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

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.

INITIAL BRIEF OF APPELLANT

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Appellant / PRO SE

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STATEMENT OF THE CASE

On December 28, 2018, M B Hutson brought this action in Richland County, S.C. alleging extrinsic fraud against Penn America Insurance Company and Global Indemnity Group Insurance (PAIC), J. R. Murphy, Esq., Timothy J. Newton, Esq. (and 2 John Does) as they allowed Extrinsic Fraud Upon the Court (of which they were fully aware) to overshadow and thwart justice for this Appellant because they were unwilling to execute their duty to expose it and defend their client, this Appellant. Respondents **answered** Pro Se Hutson's Complaint in the lower court in separate responses *alleging* Hutson's claim against them was barred by a settlement release between Respondents and Hutson in a former case. A signed settlement agreement is a powerful document that requires the demonstration of an extreme condition in order to render it null and void. Extrinsic Fraud qualifies as an extreme condition to render a settlement agreement null and void by a court.

Appellant submitted evidence that Respondents had discovered fraud, namely Extrinsic Fraud, (Exhibit 4.1-4.3 in Common Pleas Court) which was perpetrated by the Plaintiffs of the previous cases and wherein Respondents had a *duty to disclose and defend* this Appellant as the Extrinsic Fraud upon the court was not eligible for res judicata as the court and judge were not apprised of the fraud within the documents behind the Settlement Agreement which he signed into a Consent Order which hid the existence of third parties who were not given voice and those third parties held long term "rights to use" the property brought before the court. Respondents refused to take the necessary action to expose, challenge, and have the courts "set aside" the Order in which the Extrinsic Fraud occurred, even though they were "defending" the victim of

that Extrinsic Fraud as the original perpetrators were suing their client over related issues .

Subsequently, and after the Sellers who perpetrated the Fraud upon the Court had drug this Appellant through an unjust eviction and both SC state and Federal Court (as a third party defendant) when those undisclosed holders of long term leases sued the Sellers in a federal class action lawsuit—and won--this case was brought by Appellant against Appellant's Insurance Carriers and their attorneys. It came before Judge Nettles on June 26, 2019, and judgment was entered on July 18, 2019. Due to the Court's failure to mail Pro Se Hutson a copy of the Order written by Stegmaier, Esq. representing the Insurance Companies until September 16, 2018, Stegmaier, Esq. filed for a dismissal in the Appellate Court since Pro Se Hutson, who had filed within the required 30 days and noticed all parties of his appeal appropriately, was unable to file the actual Order for Penn America from the lower court in the Appellate Court (due to the lower court's error) until he received it by mail, as required for a Pro Se. The Appellate Court reviewed this situation and DENIED Stegmaier's Request for a Dismissal on grounds of untimeliness.

ARGUMENTS

I. BECAUSE RESPONDENTS COULD HAVE RAISED FRAUD IN HIS PRIOR BREACH OF CONTRACT SUIT AGAINST APPELLANT, HE IS BARRED BY RES JUDICATA FROM BRINGING THIS SUIT.

II. BECAUSE FRAUD MUST BE PROVED BY CLEAR AND CONVINCING EVIDENCE, THE TRIAL COURT ERRED WHEN IT CHARGED THE JURY THAT THE RESPONDENT MUST PROVE FRAUD BY A PREPONDERANCE OF THE EVIDENCE.

Penn America Insurance Company / Global Indemnity Group, Inc., now collectively referring to themselves as "PAIC," insured the Appellant. They secured an "umbrella" carrier" (TORUS, now known as Starstone). PAIC engaged Murphy and Grantland, P.A., (M&G) of Columbia, S.C. to represent PAIC's obligation to Appellant in both the State and Federal Court cases. All cases stemmed from contracts between TLC Holdings, LLC (hereinafter TLC) and this Appellant.

Appellant entered into those contracts (CP Exhibits 5.0 and 6.0), namely the Lease Purchase Agreement (LPA) and the Membership Interest Purchase Agreement (MIPA) for the explicit and therein stated purpose (p. 3, ¶ 2) "to develop and construct condominiums or other residential dwelling structures...on certain portions of the unimproved Premises."

PAIC collectively held a contractual obligation to defend the Appellant in the resulting SC state and in the 2nd Federal Court District (Charleston) where Appellant was being sued if Federal Court as third party defendant by TLC (Sellers). J.R. Murphy, Esq. and Timothy J. Newton, Esq. handled those cases for M&G, engaged by PAIC. Carlock, Copeland & Stair, LLP (CC&S) was also engaged by Respondents. CC&S attorneys Laura Patton, Esq. and her associate Chip Emge, Esq. prepared documents in Appellant's behalf and appeared in that capacity in depositions and in both the state and federal courts.

The Federal Class Action suit was an action of the holders of Retail Membership Agreements (RMA's) contractually owning up to two lifetimes of "rights to use" the land on which Sellers had intentionally failed to record their long term leases *and which* Sellers (TLC) were contracted through the LPA to this Appellant, permitting sale and housing development. NOTE: The holders of the RMAs had not been given voice, nor opportunity to appear, at an attempt in state court by the Sellers

to evict this Appellant a few years earlier for non-performance of contract (within the designated time frame-- written by Seller's attorneys) for the land. In the federal court class action suit ALL the land was deemed "unmarketable." In settlement, the RMA holders were awarded seven figure damages in that class action suit (2:14-CV-01583-DCN-MGB) several years after this Appellant signed the LPA and MIPA.

