, now from Lybrand, per the original case-up to \$40,000,000.00 and from his illegal conduct-up to \$10,000,000.00 and/or from all who were part of and/or benefited from the fraud, & to the extent they benefited from same, all total in federal complaint, up to \$50,000,000.00, to include punitive damages &;

(e). That the respondent specifically herein & hereby forbid & ban Lawyer Lybrand from committing any further acts of fraud in his name and that he, (Lybrand), make amends for the fraud already committed in his name, all which issues gave rise to the appeal in the first place, but here the parties request dismissal of that appeal for the reasons stated in this agreement.

THIS IS A BINDING AGREEMENT, PLEASE READ THOROUGHLY BEFORE SIGNING!

I AGREE:

/s/ Thomas Davis

Thomas Davis, Respondent
Defendant of Original Case
Post Office Box 33
Gable, South Carolina 29501
Sign and Return

Date: 6-11-2011

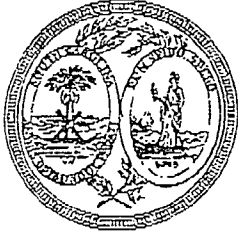
(Page 2 of 2)

I AGREE:

/s/ Charles Taylor

Charles Taylor, Appellant
Plaintiff of Original Case
Post Office Box 3552
Sumter, South Carolina 29151
(803) 833-4356

Date Signed: 6/10/2011



South Carolina Department of Insurance

Capitol Center
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

MARK SANFORD
Governor

SCOTT H. RICHARDSON
Director of Insurance

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6160

October 13, 2009

40-8205-804

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
STATE FARM FIRE AND CASUALTY CO
Vice President - Agency
7 Technology Circle, Suite 400
Columbia, SC 29203-0000

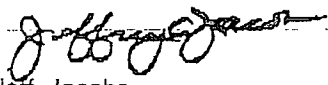
Dear Sir:

On October 13, 2009, I accepted service of the attached Summons and Complaint on your behalf. I am, hereby, forwarding that accepted process on to you pursuant to the provisions of S.C. Code Ann. § 38-5-70 (Supp. 2003). By forwarding accepted process on to you, I am meeting a ministerial duty imposed upon me by S.C. Code Ann. § 38-77-160 (Supp. 2003). I am not a party to this case. The State of South Carolina Department of Insurance is not a party to this case. The claimant, within this service letter, provided the following additional information regarding this first party claim: POLICY/CLAIM NUMBER 40-8205-804. It is important for you to realize that service was effected upon your insurer on my date of acceptance for service.

You must promptly acknowledge in writing your receipt of this accepted process. When replying, please refer to File Number 140247, Charles Taylor v. Budget Truck Rental, et al 2007-CP-40-08423.

By:

Sincerely Yours,


Jeff Jacobs
Chief Legal Counsel
(803)737-6200

Scott Richardson
Director
State of South Carolina
Department of Insurance

Attachment

CC: Charles Taylor
Post Office Box 3652
Sumter, SC 29151

RECEIVED
OCT 16 2009
JOSEPH S. SASSON, JR.
CLAIMS ATTORNEY

STATEMENT AFFIDAVIT

That my name is, Thomas Davis, and I am the defendant/respondent, in this case: Taylor v. Davis number 2007-CP-40-8423; and says as follows;

(1). This was an accident case from where I accidentally ran into Mr. Taylor and some other people name, The Browns back on September 7, 2007;

(2). Thereafter, the lawyers for these Insurance Companies, were continuously trying to get me to do something other than tell the truth. It was clear they were soliciting me to lie-commit perjury, about what happen in the accident, and I didn't want any parts of that, so I refuse to have anything to do with them to this day and I remember at some point the name Lybrand, because it was kind of an unusual name and that made me remember it when I heard it again, because he was the slow talking kind of slick Lawyer;

