STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY

COURT OF COMMON PLEAS

Hon. George C. James, Jr., Circuit Court Judge

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Appellate Case No: 2015-002481

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Charles Taylor,..... Appellant

v.

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

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# FINAL BRIEF OF APPELLANT

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CHARLES TAYLOR, APPELLANT
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FOR THE APPELLANT PRO SE

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**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 RESPONDENTS ARGUES THAT IT DOES & THE LOWER COURT AGREED WITH RESPONDENTS SUMMARILY. Details under sec. 3 para. 3-E. p.15.**

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## 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. 40); and;

2. That was done in order to rent the house to supplement Appellant's disability income (R. p. 47) 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 & 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. 1176 para. #1) wanted to rent the house, but when Apln't asked them for valid I.D., Reginald Morton & Dana Goins, said they had none at that time & Apln't being suspicious, refused to rent his house to them; but;

4. That being disable himself–Apln't felt sorry for & could relate to disable almost 80 yr old prostate cancer surgery, knee replacements, heart pacemaker, etc. (**helpless**) Odell Morton (as examp: R. p. 916 & 1176-7 & p. 999 L 22-24) & reluctantly rented house to them–notwithstanding the fact he-Odell Morton too, said he had no facially valid driv.'s license (Aff'd: R. p. 1176 *para. #5*) other than (R. p. 36 3rd 1), but all that notwithstanding, Apln't rented them the house anyway, for the reasons stated, &;

5. That proved to be a big mistake & eventually led to Apln't having to have them evicted by the Hon. Magistrate Judge Kristy F. Curtis, for Reginald Morton's drug dealing & illegal gun running, from the house that Apln't rented to them, & for non-rent payment, ( R. p. 37 ); (*by which time Reginald Morton & Dana Goins had obtain SC check cashing ID's ( R. p. 36 1st & 2nd )* &;

6. **That on 6-1-13;** Respondent-*Palestinian/Jordanian/Syrian Roy Rahal*; the manager of Resp'd 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. pp. 137-145); got together with, & rented a U-Haul truck to Reginald Morton intentionally with no driver's license; & knowing he had none (R. p. 210 L. 3-5 & R. p. 211 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. pp. 919-927 signature sec.; & R. pp. 290-291) & in a drug deal (R. p. 953 mid'l & R. p. 1165 para. #7); (**NOTE: copy Odell Morton signature on p. 1179**) &;

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. 950), then came---because he was seething mad & looking for revenge because Appellant had them evicted by Judge Curtis as stated in para. number 5 above; &;

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. 1173 para. 1st & R. p. 1165 para. #7) & intentionally tried to destroy Aplnt's house (R. pp. 41-43 & p. 1166) which damages ended Aplnt's $650mt rental income (aff'd: R. p. 1172) &;

9. That as a result--Appellant could not get his--**must have**--medications et al. *para 2 p.1 above,* & (R. p. 31 *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**--Apln't suffered, suffers & will suffer until his death-(& Respd's were aware: R. pp. 928-943; 963-987; 1184-1201; & p. 1208) &;

10. That the house foundation ultimately collapsed & must be bulldoze & hauled to landfill (R. pp. 1169-1172) from damages cause by Reginald Morton w/U-haul truck on (6-1-13 at which time) Reginald Morton committed the **INITIAL IIED** on Apln't (Affd's: R. p. 1165 & 1173 & 1174) &;

11. That the foregoing is the gist of Aplnt's jury trial requested 6/9/14 amended complaint for (1).**Gross Negligence** for-property-house-emotional-damages &, (2).**IIED** damages; **vicariously** brought against—Respd's Stop "N" Save, Inc., d/b/a, EL Cheapo Plus #7, & Roy Rahal, for their knowingly renting Reginald Morton a U-Haul truck w/no driver's license etc. (R. pp. 210-211); **AFTER-they refuse-*from beginning to present*-demands for damages compensation by Appellant;** *(& that no one have seen the face yet of Zaher Mohammad, the owner of the operation, & neither he nor Rahal (except for 1, 3 hr. 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 clearer later on down in argument sec. #5 of 6 p.34-35 below);* &;

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

*counsels* (**1st one:** R. p. 34) they were allowed to-*in effect*-change their *judicial admissions* at summary, to change the outcome for summary on ( rulings-being appealed in **Order:** R. pp. 5-25 ); & 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) & signed each time by no less than Respds' 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 RESPONDENTS

Review Standard--De Novo

**(Helpful 1st *judicial admissions* to remember Resp's *admit* renting truck to Reginald Morton (R. p. 34) (& Reginald Morton too-*admit*-himself that he rented subject u-haul truck from Respd's (R. p. 39):**

**Paragraph 1-A:** Apln't sued Respd's vicariously under (1).gross negligence claim for $175,700 property (R. pp. 1166-1172) & emotional-manifesting into physical (R. pp. 1184-1208) damages-cause by Reginald Morton because Respd's ("Stop "N" Save, inc. d/b/a El Cheapo Plus #7 & Roy Rahal-hereafter Respd's &/ or Rahal") intentionally rented Reginald Morton a U-Haul truck, with **no** driver's license, (R. pp. 210-211), with which he came & intentionally tried to destroy Aplnt's rental house (R. pp. 41-43 & 1166-1172) & Rahal knew he had no driv.'s license which Rahal *judicial admit* in sworn interro. (R. p. 1147 L.7-8) & *judicially admit* **again** in sworn depo. (R. p. 210 L.3-5 & 211 L.13-15) & Rahal *judicially admit* knowing Reginald Morton forge-sign Odell Morton's name on the U-Haul truck rental documents ( R. pp. 919-927 & R. pp. 290-291) (*& 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 sec. 3-G on p.18*); & that all of Rahal's, (*Formal Judicial Admissions*), made them established fact from there forward, & as such, could not later be changed &/or contradicted at / in a motion for summary judgment

or at a trial; notwithstanding any other Respds' 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 & 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 Resp'd Rahal's *formal judicial admissions*, as a matter of law, was settled, & on that basis--but certainly not limited thereto, it was Apln't who was entitled to summary judgment & not Respd's, but for the prejudicial & reversible court err, Apln't argues; & *judicial admissions contain 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" & 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 Respds' duty to Apln't (R. p. 5 L. 16-17) satisfying 1st element; [more clearer tho--the duty owed Apln't by Respd's. was--**a legal common law duty by operation of law--*not to* endanger (the public) Apln't & /or his property by renting vehicles to unlicensed persons** *see*: sc. sec. 56-1-580 & 56-1-500] Apln't argues; & Respd's. arguing they had no such

