

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

RECEIVED

MAY 01 2013

SC Court of Appeals

Charles Taylor,

Appellant,

v.

Thomas Davis and State Farm Mutual
Automobile Insurance Company,

Respondent.

RESPONDENT'S MOTION TO STRIKE
APPELLANT'S PURPORTED RECORD ON APPEAL
AND
MOTION TO DISMISS APPEAL

Respondent State Farm Mutual Automobile Insurance Company respectfully moves for an Order striking Appellant's purported Record on Appeal (copy attached) dated April 23, 2013 and received by Respondent on or about April 26, 2013. The undersigned submits that Appellant's purported Record on Appeal was not filed in accordance with Rule 210 (a), (b) and (c) SCACR in that Appellant's Record on Appeal must include all matter designated to be included by any party. Appellant's purported Record on Appeal dated April 23, 2013 fails to include items one (1) through fourteen (14) of Respondent State Farm's designated matter to be included in the record (copy

attached). Additionally, Appellant's purported Record appears not to include all items which Appellant himself had designated in his November 15, 2012 (copy attached) filing and also includes additional items not included in Appellant's designation of matter.

Complicating the issue is the fact that Appellant filed a Motion dated March 22, 2013 to strike Respondent State Farm's matters to be designated. Respondent State Farm filed its Reply to Appellant's motion on March 27, 2013. Upon information and belief the Court had not yet ruled on Appellant's motion. Appellant nonetheless prepared, filed and served on Respondent the purported Record on Appeal dated April 23, 2013.

Alternatively, Respondent hereby moves for an Order dismissing Appellant's appeal altogether under Rule 240(a) SCACR based upon Appellant's continuous failure to comply with the South Carolina Rules of Appellate Procedure. Appellant has now improperly filed two (2) purported Records on Appeal, the first having been stricken by the Court by Order dated February 15, 2013 and Appellant's latest purported Record on Appeal dated April 23, 2013 which does not conform to Appellant's own matter to be designated and contains additional matter which Appellant did not designate. The failure by Appellant to comply with the SCACR regarding the Record on Appeal has become so confusing that Respondent has been forced to file numerous motions calling attention to Appellant's non-compliance as well as reply to Appellant's numerous motions.

Respectfully submitted,

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY: James B. Lybrand Jr
JAMES B. LYBRAND, JR.
Attorneys for State Farm Mutual Automobile
Insurance Company

Columbia, South Carolina

May 1, 2013

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

Charles Taylor,

Appellant

v.

Thomas Davis and State Farm Mutual
Automobile Insurance Company,

Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of Respondent State Farm's Motion to Strike Appellant's Purported Record on Appeal and Motion to Dismiss Appeal and Respondent's Reply to Appellant's Motion to Strike was served upon the following by depositing said papers in the United States Mail, Columbia, South Carolina, on the 1st day of May, 2013, with the first class postage duly affixed and a return address clearly indicated on the envelope, addressed as follows:

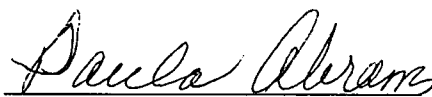
Charles Taylor
P. O. Box 3652
Sumter, SC 29151

Thomas Davis
P. O. Box 773
Manning, SC 29102

RECEIVED

MAY 01 2013

SC Court of Appeals



Paula Abrams
Legal Assistant to James B. Lybrand, Jr.

McDONALD, McKENZIE, RUBIN, MILLER AND LYBRAND, L.L.P.
ATTORNEYS AT LAW

ROBERT A. MCKENZIE
HYMAN S. RUBIN, JR.
BEN N. MILLER III
JAMES B. LYBRAND, JR.†
RONALD E. ALEXANDER
KEVIN T. BROWN
JOHN F. MCKENZIE*
KELLER C. FOSTER

POST OFFICE BOX 58
COLUMBIA, SOUTH CAROLINA 29202

2ND FLOOR, 1704 MAIN STREET
COLUMBIA, SOUTH CAROLINA 29201

www.mmrml.com

HEYWARD E. McDONALD
1925-2000

TELEPHONE (803) 252-0500
FAX (803) 929-3530

†CERTIFIED MEDIATOR AND ARBITRATOR
*ALSO ADMITTED IN TEXAS

May 1, 2013

HAND DELIVERED

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RECEIVED
MAY 01 2013
SC Court of Appeals

Re: Charles Taylor, Appellant vs. Thomas Davis and State Farm Mutual
Automobile Insurance Company, Respondents
Appellate Case No: 2012-212896

Dear Ms. Kitchings:

I enclose for filing an original and six copies of Respondent's Motion to Strike Appellant's Purported Record on Appeal/Motion to Dismiss along with the filing fee.

Additionally I enclose for filing Respondent's Reply to Appellant's Motion to Strike Background Section of Lower Court's Order.

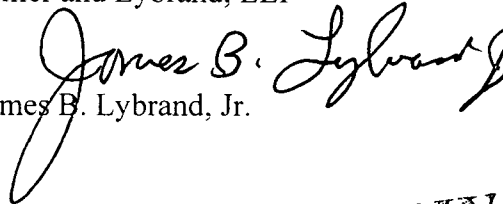
By copy of this letter to Appellant, I am enclosing and serving upon him a copy of the matters identified above.

