

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Hon. George C. James, Jr., Circuit Court Judge S.C. SUPREME COURT

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SEP 15 2017

Opinion No: 2017-UP-249 (S.C. Ct. App. filed June 21, 2017)

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SC Court of Appeals

Charles Taylor,

Petitioner,

v.

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

Respondents,

PETITION FOR A WRIT OF CERTIORARI

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INDEX

Certificate of Counsel.....1

Questions Presented.....1

Statement of the Case.....1

Argument.....4

1. THE COURT OF APPEALS SHOULD HAVE ADDRESS THE ISSUES RAISED IN PETITIONER’S REHEARING PETITION AND SHOULD HAVE HELD FIRST AND FOREMOST THAT:

FEDERAL LAW “THE GRAVES AMENDMENT” 49 U.S.C. 30106 (a) (2) (2005) DON’T [PROTECT] AUTO RENTAL COMPANIES AND AFFILIATES FROM [VICARIOUS] LIABILITY FOR THEIR NEGLIGENCE AND CRIMINAL WRONGDOING AND LOWER COURT ERR HOLDING IT DID AS ARGUED IN PETITIONER’S MAIN APPELLATE BRIEF BEGINNING P -i- & in REHEARING PETITION P. 2

Conclusion.....6

CERTIFICATE OF COUNSEL

The Petitioner *pro se* certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on August 18, 2017.

QUESTION PRESENTED

1. Should the Court of Appeals have address the issues raised in Petitioner's Rehearing Petition and held first and foremost that:

Federal Law "Graves Amendment" 49 U.S.C. 30106 (A) (2) (2005) Don't [Protect] Auto Rental Companies & Affiliates from [Vicarious] Liability for their Negligence & Criminal Wrongdoing & Lower Court Err Holding it did as Argued in Petitioner's Main Appellate Brief Beginning p.-i- & in Rehearing Petition p. 2.

FACTUAL STATEMENT OF THE CASE

That as an initial matter both parties and lower court acknowledge [in its 11-20-15 order] that neither our SC Appellate Court nor Supreme Court have had the opportunity yet to address above Federal Law the "Graves Amendment" 49 U.S.C. 30106(a)(2)(2005) *see (lower court order R. p. 13 L. 4 "Although South Carolina has not address the issue" & R. p. 14 L. 1 "Although South Carolina Courts have yet to address the Graves Amendment")*, and from beginning all other arguments derived their relevance from this paramount argument *i.e.* the "Graves Amendment" and Petitioner concedes--*if*--Respondents reading of it is correct pursuant to the *admitted* facts of this case and vs. the actual text--Petitioner loses, or Petitioner wins if otherwise. Problem is the Appellate Court err not explicitly addressing the issue in its 6-21-17 opinion or 8-18-17 rehearing order & graves was supreme reason given-*all other a derivative*-for awarding summary to Respondents, therefore the Petitioner naturally now most respectfully asks this court for a writ of certiorari to address this issue in light of said summary judgment to Respondents and in light of Petitioner request for a jury trial from beginning (R. p. 27) to present. Now next page continuing further;

Factual Statement of the Case

Essentially, that on 10-9-13, Charles Taylor *pro se* (*hereinafter* "Petitioner") brought vicariously 1. Gross negligence, & 2. Lied, (2) causes of actions [*jury trial demanded-never received*] against Stop "N" Save, Inc., dba, El Cheapo Plus #7 & Roy Rahal; (*hereinafter* "Rahal" because *he spoke for them all R. pp. 824 L.20-25 & 825 L.1*); & vicariously because 6-1-13 Rahal a U-Haul truck rental agent via their store *admitted* (R pp. 137-145), got together with & rented a U-Haul truck to a Reginald Morton intentionally with no driver's license (R. pp. 36 & 39) & knowing he had none *admitted* (R. pp. 210 L. 3-5 & 211 L. 13-15) criminal wrongdoing *sc law 56-1-20, 56-1-500, 56-1-440, 56-1-580 & 56-1-620 re* (R. p. 166 *b-e & h*), after he--Rahal--oversaw him, Reginald Morton forgery /sign Odell Morton's name on the (3) U-Haul truck rental documents *admitted* (R. pp. 919-927 & 290-291) & [Note: copy Odell Morton's signature on R. p. 1179] & *forgery a felony* criminal wrongdoing *carrying up to 10 years imprisonment for perpetrator-s and all those involve sc law 16-13-10*; & they did it all in a drug deal (R. pp. 951 mid'l. & 1165 para. #7 & re 36-39) & *drug dealing a felony* criminal wrongdoing *under state & federal laws carrying up to lifetime imprisonment in some instances, plus civil liability sc 44-53-10 et. seq., and*;

