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**Sep 13 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Danniel Hall, Circuit Court Judge

Appellate Case No. 2024-001311

Ina Shtukar,

Appellant,

v.

Erie Insurance Group,

Respondent.

**APPELLANT'S RULE 209 DESIGNATION  
OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

September 13, 2024



Ina Shtukar "Steinberg" Esquire  
SC Bar No.105916  
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ina@blackandwhiteimmigrationlaw.org  
*ATTORNEY FOR APPELLANT*

## DESIGNATION

**NOW COMES** Appellant, pursuant to Rule 209 and 210(c), and designates the following matters to be included in the Record on Appeal:

### **I. ORDERS**

Appellant desires the following orders to be included in the Record on Appeal:

- i. November 20, 2023, Form 4 Order to Continue Plaintiff's Motion for Entry of Default and Defendant's Motion to Dismiss.
- ii. February 6, 2024, Order granting Defendant's Motion to Extend Time.
- iii. August 6, 2024, Form 4 Order granting Defendant's Motion to Dismiss and denying Plaintiff's Motion for entry of Default.
- iv. August 16, 2024, Memorandum Decision granting Defendant's Motion to Dismiss and denying Plaintiff's Motion for entry of Default.
- v. August 29, 2024, Form 4 Order denying Plaintiff's Rule 59(e) Motion to Reconsider the trial court's Decision granting Defendant's Motion to Dismiss and denying Plaintiff's Motion for entry of Default.

### **II. PLEADINGS**

Appellant desires the following Pleadings to be included in the Record on Appeal:

- i. February 7, 2023, Summons and Complaint.
- ii. January 5, 2024, Amended Summons and Complaint.
- iii. February 5, 2024, Answer.

### **III. TRANSCRIPT**

Appellant desires to include the entire Transcript of July 31, 2024 hearing, which contains the parties' respective arguments and objections made in connection with Plaintiff's Motion for

Entry of Default and Defendant's Motion to Dismiss.

#### **IV. EXHIBITS**

Appellant desires the following Exhibits to be included in the Record on Appeal:

- i. Plaintiff's March 3, 2023, Exhibit A, which contains the DOI's Acceptance of Service, filed in support of Plaintiff's Affidavit of Compliance.
- ii. Plaintiff's March 3, 2023, Exhibit B, which contains a certified mail Return Receipt, filed in support of Plaintiff's Affidavit of Compliance.
- iii. Defendant's May 17, 2023, Exhibit A, filed in opposition to Plaintiff's May 15, 2023, Brief in Opposition to Defendant's Motion to Dismiss and Request for Entry of Default.
- iv. Plaintiff's May 31, 2023, Exhibit A, filed in support of Plaintiff's Motion for entry of Default and Default Judgment, comprised of Certificate of Service by Certified Mail, Affidavit of Compliance, Return Receipt, Acceptance of Service of the Department of Insurance ("DOI").
- v. Plaintiff's January 5, 2024 Exhibit A filed in support of the Amended Complaint, which contains a screenshot of the search of the Secretary of State's website.
- vi. Plaintiff's January 5, 2024 Exhibit A2 filed in support of the Amended Complaint, which contains policy materials displaying three different names used by Defendant in its dealings with Plaintiff.
- vii. Plaintiff's January 5, 2024 Exhibit B filed in support of the Amended Complaint, which contains Defendant's agent's email that shows that Defendant renewed Plaintiff's policy after she relocated to South Carolina, as evidence of unauthorized business of insurance.
- viii. Plaintiff's January 5, 2024 Exhibit C filed in support of the Amended Complaint, which shows that Defendant began adjusting a claim under Plaintiff's name after she relocated

- to South Carolina, as evidence of unauthorized business of insurance.
- ix. Plaintiff's January 5, 2024 Exhibit D filed in support of the Amended Complaint, which shows that the DOI accepted service of process effective February 10, 2023, naming Defendant "Erie Insurance Exchange, *et al.*"
  - x. Plaintiff's January 5, 2024 Exhibit F filed in support of the Amended Complaint, which shows that Defendant did not have Plaintiff's consent to add any third party to her auto policy, as evidence of unauthorized changes to Plaintiff's auto policy.
  - xi. Plaintiff's January 5, 2024 Exhibit K filed in support of the Amended Complaint, which contains Plaintiff's email to the adjuster notifying Defendant of several unauthorized changes to Plaintiff's auto policy procured through fraud, as evidence that Defendant was on notice of the violation of Plaintiff's rights.
  - xii. Plaintiff's August 18, 2024, Exhibit A filed in support of Plaintiff's Rule 59(e) Motion to Reconsider, which contains defense counsel's email acknowledging service by certified mail.
  - xiii. Plaintiff's August 18, 2024, Exhibit B filed in support of Plaintiff's Rule 59(e) Motion to Reconsider, which contains defense counsel's email acknowledging service by certified mail as well as the fact that the DOI accepted service effective February 10, 2024.
  - xiv. Plaintiff's August 18, 2024, Exhibit C filed in support of Plaintiff's Rule 59(e) Motion to Reconsider, which contains defense counsel's unauthenticated internal document introduced at the July 31, 2024 hearing, without proper foundation.
  - xv. Plaintiff's August 18, 2024, Exhibit D filed in support of Plaintiff's Rule 59(e) Motion to Reconsider, which contains a screenshot of the search of the Secretary of State website, as evidence that Defendant registered "Erie Insurance Group" as one of its fictitious

names.