Should you require anything further, please let me know.

With kind regards,

McDonald, McKenzie, Rubin,
Miller and Lybrand, LLP

James B. Lybrand, Jr.



JBLjr/pa
Enc.

cc: Charles Taylor
Thomas Davis

RECEIVED
MAY 01 2013
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
Alison R. Lee, Circuit Court Judge

RECEIVED
MAR 15 2013
SC Court of Appeals

Appellate Case No: 2012-212896

Charles Taylor,

Appellant

v.

Thomas Davis and State Farm Mutual
Automobile Insurance Company,

Respondents

RECEIVED
MAY 01 2013
SC Court of Appeals

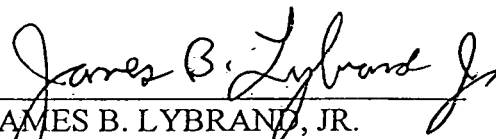
RESPONDENT
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S
DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

1. Initial Covenant Not to Execute dated November 8, 2008
2. Amended/Supplemental Covenant Not to Execute dated November 12-13, 2008
3. Orders of Judge Lee relieving as counsel Attorneys Tyler and Brown
4. Order of Judgment of Judge Childs dated June 19, 2009
5. Letter serving Respondent State Farm via South Carolina Department of Insurance
6. Answer of Respondent State Farm
7. Respondent State Farm's Motion to set aside Judgment issued October 30, 2009
8. Order of Judge Alison Lee dated January 20, 2010 setting aside judgment
9. Order of Judge Alison Lee following May 2011 jury trial
10. Appellant and Respondent Davis' Settlement Agreement of June 12, 2011
11. Appellant's Letter to Court of Appeals advising of settlement

12. Court of Appeal Order remitting case to Richland County dated June 27, 2011
13. Appellant's Post-appeal Motions of August 15 and November 2, 2011
14. Respondent Davis' Letter of August 10, 2011 to Richland Clerk of Court
15. Order of Judge Alison Lee of July 17, 2012

I certify that this designation contains no matter which is irrelevant to this appeal.

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY: 

JAMES B. LYBRAND, JR.
S.C. Bar #3453
Attorney for State Farm Mutual Automobile
Insurance Company

Columbia, South Carolina

March 15, 2013

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

Thomas Davis,.....Respondent,

v.

Charles Taylor,.....Appellant,

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

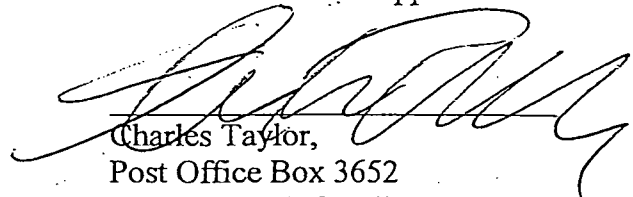
Appellant proposes the following be included in the Record on Appeal:

- 1. Order of June 27, 2011 / of S.C. Court of Appeals
- 2. Order of June 17, 2012 / of S.C. District Court
- 3. Notice of Appeal of 6/8/2011 / in S.C. Court of Appeals
- 4. Motion To Enter Judgment of 8/15/2011 / in S.C. District Court
- 5. Motion Hearing Brief of 4/19/2012 / in S.C. District Court
- 6. Summary Motion of Defendant-State Farm-In Bad Faith Case / in U.S. Federal District Court
- 7. Document 1 of Respondent/ Referencing Subject Bad Faith
- 8. Document 1 of State Farm / Declaration They Weren't A Party In Subject Case

Present Total: 18 Pages / Including 1 Index / Excluding 1 Cover + 1 Proof of Service Page

I certify that this designation contains no matter which is irrelevant to this appeal

November 15, 2012


 Charles Taylor,
 Post Office Box 3652
 Sumter, South Carolina 29151-3652
 (803) 883-7005
 Appellant Pro-Se

RECEIVED
NOV 15 2012
SC Court of Appeals

RECEIVED
MAY 01 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellant Case No: 2012-212896

Charles Taylor,

Appellant,

v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondent,

RECORD ON APPEAL

Charles Taylor,
Post Office Box 3652
Sumter, South Carolina 29151-3652
(803) 883-7005
Appellant

Thomas Davis
P O Box 773
Manning SC 29105
Respondent

James B. Lybrand, Jr., Esq.
P O Box 58
Columbia SC 29202
(803) 252-0500
State Farm/Respondent

RECEIVED
MAY 01 2013
SC COURT OF APPEALS

INDEX

	Begin Page
Order of June 27, 2011 of S.C. Court of Appeals.....	2
Order & Judgment of June 17, 2012 of S.C. District Court.....	5
Notice of 1st Appeal of June 8, 2011 in S.C. Court of Appeals.....	11
Motion to Enter Judgment of August 15, 2011 in S.C. District Court.....	12
Motion Hearing Brief of April 19, 2012 in S.C. District Court.....	13
S. C. Law Section 38-77-160 Subject <u>underline</u> Part.....	14
Sample Injury & Lifetime Disability Damages Suffered by Appellant.....	15 & 16
Respondent Davis Affidavit Document.....	17
Respondent State Farm--we can't be a named party defendant--Document.....	18
Respondent Davis 2 Documents to Respondent State Farm Prior to.....	19 & 20
Relevant Transcript Page-s from Subject 5/7/12 Hearing.....	21--23 End
<hr/>	
CERTIFICATE OF COUNSEL.....	24
PROOF OF SERVICE.....	25

The South Carolina Court of Appeals

Charles Taylor,

Appellant,

v.

