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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Bentley D. Price, Circuit Court Judge

Appellate Case No. 2022-001148

Civil Action No. 2017-CP-07-02310

Privilege Underwriters Reciprocal Exchange,..... Appellant,

v.

Calvin C. "Skip" Hoagland and Lisa Sulka, Respondents.

PETITION FOR REHEARING AND FOR REHEARING *EN BANC*

Privilege Underwriters Reciprocal Exchange ("PURE") timely files this Petition for Rehearing from this Court's Order dismissing the appeal in this matter. (Order of Dismissal is attached as Exhibit A). This Court dismissed this appeal *sua sponte* based on its view that "this appeal arises out of an order of the circuit court denying a motion for summary judgment," and that the denial of summary judgment is never appealable. The Notice of Appeal and its attachments are attached as Exhibit B). Respectfully, the Court should grant this rehearing petition regarding the dismissal of its appeal based on the misapprehended and overlooked points set forth below. PURE further requests rehearing *en banc* under Rule 219(b) of the South Carolina Appellate Court Rules.[1] As a result, the appeal should be reinstated.

[1] Consideration by the full court is necessary to maintain uniformity of decisions and because the case involves questions of exceptional importance involving immediate appealability and court power limitations.

The Court is correct as to the general rule regarding appealability of the denial of summary judgment. *See, e.g., Ballenger v. Bowen,* 443 S.E.2d 379 (1994)(holding denial of summary judgment never appealable, as it does not finally determine any issue). ***However,*** in determining the appealability of an order, the ***legal effect*** of the orders appealed must be considered, rather than merely the name given the order. *See Morrow v. Fundamental Long-Term Care,* 773 S.E.2d 144 (2015)(holding that appealability depends on the effect, rather than the style or the name, of the order). For the four reasons set forth in the Argument section below, Appellant appealed and believes its immediate appeal is valid due to the possible legal effect of the circuit court's orders. Before arguing those four reasons, a brief background for the Court is required.

BACKGROUND

This matter was brought pursuant to Rule 57 of the South Carolina Rules of Civil Procedure and the Uniform Declaratory Judgment Act, South Carolina Code Ann. §§ 15-53-10 through 15-53-140, and involves disputes regarding insurance with respect to an underlying defamation case pending in the Beaufort County Court of Common Pleas between Defendant Lisa Sulka and Defendant Calvin C. "Skip" Hoagland, styled as: Lisa Sulka v. C.C. "Skip" Hoagland, Civil Action No. 2017-CP-07-01547 ("The Underlying Lawsuit"). The Sulka Underlying Lawsuit alleged that Defendant Hoagland published false and defamatory statements about Sulka in 2015 and 2017 in emails that were published to various individuals.

Plaintiff PURE issued two policies of insurance for which Mr. Hoagland was an insured, subject to conditions and exclusions in the policy, for certain risks. Pursuant to these insurance policies, Plaintiff PURE provided a defense to Mr. Hoagland in the Underlying Lawsuit through attorney Barrett Brewer subject to a Reservation of Rights Letter issued by PURE. PURE then also filed this Related Declaratory Judgment Action to address certain coverage issues.

From 2017 until mid-2020, Mr. Brewer represented and defended Mr. Hoagland in the Underlying Lawsuit. However, in mid-2020, Mr. Hoagland fired attorney Brewer and expressly refused alternative counsel paid for by PURE, claiming he would represent and defend himself. As a result of Hoagland's clearly expressed intent that he did not want Brewer or any other attorney to represent him, Brewer filed his motion to withdraw in accordance with Rule 1.16(a)(3), which was granted by the Court. Sulka, through her counsel, not only consented to Brewer's motion, but also approved Hoagland representing himself.

Subsequently, and on repeated occasions, Mr. Hoagland chose to not defend himself, and expressed that he would not appear at any proceedings, whether depositions, hearings, or a trial, in the Underlying Lawsuit, and that he would throw any paper or court ordered subpoenas related to the matter in the trash.

