

No **17-7884**

IN THE
SUPREME COURT OF THE UNITED STATES

Abdul Salam Badmus (**Pro Se**)
Petitioner

vs

Mutual of Omaha Insurance Company (**MOOIC**)
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

ON PETITION FOR REHEARING

Abdul Salam Badmus- Petitioner (**Pro Se**)
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RECEIVED

JUN 29 2018

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SUPREME COURT, U.S.

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PETITION FOR REHEARING

Pursuant to **Rule 44** of this Court, Petitioner respectfully petition this Court for Rehearing of its May 29, 2018 order denying the Petition for Writ of Certiorari in this case and request that the Petition be granted, the ruling of the Fifth Circuit be vacated and the case reminded under the authority of **CNH Industrial N. V. v Jack Reese 583 U. S. (2018)**, as the relevant law in this case is ordinary principle of contract law.

New and relevant development, **November 24, 2017**, Petitioner sent a Petition for Review and Dismissal (**Appendix G-1**) of alleged Indictment to Harris County of Texas District Attorney, because Petitioner strongly belief that he committed no crime whatsoever. **June 11, 2018**, almost six months later and after the denial of Petition for Writ of Certiorari by this Court, Harris County District Attorney responded (**Appendix G-2**), stating in pertinent part that the "**case does not meet the qualifications of our office accepting it as a criminal matter**" Petitioner respectfully request this Court to take judicial notice of this new development and note that the main reason given by the District Court for granting the Respondent Mutual of Omaha Motion for Summary Judgment, was that Petitioner allegedly committed insurance fraud, which is not true as vindicated by the District Attorney.

FACTUAL AND PROCEDURAL BACKGROUND**A. Proceeding Below.**

Petitioner filed this suit **Pro Se** in the United States District Court for Southern District of Texas, Houston Division, for Breach of Contract and other violations of Texas Insurance Code. The case involve insurance contract.

Petitioner showed performance by providing various Proof of Loss which the Respondent Mutual of Omaha through its Investigator confirmed the authenticity.

Mutual of Omaha first contention was that it did not receive Proof of Loss, contrary to a letter written by its employee confirming receipt of proof of loss **ROA 1173**

When Mutual of Omaha claim that it did not receive Proof of Loss failed, Mutual of Omaha now claimed that the Proof of Loss are deemed invalid, contrary to the Report of its own Investigator who confirmed the authenticity of the documents. **ROA 1229, 1219-1222. 430-436**

To show bad faith, unconscionable approach to claims settlement, in order to deny payment of legitimate claim, after discovery Mutual of Omaha with some officials of the Texas Department of Insurance went on fishing expedition to create false narratives to get frivolous indictment at Harris County Texas. Mutual of Omaha later used the indictment to file its Motion for Summary Judgment claiming that the Petitioner insurance claim is a fraud.

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Unfortunately both the District Court and the Fifth Circuit agreed with this untrue contention.

B. Proceeding Before This Court

Feb 13, 2018, Petitioner filed petition for writ of certiorari and motion for leave to proceed in forma pauperis. Response was due March 26, 2018.

March 21, 2018, Respondent filed Motion to extend time to file a response from March 26, 2018 to April 26, 2018.

March 23, 2018 Motion to extend time to file response was granted despite the fact that the motion to extend time did not comply with **Rules 30.2** and **30.4** of this Court.

April 24, 2018. Brief of Respondent Mutual of Omaha in opposition was filed.

May 8, 2018, Reply of Petitioner Abdul Salam Badmus was entered as filed and distributed, although it was not on the Docket when I called the office of the Clerk of Court on May 23, 2018. Petitioner belief it is possible that Petitioner Reply may have been inadvertently omitted and not considered during deliberation of the Petition for Writ of Certiorari. This may have caused the denial of the Petition

REASONS FOR GRANTING THE PETITION

Petition should be granted because the District Court granted the Respondent Mutual of Omaha Motion for Summary Judgment based on false claims that the Insurance claim was a fraud and

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that the Petitioner/Plaintiff was criminally indicted for fraud relating to the claim. The District Attorney letter to Petitioner/Plaintiff speaks for itself, absolving Petitioner/Plaintiff from any criminal wrong doings.