Thomas Davis,

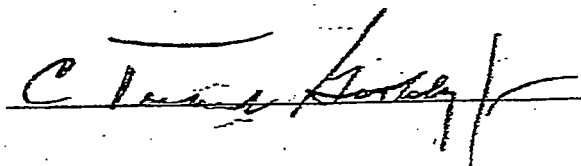
Respondent.

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2007-CP-40-08423

ORDER

Pursuant to Rule 260(b), SCACR, the parties have filed an agreement to dismiss this appeal. It is therefore ordered that this appeal is dismissed and the case is remitted to the Clerk of Court for Richland County.

IT IS SO ORDERED.

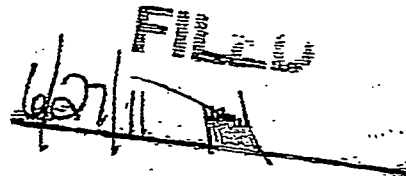


Columbia, South Carolina

Original to: The Honorable Jeanette W. McBride

cc: Charles Taylor

James B. Lybrand, Jr, Esquire



ROA RIVET
JUN 15 2011
COURT OF APPEALS

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

Thomas Davis,..... Respondent,

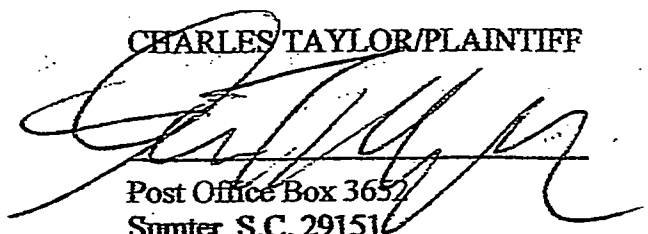
v.

Charles Taylor..... Appellant,

AGREEMENT TO DISMISS APPEAL

That based on defendant's affidavit agreement attached to dismiss the appeal, plaintiff hereby accept that agreement and accordingly move to dismiss this appeal and have the case return to the original court for entry of a consent order judgment in accordance with the dismissal agreement between the parties.

CHARLES TAYLOR/PLAINTIFF



Post Office Box 3652
Sumter, S.C. 29151
803-883-4356

Sumter, South Carolina

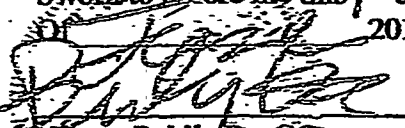
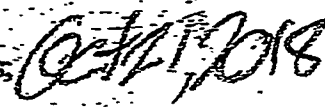
June 12, 2011

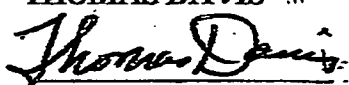
roa-p.3

ROBERT RIVET
JUN 15 2011
S.C. Court of Appeals

CASE NUMBER: 2007-CP-400-8423 TAYLOR v. DAVIS
RE: TO DISMISS APPEAL/AFFIDAVIT OF DEFENDANT DAVIS

- (1). That my name is Thomas Davis, the defendant in this case and looking out for my own best interest, I have authorized no one else to represent, act or speak for me but me;
- (2). That to bring some finality to this case after litigation since 2007 and now a pending appeal, and not being able to know for certain what will be that outcome, and whether or not I will be put at risk again thereafter, for up to the maximum amount of damages as amended, demanded by plaintiff, I believe the latest up to \$40,000,000.00 for all of his losses, including lifetime disability, all of which are well documented throughout this case and regrettably I caused.
- (3). That because I have no protection against such damages, as the covenant that was in place to do that are now null and void, due to that agreement having been violated by insurer's attorney, who then said that they would not pay such damages above if such were to occur;
- (4). Therefore, to protect myself, I am here offering the following as an inducement to the plaintiff to dismiss his appeal and no further litigation;
 - a. Voluntary agree to medical bills of \$125,000.00;
 - b. Property damages of \$110,000.00 plus;
 - c. Re-enter same amount as accepted judgment entered by Judge Childs on June 18, 2009 for all other damages, including lifetime disability, \$1,500,000.00 and;
 - d. Vacate any existing judgment(s) for this new total \$1,735,000.00 consent judgment;
- (5). This is only a fraction of the total amount demanded in #2 above for all the damages caused and this case could have and should have been resolved by the insurer a long time ago for a much-much smaller-token-sum to avoid putting me in this situation but they've refused;
- (6). That if accepted by plaintiff, this agreement supersedes all else in this case and shall end the appeal and all litigation thereafter, as my best guarantee protection against any potentiality of a mega judgment for such damages as in #2 above, if plaintiff were successful in his appeal and thereafter. Plaintiff has five days to accept this offer-agreement and move to dismiss the appeal and provide me proof of such or counter.

Sworn to before me this 10 day
of _____ 2011

Notary Public for SC
My Commission Expires: 

THOMAS DAVIS

cc:
James B. Lybrand, Jr.
Post Office Box 58
Columbia, South Carolina 29202
Attorney

was signed by the Defendant, contained a judgment about of one thousand five hundred dollars (\$1,500.00) in consideration and exchange for Plaintiff dismissing his claim against Defendant.

