THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Jennifer McCoy, Circuit Court Judge

Case No. 2021-001183

Joe Clemons — Appellant

v.

PEGGY H. PINNELL AGENCY, PEGGY H. PINNELL INSURANCE AGENCY, INC. STATE FARM LIFE INSURANCE COMPANY, (jointly and severally liable), — Respondent

INITIAL REPLY BRIEF OF APPELLANT

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March 31, 2022

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Easterday v. S. Columbia Basin Irr. Dist., 49 Wn. App 746, 753 (1987)

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Worcester v. The State of Georgia, 31 U.S. (6 Pet.515), (1832)

State v. Edwards, 298 S. C., 272, 379 S. E. 2d 888 (1989)

State v. Grippon, 327 S. C. 79, 489 S. E. 2d 462 (1997)

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South Carolina Law States – The law makes absolutely no distinction between the Weight or Value to be given to either direct or circumstantial evidence.

June 17, 2013.

RULES

Rule 208(b)(1)(B), SCACR

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Rule SCR 71.01 Reporting, Part 2(d)

Rule SCR 71.04 Transcript

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RE-STATEMENT OF ISSUES ON APPEAL

1. Whether the trial court incorrectly granted Defendant motion for a directed verdict, after knowing the Appellant requested to the court for his case to be decided by a jury, it was error for the court to deny me the right to have the jury evaluate the evidence presented and render a verdict.

2. Whether the trial court incorrectly proceeded to trial without conducting a review of the transcript and audio recordings of November 30, 2020, and January 11, 2021, hearing before Judge Diane Goodstein and Judge Roger Young, that was detrimental to the Appellant's case to proceed to trial without conducting a review of the transcript an audio upon request.

RE-AFFIRMING STATEMENT OF THE CASE

The respondent in the "Initial Brief of Respondents" is refusing to follow the rules that is commanded by The Court of Appeals which states that the opposing counsel should be addressed as "Appellant or Respondent", but here in this brief I am being referred to as "Clemons" and they are referring to themselves as "Defendants," which is not proper or correctly and respectfully stated and should be rejected. The other things that are not accurately and clearly stated are the self-serving of transcripts, orders, and ruling of hearing, depositions and trial that have been rejected, protested, uncertified and concocted by the respondents, to accomplish their own goal and outcome of this case.

I, Joe Clemons (Appellant), filed this action on February 15, 2019, against my insurance company State Farm Life Insurance Company, along with Peggy H. Pinnell Agency, Inc., for Breach of Contract, Breach of Fiduciary Duty, Negligence, Negligent Misrepresentation, Fraud, Constructive Fraud, Civil Conspiracy, and Violation of the UTPA.

The Respondent's "Counter-Statement of the Case" states "on January 11, 2021, Judge Roger Young denied Clemons' motion to amend the complaint. (Jan. 11, 2021 Trans. P. 11, lines 1-15, R._)." The Appellant's response to this statement is that the mentioned transcript had been contested for its inaccuracy with the court reporter and the Court Administration since January 11, 2021. The

motions presented were to add Home Telecom as a co-conspirator and to extend the deposition period. Judge Young granted both motions. The Respondent asked Judge Young if he could write the order, and the Judge agreed, (Hearing Trans. of 1-11-2021, p. 19, line 24&25, p. 20, line 1-7). When the Order was provided to the Court to be recorded was altered and changed from what the Judge had Ruled, "it stated that the Judge granted one motion and denied the other". The motion that was denied was to add Home Telecom to the complaint.

The Respondent stated that on April 16, 2021 "Clemons' filed a motion to obtain audio of January 11, 2021, hearing with Judge Young." The Appellant requested to listen to the audio recording in accordance with the South Carolina Court Reporter's Manual page 19, part B. Judge Bruce Price denied this request, which violates the Court Reporter's Manual. Here again, shows again that the lower court Judge is ignoring the state law in accordance with Court Reporter's Manual.