Rahal was sued vicariously because with the illegally gotten U-Haul truck from him, Reginald Morton came to move, seething mad because Petitioner had local magistrate evict them for drug dealing & non-rent payment etc. (R. pp. 36-37) & he-Reginald Morton committed the initial (IIED) on Petitioner *knowing his desperate [disabilities] needs for the rental income for his must have medications etc. or results see* (R. pp. 1185-1192 & 1199-1201 & 166-178) by destroying w/ his U-haul truck 6-1-13 Petitioner's home \$150,000 total invested & total loss (R. pp. 55 & 1165-1174) that disable Petitioner wd/ spinal injury etc. from years earlier auto accident move out of--*home*--into storage unit to rent house for low \$650mth to Morton's to supplement Petitioner's disability income (R. p. 47) to get above must have medications etc.; thus Rahal sued vicariously for all damages

after Morton jump SC bail to Md. (R. pp. 36-39 & 950) & hid from the law-suit-etc., & Rahal sued for all Petitioner's damages resulting from Rahal's negligence & criminal wrongdoing & Morton's, all stated above & Rahal respond claiming disingenuously in *effect* they can't be held liable because:

(1st). Federal Law Graves Amendment 49 U.S.C. 30106(a)(2)(2005) [Protects] Auto Rental Co.'s & affiliates from [vicarious] liability for their negligence & criminal wrongdoing (R. pp. 12-14) & subsidiary Rahal sub-paramount claims [SCACR 242 d-2] that:

2nd No evid. Rahal rent truck to Reg. Morton but to Odell Morton (R. p.15 last 3 L. & p.16 L.1-3) &;

3rd No evid. Odell Morton had no valid license et al. etc. 6-1-13 when truck rental (R. p. 16 last 2 L.) &;

4th No evid. Rahal's actions in renting u-haul truck was negligent or wrongful (R. p. 9 L.11-13) &;

5th No evid. Rahal owe Petitioner a duty--if he did--no evid. of its breach (R. pp. 15 #1 & 16 #2) &;

6th No evid. supporting Reginald Morton ied 4 elements brought against Rahal (R. p.18 para-D) &;

7th No evid. support all other Petitioner claims-elements etc-so sum. judg. must go Rahal (R. pp. 7-23);

But lower court *err* agreeing w/ Rahal on above 1st-7th defense claims et al. in its 11-20-15 order as cited above esp. in light of 1-7th p. 4-6 below & therefore *err* ruling sum. judg. to Rahal, thus Petitioner appeal each ruling & summary for each specific reason in (*argu. sec. p. 4-6 below*) thus Appellate Court *err* [*addressing neither*] in its blanket affirming circuit court's summary to Rahal. Charles Taylor v. Stop "N" Save, Inc., d/b/a, El Cheapo Plus #7, and Roy Rahal, Op. No. 2017-UP-249 (S.C. Ct. App. Filed June 21, 2017). Petitioner then filed a rehearing petition 7-3-17 re SCACR 221(a) because Appellate Court didn't explicitly address either 1st-7th above i.e. below p.4-6 in its 6-21-17 opinion as said; regardless-petition was denied *order 8-18-17* unable *it said* to discover any material fact or principal of law overlooked or disregarded in the 6-21-17 opinion, and hence, no basis for rehearing, see, p. i & p.1 & 1st-7th all above & p.4-6 below, and thus the Petitioner now seeks a writ of certiorari from this court to review the decision.