Duty here, is to argue that; you can rent to unlicensed persons, all day long--*every day*--& they can then go & 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, Apln't argues; & that Respds' argument ( Order: R. p. 15 #1 ) 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) Apln't argues; & that also--both the Resp'd Roy Rahal, & Reginald Morton, had **same combined** legal duty owed to Apln't, *to not* do as stated above, Apln't argues; *(note: Respd's. 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 forge--sign 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. 1176 & see para 4 on p. 2 above) had been there & did 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 Respondents ( Order: R. p. 16 #2 ) **but** in light of para. 1-A thru 1-B above; it seems quite obvious that Respd's 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. sec.'s violated by Resp'd Rahal & Reginald Morton* (see: 5th L this p.) all "combining &/or concurred" to result in ***all*** Aplnt's proven damages (R. pp. 928-943, 963-987, 1184-1201, & 1208), & thus Respds' clearly indeed--did breached their duty as stated in para.1-B 1st negligence element para. above et al. etc., Apln't argues; & remember Resp'd Rahal have *judicially admitted* it all-**beginning** "Feb. 11, 2014" & signed by his own counsels **beginning "Feb. 11, 2014"**---*see*---( R. p. 34 & R. pp. 210 – 211 ), Apln't argues; &;

3rd NEGLIGENCE element--that re the 3rd element, that Apln't suffered injury & damages, neither of which was disputed by Respd's at sum. hearing, & thus both, *admitted*; & even if it wasn't, it was obvious & proven (R. pp. 41-43 & R. p. 48-55 & R. p. 928-943 & R. p. 963-987 & R. p. 1184-1201 & R. p. 1208 & R. p. 210-211 & R. p. 301) Apln't argues, &;

4th NEGLIGENCE element--that re the 4th element---the injury & damages was proximately caused by Respds.' breach of their duty beginning under para. 1-B on bottom p. 5; the proximate cause is obvious, because, without their said & subject breach, Reginald Morton couldn't have rented a truck from nobody to commit the said, shown, & proven injury & damages with; having no driver's license to rent with, Appellant argues; &;

*5th GROSSNESS--that as to the* grossness *of the negligence, it too is quite obvious because Resp'd 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), *& thus, as* a *matter of law, the* grossness *is assumed &/or is self-evident* (R. pp. 210-211), *Apln't argues; &/or*; whether one's actions is grossly negligent is for a jury to decide, unless the evidence, as above & throughout herein & 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 Aplnt's, *property damages total loss $175,700* +, sought under his gross negligence claim--these damages was proven (R. pp. 1166-1174 et al) & / or not denied by Respd's & thus was *admitted* & / or was a jury issue at a minimum, & based on the foregoing, to award Respds' & deny Aplnt's summary, both were reversible court err, Apln't argues; &;

**Paragraph 1-D:** That as to Aplnt's, *emotional–manifesting into physical damages*, sought under his gross negligence claim, these damages was not denied by Respd's, &/or was proven, &/or was supported by the evidence in (R. pp. 48-54 & 1184-1201 & 1208) & as to amount of medical bills (R. pp. 171 & 963-987) & any amount for pain & suffering (*a jury question*) at minimum & based on the foregoing--to award Respds' & deny Aplnt's summary–both were court err--Apln't argues--&;

**Paragraph 1-E:** That as to Aplnt's, *punitive damages*, sought under his gross negligence claim, the liability for these damages was admitted-*see* Rahal's *judicial admissions* (R. pp. 210-211 et al.), after which--punitive damages amount was (*a jury question*) at minimum & based on the foregoing, to award Respds' & deny Aplnt's summary, both were court err, Apln't argues; &;

**Paragraph 1-F:** That all the documentations, arguments, exh.'s, etc., that Apln't put forth in support of summary on his gross negli'g. claim are listed on this hear. ex.'s list (R. pp. 156-320 & 928-1201) &;

**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 Respd's, it's clear it supports but one reasonable conclusion, which is, Apln't should've been awarded summary vicarious liability on his *gross negligence* cause of action, plus the *undisputed* actual property damages, ($175, 700.00 + : R. pp. 1166-1174), & a jury trial to determine 1st) the amount of injury damages & 2nd) the amount of punitive damages, & neither was done due to, prejudicial & reversible court err, Apln't argues; & also;** *[That Summary Judgment is appropriate also when, "plain palpable, & 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; & ; 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:** Apln't sued Respd's **vicariously** for IIED for $25,000,000. 00 +; for resulting damages (re: para. 2-A---2-M: & R. pp. 928-943) & (**iied damages ongoing to date:** R. pp. 1184-1201 & 1208); because Respd's intentionally rented Reginald Morton a U-Haul truck w/no driv.'s license (R. pp. 210-211), with which Reginald Morton came & intentionally destroyed Aplnt's rental house (R. pp. 1140-1139) & in the process committed the initial IIED on Apln't (R. p. 1173 & 1165) & Rahal knew Reginald Morton had no driver's license--which Rahal, *judicially admit*, in his sworn interrog. (stated / shown before) & *judicially admit* again in sworn depo. (stated / shown before) & Rahal *judicially admit* knowing Reginald Morton forge--sign, Odell Morton's name, on the U-Haul truck rental documents (R. pp. 290-291--*& forgery a felony-see-argument in para. 3-G below*) &; Rahal *judicially admit* he was aware of Aplnt's suffering from Morton actions (R. pp. 269-271) & so like under Aplnt's gross negligence claim, Respd's are vicariously liable for all Aplnt's damages suffered under the IIED claim as well---Apln't argues----**if** the 4 IIED elements were proven at summary; & that they were, Apln't argues; & here's the testimony / proof-in the record;

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

1st IIED element---Respd's 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. pp. 1193-1196, *esp. para. 7 p. 1194;* & R. pp. 1165 & 1173) the testimony / proof, Appellant argues &;

2nd IIED element--The conduct was so extreme, & outrageous, so as to exceed all possible bounds of decency & must be regarded as atrocious, & utterly intolerable, in a civilized community, which conduct would cause an average member of the community, to immediately react in outrage (R. p. 1165 & 1173-4 & p. 951 & **2-D** below) the testimony/proof Apln't argues &

3rd IIED element--The actions of Respd's combined w/ that of (Reginald Morton's) caused Apln't emotional distress (R. pp. 48-54; 928-943; & 1208) the testimony/proof Apln't argues &

4th IIED element—The distress suffered was severe such that no reasonable man or woman could be expected to endure it (R. pp. 1184-1201 & 1208) the testimony/proof Apln't argue &

*"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. pp. 48-54 and 928-943 & 963-987 & 1184-1201 & 1208 & p.1194 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, & emotional upset despite the absence of any physical impact between the plaintiff & 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; & in relations to Aplnt's (R. pp. 48-54; 928-943; 963-987; 1184-1201 & 1208) &;