Case law clearly establishes that the duty to defend requires insurer to bring any counterclaim that is factually "inextricably intertwined" with the underlying claim. (Safeguard Scientifics, Inc. CenterCore, Inc., and NordSystems, Inc. v. Liberty Mutual Ins. Co., Civ A. No. 90-6592). (766 F. Supp. 324, 333-334 (E.D. Pa.1991).

Furthermore, case law establishes that an insured may also recover consequential bad faith damages if the insured can show bad faith or unreasonable action by the insurer in its handling of the claim: Ocean Winds Council of Co-Owners, Inc. v. Auto-Owners Ins. Co., 241 F. Supp. 2d 572 (D.S.C. 2002); Tadlock Painting Co. v. Maryland Casualty. Co., 473 S.E.2d. 52 (S.C. 1965); Mixson, Inc. v. American Loyalty Ins., 562 S.E. 2d 659 (S.C. Ct. App. 2002) (advancing a novel theory to deny a claim); Varnadore v. Nationwide Mut. Ins. Co., 345 S.E.2d 711 (S.C. 1986).

Case law irrefutably requires that the Insurer should have considered extrinsic facts when determining whether a potential for coverage existed because, "the extrinsic facts available to Burlington indicated the potential for coverage, which is all that was necessary to trigger its duty to defend". Gray v. Zurich Ins. Co., 419 P.2d 168, 176 (Cal. 1966).

In a "decision from the Ninth U.S. Circuit Court of Appeals, two judges on the appellate panel reversed summary judgment for an insurer that had failed to consider facts extrinsic to the

underlying complaint when denying coverage to the policyholder. According to the majority, a police report and witness statements provided by the insured offered an alternative theory of the plaintiff's case that removed it from the application of a policy exclusion. Because the extrinsic facts available to the insurer indicated the potential for coverage, that was sufficient to trigger the duty to defend," the court held. (Exhibit 23, pp. 1-3; Burlington Ins. Co. v. CHWC, Inc., No. CV 11-02926 R.

Furthermore, in Bulloch v. United States, the Court of Appeals stated "Fraud upon the court is fraud which is directed to the Judicial machinery itself; it is not fraud between the parties or fraudulent documents, false statements or perjury...it is where the judge has not performed his Judicial function-thus where the impartial functions of the court have been directly corrupted," (Bulloch v. United States 763 F.2d 1115, 1121 (10th Cir. 1985) (Emphasis mine.).

Extrinsic fraud (fraud upon the court) "induces a person not to present a case or deprives a person of the opportunity to be heard." (Chewning v. Ford Motor Co., 579 S.E.2d 610 (S.C.2003); Rozier v. Ford Motor Co., 576 F.2d 1332, 1338 (5th Cir. 1978); Hilton Head Ctr. of South Carolina v. Public Service. Commission 294 S.C. 9, (1987); 362 S.E. 2d 176. The RMA owners holding "rights to use" (whether all or portions) of the TLC land under contract for development were not allowed "voice" in the case wherein the "Settlement Agreement" and "Consent Order" originated, depriving them of the opportunity to be heard, as the Plaintiffs (TLC) did not inform them, nor the court of their existence, thereby denying the RMA holders knowledge of and voice in the actions being taken. Therein the Extrinsic Fraud Upon the Court, was perpetrated by TLC and their attorneys, and intentionally shrouded by TLC and their attorneys behind an illegal "res

judicata." Since that Extrinsic Fraud against the court, it has been claimed by TLC and these Respondents to be valid protection for their criminal negligence.

Intrinsic fraud "is fraud which was presented and considered in the trial" and which "misleads a court in determining issues and induces the court to find for the party perpetrating the fraud," I'd. (Citing Hazy v. Pruitt, 339 S.C. 425, 529 S.E. 2d 714 (2000); Hilton Head Ctr., 294 S.C. At 9, 362 S.E. 2d at 176). The essential distinction between intrinsic and extrinsic fraud is the ability to discover the fraud. (1) Equitable relief from a judgment "is granted for extrinsic fraud on the theory that the fraud prevented a party from fully exhibiting and trying his case. Therefore, in federal court, the RMAs' class action suit was honored by Judge Norton and they were awarded damages of approximately $2M. By this action, Judge Norton recognized the Extrinsic Fraud in the Lower Court which did not inform them, nor giving them "voice" at the hearing because relief was granted to those parties. Not every fraud is sufficient to move a court of equity to grant relief from a judgment. Extrinsic Fraud is sufficient for the court to grant relief, as demonstrated in 2:14-CV-01583-DCN-MGB. Generally speaking, in order to secure equitable relief, it must appear that the fraud as extrinsic or collateral to the question secure equitable relief. (Bowman v. Bowman, 357 S.C. 146 (2004); 591 S. E. 2d 654; 152), intrinsic fraud is not sufficient for equitable relief." Therefore extrinsic fraud *was* an underlying crime by TLC and their attorneys as Laura Paton, Esq. (hired by Respondents) clearly and repeatedly states:

> *"Mr. Hutson is entitled to be compensated pursuant to S.C. CODE SECTION 39-5-140 (a) for the above described actual, incidental, consequential, and special damages as well as costs, interest and attorney's fees, and to recover three (3) times these damages by reason of the knowing and willful nature of the unfair and deceptive acts by Defendants and any attempts in*

any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law." (p. 21 # 107).

