STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY

COURT OF COMMON PLEAS

George C. James, Circuit Court Judge

RECEIVED
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SC Court of Appeals

Appellate Case No: 2015-002481

Charles Taylor,..... Appellant

v.

Stop "N" Save, Inc., d/b/a,
El Cheapo Plus #7 and Roy Rahal,..... Respondents

INITIAL BRIEF OF APPELLANT

CHARLES TAYLOR, APPELLANT
332 MYRTLE BEACH HIGHWAY
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FOR THE APPELLANT PRO SE

TABLE OF CONTENTS

ALSO-THIS CASE PRESENTS A NOVEL QUESTION OF LAW, SPECIFICALLY A FEDERAL LAW 49 U.S.C. 30106 (2005) i.e. THE "GRAVES AMENDMENT" FOR THIS COURT'S INTERPRETATION AS TO WHETHER OR NOT IT PROTECT AUTO RENTAL COMPANIES, THEIR AGENTS, & /OR AFFILIATES FROM VICARIOUS LIABILITY FOR NEGLIGENCE OR CRIMINAL WRONGDOING. THE APPELLANT ARGUES IT DOES NOT & THE DEFENDANTS ARGUES THAT IT DOES & THE LOWER COURT AGREED WITH DEFENDANTS SUMMARILY. **Details under sec. 3 para. 3-E. p.15.**

TABLE OF AUTHORITIES

CASES

STATUTES

RULES

OTHER AUTHORITIES

STATEMENT OF ISSUES ON APPEAL

Sec: 1 of 6: Did the court err to deny Appellant's summary motion on his vicarious liability gross negligence claim against Defendants? p. 4-8

Sec: 2 of 6: Did the court err to deny Appellant's summary motion on his vicarious liability IIED claim against Defendants? p. 9-14

Sec: 3 of 6: Did the court err to grant Defendants' summary motion? p. 14-28

Sec: 4 of 6: Did the court err to deny Appellant's R.11 & SC Sec. 15-36-10 sanctions motion? p. 28-34

Sec: 5 of 6: Did the court err to deny Appellant's rule 15(b-c) motions? p. 34-38

Sec: 6 of 6: Did the court err to hold in abeyance defendants' motion seeking to sanction Appellant for exercising his right to bring and litigate this instant case? p. 38-39

Section 3-E: NOVEL QUESTION OF LAW FOR COURT INTERPRETATION-*GRAVES AMENDMENT* p.15

FACTUAL STATEMENT OF THE CASE

1. That prior to 5-1-13 Appellant moved out of his house at 334 Myrtle Bch Hwy Sumter County, South Carolina 29153, and moved into the 1 room mini unit-332 Myrtle Bch Hwy Sumter County, South Carolina 29153, (R. p. 00); and;

2. That was done in order to rent the house to supplement Appellant's disability income (R. p. 00) to be able to afford a variety of health, and indeed, lifesaving medications, that disable Appellant, (**must have**), on a regular basis & in a timely manner etc., to prevent a host of health & life threatening, illnesses & complications etc., and to help pay other bills, including property mortgage, etc.; and;

3. That on or about, 5-1-12, a Reginald Morton and Dana Goins with Odell Morton, living for years on Plowden Mill Road in Sumter County S. C. prior to 5-1-12 (Aff'd: R. p. 000 para. #1) wanted to rent the house, but when Appellant asked them for valid I.D., Reginald Morton and Dana Goins said they had none at that time, and Appellant being suspicious, refused to rent his house to them; but;

4. That being disable himself, Appellant felt sorry for & could relate to disable almost 80 years old, prostate cancer surgery, knee replacements, heart pacemaker, **etc**. (**helpless**) Odell Morton (as examples: R. p. 000 & p. 000) & reluctantly rented the house to them–notwithstanding the fact he, Odell Morton too, said he had no facially valid driver's license (Aff'd: R. p. 000 *para. #5*), other than, (R. p. 00 3rd one), but all that notwithstanding, Appellant rented them the house anyway for the reasons stated; and;

5. That proved to be a big mistake, and eventually led to Appellant having to have them evicted by the Honorable Magistrate Judge Kristy F. Curtis, for Reginald Morton's drug dealing and, illegal gun running, from the house that Appellant rented to them, and for non-rent payment, (R. p. 00); (*by which time Reginald Morton & Dana Goins had obtain SC check cashing ID's (R. p. 00 1st & 2nd*) and;

6. **That on 6-1-13;** Defendant-*Palestinian/Jordanian/Syrian Roy Rahal*; the manager of Defendant Stop "N" Save, Inc., d/b/a, El Cheapo Plus #7-*owned by Palestinian/Iraqi/Syrian Zaher Mohammad*; all truck rental agents, via their store, of U-Haul trucks (R. p. 000-000); got together with, & rented a U-Haul truck to Reginald Morton intentionally with no driver's license, and knowing that he had none (R. p. 000 L. 3-5 & R. p. 000 L.13-15) & then oversaw him in the forge-signing of Odell Morton's name on the (3) U-Haul truck rental documents; (1).*the rental contract;* (2).*the u-haul equipment damage responsibility requirement;* & (3).*the R & D Tag;* (R. p. 000 & p. 000 & p. 000 signature sections) & in a drug deal (R. p. 00 para. middle & R. p. 000 para. #7); (**NOTE: copy Odell Morton signature on p. 000**) &;

7. That he--Reginald Morton-was just fresh out of jail–*a month or so*–on bail for having committed yet another crime (R. p. 000), then came---because he was seething mad and looking for revenge because Appellant had them evicted by Judge Curtis as stated in paragraph number 5 above; and;

8. That Reginald Morton came with his illegally rented U-Haul truck 6-1-13 to move, (high up on marijuana pot/drugs etc)(R. p. 00 para. middle & R. p. 000 para. #7) & intentionally tried to destroy Aplnt's house (R. p. 000-000 & p. 000) which damages ended Aplnt's $650mt rental income (aff'd: R. p. 000) &;

9. That as a result-Appellant could not get his--**must have**-medications et al. *para 2 p.1 above,* and (R. p. 00 *para. #28-29*) on a regular basis & in a timely manner; when/if at all; & these are just **some** of the variety of resulting damages but not limited thereto, **to-date**-Appellant suffered, suffers & will suffer until his death-(and Defendants were aware: R. p. 000-000 and *Affidavits* R. p. 000-000) and;

10. That the house foundation ultimately collapsed and must be bulldoze and hauled to the landfill (R. p. 000-000) from damages cause by Reginald Morton w/ U-Haul truck on (6-1-13 at which time) Reginald Morton committed the **INITIAL IIED** on Appellant, (Affidavits: R. p. 000 & p. 000 & p. 000) &;

11. That the foregoing is the gist of Appellant's jury trial requested 6/9/14 amended complaint for (1).**Gross Negligence** for-property-house-emotional-damages and, (2).**IIED** damages; **vicariously** brought against---Defendants Stop "N" Save, Inc., d/b/a, EL Cheapo Plus #7, and Roy Rahal, for their knowingly renting Reginald Morton a U-Haul truck w/ no driver's license etc. (R. p. 000-000); **AFTER--they refused--*from beginning to present*--demands for damages compensation by Appellant;** (*and that no one have seen the face yet of Zaher Mohammad the owner of the operation, and neither he nor Rahal (except for one 3 hour forced Rahal deposition outside of court) have ever appeared in court; while being sued for millions of dollars in this over 2yrs old case as of summary hearing date 10-14-15; the significance of which will become clear later on down in argument Sec. #5 of 6 p.34-35 below*); and;

12. The case ended on summary rulings to Defendants and denial of Appellant's summary motion because, among other things, Defendants/ Roy Rahal's--*formal judicial admissions signed by their*

counsels (**1st** one: R. p. 00) they were allowed to-*in effect*-change their *judicial admissions* at summary, to change the outcome for summary on (rulings-being appealed p.1-21 **Order:** R. p. 00-00); & that it was prejudicial & reversible court err, to allow such change-s, Apln't argues below, among other things, **because**, *formal judicial admissions*, once made (repeatedly) and signed each time by no less than Defendants' own counsels, settles the admitted issue(s) as fact(s) from there forward, **regardless.**

ARGUMENTS

Sec: 1 of 6: THE COURT ERR TO DENY APPELLANT'S SUMMARY MOTION ON HIS (VICARIOUS LIABILITY) GROSS NEGLIGENCE CLAIM AGAINST DEFENDANTS;

Review Standard--De Novo

(Helpful 1st *judicial admissions* to remember-Def's-*admit* renting truck to Reginald Morton (R. p. 00): (& Reginald Morton too-*admitted*-himself that he rented subject u-haul truck from Def's (R. p. 00):

Paragraph 1-A: Appellant sued Defendants vicariously under (1).gross negligence claim for $175,700+ for property (R. p. 000-000) & emotional-manifesting into physical (R. p. 000-000) damages--caused by Reginald Morton because Defen's ("Stop "N" Save, inc. d/b/a El Cheapo Plus #7 & Roy Rahal-hereafter Defendants and/ or Rahal") intentionally rented Reginald Morton a U-Haul truck, with **no** driver's license, (R. p. 000-000), with which he came and intentionally tried to destroy Appellant's rental house (R. p. 000-000); & Rahal knew he had no driver's license which Rahal *judicially admit* in sworn interrogatories (R. p. 000) & *judicially admit* **again** in sworn deposition (R. p. 000-000 & 000-000 & p.000) & Rahal *judicially admit* knowing Reginald Morton forged--signed Odell Morton's name on the U-Haul truck rental documents, (R. p. 000-000 & 000-000 & 000-000) (*& forgery a felony under SC law w/ up to 10 year prison sentence for the perpetrator-s & all those involved (sc. sec. 16-13-10) re sect. 3-G on p.18*); and that all of Rahal's (***Formal Judicial Admissions***) made them established fact from there forward, and as such, could not later be changed and/or contradicted at /in a motion for summary judgment

or at a trial; notwithstanding any other Defendants' argument(s); & *That in pertinent part*-In-*Barnes v. Michelotti, 237 Ill. App. 3d 923, 932, 604, N.E.2d 1144, 1151 (2d Dist. 1992) the court held that judicial admissions "withdraw a fact from issue" thus can't be contradicted; because*, that *would be subversive of all sound practice, and tend largely to defeat the ends of justice, if the court should refuse to accept a fact as settled, which is distinctly admitted. Likewise in the case of; Zegarowicz v. Ripatti, 77 A.D.3d 650, 911 NY S2d 69 (2d Dep't 2009)-NY Supr. Court held that*, "[F]acts *admitted by a party's pleadings* constitute-*Formal Judicial Admissions.* Thus-all Defendant Rahal's *formal judicial admissions*, as a matter of law, was settled; and on that basis--but certainly not limited thereto, it was Appellant who was entitled to summary judgment, and not Defendants, but for the prejudicial & reversible court err, Appellant argues; *and Judicial Admissions contained in pleadings may be used to support summary judgment-see-Underhill v. Jefferson County Appraisal District, 725 S.W. 2d 301 (Tex. App. Beaum't 1987)*; & *Formal Judicial Admissions "withdraws a fact from issue" and thus may not be contradicted by the party* or its witnesses-*Knauerbaze v. Nelson, 361 Ill. App. 3d 538, 557-58, 836 N.E.2d 640, 658 (1st Dist. 2005). As one Illinois Appeals Court has held, a "party may contradict a judicial admission neither with his own contrary testimony nor that of other witness." Caponi v. Larry's 66, 236 Ill. App.3d 660, 671, 601 N.E.2d 1347, 1355 (2d Dist. 1992).* **That the purpose of the rule is to remove the temptation from a party & their witnesses etc. to commit perjury-*re*-p. 21 and 32.**