(3). When I found out the injured people was having trouble with them and the Lybrand lawyer, had committed fraud and other illegal conduct to win a case against Mr. Taylor, I was not surprise. I was hoping they get caught this time and go to jail, because I knew that they were up to no good all along, and in fact, my family had been the victim of some of these same people many years ago and they had gotten away with it, and my family member eventually died from her injuries. These were some of the same kind of tactics they used to avoid paying her, and I haven't had anything to put these kind of lawyers and insurance companies at every since;

(4). I understand one of the people, Mr. Taylor had put in an appeal to the high court because of the fraud of the Lybrand Lawyer, but withdrew it to continue with a suit in the Federal Court and that I may be named a defendant in that suit because they committed the fraud in the case in my name, in which they said they were representing me and speaking for me as my lawyer, which is a bald face lie, because I had made it clear over and over again, that they did not, and I forbid them from doing anything in my name and certain they knew better than to commit fraud in my name, and that case should be thrown out and they prosecuted and thrown in jail;

(5). I understand that some of the people was hurt real bad and one, Mr. Taylor is now total disabled for life and I am so very sorry for that, but can't do anything about it now;

(6). I made it clear to all of those lawyers, not to do anything in my name, and I believe I will have a good cause to sue them, if I get a law suit from Mr. Taylor or The Browns or from anybody else, because of some fraud they committed in my name; these crooked lawyers and insurance company people are not to be trusted because they are all liars, thieves, crooks, scoundrels and some of them probably capable of robbery and maybe even murder, if they must to win a case I believe, all just to avoid paying somebody if they are determined not to pay them, just as they did my family many years ago, so I want nothing to do with them.

THOMAS DAVIS

Thomas Davis

Signed before me this 1st day
of 2007
Notary Public for South Carolina
My commission expires: 10/01/6, 2017

TUOMEY HEALTHCARE SYSTEM
DAY SURGERY DISCHARGE INSTRUCTIONS

DAY SURGERY BUS. HRS.: MON - FRI 6:00AM - 8:00P

PHONE: (803) 774 - 9290

Patient Name: _____

Acct #: _____

1. DIET

- ☐ No hot food or liquids for _____ days or weeks.
☐ Force liquids.
☐ Restricted.
☐ Unrestricted (Routine as before surgery).
☐ Liquids and light foods (Jell-O, soup, etc.) as tolerated, then progress to normal.
****ABSOLUTELY NO ALCOHOLIC BEVERAGES FOR THE NEXT 24 HOURS****



TAYLOR, CHARLES E
Acct: 127308 Unit: 3384
BRINGS, HANS A
SDC Age: 51 DOS: 10/29/07
M B DOB: 10/08/55

2. ACTIVITY

- ☐ CHILDREN SHOULD HAVE RESPONSIBLE ADULT WITH THEM AT ALL TIMES.
☐ Go directly home from the hospital, stay inside, and limit your activities. Do not drive, shop, operate machinery for 24 hours.
☐ Do not sign any legal documents for the next 24 hours or while taking pain medication.
☐ Do not engage in sports, heavy lifting or work until your doctor gives you permission.
☐ Dizziness is common when taking pain medication. Do not drive, be careful walking and climbing stairs, and of throw rugs.
☐ May resume normal activities in _____ hrs., active range of motion to extremity to maintain tone and prevent clots.
☐ No sex, no tampons, **NOTHING IN VAGINA** until your doctor says it's o.k.
☐ You are on Bedrest with bathroom privileges only.
☐ Turn, cough and deep breathing exercises should be done 3-4 times a day for the next 48-72 hours.
☐ Proper use of alternative equipment (walker, crutches, post op shoe, sling, etc.).
☐ No heavy lifting or strenuous activity for _____ days/weeks.

3. WOUND CARE

- ☐ Sleep with head elevated
☐ Keep ears dry.
☐ Keep area dry and clean
☐ Do not be alarmed if the
☐ Change dressing as in
☐ Do not change dressin
☐ Wear bra for _____ days & night.
☐ Do not remove strips of tape on wound. Clean site daily.
☐ Remove dressing in _____ hours. Shower, wash with soap and water. Pat dry. Replace dressing.
☐ Keep affected limb elevated for _____ hrs.
☐ Keep ice pack in place.
☐ You will have vaginal bleeding, not more than a period.
☐ Urine may be bloody. Strain urine.
☐ Peri Care - Change pad at each bathroom visit, wipe front to back.