## **V. MOTIONS**

Appellant desires the following Motions to be included in the Record on Appeal:

- i. Defendant's April 28, 2023, Motion to Dismiss.
- ii. Plaintiff's May 15, 2023, Memorandum in Opposition to Defendant's Motion to Dismiss and Motion for Entry of Default.
- iii. Plaintiff's May 31, 2023, Motion for entry of Default and Default Judgment.
- iv. Defendant's February 5, 2024, Motion for Extension of Time to respond to Plaintiff's Amended Complaint.
- v. Plaintiff's August 13, 2024, Motion for New Trial.
- vi. Plaintiff's August 18, 2024, Rule 59(e) Motion to Reconsider.

## **VI. MEMORANDUMS**

Appellant desires the following Memorandums to be included in the Record on Appeal:

- i. Plaintiff's May 15, 2023, Memorandum in Opposition to Defendant's Motion to Dismiss.
- ii. Defendant's May 17, 2023, Reply Brief to Plaintiff's May 15, 2023, Memorandum in Opposition to Defendant's Motion to Dismiss.
- iii. Defendant's November 10, 2023, Memorandum in Support of Defendant's Motion to Dismiss.
- iv. Plaintiff's July 31, 2024, Supplemental Brief in Opposition to Defendant's Motion to Dismiss, filed to address Defendant's lack of service defense raised for the first time at the time of July 31 hearing and assert waiver as well as default.
- v. Plaintiff's August 1, 2024, Supplemental Brief in Opposition to Defendant's Motion to Dismiss, filed to address Defendant's misnomer argument.

- vi. Defendant's August 2, 2024, Supplemental Memorandum in Support of Defendant's Motion to Dismiss<sup>1</sup> and in Opposition to Plaintiff's Motion for Entry of Default, which argued that the pending motions were moot, that Plaintiff's Complaint should be dismissed because she failed to commence this action without citing any supporting authority, and that default should be set aside based on Plaintiff's "bad faith representations to Defendant."
- vii. Plaintiff's August 3, 2024, Reply Brief to Defendant's Supplemental Memorandum in Support of Defendant's Motion to Dismiss and in Opposition to Plaintiff's Motion for Entry of Default, filed to address Defendant's Rule 3 argument, which pointed out *inter alia* that, in addition to serving the DOI, Plaintiff also served the original Complaint by certified mail and that Defendant did not challenge it in any way.

## **VII. OTHER MATERIALS**

Appellant desires the following other materials to be included in the Record on Appeal:

- i. Notice of Electronic Filing ("NEF") of Defendant's February 16, 2023 entry of Notice of Appearance.
- ii. Plaintiff's March 2, 2023, Certificate of Service.
- iii. Plaintiff's March 2, 2023, Affidavit of Compliance.
- iv. NEF of the Amended Summons and Complaint as proof of service of the amended pleading.
- v. May 24, 2024, Electronic Notification that a status conference was scheduled for June 5, 2024.
- vi. August 5, 2024, Electronic Notification that the case was docketed for jury trial

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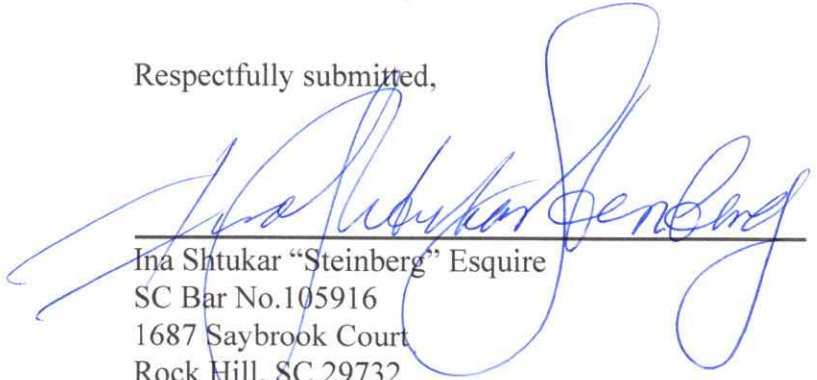
<sup>1</sup> The only Motion to Dismiss was filed on April 28, 2023, and it was embodied in a single sentence, which cited Rule 12(b)(2) and 12(b)(6) as the grounds for the motion.

commencing on December 2, 2024.

vii. Plaintiff's email to the trial court as required by S.C. R. Civ. P. 59(g).

Respectfully submitted,

September 13, 2024



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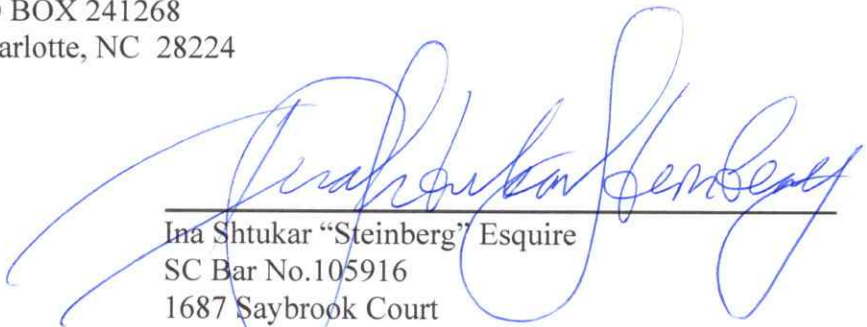
Respondent.

**CERTIFICATE OF COUNSEL**

The undersigned hereby certifies that the foregoing Designation complies with Rule 209 and contains no matter which is irrelevant to the appeal. The undersigned further certifies that Appellant's Designation was served on all counsel of record by electronic mail and depositing a copy of the same with the United States Postal Service, postage prepaid, addressed as follows:

Elizabeth A. Martineau  
MARTINEAU KING PLLC  
PO BOX 241268  
Charlotte, NC 28224

September 13, 2024



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