Hutson, Appellant, (1) is entitled to compensation, (2) to date has received none, and (3) these Respondents had every opportunity to expose and counter sue TLC, BUT TOOK NO ACTION TO DO SO.

"The Attorney's Duty to the Court against Concealments, Nondisclosure and Suppression of Information is Coextensive with the Duty Not To Allow Fraud To Be Committed upon the Court." "The extent to which it is regarded as counsel's duty to advise the court as to matters relevant to the proper decision of the case of which opposing counsel is ignorant or which he has overlooked turns on the degree to which the old idea that litigation is a game between the lawyers has been supplanted by the more modern view that the lawyer is a minister of justice." H. Drinker, Legal Ethics 76 (1953) on Sullins v. State Bar (15 Cal. 3d 609 (1975) 542, P.2d 631, 125 Cal. Rptr. 471). This MUST be CORRECTED. The lawyers have NOT administered JUSTICE.

In some jurisdictions, an insurer's duty to defend depends solely on a comparison of the allegations of the complaint to the policy language. See, e.g. Lamar Homes, Inc., v. Mid-Continent Casualty Co., 242 S.W .3d 1 (2007). An insurer has a duty to defend if the face of the complaint alleges something covered and does not allege an exclusion to coverage. Extrinsic facts not alleged in the complaint do not affect the insurer's duty to defend in these jurisdictions. See Kvaemer Metals Div. of Kvaemer U.S., Inc. V. Commercial Union Ins. Co., 908 A.2d 888, 896-7 (PA 2006). Courts refer to this approach as the four-corners, or sometimes the eight-corner, rule.1. GuideOne Elite Ins. Co. v. Fielder Rd. Baptist Church, 197 SW3D 305, 307 (Tex. 2006).

Other jurisdictions do not rely solely on a comparison of the allegations of the complaint to the pony language. These jurisdictions also require that, where the complaint does not trigger the duty to defend, an *insurer must conduct a reasonable investigation of the surrounding facts* to determine whether it has an obligation to defend. If the insurer's investigation reflects their awareness of extrinsic fraud, or that facts exist that would trigger the duty to defend despite the absence of allegations in the complaint, the insurer has a duty to defend. See e.g., Mortgage Exp., Inc. V. Tudor Ins. Co, 771 N.W. 2d 137, 147 (Neb. 2009) ("In determining its duty to defend, an insurer must not only look to the petition or complaint filed against its insured, but must also investigate to ascertain the relevant facts from all available sources.") This WAS NOT DONE.

Respondents engaged Paton and received copies of her work. They were fully aware that the Sellers of the insured business property had committed fraud and extrinsic fraud upon the court that was shrouding the current cases at that time. Each lawyer fully and clearly understood the situation.

(NOTE: Appellant reminds the honorable court, of all the TV commercials that talk about how one can never trust an insurance company nor their lawyer. I now understand why. PAIC, Newton and Murphy have not been truthful with the Common Pleas Court and I entrust this to the Appellant court. Appellate deserves justice and seeks to present his case to a Jury. Appellant is confident that a jury will rule in Appellant's favor.)

I now present my proof of argument to the honorable Appellant Court:

The United States Court of Appeals for the Sixth Circuit has delineated five (5) elements of conduct that constitutes extrinsic fraud upon the Court:

1. On the part of an officer of the court,

2. That is directed to the judicial machinery' itself,

3. That is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth,

4. That is a positive averment or is concealment when one is under a duty to disclose, and

5. That deceives the courts.

The Lease Purchase Agreement (LPA) (Exhibit #5.0 in Richland County Common Pleas Case # 2018-CP-4006344) prepared by Sellers/TLC's attorneys states on page four (4): "If Purchaser terminates this Agreement, except for such obligations of the parties as are expressly stated to survive the termination of this agreement, AND on page five (5), (third sentence from the bottom) "If Purchaser terminates this Agreement pursuant to this Section 1.5, then neither party shall have any further obligation under this Agreement, except for such obligation of the parties as are expressly stated to survive the termination of this Agreement."

During, and prior to, Appellant's Lease Purchase Agreement, (hereinafter LPA), the Big Water Resort (hereinafter BWR) (campground) was the business of a 'membership campground.' BWR operated on the property owned by Sellers, TLC Holdings, LLC (hereinafter TLC). However, TLC and their lawyers required Appellant (Buyer) to purchase all RMAs (known as the Membership Interest Purchase Agreement,--hereinafter "MIPA") simultaneously with executing the LPA. This brought the responsibility to honor all family memberships for up to 70 years on the Appellant—or any Buyer-- with legally no land to operate that business on. In actuality, those 700+ family owned, long term "right to use" membership contracts (RMAs) had:

(A) never been recorded, a violation of SC statute # 27-33-30, and

(B) BWR had no long-term lease from the landowners (TLC) with which to guarantee the land to be available to those RMA owners on that TLC owned land. *TLC had refused to give BWR a long term lease agreement, thus creating a hidden $22M dollar* obligation to Appellant.* TLC had already pre-collected all payments for up to two life times.