DAMAGES TRIAL
EXHIBIT C
page 7 of 25
re: plaintiff injuries & lifetime disability
from this accident!

is expected.

Surgery cancelled
Follow up w/
Dr. Williams as
scheduled on
Monday.

4. MEDICATIONS

- ☐ If you are given a prescription have it filled and take as prescribed.
☐ Your last dose of pain medication was given at _____
☐ Food/Drug Interaction sheet provided along with instructions.

5. SYMPTOMS TO REPORT TO PHYSICIAN

- ☐ Excessive bleeding.
☐ Excessive pain.
☐ Inability to void.
☐ Infected (red or angry) wound or discharge with foul odor or unusual color (yellow, greenish, etc.).
☐ Extremity becomes cold to touch, blue, or numb, calf pain. Excessive swelling of extremity.
☐ Excessive nausea or vomiting.
☐ Temperature above 101°F after first post-op night.
☐ You may experience minor surgical and anesthesia related discomforts such as nausea, hoarseness, sore throat, cough, muscle aches, headache, low grade temp or drowsiness. These symptoms should improve after 24-48 hours.
☐ Sudden change in vision.
☐ Report signs of reaction (chills/fever, itching/rash, difficulty breathing).

6. FOLLOW UP APPOINTMENTS

- ☐ Dr. _____ Date/Time _____
☐ Call Dr. office in am to make appt.
☐ Implant card given to patient.
☐ Home Med. Sheet given
☐ Dr. will call you this pm with further instruction.

SPECIAL INSTRUCTIONS: A copy of additional physician discharge instructions was provided to the patient.

☐ Yes ☒ NA

I have received a copy of the post operative instructions and understand them.

Relationship (if other than patient) _____

SIGNATURE OF PATIENT
SHOULD A PROBLEM ARISE NOT COVERED IN THE
EMERGENCY ROOM. (PLEASE TAKE THESE INSTRU
31080 Rev. 10/12/06

SIGNATURE OF RESPONSIBLE PARTY

DISCHARGE PERSONAL PHYSICIAN OR GO TO THE NEARES

PATIENT COPY

Page 1 (o

130100055-NC-TA-PP-XJ-CTPMISC-PC1-R0811-0-D-M 000100000

DAMAGES TRIAL
EXHIBIT C

re: plaintiff injuries & lifetime disability
from this accident!

.....

We are paying you beginning November 2008.

- ## Do You Think We Are Wrong?

If you disagree with this decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision, which you believe are wrong and will look at any new facts you have. We may also review those parts, which you believe are correct and may make them unfavorable or less favorable to you.

- ROA P.83

the vehicle involved in the accident. If none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with the excess or underinsured coverage. Benefits paid pursuant to this section are not subject to subrogation and assignment.

No action may be brought under the underinsured motorist provision unless copies of the pleadings in the action establishing liability are served in the manner provided by law upon the insurer writing the underinsured motorist provision. The insurer has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability and has thirty days after service of process on it in which to appear. The evidence of service upon the insurer may not be made a part of the record. In the event the automobile insurance insurer for the putative at-fault insured chooses to settle in part the claims against its insured by payment of its applicable liability limits on behalf of its insured, the underinsured motorist insurer may assume control of the defense of action for its own benefit. No underinsured motorist policy may contain a clause requiring the insurer's consent to settlement with the at-fault party.

HISTORY: 1989 Act No. 148, § 21, eff. July 1, 1989; 1994 Act No. 461, § 7, eff. June 29, 1994.