Accordingly, PURE filed a Motion for Partial Summary Judgment on October 5, 2021, requesting that the Court rule as a matter of law that it was not required to provide a defense, or indemnity, to Mr. Hoagland in the underlying matter because he materially breached his contractual duty to cooperate with PURE in defending against Sulka's defamation lawsuit, resulting in substantial, including inherent, prejudice to PURE. Mr. Hoagland did not oppose PURE's motion, did not file any opposition memoranda, and did not appear for the hearing. Defendant Sulka did oppose PURE's Motion for Summary Judgment alleging that 1) there was an attempted civil conspiracy between Hoagland and PURE to prevent coverage; 2) the matter was not yet ripe because prejudice had not yet occurred; and 3) to deny coverage was a violation of public policy. Defendant Sulka **did not** file a cross motion for summary judgment requesting that the Court rule that PURE was required to provide Mr. Hoagland a defense and/or indemnity as a matter of law.

A hearing was held on PURE's motion for partial summary judgment on January 5, 2022. On January 20, 2022, the circuit court issued an order, granting PURE's motion for partial summary judgment. Sulka next filed her Motion to Reconsider arguing for the first time that the Court failed to consider, in the light most favorable to Sulka, evidence that PURE did not act in good faith in attempting to secure the cooperation of Hoagland in defending against the Sulka litigation (or conversely, that PURE did not present evidence that it acted in good faith in attempting to secure Hoagland's cooperation). In her Motion to Reconsider, Sulka did not make any arguments seeking to have the Court reconsider her other prior arguments opposing summary judgment for PURE, nor did she request that the Court rule as a matter of law that PURE must provide Mr. Hoagland a defense or indemnity as a matter of law. Sulka also did not argue that the summary judgment grant to PURE was inconsistent with this Court's intentions. Defendant Hoagland continued his lack of opposition and did not file any motion to reconsider. During this time, the Court also did not notify any of the parties that its Order granting summary judgment was in error or communicated incorrectly.

From January 31st through February 3, 2022, Defendant Sulka scheduled and then presented her case to a Beaufort County jury against Mr. Hoagland. Mr. Hoagland had notice of, but did not attend trial, just as he stated he would not. The result of the unopposed trial was a verdict for Mrs. Sulka for $40,000,000 in actual damages and $10,000,000 in punitive damages.

On May 18, 2022, the circuit court held a hearing on Defendant Sulka's Motion to Reconsider. During this hearing, and for the first time, the circuit court indicated it had made a mistake and that it did not intend to grant summary judgment to PURE as it did. The Court requested that Sulka's counsel draft an order to this effect. Sulka's counsel did so, to which PURE filed objections and supporting arguments that its summary judgment grant should be upheld.

On June 7, 2022, the circuit court entered an Order "vacating" its previous order granting summary judgment to PURE based on mistake and "substituting" an Order which denies PURE's Motion for Summary Judgment, but which also states, "It was and remains my intent that the Plaintiff, Privilege Underwriters Reciprocal Exchange was obligated to provide coverage to Mr. Hoagland in the underlying case of *Lisa Sulka vs. Skip Hoagland*, Civil Action # 2017-CP-07-1547."

ARGUMENT

For the following four reasons, PURE contends its immediate appeal of the orders is valid.

1. **The immediate appeal is valid because Sulka's Motion to Reconsider the Grant of Summary Judgment to PURE is improper and did not toll any time limits, and thus the Summary Judgment Order to PURE must be reinstated.**

When a party makes an argument for the first time in a motion to reconsider that it could have made initially, that argument is not proper and it should not be considered. *Patterson v. Reid*, 456 S.E.2d 436 (Ct. App. 1995) (party cannot for the first time raise by 59(e) motion an issue which could have been raised at trial); *see also Dixon v. Dixon*, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005) (finding that party's failure to raise an alternate remedy was not preserved, because it was first raised in a Rule 59 motion); *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 563, 566–67, 762 S.E.2d 693, 695 (2014) (finding that defendant's issue was not preserved when it was raised for first time in Rule 59(e) motion to amend judgment after trial court granted partial summary judgment in favor of plaintiff). Here, Sulka (and Hoagland[2]) lost summary judgment to PURE. In opposing summary judgment, Sulka argued that PURE and Hoagland were in a civil conspiracy to deprive Sulka of the benefits of any insurance coverage, and Sulka argued

[2] *See* discussion of Hoagland's failure to contest summary judgment, *infra*.

various other points. The circuit court granted summary judgment to PURE, ruling against Sulka's opposition arguments.