Paragraph 1-B: That as to the 4 NEGLIGENCE elements to recover; (& GROSSNESS FOR PUNITIVE):

1st NEGLIGENCE element---that as to the 1st element--the court correctly acknowledged the Defendants' duty to Appellant (R. p. 00 L.16-17) satisfying 1st element; [more clearer tho-the duty owed Appellant by Defendants was-**A legal common law duty by operation of law;-*not* to-endanger (the public) Appellant &/or his property by renting vehicles to unlicensed persons** see: sc. sec. 56-1-580 & 56-1-500] Appellant argues; & Defendants arguing they had no such

Duty here, is to argue that; you can rent to unlicensed persons, all day long--*every day*--and they can then go and kill, maim, &/ or tear up--whatever--without fear of any liability to the renter, because they can then argue they had no duty to do otherwise, Appellant argues; & that Defens.' argument (Order p. 9 re #1: R. p. 00) seems untenable to-on public policy grounds, notwithstanding its illegality & criminality (sc-56-1-580; 56-1-440; 56-1-500; 56-1-20 & 56-1-620) Appellant argues; and that also-both the Defendant Roy Rahal, and Reginald Morton, had **same combined** legal duty owed to Appellant, *to not* do as stated above, Appellant argues; *(note: defendants being sued vicariously for **all** Reginald Morton conduct & resulting damages **because** they rented him the truck 1.wd/no license; 2.knew he had none; 3.did it intentionally; & 4.oversaw Reginald Morton forged-signed Odell Morton's name on the U-Haul truck rental documents to make it appear-**bed ridden-dying sick-Odell Morton** (Aff'd: R. p. 000 & see para. 4 on p.2 above) had been there &done it--all admitted by Rahal's own stated judicial admissions) &;*

2nd NEGLIGENCE element--that as to the 2nd element---finding by the court that the duty was not breached by Defendants (Order p. 10 re # 2: R. p. 00)--**but** in light of para. 1-A thru 1-B above; it seems quite obvious that the Defendants combine with Reginald Morton to breach said duty in violating sc. law: *56-1-580, which makes it--criminally--unlawful for a person to "authorize" or "knowingly permit" a vehicle "under his control" to be driven, by a person not authorized to do so in "violation" of the motor vehicle statue, & see---all other similar sc. sect. violated by Defendant Rahal & Reginald Morton* (see: top line 5) all "combining and/or concurred" to result in ***all*** Appellant's proven damages (R. p. 000-000 & p. 000-000); and thus the Defendants clearly indeed--did breached their duty as stated in paragraph 1-B 1st negligence element paragraph above et al. etc., Appellant argues; and remember that the Defendant Rahal have *judicially admitted* it all-**beginning** "Feb. 11, 2015" & signed by his own counsels--**beginning "Feb. 11, 2015"**---*see*---(R. p. 00 & p. 000-000), Appellant argues; and;

3rd NEGLIGENCE element--that re the 3rd element, that the Appellant suffered injury and damages–neither of which was disputed by Defendants at summary hearing, and thus both, *admitted*; & even if it wasn't, it was obvious and proven, (R. p. 000 and R. p. 000-000 and R. p. 000-000 & R. p. 000-000 & R. p. 000-000 & R. p. 000-000 & p.00), Appellant argues, &;

4th NEGLIGENCE element--that re the 4th element---the injury and damages was proximately caused by Defendants' breach of their duty beginning under sec.1-B 1st paragraph above; the proximate cause is obvious, because, without their said and subject breach, Reginald Morton couldn't have rented a truck from nobody to commit the said, shown, and proven injury and damages with; having no driver's license to rent with, the Appellant argues; and;

5th GROSSNESS--that as to the grossness *of the negligence, it to, is quite obvious because Defendant Rahal, again, judicially admitted, that he* intentionally *rented Reginald Morton* a *truck* knowing *he had no license* (as stated/shown); *violating sc criminal laws* (stated on p. 6), *and thus, as* a *matter of law, the* grossness *is assumed and/or is self-evident* (R. p. 000-000), *Appellant argues and/or*; whether one's actions is grossly negligent is for a jury to decide, unless the evidence, as above and throughout herein and in the ROA, supports only one reasonable inference, re: Clyburn v. Sumter County School District 17, 317 S.C. 50, 451 S.E.2d 885 (1994).

Paragraph 1-C: That as to Appellant's, *property damages total loss $175,700* +, sought under his gross negligence claim-these damages was proven (R. p.000-000 et al) &/or not denied by Defendants and thus was *admitted* and / or was a jury issue at a minimum, and based on the foregoing, to award Defendants' and deny Appellant's summary, both were reversible court err, Appellant argues; and;

Paragraph 1-D: That as to the Appellant's, *emotional--manifesting into physical damages*, sought under his gross negligence claim, these damages was not denied by Defendants and/or, was proven, &/or was supported by the evidence in the (R. p. 000-000 p.000-000) & as to the amount of medical bills (R. p. 000-000) & any amount for pain and suffering, (*a jury question*), at minimum, & based on the foregoing-to award Defendants' & deny Appellant's summary-both were court err, Appellant argues; and;

Paragraph 1-E: That as to Appellant's, *punitive damages*, sought under his gross negligence claim, the liability for these damages was admitted-see Rahal's *judicial admissions* (R. p. 000-000 et al.), after which-punitive damages amount was (*a jury question*) at minimum & based on the foregoing; to award Defendants' and deny Appellant's summary, both were court err, Appellant argues; and;

Paragraph 1-F: That all the documentations, arguments, exhibits, etc., that Appellant put forth, in support of summary on his gross negligence claim are listed on this hearing exh.'s list (R. p. 000);

Paragraph 1-G: **That in light of paragraphs 1-A thru 1-F above, taken in any parts or as a whole, & viewed in light most favorable to Defendants, it's clear it supports but one reasonable conclusion, which is, Appellant should've been awarded summary vicarious liability on his *gross negligence* cause of action, plus the *undisputed* actual property damages, ($175, 700.00 + : R. p. 000-000), and a jury trial to determine 1st) the amount of injury damages and 2nd) the amount of punitive damages & neither was done due to prejudicial & reversible court err, Appellant argues; and also;** *[That Summary Judgment is appropriate also when; "plain palpable, and indisputable facts exist on which reasonable minds cannot differ",--see--Byerly v. Connor, 307 S.C. 441, 445, S.E.2d 796, 799 (1992);*----------**(End Section 1 of 6; and; Begin Section 2 of 6);**

Sec: 2 of 6: THE COURT ERR TO DENY APPELLANT'S SUMMARY MOTION ON HIS (VICARIOUS LIABILITY) IIED CLAIM AGAINST DEFENDANTS:

Review Standard--De Novo

Paragraph 2-A: Appellant sued Defendants **vicariously** for IIED for $25,000,000.00+; for resulting damages (re: para. 2-A--2-M below: & R. p. 000-000) & (**iied** damages ongoing **to date:** R. p. 000-000); because Defendants intentionally, rented Reginald Morton a U-Haul truck, w/ no driver's license (R. p. 000-000) with which Reginald Morton came and intentionally destroyed Appellant's rental house (R. p. 000-000) & in the process committed the initial IIED on Appellant (R. p. 000 & p. 000) & Rahal knew Reginald Morton had no driver's license--which Rahal, *judicially admit*, in his sworn interrogatories (stated/shown before) & *judicially admit* again in sworn deposition (stated/shown before) & Rahal *judicially admit* knowing Reginald Morton forged--signed, Odell Morton's name, on the U-Haul truck rental documents (R. p. 000-000--*& forgery a felony-see-argument in para. 3-G below*) &; Rahal *judicially admit* he was aware of Appellant's suffering from Morton actions (R. p. 000 & p. 000) & so like under Appellant's gross negligence claim, Defendants are vicariously liable for all Appellant's damages suffered under the IIED claim as well--Appellant argues-----**if** the 4 IIED elements were proven at summary; and that they were, Appellant argues; and here is the testimony/proof-in the record;

Paragraph 2-B: That as to the 4 IIED elements to recover; (AND THE TRAUMA FOR THE PUNITIVE):

1st IIED element---Defendants vicariously, (i.e. Reginald Morton initially), intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain such distress would result from his conduct (R. p.000-000 *esp. para.*#7) the testimony/proof Appellant argues &;

2nd IIED element--The conduct was so extreme, and outrageous, so as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable, in a civilized community, which conduct would cause an average member of the community, to immediately react in outrage (R. p. 000 & p. 000 & p. 000 & **2-D** below) the testimony/proof Appellant argues &

3rd IIED element-The actions of defendants combined w/ that of (Reginald Morton's), caused plaintiff's emotional distress (R. p. 000-000 & p. 000-000) the testimony/proof Appellant argues &

4th IIED element—The distress suffered was severe such that no reasonable man or woman could be expected to endure it (R. p. 000-000 & p.000-000) the testimony/proof Appellant argues &

"5th TRAUMA": re: Tudor v. Charleston Area Med. Ctr., Inc., 506 S.E.2d 554, 573-76 (W. Va. 1977) when emotional distress is accompanied by physical trauma, punitive damages too, may be awarded on an IIED claim (R. p. 000-000 p 000-000 p.000 para.8-9) the proof Appellant argues &;

Paragraph 2-C: re in--Padget v. Colonial Wholesale Distributing Co., 232 S.C. 593, 103 S.E. (2d) 265 (1958), we affirm recovery of damages for shock, fright, and emotional upset despite the absence of any physical impact between the plaintiff and defendant. In that case, plaintiff alleged that his skin rash resulted from his emotional distress proximately caused, when the truck of defendant collided with plaintiff's house; and in relations to Appellant's (R. p. 000-000 and p. 000-000 and p. 000-000) and;

Paragraph 2-D: Further to describe the initial IIED conduct of Reginald Morton-which is: **(1).** *Morton's trying to destroying Appellant's rental house while he watched-in obvious helpless and severe distress;*

(2). *which house foundation eventually collapse from Morton's 6-1-13 conduct;* (3).*which rental income stopped & Appellant couldn't get the variety of medications as stated in paragraph #2 on p.1 above-& for the reasons stated in paragraph # 8,9,10 on p.3 above;* (4).*& when such conduct was done intentionally to a disable person;* (5).*all as stated & shown throughout---**that is extreme conduct; that is outrageous conduct; and that is conduct that exceeds all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community---even where it must be taken cumulatively. Appellant argues**—see--e.g., Boyle v. Weak. 392 N.E.2d 1053-56 (Mass. 1979)--A plaintiff may be able to show outrageous conduct by showing a series of facts that are insufficient when considered alone, but are deemed sufficient when considered cumulatively;*---and in the instant case add cumulative all Reginald Morton's conduct, combine with defendants' conduct; it satisfies IIED element-s as required (Affidavit R. p. 000; Affidavit R. p. 000; Affidavit R. p. 000 & et al stated) Appellant argues, &;