Respondent referred to the trial held on August 23 and 24, 2021 and stated that "After Clemons' rested his case in chief without testifying, Defendants moved for a directed verdict, which Judge McCoy granted on all remaining causes of action. (Trial Trans. P. 330, lines 20-3. R._)". The Respondent is failing to mention that before the jury entered the courtroom, Appellant approached the bench with the Respondent and reminded the Judge of her ruling that this same

issue was presented to her in Summary Judgement on April 22, 2021, regarding who signed the document in question. Judge McCoy's ruling at that time denied the Respondent's request for summary judgment because of the scintilla of evidence that was presented. During the August 23 and 24, 2021 trial, Appellant approached the bench a second time with the Respondent and informed the Judge that the Respondent's client that was on the stand had perjured herself in violation of South Carolina Rule 3.3, which makes the Respondent's counsel also in violation of this law. Despite these violations, Judge McCoy dismissed my concerns and granted Directed Verdict, which the Respondent had no judicial right to request, and the Judge had no judicial grounds to grant. Also, the Respondent referred to the trial transcript page 330, lines 20-3, which is the second half of the transcript that cannot be certified because it had not been signed. I have contested the accuracy of the trial transcript ever since I received the electronic copy, noting that the over 100 pages had been added to the court reporter's estimated cost of the transcript. I did not get the opportunity to review the transcript before it was certified.

RE-AFFIRMING STATEMENT OF FACTS

Respondent stated that "In 2008, Clemons purchased a 20-year term life insurance policy of $250,000.00. On May 21, 2010, Clemons applied to convert

the term policy to a 15-year pay life policy with a waiver of premium based upon disability. On June 7, 2010, State Farm Life Insurance Company notified the Pinnell Agency that the waiver of premium for disability, which Clemons had applied for on May 21, 2010, was denied." This quotation does not reflect Peggy Pinnell's actions. In 2016, Appellant visited Ms. Pinnell's Agency to inquire and purchase a second policy, a 10-year pay policy, with a waiver of premium rider attached and the Respondent personally ensured that the second policy included a waiver of premium. If what the Respondent stated occurred in 2010 is accurate, which was that my application was denied, why would Ms. Pinnell ensure that the new 2016 policy included the waiver of premium? Ms. Pinnell and I had many meetings concerning the 2010 policy and it was never communicated that my application for waiver of premium had been denied in 2010 (Dep. Of 1-8-2020, p. 53, line 1-13). This shows that she was not aware that my request for waiver of premium was denied in 2010.

Respondent also stated, "Clemons further alleges that on July 6, 2010, the Pinnell Agency, without the Clemons' knowledge or consent, signed Clemons' signature to a new conversion application…". The Respondent is misstating the facts. The validity of the document in question is not the conversion application, it is the amendment to the new conversion policy. To clarify, on May 21, 2010, I (Appellant) signed the application for the new conversion policy. On July 6, 2010,

my wife signed the acceptance of the new revised conversion policy. Neither my wife nor I saw or signed the amendment to the new conversion policy document. The amendment appeared to be a transfer of my wife's signature from a previous document. Ms. Pinnell's testimony under oath is that I signed all three documents "in her presence before her eyes" which she stated during both the deposition (January 8, 2020 deposition transcript page 32 lines 17 thru 25, pages 33 lines 1 thru 7, 46 lines 10 thru 15, page 47 lines 3 thru 23, on page 39 lines 9 thru 25, page 40 lines 1 thru 7, lines 19 thru 24, page 41 lines 6 and 7, lines 19 thru 24) and at trial (August 23, 2021 trial transcript page 142 lines 11 thru 25, page 143 lines 1 thru 18). This was a false statement made by the Respondent, so I took the Respondent's counsel before the bench again. This cannot be true because I signed one document, my wife signed another, and the remaining appeared to be a forged transfer of my wife's signature. How could Judge McCoy, who was the same judge at summary judgement that denied the Respondent's request for summary judgment in April 22, 2021 then rule in the August 23 and 24, 2021 trial, then to accept the Respondent's motion for a directed verdict on this very same issue?