Sulka filed a motion to reconsider, not asking for general reconsideration, but instead raising a single argument --- that PURE failed to demonstrate it had exercised good faith in attempting to have Hoagland cooperate in his defense. That argument was not made to the circuit court before, although it could have been. As a result, the single argument motion to reconsider is procedurally defective, and there was nothing for the circuit court to validly consider with respect to the motion to reconsider. Because the motion to reconsider by Sulka was procedurally barred from consideration, it had no effect, including no effect on the Summary Judgment Grant to PURE. As a result, the motion to reconsider did not toll any timelines to appeal, and the Summary Judgment Grant to PURE matured into a final judgment, not appealed by Sulka. The summary judgment thus became final, and the time to appeal by Sulka has passed. An analogy is found in this Court's and the Supreme Court's jurisprudence with respect to identical, successive Rule 59 motions *Elam v. South Carolina Dept. of Trans.,* 602 S.E.2d 772 (1994). This Court and the Supreme Court have held that a procedurally defective Rule 59 motion in that context does not stay any time limits, including time for appeal. *Id*.

Therefore, because the motion to reconsider by Sulka raised only one argument, and that one argument had not been raised previously (but could have been), it was not a proper motion to reconsider. This was pointed out to the circuit court, but did not persuade the circuit court. This Court is the proper forum on appeal to correct that error and vacate the circuit court's orders on appeal[3].

[3] For illustrative purposes, assume a summary judgment is granted and the time for appeal expires. Further assume that months after the time for appeal has expired, a party moves to "reconsider" the earlier summary judgment grant and the circuit court considers and grants that motion,

2. The immediate appeal is valid because the circuit court granted relief to Sulka on grounds she did not argue in her motion, and the circuit court otherwise had no power to alter its prior Summary Judgment Order for PURE, thus depriving PURE of due process, and affecting the substantial rights of PURE, for which it may seek redress via immediate appeal.

The circuit court did not address the single argument made in Sulka's motion to reconsider. Instead, it ruled on an entirely different basis. This is improper. *See, e.g., Henderson v. Gould, Inc.*, 288 S.C. 261, 266, 341 S.E.2d 806, 809 (Ct. App. 1986) (noting that it "would have been error" for the lower court to grant relief to defendants "which they had not sought on a ground inapplicable to them"); *Skinner v. Skinner*, 257 S.C. 544, 186 S.E.2d 523 (1972) (in granting a motion, a court ordinarily may not grant relief beyond the scope of the motion).

Turbeville v. Floyd, 288 S.C. 171, 173-74, 341 S.E.2d 651, 652-53 (Ct. App. 1986) is instructive. In *Turbeville*, counsel for the defendants argued that summary judgment should be granted on the three grounds set forth in the motion and plaintiff's counsel argued that it should not. *Id*. The circuit court's order, however, granted summary judgment "not on any of the three grounds set out in the notice of motion" but on a different ground that was not included in the notice of motion or argued by the movant to the circuit court. Id. This Court found that such was a reversible error, noting that one of the "basic purposes of a notice of motion is to apprise the opposing party of the relief sought and the grounds therefor" and "[o]rdinarily, a court may not grant relief beyond the limits or scope of such notice." *Id*.; *see also Chart House, Inc. v. Palmetto Bay Club Owners' Ass'n, Inc.*, No. 2004-UP-634, 2004 WL 6339733, at *2–3 (S.C. Ct. App. Dec. 15, 2004) (finding that the plaintiff's due process rights were violated where the trial court granted summary judgment in defendant's favor based on grounds not pled in its motion).