Paragraph 2-E: Effect of Relationship of Parties; *the extreme and outrageous character of the conduct of a person may arise from an abuse of a position or relationship to a plaintiff, which give such a person actual or apparent authority over a plaintiff or power to affect a plaintiff's interest;* as in the instant case per Defendants-defense (see: section #4 below: and R. p. 000-000 and R. p. 000-000), and, as to former tenant Reginald Morton, see (R. p. 000 especially paragraph #7); Appellant argues, and;

Paragraph 2-F: Susceptibility of Appellant; *the extreme and outrageous character of a person conduct may arise from that person knowing that a plaintiff is peculiarly susceptible to emotional distress by reason of some physical or mental conditions or peculiarity. The conduct may become extreme and outrageous in the face of such knowledge, where it would not be so--if that person did not know such;* as in the instant case per Defendants-defense (see: section #4 below: and R. p. 000-000), and as to former tenant Reginald Morton see (R. p. 000 especially paragraph #7) Appellant argues and;

Paragraph 2-G: Sometimes the very Nature of the Conduct in Question; *will suffice to demonstrate that the victim suffered severe emotional distress. If the conduct is particularly disturbing, the plaintiff may not have to offer much evidence to support their claim; the conduct itself is so reprehensible that the emotional distress is almost assured;* as in the instant case per Defendants-defense (see: section #4 below: and R. p. 000-000), and as to former tenant Reginald Morton see (R. p. 000 and p. 000 and p. 000 et al. stated), and;

Paragraph 2-H: Bodily Harm; *also acts as an indicator that severe emotional distress has occurred. Ulcers or headaches, for example, can show that the plaintiff has suffered severe emotional distress that has revealed itself through these physical symptoms;* re instant case (R. p. 000-000 & p. 000 para. 8-9) &;

Paragraph 2-I: Extreme & Outrageous Conduct; *is anything that would be considered intolerable in a civilized society;* (see: para. **2-D** above & R. p. 000 & p. 000 & p. 000 & p. 000-000 & section #4 below) &;

Paragraph 2-J: Although; *a physical injury is not an element of an IIED claim, a showing of physical/ emotional injury serves as evidence of severe emotional distress. M. H. v. Contas Family Servs., 448 N.W.2d 282, 290 (Minn. 1992)*; as in the instant case, (R. p. 000-000 & p. 000 paragraph 8-9), and;

Paragraph 2-k: Bald Assertions, etc; that this paragraph is to address specifically the Defendants (Order p.1-21 court ask them to prepare: R. p. 000-000) wherein they repeatedly used the phrase as to the Aplnt.'s most serious 2 claims of: (1).Gross Negligence & (2).IIED; as "*bald assertion-s etc.*"; (R.p.00 bot. L.3 & R.p.00 last para L.1 et al.) & "*no proof etc.*" (R.p.00 1st para L.11 & R.p.00 L.2 et al) and to refute such-Appellant simply asks this court to--see--this whole brief and corresponding (ROA) and;

Paragraph 2-L: re: Causation; Courts have held that **causation** can be found where emotional distress was either the intended or the "primary consequences" of defendants' conduct, or where there is a "high probability that the defendants' conduct would inflict severe emotional distress". The testimony of the claimant alone, if sufficiently specific, may be enough to meet the burden of proving an actual injury **caused** by defendants. ***See–e.g., Webner v. Titan Distribution, Inc., 267 F.3d 828, 836-37 (8th Cir. 2001) (holding that a reasonable jury could have found that plaintiff was entitled to compensatory damages even though the only evidence he presented was his own testimony--that immediately after he was terminated, he felt "empty" like he lost his best friend and that there was "a hole in his chest", despite the absence of medical, or expert evidence; a plaintiff own testimony may provide ample evidence when heard in combination with the other circumstances surrounding plaintiff's termination-Mathieu v Gopher News Company, 273 F.3d 769, 782-83 (8th Cir. 2001);*** (Testimony by former customer services manager that he lost his job of thirty-four years-was forced to reduce his standard of living & had become depressed was sufficient to support a jury's award of $165,000.00 for emotional distress, despite the fact that he did not offer expert testimony. The testimony of a medical expert, is not a prerequisite for recovery for emotional harm and a plaintiff's own testimony, along with the circumstances of a particular case, can suffice to sustain the plaintiff's burden). **See** also Price v. City of Charlotte, 93 F.3d 1241, 1254 (4th Cir. 1996), cert. denied, 520 U.S. 1116 (1997); *based on a comprehensive survey of circuit case law, the court concluded that, "a plaintiff's testimony, standing alone, can support an award of compensatory damages for emotional distress"); Williams v. Trader Publishing Co., 218 F.3d 481, 486 (5th Cir. 2000)-(upholding a jury award of $100,000.00 where plaintiff "testified specifically as to her emotional distress due to the [sex discrimination] discharge from her position [with defendant] resulting in sleep loss, beginning smoking and severe loss of weight"; "[s]uch evidence, although solely the testimony of the plaintiff, is sufficiently specific to support the jury's determination of compensatory damages"). But of Brady v. Fort Bend County, 145 F.3d 691, 720 (5th Cir. 1998);* ("when a plaintiff's testimony is particularized and extensive, such that it speaks to, the nature, extent, and duration, of the claimed emotional harm, in a manner, that portrays, a specific & discernable injury, then that testimony, alone may be-sufficient" and;

Paragraph 2-M: **That in light of paragraphs 2-A thru 2-L above, taken in any parts or as a whole, it is clear that it supports but one reasonable conclusion, which is that, Appellant should have been awarded summary vicarious *liability* on his IIED cause of action plus the *undisputed* actual damages (R. p. 000-000 and for R. p. 000-000 et al. stated) and/or a jury trial to determine 1st) the amount of actual damages & 2nd) the amount of punitive damages & neither were done due to prejudicial & reversible court err, Appellant argues, & that;** *[Summary Judgment* ***should be*** *granted also when, "plain palpable and indisputable facts exist on which reasonable minds cannot differ",-- see--Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 240, 672 s.e.2d 799, 802 (Ct. App. 2009)];*----------**(End Section 2 of 6; and; Begin Section 3 of 6);**

Sec: 3 of 6: THE COURT ERR TO GRANT DEFENDANTS' SUMMARY MOTION

Review Standard--De Novo

Paragraph 3-A: Because--see argument in sections #**1** (1-A..1-G) & **2** (2-A..2-M) all above; and;

Paragraph 3-B: Because Defendants' summary 10-14-15 memorandums weren't timely received to the court before or during the hearing, (trans. p. 54 L. 1-25; p. 55 L. 1-25; p. 56 L. 1-3; p. 57 L. 1-17; p. 38 L. 1-25; p. 39 L. 1-21; p. 142 L. 22-25; p. 143 L. 1-9: R. p. 000-000), & which memorandums the Appellant never received a copy of (within same p.'s trans: R. p. 000-000) & could not therefore address any issues therein before or during the 10-14-15 dispositive hearing & for more reasons in (Aff'd p. 1-2: R. p. 000-000); thus to rely on, consider & use said Defd. s' memorandums as the basis to grant summary to Defendants, was prejudicial & reversible court err, Appellant argues &;

Paragraph 3-C: Because Defendant's raise only 3 issues for summary in their motion (R.p.000-000), (1).the graves amendment re para. 3-D below; (2).the lack of IIED expert testimony re para. 2-L above;

(3).re agency as to Rahal re para. **5-A** below; and since no other Defendants' memorandum was timely received to the court as stated in paragraph **3-B** above, and therefore to award summary to Defendants and deny Appellant's summary in light of the foregoing, was prejudicial and reversible court err, Appellant argues; and;

Paragraph 3-D: Because the *"Graves Amendment"* wasn't asserted as a defense in Defs.'amended 7-14-14 answer (R. p. 000-000) as required by SCRCP 12(b) (*in pertinent relevant part that: every defense, in law or fact, to a cause of action in any pleading, shall be asserted in the responsive pleading thereto*) thus Defs.' were barred from asserting such defense much later on & to allow it & base summary on it to Defendants is prejudicial and reversible court err, Appellant argues; and;

Novel Question of Law re the Graves Amendment: 49 U.S.C. 30106(a)(2) (2005) Below:

Paragraph 3-E: Because-the court err in analyzing the graves amendment as the plain reading of it clearly shows that it, **does not**, bar claims for vicarious liability, based on negligence and criminal wrongdoing (graves sec. (a)(2): R. p. 00); therefore Defendants are liable for any and all (emotional injury, property, and IIED) damages, their negligence and criminal wrong doing caused 3rd parties i.e. Appellant's in instant case. Thus-the court interpreting the graves amendment as (*"the graves amendment clearly bars any claim for vicarious liability" R. p. 00 4th para. orL.15*) & (*"Plaintiff's claims against El Cheapo & Mr. Rahal are dismissed, because they are barred by federal law"*(Order p.8 L.3-4: R. p. 00-00) is prejudicial & reversible court err, Appellant argues &; Furthermore: Because in Defendants' 5-12-15 summary motion, they argued in para. 1 therein that, "Defendants cannot be vicariously liable (*pursuant to the Graves Amendment*) to Plaintiff based on mere ownership &/or rental of the U-Haul truck" (Def's sum mot: R. p. 00-00 para. 1); BUT Appellant's argument is that Defendants are so liable because Rahal rented the said truck

to Reginald Morton (1).w/no license, (a criminal offense in SC. 56-1-580/500), (2).knew he had no license, (3).did it w/intent, (4).oversaw Reginald Morton forged-signed (a criminal offense in SC. 16-13-10) Odell Morton's name on the U-Haul rental documents & (5).has *judicially admitted* it all, (R. p. 000-000 R. p. 000-000 R. p. 000-000 R. p. 000-000 R. p. 000-000), & thus the graves amendment **don't** protect him against his **admitted** *negligence & criminal wrongdoing.* & the subject rulings just stated above p.15, is prejudicial & reversible court err, Appellant argues; & Furthermore: Because, when one stops and think about it, ref: the, "Graves Amendment", why would the United States Congress or anyone else-have an interest in protecting ones negligence and criminal wrongdoing? Elementary thinking says-that-couldn't have been the intent of the Graves Amendment when it was contemplated & passed into federal law, Appellant argues; and; Defendants arguing from beginning to present that it was; is an obvious, specious, and frivolous argument within the meaning of SCRCP 11 and S.C. Section 15-36-10, Appellant argues; and; *Note: negligence & criminal wrongdoing is exactly what Defendants are charged with--i.e.—renting Reginald Morton a u-haul truck-in a drug deal-with no driver's license-violating sc criminal sec. 56-1-580 etc, knowing that he had no driver's license, doing it intentionally, and then oversaw Reginald Morton forged-signed--bed ridden--dying sick-Odell Morton's name on the u-haul truck 3 rental documents, to make it appear, as if though, Odell Morton had been there--and done it all; and Defendant Rahal have admitted it all as stated many times before; & thus the Defendants-defense's argument from the beginning to now--is that such is protected by the Graves Amendment-as was intended by Congress when it was contemplated and passed into federal law in 2005; & of course the Appellant argues to the contrary; and that's really the sum total of the whole difference in this case as to the summary judgment motions re law; and the lower court erroneously agreed w/ the Defendants on this dispositive case turning point issue of the Graves Amendment, the main issue*

to be resolve here on appeal; and the other main issue to be resolve here on appeal, being who Rahal rented the truck to--Reginald Morton or Odell Morton; and again the lower court erroneously agreed with Defendants on this case turning point issue of who (the court said--Odell Morton) Rahal rented the truck to--notwithstanding--Rahal's own repeated sworn testimony that he rented the truck to Reginald Morton (R. p. 00 & p.) & even Reginald Morton's own early admissions that he rented it (R. p. 00) before later changing to (Order p.8 bottom #1 of 3: R. p. 00) Apln't argues and

in a case raising a novel question of law, as herein with the-*US Graves Amendment*-the Appellate Court is free to decide the question with no particular deference to the Lower Court-*reference*; I'On, L.L.C. v. Town of Mount Pleasant, 338 S.C. 406, 411, 526 S.E.2d 716, 719 (2000); and;