ARGUMENT

1. THE COURT OF APPEALS SHOULD HAVE ADDRESS THE ISSUES RAISED IN PETITIONER'S REHEARING PETITION AND SHOULD HAVE HELD FIRST AND FOREMOST THAT:

(1st). Federal Law “the Graves Amendment” 49 U.S.C. 30106(a) (2) (2005) Don't [Protect] Auto Rental Companies & Affiliates from [Vicarious] Liability for their Negligence and Criminal Wrongdoing and Lower Court Err Holding it Did as Argued in Petitioner's Main Appellate Brief Beginning on p. -i- & in Rehearing Petition p. 2;

Because it says so explicitly in the text (a)(2) itself below -- and -- in the lower Court's 11-20-15 Order itself too (R. p. 12) verbatim in pertinent part here that:

“(a) In General – An owner of a motor vehicle that rents or leases the vehicle to a person (or affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if—

- (1) the owner (or affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
- (2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner)...

It is *undisputed* Rahal is affiliate *i.e.* agent of the U-Haul owner *admitted* (R. p. 227–236), & it too *undisputed* the gross negligence & criminal wrongdoing by Rahal himself & *he admits it all on p.2 above*; that's why Petitioner argue Rahal defense claims on *p.3 above top para. L.3* are disingenuous--i.e. a complete and continuing sham--fraud upon the court for the said reason--but that in any case pursuant to the well-established rule of statutory construction the court is required

to look to the plain and ordinary meaning of the statutory language. Adkins v. Vam, 312 S.C. 188, 439 S.E.2D 822 (1993); Greenville Mills, Inc. v. Second Injury Fund, 433 S.E.2d 845 (1993) (“It is well established that in construing a statute, its words must be given their plain, ordinary meaning without resorting to subtle or forced construction to limit or expand statute’s operation”) (quoting First Baptist Church v. City of Mauldin, 308 S.C. 226, 417 S.E.2d 592 (1992)). Therefore Federal Law the “Graves Amendment” 49 U.S.C. 30106(a)(2)(2005) is unambiguous not barring vicarious liability *court err* (R. p. 12 B a-2) re Rahal’s admitted negligence & criminal wrongdoing along w/ Reginald Morton’s *p.2 above*, contrary to Rahal defenses 1st-7th *p.3 above* & the court err to agree w/ them, all Petitioner most respectfully argue in his Main 6-8-16 Apln’t. Brf. beginning p.-i- bot’m. & otherwise esp. sec. 3 p.14 *Petitioner opposing Rahal summary* para.3A-3Q encompassing

subsidiary Rahal sub-paramount claims raised [see 2nd-7th p.3 above & below] & Appellate Ct. should have address these pursuant to SCACR 242(d)(2) & should have held (*subsidiarily*) that:

- (2nd). **There is evidence Rahal rented U-Haul truck to license less Reginald Morton and it was both negligent and criminal wrongdoing and not to Odell Morton:** (R. pp. 36, 95-131, 200-206, 210-211 & 166 b-e & h) & *see ft’note on p.6 below*; & the lower court err not seeing it before ruling no evidence re 2nd on p.3 above, and;
- (3rd). **There is evidence Odell Morton had no valid driver’s license & at house sick in bed etc. 6-1-13 when truck was rented** (R. pp. 36, 1150, 1176, 1183 & 166 b-e & h) & the lower court err not seeing it before ruling no evidence re 3rd on p.3 above, and;
- (4th). **There is evidence Rahal’s actions in renting U-Haul truck was negligent and criminal wrongdoing** (R. pp.36, 95-131, 200-206, 210-211 & 166 b-e & h) and the lower court err not seeing it before ruling no evidence re 4th on p.3 above, and;
- (5th). **There is evidence Rahal owed a duty to Petitioner & it was Breach & Damages resulted** *see 2nd - 7th* & (R. pp. 27-55 & 1165-1174) & Aplnt’s. 6-8-16 Brf. p.5 para. 1B-1D & lower court err not seeing it before ruling no evidence re 5th on p.3 above, and;
- (6th). **There is evidence to support Reginald Morton iied 4 elements brought against Rahal vicariously** (R. pp. 27-55 & 166-178) & Aplnt’s. 6-8-16 Brief p.9 para. 2B-2J & lower court err not seeing it before ruling no evidence re 6th on p.3 above, and;