State Farm was made aware of Taylor's lawsuit in the summer of 2008. Taylor was advised that State Farm could not formally appear and participate in the case unless and until Taylor served State Farm with pleadings through the South Carolina Department of Insurance in accordance with S.C. Code Ann. § 38-77-160. Service on State Farm pursuant to S.C. Code Ann. § 38-77-160 did not occur until October 13, 2009.

On November 19, 2008, Budget agreed to pay Taylor \$25,000, Budget's available liability limits, in exchange for Taylor signing a Covenant Not to Execute which would purportedly protect Davis from any further personal exposure for damages yet allow Taylor to proceed with his claim against other applicable coverage. After this agreement, attorneys Matt Tyler and Robert Brown filed motions to be relieved as counsel for Davis. Following hearings on the motions, Orders relieving Tyler and Brown from further representation were issued on March 13, 2009. As a consequence, this suit remained active on the court docket although no defense attorney of record was involved in the case.

On June 19, 2009, Taylor obtained an uncontested judgment against Davis in the amount of \$1,500,000. The basis for the judgment was an Offer of Judgment which Davis purportedly accepted in writing in April or May of 2008, a time during which Davis is believed to have been represented by Attorney Matthew Tyler. State Farm was never a party to any discussions or settlement negotiations which occurred between Taylor and Davis.

Taylor served State Farm with copies of the pleadings in October 2009. A timely Answer was filed on behalf of State Farm in accordance with Section 38-77-160. A Motion to Set Aside the Judgment was filed by State Farm and, after a hearing on the motion, this Court set aside the \$1,500,000 judgment by Order on January 20, 2010 so as to allow State Farm to defend the case on the merits. Between 2009 and April 2011, State Farm paid Taylor \$25,000 in UIM benefits. Taylor contended that these payments were an "advance" of his UIM benefits and was not a full and final settlement.

On May 16, 2011, a jury trial was commenced in Richland County with Taylor representing himself. Taylor testified but did not call any other witnesses. Davis has never appeared in court. On May 17, 2011, the jury returned a verdict in favor of Taylor in the amount

and
#2

of \$615. All of Taylor's post-trial motions were denied by the Court. Since Taylor had previously been paid \$25,000 by Budget on behalf of Davis, State Farm received credit for this payment and no UIM money was owed Taylor.

Taylor then filed a Notice of Intent to Appeal the verdict with the South Carolina Court of Appeals on June 23, 2011. While the appeal was pending, communications took place between Taylor and Davis directly. Taylor and Davis advised the South Carolina Court of Appeals that the case had been settled on appeal; consequently, the appeal was dismissed on June 28, 2011. Following the Court of Appeals' dismissal, Taylor filed a "Post Trial Voluntary Agreement to Augment Award Judgment" on June 30, 2011 and a "Motion for Consent Order Judgment" on July 7, 2011. In the "Post Trial Voluntary Mutual Agreement to Augment Award Judgment," Taylor agreed to "give up his legal right to any further post trial legal actions against Davis...in exchange for defendant Davis agreeing to voluntarily augment up [sic] the award (\$615) judgment." Taylor thereafter filed his "Motion for Ruling as to the Legality of State Farm Requiring Consent to Settlement" and "Motion to Enter Consent Judgment that Dismissed Appeal."

Plaintiff is seeking to have the Court determine that State Farm is liable for the Consent Judgment dated June 10, 2011 between Plaintiff and Mr. Davis in the amount of \$1,735,000.00. On June 11, 2012, after the hearing on the pending motion, the Court received a letter from Mr. Davis' former counsel, Matthew Tyler, informing the Court that Plaintiff contacted Budget seeking money beyond what was paid under the 2008 Covenant between the parties.

DISCUSSION

The statutory purpose of underinsured motorist coverage is "to provide coverage in the event that damages are sustained in excess of the liability limits carried by an at-fault insured or underinsured motorist." S.C. Code Ann. § 38-77-160. This section provides that the UIM carrier has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability. "In the event the automobile insurance insurer for the putative at-fault insured chooses to settle in part the claims against its insured by payment of its applicable liability limits on behalf of its insured, the underinsured motorist insurer may assume control of the defense of action for its own benefit." *Id.* The intent of Section 38-77-160 is to protect an insurance carrier's right to contest its liability for underinsured benefits. Williams v. Selective

aw
#3

Ins. Co., 315 S.C. 532, 446 S.E.2d 402 (1994). In the event the insured [Taylor] chooses to settle with the at-fault party's liability carrier [Budget], the underinsured carrier [State Farm] has the option to assume control of the defense of the action as provided in Section 38-77-160. Id. No attorney-client relationship exists between a UIM carrier's attorney and a named defendant. Crawford v. Henderson, 356 S.C. 389, 589 S.E.2d 204 (Ct. App. 2003). "Although the UIM carrier [State Farm] 'steps into the shoes' of the underinsured motorist [Davis], it has rights separate and distinct to those of the underinsured motorist." Id. "Underinsured motorist coverage is optional coverage provided by an insurance carrier to its insured [Taylor] in the event damages are sustained by the insured in excess of the at fault driver's liability coverage, recovery therefrom being additional to any recovery from the at fault motorist, total recovery not to exceed the damages sustained." Garris v. Cincinnati Ins. Co., 280 S.C. 149, 311 S.E.2d 723 (1984).