Paragraph 3-F: Because the court err, as to SC valid driver's license law; in that it clearly state the particulars of when a person has a valid driver's license under SC law--**controlling law in this case**--(sc. sec. 56-1-20; 56-1-500) thus Odell Morton--a SC resident (Affd's: R. p. 000 para. 1) & it's not even claimed Odell Morton followed as required (SC DMV 90 DAYS LAW: R. p. 000) thus it's self-evident that Odell Morton did not have a valid driver's license, as a matter of SC law, thus, it was prejudicial and reversible court err, to rule he did, Appellant argues; **but** assume he did; his whereabouts on morning thetruck was rented 6-1-13---is still at home—bed ridden (Affd's: R. p. 000 para. 1 & R. p. 000 para. 6) & thus at a minimum this shows a jury factual issue, if it was possible-&-if Odell Morton was even capable/able (re para 4 p.2 above & R. p. 000-000) to rent & drive such moving truck on 6-1-13-even if he had a valid driver's license under SC law, which he did not as shown, Appellant argues; thus it was prejudicial and reversible court err, to award summary to Defendants, to the exclusion of this evidence, and, a jury trial, to decide the facts of the matter as to who in fact it was, Odell Morton or Reginald Morton, Rahal swore he rented said truck to on 6-1-13; **if** Rahal's **sworn** *judicial admissions* wasn't good enough for summary; a reasonable jury could have found it was Reginald Morton who rented it anyway;

and award vicarious liability to Appellant against Defendants for all Appellant's proven damages suffered, for their renting Reginald Morton a U-Haul truck w/ no driver's license--knowingly and intentionally, (R. p. 000) all Appellant argues; and;

Paragraph 3-G: Because the court err not finding forgery a felony under SC law 16-13-10-because if it had been properly found so, as defined under sc law sec. 16-13-10 then Defendants couldn't have been erroneously awarded summary judgment, at least not on Appellant's, gross negligence claim-due to their overseeing /participation / enabling /of Reginald Morton's forgery of Odell Morton's name on the 3 U-Haul truck rental documents which was--*judicially admitted*--by the Defendant Rahal in his sworn deposition (R. p.) & interrog. (R. p.) & if not summary to Apln't on that basis; a reasonable jury could've found Defendants grossly negligent; thus vicariously liable to Appellant on his gross negligence claim for all resulting damages caused by Reginald Morton--be it property damages, NIED, IIED & or other such proven damages, and therefore to award summary judgment to Defendants, such was prejudicial and reversible court err, Appellant argues; & furthermore, if such forgery had been correctly found to be a felony as it is under SC law, Appellant would--himself--have been entitled to summary judgment on liability, on at least his vicarious gross negligence claim, due to said *judicial admissions* by Rahal (that Reginald Morton forge-sign as shown), Appellant argues, and;

Paragraph 3-H: Because--to consider, rely on, & use Reginald Morton's deposition throughout its summary Order; for reasons in (**Aff'd:** R. p. 000-000) & (hear. transc. p.44-47: R.p. 000-000) the court err using such deposition, Apln't argues; **see** *NC Supr. Ct. has recognized the right to cross-examine is "absolute & not just a privilege" & its denial is "prejudicial & fatal err" see State v. Short, 322 NC. 783, 791 (1988) (quoting Citizens Bank & Trust v. Reid Motor Co., 216 N.C. 432, 434 (1939));* and;

Paragraph 3-I: Because--contrary to any other argument-s on the subject, Reginald Morton himself "acknowledge" that he rented the subject truck in this U-Haul truck rental document (which pertinent part states: *" I, Reginald Morton, ACKNOWLEDGE that I rented from the El Cheapo Plus #7 on 6/1/13 am, & contract no: 98200861... " see*-with 6-9-14 amended comp. p.13-1 (R. p. 00) & (*see*-Rahal's *judicial admission*-s beginning **2-11-14** & in with 6-9-14 amended comp. p.8: R. p.00) & sign by Rahal counsels; & (re-the false defense-***see***-Rahal depo. transc. p.142-143: R. p. 000-000) & **So the defense's foundational argument, in and for the subject order / judgment, that Reginald Morton, "didn't rent the truck", violates S.C. Rule 11 and 15-36-10, Appellant argues; and thus the court prejudicially & reversibly err, to award Defendants summary, Appellant argues; and;**

Paragraph 3-J: Because-Reginald Morton also reported his damage claim to U-Haul truck insurer Repwest (R. p. 000 & p. 000-000) **vs.** what Morton change to in (Order p. 8: R. p. 00 bottom 1-3 on ***that*** page) **&**(for more specific re Reginald Morton-see-para. **3-L-a** below on botm. p.23--p.25) &;

Paragraph 3-k: Because it is incorrect that, "*Throughout the various iterations of the Complaint, Plaintiff alleges that, on June 1, 2013, Mr. Rahal, the manager of El Cheapo, rented a U-Haul truck to---Reginald Morton **and Odell Morton***"; as stated in the (Order p.2 / 3rd para. L. 1-3. R. p. 00-00); Appellant never stated in his Complaint, or otherwise anywhere in the record, that Rahal rented a truck to ***Odell Morton***; that's claimed as the Defense's defense; and Appellant's suit is based on Rahal, *by his own judicial admissions*, rented the truck to Reginald Morton, etc., as stated; (**see:** R. p. 00 R. p. R. p. R. p. R. p. R. p.); & it was *judicially admitted* to--by counsel at hearing--***transc.*** p. 48 **L.** 3-14 & p. 101 **L.** 1-25: R. p. 000-000) & as to Reginald Morton's Deposition ***see*** (R. p. 000-000 & p. 000 L. 17-22), Appellant argues, and;

Paragraph 3-L: Because--the court err too, as to other fundamental, genuine, and material issues, pertaining to Odell Morton, Reginald Morton, and Defendant Roy Rahal, as follows;

1st As to Odell Morton; as stated, he have not spoken "a word" in this case since it begin; and he could have confirm by now in an affidavit at any time before now that (yes-I did rent that U-Haul truck on 6-1-13 & here's a **copy** of my facially valid Maryland drv.'s license except (R. p. 00 3rd 1) & that no—I was not a SC. resident while at Appellant's house and (before there) on Plowden Mill Road in Sumter County SC. for years from 6-1-13 going back (Aff'd: R. p. 000 para. 1); and that I had a valid driver's license before and on 6-1-13 under SC law, (section: 56-1-20), and that yes--I am that Odell Morton listed in that Maryland DMV document (R. p. 000) and yes--the address in that document is where I was living on 6-1-13 (R. p. 000 upper left address) & no—I was not at 334 Myrtle Bch Hwy in Sumter dying sick in bed on the morning of 6-1-13 (Aff'd: R. p. 000 para. 1); & (Aff'd: R. p. 000 para. 6) & no—R. Morton didn't forge-sign my name on the rental documents because I signed those documents myself 6-1-13 (Aff'd: R. p. 000 para. **1** & Aff'd: R. p. 000 para. **6**); **but again**, he (Odell Morton) haven't spoken a word in this case (*re the record*). One can only guess as to why, *(besides not wanting to **perjure** himself-sc. sec. 16-9-10/ 20* & re his refusing to sit for deposition-*see* hear. trans. R. p. 000 L.21-25) given what's at stake in this case-all surrounding what he-Odell Morton, did or didn't do back on 6-1-13. The defense in this case-*have traveled all over*-spending money (hearing transcript p.140 L. 6-7: R. p. 000) for the Defense i.e. U-Haul (**see section #5**) but could not get 1 aff'd or 1 copy of the "so call facial valid Maryland drv.'s license" except (R. p. 00 3rd 1) from their only-***alibi***-Odell Morton—why is that? So could a reasonable jury not; *as just 1 example*; interpret that to mean that--he (Odell Morton)--did not do what the defense said he did--and therefore, the Defendants rented the U-Haul truck to Reginald Morton as sworn to by Defendant Rahal himself

(R. p. 00 & p. 000-000 & p. 000-000) & *judicially admitted* by the others too (R. p. 00 & p.000) and thus Defd's were gross negligent & thus are vicariously liable for **all** Appellant's resulting-proven damages; from the U-Haul truck being rented to Reginald Morton, and knowingly, with no driver's license; (R. p. 000-000 & p. 00); could a reasonable jury not have found that as above? Yes-Appellant believe, but for prejudicial and reversible court err, on summary to the Defendants, Appellant argues; and;

2nd As to Defendant Roy Rahal; as stated & shown throughout, he repeatedly *judicially admitted* he rented the U-Haul truck to Reginald Morton on 6-1-13, (R. p. _____); & as the Defendant in this case being sued for millions of dollars in total damages, Rahal ought to know who he rented the truck to. Why would he swear under the penalty of perjury (sc. sec. 16-9-10) that he rented the U-Haul truck to Reginald Morton if he did not? **Just Look at the Defendant Roy Rahal's own defense disputing him:** (Order p.3 **L.1-2** re who Rahal rented truck: R. p. 000) perjuring (their own defendant **Rahal** sworn testimony re who he rented the truck: R. p.) or perjuring their own witness (sc 16-9-10/20) Morton (R. p. 000 **L.14-15**) in (Order p.8 at bottom #1: R. p. 000) who is a fugitive--Reginald Morton (R. p. 000) hiding out in Balt. Md. except from Def.'s (Morton depo.) after jumping bail from SC (R. p. 000) on 6-1-13 with same U-Haul truck he forged Odell Morton's name on the rental documents to get (R. p. 000-000 & p. 000-000) & being the same Reginald Morton, (*who once bragged out of his own mouth when he lived next door that he never does anything without "getting paid-nothing" as he emphasized the nothing*), which Reginald Morton that will do and say anything for money, to dodge the S.C. bounty hunter et al with; which bounty hunters every now and then, comes by here looking for him or where he lives, but Appellant can't give them a correct address because every address given in this case by the defense for Morton turned out to be a false one which Rahal says he had nothing to do with that one (R. p. 000-000 & p. 000). But in any case,

if there were any dispute re *Rahal judicial admissions* (which admissions already ref many times before), the facts of the matter, was for a jury to decide, and again, Defendants' summary motion, should have been denied accordingly, Appellant argues; and that, furthermore, the Appellant's summary motion, on at least his vicarious liability, on his gross negligence claim, should have been granted, *as a matter of law*--**because**--*Rahal judicially admitted* renting the U-Haul to Reginald Morton and knew he had no driver's license etc. (R. p.) Appellant argues; but that if there was any dispute, again, it was for a jury to decide the facts of the matter--which necessitated denying Defendant's summary motion, and it was prejudicial and reversible court err, not to do so, Appellant argues; and;