Petition should be granted because this is an insurance claims dispute and relevant law is the ordinary principle of contract law. Policy E42ADR41-197023-28M (**ROA626-636**) (**Contract**) is not ambiguous as it is not subject to more than one reasonable interpretation, extrinsic evidence like E42ADR42 (**ROA638**) and inferences cannot generate reasonable interpretation because they are not "ordinary principle of Contract law. See **CNH Industrial N. V vs Jack Reese 583 U. S 2018, quoting M&G Polymer USA LLC v Tackett 574 U. S (2015)** Also under the principle of Contract law, acceptance must be in strict compliance with the terms of offer . Insurance premium and type of plan are essential terms in insurance contract. Premium and Type of Plan stated on E42ADR42 is different from those stated on Policy E42ADR41-197023-28M (The Contract)

Petition should be granted because there is genuine dispute of material fact to be resolved by the jury, **See Fed. R. Civ. P 56, Anderson v Liberty Lobby 477 U. S. 242, 255 (1986)**

Petition should be granted in the interest of justice. **See P.353 U. S 99** "interest in finality of litigation must yield when the interest of justice

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would make unfair the strict application of the rule of this Court. A document filed pro se is " to be liberally construed See **Estelle v. Gamble, 429 U.S 97, 106 (1976)**

CONCLUSION

For the foregoing reasons, this Court should grant the rehearing, vacate the ruling of the Fifth Circuit and remind this case



Abdul Salam Badmus
Petitioner (Pro Se)

November 24, 2017

Abdul Salam Badmus
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Richmond Texas 77406
Email<bdms_slm@yahoo.com>

Attn: Hon. Kim Ogg
Harris County District Attorney
1201 Franklin # 600
Houston Texas 77002

APPENDIX G-1

RE: The State of Texas v Abdul Salam Badmus (Cause # 1517400) Inactive
Petition for Review and Dismissal of the Indictment.

I will be grateful and respectfully request you to spend some minutes to read this my submission, in the spirit of your guiding principle "**To make decision about criminal cases based on evidence not relationships**" I am writing this petition for review and dismissal of the above indictment in utmost good faith because the claim I presented to Mutual of Omaha Insurance Company does not contain any false and misleading material information. The insured Selem Badmus actually died January 24, 2014, as a result of automobile accident involving the Taxi-Cab he hired and was riding as a passenger, along Ibadan-Lagos Expressway in Ogun State Nigeria. Mutual of Omaha is aware of this fact as can be ascertained from Mutual of Omaha Investigation Report. **(See 3 Bellow).**

I got no communication or notice whatsoever of this indictment from your predecessor, only aware of it when Mutual Of Omaha Insurance Company presented it after discovery in the underlying dispute before the Federal Court which I filed for Breach of Contract and other claims. I did not commit any fraud and I am aware of the dirty activities that was going on then under the former DA, if crime victims can be put in jail it is difficult to trust the office then.

Mutual of Omaha Insurance Company is aware that both Abdul Salam and his late twin brother shared similar names, that it issued a **family life plan Policy** to me and three others and a separate **individual life plan Policy** to my late twin brother and that my twin brother is late, evidenced as follows:

1. Mutual of Omaha Insurance Company Accidental Death Insurance Policies

- (a) Policy E42ADR42-878565-27M (**Family Life Plan**) issued **February 12, 2008** to cover me and three others (**Exhibit A**), with relevant **Policy Application Form E42ADR42 (Exhibit AA)** This policy lapsed **February 2012**
- (b) Policy # E42ADR41-197023-28M (**Individual Life Plan**) it was issued **August 10, 2009**, to cover only my late brother (**Exhibit B**). **It is the policy in dispute. My late brother died January 24, 2014.**
- (c) Coverage is worldwide.

This is to show that there were two Insurance Policies. The Policy relevant to this dispute is one issued to my late Brother E42ADR41-197023-27M (**Exhibit B**)

2. Department of Homeland Security, Employment Authorization Cards.

(a) Card # MSC 0833015854 issued to me on 09/23/2008. **(Exhibit C)**

(b) Card # EAC 0825650051 issued to my late brother 10/20/2008 **(Exhibit D)**

This is to show that I am not one and the same as claimed by Mutual Of Omaha.