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

*(2). which house foundation eventually collapse from Morton's 6-1-13 conduct;* (3).*which rental income stopped & Apln't couldn't get the variety of medications as stated in para. #2 on p.1 above--& for the reasons stated in para. # 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; & that is conduct that exceeds all possible bounds of decency & must be regarded as atrocious & utterly intolerable in a civilized community---even where it must be taken cumulatively, Apln't argues**---see--e.g., Boyle v. Wenk. 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;--&* in the instant case add cumulative all Reginald Morton's conduct combine w/ Respds' conduct; it satisfies IIED element-s as required & (Aff'd R. p. 1165; Aff'd R. p. 1173; Aff'd R. p. 1174; Aff'd R. p. 951; & et al stated) Apln't argues &;

**Paragraph 2-E:** Effect of Relationship of Parties; *the extreme & 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 instant case per Respds' defense (*see*: sec. #4 below: & R. pp. 928-943 & 963-987 & 1184-1201; & 1208) & as to former tenant Reginald Morton, see (R. p. 1194 especially para. #6-7); Apln't argues, &;

**Paragraph 2-F:** Susceptibility of Appellant; *the extreme & 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 & outrageous in the face of such knowledge, where it would not be so--if that person didn't know such;* as in instant case per Respds' defense (*see*: sec. #4 below: & R. pp. 928-943 & 963-987 & 1208) &; as to former tenant Reginald Morton, see (R. p. 1194 especially para. #6-7); Apln't argues &;

**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 Respds' defense (see: sec. #4 below: and R. pp. 48-54 and 928-943 and 963-987 and 1184-1201 and p. 1208 ), and as to former tenant Reginald Morton, see ( R. p. 1165 & 1173 & 1174 & 951 & et al. stated ) &;

**Paragraph 2-H:** Bodily Harm; *also acts as an indicator that severe emotional distress has occurred. ulcers or headaches, for example, can show that plaintiff has suffered severe emotional distress that has reveal itself through these physical symptoms* re instant case & (R. pp. 1193-1197 & 1194 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. 1165 & 1173 & 1174 & 951 & 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 instant case & (R. pp. 48-54 & p. 171 & p. 176 para. 8-9) &;

**Paragraph 2-k:** Bald Assertions, etc; that this paragraph is to address specifically the Respd's (Order: court ask them to prepare: R. pp. 5-23), wherein they repeatedly used the phrase as to Apln't.'s most serious 2 claims of: (1).Gross Negligence & (2).IIED; as "*bald assertion-s etc.*"; (R. p. 14 bot'm L.3 & R. p. 15 last para. L. 1 et al.) & "*no proof etc.*" (R. p. 9 1st para. L. 11 et al.) & to refute such—Apln't simply asks the court to—*see*—this whole brief & corresponding (ROA) &;

**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 Respds' conduct, or where there is a "high probability that the Respds' 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 Respds'. *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 & 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 & 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 & extensive, such that it speaks to, the nature, extent, & duration, of the claimed emotional harm, in a manner, that portrays, a specific & discernable injury, then that testimony, alone may be-sufficient" &;

**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, Apln't should have been awarded summary vicarious *liability* on his IIED cause of action plus the *undisputed* actual damages (R. pp. 1169-1172 & for R. pp. 48-54; 928-943; 963-987; 1184-1201 & 1208, et al. as stated) &/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, Apln't argues, & that;** *[Summary Judgment* ***should be*** *granted also when, "plain palpable & 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; & ; 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* arguments in sections #1 (1-A..1-G) & 2 (2-A..2-M) all above; &;

**Paragraph 3-B:** Because--Respds' summary 10-14-15 memorandums weren't timely receive to the court before or during hearing (trans. R. p. 628 L. 1-25; R. p. 629 L. 1-25; R. p. 630 L. 1-3; R. p. 631 L. 1-17; R. p. 612 L. 1-25; R. p. 613 L. 1-21; R. p. 716 L. 22-25; R. p. 717 L. 1-9), & which memorandums Apln't never received a copy of & could not therefore address any issues therein before or during the 10-14-15 dispositive hearing & for more reasons in (Aff'd: R. pp. 1160-1161); thus to rely on, consider & use said Respds' memorandums as the basis to grant summary to Respd's, was prejudicial & reversible court err, Apln't argues &;

**Paragraph 3-C:** Because Respd's raised only 3 issues for summary in their motion (R. pp. 90-91), (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; & since no other Respds' memorandums was timely received to the court as stated in para. **3-B** above, & therefore to award summary to Respd's & deny Aplnt's summary in light of the foregoing, was prejudicial & reversible court err, Appellant argues; and;

**Paragraph 3-D:** Because the *"Graves Amendment"* wasn't asserted as a defense in Respds' amended 7-1-14 answers (R. pp. 56-71) as required by SCRCP 12(b) (*in pertinent 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 Respd's were barred from asserting such defense much later on & to allow it & base summary on it to Respd's is prejudicial & reversible court err, Apln't argues &;

**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 & criminal wrongdoing (graves sec. (a)(2): R. p. 12); therefore Respd's are liable for any & all (emotional injury, property, & IIED) damages, their negligence & criminal wrong doing caused 3rd parties i.e. Apln't in instant case. Thus--the court interpreting the graves amendment as (*"the graves amendment clearly bars any claim for vicarious liability" R. p. 5 4th para. or L.15*) & (*"Plaintiff's claims against El Cheapo & Mr. Rahal are dismissed because they are barred by federal law"* (Order: R. p. 14 L. 3-4) is prejudicial & reversible court err, Apln't argues &; Furthermore: Because in Respds' 5-12-15 summary motion they argued in para. # 1 therein that, "Respd's cannot be vicariously liable (*pursuant to the Graves Amendment*) to Apln't based on mere ownership or rental of the U-Haul truck" (Respds' sum mot: R. p. 90 para. 1); BUT Aplnt's argument is that Respd's 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. pp. 290-291 & R. pp. 919-927 & R. pp. 202-203 & R. pp. 210-211), & 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, Apln't argues; & Furthermore: Because, when one stops & think about it, ref: the, "Graves Amendment", why would the United States Congress or anyone else-have an interest in protecting ones negligence & 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; Respd's arguing from beginning to present that it was; is an obvious, specious, & frivolous argument within the meaning of SCRCP 11 & S. C. Section 15-36-10, Appellant argues; &; *Note: negligence & criminal wrongdoing is exactly what Respd's are charged with--i.e.-renting Reginald Morton a u-haul truck--in a drug deal-w/ no driver's license-violating sc criminal section 56-1-580, knowing that he had no driver's license, doing it intentionally, & then oversaw Reginald Morton forge-sign-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--& done it all; & Resp'd Rahal have admitted it all as stated many times before; & thus the Respds'--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 & passed into federal law in 2005; & of course the Apln't argues to the contrary; & that's really the sum total of the whole difference in this case as to the summary judgment motions re law; & the lower court erroneously agreed w/ the Respd's. on this dispositive case turning point issue of the Graves Amendment, the main issue*

*to be resolve here on appeal; & the other main issue to be resolve here on appeal, being who Rahal rented the truck to--Reginald Morton or Odell Morton; & again the lower court erroneously agreed with Respd's 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. pp. 210-211 & 202-203) & even R. Morton's own early admissions that he rented it ( R. p. 39 ) before later changing to ( Order: R. p. 14 bot'm (1) of (3) ) Apln't argues &*