3rd As to Reginald Morton; the reason(s) why Appellant vicariously sued the herein Defendants, is because at 1st he tried suing Reginald Morton too, but he got wind of it somehow and alerted to dodge (*like he was already dodging the SC bounty hunters—R. p. 000*), all attempts at serving him up there in Baltimore; & therefore, Appellant had no other choice but to hold these Defendants liable vicariously (extending to u-haul by defendants' "agency"-see-sec 5 below) for his damages, all resulting from Defendants' said, *judicial admissions*, that they rented Reginald Morton a U-Haul truck with no driver's license & knew that (R. p.); & thus to deny Appellant any possible theory (even under equitable one) of recovery (Order p. 1-21: R. p. 00), against anyone for all the damages he suffered (property, emotional, IIED, and/or otherwise) (R. p.), all from their actions; and to look subjectively instead of objectively at the whole (record) to find that there's not at least 1 genuine and material issue of fact for a jury trial anywhere-in the whole 2 years old case-record, was prejudicial and reversible court err, all the Appellant argues; because among other things, a reasonable jury (*by way of example-s not limitations*) could've found Materially,

Genuinely, and Factually, that;

1. Rahal's *judicial admissions* is the truth (see; **section** 1 paragraph 1-A above);

2. Odell Morton was at Appellant's rental house sick in bed when the truck was rented (R. p.);

3. Reginald Morton forge-sign Odell Morton's name on truck rental documents to get it (R. p.);

4. Reginald Morton admitted that he rented the u-haul truck (see: paragraph **3-I** above: & R. p.);

5. Even if Odell Morton had a valid driver's license, did he or Reginald Morton rent the truck, still was a genuine and material factual jury question—which a reasonably jury could have reasonably decided that Reginald Morton was the one who rented the truck as stated by Defendant Rahal (R. p.);

and otherwise shown / proven by Appellant (R. p. all throughout);

6. Appellant proved all the elements of his gross negligence claim (see: **section** 1 paragraph 1-B above);

7. Appellant proved all the elements of his IIED claim (see **section** 2 paragraphs 2-A thru 2-M); and that

8. Appellant proved all other genuine and material factual issues of his case-claims (This Brief and ROA);

9. Appellant should be awarded all the damages he sought under each of his 2 claims (R. p.);

10. Appellant should be awarded punitive damages on each of his claims, then decided what amounts and;

That, therefore, the Defendants' summary motion should have been denied, the Appellant argues; & that the court instead erroneously usurped the jury function as above & fact find for itself contrary to the immediate **1 through 10 etc.** above (Order p. 1-21: R. p. 00-00) and because the Appellant had a right to a jury trial & requested it (6-9-14 amended complaint: R. p. 00 top right) therefore the lower court prejudicially and reversibly err, Appellant argues; (*most respectfully so re each argument*); and;

Further on to get an *idea* who Reginald Morton really is-to focus appeal issue(s);

para. 3-L-a. This is the man who fled to SC from a murder situation in the first place-that happen on the DC. side of the Maryland line in which he was suspected in the shooting; mumbling out of his own mouth; later, he kept say that---"*they say I had something to do with that boy being killed*

but I had nothing to do with it"; (unbeknownst to Appellant at the time he rented house to them);

Para. 3-L-b. This is the man who was in a similar situation up there before that incident, where he himself was shot in the side & got some of his street friends to help him lie to convince the federal government to give him a monthly check, which presumably he still get, claiming he was injured otherwise—words out of his own mouth; and;

Para. 3-L-c. This is the same man who, when he lived here in my rental house, the Federal ATF Agents came and surrounded the house & hauled out there some drugs and all sorts of guns etc., and hauled him--Reginald Morton--out in handcuffs for trafficking, said one of the agents, and;

Para. 3-L-d. This is the same man that about a month or so before the incident of this suit 6-1-13, that Judge Kristy F. Curtis let him out of jail, on bail, for committing another crime, (R. p. 000); and who later evicted them out of Appellant's rental house (R. p. 000), and;

Para. 3-L-e. This is the same man that jump that bail 6-1-13 to Baltmo. w/U-Haul (R. p. 000) and;

Para. 3-L-f. This is the same man that still hides out there from the Sumter Sheriff Office and bail bondsman Jim Green's Bounty Hunters where nobody can seem to find him but the defendants in this case & notice they're careful not to put Morton's address in depo. notice as required (R.p.000) and a decoy Morton address in this letter (R. p. 000) as evident by the return mail (R. p. 000) and; This' how it was throughout to keep Appellant from any discov. questions to Reginald Morton etc. & in re the false addresses ***see*** the false defenses & false statements made & sign in sec. 4 below &;

Para. 3-L-g. This is the same man for whom every address given in this case by the defense was

False, for which Defendant Rahal says he had nothing to do with that one, (R. p. & p. & p. & p. & note no Morton address in his own deposition *in* file); and;

Para. 3-L-h. This is the same man that did not want to be question in his deposition by Appellant & Defs.' made sure it didn't happen w/all the false addresses et al. etc. (Aff'd: R. p. 000-000) and;

Para. 3-L-i. This is the same man that, even, the Defendant Rahal say he do not want Reginald to testify for his (Rahal deposition p. 140 L. 21-25 & p. 141 L. **1:** R. p. 000-000) and;

Para. 3-L-j. This is the same man from all information-have lived a life of nothing but crime from one penitentiary to another; all unbeknownst to Appellant when they got here--making the mistake of renting to them and this situation is what Appellant got for trying to be nice and helpful but in no way on earth could have imagine Defendants would rent him a U-Haul truck with no license which he tore up Appellant's rental house with and then jump bail to Md. with whom Defendants defense now team up w/ to avoid paying for all the damages they caused Appellant; then they go on to use--abuse the court system to shield them-w/no defense but a frivolous one (**see sec. 4**) and;

Para. 3-L-k. Finally-this' the same Reginald Morton (R. p. 000 & p. 000) that's quoted repeatedly throughout the (Order p. 1-21: R. p. 00) as a basis for summary judgment to Defendants Rahal & never seen nor heard from El Cheapo's Zaher Mohammad; w/ Reginald Morton's unchallenged word seemingly takes as the gospel truth solid enough to base summary judgment on, & disable Appellant's claims, repeatedly referred to in same as, "bald assertions, etc. with **no** evidence etc", in spite of the evidentiary file *into* this (brief & ROA) & Appellant didn't know what to make of it all--except this appeal; (& again Reginald Morton rented truck-*Rahal depo. p.44 R. p. 000*) &;

Paragraph 3-M: Because-(*except #2 below*)-Defendants submitted no *admissible, competent, sufficient, &/or undisputed* evidence-SCRCP 56 & SCRE 901-to sufficiently support their being granted summary, & denying Appellant's summary; what all defendants had re the 10-14-15 hearing for all purposes was:

(1). defendants' summary memorandums—see—-paragraph 3-B above

(2). *defendant Roy Rahal deposition—see---Rahal deposition in/on file-the only admissible item of these 6*

(3). the 3 u-haul truck rental documents—-see-------paragraph 3-G above

(4). Defs.' witness Reginald Morton deposi.--see---paragraph 3-H above

(5). Defendants' the Winkelman affidavit—see—-paragraph 5F-5I below

(6). defendants' Maryland DMV document—see—paragraph 3-N below &

(7). Defs.' other 2 forge-sign by someone u-haul rental documents introduce in the record (R. p. 000-000) submitted against Appellant's summary motion & supporting Defendants' summary judgment motion; & except for #2 above, none of the other 6 was *admissible, competent, sufficient, and/or undisputed* evidence under SCRCP 56 and SCRE 901; and to deny Aplnt's summary and award Defs.' summary judgment motion, based on such, is prejudicial and reversible court err, the Appellant argues; and;

Paragraph 3-N: Because-the copy of supposedly Odell Morton's Maryland Driving Record (R. p. 000) (a).it's not authentic-*SCRCE 901*-as claimed, because no matching facially valid Md. driver's license-itself have ever been produced in this case to date---other than the Washington, D.C. facial Odell Morton's driver's license (R. p. 00 3rd 1); & (b).the **address** in that driving record is not for same Odell Morton at issue here, because the Odell Morton at issue here was a resident of S.C. for years, including at least 1yr in Appellant's rental house prior to 6-1-13 (Aff'd: R. p. 000 para 1); & (c).in any case--that driving record (R. p. 000) **is not** *"a facial valid driver's license itself";* & therefore-**it**-cannot prove anything as to (d).Odell Morton whereabouts on morning of 6-1-13 (Affd's: R. p. 000 para. 1 & p.000 para. 6); (e).Odell Morton's health condition (Affd's: R. p. 000 para 1 & p. 000 para. 6); (f).Odell Morton SC residency on

6-1-13 (Aff'd: R. p. 000 para. 1); & (g).the forging of Odell Morton's name on 6-1-13 (R. p. 000-000) &; (h).cannot prove how it was obtained, (the driving record: R. p. 000), or who obtained it, and when, and/or whether **it- itself** is a forgery or fake, **esp**., because forgery of Odell Morton's name, on the U-Haul truck rental documents (**5:** R. p. 000-000) was at issue in this case and that item--(the subject *driving record*) cannot prove anything relevant in this case, but, only that it is the driving (**record**) of an Odell Morton of many in the Maryland-Wash. DC. area; & as to who tore up Appellant's house (see: Rahal depo. p. 158 L. 22-25 & p. 159 L. 1-3 & 7-10: R.p.000-000), & thus Rahal makes clear by his knowledge in this case that it wasn't Odell Morton; confirming instead that it was license-less Reginald Morton he rented to (Rahal depo. p. 35 L.3-5 & 26 L.13-15: R. p. 000) & so then, taken all together as a whole or individually and/or otherwise, Odell Morton had no valid driver's license on 6-1-13 under S.C. law--see--sect. 56-1-20; 56-1-500; 56-1-440; 56-1-580; 56-1-620; & (sc 90 day law: R. p. 000) which (laws controls in this case); therefore the lower court prejudicially & reversibly err to rule otherwise, all Appellant argues; & because of the foregoing unclarity re the Maryland's DMV document's authenticity, it could not be, "undisputed-competent-admissible," evidence under SCRCP 56 &/or SCRE 901--to award Defendants' summary; thus it was prejudicial & reversible court err to do so, Appellant further argues, &;

Paragraph 3-O: Because-Odell Morton couldn't have rented the U-Haul truck for these conclusive & specific reasons (McBride Aff'd re Odell Morton whereabouts 6-1-13 morning: R. p. 000 para. 1) and (hearing transcript p. 23 L.13-18 re awareness of the McBride affidavit: R. p. 000); & that therefore, among many other reasons, stated throughout, including Odell Morton was home (*in bed dying sick*), re the McBride Affidavit; **(all were factual jury questions-among others);** negating summary to the Defendants, notwithstanding all else, and thus, this is prima facie proof of prejudicial & reversible court err, the Appellant argues, & (As paramount supporting evidence--***see***--Reginald Morton's name as **customer** on **all** the U-haul truck rental documents: (R. p. _____) &;

Paragraph 3-P: Because-Defendants have repeatedly & constantly tried to make this a negligent entrustment case (Hearing trans. p.6 L.17-20: R. p. 000) & re (Order p.11 sec. 3: R. p. 00) & the order used such as a basis in its findings & rulings, but Appellant made it clear all along & in his amended complaint & at the hearing, that he brought no such cause of action (see: amend comp.: R. p. 00 at top), & basing the ruling on such non cause of action is prejudicial & reversible court err, Apln't argues &;

