

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. Supreme Court

J.C. Nicholson, Jr., Circuit Court Judge

Opinion No. 5231 (S.C. Ct. App. filed May 21, 2014)

Centennial Casualty Co., Inc. Petitioner

v.

Western Surety Co., d/b/a CNA Surety Respondent

Western Surety Co., d/b/a CNA Surety Defendant/Third-Party Plaintiff

v.

Charleston Auto Auction, A3 Auto Center, LLC,
and Wylie Mickle Third-Party Defendants

REPLY IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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ARGUMENT

A core issue in this Petition is whether the Court of Appeals may create new law in contradiction of the Legislature's clear statutory language. The Dealer Bond Statute states that "an owner of a motor vehicle, or his legal representative" may make a claim on the bond at issue. S.C. Code § 56-15-320(B) (2009). This Court has ruled that:

When § 56-15-320 is read in its entirety, it is clear the legislature intended to provide only the owner of a motor vehicle, **or the owner's legal representative**, with a cause of action against the surety on a bond issued pursuant to that statute.

Mid-State Auto Auction v. Altman, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996) (emphasis added).

In contradiction of this bright-line rule, the Court of Appeals created an exception: only a legal representative who "stands in the shoes" of an owner may make a claim on the bond. No citation for this new law is provided, nor is a definition of "standing in the shoes" articulated. The Court of Appeals then concluded, in contradiction of the overwhelming evidence, that the Petitioner did not "stand in the shoes" of an appropriate person.


"When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning." *Anderson v. S. Carolina Election Comm'n*, 397 S.C. 551, 556-57, 725 S.E.2d 704, 707 (2012). Petitioner respectfully submits that the Court of Appeals has violated the canons of statutory construction, and requests that the Court grant the Petition to hear this action.

CONCLUSION

For the reasons stated, petitioner asks the Court to grant the petition for a writ of certiorari.

Respectfully submitted,

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PROOF OF SERVICE

I, Ian S. Ford, attorney for Petitioner Centennial Casualty Co., Inc. do hereby certify that I have on this 13th day of August, 2014, served all counsel of record with copies of Reply in Support of Petition for a Writ of Certiorari by Petitioner Centennial Casualty Co. and Proof of Service by mailing copies by United States Mail, first class postage pre-paid, to counsel at the following address:

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The Honorable Jenny Abbott Kitchings
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