**in a case raising a novel question of law, as herein w/ the-*US Graves Amendment*--the Appellate Court is free to decide the question w/ no particular deference to the Lower Court--*re:* 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 S C law--**controlling law in this case**--(SC. sec. 56-1-20; 56-1-500) thus Odell Morton--a SC resident (Affd's: R. p. 1176 para. 1) & it's not even claim Odell Morton followed as required (SC DMV 90 DAYS LAW: R. p. 1183) 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 & reversible court err, to rule he did, Apln't argues; **but** assume he did; his whereabouts on morning the truck was rented 6-1-13--is still at home--bed ridden (Affd's: R. p. 1150 para. 1 & R. p. 1176 para. 6) thus at 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. 199 & 1176) 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, Apln't argues; thus it was prejudicial & reversible court err, to award summary to Respd's, to the exclusion of this evidence, & 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;

& award vicarious liability to Apln't against Respd's for all Aplnt's proven damages suffered, (R. pp. 1169-1172 & 928-943 & 963-987 & 1184-1201 etc.) for their renting Reginald Morton a U-Haul truck w/ no driver's license-knowingly & intentionally (R. pp. 210-211) all Apln't argues; &;

**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 Respd's couldn't have been erroneously awarded summary judgment, at least not on Aplnt'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 Resp'd Rahal in his sworn depo. (R. pp. 290-291 & p. 772 L. 1-16 & R. pp. 919-927), & interrog. (R. pp. 923-924) & if not summary to Apln't on that basis a reasonable jury could've found Respd's grossly negligent; thus vicariously liable to Apln't on his gross negligence claim for all resulting damages caused by Reginald Morton-be it property damages, NIED, IIED & or other such proven damages, & therefore to award summary judgment to Respd's, such was prejudicial & reversible court err, Apln't argues; & furthermore, if such forgery had been correctly found to be a felony as it is under SC law, Apln't 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), Apln't argues, &;

**Paragraph 3-H:** Because-to consider, rely on, & use Reginald Morton's deposition throughout its summary Order; for reasons in (Aff'd: R. pp. 1151-1159 & R. p. 629 L 9-25 & 630 L 1-4) the court err using such depo., Apln't argues; see *N C 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: (R. p. 39) & (*see*–Rahal *judicial admission*-s beginning **2-11-14** & in w/ 6-9-14 amended comp. p. 8: (R. p. 34) & sign by Rahal's counsels & (re-the false defense: R. p. 95-131 & Rahal depo: R. p. 200-203) & **So the defense's foundational argument, in & for the subject order / judgment, that Reginald Morton, "didn't rent the truck", violates S.C. Rule 11 & 15-36-10, Apln't argues; & thus the court prejudicially & reversibly err, to award Respd's summary, Apln't argues; &;**

**Paragraph 3-J:** Because-Reginald Morton also reported his damage claim to U-Haul truck insurer Repwest (R. p. 301 & pp. 218-220) vs. what Morton change to in (Order: R. p. 14 ft. note #1-3 on *that* page) & (for more specific re Reginald Morton-*see*-para. **3-L-a** below on bot'm 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. 8); Apln't never stated in his Complaint or otherwise anywhere in the record, that Rahal rented a truck to ***Odell Morton***; that's claim as the Defense's defense; & Aplnt's suit is based on Rahal, *by his own judicial admissions*-rented the truck to Reginald Morton, etc. as stated; (*see:* R. pp. 202-203 & R. pp. 210-211 & R. p. 39 & R. pp. 290-291 & R. pp. 200-201) & it to was, *judicially admitted*-by counsel at hear'n (R. p. 622 L's 2-7 & 23-25 & R. p. 674 L.19-25 & 675 L.1-25); & as to Reginald Morton depo. *see* (R. pp. 618-621 & 716 L.17-22 & 1151-1152) Apln't argues &;

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

**1st** As to Odell Morton; as stated, he have not spoken "a word" in this case since it begin; & 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. 36 3rd 1) & that no—I was not a SC. resident while living at Aplnt's house & (before there) on Plowden Mill Road in Sumter County SC. for years from 6-1-13 going back (Aff'd: R. p. 1176 para. 1); & that I had a valid driver's license before & on 6-1-13 under SC law, (section: 56-1-20), & that yes--I am that Odell Morton listed in that Maryland DMV document (R. p. 1034), & yes--the address in that document is where I was living on 6-1-13 (R. p. 1034 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. 1150 para.1); & (Aff'd: R. p. 1176 para. 6) & no--R. Morton didn't forge-sign my name on the rental documents because I sign those documents myself 6-1-13 (Aff'd: R. p. 1150 para. 1 & Aff'd: R. p. 1176 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. 598 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 (hear'n transc: R. p. 714 L. 6-7 ) 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. 36 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--& therefore, the Respd's rented the U-Haul truck to Reginald Morton as sworn to by Resp'd Rahal himself

(R. pp. 210-211 & p. 339 L. 22-25) & *judicially admitted* by the others too (R. p. 39 & p. 622 L. 2-7 & p. 675 L 17-25) & thus Respd's were gross negligent & thus vicariously liable for **all** Aplnt's resulting proven damages; from the U-Haul being rented to Reginald Morton knowingly with no drv.'s license (R. pp. 210-211 & p. 39); could a reasonable jury not have found that as above? Yes-Apln't believe, but for prejudicial & reversible court err, on summary to the Respd's, Apln't argues; and;

**2nd** As to Respondent 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. 210-211 & p. 339 L.22-25 & p. 203); & as the Resp'd 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 didn't? **Just Look at Resp'd Roy Rahal's own defense disputing him**-(re who Rahal rented the truck: R. p. 9 L.1-2) perjuring their own (Resp'd **Rahal** sworn testimony re who he rented the truck: R. pp. 210-211 & pp. 200-201) or perjuring their own witness (SC 16-9-10/20) Morton (R. p. 1021 **L.14-15**) & in (Order: R. p. 14 bot'm ft'note) who is a fugitive–Reginald Morton (R. p. 167) hiding out in Balt. Md. except from Respds. (Morton depo.) after jumping bail from SC (R. p. 950) on 6-1-13 with same U-Haul truck he forged Odell Morton's name on the rental documents to get (R. p. 290-291 & p. 339 L.22-25) & 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 & say anything for money, to dodge the SC bounty hunter et al with; which bounty hunters every now & then, comes by here looking for him or where he lives, but Apln't can't give them a correct address because every address given in this case by the defense for Morton turn out to be a false one which Rahal say he had nothing to do with that one (R. p. 891 L.3-16 & pp. 988-989). 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, & again, Respds' summary motion should have been denied accordingly, Apln't argues; & that furthermore, the Aplnt'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 & knew he had no driver's license etc. (R. p. 210-211 & p. 763 L 22-25), Apln't argues; but that if there was any dispute, again, it was for a jury to decide the facts of the matter--which necessitated denying Respds' summary motion, & it was prejudicial & reversible court err, not to do so, Apln't argues, &;