The fraud was that TLC fully understood that they could never sell the property to this Appellant (or any Buyer) for development due to the RMAs creating title defects that TLC hid from the Court and this Appellant (until RMA families sued TLC in a 2014 federal class action suit.

Although Appellant had a Title Search executed through a reputable law firm to Williamson Research Services, the title showed no encumbrances since TLC intentionally never recorded any of the hundreds of family memberships, nor any lease for the BWR business. This effectively hid the title defect they created, which was further masked by RMAs annual "renewal fees" paid by RMA families for annual use each January. Appellant proceeded accordingly toward development, unaware of those hidden title defects, and was paying thousands to the Sellers/TLC to maintain the LPA while getting approvals to develop. All the while, TLC (Sellers and their attorneys) wanted some innocent person to execute both the LPA and the MIPA. TLC and their lawyers then sued Appellant for default since Appellant could not close. A well orchestrated scam...on the Buyer (this Respondent) and on the Insurance Companies.

As later proved in a Federal Class Action lawsuit brought by the owners of the RMAs, none of the property stated in the LPA as "for sale" was sellable due to those title defects created by the RMAs and the owner(s) of the business (BWR) which was obligated to honor the family memberships for seventy (70) years while the TLC Sellers and Lawyers simply planned to walk

away, fully understanding that Appellant was going to default and be sued. . . until that Federal Class Action lawsuit.

TLC collected approx. $2M dollars from PAIC (insurance) through fraud claiming that Appellant had 'slandered' Sellers by notifying all RMA holders that TLC was defrauding them and had contracted to sell the land for development. This resulted in the RMA holders filing their federal class action lawsuit. Federal Court verified that the RMA holders had been defrauded.

It was years after the time Appellant signed the LPA and MIPA in 2010 and well after TLC had drug this appellant through state and federal court, that Appellant found out that TLC and their attorneys created Fraud upon the State Court, but he, too, had been defrauded by TLC. All the attorneys knew it though. The Sellers' attorneys prepared all contracts (TLC Owner, Richard Clark, in deposition, (3/18/2015 Page 97, ll. 15-17) states:

> *"Tom Harper" (Esq.) "prepared all these documents, has prepared the documents for the lease purchase agreement, the sale of the membership interest.").*

Furthermore, this Appellant asked Respondent Timothy Newton, Esq. why he was refusing to expose the extrinsic fraud to the court. Newton replied:

> *" I can't be a part of that because lawyers just don't do lawyers like that. Somebody could go to jail."*

The Family Members sued TLC and won a seven figure settlement (approximately two million dollars) in the Federal Class Action case (2:14-CV—1583-DCN-MGB) for damages to them from TLC. Appellant, was not part of that suit, except as being sued by TLC as a third party

defendant. Appellant, however, suffered losses into the millions of dollars. Appellant's losses are caused by PAIC and their attorneys failing to assume the responsibility to defend this Appellant and failing to expose the extrinsic fraud upon the Courts: State and Federal. Judges, who in turn damaged this Appellant, ruled blindly due to not being advised of the underlying extrinsic fraud and concealment, and THESE ATTORNEYS HAD A DUTY TO DISCLOSE FRAUD UPON THE COURT. In Bulloch v. United States 763 F 2d 1115, 1121 (10th Cir. 1985) the court stated **"Fraud upon the Court** is fraud which is directed to the Judicial machinery itself and is not fraud between the parties or fraudulent documents, also statements or perjury...it is where the judge has not performed his judicial function – thus where the impartial functions of the court have been directly corrupted."

Furthermore, **The SCRPC**, states (p. 253-54, Rule 3.3) "Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process such as....unlawfully ...concealing documents or other evidence or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b) requires a lawyer to take reasonable remedial measures, including disclosure, if necessary, whenever the lawyer knows that a person, including the lawyer's client, intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding." FURTHERMORE, (**SCRPC**, page 258, ll. 19-20) "A lawyer is subject to discipline for submitting evidence or other documents to the court with knowledge that they contain misrepresentations," (AND (page 258, ll. 37-40) "A party may obtain relief from a judgment for fraud on the court....Extrinsic fraud is collateral to the question examined and prevents the party from presenting a case... in *Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d* 605 *(2003)* the court stated that the involvement of an

attorney in suborning perjury or INTENTIONALLY CONCEALING DOCUMENTS amounts to EXTRINSIC rather than intrinsic fraud: (**SCRPC**, p. 259, ll. 4-13): "an attorney in suborning perjury OR INTENTIONALLY CONCEALING DOCUMENTS AMOUNTS TO EXTRINSIC RATHER THAN INTRINSIC FRAUD...AND PRECLUDES THE OPPOSING PARTY FROM HAVING HIS DAY IN COURT. ID AT 82, 579 S.C. 2D AT 610-611. *(EMPHASIS MINE.)*

Appellant paid thousands of dollars maintaining the $5M dollar liability insurance policy only to discover that PAIC only pretended to represent him. Appellant, while fully understanding that PAIC could never prevail due to PAIC's *refusal to defend* Appellant against the extrinsic fraud underlying the TLC suit, as they did not wish to cause problems for the TLC attorneys at Turner, Padget, Graham and Laney, and the insurance company wanted to get the cases "off their books." (Newton email to Appellant dated November 30, 2018 stating that Torus (insurance) "threatened to sue Penn-America if it didn't hurry up and settle." Penn America Insurance Company (PAIS) perpetrated intentional fraud by pretending to represent this Appellant's defense as compliance when, in fact, they fully understood that Appellant would lose ALL cases due to the extrinsic fraud and skirting their required duty to defend against the Extrinsic Fraud.