Claimants were not entitled to U Motorist (UIM) coverage at the time vested where on July 13, 1988, driver was struck and killed by a d own liability coverage was below amount of damages arising from t death and the amount of the UIM since at the time of this vesting \$ was not effective and the state was sion" coverage state wherein benefi provided to an insured under his when the claimant's UIM coverage than the at-fault driver's liability cov Farm Mut. Auto. Ins. Co. v Horry SC 165, 403 SE2d 318.

An insured motorist was not enti mation of an automobile insurance the vehicle in which the insured's d killed was not an underinsured motu defined by statute and policy s where the policy at issue was renew vember 14, 1987, § 56-9-810 (a pr § 38-77-30) had become effective Ju and this section defined underins vehicle pursuant to "reduction" cov er than "excess" coverage. Purvis v

MAY 20, 2008

To: Mr. Chip Russell
STATE FARM CLAIMS
PO Box 10003
Duluth, Ga. 30096

Also Fax To: 1-888-870-0317

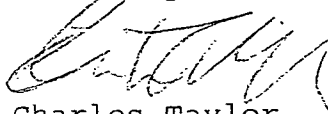
From: Charles Taylor
PO Box 3652
Sumter, SC. 29151

Re: Claim #40-8205-804
DOL. September 7, 2007
Insured: Charles Taylor
Injured Party: Insured

Dear Mr. Russell:

...Also, please don't forget to include the amounts in the policies and if you will, send a copy of each policy contract, so that i can read the provisions in each one as they apply to this accident.

Sincerely & Kindly Yours,



Charles Taylor
Claimant

McDONALD, McKENZIE, RUBIN, MILLER AND LYBRAND, L.L.P.

ATTORNEYS AT LAW

ROBERT A. McKENZIE
HYMAN S. RUBIN, JR.
BEN N. MILLER III
JAMES B. LYBRAND, JR.†
RONALD E. ALEXANDER
KEVIN T. BROWN
JOHN F. McKENZIE*
B. REYNOLDS ELLIOTT

POST OFFICE BOX 58
COLUMBIA, SOUTH CAROLINA 29202

2ND FLOOR, 1704 MAIN STREET
COLUMBIA, SOUTH CAROLINA 29201

www.mmrml.com

HEYWARD E. McDONALD
1925-2000

TELEPHONE (803) 252-0500
FAX (803) 929-3530

†CERTIFIED MEDIATOR AND ARBITRATOR
*ALSO ADMITTED IN TEXAS

June 6, 2012

Charles Taylor
P. O. Box 3652
Sumter, SC 29151

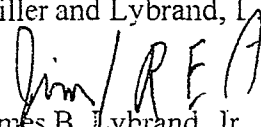
Re: Charles Taylor vs. Thomas Davis
Civil Action No 2007-CP-40-8423

Dear Mr. Taylor:

This will acknowledge receipt of your letter dated June 5 requesting that State Farm provide you with a copy of your policy with the company which was in effect at the time of the subject accident. I am writing State Farm and request that it provide a copy of the policy to me which I will in turn send to you as soon as it is received.

With Kind Regards,

McDonald, McKenzie, Rubin,
Miller and Lybrand, L.L.P.


James B. Lybrand, Jr.

JBLjr\pa

b. insured or bonded for bodily injury and property damage liability at the time of the accident, but:

(1) the limits of liability are less than required by the *Financial Responsibility Act*;

(2) the insuring company denies coverage or is, or becomes, insolvent; or

(3) a cause of action for the *bodily injury* or *property damage* is barred by the South Carolina Tort Claims Act; or

2. a "hit-and-run" *motor vehicle* whose owner or operator remains unknown, but only if:

a. the *bodily injury* or *property damage* was caused by physical contact with the unknown vehicle, or the accident was witnessed by someone other than the owner or operator of the insured vehicle. The witness must sign an affidavit attesting to the truth of the facts of the accident contained in the affidavit; and

b. the *insured* was not negligent in failing to determine the identity of the other vehicle and the driver of the other vehicle at the time of the accident.