3rd As to Reginald Morton; the reason(s) why Appellant vicariously sued the herein Respondents, is because at 1st he tried suing Reginald Morton too, but he got wind of it somehow & alerted to dodge (*like he was already dodging the SC bounty hunters--R. p. 167*), all attempts at serving him up there in Baltimore; & therefore, Apln't had no other choice but to hold these Respd's liable vicariously (extending to u-haul by respds' "agency"--*see*--sec. 5 below) for his damages, all resulting from Respds' said *judicial admissions* that they rented Reginald Morton a U-Haul truck with no driver's license & knew that (R. p. 210-211 & 763 L 22-25) & thus to deny Apln't any possible theory (even under equitable one) of recovery (Order: R. p. 5-25) against anyone for all the damages he suffered (property, emotional, IIED & other)(R. pp. 48-54; 928-943; 963-987; 1184-1201 & 1208), all from their actions; & to look subjectively instead of objectively at the whole (record) to find that there's not at least 1 genuine & material issue of fact for a jury trial anywhere-in the whole 2 years old case-record, was prejudicial & reversible court err, all the Apln't 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 p. 4 above);

**2.** Odell Morton was at Appellant's rental house sick in bed when the truck was rented (R. p. 1150 para 1);

**3.** Reginald Morton forge-sign Odell Morton's name on truck rental documents to get it (R. pp. 290-291);

**4.** Reginald Morton admitted that he rented the U-Haul truck ( see: paragraph **3-I** above: & R. p. 39 );

**5.** Even if Odell Morton had a valid driver's license, did he or Reginald Morton rent the truck, still was a genuine & 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 Resp'd Rahal ( R. pp. 210-211 & 34 ); and otherwise as shown / proven by Appellant (R. p's. 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 & 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. pp. 1193-1196);

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

That, therefore-the Respondents' 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: R. pp. 5-25 ) & that because the Appellant had a right to a jury trial & requested it (6-9-14 amended complaint: R. p. 27 top right) therefore the lower court prejudicially & reversibly err, Apln't argues; (*most respectfully so re each argument*); &;

**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. 950); and who later evicted them out of Appellant's rental house ( R. p. 37 ), and;

**Para. 3-L-e.** This is the same man that jump that bail 6-1-13 to Baltmo. w/ U-Haul (R. p. 167) &;

**Para. 3-L-f.** This is the same man that still hides out there from the Sumter Sheriff Office & bail bondsman Jim Green's Bounty Hunters, where nobody can seem to find him, but the Respd's in this case & notice they're careful not to put Morton address in depo. notice as required (R.p.1155) & a decoy Morton address in this letter (R. p. 988) as evident by the return mail (R. p. 989) &; this' how it was throughout to keep Apln't from any discovery 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 Resp'd Rahal says he had nothing to do with that one (R. p. 891 L. 3-16 & R. pp. 988-989) & note no Morton address in his own deposition in (R. p. 995-1037) &;

**Para. 3-L-h.** This is the same man that did not want to be question in his deposition by Apln't & Resp's made sure it didn't happen w/all the false addresses et al. etc. (Aff'd: R. pp. 1151-1159) &;

**Para. 3-L-i.** This is the same man that, even, the Respondent Rahal says he do not want Reginald Morton to testify for him ( R. p. 238 L. 21-25 and p. 239 L. 1 ), 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 Apln't when they got here—making the mistake of renting to them & this situation is what Apln't got for trying to be nice & helpful but in no way on earth could have imagine the Respd's would rent him a U-Haul truck with no license which he tore up Aplnt's rental house with & then jumped bail to Md. with whom Respds' defense now team up w/ to avoid paying for all the damages they caused Apln't; then they go on to use–abuse the court system to shield them–w/no defense but a frivolous one (**see sec. 4**) &;

**Para. 3-L-k.** Finally-this' the same Reginald Morton (R. p. 950 & p. 991) that's quoted repeatedly throughout the ( Order: R. pp. 5-25 ) as a basis for summary judgment to Respd's 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 Aplnt'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) & Apln't didn't know what to make of it all–except this appeal; (& again Reginald Morton rented truck–*Rahal (R. pp. 210-211)* &;

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

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

(2). *respondent Roy Rahal depo.-see--Rahal deposition (R. p. 721) the only admissible item of these 7;*

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

(4). respds' witness Reginald Morton depo.--see---paragraph 3-H above;

(5). respondents' the Winkelman affidavit—see—paragraph 5F-5i below;

(6). respondents' Maryland DMV document--see--paragraph 3-N below; &

(7). respds' other 2 forge-sign by someone u-haul rental docu'mts introduce in the record (R. p. 1205-1206) submitted against Aplnt's summary motion & supporting Respds' summary judgment motion; & except for #2 above, none of the other 6 was *admissible; competent, sufficient, &/ or undisputed* evidence under SCRCP 56 & SCRE 901; & to deny Aplnt's summary & award Respds' summary judgment motion, based on such, is prejudicial & reversible court err, Apln't argues; and;

**Paragraph 3-N:** Because-the copy of supposedly Odell Morton's Maryland Driving Record (R. p. 1034) (a).it's not authentic-*SCRE 901*-as claimed-because no matching facially valid Md. driv.'s license–itself have ever been produced in this case to date--other than the Wash., D.C. facial Odell Morton's driv.'s license (R. p. 36 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 SC. for years-including at least 1yr in Aplnt's rental house prior to 6-1-13 (Aff'd: R. p. 1176 para 1); & (c).in any case--that driving record (R. p. 1034) **is not** *"a facial valid driver's license itself";* & therefore-**it**-cannot prove anything as to (d).Odell Morton wherea'bts. on mor'n. of 6-1-13 (Affd's: R. p. 1150 para. 1 & p.1176 para. 6); (e).Odell Morton health condition (Affd's: R. p. 1150 para 1 & p. 1176 para. 6); (f).Odell Morton SC residency on