State Farm was not the insurer for the at-fault party [Davis] and never purported to represent him in this action. State Farm's only involvement was defending this action under the statutory rights granted UIM carriers in Section 38-77-160. Once Taylor agreed to settle with Davis, State Farm had the right to assume defense of the action for its own benefit. State Farm's obligations in this matter were exhausted when a jury found that the Defendant was liable for \$615, less than the settlement paid by Budget to the Plaintiff. Because the damages in this case were found by a jury to be \$615, Plaintiff's recovery from State Farm cannot exceed that amount. State Farm, as the Taylor's UIM carrier, therefore has no other financial duty to the Taylor in this matter. State Farm never represented Thomas Davis and therefore cannot be liable for judgments entered against Mr. Davis or for any consent judgments signed by Mr. Davis.


arf
#4

roa-p.8

ORDER

For the aforementioned reasons, Plaintiff's request for State Farm to participate in the settlement between Plaintiff and Defendant is DENIED. Pursuant to the agreement between Plaintiff and Defendant, judgment will be entered against the Defendant personally in the amount of \$1,735,000.00.

AND IT IS SO ORDERED.



ALISON RENEE LEE
Fifth Judicial Circuit

Columbia, South Carolina
July 17, 2012

NO ONE EVER
APPEAL THE ABOVE
Final JUDGMENT Itself!

See Next Page Also & Pages 2-4

ad
#5

roa-p.9

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

CASE NUMBER: 2007CP4008423

Charles Taylor

Thomas Davis

PLAINTIFF(S)

State Farm

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

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 _____
- 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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____

Judge Code _____

For Clerk of Court Office Use Only

This judgment was entered on 17th day of July, 2012 and a copy mailed first class or placed _____ day of _____, 20 _____ to attorneys of record or to parties (when appearing pro se)

**WHICH JUDGMENT
COULD HAVE BEEN
AVOIDED BY THEM!**

See roa p.19 & 20

Charles Taylor

James B. Lybrand Jr.

Thomas Davis

Charles Taylor

Thomas Davis

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court, Jeanette McBride

roa-p.10

RICHLAND COUNTY
FILED
2012 JUL 17 PM 1:34
JEANETTE W. MCBRIDE
CLERK OF COURT
C.P. & G.S.

NOTICE OF APPEAL IN CIVIL CASE

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Case No: 2007-CP-40-8423

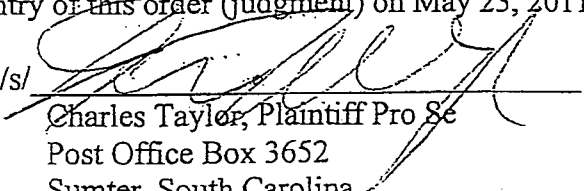
Thomas Davis,.....Respondent,
v.
Charles Taylor.....Appellant,

NOTICE OF APPEAL

Charles Taylor appeals the order (judgment) of the Honorable Alison R. Lee dated May 18, 2011. Appellant received written notice of the entry of this order (judgment) on May 23, 2011.

June 8, 2011

/s/


Charles Taylor, Plaintiff Pro Se
Post Office Box 3652
Sumter, South Carolina
(803) 883-4356

Thomas Davis
Defendant
Post Office Box 33
Gable, South Carolina 29501

Other Counsel of Record:
James B. Lybrand, Jr.
Post Office Box 58
Columbia, South Carolina 29202 / (803) 252-0500
Attorney for (UIMC) State Farm

RECEIVED

JUN 10 2011

SC Court of Appeals

roa-p.11

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
) FIFTH JUDICIAL CIRCUIT
 COUNTY OF RICHLAND) CASE NUMBER: 2007-CP-40-8423
)
)
 Charles Taylor) NOTICE OF MOTION AND MOTION TO
)
 Plaintiff,) Enter consent judgment that dismissed appeal
)
 vs.)
)
 Thomas Davis) (post trial motion)
)
 Defendant,)

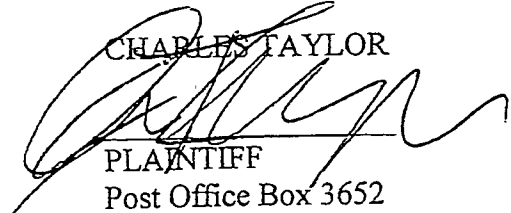
2011 AUG 18 AM 11:18
 JEANETTE W. HARRISON
 C.C.P. & G.S.

FILED

TO: ALL PARTIES:

PLEASE TAKE NOTICE!, that pursuant to any and all applicable scrcp, plaintiff will move before the Presiding Judge of the Fifth Judicial Circuit , Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 10th day after service hereof or as soon thereafter as PLAINTIFF & DEFENDANT may be heard, to have entered a CONSENT JUDGMENT.

That this motions is based on the attached agreement between the parties, which dismissed plaintiff's post trial appeal by the South Carolina Court Of Appeals, returning case to this Court for entry of Judgment upon the appeal dismissal agreement.