It was the obligation of PAIC to represent Appellant once they had knowledge of the extrinsic fraud upon the Court. PAIC (through M&G hired Laura Paton, Esq. of Carlock, Copeland and Stair, LLP to investigate and represent this Appellant. After attorney Paton's review of all the documents, she wrote the following dated August 8, 2016 *(Submitted in full to the Court as EXHIBIT 3.0:* "Amended Answer to Complaint and Counter-Claims Back (JURY TRIAL REQUESTED)"): Pertinent excerpts follow:

" That during the December 2010 meeting the TLC parties advised Defendant Hutson that the property was owned by TLC Holdings and the campground business was owned by Big Water Resort, LLC ("BWR"). (p.10, #47). "That during the December 2010 meeting the TLC parties advised Mr. Hutson that in order to purchase the land, he would be required to purchase BWR as well." (p. 10 # 48). "That during the December 2010 meeting the TLC parties advised Mr. Hutson that there was water and sewer adjacent to the property for development but failed to disclose the moratorium of approximately 5 years preventing development of the property" (p. 11 # 49). "That during the December 2010 meeting the TLC parties advised Mr. Hutson that BWR had no known debt" (p. 11 # 50). "That during or after the December 2010 meeting the TLC parties advised Mr. Hutson that BWR had an annual income of approximately $200,000.00" (p. 11, # 51). "That during and after the December 2010 meeting, the TLC parties concealed BWR"s $300,000.00 annual losses "(pg. 11, # 52). However, on the 16th of February, 2011, Jimmy (Steve) Lovell one of TLC's owners testified in a deposition the following: "*We were told by our real estate agent that Mr. Hudson had been working with another agent out there who I know. I should say I know of. And that agent had had him checked out and he was for real. Richard and I met with Mr. Hutson. He came across as very, very knowledgeable. Very knowledgeable not only about the property, but about real estate development and financing and so on. And we were motivated, in large part because I told you we were losing 200, $250,000 a year, plus, I personally am involved with numerous businesses that I just don't have time to handle. And we were - we were very willing to work with good terms in order to have someone else take control and manage the property and suffer those losses or turn it around and make those profits*". (Exhibit 2.0: TLC Transcript 2/16/11, P. 113, ll. 3-18).

Patton continues: "For A First Cause of Action (Fraud or, in the Alternative, Negligent Misrepresentation—Failure to Disclose Encumbrances on the Property as to the TLC Parties) by Laura Patton, Esq. (Exhibit 3.0):

--"TLC Parties knew that there were approximately 700 'Retail Membership Agreements' (RMAs) encumbering the property." (P. 13, #66) (RMAs-mine).

--"TLC Parties knew or should have known that the (RMAs) are timeshares subject pursuant to South Carolina code and subject to the recording requirements of Sections 27-32-10 through 27-32-250..." (p. 13, # 67;)

--"TLC Parties knowingly and/or negligently failed to disclose and/or concealed information that the (RMAs) provided that provided each holder: a) a right to use facilities ...solely for...recreational and enjoyment" ...from 5 years up to two life times. (p. 13, # 68;)

--"TLC parties advised Mr. Hutson that the RMAs could be terminated / divested such that he could proceed with development of the property." (p. 13, #69;)

--"TLC parties knowingly and/or negligently failed to record the timeshares encumbering the property as required by statute and therefore, his from disclosure the encumbrances upon the property prior to Respondent Hutson's execution of the Agreements." (p. 14 # 70);

--"TLC parties had a statutory duty to record the encumbrances pursuant to Sections 27-32-10 through 27-32-250 of the 1976 Code...Article 1, Ch 32, Title 27...entitles "Vacation Time Sharing Plans." (p. 14, # 71);

--"Hutson and his title attorney performed title searches with the Clarendon County Register of Deeds prior to purchase and no encumbrances as to the timeshares were found. (p.14, # 72);

--"TLC parties had a pecuniary interest in knowingly and/or negligently concealing the encumbrances on the property to induce Mr. Hutson to enter in to the Agreements to secure a maximum profit to the TLC parties and to disgorge a failing business. " (p. 14, # 73);

--"As a result of such fraudulent and/or negligent misrepresentation, Mr. Hutson has been damaged and continues to be damaged and has suffered pecuniary loss as a direct and proximate result of his reliance on the TLC parties representations." (p. 15, # 76).

--"THEREFORE, as a direct and proximate result of the TLC parties' actions, Mr. Hutson is entitled to actual, direct, consequential, incidental, special, and punitive damages as aforesaid, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of same or any other waiver or other limitation are null, void, unenforceable, and subject to rescission as a matter of law. " (P. 15, # 77). (Emphasis mine.);

--"...constitutes a breach of the Agreements with Mr. Hutson and accompanying this breach was the fraudulent acts: (Emphasis mine) (P. 19, #99)

a. knowingly failing to disclose the outstanding debts of BWR including but not limited to Black Water Electric;

b. Advising Mr. Hutson that no financial records were kept as to BWR to conceal the losses / financial condition of the company;

c. Failing to record encumbrances required by statute as outlined above;

d. Advising Mr. Hutson that the Retail Memberships could be divested to allow for development of the lakefront land as discussed; and

e. Other such concealments / misrepresetations as may be discovered."(p. 19, #99).