6-1-13 (Aff'd: R. p. 1176 para. 1); & (g).the forging of Odell Morton's name on 6-1-13 (R. pp. 919-927) & (h).cannot prove how it was obtained (the driving record: R. p. 1034) or who obtained it & when, &/or whether **it–itself** is a forgery or fake, **esp.**, because forgery of Odell Morton's name, on the U-Haul rental documents (5: R. pp. 290-291 & 1205-1206) was at issue in this case & that item–(the subject *driving record*) can't prove anything relevant in this case, but, only that it is the driving **record** of an Odell Morton of many in the Maryland-Washington DC. area; & as to who tore up Aplnt's house ( *see*: Rahal: R. pp. 242-243 ) & therefore 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 (R. p. 210 L. 3-5 & p. 211 L. 13-15 & p. 339 L. 22-25), so then, taken all together as a whole or individually &/ or otherwise, Odell Morton had no valid driver's license on 6-1-13 under SC. law–*see*—sect's. 56-1-20; 56-1-500; 56-1-440; 56-1-580; 56-1-620; & (SC 90 day law: R. p. 1183) which (laws controls in this case); thus the lower court prejudicially & reversibly err to rule otherwise, all Apln't argues; & because of the foregoing unclarity re the Md.'s DMV document's authenticity, it couldn't be "undisputed-competent-admissible" evidence under SCRCP 56 &/or SCRE 901--to award Respds' summary; thus it was prejudicial & reversible court err to do so, Apln't 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. 1150 para. 1) & (re: awareness of the McBride aff'd: R. p. 597 L. 13–18 & R. p. 1150); & that therefore, among many other reasons, stated throughout, including Odell Morton was at home (*in bed dying sick*), re the McBride Affidavit; (all were factual jury questions among others); negating summary to the Respd's, notwithstanding all else, & thus, this is prima facie proof of prejudicial & reversible court err, the Apln't argues, & (as paramount supporting evidence–*see*–Reginald Morton's name as **customer** on all U-haul truck rental doc'mts: (R. p. 39 & 301 & 365 & 925 & 926 & p. 789 L. 4-13) &;

**Paragraph 3-P:** Because--Respd's have repeatedly & constantly tried to make this a negligent entrustment case (Hearing trans: R. p. 580 L. 17-20) & re the (Order: R. p. 17 sec 3) & the order used such as a basis in its findings & rulings, but Apln't made it clear all along & in his amended complaint, & at hearing, he brought no such cause of action, (R. p. 27 at top & R. p. 701 L. 1-22), & 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, the Respd's should not have been awarded summary judgment on neither Aplnt's gross negligence or IIED claim. That the whole record supported only Apln't being entitled to summary judgment &/or at a minimum, a jury trial on his gross negligence & infliction of emotional distress claims, Apln't argues, &;**

*[That Summary Judgment is appropriate **only** if there is no genuine issue of material fact & 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); & 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; & 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; & ; 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—Equitable

**Paragraph 4-A:** Because-the false defense (*see*: Rahal: R. pp. 200-203 & 290-291 & R. p. 211) &;

the 12 false statements that was made & signed ( R. pp. 95-131 ) was based on Respondent Rahal's own *judicial admissions* in sworn interrogatories (R. pp. 95-131) & sworn deposition testimony (R. p. 95-131) under oath, which entitled Apln't to summary as stated in sections #1 & #2 above; & denial of Respds' summary as stated in section 3 above; & thus to deny Appellant's rule 11 & SC. sec. 15-36-10 sanction motion, against the Respds'-defense, in this case, pursuant to their very own *judicial admissions* was prejudicial & reversible court err, Apln't argues; &;

**Paragraph 4-B:** Because-the said Rahal admitted false defense & false statements made & sign, & curiously not even mention what they actually did, ( R. pp. 95-131 & pp. 200-203 & pp. 290-291 & R. p. 211), for sanctions in the ( Order: R. p. 21-23 ) 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 Respds' defense (R.p. same false ones in para. 4-A above) Respd's couldn't have prevail to the extent they did, if at all, on all 5 motions re sections 1-6 herein-on this appeal, & did so only because the lower court prejudicially & reversibly err, in denying Aplnt's sanctions motion, Appellant argues, and;

**Paragraph 4-D:** Because--such violations of said rules & 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)*, & thus it will contaminate the legal process, continue & 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. 200-203) & making & signing false statements, let alone 12 of them (R. p. 95-131) 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 & other evidence which should have led her to realize that the facts did not support her claims & 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, & for which he could not explain the legal basis]. As these cases demonstrate, a reasonable belief, in the merits & continuing merits of a claim, or defense, can be substantiated, only, on the basis of supporting law & the existence of favorable facts. In the instant case the Respondents'-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. 1207) & then the incoming-present ones manufactured a defense for Respondents i.e. U-Haul, ( R. p. 580 L. 3-10 & R. p. 698 L. 6-10 ), *& see:* section 5-A--5-J below) by making & signing the necessary 12 false statements ( R. p. 95-131, & the false defense **R. p. 200-201**) & in the process depriving & costing Apln't as demonstrated in this appeal's brief & ROA, & that they pursued the false & frivolous defenses on fact & law, they knew weren't true,

**(R. p. 200-201).** Such false defenses was based on & sustain only by it & the 12 false statements made & sign, & the same facts & arguments set forth herein apply to all of the filings & arguments asserted in this case. The Supr. Ct. has sent a very clear message that litigants who pursues frivolous litigation, will be subject to sanctions, & 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 & 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 & costs incurred by litigants as a result of frivolous claim or defense being pursued, SC code 15-36-10-G (1); in instant case affd's provided w/all other evid. in (R. p. 1150 & 1165-1176 & 175-178) & the record show no response from them re said motion-charges in a manner prescribe by the FCPSA & their failure to respond to (letter: R. p. 1204) & motion (amend: R. p. 92-131) show their tacit admission, Apln't argues; & 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 &;*

**Paragraph 4-F:** Because-when Respds'-Defense went to Baltimore, Md. 4-24-15 to depose Odell & Reginald Morton (R. p. 1155) Odell wouldn't perjure himself (R. p. 598 L. 21-24) but Reginald Morton (*"just for nothing"*) would (R. p. 1021 L.14-15) **vs.** Rahal's (R. pp. 210-211 & 339 L 22-25) & thus as shown specifically as early date **Feb. 11, 2014** (R. p.34) they knew the truth (*because Rahal told it to them--that he rented the truck to Reginald Morton & they sign it 2-11-14, R. p. 34*) long before going to Baltimore but what was wanted & needed was for their witness R. Morton to falsify their Resp'd Rahal (Morton: R. p. 1021 ***being led*** L. 14-15 **vs.** Rahal R. p. 210--see--SC sec. 16-9-10 /20) & they went & got it-( *their witness falsifying their resp'd* ) & return home & amend their motion for summary 5-12-15 (R. pp. 90-91) & then waited for the eventual summary hearing 10-14-15 at which

both were submitted to the court, as the sworn truth, &; 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, Apln't argues &;