CHARLES TAYLOR

 PLAINTIFF
 Post Office Box 3652
 Sumter, S.C. 29151
 (803) 609-7990

Sumter, South Carolina
 August 15, 2011

roa-p.12

FOR THE REFERENCED
 ATTACHMENTS, SEE SAME AS
 roa-p.2-4 HEREIN

§ 38-77-160

INSURANCE

the vehicle involved in the accident. If none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with the excess or underinsured coverage. Benefits paid pursuant to this section are not subject to subrogation and assignment.

No action may be brought under the underinsured motorist provision unless copies of the pleadings in the action establishing liability are served in the manner provided by law upon the insurer writing the underinsured motorist provision. The insurer has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability and has thirty days after service of process on it in which to appear. The evidence of service upon the insurer may not be made a part of the record. In the event the automobile insurance insurer for the putative at-fault insured chooses to settle in part the claims against its insured by payment of its applicable liability limits on behalf of its insured, the underinsured motorist insurer may assume control of the defense of action for its own benefit. No underinsured motorist policy may contain a clause requiring the insurer's consent to settlement with the at-fault party.

HISTORY: 1989 Act No. 148, § 21, eff July 1, 1989; 1994 Act No. 461, § 7, eff June 29, 1994.

Claimants were not entitled to UIM coverage at the time vested where on July 13, 1988, driver was struck and killed by a driver whose liability coverage was below amount of damages arising from death and the amount of the UIM since at the time of this vesting, UIM was not effective and the state was "reduction" coverage state wherein benefit provided to an insured under his liability when the claimant's UIM coverage was less than the at-fault driver's liability coverage. *Farm Mut. Auto. Ins. Co. v. Horrocks*, 318 S.C. 165, 403 S.E.2d 318.

An insured motorist was not entitled to UIM coverage of an automobile insurance policy where the vehicle in which the insured's car was killed was not an underinsured motorist as defined by statute and policy where the policy at issue was renewed on November 14, 1987. § 56-9-810 (a) (1) (i) § 38-77-30) had become effective July 1, 1989 and this section defined underinsured motorist coverage as "reduction" coverage rather than "excess" coverage. *Purvis v. Farm Mut. Auto. Ins. Co.*

Social Security Administration
Retirement, Survivors, and Disability Insurance
Important Information

Office of Central
Operations
1500 Woodlawn Drive
Baltimore, Maryland 21241-1500
Date: November 13, 2008

Charles E Taylor
P O Box 3652
Sumter, SC 29151-3652



DAMAGES TRIAL
EXIBIT C
page 2 of 25

re: plaintiff injuries & lifetime disability
from this accident!

We are writing to give you new information about the disability benefits which you receive on this Social Security record.

We are paying you beginning November 2008.

- You will receive \$667.00, which is the money you are due for December 2008.
- After that, you will receive \$1,065.00 each month.

Do You Think We Are Wrong?

You are entitled to benefits because of a decision made by the Administrative Law Judge.

If you disagree with this decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision, which you believe are wrong and will look at any new facts you have. We may also review those parts, which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You will have to have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.



Personally appeared before me, having been duly sworn, Thomas Davis, deposes and says as follows:

{Affidavit of Thomas Davis} Defendant in C/A No: 2007-CP-400-8423 re: Defense Team at Trial on 5/17/11 Headed By State Farm Fire and Casualty Insurance Company

That as to the mystery of the low {\$615} awarded to plaintiff, Mr. Taylor, in the above case at the damages trial, for all the damages and losses he suffered, for which I am sorry that I caused in the accident of September 7, 2007, including, but not limited to, his lifetime disability, among others; {which damages trial I was unable to attend}, that:

I, Defendant Thomas Davis Further Says:

(1). That a neighbor was in Columbia at a gathering when someone there, when the subject drifted up about what juries can do, was telling others about how they had been on a jury in an accident case and held out to give a *** guy from Sumter only \$615 bucks who should have gotten millions from being messed up in a truck accident, because they had known the lawyer but kept it secret, because the lawyer had defended their daughter in such a case, which if they had lost, they would have had to pay a lot of money out of pocket themselves, and that this was their way of secretly doing a favor for the lawyer that had saved their bacon as it was said.

(2). That it became clear to me after a short while putting a few thoughts together, that the above was the case that person, (Juror), was talking about in Columbia, which explains the mystery of the only \$615 award for such injuries & losses, which I relayed to Mr. Taylor.

FURTHER MORE I SAY NOT.

Cc: State Farm Insurance Company
Post Office Box 10003
Duluth, Georgia 30096-9403

Mr. James B. Lybrand, Jr., Attorney
Post Office Box 58
Columbia, SC. 29202

Case: 2007-CP-400-8423
Accident Date: September 7, 2007

Thomas Davis
Thomas Davis
DEFENDANT

Sworn to before me this 11 day
Of June - 2011
Roy Bryan
Notary Public for S. Carolina

My Commission Expires: 2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2007-CP-40-8423

Charles Taylor,)
)
Plaintiff,)

RESPONSES TO PLAINTIFF'S
REQUESTS FOR ADMISSIONS
DIRECTED TO STATE FARM

vs.)

Thomas Davis,)
)
Defendant.)