3. Mutual of Omaha Investigation Report on Claim under Policy E42ADR41-197023-28M

(a) **May 15, 2014** Mutual of Omaha acknowledged it received Completed Proof of Accidental Death Claim Form along with Certified Copy of the insured death Certificate **(Exhibit E)**. Mutual of Omaha Insurance Company appointed APT Chambers, Legal Consultants in Lagos Nigeria to investigate the claims **(Exhibit F)**

(b) **May 8, 2014** APT Chambers wrote to National Population Commission of Nigeria to verify the authenticity of the Certificate of Death of the insured **(Exhibit G)**. **May 14, 2014** National Population Commission confirmed to Mutual of Omaha that the Certificate of Death is authentic **(Exhibit H)**. Pursuant to National Population Act, the commission is the only agency of Nigeria Government vested with the authority by law to register and certify death in Nigeria and Certificate of Death issued by the Commission is conclusive evidence of death.

(c) **May 8, 2014** APT Chambers wrote to the Registrar, High Court of Lagos State Nigeria, to verify the authenticity of both the Accident Eye Witness and the Affidavit sworn to by the Accident Eye Witness **(Exhibit I)**. **May 14, 2014** the Registrar of the High Court of Lagos State confirmed to Mutual of Omaha that the Accident Eye Witness and the Affidavit are authentic **(Exhibit J)** **Mutual of Omaha did not seek to interview the Accident Eye Witness.**

(d) **May 8, 2014** APT Chambers wrote a letter and presented it to Office of the Chief Medical Director of Lagos State University Teaching Hospital (LASUTH) **(Exhibit K)** and APT Chambers was instructed to report to Head of Department, Medical Records, a clinical unit **(Exhibit L)**

(i) On the day of the Accident **January 24, 2014**, there was Nationwide Strike Action by Healthcare Workers throughout Nigeria, including workers at Lagos State University Teaching Hospital **excluding Physicians (Exhibits M, N, O)** I have **personal knowledge of the strike action at Lagos State University Teaching Hospital, as I was there on that day to collect the body of my late brother, because the strike was total, mortuary unit and medical records office were closed.**

(ii) Upon personal investigation I (Badmus) confirmed that officials of the Medical Records Office asked Mutual of Omaha investigator to go and interview Dr. A. O. Olawale, the Physician who issued the Medical Certificate of Cause of Death, because they have no records for the duration of the strike. Investigators refused and failed to interview Dr. A. O. Olawale.

(iii) Dr. Olawale could have been located for interview at Lagos State University College of Medicine (LASUCOM), although a separate entity, is located in the same compound as Lagos State University Teaching Hospital (LASUTH) Lagos State High Court, Ikeja Division where Mr. Okebukola the Principal Investigator claimed to be practicing law can be seen from the gate of LASUTH.

(iv) It is universal norm that any question arising from medical certificate, just like medical report or prescription should be directed to the Physician who issued the Certificate, it is the professional responsibility of the individual Physician.

- The Chief Medical Director referred the Investigator to Head of Department, Medical Records (Clinical Unit) not Head of Department Administrative (Non-Clinical)
- Departments and units in Lagos State University Teaching Hospital are classified as clinical (Exhibit P) or non-clinical (Exhibit Q)
- **Mr. E. S. Ayeni (Exhibit R) was the custodian of Medical Records not Mrs O. A. Akinlawon (Exhibit S)**
- Mrs. O. A. Akinlawon is not competent and has no authority to authenticate or sign documents pertaining to clinical matters, the letter (Exhibit T) purported to be signed by Mrs. O. A. Akinlawon, Head of Department, Administrative (Non-Clinical) is suspect and not authentic.

4. Mutual of Omaha faced with the fact that liability is reasonably clear, fraudulently removed from Policy File # E42ADR41-197023-28M, the Original Policy Application Form # E42ADR41(Individual Life Plan) monthly premium \$18.95, and replaced it with Fake Policy Application Form # E42ADR42 (Family Life Plan) (Exhibit U) monthly premium \$28.95 which does not belong to the policy in dispute.

(a) Note that the first part of a Policy Number is the Policy Application Form Number.