An *uninsured motor vehicle* does not include any motor vehicle owned by:

1. the *insured* who sustains *bodily injury* or *property damage*;

2. a self-insurer in accordance with the applicable provisions of law; or

3. the State or any of its political subdivisions when the vehicle is operated by a *person* with proper authorization.

UNDERINSURED MOTOR VEHICLE - COVERAGE W

You have this coverage if "W" appears in the "Coverages" space on the declarations page.

We will pay damages for *bodily injury* or *property damage* an *insured*:

1. is legally entitled to collect from the owner or driver of an *underinsured motor vehicle*; or

2. would have been legally entitled to collect except for the existence of any damages cap or limitation imposed by statute.

The *bodily injury* or *property damage* must be caused by accident arising out of the operation or ownership of the *underinsured motor vehicle*. The *bodily injury* must be sustained by an *insured*.

THERE IS NO COVERAGE UNTIL THE LIMITS OF LIABILITY OF ALL APPLICABLE BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY INSURANCE POLICIES OR BONDS THAT APPLY TO THE *BODILY INJURY* OR *PROPERTY DAMAGE* HAVE BEEN USED UP BY PAYMENT OF JUDGMENTS OR SETTLEMENTS, OR PAYMENT HAS BEEN MADE UNDER SUCH POLICIES OR BONDS UP TO ANY DAMAGES CAP OR LIMITATION IMPOSED BY STATUTE.

Underinsured Motor Vehicle - means a *motor vehicle*, as to which there is bodily injury liability insurance or a bond applicable at the time of the accident in an amount of at least that specified in the *Financial Responsibility Act* and:

1. the amount of the insurance or bond is less than the amount of the *insured's* damages; or

2. the *insured's* damages exceed any damages cap or limitation imposed by statute.

An *underinsured motor vehicle* does not include any *motor vehicle* while located for use as premises.

June 8, 2013

Mr. James B. Lybrand, Jr.
Attorney at Law
PO Box 58
Columbia, S. C. 29202

Charles Taylor
PO Box 3652
Sumter, S. C. 29151

RE: Appellate Case No: 2012-212896
Appellant Taylor v. Respondents Davis & State Farm

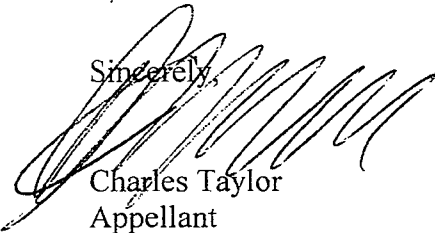
Dear Mr. Lybrand:

To again make it plain and clearer, we can settle this matter right now, *within Appellant's remaining policy limits.* You can then receive a full and final release, to avoid claiming in this appeal, that Appellant wanted--want the whole \$1,735,000.00 judgment plus interest, costs, etc. from his contract under insurer--your client-State Farm. That's only true if you refuse this offer as you have done on 5-10-15 other occasions of which this letter-offer is the latest to date to show the appeals court the truth of the matter; that I only wanted within policy limits as paid for.

You have to Friday 7-12-13 5pm to accept this offer, after which it will be withdrawn & the full \$1,735,000.00 judgment with interest, accruing @ the S.C. Lawful Rate, from date of judgment entry, will be sought in this appeals process from your client. And don't forget that it was your client who caused the subject judgment in the first place as the ROA will clearly show, which to will show SF hired you to defend Davis until you later switch to defending them after the appeal.

And while you are at it, you can tell them that I want a copy of the subject **policy contract**; re: specific terms as to the under insured coverage; and a printout of the countless years of under insured premiums that I paid for such coverage—thinking that I was fully covered & protected up to the policy limits in such an instant case and that such contract would in good faith be voluntarily and fully honored when and if needed; especially after a \$1,735,000.00 final judgment 6/27/11; as in the instant case—based on the subject under insured contract provisions that we agreed to, for the premiums paid.