Paragraph 3 Q: That in light of paragraphs 3-A thru 3-P above, taken in any parts or as a whole, it is clear that it supports but one reasonable conclusion, which is that, Defendants should not have been awarded summary judgment on neither Appellant's gross negligence or IIED claim. That the whole record supported only Appellant being entitled to summary judgment and/or at a minimum, a jury trial on his gross negligence and infliction of emotional distress claims-Appellant argues, and;

*[That Summary Judgment is appropriate **only** if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. E.g., Koester v. Carolina Rental Center, Inc., 313 S.C. 490, 443 S.E.2d 392 (1994);* ***and*** *Summary Judgment should not be granted if there is dispute as to the conclusion to be drawn from the evidentiary facts, even where there is no dispute as to the facts. Tupper, 326, S.C. 318, 487 S.E.2d 187;* ***and*** *Since Summary Judgment is a drastic measure it therefore should be **cautiously** invoked, so that a litigant will not be improperly deprived of trial by jury, where requested, on any disputed factual issues. Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 112, 410 S.E.2d 537 (1991);*.....**(End Section 3 of 6; and; Begin Section 4 of 6);**

Sec: 4 of 6: THE COURT ERR TO DENY APPELLANT RULE 11 & SC SECTION 15-36-10 SANCTIONS MOTION

Review Standard—Independent

Paragraph 4-A: Because the false defense (*see*: Rahal depo transcript p.142-143: R. p. 000-000) **and;**

the 12 false statements that was made and signed (R. p. 000-000) was based on Def.'d Rahal's own *judicial admissions* in sworn interrogatories (R. p. 00 & 000-000) and sworn deposition testimony (R. p. 000-000 & 000-000) under oath, which entitled Appellant to summary as stated in sect. #1 & #2 above; & denial of Defd.'s summary as stated in section 3 above; and thus to deny Appellant's rule 11 & SC. sect. 15-36-10 sanction motion, against the Defendants-defense, in this case, pursuant to their very own, ***judicial admissions***, was prejudicial & reversible court err, Appellant argues; and;

Paragraph 4-B: Because-the said Rahal admitted false defense & false statements made & signed, & curiously not even mention what they actually did for sanctions in the (Order p.15-17: R. p. 00-00) before subjectively denying the motion, is prejudicial and reversible court err, Appellant argues; and;

Paragraph 4-C: Because-but for the false defense & false statements made & sign by the Defendants defense (R.p. same false ones in 4-A above) Defendants couldn't have prevail to the extent they did, if at all, on all 5 motions re sections 1-6 herein-on this appeal, and did so only because the lower court prejudicially and reversibly err, in denying Appellant's sanctions motion, Appellant argues, and;

Paragraph 4-D: Because-such violations of said rules and law, ought not be-*look the other way at* for any reason & such violations as false defenses & making & signing false statements should warrant the toughest & gravest of sanctions regardless to who's involved, lest such misconduct, if strategically placed in any litigation, could well throw the outcome to the perpetrator's favor, (*as in the instant case*), and thus it will contaminate the legal process, continue and spread, until it's almost everywhere, Appellant argues; see (*Runyon v. Wright 322 S.C. 15, 19, 471 S.E.2d 160, 162 (1996)* and (*FCPSA*); and;

Paragraph 4-E: Because--in S. C., sanction have been imposed, for far less culpable conduct, than false defenses (R. p. 000-000) & making & signing false statements, let alone 12 of them (R. p. 000-000) to support a wholly unsupportable defense on its own. In *Ex Parte Gregory,* 378 S.C. 430, 663 S.E. 2d 46 (2008), the Supreme Court upheld sanctions under the prior version of the FCPSA because the attorney had failed to conduct a proper investigation before filing a conversion action against another attorney. In *Rutland v. Holler, et al,* 371 S.C. 91, 637 S.E.2d 316 (Ct. App. 2006), sanctions were upheld, when the court found, based upon the procedural history, of serial dismissals, "it is inconceivable, that Rutland reasonably believed that his claims against Respondents were valid." *Id.* At 98, 320. In *Russell v. Wachovia Bank,* 370 S.C. 5, 17, 633 S.E.2d 722, 728 (2006), sanctions were upheld from the point after which the litigant had access to affidavits and other evidence which should have led her to realize that the facts did not support her claims and when she had facts which demonstrated her claims to be without merit, she could no longer assert that she acted in, "good faith", in continuing to pursue them. See, also in; *In Re Young,* 366 S. C. 180, 621 S. E. 2d 359 (2007) [attorney disciplined for bringing action without research, with no factual basis, and for which he could not explain the legal basis]. As these cases demonstrate, a reasonable belief, in the merits and continuing merits of a claim, or defense, can be substantiated, only, on the basis of supporting law and the existence of favorable facts. In the instant case the Defendants-Defense had no legal or factual basis, from the outset, to support their defense, as is evident by the first set of reasonable attorneys quitting, etc. (R. p. 000) and then the incoming-present one, manufactured a defense for Defendants i.e. U-Haul (Hearing trans. p. 6 L.1-10 & p. 124 L. 6-10: R. p. 000-000 & see sec. 5-A--5-J below) by making & signing the necessary 12 false statements (R. p. 000-000 & the false defense R. p. 000-000) & in the process depriving & costing Apln't as demonstrated in this appeal's brief & ROA &,that the they pursued the false & frivolous defenses on fact & law, they knew weren't true, and,

such false defenses was based on & sustain only by it & the 12 false statements made & signed and, that the same facts and arguments set forth herein apply to all of the filings and arguments asserted in this case. The Supreme Court has sent a very clear message that a litigant who pursues frivolous litigation, will be subject to sanctions, and that those sanctions include litigation fees; In *Russell v. Wachovia Bank,* 370 S.C. 5, 633 S.E. 2d 722, 729 (2006), the Supreme Court affirmed an award of more than $525,000.00 in fees and costs awarded as sanctions where the plaintiff in a will contest persisted in asserting claims, of undue influence, after, being provided with, numerous, affidavits affirming the testator's clear state of mind. The FCPSA specifically contemplates reimbursement of fees and other costs incurred by a litigant as the result of a frivolous claim or defense being pursued, S.C. Code 15-36-10(G)(1); as in instant case re the affidavits provided w/ all other evidence in (ROA) and; the record shows no response from them re said motion-charges in a manner prescribed by the FCPSA &, their failure to respond to (letter: R. p. 000) & motion (amend: R. p. 000-000) shows their tacit admission, Appellant argues; and; any defense not asserted in the pleadings will not be considered on appeal see-*Fraternal Order of Police v. S.C. Dept. of Revenue, 352 S.C. 420, 574 S.E.2d 717 (2002) and;*

Paragraph 4-F: Because-when Defendants-Defense went to Baltimore, Md. 4-24-15 to depose Odell & Reginald Morton (R. p. 000) Odell wouldn't perjure himself (hear. trans. p. 24 L. 21-25: R. p. 000) but, Reginald Morton (*"just for nothing"*) would (R. p. 000 L.14-15) **vs.** Rahal's (R. p. 000-000) and thus as shown specifically as early date **Feb. 11, 2014** (R. p.00) they knew the truth (*because Rahal told it to them-that he rented the truck to Reginald Morton & they signed it 2-11-14 R. p. 00*) long before going to Baltimore but what was wanted & needed was for their witness R. Morton to falsify their Def. Rahal (Morton: R. p. 000 ***being led*** L. 14-15 **vs.** Rahal R. p. 000-000--see--sc. section 16-9-10 /20) & they went & got it-(*their witness falsifying their defendant*) & returned home & amend their motion for summary 5-12-15 (R. p. 000) & then waited for the eventual summary hearing 10-14-15 at which

both were submitted to the court, as the sworn truth, and; As to the, Reginald Morton, deposition *see*--paragraph **3-H** above; & that all the foregoing is more sanctionable conduct, added to the false defense & 12 false statements made & sign, all done w/ the single aim of creating a defense, & what about fairness to Apln't & respecting the rules? Obviously they weren't concern, Appellant argues &;

Paragraph 4-G: Because---that once again-----it is that important to remember here----that it was Defendant Rahal--himself, (*not the appellant*), who, so to speak, blew the whistle, *under oath*, on the wrongdoing on his own side; (*evidently fearing the consequences, being a foreign national if he was caught taking part in perjury as defendant's witness* ***Reginald Morton****--saying--****Rahal didn't rent the truck to me:*** Order-p. 3 L.1-2 R. p. 00 & Order-p.8 bottom #1-R. p. 00 ***vs. def. Rahal himself*** *saying-****I rent the truck to Reginald Morton:*** R. p. 000-000 & p. ***; by definition 1committed perjury*** *sc. sec. 16-9-10/20* ***& both submitted by the defense in this case-litigation as the truth & both*** used as basis to deny Aplnt.'s & grant Def. **s'** summary judgment & *obviously both can't be true*) & it's Reginald Morton who obviously will do-say anything if paid money to help him keep hiding out from the law with--R. p. 000 & R. p. 000); **also,** Appellant ask not that his own word be taken here, but to just let the record speak for itself (R. p.) as to the merits of the matter (Order "wholly without merit" p.17 **L.**1-2**:** R. p. 000 re **Rahal admitted** false defense (R. p. 000-000 & false statements made & sign R. p. 000-000) thus it was prejudicial & reversible court err &/or abuse of discretion to deny Aplnt's rule 11 & S. C. SEC. 15-36-10 sanctions motion, Appellant argues; & note that nowhere in the record-defendants defense even claim it's not true as charge or they didn't do it etc.; & that Appellant did write to them **1st** as required in 15-36-10 (R. p. 000) but there was never a reply &;

Standard of Review re Awarding Sanctions under FCPSA

Paragraph 4-H: Because-the determination of whether sanctions should be awarded under the FCPSA

is treated as an equitable proceeding; and accordingly, the Court of Appeals makes an independent review of the record, (Record on Appeal), then makes its own determination, of the preponderance of the evidence. *Rutland v. Holler, Dennis, Corbett, Ormand and Garner, 371 S.C. 91, 637 S.E.2d 316, (Ct. App. 2006); and Father v. South Carolina Department of Social Services, 345 S.C. 57, 545 S.E. 2d 523 (Ct. App. 2001).* Under the FCPSA, the lower court was to evaluate Appellant's claim of a frivolous defense & Defendants making & signing false statements (same ones in 4-A above) based upon an objective "reasonable attorney" standard, which the lower court failed to do; which then was prejudicial and reversible court err, because, in the instant case, it would have shown the Appellant to be entitled to summary judgment, as stated in sections 1 & 2 above, & Defendants not entitled to summary judgment as stated in section 3A thru 3Q above, all the Appellant argues; and;

Paragraph 4-I: Because--in the instant case--earlier on, the reasonable attorneys being Kuppens and Smith of the law firm of Nelson, Mullins, & Riley, P.A.--1st attorneys to represent/defend in this case; & when face w/ making &/or signing false statements for a frivolous defense or quitting; these reasonable attorneys quit the case (R. p. 000) rather than initiate or perpetuate a frivolous defense, that no reasonable attorney would do or continue w/ because Defendants' liability re: case was basically already admitted as of, **2-11-14 point-in-time,** (R. p. 00); when the quitting attorneys replacements (*in this case*) hired/paid by U-Haul (Rahal depo. p. 136 L. 16-23: R. p. 000) sign Rahal true admission **2-11-14** (R. p. 00), but afterwards--begin making & signing the necessary false statements in 4-A above on which to base a frivolous defense, so as to prevail on later (Order: R. p. 00-00); & most importantly *see* **this one again** (Rahal depo. p. 142 L. 10-25 & p. 143 L.1: R. p. 000-000) Rahal's *judicial admission;* thus--the court prejudicially and fatally err, not to use correctly, the reasonable attorney standard; by which to evaluate, the sought sanctions, against the Defendants-Defense, Appellant argues; and;