PAIC and the other Respondents state that they were not aware of any extrinsic fraud even though all paper work prepared by the legal team that these Respondents selected and paid (Laura Paton, Esq.) clearly outlines the underlying extrinsic fraud.

Trained, seasoned attorneys representing PAIC knew or should have known that as hearings and trials occurred and PAIC and the Appellant lost every time. No one could win a civil trial or hearing allowing the TLC's defense attorneys to proceed without disclosing the concrete evidence which was intentionally being concealed and precluding State and Federal Judges from being able to understand what was being undisclosed: the title encumbrances (RMAs) made the land unsellable and therefore all the contracts and agreements that TLC and their attorneys presented to the state/federal courts for eviction, slander, etc. were all fraudulent and the Sellers attorneys who authored those contracts knew....or should have known....but did not disclose it to the courts. Extrinsic Fraud.

PAIC and the attorneys for PAIC, all the Respondents, had a responsibility to report such extrinsic fraud to the Courts prior to any hearing or trial. Paton's work clearly alerts all parties to the underlying fraud. Paton's declaration of the damages incurred by this Appellant alerts all parties. (from Paton's Exhibit 3.0):"Therefore, as a direct and proximate result of the TLC parties' actions, Mr. Hutson is entitled to actual, direct, consequential, incidental, special, and punitive damages ..."(p. 15 #77, p. 17, #91, p. 18, #95) ; "Mr. Hutson is entitled to be compensated pursuant to S.C. CODE SECTION 39-5-140 (a) for the above described actual, incidental, consequential, and special damages as well as costs, interest and attorney's fees, and to recover three (3) times these damages by reason of the knowing and willful nature of the unfair and deceptive acts by Defendants

and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law." (p. 21 # 107).

PAIC/Respondents knew in advance that Appellant was going to lose each and every case including the jury trial case as the **fraud remained undisclosed**. Respondents **By not defending this Appellant**, thereby allowed the extrinsic fraud upon the courts to continue and this Appellant to go undefended simply to speed up the process of getting the case / liability off their books which was represented to this Appellant by Respondents: (e-mail from Tim Newton, Esq. to Appellate on Nov. 30, 2018 @ 10;54 AM) *"Torus ...threatened to sue Penn-America if it didn't hurry up and settle."*

This Appellant was totally defrauded by all Respondents. IF Appellant had been represented and DEFENDED, Respondents would have been required to stop the extrinsic fraud being perpetrated by TLC and their lawyers and seek damages for their client as their attorney Laura Paton outlined in her Brief cited above and submitted in full to the Common Pleas Court as Exhibit 3.0. Consequently, Appellant appears to have been the individual at fault due to the fact that he lost all the cases, including the jury trial. The fraud was never disclosed! This is the same defense that Respondents are using to hide their intentional lack of concern, lack of reporting the fraud to the Courts (which they are required to do when extrinsic fraud is being perpetrated against the State or Federal Judges.) These Respondents sat back and allowed TLC and their lawyers to destroy this Appellant for years while Appellant begged for help to stop the extrinsic fraud, but they refused.

Defendants neglected their DUTY TO DEFEND.

PAIC's own attorney (Respondent, Newton) at Murphy & Grantland wrote Appellant a two page letter prior to any settlement being paid. (EXHIBIT 4.1-4.3) In paragraph 16 (EXHIBIT page 4.2) of the letter it reads:

> *"It's hard to see why TLC and its lawyers should not have, in good faith, simply told you (and the court) that the Big Water Resort property was undevelopable because it was already obligated to double lifetime memberships as a private club. It appears that could easily have averted the entire fiasco. Since attorneys were involved, and it resulted in your inability to present your case in court, and possibly led to the sanctions order and judgment against you, there might possibly be extrinsic fraud on the court to support setting aside the Consent Order. See Chewning v. Ford Motor Co. 354 S.C. 72, 579 S.E. 2d 605 (2003).* (Emphasis mine.)

Respondent's letter plainly states that Appellant could never win his case due to the inability to present Appellant's case caused by extrinsic fraud upon the Courts and the resultant fraud on himself. Respondents' "insurance policy" made this Appellant believe that he was being represented properly. Their collaborated neglect to properly and fully defend their client resulted in their paying damages to the Fraud perpetrators instead of collecting funds as outlined by L. Paton, Esq. which were due to their client from the Sellers and their attorneys (cited above.) Respondents were all aware that Appellant, having lost millions of dollars, was suffering financial damages and horrific mental and physical stress. In his 70's, this Appellant has now been indigent for years with less that

$600.00 per month income due to deleted funds and having to represent himself in a hope that somewhere in the court system there is fairness and justice.