*As to State Farm originally & through
out; claiming they can't be a named party
defendant in this case; up until being
added in Appeals Court Order of
2/15/13 as case is presently captioned.
Also see add on (roa p.10 top right)*

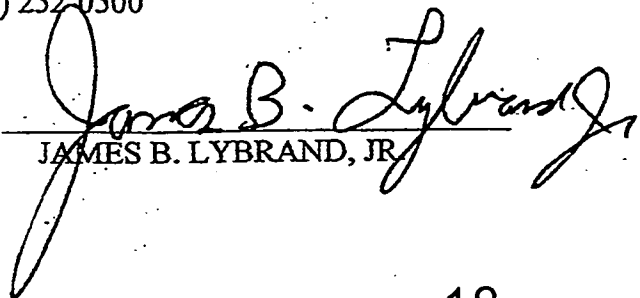
TO: CHARLES TAYLOR, PLAINTIFF:

Pursuant to Rule 26(b) and Rule 36 SCRPC, the following responses are hereby submitted to Plaintiff:

The undersigned objects to Request for Admissions directed to State Farm which is not a party defendant to this action. Pursuant to Rule 36 SCRPC request for admissions may only be directed to a "party" to a civil action. State Farm is not a named party and therefore would not be required to respond to Plaintiff's Request for Admission. Accordingly, objection is made to Request for Admissions 1 through 7 as directed to State Farm.

*As to State Farm originally & through
out; claiming they can't be a named party
defendant in this case; up until being
added in Appeals Court Order of
2/15/13 as case is presently captioned.
Also see add on (roa p.10 top right)*

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.
POST OFFICE BOX 58
1704 MAIN STREET, 2nd FLOOR
COLUMBIA, SOUTH CAROLINA 29202
(803) 252-0500

BY: 
JAMES B. LYBRAND, JR.

Columbia, South Carolina
November 10, 2010

roa--p.18

CERTIFIED MAIL:

November 30, 2009

TO: Mr. James Inman/Adjuster & Fax to: 1-888-870-0317
State Farm Insurance Company
Post Office Box 10003
Duluth, Ga. 30096 & Fax to: Lybrand Atty. 18039293530

FROM: Thomas Davis
Post Office Box 32
Gable, Sc. 29105

Cc: Mr. Charles Taylor
Post Office Box 3652
Sumter, Sc. 29151

Dear Mr. Inman & State Farm: {WARNING} Case: 2007-CP-400-8423 Taylor versus Davis

I want to warn you that you will be held liable, pursuant to relevant law, to pay any ultimately final judgment entered in my name in this case, especially, if I am ultimately forced to accept such judgment, to protect my own best interest and to avoid risking my potential financial ruin, because you wouldn't settle, within policy limits with {your insured}, the plaintiff, Mr. Taylor, against me, as you should have done as required by his policy and for reasons under the law. I understand you only have a little bit of coverage anyway, so why not pay it to spare us all?

I demand you settle with your insured or give me written guarantee indemnification, that you will pay any ultimate judgment entered in my name against me in this case up to the Forty Million Dollars plaintiff is demanding in this suit. If you don't settle with him or give me such written guarantee, then I am here forbidding you from prosecuting this case further in my name, or {you are here on notice}, I will hold you liable, in accordance to relevant law, to pay {any} ultimate final judgment that end this case, {regardless}.

It's obvious by the amount of damages caused, especially lifetime disability and costs, among all other such related losses, that plaintiff is entitled to like compensation. So I don't understand why you want to gamble in this case, this way, whereby only I could come out a disastrous looser if your gamble in the end ultimately goes bad. It's obvious this case will not end by plaintiff, I don't believe, unless and until he receives appropriate compensation to the damages he suffered. He has said he will appeal all the way to the highest court in the land if necessary. So I certainly understand and I am sure you feel the same way to, if your bosses let the truth be told, of course their aim is only to save money at others expense by not paying claims, we all know that, because I hear this happening to people all the time and indeed one of my family members was the victim at one time. Thus you have been duly warned and if you still further gamble to proceed, I will consider that evidence of your agreeing to pay any final judgment ultimately entered in this case, regardless, unless you reply by certified mail to the contrary.

THOMAS DAVIS
Thomas Davis
DEFENDANT IN THIS CASE
Sworn to before me this 30 day
Of November 2009
W. J. JOE
Notary Public For S. Carolina
My Commission Expires: 2013

TO: State Farm Insurance Company {June 3, 2011}
Post Office Box 10003
Duluth, Ga. 30096 & Fax To: 1-888-870-0317

FROM: Thomas Davis
Post Office Box 773
Manning, Sc. 29105

Cc: Mr. James B. Lybrand, Jr., Atty.
Post Office Box 58
Columbia, Sc. 29202 & Fax To: 1-803-929-3530

Cc: Mr. Charles Taylor
Post Office Box 3652
Sumter, Sc. 29151

Case: 2007-CP-400-8423 Taylor{v}Davis / Ref. Warning of Settlement Unless You...

Dear State Farm & James Lybrand Attorney:

{Certified To All Parties}

Unless you settle this case in my name with plaintiff, I'm sending you this to give you notice and warning of my impending settlement-agreement-attached; the lowest plaintiff indicated he would accept to end his appeal in this case against me, \$1,735,000.00 of the \$40,000,000.00 demanded in his suit, to which I have no written indemnification guarantee from State Farm, or otherwise, in a worst case scenario, in this case now on appeal going forward.

