

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2018-CP-400-6344

Appellate Case # 2019-001488

RECEIVED
NOV 04 2019
SC Court of Appeals

MB Hutson/ MB Hudson

Appellant.

v.

Penn America Insurance
Company, Global Indemnity
Group, Inc., Timothy J.
Newton, Esq., J.R. Murphy,
Esq., John Doe #1 and John
Doe #2,

Respondents,

APPELLANT'S RESPONSE TO RESPONDENTS MOTION TO DISMISS APPEAL DUE
TO UNTIMELY NOTICE

Comes now Appellant and states the following:

Rule 77 (d), SCRPC states:

“Notice of Orders or Judgments. Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry by first class mail upon every party affected thereby

who is not in default for failure to appear, and shall make a note in the case file or docket sheet of the mailing. For parties proceeding in the SCE-File electronic filing system, the clerk shall serve a notice of the entry by electronically transmitting a Notice of Electronic Filing to all parties. Such mailing or electronic transmission shall not be necessary to parties who have already received notice. Such mailing or electronic transmission is sufficient notice for all purposes for which notice of the entry of an order or judgment is required by these rules; but any party may in addition serve a notice of entry on any other party in the manner provided in Rule 5 for the service of such papers. In addition to the above, in post-conviction relief actions, the post-conviction relief judge shall submit the signed order or judgment to the clerk of court for filing and the clerk shall promptly provide notice of the entry of judgment and serve a copy of the signed order to the parties. Pursuant to Rule 5(b) service shall be made solely on the attorney when the applicant is represented by counsel and, where an applicant is proceeding pro se, service shall be made upon the applicant at the last known address provided to the clerk by the applicant.”

“Note to 2014 Amendment:

This amendment requires the clerk to serve notice of entry of an order or judgment through the SCE-File electronic filing system for all parties who are proceeding in the electronic filing system. Any party or the attorney for a party who is a traditional filer and not proceeding in the electronic filing system must be served by first class mail as provided in paragraph (d).”

PERTINENT EVENTS:

Due to the Appellant not receiving a copy of the order dated July 18, 2019, Appellant contacted The Clerk of Richland County by phone on several occasions prior to September 16, 2019, and was told that said order had been sent out. Appellant was also told that the Judge had not ruled on the Penn America order, although this fact was verbal and Appellant can offer no proof of those particular conversations.

HOWEVER, on September 16, 2019, Appellant, never having received the order re: Penn America by Judge Nettles, *again* called the Richland County Clerk's office. This time Appellant was told (on the phone) by the Clerk of Court's office that the Court's Clerk had sent a copy of the order re: Penn America and Global to Respondents Murphy and Newton, but had failed to send Appellant a copy of that order dated July 18, 2019, as required by statute. The Clerk, through the assistant, agreed that the ruling would be *immediately* sent out to the Appellant, Pro Se on September 16, 2019, regarding the Penn America order. The postmark indicates that it was sent out on September 18, 2019 (Exhibit "A" attached). Appellant/Pro SE received Judge Nettles' order referenced above from the Clerk of Court of Richland County on September 18, 2019, as noted on EXHIBIT "A" attached. EXHIBIT "B" are the originals being mailed back to the court of the contents received, as evidence. Pro Se Appellant retains a copy of those documents at this time.

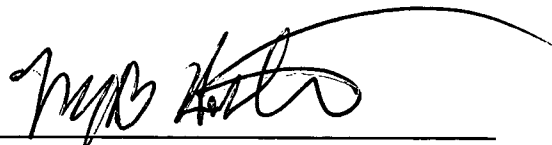
Once Appellant received the order he mailed copies of the order to all parties: S. C. Court of Appeals, Christian Stegmaier, Esq. Counsel for Penn America Insurance Company and Global Indemnity Group, Inc., Timothy J. Newton, Esq., and J. R. Murphy, Esq.. Additionally, Appellant wrote a short letter (See: Notice of Appeal Attachment: EXHIBIT "C") asking that the Penn America order be attached within the existing file Appellate Case # 2019-001488 since the Clerk of Court in Richland County had erred and failed to mail

Appellant a copy of the order as required by as Rule 77 (d), SCRCP in a timely manner as required by Rule 77 (d), SCRCP. Also within the envelope was another sheet marked as "D" which reads the Rule 77(d).

CONCLUSION AND REQUEST

Appellant requests that the Appellant Court allow this appeal to continue since the error made by the Richland County Clerk of Court of the State of South Carolina's Common Pleas Court created this error and delay. Appellant refrained from using any other copy of the Common Pleas order until the official copy was received from the Clerk of Court according to Rule 77 (d) SCRCP. As a result of the actions of this case and related cases, Appellant is now indigent at age seventy-five (75), and is forced to rely on the law's option of self-representing as a Pro Se. Therefore, Appellant has been extremely conscientious and prompt to the greatest extent of his ability, with all papers. Appellant takes this appeal very seriously and respectfully prays that Respondents motion be denied.

