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**The State of South Carolina
In The Court of Appeals**

APPEAL FROM LAURENS COUNTY

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Court of Common Pleas

JUN 20 2016

R. Lawton McIntosh, Circuit Court Judge

SC Court of Appeals

Case No. 2015-000788

JUAN MICHAEL RAMIREZ,

Appellant,

v.

PROGRESSIVE NORTHERN INSURANCE COMPANY, Respondent.


**Appellant's Motion for Rehearing, and
Suggestion for Rehearing *En Banc***

Edwin L. Turnage
HARRIS & GRAVES, P.A.
812 Laurens Road
Greenville, SC 29607
(864) 235-1331

Attorney for Appellant

Appellant respectfully requests a rehearing on this matter. No hearing was held on this appeal, and the Court's one-paragraph *per curiam* Order misapprehended and overlooked statutory and case authority. Moreover, rehearing *en banc* is suggested because the Court's decision is needed to maintain uniformity of its decisions on the portability of automobile underinsured motorist coverage (UIM) and because the proceeding involves a question of exceptional importance. Specifically, *Ramirez v. Progressive Northern Ins. Co.* is a critically important public policy case because the June 8, 2016, Order affirming the Circuit Court's March 17, 2015, Order without a hearing eliminated or limited the automobile UIM coverage of thousands of families across the State of South Carolina.

June 15, 2016



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Appellant's Memorandum in Support of his Motion for Rehearing, and Suggestion for Rehearing *En Banc*

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The *per curiam* Order suggested the panel misapprehended this action as a stacking case. It is not a stacking case. It is a portability of UIM insurance case. "[P]ortability refers to a person's ability to use his coverage on a vehicle not involved in an accident as a basis for recovery of damages sustained in the accident." *Nakatsu v. Encompass Indemnity Co.*, 390 S.C. 172, 181, 700 S.E.2d 283 (2010). Petitioner is not seeking to stack multiple coverages on the Progressive insurance policy. Rather, Petitioner seeks only the statutory minimum \$25,000 UIM coverage on one vehicle.¹ In upholding the Rule 12 Order dismissing petitioner's claim against Progressive, the Order deprived Petitioner of statutory required UIM coverage. The *per curiam* Order contradicts dozens of published automobile insurance public policy cases and lacks support of any authority whatsoever.

South Carolina requires that all carriers offer certain minimum limits of UIM coverage, \$25,000, on each policy issued.

Automobile insurance carriers *shall offer*, at the option of the insured, uninsured motorist coverage up to the limits of the insured's liability coverage in addition to the mandatory coverage prescribed by Section 38-77-150. Such carriers *shall also offer*, at the option of the insured, underinsured motorist coverage up to the limits of the insured liability coverage to

¹ Progressive paid Appellant \$8,333.33. He filed suit asking the court for payment of the balance of the minimum limits UIM coverage on the policy.

provide coverage in the event that damages are sustained in excess of the liability limits carried by an at-fault insured or underinsured motorist or in excess of any damages cap or limitation imposed by statute.

S.C. Code Ann. § 38-77-160 (emphasis added). It is undisputed that the policy was issued with \$25,000 of UIM coverage. The quoted section of the automobile UIM statute mandates minimum coverage of \$25,000 on each automobile insurance policy issued in South Carolina. The panel overlooked that statute, and its ruling will deprive many families in South Carolina of the statutorily required UIM coverage. Petitioner suggests that a hearing on this matter must be set *en banc* to protect the South Carolina families negatively impacted by the Order.

June 15, 2016



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Juan Michael Ramirez,

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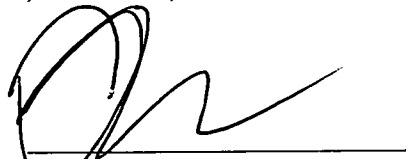
Progressive Northern
Insurance Company,

Respondent.

PROOF OF SERVICE

I certify that I have served Appellant's Motion for Rehearing, and Suggestion for Rehearing *En Banc* and Appellant's Memorandum in Support of his Motion for Rehearing, and Suggestion for Rehearing *En Banc* on Progressive Northern Insurance Company by depositing a copy of it in the United States Mail, postage prepaid, on June 16, 2016 addressed to its attorney of record, Bradley L. Lanford, Post Office Box 8057, Columbia, South Carolina 29202.

June 16, 2016



Edwin L. Turnage
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SC Court of Appeals

OF COUNSEL
E. WESLEY GRAVES, III

RETIRED
SHIPP D. HARRIS

The Honorable Jenny Abbott Kitchings
Clerk of Court for SC Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: **Juan Michael Ramirez vs. Progressive**
Civil Action #: 2015-000788
Our File #: 201339345

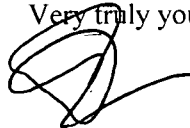
Dear Ms. Kitchings:

Enclosed for filing please find the original and six copies of Appellant's Motion for Rehearing, and Suggestion for Rehearing *En Banc*, together with Appellant's Memorandum in Support of his Motion for Rehearing, and Suggestion for Rehearing *En Banc* and Proof of Service with regard to the above matter.

I have included an extra copy, which I would appreciate your filing and returning to me in the envelope provided for your convenience.

Thank you for your time and assistance in this matter.

Very truly yours,



EDWIN L. TURNAGE
elt@harrisgraves.com

Enclosures

cc: Bradley L. Lanford
Baker, Ravenel & Bender, L.L.P
P.O. Box 8057
Columbia, SC 29202