Paragraph 4-J: That in light of paragraphs 4-A thru 4-I above, taken in any parts or as a whole, it is clear that it supports but one reasonable conclusion, which is that, Appellant should have been granted his Rule 11 and S.C. 15-36-10 sanctions motion against the Defendants-Defense, but it was not done, due to prejudicial, and reversible court err, the Appellant argues; and that;

Because Defendants didn't come w/ or maintain clean hands (see: Wilson v. S.L. Ray, Inc. (1993) 17 Cal. App. 4th 234, 244, Kendall-Jackson Winery, Ltd. v. Superior Court (1999) 76 Cal. App. 4th 970, 978) it was Appellant, pursuant to same, that was entitle to all the relief just as prayed for, Appellant argues, and

[If a defense is pursued that a "reasonable attorney" would find not factually or legally meritorious, the defense is frivolous under the standard established by the FCPSA. If it is frivolous, the trial court "shall" impose sanctions. (S.C. Code 15-36-10(C)(1). The standard for determining frivolity is essentially the same under Rule 11 as it is under the FCPSA. Under Rule 11, an attorney must conduct a pre-filing investigation and his signature is a certification that there are good grounds to support the defense or the claim. It's not necessary to show bad faith in order to establish a violation of Rule 11, but only to show that the defense or the claim had "no chance of success under existing precedent". Gibbes v. Rose Hill Plantation Development Company, 794 F. Supp. 1327, 1340 (D. S.C. 1992) See, also; In Re Beard, 359 S.C. 351, 597 S.E.2d 835 (Ct. App. 2004) cert. denied].....That in the instant case, but for the false 12 statements made and signed, with the false-defense, they had, "no chance of success under the existing precedent", except said court err, Appellant argues.....**(End Section 4 of 6; and; Begin Section 5 of 6);**

Sec: 5 of 6: THE COURT ERR TO DENY APPELLANT'S RULE 15(b) MOTIONS.

Review Standard—De Novo / Independent

Paragraph 5-A: Because-Appellant argues that, in light of all his arguments herein, that his 15-b-c motions should have been granted for reason stated in it, (R. p. 000-000), & why was that important? Because it came to the attention of Appellant that *Palestinian/Jordanian/Syrian Rahal & Mohammad* have changed one of their store names from El Cheapo to Cheap-way and there were other red flags

that something was afoot--such as Defendant Rahal quitting his job after this lawsuit (R. p.000 L.2-3) prompting concern (R. p. 000-000 & p. 000) re their run back to Middle East & since Rahal refused to return to complete his deposition (R. p. 000-000) &/he or Zaher Mohammad refused to appear for the 30(b)(6) deposition (R. p. 000-000); and that they both refused to be question any further every since then and that Rahal made it quite clear that, "*if you want to be compensated-you call u-haul and their lawyers and they'll..you deal with them" (R. p. 000 L. 2-5);* then Appellant realized that; if after; all that it is taking to get a judgment against these Defendants, for what they did, and then they change corporate, sell out, and /or shut down, and flee back to the Middle East, the Appellant could never collect on any judgment, as to them, even if successful here on Appeal—then---what? Must the Appellant travel over there to the Middle East, with an American Court Judgment in hand, knocking on doors---trying to locate them---to collect it? I would just leave it to everyone's own imagination as to what would likely happen if Appellant was bold enough to try that. Therefore then, **That's mainly why**--Appellant move to amend 15b-c because Defendants and U-Haul too, *belatedly* and ***judicially admitted***---that they are principal and agent, (agency), relationship in their renting of U-Haul trucks to the public-*see*-(R. p. 000-000 & 000-000) Appellant argues; and furthermore had the Defendants-Defense, not do what they did in the first place------to remove the other U-Haul entities (R. p. 000-000) this motion would not have been necessary; and thus it was court err, to deny the Appellant's 15(b-c) motions for all the said reasons, Appellant argues; and;

Paragraph 5-B: Because U-Haul claims now that their corporate structure prevents them, in effect, from agency liability (R. p. 000-000) or any U-Haul entity, but Appellant argues to the contrary herein & in his motion (R. p. 000-000) that one U-Haul entity-or the other (*they can decide which*) does have liability via agency (R. p. 000-000) for any judgment against these Defendants for what they

did in renting a U-Haul truck to Reginald Morton with no driver's license (R. p. 000) knowingly (R. p. 000) resulting in all Appellant's damages, (R. p. 000-000 & R. p. 000-000), he argues and;

Paragraph 5-C: Because Appellant has repeatedly--constantly begged (*yes begged*) Defendants for some modicum of compensation (R. p. 00) & providing them proof of the IIED effects via NOTICE 5 (R. p. 000-000 & p. 000-000 & p. 000-000 & p. 000-000 & p. 000-000) for the damages they caused & their response was made v-clear-*in short part*--call U-Haul & their lawyers (hear. trans. p. 6: R. p. 000 L.1-10); for compensation because "*I don't have $15 million*" (Rahal depo trans. p.82 & 85: R. p. 000 & 000) &; thus Defendants/Rahal was making it quite clear--any compensation for your damages must come from U-Haul, so add them pursuant to their agency, or you are out of luck in the end, (Rahal), the Appellant argues; & **note**-(u-haul own their trucks-Rahal 6-2-15 deposition p. 12 L. 1-14: R. p. 000) &;

Paragraph 5-D: Because---Mr. Soriano of Bryan Cave, LLP., (1 Defense Counsel Herein), made it clear in open court---that he represents U-Haul interest in this case & he goes all over the country doing the same-re (hearing transc. p. 6 L. 1-10 & p. 124 L. 6 - 10: R. p. 000-000 & R. p. 000-000); so that's the evidence that U-Haul knew & knows it has agency liability in this case **from beginning;** 15b-c amend or not, Appellant argues, & **note**-(u-haul set all policies Rahal depo. p.57 L.1-8: R. p.000) &;

Paragraph 5-E: Because in more reference to U-Haul's attempt to avoid their agency liability with the Winkelman affidavit (R. p. 000-000); just ask the question; who gets the bulk of the U-Haul truck rental money in the end? & the answer is (R. p. 000-000) U-Haul of course. So how does that square w/the Winkelman affidavit, Appellant argues? It appears U-Haul square agency just fine, as long as

they are getting the truck rental money, but, when it comes to agency liability, well that is where the Winkelman affidavits come in at, to solve that problem, as in this case, Appellant argues; and;

Paragraph 5-F: Because-the evidence Defendants offered-to get denial of Appellant's motion, was 1 Winkelman affidavit (R. p. 000 *& specifically refer to in the **order p.3 para. 2** denying motion* R. p. 000) BUT: It--the Winkelman affidavit-was not timely served, as it was served to Appellant on October 14, 2014 (R. p. 000-000) day of the dispositive hearing, and SCRCP 56(c) required such affidavits be served no later than 2 day before the hearing; therefore, to consider, and to use, this affidavit upon which to deny Appellant's 15(b-c) motion to amend, was court err, Appellant argues; and;

Paragraph 5-G: Because-even if the Winkelman affidavit was timely served etc., their argument therein have nothing to do with why Appellant wanted to amend 15b-c; it was to attach U-Haul for agency liability purposes only, (R. p. 000-000), which 15b motion is moot anyway, if, *respondeat superior* attaches U-Haul liability as a matter of law per facts of this case, Appellant argues, and;

Paragraph 5-H: Because---that as to the information in the Winkelman affidavit; it cannot--at the 10-14-15 dispositive hearing--belatedly be considered, and used, because that needed information, like so much other, was withheld (standard r. 33b interrog. serv. +) during the long (almost 2 years) discovery period & the Winkelman aff'd info. should've been--but wasn't provided, Appellant argues &;

Paragraph 5-I: Because---that as to the, U-Haul Company of South Carolina, Inc., mentioned in the Winkelman affidavit p.1 (R. p. 000), remember-that was the same U-Haul entity that they argued for dismissal of before; effectively arguing they were not the proper entity to be sued (R. p. 000-000);

now they are in effect--*in the Winkelman affidavit*--saying that U-Haul Co. of South Carolina, *not,* U-Haul Intl. Inc.; is the one to be now joined-sued for *agency* the Winkelman affidavit now argues; (*see* Winkle. Aff'd: R. p. 000-000). [N]ow this court can see the evidence directly for themselves, the kind of games Defendants have played on the disable Appellant all throughout the almost 2 yrs of discovery period in this case; and that their withholding, and failure to provide the Winkelman affidavit information during discovery, (SCRCP 33 *esp.* 33b etc---*which led to this motion to amend*), & just now putting it forth, is sanctionable conduct itself under the discov. rules, Appellant argues, &;

Paragraph 5-J: That in light of paragraph 5-A thru 5-I above, & all other paragraphs herein, taken in any parts or as a whole, it is clear that it supports but one reasonable conclusion, which is that, U-Haul Intl., Inc., or U-Haul Co. of SC. Inc., &/or whatever U-Haul entity *they* so designate, should have been or should be now, added for agency purposes to this suit for the reason-s stated & for the court to rule such was futile--*in light of sec.'s 1-6 herein*--is reversible court err, Appellant argues &; *[Appellant sought to amend his 6/9/15 complaint pursuant to SCRCP 15b-c for stated reasons 5-A thru 5-I above & for the reasons stated in the motion to amend & leave shall be freely given when justice requires & doesn't prejudice another party SCRCP 15(a)];*.....**(End Section 5 of 6; and; Begin Section 6 of 6);**

Sec: 6 of 6: THE COURT ERR TO HOLD IN ABEYANCE THE DEFENDANTS' MOTION SEEKING TO SANCTION APPELLANT FOR EXERCISING HIS RIGHT TO BRING AND LITIGATE THIS INSTANT CASE.

