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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, JR., Circuit Court Judge

Case No. 2018-001134

Glenda R. Couram.....Appellant

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing SVC, LLC, dba Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer, in her official and individual capacity

.....Respondents

**MOTION FOR REHEARING OF RESPONDENTS BEATRICE TIDWELL AND
SHERWOOD PLUMBING SVC, LLC**

The Court in this case essentially decided that because the matter of Couram v. Tidwell was reversed for a new trial, Op. No. 2021-UP-367 (S.C. Ct. App. Oct. 27, 2021), collateral estoppel does not apply. Therefore, this Court reversed the decision of the circuit court in all respects. However, this Court failed to recognize there were clear and valid alternative reasons for the decision, at least as to certain causes of action and certain parties. In particular, there is no basis for a claim of Intentional and/or Negligent Infliction of Emotional Distress or Civil Conspiracy against anyone. There are no valid claims against Nationwide Insurance Company, Titan Insurance Company or Gene

Matthews. And the decision of the lower court should be upheld if there is any basis to support it. Dreher v. S.C. Dep't of Health & Env'tl. Control, 412 S.C. 244, 250, 772 S.E.2d 505, 508 (2015) (an appellate court may affirm the lower court's decision for any reason appearing in the record, the prevailing party may—but is not required to—raise additional sustaining grounds to support the lower court's decision. See Rule 220(c), SCACR; see also I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 417, 420, 526 S.E.2d 716, 722, 723 (2000).

This suit is a type of case that is sometimes seen in pro se litigation: unhappy with what they feel is an inadequate offer of settlement and upset with ordinary litigation activity by the tortfeasor's liability carrier, the plaintiff attempts to sue some combination of the liability insurance carrier, the liability carrier's adjusters, and sometimes even counsel for other parties. This involves the somewhat different model in that attorney Matthews represented defendants in four different unrelated lawsuits brought by the Appellant against her former employer South Carolina Department of Motor Vehicles, her former supervisors and co-workers, judicial officials, and others. He did not even represent any party in the underlying Tidwell case.

It is apparent from the plaintiff's factual allegations that she is upset that Nationwide and Titan did not offer more to resolve her personal injury case (Complaint, para 19-25, R. p. 28), did not raise their offer and only changed adjusters (Complaint, para 24, R. p. 28), that attorney Matthews was seen talking with an attorney for Nation[wide] (sic) outside the courthouse one day (Proffered Amended Complaint, para 48 R. p. 71), attorney Matthews issued subpoenas to medical providers to discover her medical history (Complaint, para 22, R. p. 28), that attorney Matthews issued subpoenas

for her employment records (Proffered Amended Complaint para 30, R. p. 68), and that she was exposed to what she believes was undue stress from a trial. (Proffered Amended Complaint, para 47 and 49, R. p. 72). But the plaintiff has no right to sue the defendant's insurance companies or their adjusters. Kleckley v. Nw. Nat'l Cas. Co., 338 S.C. 131, 526 S.E.2d 218 (2000). She has no basis to sue defense counsel in the underlying case or defense counsel in other litigation she has filed against the SCDMV or others. Her causes of action are fundamentally deficient and that was the conclusion of the lower court in addition to the issue of collateral estoppel. Thus, there was an independent basis other than collateral estoppel for the determinations of the Circuit court as to causes of action for civil conspiracy and intentional infliction of emotional distress and for the dismissal of Nationwide, Titan, and Matthews.

Admittedly, if there is a new trial ordered in Couram v. Tidwell, this would undermine the collateral estoppel analysis as to Beatrice Tidwell and Sherwood Plumbing alleging vicarious liability and negligent supervision, but there is no reason why the Court cannot dispose of the matter relative to causes of action for civil conspiracy, intentional infliction of emotional distress, negligent infliction of emotional distress and refusing to allow her to attempt to bring into the case two adjuster employed by the Tidwell's insurance company.

In addition, in the underlying action Couram v. Tidwell, the Court of Appeals rendered a decision to reverse on the ground that the issue of punitive damages should have gone to the jury. Op. No. 2021-UP-367 (S.C. Ct. App. Oct. 27, 2021) Tidwell has filed a Motion for Rehearing as to that case. At the very least, there should be a final decision on that before there is a remittitur is issued in the present case. The timing of the

two cases is important because the plaintiff should not be entitled to take two different chances to try to secure what she believes to be an adequate verdict arising out of the same operate facts. Likely the cases will have to be consolidated as to the underlying motor vehicle accident causes of action and severed as to any remaining case relative to Nationwide, Titan and Matthews.

CLAWSON and STAUBES, LLC

s/Timothy A. Domin

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Sherwood Plumbing SVC, LLC

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.....Respondents

PROOF OF SERVICE

I certify that I have served the Motion for Rehearing of Respondents Beatrice Tidwell and Sherwood Plumbing SVC, LLC on the following parties by depositing a copy in the United States Mail, postage prepaid, November 11, 2021, to Glenda R. Couram at 104 Macaw Lane Lexington, SC 20073, Eugene Matthews, Esq. at PO Drawer 7788 Columbia, SC 29202 and John Robert Murphy, Esq. at PO Box 6648 Columbia, SC 29260.

CLAWSON and STAUBES, LLC

s/Timothy A. Domin

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November 11, 2021

File No.: 20160881.000

South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211-1629

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Re: Glenda R. Couram v. Nationwide et al.
Case No.: 2018-001134
Claim No.: 144356GC

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SC Court of Appeals

Dear Clerk:

Enclosed please find an original and six copies of Respondent's Petition for Rehearing in the above-referenced case. Please file the original and return the file stamped copy to our office in the enclosed self-addressed stamped envelope. Should you have any questions, please do not hesitate to contact me.

Thank you very much for your attention to this matter.

Very truly yours,

CLAWSON and STAUBES, LLC

s/Timothy A. Domin
Timothy A. Domin

TAD/crk
Enclosure

cc: Ms. Glenda R. Couram
Eugene Matthews, Esq.
John Robert Murphy, Esq.

Insert shipping document here.

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UNITED STATES

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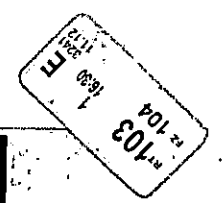


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