On page 3 of the Respondent's brief, he stated "During pre-trial motions, Clemons attempted to move the court to review audio recordings of a hearing that took place in front of Judge Roger Young on January 11, 2021. (Trial Trans. P. 89, line 23-5; p. 90 line 1-16, R.__.) Judge McCoy did not allow, nor did she rule on

the motion, finding that the motion had been and denied. (Trial Trans. P. 90, line 17-22, R.__.)". This is not true and did not happen. All of this that is in the transcript is what Respondent's lawyer is saying that they have concocted, because this part of the transcript I rejected and protested, before the trial began. Mr. Norris (Respondent) presented a pre-trial motion "A Motion in Limine" that limited me to just address the issue of forgery and who signed that document, (Trial Trans. P. 55, line 12, p. 56 line17-22, p.58 line 1-3 &17-23), along with many other issues that Appellant could not address at trial. How, if the Motion in Limine appears in the on page 55 of the trial transcript, which limited the scope of my argument, would I be able to request a motion to review audio recordings, as noted on page 89 of the trial transcript as Mr. Norris stated?

Respondent, again on page 3, stated "Judge McCoy granted Defendant's motion for directed verdict as to all remaining causes of action. (Trial Trans. P. 330, line 18-20, R__.)." Here again, the Respondent is first, referring to the "Trial Trans." That has not been signed and cannot be certified (Trial Trans. P. 336, line 19&20). Secondly, Judge McCoy should not have accepted or considered respondent motion for Directed Verdict, because Mr. Norris' client and only witness had perjured herself both at deposition and Summary Judgement, and here again at trial. Also, the counsel of the respondent was caught in court before Judge McCoy and the Jury, trying to manipulate, misrepresent and falsely presenting

documents. I, the Appellant will refer to this trial transcript, (Trial Trans. P. 270, 21-25, p. 271, line 1-25, p. 272, line 1-25.) to point out that certainly does not represent what took place at trial. Thirdly, a Directed Verdict, Summary Judgement, and Judgement as Matter of Law, all of these originate from SC rule 50, and was not intended to be used under the circumstance that took place during August 23 and 24, 2021 trial.

Respondent on page 3, again stated "While it appears Clemons takes issue with the directed verdict granted, he has not appealed Judge McCoy's decision, and failed to include any portion of it in the record". Well, it certainly cannot "appear" that I have not took issue, and I, appellant, took issue with the directed verdict, and on all the remaining causes of action, but the fact of the matter is that Judge McCoy granted it for the respondent, and it did not apply to that situation, and should not have even been considered.

All of the respondent foot notes are irrelevant jargon that is based on false statements, altered and uncertified transcripts.

STANDARD OF REVIEW

QUESTION OF LAW?

It is clear to see from Direct Evidence, Circumstantial Evidence, testimonies, and exhibits that all reveal the truth and truth with proof is a fact. The Rule of Law,

states “all persons, institutions, and entities are accountable to laws that are: Publicly Promulgated. Equally enforced. Independently adjudicated. This case is unique in many ways because, the respondent never had any proof, truth, evidence to prove they’re not guilty position. The respondent has consistently, and continually committed perjury, at depositions, hearing, trial, and now here at the appeals court, “Generally, a witness in a trial commits perjury when they knowingly and intentionally lie about a material issue. The precise definition of this crime varies by jurisdiction. Federal law prohibits perjury, 18 U.S.C. ss 1621, as well as other false declarations before federal courts.” Also, the Counsel of the Respondents have continually from the outset of the case have produced false documents, change orders of Judges, (I believed have influenced) law clerk, court reporters, Judges and Mr. Norris (respondent) was caught by me (Appellant) at trial falsifying documents which “is a criminal offense that involves the altering, modifying, passing, or possessing of a document for an unlawful purpose. Oct 21, 2020”. Mr. Norris (respondent) Violated SC Rule 3.3 right in the presence of Judge McCoy when I took him to the bench to Judge McCoy and stated that fact. Beside all this the Lower Court cannot ignore the State Laws and Rules, by not following Rule of law concerning Directed Verdict, Direct Evidence, Circumstantial Evidence. Worchester v. The State of Georgia.

