IN THE COURT OF APPEALS
STATE OF GEORGIA

QUEEN DOLLAR	:	
	:	
Appellant,	:	
	:	
VS.	:	CASE NO. A25A0962
	:	
GEORGIA FARM BUREAU MUTUAL INSURANCE COMPANY	:	
	:	
Appellee.	:	

BRIEF OF APPELLANT

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COMES NOW, the Appellant, Queen Dollar, and after filing her Notice of Appeal, files this brief on appeal.

I. PART ONE

A. Statement of the Materials Facts and Proceedings Below

1. Statement of Facts:

On September 23, 2021, Appellant Queen Dollar ("Appellant") filed suit in Dodge Superior Court to recover damages for the wrongful death of her son, Lorenzo Dollar ("Dollar), against David Scott Holder ("Holder") and Sammy James Walker ("Walker"). (R-62-65).

The underlying action arose when Dollar was killed as the result of car accident on November 21, 2020 while a passenger in a 1997 Mazda driven by Walker and owned by Holder. (R-64). Appellant alleges that, at the time of the action, Walker was acting within the course and scope of his employment with

Holder and that Holder negligently entrusted Defendant Walker with the 1997 Mazda. (R. 64).

On September 10, 2020, Appellee issued a policy of automobile liability insurance to Holder that covered the above-mentioned 1997 Mazda that Walker drove at the time of the tragic wreck that killed Dollar. (R-5, 21-61). On October 11, 2023, Appellee filed a Declaratory Judgment action asking the court to declare that their automobile liability insurance policy does not provide coverage for the claim asserted by Appellant in the underlying action. (R. 4-78).

Appellee contends in said action that their policy does not provide coverage for the claims asserted by Appellant against Walker and Holder in the underlying action because the same excluded coverage because Defendant Walker was a non-permissive driver. Id.

It is undisputed that Holder employed Mr. Laterran Green ("Green") and that Green occasionally employed Walker (including on the date on the subject wreck). (R-242-243). Green is Holder's "right hand man" and Holder's "everything" that helps in all aspects of his company. (R-242). Green often drove the 1997 Mazda owned by Holder and drove the same on the date of the wreck that killed Lorenzo Dollar. Id.

Walker did work for Green as a handyman as Green performed various work and duties for Holder. Id. Walker had helped Green occasionally as he did work

for Holder for one and one-half to two years before the fatal wreck. *Id.* at 7:1-3. Holder knew that Walker often helped Green as he performed work for him and had no problem with Walker working with Green as he performed work for him. (R-242-243). It was well known that Walker was a heavy drinker and, according to Sommer Sheffield (who was the other passenger in the vehicle at the time of the wreck) and Holder, Walker was often drinking alcohol when he did work with Green. (R-242).

On the date of the wreck, Green encountered Walker while doing sewer work on one of Holder's properties around 1pm. Id. Green and Walker worked together that day for approximately three hours. Id. When Green left the work site, he left the 1997 Mazda at the work site with the keys in the passenger compartment of the vehicle and Walker then took possession of the vehicle and picked Dollar and Sheffield up as passengers before the fatal collision that killed Dollar. Id.

2. Proceedings Below:

As stated above, on September 23, 2021, Appellant Queen Dollar ("Appellant") filed suit in Dodge Superior Court to recover damages for the wrongful death of her son, Lorenzo Dollar ("Dollar), against David Scott Holder ("Holder") and Sammy James Walker ("Walker"). (R-62-65). On October 11, 2023, Appellee filed a Verified Renewed Declaratory Judgment action against Appellant and Walker asking the court to declare that their automobile liability

insurance policy does not provide coverage for the claim asserted by Appellant in the underlying action. (R-4-78).

On November 21, 2023, Appellant filed her Answer and Responsive Pleadings denying that Appellee should be entitled to Declaratory Judgement. (R-92-103). Appellee filed its Motion for Default Judgment against Walker on March 11, 2024. (R-109-118). On April 8, 2024, Appellant filed her Brief in Opposition to Appellee's Motion for Default Judgment against Walker. (R-122-125). The court below in Dodge Superior Court granted Appellee's Motion for Default Judgment against Walker on April 17, 2024 based on Walker's failure to file an Answer or otherwise response to Appellee's Motion for Default Judgment. (R-126-128).

Appellee filed its Motion for Summary Judgment, Rule 6.5 Statement of Undisputed Material Fact, Notice of Filing Original Discovery and its Brief in Support of its Motion for Summary Judgment on July 17, 2024. (R-140-221). On September 18, 2024, Appellant filed her Brief in Response and in Opposition to Appellee's Motion for Summary Judgement and her Rule 6.5 Statement of Material Facts as to why there exists a genuine issue to be tried. (R-241-250). The trial court below granted Appellee's Motion for Summary Judgement on September 25, 2024 because it found that Walker took Holder's car on the day that the wreck killed Dollar without permission from Holder or Green.

B. Preservation of Errors

Appellant preserved the right to appeal from the errors outlined below by filing her Brief in Response and in Opposition to the Appellee's Motion for Summary Judgment, by filing her Response to the Appellee's Statement of Undisputed Facts and by filing her Notice of Appeal in a timely manner.