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purporting to now "deny" the summary judgment. The circuit court has no jurisdictional power to do this. Surely, such an abuse can and must be corrected on appeal. So too is it in this case.

Here, the circuit court decided, on a *sua sponte* basis, that it had made a "mistake" and had not intended to grant summary judgment to PURE. The circuit court has no power to *sua sponte* change the scope of the judgment more than 10 days beyond its ruling on summary judgment. *Leviner v. Sonoco Products Co.*, 530 S.E.2d 137 (2000) ("trial court has only ten days from entry of judgment to alter or amend a judgment on his own initiative"). *See also Ness v. Eckerd Corp.*, 350 S.C. 399, 402-03, 566 S.E.2d 193, 195 (Ct. App. 2002)(same); *Heins v. Heins*, 344 S.C. 146, 543 S.E.2d 224 (Ct. App. 2001) (same). Here, the Court's Order granting summary judgment in PURE's favor was entered on January 20, 2022. The Court's subsequent Order was entered on June 7, 2022. The ten-day period for altering or amending the Order *sua sponte* had long since passed and, therefore, the Court cannot *sua sponte* alter or amend the Order granting summary judgment in PURE's favor.

Rule 60(b) does not permit *sua sponte* action by the Court. *Woods v. Woods*, 418 S.C. 100, 122 n.10, 790 S.E.2d 906, 917 n.10 (Ct. App. 2016) ("We agree with Wife that it was error for the family court to invoke Rule 60(b) on its own initiative."). Rule 60(b)(1) permits a judgment to be set aside due to "mistake, inadvertence, surprise, or excusable neglect." Rule 60(b)(1), SCRCP. However, Sulka raised none of these points in her Motion to Reconsider, and as stated, these points may not be raised *sua sponte* by the Court.

While the circuit court *does* have the power under Rule 60(a), SCRCP, to *sua sponte* correct certain errors, a change in the scope of judgment is not of such nature, and the circuit court was not empowered to so rule. Likewise, Rule 60(a) does not give the Court the unrestricted authority to *sua sponte* alter the scope of the judgment. Rule 60(a), SCRCP permits a court to correct "clerical mistakes in judgments, orders or other parts of the records" on its own initiative. This Court has explained that a clerical error is "defined as a mistake in writing or copying" and for

judgments is a mistake or omission by "a clerk, counsel, judge or printer which is not the result of exercise of judicial function." *Dion v. Ravenel*, 316 S.C. 226, 230, 449 S.E.2d 253 (Ct. App. 1994). Thus, "[w]hile a court may correct mistakes or clerical errors in its own process to make it conform to the record, it cannot change the scope of the judgment." *Id.* at 230, 449 S.E.2d at 253-54. Here, the Court's Order changes the scope of the judgment. Therefore, Rule 60(a) does not provide a mechanism to achieve this result. *See also, Blankenship v. Royalty Holding Co.*, 202 F.2d 77 (10th Cir. 1953) (where the record of the order was clear, and where all parties understood that an order granted judgment with prejudice, the trial court lacked authority to change the scope of judgment based on his intent to reflect that the order granted judgment without prejudice) *Cf. Landry v. Landry*, 843 S.E.2d 491 (2020). *Landry* does not dictate a contrary result. *Landry* involved a situation in a domestic relations case where an order, drafted by the husband for the court, reflected the husband's agreement to pay the wife in a divorce a portion of his retirement funds. Husband filed a Rule 60(a) motion and indicated his counsel mistakenly recited this as part of his agreement with the wife in the proposed order. The South Carolina Supreme Court remanded the matter for the trial court to consider the issue, noting that the family court sits in equity and such rulings can thus be considered in balancing the equities to achieve a fair overall result.

Because the circuit court did not address the single motion to reconsider argument made by Sulka, and instead improperly invoked *sua sponte* powers to change the scope of the judgment, the circuit court orders should be vacated, and the prior summary judgment order in favor of PURE should be reinstated. A contrary result deprives PURE of its due process rights, and represents an immediate deprival of substantial rights, and is thus immediately appealable, under S.C. Code Ann. Section 14-3-330.