Question of Facts

1. It is a fact that the transcripts have been altered.
2. It is a fact that perjury has been committed by the respondent under oath.
3. It is a fact that false documents have been presented as evidence and exhibits.
4. It is a fact that Lower Court have ignored SC Rules, Manuel, and procedures.
5. It is a fact that direct evidence and circumstantial evidence do not need any authorities to validate or be accepted as facts.
6. It is a fact that Judge McCoy apply that Directed Verdict according to its purpose and designed.
7. It is a fact that when all the truth, evidence, proof, statements lead to a certain fact and conclusion, there is no need to look for another.

Matter of Discretion

Discretion is "the ability or power to exercise sound judgment in decision making." The USCIS noted "that the exercise of discretion cannot be arbitrary, inconsistent," The power to exercise discretion "may only be exercised within the confines of certain legal restrictions. Officers, however, cannot exercise that authority arbitrarily or capriciously.

My reason for presenting those statements is to educate myself on the right understanding of what The Matter of Discretion is all about and remind the court that no one can use discretion according to their own opinion and feeling, dealing in a public and legal situation. It is a fact and it not hard to see (if anyone would investigate) that this case has had a lot of inconsistencies, biasness, influence, ignoring and maybe even prejudices, and racism (I know if I was a white man, things would be different). I know in Berkely County there is the GOOD OLD BOY'S SYSTEM, that is alive and well. So, I will say that I have survived all the respondent attempts to get this case dismiss when it came to the truth, proof, which is a fact that cannot be denied. But if everyone had done their jobs according to their oaths, vows, duties, and responsibilities, this case would have been over. I would not have been fighting the with court administration, the disciplinary counsel of lawyers, disciplinary counsel of Judges and certainly would not be here at the Court of Appeals. Also, if Judge McCoy ruled on the Matter of Law and the Rule of Law and Ruled by Law, she would have no need to use a Rule of Discretion.

During the trial Judge McCoy must have abused her discretion on August 23 and 24, 2021, because a directed verdict from the Respondent was not applicable in this case, (when I (Appellant) had presented Truth and Proof that can only be taking as A Fact) before a Jury Mr. Norris (Respondent) and is client both had

gotten caught committing perjury, making false statements, falsifying documents, misrepresenting, and manipulating paperwork.

ARGUMENT

I. Respondent is stating that "Clemons abandoned all issues raised on appeal because his arguments are conclusory statements made without supporting authority."

South Carolina Law clearly states that Direct Evidence and Circumstantial Evidence has no need of Supporting Authority, "Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact (https://www.ce9.uscourts.gov/jury-instructions/node/342). United States v. Ramirez-Rodriquez, 552 F.2d 883, 884 (9th Cir. 1977), United States v. Nelson, 419 F.2d 1237, 1239-41(9th Cir.1969). I have provided both direct evidence and circumstantial evidence to support this case: my wife's testimony that the amendment document in question was forged, and the revised policy document was her signing of my signature (Trial Trans. P. 142, line 11-16), and have shown that the Respondents have committed perjury, made false statements, falsified documents, and misrepresented and

manipulated paperwork. It is a crystal-clear direct fact, that I have produced truth with proof that is a fact, that has survived all the respondent's UNGODLY, illegal, and unprofessional lawyering to get this case dismissed. Filed with Lower Court (1. Motion to Compel Discovery, Request to Admit 3-20-2020, 2. Summary Judgement 4-22-2020, 3. Determine Sufficiency 6-10-2020).

A. I (Appellant) did not "abandoned his issue on appeal that the trial court erred by granting Defendants' motion for directed verdict."

When anyone review my Initial Brief or this Initial Reply Brief, it not hard to see that I have not abandoned the issue of directed verdict, I have magnified, clarify, and reinforced the fact that the "motion for directed verdict" was misapplied and possibly was biased or mistakenly applied. As I have stated before, Respondent and his client, fell on their faces doing trial trying to defend and establish lies, and falsified documents. Because of these reasons and more that directed verdict should have been rejected, ignore, dismiss, refuse but certainly not granting it. SC Rule 50, Clark v. J.M. Benson Co. 789 F.2d 282, 285 (4th Cir1986), Mays v. Pioneer Lumber Crop., 502 F. 2d 106,108 (4th Cir. 197).

B. I (Appellant) did not and have not "abandoned his issue on appeal that the trial court erred by proceeding to trial without conducting a review of the audio recording of the January 11, 2021, hearing before Judge Roger Young."