This Appellant has been victimized and defrauded by Respondents who failed to shoulder the responsibility to report the fraud and properly defend their policyholder and restore honor to the Court System. Paton, Esq.'s research led her to a profound discovery which she nor any of the attorneys took action on. Paton clearly stated three times:

> *"Therefore, as a direct and proximate result of the TLC parties' actions, Mr. Hutson is entitled to actual, direct, consequential, incidental, special, and punitive damages ..."* (p. 15 #77, p. 17, #91, p. 18, #95) , adding
>
> *"Mr. Hutson is entitled to be compensated pursuant to S.C. CODE SECTION 39-5-140 (a) for the above described actual, incidental, consequential, and special damages as well as costs, interest and attorney's fees, and to recover three (3) times these damages by reason of the knowing and willful nature of the unfair and deceptive acts by Defendants and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law." (p. 21 # 107)*

Appellant contracted with PAIC to zealously investigate and defend Appellant in Court, if needed. Appellant was led to believe by the Respondents that Appellant was receiving a full defense but that was <u>not true</u>: Appellant would have won had that been the case. The only prevention to winning was that Respondents intentionally failed to act on

what they knew : the underlying Fraud (which they failed to disclose in the courts) had to be brought to light. Instead, these Respondents choose to pay whatever amount the courts would award to TLC and their attorneys to simply end this case at the expense of making this Appellant carry a $3.5M judgment on his record while receiving NO DEFENSE and NO JUSTICE!

PAIC was paid thousands by monthly insurance premiums by this Appellant to represent and defend him should the need arise. Appellant had already paid PAIC for that protection. When TLC and their lawyers filed a lawsuit against Appellant. TLC's attorneys noticed Appellant's insurance company, PAIC, once they had sued Appellant. Appellant was not aware of TLC's pre-plotted plan to collect moneys from Appellant's insurance company. PAIC and all other Respondents were aware of TLC's creating extrinsic fraud and that it was in the legal tunnel totally blocking any defense for this Appellant, unless exposed. All respondents fully understood that PAIC could never defend Appellant until that extrinsic fraud upon the court was overturned. Appellant had done nothing wrong; he only fell into a refined plot created by TLC and their attorneys. TLC *and all Respondents* simply followed and cooperated with the known extrinsic fraud against Appellant.

PAIC made a business decision and not a legal call and at the Appellant's expense. PAIC and the other Respondents simply decided they would pretend to defend Appellant in hopes that the outcome would be only a few hundred thousand dollars. They were shocked when the jury gave TLC and their attorneys $3.5M. Had the Respondents exposed the extrinsic fraud blockage in the legal tunnel they could have easily won, for as Laura Patton, Esq. outlined, the perpetrated

fraud was exclusively on the backs of TLC and their attorneys. PAIC contracted to Appellant to defend Appellant should any legal occasion arise; they failed to do so. These Respondents intentionally elected not to defend, misleading this Appellant. The Respondents had a contractual obligation to defend this Appellant yet they defrauded this Appellant by making him think that Respondents were defending him. This is nothing short of Insurance Fraud.

All Respondents are lying to protect themselves due to the fact that Pro SE Appellant finally caught them and can prove their crimes. Appellant begs for the help from this court and pleads for an expedient ruling to reverse the lower court decision due to the immense suffering and mental stress of the Appellant due to the dishonest Respondents. God bless the Courts, may justice rule.

The Appellant has given many instances of "bad conduct" by the Respondents. Among those are ones that allege violations by attorneys of varying ethical code sections. While those may not be a separate cause of action (Appellant does not concede such to be the case - in fact Appellant argues that those violations themselves are separate causes of action), they do support the argument that the actions constituting ethical violations do constitute unreasonable actions on the part of the Respondents' handling of the claim. Since the reasonableness of the Respondent's actions in the handling of the claims against the Appellant are in dispute, resolution is one for a jury to decide. Appellant also points to the law that the evidence must be viewed in the light most favorable to the Appellant.

> NOTE: Appellant, in retrospect, believes that this is why TLC (with the help of their lawyers) required Appellant to sign to buy BWR campground simultaneously with the LPA. They *knew that they could not really sell the land*

due to the hidden title defects caused by the pre-collected monies from each RMA member for the use of the property for 70+ years. Simple math tells anyone that the hidden cost to honor all memberships would exceed $22M given Lovell's d deposition that they were losing around $250,000.00 per year. TLC could not sell their land due to the title defect even though was not recorded as required by law. (1962 Code Section 41-2, 1952 Code Section 41-2, 1946 (44) 2584. Section 27-33-30 on Recordation of leases:

> *"In order to give notice to third persons any lease or agreement for the use or occupancy of real estate shall be recorded in the same manner as a deed of real estate".*

TLC and their lawyers were aware of this law and purposely failed to record hundreds of (RMAs) while actively executing an LPA on the same land requiring it to be closed in twenty-four months. It was a carefully planned scam from the very beginning. Therefore,

-"That during the December 2010 meeting the TLC parties advised Mr. Hutson that BWR had no accounting records." Now is recognized as a puzzle piece in the scheme.

-During the December 2010 meeting the TLC parties and Hutson discussed the length the Lease Purchase Agreement (LPA) so that Hutson would have sufficient time to secure the necessary permits to develop the property...and to secure hefty insurance they were planning to cash in on.

-"That prior to executing the Lease Purchase Agreement and Closing the BWR, Hutson searched the property title record, and no liens or encumbrances were found".

-"That prior to purchase by Mr. Hutson, the TLC parties received, but TLC refused to pay, a bill from Black Water Electric for the cost of installation of the underground power". (on campground property) greater than $30,000.00 dollars.

-"That prior to purchase by Mr. Hutson, the TLC parties did not disclose the outstanding bill for installation of underground power encumbering the land and BWR".

