

RECEIVED

Jul 27 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas
R. Kirk Griffin, Circuit Court Judge

Appellate Case No. 2023-000074

Ex Parte: Liberty Mutual Insurance Company and Horace Mann Property and
Casualty Insurance Company, Respondents,

In Re:

Howell D. Thompson and Tara L. Thompson,
Appellants,

v.

Carlos D. Toney,
Defendant.

**RESPONDENT LIBERTY MUTUAL INSURANCE COMPANY'S
DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON
APPEAL**

Richard E. McLawhorn, Jr.
Aaron J. Hayes, SC Bar No. 100114
Sweeny Wingate & Barrow
1515 Lady Street
Columbia, SC 29201
*Attorneys for Respondent Liberty Mutual
Insurance Company*

Columbia, South Carolina
July 27, 2023

Pursuant to Rule 209, SCACR, Respondent Liberty Mutual Insurance Company designates the following material for inclusion in the record on appeal. The undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to this appeal.

1. Summons and Complaint, filed December 5, 2019
2. Certificate of Service of Horace Mann, filed December 19, 2019
3. Certificate of Service of Liberty Mutual, filed December 20, 2019
4. Notice of Appearance of Liberty Mutual and Answer, filed January 2, 2020
5. Answer of Horace Mann, filed January 7, 2020
6. Amended Answer of Liberty Mutual, filed February 20, 2020
7. Liberty Mutual's Motion to Change Venue, filed March 23, 2020
8. Plaintiffs' Response to Motion to Change Venue and exhibit, filed March 26, 2020
9. Liberty Mutual's Memorandum in Support of Motion to Change Venue, filed June 17, 2020
10. Liberty Mutual's Supplemental Memorandum in Support of Motion to Change Venue and exhibits, filed July 8, 2020
11. Plaintiffs' Memorandum in Opposition to Motion to Change venue and exhibits, filed July 10, 2020
12. July 22, 2020 Hearing Transcript
13. Order, filed July 24, 2020
14. Consent Scheduling Order, filed September 21, 2020
15. Second Consent Scheduling Order, filed March 4, 2021
16. Consent Motion to Extend Scheduling Order, filed May 26, 2021
17. Third Scheduling Order, filed June 1, 2021
18. Plaintiffs' Motion for Protective Order, filed July 14, 2021

19. July 14, 2021 Hearing Transcript
20. Order Granting Motion for Protection, filed July 15, 2021
21. Order, July 22, 2021
22. Consent Motion to Extend Scheduling Order, filed September 15, 2021
23. Fourth Scheduling Order, filed September 15, 2021
24. Liberty Mutual's Motion to Dismiss or, in the alternative, Motion for Summary Judgment, filed October 26, 2021
25. Horace Mann's Motion to Dismiss, filed October 29, 2021
26. Proof of ADR, filed November 8, 2021
27. Liberty Mutual's Memorandum in Support of Motion to Dismiss or, in the alternative, Motion for Summary Judgment, filed November 30, 2021
28. Plaintiffs' Memorandum in Opposition to Motion to Dismiss, or in the alternative, Motion for Summary Judgment, filed December 15, 2021
29. Liberty Mutual's Reply to Plaintiffs' Memorandum and exhibits, filed December 21, 2021
30. Liberty Mutual's Motion for Continuance, filed January 4, 2022
31. Order Granting Continuance, filed January 6, 2023
32. January 6, 2022 Hearing Transcript
33. Plaintiffs' Supplemental Memorandum in Opposition with exhibits, filed January 27, 2022
34. Liberty Mutual's Reply, filed February 14, 2022
35. The Honorable R. Kirk Griffin's Order of Dismissal, filed August 29, 2022
36. Plaintiffs' Motion to Alter or Amend with exhibit H, filed September 7, 2022
37. Liberty Mutual's Memorandum in Opposition, filed September 23, 2022
38. The Honorable R. Kirk Griffin's Order Denying Plaintiffs' Motion to Alter or Amend, filed December 21, 2022

39. Notice of Appeal, filed January 19, 2023
40. Proof of Service for Notice of Appeal, dated January 19, 2023
41. Liberty Mutual's Motion to Dismiss Appeal, filed May 11, 2023
42. Appellant's Return in Opposition to Motion to Dismiss Appeal, filed May 22, 2023
43. Liberty Mutual's Reply to Return in Opposition to Motion to Dismiss Appeal, filed May 30, 2023
44. Order, Court of Appeals, Denying Motion to Dismiss Appeal but with Leave to Include Issue in Briefs, filed June 16, 2023

Respectfully submitted,

SWEENY, WINGATE & BARROW, PA

s/ Aaron J. Hayes

Richard E. McLawhorn, Jr.

Aaron J. Hayes, SC Bar No. 100114

Sweeny Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, S.C. 29211

(803) 256-2233

**ATTORNEY FOR RESPONDENT LIBERTY
MUTUAL INSURANCE COMPANY**

CERTIFICATION PURSUANT TO RULE 209(c), SCACR

The undersigned, as counsel of record for Respondent Liberty Mutual Insurance Company, hereby certifies that the foregoing Designation of Matter contains no matter which is irrelevant to this appeal.

s/ Aaron J. Hayes

RECEIVED

Jul 27 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas
R. Kirk Griffin, Circuit Court Judge

Appellate Case No. 2023-000074

Ex Parte: Liberty Mutual Insurance Company and Horace Mann Property and
Casualty Insurance Company, Respondents,

In Re:

Howell D. Thompson and Tara L. Thompson,
Appellants,

v.

Carlos D. Toney,
Defendant.

PROOF OF SERVICE

I certify that a true copy of Respondent Liberty Mutual Insurance Company's Designation of Matter to be Included in the Record on Appeal in this case has been served on the following, this 27th day of July 2023, by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System pursuant to Rule 262 of the South Carolina Appellate Court Rules and the May 6, 2022 Order of the South Carolina Supreme Court (Appellate Case No. 2020-000447):

Served email addresses to appear on following page.

G. Murrell Smith, Jr., Esq., counsel for Appellants, at murrell@smithrobinsonlaw.com
Jonathan M. Robinson, Esq., counsel for Appellants, at jon@smithrobinsonlaw.com
Shanon N. Peake, counsel for Appellants, at shanonp@smithrobinsonlaw.com
John D. Kassel, Esq., counsel for Appellants, at jkassel@kassellaw.com
Theile B. McVey, Esq., counsel for Appellants, at tmcvey@kassellaw.com
Jamie R. Rutkowski, counsel for Appellants, at jrutkowski@kassellaw.com
Andrew N. Safran, Esq., counsel for Appellants, at msa6631@aol.com
Karl S. Brehmer, Esq., counsel for Respondent Horace Mann, at ksb@brownandbrehmer.com

s/ Aaron J. Hayes
Aaron J. Hayes
Attorney for Respondent Liberty Mutual Insurance
Company

Columbia, South Carolina

July 27, 2023