At trial the Respondent submitted a Motion in Limine, that motion limited me (Appellant) to only being able to talk about the issue of who signed the documents in question. Also, I had a motion in on June 11, 2021 about requesting the court to allow me to review that audio recording of November 30, 2020 and January 11, 2021, and I (Appellant) had sent in exhibits, but both my motion and exhibits were ignored (Trial Trans. P. 52, line 5-25, p. 53, line 1-7). Mr. Norris (Respondent) or someone has altered documents, transcripts, statements of facts from the beginning of this case, so why would they stop now (especially when no one has held them accountable)? It is a fact that these things happen, please look at all the letters that I have filed with the appeals court. The conclusion that the Respondent is drawing is his conclusory because all those statements and transcripts and documents about this case is based on uncertified & altered transcripts, that was concocted by the respondent which is very convenient and self-serving way to make a point or draw a conclusion.

II. I (Appellant) have not abandoned any of my issues, as respondent states "Clemons Abandoned All Issues Raised on Appeal Because His Initial Brief Fails to Identify with Particularity the Alleged Errors Committed by the Trial Court".

The Respondent, as a seasoned, veteran, state recognized, and experience Lawyer and Counselor is very aware of what the appeal court is looking for and what will be dismissed. As I (Appellant) have stated, protested, pleaded, requested, and even begged the Court Administration, Lower Court, Office of Disciplinary of Judges and Lawyers, My State Senators, My State Representatives, Attorney General Office, Governor's Office, and even My Congressman telling them all about these Transcripts and Orders that have been altered that I will need to, as the respondent refer to in his brief (p. 7 and 8 at bottom of page "Here, Clemons' Initial Brief never references or cites to any transcripts, pleadings, orders, exhibits, or other materials in his statement of the case, Statement of the Facts, nor his Argument. Therefore, Clemons' argument fails to identify with particularity any alleged issues on appeal as required by Rule 208 (b)(4), SCACR." If anyone want to know the truth of why Mr. Norris (respondent) have fought so hard to keep me from getting access to those audio recording, and why now he is pointing out so

distinctively, aggressively, and dogmatically? SCR 71.01, part 2(d), SCR 71. 04(9)(b).

III. Here, again the respondent is being or trying to be Manipulative stating "Even if The Court Were to Find Clemons' Issues Preserved, Clemons Failed to Prepare an Adequate Record on Appeal, and The Court May Decide the Case Without Reaching the Merits."

I think, this court of distinguish, accomplish, knowledgeable, expert of law and experience does not need a pious statement about following the rule of procedure precisely and exactly and to deny the appellant a fair opportunity to have my case viewed by unbiased Appellate Court Judges. It is such a pious and hypocritical statement for one to make, when you investigate all the violation of rules and things that I have pointed out many times in this brief. If one would look very closely, the Respondent has not followed all the rule precisely for example referring to me as "Clemons not even Mr. Clemons or Appellant". But I hope that the most important issue this court would be most concern about is that the Direct and Circumstantial evidence that shows the truth by proof that points to a fact, this is the sole purpose of this court is to investigate procedure, evidence, Law, proper discretion, and certified accepted materials, FRCP 30 (e) Hambleton Bros. Lumber Co. v. Balkin Enterprises, Inc., 397F.3d

1217 (9th Cir. 2005), Worchester v. Georgia, State v. Edwards, 298 S.C. 272, 379 S.E. 2d 888 (1989), Clark v. J.M. Benson Co., Inc., 789 F. 2d 282, 285 (4th Cir. 1986), Mays v. Pioneer Lumber Corp., 502 F.2d 106, 108 (4th Cir.197), cert. denied, 420 U.S. 927 (1975). Drew v. Food Lion, Inc., 940 F.2d 652 (4th Cir.1991)".

A. I (Appellant) am, rejecting the Respondent's statement that "Clemons failed to include Judge McCoy's ruling to grant the Defendant's motion for a directed verdict."