Review Standard---Independent

Paragraph 6-A: Because--their specific motion; "Defendants' Motion to Dismiss (*appellant's case*) for Vexatious Litigation and Sanctions"; Simply look at what Defendants did to Appellant and the damages they caused him in the foregoing **sec.**'s 1-5 above & ROA; **that's** Appellant's defense to such a motion, & viewed in this light, the court simply err, to not dismiss such a motion, Appellant argues; &

Paragraph 6-B: Because--it was Defendants that created the vexatious litigation conditions from the very beginning through to the present, (*see*-this brief & ROA), so they can't turn around & ask for sanctions against Appellant-***akin to invited err***-for that which they caused--& in fact--it's Appellant who's entitled to vexatious litigation sanctions against Defendants (*see*-esp. sect. #4 above), Appellant argues-&;

Paragraph 6-C: Because litigation is vexatious by its very nature, and in any case, caused by the Defendants own actions and that of their 2nd defense team in this case re-specifically section 4 of 6 above, for Rule 11 and S.C. sec. 15-36-10 sanctions against them, thus, Defendants are the ones responsible for vexatious IIED et al. litigation against disable Appellant in this case, (***see***-sect. #4 above), and indeed--***see***--this whole brief and Record on Appeal; and that furthermore; these Defendants brought such motion to the court with-*unclean hands*-**see**-*sec. #4 esp.*-& accordingly, was not only not entitled to any relief under such motion, under the clean hands doctrine, but more importantly, was not entitle to summary judgment (***see***-section #3 above) regardless to all else because Defendants had unclean hands as stated under sect. #4 above et al--as related to R.11 & sc. sec.15-36-10 sanctions. "[H]e who comes into equity must come with ***& maintain*** clean hands" see *Wilson v. S.L. Ray, Inc. (1993) 17 Cal. App. 4th 234, 244, Kendall-Jackson Winery, Ltd. v. Superior Ct. (1999) 76 Cal. App. 4th 970, 978);* **& pursuant to same, it was Appellant, then, who was entitled to *all* relief he prayed for, he argues; &**

Paragraph 6-D: Because--by the same logic, and upon the same grounds, as the Defendants asks in their motion for the dismissal of Appellant's case because they are vexed and the motion held in abeyance; likewise; Appellant asks this court to award him this case in the amounts as pled for, based on the Defendants having vexed him from the very beginning to now, Appellant argues; & the proof-*see*-(all in this brief, **esp. sec. #4 re rule 11 & 15-36-10 sanctions,** & ROA, Appellant argues). *[As to Sec's 1-6 all above, the preponderance of the evidence (**ROA**) is against all the findings of the court, (R.p.00-00) Appellant argues-**see**-Lewis v. Lewis, 392 S.C. 381, 709 S.E.2d 650 (2011)];* **(End sec. 6 of 6);**

CONCLUSION

That as it relates to section # 4 of 6 above; Appellant respectfully requests that this Court evaluate the evidence, as it is required to do, in light of the objective standards and factors to be considered under the FCPSA, and to find that the evidence establishes that the Defendants and their attorneys, initiated, and pursued, frivolous defense(s) and all other such corresponding litigation against the Appellant; and that Appellant also, further respectfully requests that the Court find that Appellant is accordingly entitled to reimbursement of all his costs, including the equal of reasonable attorney fees & expenses + all other damages suffered-as a result from when the frivolity 1st began (R.p.00) after the quitting of the 1st set of Defendants' attorneys (R. p. 000) to avoid the necessary frivolity for a defense in this case, onward to the present here, as appropriate sanctions; and, that lastly, on this issue, re: section #4, Appellant respectfully request, *alternatively*, that this case, in its entirety just as prayed for, be forfeited to Appellant as the ultimate sanction for (see sect. #4) & pursuant to: *Wilson v. S.L. Ray, Inc. (1993) 17 Cal. App. 4th 234, 244; Kendall-Jackson Winery, Ltd. v. Superior Ct. (1999) 76 Cal. App. 4th 970, 978). The* ***unclean hands doctrine*** *protect judicial integrity & promote justice;* & such case forfeiture will guarantee others want engage in conduct in sec. 4, Appellant argues, &/or;

That as it relates to the other sec's **1, 2, 3, 5, & 6** above; based on the foregoing in each section & in the above paragraph, the Appellant respectfully submit that the lower Court should be reversed; & that Appellants' summary judgment vicarious liability motion, against these Defendants (*& right u-haul entity*) on his gross negligence house damages claim should be granted w/ the-undisputed by Defendants--at summary-actual & proven damages by a preponderance of the evidence $175,700.00 (R. p. 000 et al) + the continued loss rents $650.00 per month (R. p. 000) that's not added in yet for 11-1-2015 to the present, plus interest on whole total-($ total + % interest); and summary vicarious liability against Defendants on Appellant's IIED claim should be granted with the--undisputed by Defendants-at summary-actual damages and the proven damages by a preponderance of the evidence,

$25,000,000.00+for (*see*-this brief: & R. p. 1-000 et al. etc.); & U-Haul International, Inc., &/or U-Haul Co. of S. C., Inc., and/or whatever other U-Haul entity, ***they,*** so designate to be summarily added for, "agency" purposes, i.e., *respondeat superior,* rendering Appellant's motion to amend, a moot motion accordingly; and that Defendants' summary judgment motion be reversed per the ROA; and that the Defendants' motion to dismiss this case, for vexatious litigation and sanctions against the disabled Appellant be denied, or at least opined upon as to Appellant right to bring, and to litigate, such an instant case--re the ROA; and that as to punitive damages on Appellant's gross negligence and IIED claims, rule on the liability (based on Defendants' admissions and/or their non-disputing etc. in the record), and remit the 2 claims for jury punitive damages trial to decide the amounts, & Appellant prays, the requested remedies / relief is so ordered, by this Court of Appeals, &/or what other equitable remedies-relief this court may find just, fit & proper; most respectfully-Appellant.

RESPECTFULLY SUBMITTED,

BY: _____

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Sumter, South Carolina

January 11, 2016

Important Note(s) 1-10 below:

1. That there is no dispute that U-Haul own all the rental truck, (Rahal depo. p. 12 L. 1-14: R. p. 000) &;
2. That U-Haul control & set all rental rates, rules, policies, etc., (Rahal depo. p. 57 L. 1-8: R. p. 000) &;
3. That Rahal reported to U-Haul Headquarters as their agent (Rahal depo. p. 60 L. 12-25: R. p. 000) &;
4. That U-Haul hired & pay all defense law firms-attorneys, (Rahal depo. p. 136 L. 16-23: R. p. 000) &:
5. That R. Morton went to Rahal-got truck (Rahal depo. p. 34 L. 19-5 & p. 35 L. 3-5: R. p. 000-000) &;
6. That R. Morton's name as customer on all rental documents (Rahal depo. p. 73 L. 14-19: R. p. 000) &;
7. That Rahal repeatedly admit-R. Morton forge-sign (R. p. 000-000) (sc sec. 16-13-10) the 3 u-haul truck rental documents & his *judicial admissions* signed by his counsel-s, (R. p. 000-000 & 000-000 & 00) &;
8. That Rahal spoke & sign for El Cheapo (Rahal depo. p. 104-105 & 12-13: R. p. 000-000 & 000-000) &;
9. That re (Appellant's **2** 10-26-15 Affd's: R. p. 000-000)-see-(Hear. Trans. p.142 L.17-25: R. p. 000). &;
10. That U-Haul received the truck rental monies-minus Defendants' agency commissions (R. p. 000-000).

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

George C. James, Circuit Court Judge

Appellate Case No: 2015-002481

Charles Taylor,.....Appellant

v.

Stop "N" Save, Inc., d/b/a,
El Cheapo Plus #7 and Roy Rahal,.....Respondents

PROOF OF SERVICE:

I certify that I have served & filed the Appellant's Initial Brief by depositing a copy of same in the U.S. Mail postage prepaid, on the date of Jan. 11, 2016, from Sumter South Carolina address to Defendants' lead Counsel of Record listed below, at his address listed below, and same copied to the clerk of court with return copy to Appellant.

January 11, 2016

BY: _____
CHARLES TAYLOR, APPELLANT
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SUMTER SOUTH CAROLINA 29153
(803) 609-7990

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1 Atlantic Center, 4th Fl.
1201 W. Peachtree St., NW.
Atlanta, Georgia. 30309
(404) 572-6923

January11, 2016

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina
Court of Appeals
1015 Sumter Street
Columbia, S.C. 29201

RE: Charles Taylor, Appellant
vs.
Stop "N" Save, Inc., d/b/a, El Cheapo Plus #7 and Roy Rahal, Respondents
Appellate Case Number: 2015-002481

Dear Mrs. Kitchings:

Please find enclosed for filing the following:

(1). Appellant's Initial Brief with Certificate of Service and;
(2). Appellant's Designation of Matter with Certificate of Service.

The Defendants' lead counsel below is served the same at the address shown below. Please clock and return the extra copy to me in the self-addressed stamped envelope.

SINCERELY YOURS,

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Cc: Defendants' Counsels of Record
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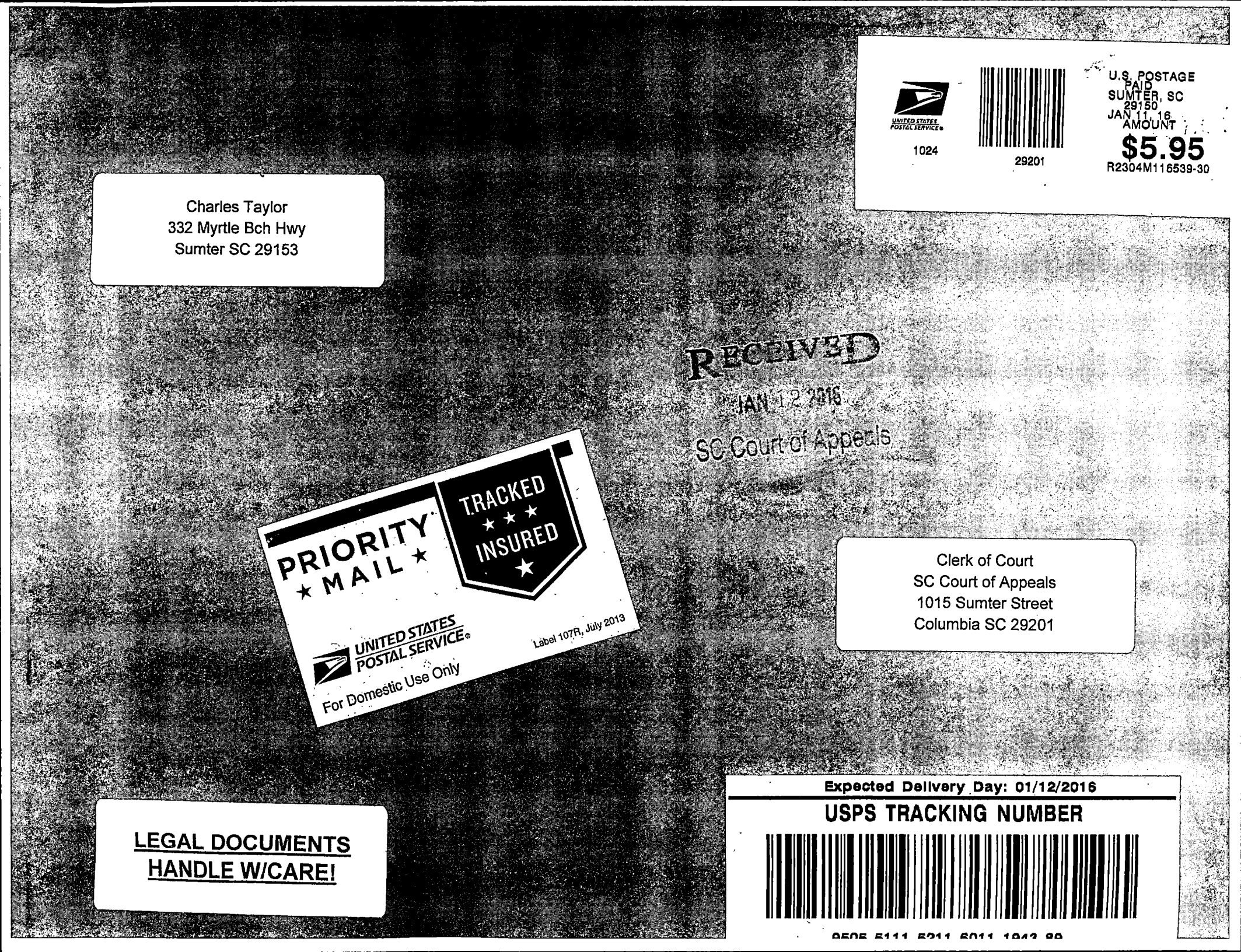
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