**Paragraph 4-G:** Because-that once again-it's that important to remember here-that it was Resp'd Rahal-himself, (*not the appellant*), who, so to speak, blew the whistle, *under oath*, on the wrong doing on his own side; (*evidently fearing the consequences, being a foreign national if he was caught taking part in perjury as respds' witness* ***Reginald Morton--saying--Rahal didn't rent the truck to me:*** Order: R. p. 9 L 1-2 & Order: R. p. 14 *ft. note (1)* & R. p. 1021 L 14-15 ***vs. Rahal himself saying-I rent the truck to Reginald Morton*** R. p. 210 & 339 L 22-25; ***by definition I committed 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 Respds' 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. 950 & R. p. 167); also, Apln't ask not that his own word be taken here, but to just let the record speak for itself (Record on Appeal with Brief) as to the merits of the matter (Order "wholly without merit" R. p. 23 L. 1-2 re **Rahal's admitted** false defense (R. pp. 200-203) & false statements made & sign R. p. 95-131) thus it was prejudicial & reversible court err-abuse of discretion to deny Aplnt's rule 11 & S. C. SEC. 15-36-10 sanctions motion, Apln't argues; & note that nowhere in the record-respds' defense even claim it's not true as charge or they didn't do it etc.; & that Apln't did write to them **1st** as required in 15-36-10 (R. p. 1204) 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; & 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 & Respd's 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 & reversible court err, because, in the instant case, it would have shown the Apln't to be entitled to summary judgment, as stated in sections 1 & 2 above & Respd's not entitled to summary judgment as stated in section 3A thru 3Q above, all Apln't argues; &;

**Paragraph 4-I:** Because--in the instant case--earlier on, the reasonable attorneys being Kuppens & 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. 1207) rather than initiate or perpetuate a frivolous defense, that no reasonable attorney would do or continue w/ because Respds' liability re: case was basically already admitted as of **2-11-14 point-in-time** (R. p. 39); when the quitting attorneys replacements (*in this case*) hired/paid by U-Haul (Rahal depo.: R. p. 856 L 16-23) signed Rahal's true admission **2-11-14** (R. p. 34), 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. 5-25); & most importantly *see* **this one again** (Rahal depo.: R. p. 862 L.10-25 & R. p. 863 L. 1) Rahal's *judicial admission;* thus–the court prejudicially & fatally err, not to use correctly, the reasonable attorney standard; by which to evaluate the sought sanctions against Respondents'-Defense, Apln't argues; &;

**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, Apln't should have been granted his Rule 11 & S. C. 15-36-10 sanctions motion against Respds'--Defense, but it was not done, due to prejudicial, & reversible court err, the Apln't argues; & that;**

Because Respd's 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 Apln't, pursuant to same, that was entitle to all the relief just as prayed for, Apln't argues, &

*[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 & 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 & signed, with the false-defense, they had, "no chance of success under the existing precedent", except said court err(s), Apln't argues.....**(End Section 4 of 6; & ; Begin Section 5 of 6);**

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

Review Standard—Abuse of Discretion

**Paragraph 5-A:** Because--Apln't 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. 132-145), & why was that important? Because it came to the attention of Apln't that *Palestinian /Jordanian /Syrian Rahal & Mohammad* have changed one of their store names from El Cheapo to Cheap-way & there were other red flags

that something was afoot--such as Resp'd Rahal quitting his job after this lawsuit (R. p. 871 L..2-3) prompting concern (R. p. 847 L 4-5 & p. 1202-1203) re their run back to Middle East & since Rahal refused to return to complete his depo's. (R. p. 151-153) &/he or Zaher Mohammad refuse to appear for the 30(b)(6) deposition (R. p. 154-155); & they both refused to be question any further every since then & that Rahal made it quite clear that, "*if you want to be compensated--you call u-haul & their lawyers & they'll...you deal with them" (R. p. 802 L. 2-5);* then Appellant realized that; if after; all that it's taking to get a judgment against these Respd's for what they did, & then they change corporate, sell out, & /or shut down, & flee back to the Middle East, the Apln't could never collect on any judgment, as to them, even if successful here on Appeal—then---what? Must Apln't 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 Apln't was bold enough to try that. Therefore then, **That's mainly why**—Apln't move to amend 15 b-c because Respd's & U-Haul too, *belatedly & judicially admitted*—that they are principal & agent, (agency), relationship in their renting of U-Haul trucks to the public--*see*--( R. p. 136-145 ) Apln't argues; & that furthermore, had the Respds' Defense not do what they did in the 1st place—to remove the other U-Haul entities (R. p. 132-135) this motion wouldn't have been necessary; & 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. 1163-1164) or any U-Haul entity, but Apln't argues to the contrary herein & in his motion (R. p. 132-133) that one U-Haul entity or the other (*they can decide which*) does have liability via agency, ( R. p. 137-145 ), for any judgment against these Respd's for what they

Did in renting a U-Haul truck to Reginald Morton with no driver's license, (R. pp 210-211), & knowingly; resulting in all Apln't damages (R. pp. 48-54 & 928-943 & 963-987 & 1184-1201 & 1208), he argues, &;

**Paragraph 5-C:** Because Apln't has repeatedly--constantly begged, (*yes begged*), Respd's for some modicum of compensation (R. p. 46) & providing them proof of the IIED effects via NOTICE 5 (R. p. 928 & R. p. 935 & R. p. 963 & R. p. 968 & R. p. 1184) for the damages they caused & Rahal response was made very clear–*in short part*–call U-Haul (R. p. 802 L 2-5) & their lawyers (hear. trans: R. p. 580 L 1-10) for compensation because "*I don't have $15 million*" (Rahal depo: R. p. 805 L. 21) &; thus Respd's / 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 Apln't argues; & **note**–u-haul own their trucks–Rahal: (R. p. 732 L 1-14 & R. pp.1163-1164) &;

**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 & that he goes all over the country doing the same--re ( hearing transcript: R. p. 580 L. 1 - 10 and R. p. 698 L. 6 – 10 ); so that's the evidence that U-Haul knew & knows it has agency liability in this case **from beginning;** 15 b-c amend or not, Apln't argues; & **note**--u-haul set all policies–Rahal depo: (R. p. 777 L. 1-8) &;

**Paragraph 5-E:** Because in more ref: to U-Haul's attempt to avoid their agency liability with the Winkelman affidavit (R. p. 1163-1164) just ask the question, who gets the bulk of the U-Haul truck rental money in the end? The answer is (R. pp. 141-142) U-Haul of course. So how does that square w/ the Winkelman affidavit, Apln't 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's where the Winkelman affidavit comes in at, to solve that problem, as in this case, Apln't argues; &;

**Paragraph 5-F:** Because-the evidence Respd's offered--to get denial of Aplnt's motion, was 1 Winkelman aff'd (R. p. 1163-1164 *& specifically referred to in* ***order R. p. 9 para. 2*** *denying motion*) BUT It--the Winkelman affidavit--was not timely served, as it was served to Apln't on October 14, 2014 (R. p. 1162) day of the dispositive hearing, & SCRCP 56 ( c ) required such affidavits be served no later than 2 day before the hearing; therefore, to consider, & to use, this affidavit upon which to deny Appellant's 15 ( b-c ) motion to amend, was court err, Appellant argues; &;

