

IN THE STATE OF SOUTH CAROLINA

In the South Carolina Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

D. Craig Brown, Circuit Court Judge

Case No. 2020-CP-21-00986

RECEIVED

Mar 02 2021

SC Court of Appeals

RECEIVED

Mar 12 2021

SC Court of Appeals

Nationwide Affinity Ins. Co. of America,Appellant,

v.

Andrew Green,Respondent.

NOTICE OF APPEAL

Nationwide Affinity Insurance Company of America appeals the Order dated February 1, 2021 and Amended Order dated February 18, 2021 of the Honorable D. Craig Brown. Appellant received written notice of entry of these orders on February 1, 2021 and February 18, 2021, respectively.

March 3, 2021



J.R. Murphy, Esquire (S.C. Bar #7941)
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
Attorney for Appellant

Other Counsel of Record:

Matthew T. Foss, Esquire (SC Bar #104390)
Alexis W. McCumber, Esquire (SC Bar #101611)
Anastopoulos Law Firm, LLC
32 Ann Street
Charleston, SC 29403

IN THE STATE OF SOUTH CAROLINA

In the South Carolina Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

D. Craig Brown, Circuit Court Judge

Case No. 2020-CP-21-00986

RECEIVED

Mar 02 2021

SC Court of Appeals

RECEIVED

Mar 12 2021

SC Court of Appeals

Nationwide Affinity Ins. Co. of America,Appellant,

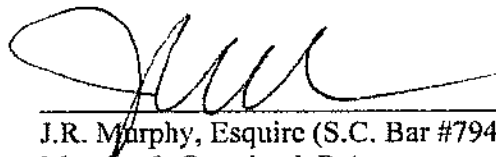
v.

Andrew Green,Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Andrew Green by depositing a copy of it in the United States Mail, postage prepaid, on March 3, 2021, addressed to:

Matthew T. Foss, Esquire
Alexis W. McCumber, Esquire
Anastopoulo Law Firm, LLC
32 Ann Street
Charleston, SC 29403



J.R. Murphy, Esquire (S.C. Bar #7941)
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
Attorney for Appellant

Nationwide Affinity Insurance Company Of America
PLAINTIFF(S)

Andrew Green
DEFENDANT(S)

RECEIVED

Mar 12 2021

SC Court of Appeals

- DISPOSITION TYPE (CHECK ONE)**
- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
 - DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
 - ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
 - ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
 - STAYED DUE TO BANKRUPTCY**
 - DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter came before this Court on January 25, 2021, pursuant to Plaintiff's Motion for Judgment on the Pleadings. Attorney J.R. Murphy appeared on behalf of the Plaintiff and Attorney Alexis W. McCumber appeared on behalf of the Defendant. Both attorneys appeared via WebEx. Each attorney submitted memorandums in support of their position and argued the applicability of specific cases. Attorney for the Plaintiff argued that *Bardsley v. Government Employees Ins. Co.*, 405 S.C. 88, 747 S.E.2d 436 (2013), was applicable to the underlying facts of this case which would preclude defendant from being entitled to underinsured (UIM) motorist coverage under the "property damage" provision. Defense counsel, on the other hand, argued that *Glasscock v. U.S. Fidelity and Guar. Co.*, 348 S.C. 76, 557 S.E.2d 689 (2001) was applicable which would entitle Defendant to recover under the "property damage" provision of the underinsured coverage.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/01/2021.

RECEIVED

Mar 02 2021

SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

After reviewing the attorney's respective memorandum and the above-referenced cases, this Court believes that Glasscock is controlling. The liability endorsement of the Nationwide policy defines "property damage" as "physical injury to, destruction of or loss of use of tangible property." The UIM endorsement in the Nationwide policy defined "property damage" as "injury to or destruction of your covered auto." Since Nationwide chose to include "physical injury to, destruction of or loss of use of tangible property," it chose to provide greater coverage than the minimum required by statute. Therefore, its UIM endorsement should also include the same language as required in Glasscock. In addition, its policy should be reformed to reflect such coverage.

ELECTRONICALLY FILED - 2021 Mar 12 7:24 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986
ELECTRONICALLY FILED - 2021 Feb 01 10:45 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986



Florence Common Pleas

Case Caption: Nationwide Affinity Insurance Company Of America VS Andrew Green
Case Number: 2020CP2100986
Type: Order/Electronic Form 4

IT IS SO ORDERED

s/D. Craig Brown (2160)

Electronically signed on 2021-02-01 10:40:04 page 3 of 3

ELECTRONICALLY FILED - 2021 Mar 12 7:24 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986
ELECTRONICALLY FILED - 2021 Feb 01 10:45 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP2100986

Nationwide Affinity Insurance Company Of America
PLAINTIFF(S)

Andrew Green
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This order amends the previous order of 2/1/2021 to say that the previous order does end the case.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/18/2021 .

RECEIVED
Mar 02 2021
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2021 Mar 12 7:24 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986
ELECTRONICALLY FILED - 2021 Feb 18 9:36 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986



Florence Common Pleas

Case Caption: Nationwide Affinity Insurance Company Of America VS Andrew Green
Case Number: 2020CP2100986
Type: Order/Electronic Form 4

IT IS SO ORDERED

s/D. Craig Brown (2160)

Electronically signed on 2021-02-18 09:21:45 page 3 of 3

ELECTRONICALLY FILED - 2021 Mar 12 7:24 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986
ELECTRONICALLY FILED - 2021 Feb 18 9:36 AM - FLORENCE - COMMON PLEAS - CASE#2020CP2100986