3. The Court overlooked that Hoagland did not challenge the summary judgment grant, and thus the circuit court could not have had any jurisdiction to "deny" summary judgment in favor of PURE as to Hoagland.

One of the parties in this case did not challenge the summary judgment order at any time – did not oppose summary judgment, did not move to reconsider summary judgment, and did not appeal the summary judgment order. That party was Calvin Hoagland. As a result, the summary judgment grant in favor of PURE and against Calvin Hoagland must stand, and the circuit court had no power to "deny summary judgment" pursuant to a different party's motion to reconsider the grant of summary judgment. The judgment was final as to Calvin Hoagland. Only Defendant Sulka moved to reconsider the grant of summary judgment to PURE. Sulka has no standing to move to reconsider on behalf of Hoagland, a different party and a party to whom she is adverse. As such, the circuit court's Order as to Hoagland is final, and there is no basis for this Court to alter, amend, or otherwise affect its prior order as to Hoagland. An unappealed order is the law of the case. *Judy v. Martin*, 674 S.E.2d 151 (2009).

The Order of the circuit court on appeal makes no distinction between the parties, and purports in certain language to be granting a motion to reconsider and changing its earlier grant of summary judgment to PURE in its entirety. The circuit court has no power to do this, and this lack of power was pointed out to the circuit court below, including in a motion to reconsider. The circuit court did not expressly limit its order, however, and this Court is thus the proper Court to correct this error and to at minimum limit the circuit court's order respecting Sulka's motion to reconsider in this regard. *See, e.g.*, *Tupper v. Dorchester County*, 487 S.E.2d 187 (1997) (co-defendant's raising of statute of frauds issue not allowed to be asserted by other party who failed to assert the issue himself, no "bootstrapping" allowed); *Brock v. Board of Adjustment*, 419 S.E.2d 773 (1992) (same).

Similarly, to the extent the Court's June 7 Order indicates PURE was obligated to provide a defense to Skip Hoagland, in spite of neither Defendant moving for such relief, the Court lacked the authority to do so, and Sulka lacks standing to request it. The duty to defend is "a valuable right of the insured for which the insured pays and to which the insured is entitled by the very words of the policy." *Nationwide Mut. Ins. Co. v. Tate*, 438 S.E.2d 266, 268 (Ct. App. 1993), quoting *Nationwide Mutual Ins. Co. v. Simmonds*, 315 S.C. 404, 434 S.E.2d 277 (1993). The duty to provide a defense is a contractual obligation paid for by Hoagland "for the protection of the insured" only. *Id*. *See also Shelby Mut. Ins. Co. v. Askins*, 307 S.C. 81, 413 S.E.2d 855, 859 (S.C. Ct. App. 1992) ("Fundamental to the concept of duty to defend is the requirement that the party seeking the defense must be an insured under a contract of insurance."). Sulka, a non-party to the insurance policy, does not have standing to demand such an obligation. *See, e.g., Id*. (declining to extend the duty to defend to a third party and holding that the third party did not have standing to assert such a claim).

Hoagland, the contractual insured, did not oppose PURE's motion for summary judgment, nor did he make any motion to reconsider or appeal. As such, the Court's Order on January 20, 2022 as to Hoagland is final, and there was no basis for the circuit court to further affect its prior order as to the obligations owed to him. *Judy v. Martin*, 674 S.E.2d 151 (2009) (An unappealed order is the law of the case.). Further, whether PURE owes a duty to defend to Hoagland is not a right that Sulka has standing to challenge.

As a result, this Court should reinstate the appeal and should clarify that the Orders of the circuit court appealed do not affect the summary judgment grant to PURE as to Hoagland. That summary judgment grant is final and unappealed, and the circuit court had no power to change its Order granting summary judgment as to Hoagland.

4. The Court overlooked statements in the appealed orders, one reading of which could be a ruling of coverage in favor of Hoagland, and thus the orders were appealed as well for this reason.