The Respondent at the beginning of trial submitted a Motion of Limine, limiting the issues that I could address and present, which was who signed the document in question namely, 1. the application for conversion policy, 2. the new revised illustration conversion, and 3. the amendment to the revised illustration. In that context Ms. Pinnell committed perjury and federal law prohibits perjury, 18 U.S.C. ss 1621. Ms. Pinnell's testimony under oath is that I signed all three documents "in her presence before her eyes" which she stated during both the deposition (January 8, 2020 deposition transcript page 32 lines 17 thru 25, pages 33 lines 1 thru 7, 46 lines 10 thru 15, page 47 lines 3 thru 23, on page 39 lines 9 thru 25, page 40 lines 1 thru 7, lines 19 thru 24, page 41 lines 6 and 7, lines 19 thru 24) and at trial (August 23, 2021 trial transcript page 142 lines 11 thru 25,

page 143 lines 1 thru 18). This was a false statement made by the Respondent, so I took the Respondent's Counsel before the bench again. Respondent's Counsel knew his client was lying because he had accepted my wife's testimony at deposition and trial that it was her signature on the new revised conversion policy not the Amendment to the policy. This is another violation of SC Rule 3.3, which states if a counselor knows his client is lying, he should dismiss himself from being her counsel, stop her from committing perjury, or report this to the bench, but Judge McCoy did nothing. For these reasons, Judge McCoy made an error in her ruling to accept the directed verdict, among other issues I've previously stated. Therefore, I have several letters on file to the Appellate Court trying to get them to listen to the audio recording of the trial, because the order and the transcript cannot be trusted, and the judge was misinformed, made an error, or biased.

B. I (appellant) am, rejecting the respondent statement that "Clemons failed to include Judge Price's ruling on Clemons' motion to obtain audio of the January 11, 2021, hear."

The Respondent is once again catering to his own conclusion by the uncertified transcript, the denying of the SC Court Reporter Manual to allow review of the audio recording of the hearings, that the transcript was

inaccurate, and the judge's ruling was changed. By not allowing access to valuable evidence, a proper conclusion cannot be drawn based on uncertified transcript and altered documents that have been consistently utilized in this case by opposing counsel to manipulate judges and the Appellate Court. The same issue always comes back into play in this case. The good old boy's system and all the things that were done wrong and bad by Mr. Norris and his client is always left out. A proper investigation will reveal the truth that will produce the proof that will validate that what I've been saying all along are facts.

IV. Respondent stated "Clemons Cannot Use His Reply Brief to Raise Issues Not Argued in the Initial Brief or Supplement the Designation of Matter"

The Respondent mistakenly cited rules for a final brief ("the final brief(s) shall be identical to the brief(s) previously served." I, Appellant, have not raised any new issues in my reply brief; the issues stated have remained the same throughout both the initial and reply briefs. I am reiterating that the lower courts have made an error in its ruling that was based upon protested and altered transcripts, falsified documents, false testimonies, forgery, perjury, ignoring of state rules and regulations, and mainly, accepting a directed verdict that was not feasible to accept considering

the evidence and facts that were revealed and presented at trial. Especially and mainly the issue of the respondent and counsel both fell on their faces in court by perjury and violation of SC rule 3.3, misapplying of a directed verdict, and allowing protested transcripts to be used. C.O.P.E.- Guidelines for Professional Practice, FRCP 30(e) Hambleton Bro. Lumber Co. v. Balkin Enterprises, Inc., 397F. 3d 1217 (9th Cir. 2005). Worchester v. Georgia.

ARGUMENT

This case shows a simple fact, that big insurance companies take every advantage, on every opportunity to not do what they promise, even when they have a contract, take oaths, fiduciary duty, have government regulations, moral obligations, and most of all no God fearing conscious. Will do everything possible, as they say "Delay, Deny, and Defend this is most insurance companies Motto it is called The BIG THREE D GAME PLAN, (delay, deny, and defend). This case is all about State Farm forged what they thought was my signature on an Amendment to a revised conversion policy, but what happen was the respondents took my wife signature of my name and placed it on the amendment document, thinking it was my signature. To deny me (Appellant) who had paid the premiums almost 8 years and still paying the premiums of $1,023.00 per month on two polices, $849.00 on

my policy and $177.00 on my grandson policy, both policies were purchased on May 21, 2010. I also bought a third policy on August 22, 2016. All three were investments that I must continue to pay, now being disabled and on a fix income.