Sincerely,


Charles Taylor
Appellant

CERTIFIED MAIL RETURN RECEIPT REQUESTED

exists between a UIM carrier's attorney and a named defendant. Crawford v. Henderson, 356 S.C. 389, 589 S.E.2d 204 (S.C. App. 2003)

Subsequent to the jury trial and the appeal filed by Taylor, State Farm was never a party to any discussions or settlement negotiations which occurred between Taylor and Davis. On the surface it appears odd (and certainly against the financial interest of Davis) to initially "accept" an offer of judgment for \$1,500,000 prior to the trial; for Davis to amend the terms and conditions of a Covenant Not to Execute which were favorable to him and for his financial protection; and then to settle a case on appeal in which he essentially had been found liable to Taylor for a mere \$615.

Should the Court grant any or all of the relief sought by Plaintiff, State Farm would assert that it should not and cannot be bound by any such settlement agreements or judgments entered into between Taylor and Davis directly either before or after the subject jury trial. Moreover, any order should contain a finding that bars Taylor from attempting to collect any "amended judgment" against State Farm or hold State Farm liable in any fashion since it simply afforded itself of its statutory right to appear and defend this action which it has done. Any agreement or settlement between Taylor and Davis cannot affect or be construed as obligating State Farm to pay Taylor any additional monies whatsoever. In Crawford our Court of Appeals noted the following:

"Significantly, our Supreme Court has held that the rights of the UIM carrier [State Farm] and the named defendant [Davis] are not synonymous, and, in fact, may be conflicting.

[A]lthough the UIM carrier "steps into the shoes" of the underinsured motorist, it has rights separate and distinct to those of the underinsured motorist."

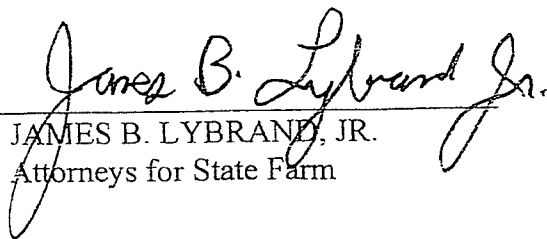
Crawford, id at p. 208 See also Broome v Watts, 319 S.C. 337, 461 S.E.2d 46 (1995)

State Farm concedes that its consent is not required to approve or validate any settlement agreement between Taylor and Davis; however, State Farm cannot be bound by any such agreements which purport to hold State Farm liable for an amount which vastly exceeds the jury verdict.

Respectfully submitted,

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P
POSTOFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY:


JAMES B. LYBRAND, JR.
Attorneys for State Farm

Columbia, South Carolina

May 2, 2012

ADDENDUM
PAGES 91-95

STATE OF SOUTH CAROLINA

In The Appeals Court

APPEAL FROM RICHLAND COUNTY

Common Pleas Court

Alison Renee. Lee, Judge of the Circuit Court

Case Number: 2007-CP-40-8423

Charles Taylor,

Appellant,

v.

Thomas Davis and The
State Farm Mutual Automobile Insurance Company, Respondents,

Designation of Matter of Thomas Davis-Respondent

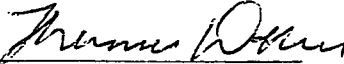
Respondent Thomas Davis proposes the following to be included in the Record on Appeal;

- (1). S.C. Law Section 38-77-160 Subject underline Part
- (2). Affidavit of Respondent Thomas Davis
- (3). Sample Injury Damages Suffered by Appellant
- (4). Sample Lifetime Disability Damages Suffered by Appellant
- (5). Respondent Thomas Davis 2 Resolution Letters to Respondent State Farm Prior to.

I certify that this designation contain no matter which is irrelevant to the appeal.

March 12, 2013

Thomas Davis, Respondent


P O Box 773
Manning, S. C. 29105

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

Charles Taylor,

Appellant

v.