In its Order of June 7, 2022, the circuit court stated: "It was and remains my intent that the Plaintiff, Privilege Underwriters Reciprocal Exchange was obligated to provide coverage to Mr. Hoagland in the underling case of Lisa Sulka v. Skip Hoagland, Civil Action #2017-CP-07-1547." Sulka made no motion for judgment as to coverage, nor did Hoagland and, as stated, Hoagland never contested and never appealed the partial summary judgment grant order. Thus, this statement by the trial court has no legal foundation and must be vacated.

PURE believes it must appeal these orders as a result of this statement from the circuit court in that order. PURE has various other arguments (apart from lack of cooperation by Hoagland) as to coverage. The circuit court's statement quoted above can be read as if it is a broad statement respecting coverage favoring Mr. Hoagland, without consideration of any of these other arguments, and in the absence of any motion requesting an order affirmatively finding coverage. As a result, PURE has appealed.

If this Court denies rehearing and does not expressly vacate this language, it will be assumed the Court is finding this language in the circuit court's order to have no effect, that the circuit court's orders here have no preclusive or prejudicial effect of any kind, and amount only and merely to the denial of summary judgment. *See Weil v. Weil*, 382 S.E.2d 471 (Ct. App. 1989) (statement made while denying summary judgment not the law of the case).

CONCLUSION

For the reasons set forth above, this Court should grant rehearing and rehearing *en banc* and reinstate the appeal of the orders. Failing that, it should expressly make it clear that the orders have no prejudicial or preclusive effect as to PURE's rights to argue any and all of its positions

again. If the Court declines to do anything but deny rehearing, it will be assumed that this Court is determining that the circuit court orders have no preclusive or prejudicial effect of any kind, and amount only and merely to the denial of summary judgment, and that all of PURE's arguments can be made again in the ongoing litigation.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Appellant Privilege Underwriters Reciprocal Exchange

Columbia, South Carolina

September 6, 2022

EXHIBIT A

(Order of Dismissal)

The South Carolina Court of Appeals

Privilege Underwriters Reciprocal Exchange, Appellant,

v.

Calvin C. "Skip" Hoagland and Lisa Sulka, Respondents.

Appellate Case No. 2022-001148

ORDER

This appeal arises out of an order of the circuit court denying a motion for summary judgment. "[I]t is well-settled that an order denying summary judgment is never reviewable on appeal . . . ." *Bank of N.Y. v. Sumter Cnty.*, 387 S.C. 147, 154, 691 S.E.2d 473, 477 (2010). Accordingly, this appeal is dismissed. The remittitur will be sent pursuant to Rule 221(b), SCACR.

_____, C.J.
FOR THE COURT

Columbia, South Carolina

cc:
C. Mitchell Brown, Esquire
Lee Cannon Weatherly, Esquire
Kristen Kelley Thompson, Esquire
Sean Kevin Trundy, Esquire
John E. Parker, Esquire
John Elliott Parker, Jr., Esquire
Daniel E. Henderson, Esquire

FILED
Aug 19 2022

EXHIBIT B

(Notice of Appeal)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Bentley D. Price, Circuit Court Judge

Civil Action No. 2017-CP-07-02310

Privilege Underwriters Reciprocal Exchange,.....	Plaintiff-Appellant
v.	
Calvin C. "Skip" Hoagland and Lisa Sulka,	Defendants-Respondents.

NOTICE OF APPEAL

Privilege Underwriters Reciprocal Exchange ("PURE") timely appeals the lower court's Orders attached as Exhibit A, being (1) "Order" dated June 7, 2022 by the Honorable Bentley Price; and (2) "Order" (which denied PURE's motion to reconsider) dated August 4, 2022 by the Honorable Bentley Price. Appellants received written notice of the entry of the Order denying the Motion to Reconsider on August 4, 2022.