**Paragraph 5-G:** Because-even if the Winkelman affidavit was timely served etc., their argument therein have nothing to do with why Apln't wanted to amend 15 b-c; it was to attach U-Haul for agency liability purposes only (R. p. 137-145), which 15b motion is moot anyway, if, *respondeat superior* attaches U-Haul liability as a matter of law per facts of this case, Apln't argues, &;

**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, & 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, Apln't argues &;

**Paragraph 5-I:** Because--that as to the, U-Haul Co. of S. C., Inc., mentioned in the Winkelman p. 1 Aff'd ( R. p. 1163 ) remember-that's the same U-Haul entity they argued for dismissal of before; effectively arguing they were not the proper entity to be sued ( R. p. 134-135 );

Now they are in effect---*in the Winkelman Affidavit*---saying that U-Haul Co. of S. C., *not,* U-Haul Intl. Inc.; **is** the one to be now joined--sued for *agency* the Winkelman Aff'd now argues, ( R. p. 1163--1164 ). [N] ow this court can see the evidence directly for themselves, the kind of games Respd's have played on the disable Apln't all throughout the almost 2 yrs of discovery period in this case; & their withholding & failure to provide the Winkelman Aff'd info. 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 discovery rules, Apln't 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, Apln't argues &;** *[Apln't 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 motion to amend & leave shall be freely given when justice requires & doesn't prejudice another party SCRCP 15(a)];*.....**(End Section 5 of 6; & ; Begin Section 6 of 6);**

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

Review Standard—Abuse of Discretion

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

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

**Paragraph 6-C:** Because litigation is, vexatious by its very nature, & in any case, caused by the Respds' own actions & that of their 2nd defense team in this case re--specifically section 4 of 6 above, for Rule 11 & S.C. sec. 15-36-10 sanctions against them, thus Respd's are the ones responsible for vexatious IIED et al. litigation against disable Apln't in this case, (*see*-sect. #4 above), & indeed--***see***--this whole brief & R O A; & that furthermore; these Respd's 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 Respd's 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 Apln't then, who was entitled to *all* relief he prayed for, he argues; &**

**Paragraph 6-D:** Because--by the same logic, & upon the same grounds, as the Respd's asks in their motion for the dismissal of Aplnt's case because they are vexed & the motion held in abeyance; likewise; Apln't asks this court to award him this case in the amounts as pled for, based on Respd's having vexed him from the very beginning to now, Apln't argues; & the proof-*see*-(all in this brief, **esp. sec. #4 re rule 11 & 15-36-10 sanctions,** & ROA, Apln't 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. 5-25) Apln't 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; Apln't respectfully requests that this Court evaluate the evidence, as it is required to do, in light of the objective standards & factors to be considered under the FCPSA, & to find that the evidence establishes that the Respd's &/or their attorneys, initiated, & pursued, frivolous defense(s) & all other such corresponding litigation against the Apln't; & that Apln't also, further respectfully requests that the Court find that Apln't 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. 39) after the quitting of the 1st set of Respds' attorneys, (R. p. 1207), to avoid the necessary frivolity for a defense in this case, onward to the present here, as appropriate sanctions; &, that lastly, on this issue, re: section #4, Apln't respectfully request, *alternatively*, that this case, in its entirety just as prayed for, be forfeited to Apln't 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, Apln't 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 Apln't respectfully submit that the Lower Court should be reversed; & that Aplnt's summary judgment vicarious liability motion, against these Respd's (*& the right u-haul entity*) on his gross negligence house damages claim should be granted w/ the–undisputed by Respd's–at summary–actual & proven damages by a preponderance of the evidence $175,700.00 (R. p. 1171 et al ) + the continued loss rents $650.00 per month (R. p. 1172) that's not added in yet for 11-1-2015 to the present, plus interest on whole total-($ total + % interest); & summary vicarious liability against Respd's on Aplnt's IIED claim should be granted with the–undisputed by Respd's–at summary–actual damages & the proven damages by a preponderance of the evidence,

$25,000,000.00 + for (*see*-this brief: & R. pp. 48-54; 928-943; 963-987; 1184-1201 & 1208 et al. etc.) & U-Haul Int'l., Inc., &/or U-Haul Co. of SC., Inc. &/or whatever other U-Haul entity ***they*** so designate to be summarily added for, "agency" purposes, i.e., *respondeat superior*, rendering Aplnt's 15 b--c motion to amend, a moot motion accordingly; & that Respds' summary judgment motion be reversed per the ROA; & that Respds' motion to dismiss this case for vexatious litigation & sanctions against disabled Apln't be denied or at least opined upon as to Aplnt's right to bring & litigate, such an instant case--re the ROA; & that as to punitive damages on Aplnt's gross negligence & IIED claims, rule on the liability (based on Respds' admissions &/ or their non-disputing etc. in the record), & 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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(803) 609-7990 APPELLANT PRO SE

Sumter, South Carolina

June 8, 2016

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Important Note(s) 1-10 below:

1. That there is no dispute that U-Haul own all the rental truck, (Rahal depo: R. p. 732 L 1-14) &;
2. That U-Haul control & set all rental rates, rules, policies, etc., (Rahal depo: R. p. 777 L 1-8) &;
3. That Rahal reported to U-Haul Headquarters as their agent, (Rahal depo: R. p. 780 L 12-25) &;
4. That U-Haul hired & pay all defense law firms--attorneys, (Rahal depo: R. p. 856 L 16-23) &:
5. That Reginald Morton went to Rahal & got truck, (Rahal depo: R. p. 754 L 19-25 & 755 L 3-5) &;
6. That Reginald Morton's name as customer on all rental documents (Rahal depo: R. p. 793 L 14-19) &;
7. That Rahal repeatedly admit-R. Morton forge-sign (R. p. 290-291) (sc sec. 16-13-10) the 3 u-haul truck rental documents & his *judicial admissions* signed by his counsels (R. pp. 95-131 & 919-927 & 203) &;
8. That Rahal spoke & signed for El Cheapo (Rahal depo: R. pp. 824-825 & R. pp.732-733) &;
9. That re (Aplnt's 2 10-26-15 Affd's: R. p. 1151-1161)--see--(Hear. Trans: R. p. 716 L 17 - 25) &;
10. That U-Haul received the truck rental monies--minus Respds' agency commissions ( R. p. 185-186).

STATE OF SOUTH CAROLINA
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APPEAL FROM SUMTER COUNTY
COURT OF COMMON PLEAS



Hon. George C. James, Jr., Circuit Court Judge

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Appellate Case No: 2015-002481

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Charles Taylor,.....Appellant

v.

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

PROOF OF FILING AND SERVICE

I certify that the Final Brief of Appellant was filed (1 original unbound & 14 bound copies) on the date below by hand delivery to this court's clerk office and same was served to lead counsel below, at his address below, by depositing same in the U.S. Mail, postage prepaid.

June 8, 2016

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CERTIFICATE OF COMPLIANCE BY APPELLANT

Appellant certifies that his Final Brief complies with Rule 211(b) SCACR.

June 8, 2016

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