They got caught falsifying and lying, that is when all this fight I have started, but I have all the truth and proof which is a fact, that cannot be denied. I have won all my depositions, (if winning mean getting facts to prove what is true) hearing, and even without a Lawyer my Jury Trial I won, but because of that Directed verdict used in an improper way, I lost not because of the facts and proofs. Now my fight has shifted to what it seems like I'm fighting not only State Farm, but the Justice system, to just get accurate transcripts and audio recording that would have won my case. Judge McCoy errored in granting that directed verdict which states, "A directed verdict may be properly granted only when "there are no controverted issues of fact upon which reasonable minds could differ." Clark v. J.M. Benson Co., Inc., 789 F.2d 282, 285 (4th Cir.1886). When reviewing a granting of a directed verdict, all facts and reasonable inferences must be viewed in the light most favorable to the non-moving party. Mays v. Pioneer Lumber Corp., 502 F.2d 106, 108 (4th Cir.197), cert. denied, 420 U.S.927 (1975). Drew v. Food Lion, Inc. 940 F.2d 652 (4th Cir. 1991)"-verdict vacated and remanded for a new trial. Here, as in Drew, Appellant was denied the option of having the jury reach a verdict on evidence which could have been decided in his favor.

"It is the jury, not the court, which is the fact-finding body. It weighs the contradictory evidence and inferences, judges the credibility of witnesses, receives expert instructions, and draws the ultimate conclusion as to the facts. The very essence of its function is to select from among conflicting inferences and conclusions that which it considers most reasonable. ***That conclusion, whether it relates to negligence, causation, or any other factual matter, cannot be ignored." *Tennant v. Peoria & P. U. Ry. Co.,* 1944, 321 U.S. 29, 64 S. Ct.409, 412, 88 L. Ed. 520. Also *see Pierce v. Ford Motor Co.*, 4 Cir. 1951, 190 F.2d 910 and *Doggett v. Atlantic Holding Corp.,* 4 Cir. 1956, 239 F. 2d 156. *Grooms v. Minute-Maid* 267 F.2d 541 (4th Cir. 1959). I (Appellant) contend that had the court reviewed audio recordings, this case would have been over.

CONCLUSION / PRAYER

The August 23 and 24, 2021 trial transcript was delivered to me (Appellant) in two parts. I did not receive the opportunity to review the portion of the transcript that was certified (Trail Trans. pages 1-230) as I requested to the court reporter. The second portion of the transcript (Trial Trans. pages 231-336) was not certified because it was not signed by the court reporter, which cannot be accepted by the Courts. Additionally, the transcript of the hearings on November 30, 2020 and January 11, 2021 were inaccurate for which I expressed multiple times for the

Lower Courts and I to listen to the audio recordings to validate the accuracy of what was granted and ruled at those hearings.

The big question that hangs over this case is why the Judges, Court Administration and Lawyers and others all seem to want me to not listen to those audio recordings that are critical and crucial to the truth, proof that states the facts, that I won my Trial by Jury Case. So, the big question, still is WHY I could not listen to those Audio Recording?

For reasons outlined above, Appellant asks this Court to VACATE the court's Directed Verdict and remand this matter for a new trial, to allow a jury to reach a verdict, or consider this Appellant's Motion for Directed Verdict be granted based on Facts found in this case.

Respectfully submitted,

s/Joe Clemons
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March 31, 2022

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Jennifer McCoy, Circuit Court Judge

Case No. 2021-001183

Joe Clemons Appellant,

v.

PEGGY H. PINNELL AGENCY, PEGGY H. PINNELL INSURANCE AGENCY, INC. STATE FARM LIFE INSURANCE COMPANY, (jointly and severally liable), Respondent,

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PROOF OF SERVICE

I certify that I have served the **INITIAL, REPLY BRIEF OF APPELLANT** and the **DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL** on Respondent by electronic service on March 31, 2022, as reflected on email attached hereto and as referenced below:

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March 31, 2022