So I'm no longer going to risk up to a \$40 Million Dollar judgment or whatever amount thereof against me, in my name, that might ultimately come about on or after appeal, just to satisfy State Farm, who could and should have settle this case within plaintiff's policy limits & refused to do so at their own peril. You get one last chance here.

You have 7 days to act and respond (to all parties AND the South Carolina Court of Appeals where the subject appeal is pending) or I will settle this case once and for all against me, with the proposed agreement attached, because you have forced me into this awful position, between a rock and a hard place, leaving me no other choice, as I wish not to risk a worst case scenario, of up to \$40 Million Dollars or whatever in between that might happen, with no written guarantee protection from anyone.

Remember I sent you a {WARNING} letter dated November 30, 2009, copy attach.

Sworn to before me this 3rd day
Of June 2011
Rowland J. Wells
Notary Public For S. C.
My Commission Expires 2017

THOMAS DAVIS

Thomas Davis
DEFENDANT IN THIS CASE

State of South Carolina
County of Richland

Court of Common Pleas
2007-CP-40-08423

Charles Taylor

-VS-

Re: State Farm hiring its
present atty Lybrand to
Represent Defendant Davis
1st/originally--see below!

:
:
:
:
:

TRANSCRIPT OF RECORD

May 7, 2012
Columbia, South Carolina

B E F O R E:

The Honorable Alison R. Lee, Judge.

A P P E A R A N C E S:

Charles Taylor, Pro Se Plaintiff

So the claim (now) by State Farm that its Attorney did not represent Defendant Davis, as shown, is patently

James B. Lybrand, Jr., Esquire
~~Attorney for the Defendants~~

**...AND THE SAME
ON THE NEXT
PAGE!**

**FALSE ON ITS FACE!
A naked ploy designed to
evade Any liability for the
final judgment it caused on**

roa p.9-10

Daphne D. Helms
Circuit Court Reporter

roa--p.21

1 ~~The Court:~~ The next matter I have is Charles Taylor
2 versus Budget Truck Rental, 2007-CP-40-08423. And actually
3 the defendant is Thomas Davis and not Budget Car Rental. Mr.
4 Taylor is representing himself. The defendant is represented
5 by Jim Lybrand.

6 We're here on two motions that have been filed by Mr.
7 Taylor. One is a motion on the ruling -- motion for a ruling
8 as to the legality of State Farm's request that they consent
9 to any settlement, and the other one is also filed by Mr.
10 Taylor to enter a consent judgment that he and Mr. Davis
11 entered into at the time that the appeal was dismissed.

12 I've read both of the motions. I've also read
13 information that was sent by Mr. Lybrand in opposition to the
14 motions, and so, Mr. Taylor, I'll hear from you. I
15 understand that after the case was tried that there was an
16 appeal filed, and then during the course of the appeal you
17 and Mr. Davis entered into an agreement which you presented
18 to the Court of Appeals and the Court of Appeals then
19 dismissed the appeal as a result of that agreement, and I
20 guess Mr. Lybrand representing the underinsured would not
21 consent to it and so you've filed both motions, one of which
22 is to approve the -- or enter judgment based upon the
23 agreement that you and Mr. Davis entered into while the case
24 was on appeal and the other one relates as to State Farm's

The above shows the truth
that state farm hired its
present atty Lybrand to
represent defendant Davis 1st

roa--p.22

Although
they are now trying to deny
it for obvious reasons!
as stated-shown heretofore

1 dismissal of the appeal. I'm not here stating that I was
 2 required to be, but there was no -- there was no consent
 3 withheld by me or there was no effort made by me to sort of
 4 block or blunt Mr. Taylor's discussions or his settlement
 5 agreement with Mr. Davis while the case was on appeal
 6 because, quite frankly, I didn't know there was any ----->
 7 communications going on between the two of them until I was
 8 notified, received affidavits, and the case was -- the case
 9 on appeal was dismissed. So that's what I meant in that part
 10 of my memorandum that Mr. Taylor produced as Exhibit 1 where
 11 it just says State Farm concedes that his consent is not
 12 required to approve or validate any settlement agreement
 13 between Taylor and Davis. See roa--p.14

see roa-p.2-4;9-10;11-22

14 The odd thing that I wanted to make clear to the Court,
 15 Your Honor, is we have what purports to be a history of a
 16 case in which a defendant essentially would have no further
 17 financial responsibility. A case goes to a jury verdict.
 18 The case is then appealed, a case that -- whose result was
 19 favorable to the defendant, and while the appeal was going
 20 on, discussions are had in which the defendant, unless I'm
 21 missing something, totally against his own financial interest
 22 decides not to take advantage of what has gone on in the past
 23 but instead obligates himself to pay the plaintiff a million
 24 -- whatever it is, \$1,750,000. see roa--p.19-22

^

25 All we've had from Mr. Davis is -- are affidavits.----->

roa--p.23

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellant Case No: 2012-212896

Charles Taylor,

Appellant,

v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondents,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties [except as prohibited by SCACR 210(c) and any not relevant to the appeal, and/or not presented in the lower or appeals court before] and not any other material.

April 23, 2013

BY: 

Charles Taylor
Post Office Box 3652
Sumter, South Carolina 29151-3652
(803) 883-7005
For the Appellant/Pro-Se