Thomas Davis and State Farm Mutual
Automobile Insurance Company,

Respondents

RESPONDENT
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S
DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

1. Initial Covenant Not to Execute dated November 8, 2008
2. Amended/Supplemental Covenant Not to Execute dated November 12-13, 2008
3. Orders of Judge Lee relieving as counsel Attorneys Tyler and Brown
4. Order of Judgment of Judge Childs dated June 19, 2009
5. Letter serving Respondent State Farm via South Carolina Department of Insurance
6. Answer of Respondent State Farm
7. Respondent State Farm's Motion to set aside Judgment issued October 30, 2009
8. Order of Judge Alison Lee dated January 20, 2010 setting aside judgment
9. Order of Judge Alison Lee following May 2011 jury trial
10. Appellant and Respondent Davis' Settlement Agreement of June 12, 2011
11. Appellant's Letter to Court of Appeals advising of settlement

12. Court of Appeal Order remitting case to Richland County dated June 27, 2011
13. Appellant's Post-appeal Motions of August 15 and November 2, 2011
14. Respondent Davis' Letter of August 10, 2011 to Richland Clerk of Court
15. Order of Judge Alison Lee of July 17, 2012

I certify that this designation contains no matter which is irrelevant to this appeal.

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY: 
JAMES B. LYBRAND, JR.
S/C Bar #3453
Attorney for State Farm Mutual Automobile
Insurance Company

Columbia, South Carolina

March 15, 2013

The South Carolina Court of Appeals

Charles Taylor, Appellant,

v.

Thomas Davis and State Farm Mutual Automobile
Insurance Company, Respondents.

Appellate Case No. 2012-212896

ORDER

Appellant has filed three motions to strike, challenging (1) items in his own Initial Brief and Designation of Matter, (2) items 1 through 11 in Respondent State Farm's Designation of Matter, and (3) the "Background" section of the order from which this appeal is taken. We construe Appellant's Motion to Strike Items in Its Initial Brief and Designation of Matter as a motion to amend those documents, and we hereby grant the motion. Appellant shall serve and file his Amended Initial Brief and Amended Designation of Matter within twenty days. We deny Appellant's remaining motions to strike.

Respondent State Farm has filed motion to strike Appellant's Record on Appeal as violating Rule 210, SCACR, or, alternatively, to dismiss the appeal. We grant the motion to strike the Record on Appeal. We find the Record on Appeal attached as an exhibit to Respondent's motion violates Rule 210(c), SCACR, by omitting items designated by the parties and including other items not designated by the parties. Appellant shall serve an Amended Record on Appeal which is in compliance with Rule 210(c), SCACR, within thirty days after he files his Amended Initial Brief.


FOR THE COURT

Columbia, South Carolina

FILED

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2012-212896

Charles Taylor,.....Appellant,

v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company.....Respondents,

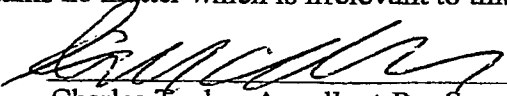
APPELLANT'S AMENDED DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

- 1.Order of June 27, 2011 / of S.C. Court of Appeals
- 2.Order of June 17, 2012 / of S.C. District Court
- 3.Notice of Appeal of 6/8/2011 / in S.C. Court of Appeals
- 4.Motion To Enter Judgment of 8/15/2011 / in S.C. District Court
- 5.Motion Hearing Brief of 4/19/2012 / in S.C. District Court
- 6.We Can't Be a Named Party Defendant Document
- 7.Hearing Transcript Excerpts From 5/7/12 hearing
- 8.Letter of Respondent Davis Former Attorney Accepting Prior Judgment
- 9.True Certified Correct Copies of Subject Covenant Agreement
- 10.Respondent State Farm 5-2-12 Memo Excerpt asking the Court for subject ruling-s.
- 11.Respondent State Farm 6-23-08 letter acknowledging coverage policies
- 12.Appellant letters begging for copy of contract policies to review subject provisions prior to
- 13.State Farm 6-6-12 reply/after ruling to prevent review of contract provisions before ruling
- 14.Appellant's Resolution Letter of 7-8-13

I certify that this designation contains no matter which is irrelevant to this appeal

