

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM ANDERSON COUNTY SC Court of Appeals
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.

FINAL REPLY BRIEF OF APPELLANT

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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,

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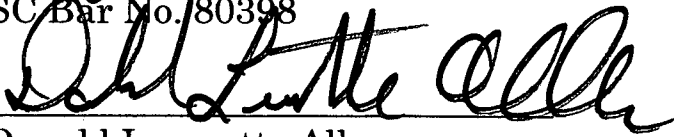
SC Court of Appeals

CERTIFICATE OF COUNSEL

I hereby certify that the Final Brief of Appellant and the Final Reply of Appellant complies with Rule 211(b), SCACR.



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