Submitted this second day of November, 2019, postage paid via US Mail to the Appellate Court and all parties listed below by



MB Hutson/ MB Hudson, Pro Se Appellant
Post Office Box 2755
Orangeburg, South Carolina 29116-2755
(803) 308-2714

Other Counsel of Record:

Christian Stegmaier, Esq.
Collings & Lacy P.C.
1330 Lady St. 6th Floor
Columbia, SC 29260
(803) 782 - 4100

Timothy J. Newton, Esq. and
J. R. Murphy, Esq. *both at*
Murphy & Grantland
POB 6648
Columbia, SC 29260
(803) 782 - 4100

EXHIBIT A

Jeanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

Presort
First Class Mail
ComBasPrice



U.S. POSTAGE >> PITNEY BOWES



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*date I Rec.
ORDER
JMB
Sept 18, 2019*

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EXHIBIT B

Received on Sept 18, 2019

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP4006344

ELECTRONICALLY FILED - 2019 Aug 06 12:14 PM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

MB Hutson et al
PLAINTIFF(S)

John Doe #1 et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

See orders granting summary judgment which were signed on July 18, 2019.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/06/2019 .

John Doe #1
 MB Hutson for MB Hutson
 MB Hutson for MB Hutson
 John Doe #2
 MB Hudson

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

"B"

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: MB Hutson , plaintiff, et al vs Penn America Insurance Company ,
defendant, et al
Case Number: 2018CP4006344
Type: Order/Electronic Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2019-08-06 11:50:48 page 3 of 3

EXHIBIT C

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2018-CP-400-6344

Appellate Case # 2019-001488

Penn America Insurance
Company, Global Indemnity
Group, Inc., Timothy J.
Newton, Esq., J.R. Murphy,
Esq., John Doe #1 and John
Doe #2, Respondents,

v.

MB Hutson/ MB Hudson Appellant.

NOTICE OF APPEAL ATTACHMENT

Dear Court of Appeals:

Appellant mailed "Notice of Appeal" to all parties on September 3, 2019, with a \$250.00 Money Order to the Court. With The Notice of Appeal, Appellant attached the order signed by the Honorable Judge Nettles relative to Timothy J. Newton, Esq., and J.R. Murphy, Esq., John Doe #1 and John Doe #2. It's my understanding that the Clerk of Court (Common Pleas) was required to mail Appellant/Plaintiff a copy of *both* orders. However, only the order relative to Newton and Murphy had been sent to me via U.S. Mail.

A little over a month after Judge Nettles signed his order regarding the insurance companies (reflected in this same suit and case number), Appellant/Appellant received a copy which was date stamped by the USPS on September 18, 2019 from the Clerk of Richland County.

"C"

Therefore, kindly attach this recently received (enclosed) order from Judge Nettles' office case # 2018-CP-400-6344 regarding Penn America Insurance Company and Global Indemnity Group, Inc. to the pending Appellate Case # 2019-001488. Both Orders have the same case numbers and all parties are named in the Circuit Court case and the Appellate Court Case (see pending Notice of Appeal already filed).

I would respectfully ask that no extra fee be charged to me since the Clerk of Court failed to mail me the latter order until September 18, 2019 (copy of envelope enclosed). I thank you, in advance, for attaching this recently received order to the pending case already filed with the Appellate Court, and named above.

Respectfully,



MB Hutson/ MB Hudson
Post Office Box 2755
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Pro Se Appellant

Other Counsel of Record:

Christian Stegmaier, Esq.
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(803) 929-1400

Timothy J. Newton, Esq.
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J. R. Murphy, Esq.
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
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Michael G. Nettles, Circuit Court Judge

Case No. 2018-CP-400-6344

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MB Hutson/ MB Hudson

Appellant.

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Respondents,

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SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the APPELLANT'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL DUE TO UNTIMELY NOTICE on Penn America Insurance Company, Global Indemnity Insurance Company, J. R. Murphy, Esq., and Timothy Newton, Esq. by depositing a copy of it in the United States Mail, postage prepaid, on November 1, 2019, addressed to the insurance companys' attorney of record, Christian Stegmaier, Esq., Post Office Box 12487, Columbia, South Carolina 29211-12487, and also to J.R. Murphy, Esq. and Timothy J. Newton, Esq., both of Murphy and Grantland, P.A. (both acting as Pro Se, of record), at Post Office Box 6648, Columbia SC 29260-6648.

November 2, 2019

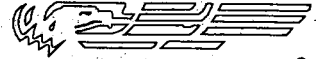

M B Hutson, Pro Se
Post Office Box 2755
Orangeburg, South Carolina 29116-2755
(803) 308-2714

Jeanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

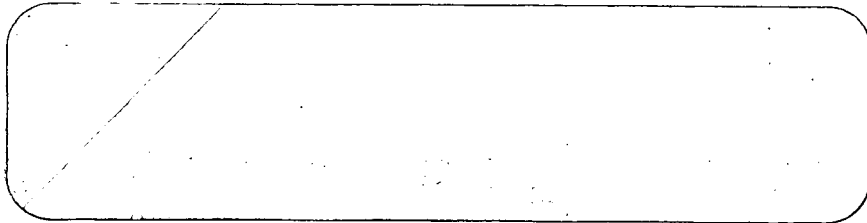
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U.S. POSTAGE PITNEY BOWES

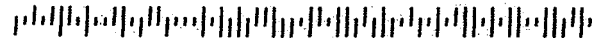


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Sept 18, 2019

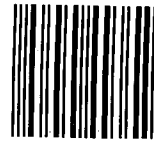
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MB Hutson
Post Office Box 2755
Orangeburg, SC 29116



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AMOUNT

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SC Court of Appeals
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Columbia, SC 29211

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