II. PART TWO

A. Enumeration of Errors

1) Appellant respectfully submits that the trial court erred in granting the Appellee's Motion for Summary Judgment when it concluded that, as a matter of law, there was no evidence that Holder's employee Green gave Walker permission to use the subject vehicle even when viewed in the light most favorably to Appellant.
2) Appellant also respectfully submits that the trial court erred in granting Appellee's Summary Judgment Motion when Appellee's policy exclusion is in violation of public policy.

B. Statement of Jurisdiction

Jurisdiction is proper in this Court pursuant to O.C.G.A. § 5-6-34(a)(1). O.C.G.A. § 5-6-34(a)(1) (2024). Jurisdiction is also proper in this Court pursuant to the 1983 Constitution of Georgia, Art. VI, § 5, para. III and Art. VI, § 6, para. II, because neither the case below or the issues raised in this Appeal are of the type

reserved to the Supreme Court or conferred on another court by law. GA. CONST., Art. VI, § 5 ¶ 3; GA. CONST., Art. VI, § 6, ¶ 3.

III. PART THREE

A. Standard of Review

The Court of Appeals reviews a trial court's summary judgment ruling de novo. "Summary judgment is proper when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. On appeal from the grant of summary judgment, we review the evidence de novo and construe all reasonable inferences from the evidence in the light most favorable to the nonmovant." Riggs v. Highland Hills Apartments, 334 Ga. App 247, 247-248 (2015).

B. Argument and Citation of Authorities

1) The trial court erred in granting the Appellee's Motion for Summary Judgment when it concluded that, as a matter of law, there was no evidence that Holder's employee Green gave Walker permission to use the subject vehicle even when viewed in the light most favorably to Appellant.

Under the theory of negligent entrustment, liability of an owner of a vehicle is predicated upon the negligent act of the owner in lending his vehicle to another person with actual knowledge of the latter's incompetence or habitual recklessness.

Thompson v. Ledbetter, et al., 254 Ga. App. 179 (2022). Evidence of employment with the car owner can raise an inference in an action for negligent entrustment that permission was given to use the vehicle. *Id.*

Appellant (in the underlying action) alleges that Holder negligently entrusted the subject vehicle to Walker. It is undisputed that Holder employed Green and Green occasionally employed Walker (*including* on the date of the subject wreck). Green is Holder's "right hand man" and Holder's "everything" that helps in all aspects of his company. Green often drove the 1997 Mazda owned by Holder and drove the same on the date of the wreck that killed Lorenzo Dollar.

Moreover, Walker did work for Green as a handyman as Green performed various work and duties for Holder. Walker had helped Green occasionally as he did work for Holder for an extended period -one and one-half to two years before the fatal wreck. Holder knew that Walker often helped Green as he performed work for him and had no problem with Walker working with Green as he performed work for him.

In addition, it was well known that Walker was a heavy drinker and, according to Sommer Sheffield (who was the other passenger in the vehicle at the time of the wreck) and Holder, Defendant Walker was often drinking alcohol when he did work with Mr. Green.

Given Mr. Green was Holder's "right-hand" man, given that Holder knew that Walker worked with Green when Green did work for Holder and given that Holder often saw Walker drinking alcohol when he did work with Green, it was certainly negligent for Green to leave the keys in the covered vehicle on the very day he worked with Walker at one of Holder's properties and, ultimately allowing Walker to obtain possession of the covered vehicle. Whether or not Holder negligently entrusted the vehicle to Walker is a jury question under the circumstances and should not be susceptible to summary judgment.

2) The trial court erred in granting Appellee's Summary Judgment Motion when Appellee's policy exclusion is in violation of public policy.

In *Woody v. Georgia Farm Bureau Mutual Insurance Company*, 250 Ga. App. 454 (2001), the Court of Appeals held that the enforcement of a policy exclusion barring coverage where the insured vehicle was knowingly used without a driver's license violated public policy.

Georgia courts have occasionally found that other exclusions violated Georgia's long standing public policy that innocent persons who are injured should have an adequate recourse for the recovery of their damages. *Id.*; *Cotton States Mutual Insurance Company v. Neese, et al.*, 254 Ga. 335 (1985) (insurance policy

provision excluding liability coverage while insured was attempting to avoid apprehension, or arrest was unenforceable as a matter of public policy).

Certainly, Dollar was an innocent party as it is undisputed that he not driving the vehicle at the time of the accident. It is not in dispute that Appellee's argument (as it relates to Appellant's claim) is that they do not have an obligation to provide coverage in the underlying action because of the language in its policy with Holder excluding coverage for drivers using an insured vehicle without a reasonable belief they are entitled to do so (as they allege with respect to Walker). A declaration from this Court allowing Plaintiff to enforce this exclusion and deny Appellant's claim in the underlying action would leave her without an adequate recourse for the recovery of her damages based on Dollar's loss of life. Therefore, this exclusion is against public policy in the case at bar and not subject to summary adjudication.

IV. CONCLUSION

For all of the foregoing reasons, Appellant respectfully requests that this Court reverse the trial court's granting of Summary Judgment to Appellee and remand this case back to the trial court.

Respectfully submitted this 11th day of February, 2025.

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CERTIFICATE OF COMPLIANCE WITH RULE 24(F)

This submission does not exceed the word count limit imposed by Rule 24.

Respectfully submitted this 11th day of February, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing upon counsel for Appellee by placing the same in the United States Mail with sufficient postage affixed thereto and addressed as follows:

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This 11th day of February, 2025.

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