(b) The proper Policy Application Form for the policy in dispute which ends with **R41** is for "Application to Mutual of Omaha Insurance Company for Accidental Death Insurance available under Policy Form E42ADR41 (Individual Life Plan) Fake Policy Application Form inserted by Mutual of Omaha which ends with **R42** is for " Application to Mutual of Omaha Insurance Company for Accidental Death Insurance available under Policy Form E42ADR42 (A family life plan).

(c) Comparison of the Terms in the Policy E42ADR41-197023-28M (Exhibit B) with the Terms in the fake Policy Application Form E42ADR42 (Exhibit U) inserted by Mutual of Omaha are as follows:

<u>Terms</u>	<u>Policy</u> (Exhibit B)	<u>Fake Application Form</u> (Exhibit U)	<u>Remark</u>
(i) Number	E42ADR41-197023-28M	E42ADR42	Different
(ii) Premium			
Monthly	\$18.95	\$28.95	Different
Semiannual	\$113.70	\$173.70	Different
(iii) Plan Type	Individual Life Plan (Single Person)	Family Life Plan (Multiple Persons)	Different Different

(v) Address Houston Texas Wixom Michigan Different

It shows that this Policy Application Form (Exhibit U) does not belong to The Policy (Exhibit B). Under Texas Law of Contract, for a contract to be valid the terms of acceptance (The Policy) must be in strict compliance with terms of Offer (Policy Application) Premium and Plan Type are essential terms in an Insurance Contract.

(iv) In Pepper v Mutual of Omaha Insurance Company, comparison of Terms in the Policy E42ADR41-928667-27M (Exhibit V) with the Terms in the Relevant Policy Application Form i E42ADR41 (Exhibit W) are as follows:

<u>Terms</u>	<u>Policy (Exhibit V)</u>	<u>Real Application Form (Exhibit W)</u>	<u>Remark</u>
(i) Number	E42ADR41-928667-27M	E42ADR41	Same
(ii) Premium			
Monthly	\$18.95	\$18.95	Same
Semiannual	\$113.70	\$113.70	Same
(iii) Plan Type	Individual Life Plan (Single Person)	Individual Life Plan (Single Person)	Same Same
(iv) Address	Winnsboro LA	Winnsboro LA	Same

It shows that Policy Application Form (Exhibit V) belong to the Policy (Exhibit W) as the terms in the Policy Application (the Offer) is the same as the terms in The Policy (Acceptance)

This comparison shows clearly that Fake Policy Application E42ADR42 (Exhibit U) inserted does not belong to Policy E42ADR41-197023-28M (Exhibit B) which is the policy in dispute, it was inserted by Mutual of Omaha to (a) avoid payment of legitimate claims (b) create false narratives that the Claimant is the same as the insured (c) create false narratives that the insured is alive (d) create false narratives that Claimant commit fraud and (e) Scare Claimant away from pursuing the claims. Since a valid contract entails an offer (in this case Policy Application) and acceptance (the Policy) in strict compliance with the terms of the offer. Comparison above shows that Mutual of Omaha inserted Fake Policy Application does not belong and was meant to mislead and confuse the court.

5. Mutual of Omaha Insurance Company Fishing in the Ocean.

When Mutual of Omaha fraudulent insertion of fake Policy Application Form was discovered, it then embarked on fishing in the ocean. Mutual of Omaha claimed that after running the names in the drivers' registry it could not find another person with similar name hence it concluded that Abdul Salam is one and the same and that the claim is a fraud. **The same Mutual of Omaha Insurance Company was receiving two**

premiums one from me and another from my late twin brother. Attorney for Mutual of Omaha Insurance Company turned to the then DA Office to get an indictment without me knowing.

I will be very grateful if you can use your good office to dismiss this baseless indictment.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Abdul Salam Badmus', written over a horizontal line.

Abdul Salam Badmus

Tom Berg
First Assistant

Vivian King
Chief of Staff



Criminal Justice Center
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HARRIS COUNTY DISTRICT ATTORNEY
KIM K. OGG

June 11, 2018

APPENDIX G-2

Abdul Salam Badmus
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RE: Petition for Review and Dismissal of Indictment

Dear Mr. Badmus,

I received your documentation and reviewed it in detail. Unfortunately, your case does not merit the qualifications of our office accepting it as a criminal matter.

Good luck.

Sincerely,

Kristina O'Connor, CPA, CFE
Fraud Examiner