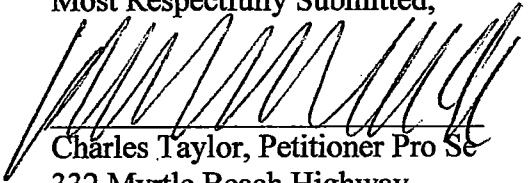
(7th). There is evidence to support *all other* Petitioner's claims-elements etc., *i.e.*, a jury trial Petitioner 1st demanded-*thus-sum.* judgment must not go to Rahal see (R. pp. 1-1208 *which 1072 demand in by defense 98% irel mat violating SCACR 209 b-c*) & re all above & below, lower court err ruling sum. Judg. to Rahal re 7th on p.3 above.

CONCLUSION

For the reasons stated, petitioner most respectfully asks this Court to grant the petition, for a writ of certiorari as the *supreme* question presented on *p.1 above* accords with SCACR 242(b)(1)(5) etc.

September 15, 2017

Most Respectfully Submitted,



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PARAMOUNT:

¹ Re Rahal's own admissions sworn under the penalty of perjury *sc. sec. 16-9-10* (R. p. 913 L.5-9) unequivocally that he rented said U-Haul truck not to [Odell Morton] but to [Reginald Morton] repeatedly over and over and over again these many times: Rahal's True Under Oath Testimony: (R. p. 754 L. 19-25); (R. p. 755 L. 3-5); (R. p. 759 L. 8-13); (R. p. 862 L. 10-14 & 19-25); (R. p. 863 L. 1); (R. p. 746 L. 13-15); (R. p. 764 L. 1-4 & 13-14); (R. p. 793 L. 14-19); (R. p. 788 L. 24-25); (R. p. 789 L. 4-6 & 9-14 & 18-19); (R. p. 794 L. 4-5 & 8); (R. p. 762 L. 1-3 & 15 & 19-22); (R. p. 795 L. 5-12 & 19-25); (R. p. 878 L. 22-25); (R. p. 879 L. 1-3 & 8-10); and add to all above Rahal's awareness and knowledge with their copy of (R. p. 166 *sec. c, d, e, & h*), "*you know, if-if somebody doesn't have a driver's license, I can't rent the truck to them*", (R. p. 853 L. 9-11), and of course add to all above Rahal's Interrogatory Answer date 2-11-14 (R. p. 95) and Reginald Morton's own statement that he rented the truck (R. p. 39). That when admissions are 'so deliberate, detail and unequivocal, (*same: in Appellant's 6-8-16 Appellate Reply Brief p.5 #1*), as to matters in the party's personal knowledge' that such will be held to be judicial admissions, see (*Appellant's 6-8-16 Appellate Main Brief p.3 #12 thru p.5*), & see Caponi v. Larry's 66 N.E.2d 1347 (Ill. Ct. App. 1992) finding party repeatedly testified unequivocally re conditions of a brake pedal before an auto collision. But of course Rahal's own defense disputes him claiming in effect he-Rahal don't know what he's talking about because he rented U-Haul truck to Odell Morton (R. p. 9 L.1-2) repeated all throughout but Rahal disagrees re all the above et al. etc. stated by Rahal himself--again--under the penalty *s. c. section. 16-9-10* of perjury (R. p. 913 L. 5-9).

² Petitioner end this case as he begin it, by simply asking for a jury trial for reasons on p.2 above, but summary to Rahal regardless to all the above, esp. Rahal's admitted criminal wrongdoing on p.2 above and will get away with all of it, unless this certiorari petition is granted.