

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2016-000987

Randall Dixon, Appellant,

v.

Nationwide Property & Casualty
Insurance Company, Respondent.

INITIAL REPLY BRIEF OF APPELLANT

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Attorneys for Appellant

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SC Court of Appeals

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1. The Respondent fails to address the inconsistencies in McDonald v. South Carolina Farm Bureau Ins. Co., 336 S.C. 120 (1999), 518 S.E.2d 624 and other cited cases in its brief. McDonald requires a rejection form from all named insureds.

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ARGUMENT

The Respondent fails to address the inconsistencies in McDonald v. South Carolina Farm Bureau Ins. Co., 336 S.C. 120 (1999), 518 S.E.2d 624 and other cited cases in its brief. McDonald requires a rejection form from all named insureds.

The Respondent has maintained throughout that Jessica Dixon was not a named insured on the subject policy. The Appellant's argument in its initial brief was not inconsistent, rather, the Appellant was addressing two different scenarios because the Respondent made an argument at trial that Jessica Dixon was not a named insured, while the actions by Respondent showed she was clearly considered a named insured by the insurer. Therefore, the Appellant addressed both arguments since the actions of the Respondent and argument at trial were factually inconsistent.

If the Court adopts the position of the Respondent, then there exists no named insured that has signed a rejection form. The McDonald case addresses the legislature's intent regarding the requirement of South Carolina Code Ann. §38-77-350(A) in requiring


that all "new applicants" be offered UIM coverage. In McDonald, the Court addressed this issue directly, stating: "Clearly, the legislature intended for insurers to afford all named insured the opportunity to accept or reject UIM coverage."

CONCLUSION

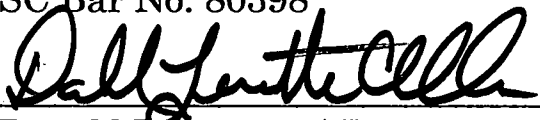
The Respondent has argued Jessica Dixon was not a named insured. Therefore, the requirements of §38-77-350(A) are not met. To allow Respondent to subsequently argue that Jessica Dixon was a named insured in order to claim the existence of a agency relationship violates public policy. Therefore, the subject policy should be reformed in favor of Appellant.

Respectfully submitted,

THE ALLEN & ALLEN LAW FIRM



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January 9, 2017
Anderson, South Carolina Attorneys for Appellant

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Randall Dixon, Appellant,

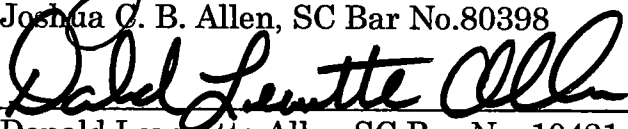
v.

Nationwide Property & Casualty Insurance Company, . . Respondent.

PROOF OF SERVICE

I certify that I have served the Initial Reply Brief of Appellant on Nationwide Property & Casualty Insurance Company by depositing a copy in the United States Mail, postage prepaid, on January 9, 2017, addressed to their attorney of record, J. R. Murphy, Esq., Murphy & Grantland, Post Office Box 6648, Columbia, South Carolina 29260.



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January 9, 2017

The Honorable Jenny A. Kitchings
Clerk of the South Carolina Court of Appeals
PO BOX 11629
Columbia, SC 29211

RE: Randall Dixon vs. Nationwide Property & Casualty Insurance Company
Case No.: 2016-000987

Dear Ms. Kitchings:

Please find enclosed for filing the Initial Reply Brief of Appellant in the above case. Also enclosed are the following:

1. One (1) copy of the Initial Reply Brief of Appellant; and
2. An original Certificate of Service and one (1) copy.

Please return a certified copy of each of the above documents to me in the enclosed self-addressed stamped envelope.

By copy of this letter, I am serving opposing counsel with a copy of the Initial Reply Brief of Appellant and the Proof of Service.

Thank you for your assistance in this matter.

Sincerely yours,

THE ALLEN & ALLEN LAW FIRM



Joshua C. B. Allen

JCBA/rs

xc: J. R. Murphy, Esq.

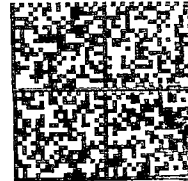
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SC Court of Appeals

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