July 15, 2013


Charles Taylor, Appellant-Pro Se
Post Office Box 3652
Sumter, South Carolina 29151 / 803-883-7005

RECEIVED
JUL 1 2013
SC Court of Appeals

Effectively appellant's
filed & served initial
designations of matter
see: preceding pg order
dated: 7-1-13 1st paragraph

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

Charles Taylor,

Appellant,

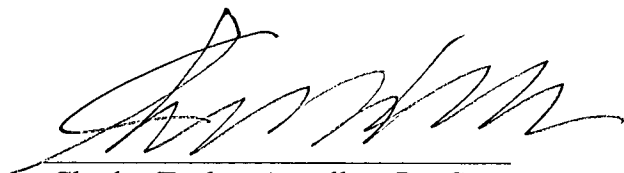
v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondents,

PROOF OF *SERVICE* OF 3rd Amended RECORD ON APPEAL

Appellant hereby certifies that a copy of the; 3rd Amended Record on Appeal; per this Court's 6/9/14 Order; was served upon Respondents Thomas Davis & Respondent State Farm Mutual Automobile Insurance Company to its counsel below by depositing same in the U.S. Mail, from Sumter, SC. on the date below, w/1st class duly affixed postage & a return address clearly thereon envelope, addressed as below:

Date: July 7, 2014



Charles Taylor, Appellant Pro Se
Post Office Box 3652
Sumter, SC 29151/(803) 883-7005

Mr. Thomas Davis, Respondent
PO Box 773
Manning, S.C. 29105

State Farm Mutual Automobile
Insurance Company/Respondent
Mr. James B. Lybrand, Jr., Esq.
PO Box 58 / Columbia, S.C. 29202

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellant Case No: 2012-212896

Charles Taylor,

Appellant,

v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondents,

CERTIFICATE OF APPELLANT

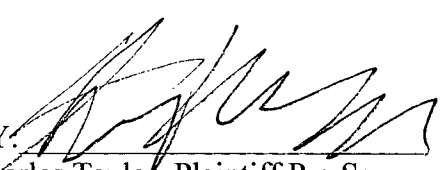
The undersigned hereby certifies that the; **3rd Amended Record on Appeal**; contains all
material designations proposed to be included by any party and not any other material.

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SC Court of Appeals

July 7, 2014

BY: 
Charles Taylor, Plaintiff Pro Se
Post Office Box 3652
Sumter, S.C. 29151 / 803-883-7005

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

RECEIVED

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SC Court of Appeals

Appellate Case No: 2012-212896

Charles Taylor,

Appellant,

v.

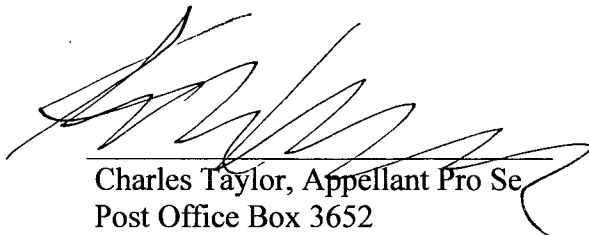
Thomas Davis and

State Farm Mutual Automobile Insurance Company, Respondents,

PROOF OF SERVICE OF 3rd Amended RECORD ON APPEAL

Appellant hereby certifies that copies the; 3rd Amended Record on Appeal; per this Court's 6/9/14 Order; were served upon Respondents Thomas Davis & Respondent State Farm Mutual Automobile Insurance Company to its counsel below by depositing same in the U.S. Mail, from Sumter, SC. on the date below, w/1st class duly affixed postage & a return address clearly thereon envelope, addressed as below:

Date: July 7, 2014



Charles Taylor, Appellant Pro Se
Post Office Box 3652
Sumter, SC 29151/(803) 883-7005

Mr. Thomas Davis, Respondent
PO Box 773
Manning, S.C. 29105

State Farm Mutual Automobile
Insurance Company/Respondent
Mr. James B. Lybrand, Jr., Esq.
PO Box 58 / Columbia, S.C. 29202