Appellant notes that attached as Exhibit B is an Order in which the trial court originally granted partial summary judgment to Privilege Underwriters Reciprocal Exchange ("PURE"). This Order was adverse to Defendant Calvin Hoagland, as well as to Mrs. Lisa Sulka, the Respondent, who was at the time of issuance of that Order, a third party claimant. Mr. Hoagland never contested the Order attached as exhibit B, nor did he file any motion to reconsider or appeal as to the Order attached as Exhibit B. Mrs. Sulka moved to reconsider the Order attached as Exhibit B. Appellant's position is that the Sulka motion to reconsider was/is procedurally defective and is a nullity. Further, the Orders appealed by this notice at Exhibit A were expressly

not based on any argument made in the motion to reconsider by Mrs. Sulka. Instead, they were based on the purported Rule 60(a) *sua sponte* power of the Court to change a "mistake." Appellant's position is that the Court is not empowered to change the scope of judgment via this Rule. Finally, the June 7 Order appealed contains the language "It was and remains my intent that the Plaintiff, Privilege Underwriters Reciprocal Exchange was obligated to provide coverage to Mr. Hoagland in the underling case of Lisa Sulka v. Skip Hoagland, Civil Action #2017-CP-07-1547." Ms. Sulka made no motion for judgment as to coverage, nor did Mr. Hoagland and, as stated, Mr. Hoagland never contested and never appealed the partial summary judgment grant order attached as Exhibit B. Thus, this statement by the trial court has no legal foundation and must be vacated. As a result, and in the end, the purpose of this appeal is for the Order at Exhibit B, granting PURE partial summary judgment, to be reinstated, and for the Orders appealed at Exhibit A be reversed and vacated.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
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Bentley D. Price, Circuit Court Judge

Civil Action No. 2017-CP-07-02310

Privilege Underwriters Reciprocal Exchange,..... Plaintiff-Appellant

v.

Calvin C. "Skip" Hoagland and Lisa Sulka, Defendants-Respondents.

PROOF OF SERVICE

I, the undersigned Administrative Assistant, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Privilege Underwriters Reciprocal Exchange, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified, pursuant to the Supreme Court Order 2022-05-06-04, and a copy of that electronic mail is attached to this certificate.

Pleading(s): **Notice of Appeal**

Served: **Via E-Mail**

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Administrative Assistant

August 16, 2022

Eileen Hindman

From: Eileen Hindman
Sent: Tuesday, August 16, 2022 3:03 PM
To: jparker@pmped.com; jayparker@pmped.com; dhenderson@pmped.com; strundy@agifttomyheirs.com; lweatherly@csvl.law; kthompson@csvl.law; Mitch Brown
Subject: PURE v. Hoagland and Sulka - Civil Action No. 2017-CP-07-02310
Attachments: 2022.08.16 Notice of Appeal with exhibits (PURE 2017) - 4857-2587-8062 1.pdf; 2022.08.16 Proof of Service (PURE 2017) - 4869-8115-4606 1.pdf

Good afternoon,

Attached please find a Notice of Appeal in the above matter. Service is made via email pursuant to the Supreme Court Order 2022-05-06-04.

Thank you.

NELSON MULLINS

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Pleading(s): **Petition for Rehearing and for Rehearing En Banc**

Served: **Via E-Mail**

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September 6, 2022

Eileen Hindman

From: Eileen Hindman
Sent: Tuesday, September 6, 2022 3:33 PM
To: jparker@pmped.com; jayparker@pmped.com; dhenderson@pmped.com; strundy@agifttomyheirs.com; lweatherly@csvl.law; kthompson@csvl.law; Mitch Brown
Subject: PURE v. Hoagland and Sulka - Appellate Case No. 2022-001148
Attachments: 2022.09.06 Petition for Rehearing and for Rehearing En Banc with exhibits (PURE v. Hoagland, Sulka) - 4881-4375-7873 1.pdf; PURE - Proof of Service to Petition for Rehearing and for Rehearing En Banc - 4863-3424-3377 1.pdf

Good afternoon,

Attached please find a Petition for Rehearing and for Rehearing En Banc in the above matter. Service is made via email pursuant to the Supreme Court Order 2022-05-06-04.

Thank you.

NELSON MULLINS

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