-"That subsequent to the December 2010 meeting, the TLC parties and Mr. Hutson executed the MIPA for BWR and a LPA for the property at 5215 Dingle Pond Road, Summerton, SC"

-"That the MIPA includes a representation by the TLC parties. "There are no actions, suits, or proceedings either at law or equity...or to the knowledge of the Sellers threatened."

- "That the MIPA includes a representation by the TLC parties and their attorneys who prepared all contracts, "Seller represents, warrants and covenants to Purchaser as follows; "(the business is in compliance with all laws regulations and orders applicable to its business". (This was totally untrue.)

- "That the MIPA includes a representation by the TLC parties representing that they had "good and marketable title to all of its properties and assets". (This was also totally untrue.)

- "That the Lease Purchase Agreement includes representations by the TLC parties ensuring that they have good and marketable title to the land at 5215 Dingle Pond Road, Summerton, SC. (This was also totally untrue.)

- PRIOR to execution of the Agreements (MIPA and LPA), the TLC parties and their attorneys knew that there were approximately 700 Retail Membership Agreements encumbering the property.

PRIOR to the execution of the Agreements (MIPA AND LPA), the TLC parties knew or should have known that the Retail Membership Agreements are timeshares subject pursuant to South Carolina code and subject to the recording requirements of Sections 27-32-10 through 27-32-250 of the 1976 Code are designated as Article 1 of Chapter 32, Title 27, and entitled Vacation Time Sharing Plans".

That the TLC parties advised Mr. Hutson that the RMAs could be terminated / divested such that he could proceed with development of the property.

That the TLC parties had a pecuniary interest in knowingly and / or negligently concealing the encumbrances on the property to induce Mr. Hutson to enter into the Agreements to secure a maximum profit to the TLC Parties and to disgorge a failing business.

That as a result of the TLC parties actively, intentionally, knowingly, willfully, wantonly, recklessly, and. / or negligently failing to record the timeshares encumbering the property, they knowingly and. / or negligently concealed such encumbrances which required disclosure by statute and induced Mr. Hutson to enter into the Agreements.

That in relying on the fraudulent representations and / or negligent misrepresentations, Mr. Hutson did materially change his position entering into the Agreements without knowledge of the timeshares believing, as was represented by the TLC Parties, that the property was unencumbered.

That, as a result of such fraudulent and / or negligent misrepresentations, Mr. Hutson has been damaged, and continues to be damaged, and has suffered pecuniary loss as a direct and proximate result of the TLC parties and their lawyers.

Therefore, as a direct and proximate result of the TLC parties' actions, Mr. Hutson is entitled to actual direct, consequential, incidental, special, and punitive damages, as aforesaid. All in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of same or any other waiver or other limitations are null, void, unenforceable and subject to remission as a matter of law.

Prior to execution of the Agreements, the TLC parties did not advise Mr. Hutson that BWR was operating at a substantial loss upwards of $300,000.00 per year, outstripping its income.

Other fraudulent and extrinsic fraud upon the State and Federal Courts are:

--In failing to disclose the Vacation Time Shares encumbering the property;

--In failing to pay and subsequently hiding the debt owed to Black River Electric which amounted to tens of thousands.

--In failing to provide any additional consideration for subsequent attempts to modify their agreement in fairness and without fraud or extrinsic fraud.

--In failing to properly disclose the true conditions of the business and properties at issue in the Agreements and putting them into the stream of commerce;

--In making false representations as to the condition of the business and properties at issue in the Agreements in reckless disregard as to the truth of the representations; and

--In failing to analyze and preserve reserves for maintenance and operation of the business and concealing same.

PAIC would never represent Appellant all caused by their concern about protecting the TLC lawyers and being pressured by the umbrella carrier to get this case off their books. PAIC was insensitive in requiring Appellant to appear for a week at jury trial knowing full well Appellant was going to lose because the Respondents chose payment to the fraud perpetrators instead of defending this Appellant, and protecting his future reputation. Appellant was defrauded and lied to—now by his insurance carrier. Now Appellant suffers a stack of legal documents all purporting that Appellant was guilty. The Respondents used the same legal stack of documents in an attempt to hide their horrible wrong amounting to nothing less than Insurance Fraud.

Additionally, Appellant was totally unaware of the TLC plot to obligate him to a $22M responsibility to the family memberships, of which TLC had already pre-collected for those 70 years of service leaving no account to secure it. Appellant ran check on the title (thinking Appellant could develop the property as outlined in the LPA, but never realized that the only two purposes he served to TLC and their plotting attorneys was to take on the $22M hidden obligation yet never be able to develop that property. Appellant did not realize that TLC and their attorneys had *intentionally not recorded* the 70 years of sole use of *all* TLC's property (as required by law to do.) Appellant's paying to have the title search done ended up as a waste of Appellant's time and money. At that point, the legal trap was set for Appellant by TLC and their attorneys.

Although Appellant begged these Respondents to actually defend him, they did not, and this Appellant continues to suffer through pages of lost trial cases due to Respondents' failure to execute duties as required by SCRPC Rule 3.3(b):

> ***"Duty to Reveal Criminal or Fraudulent Conduct to the Tribunal...***
>
> Rule 3.3(b) *imposes a broad duty on a lawyer who represents a client in a proceeding who knows of criminal or FRAUDULENT conduct by any person related to the proceeding,,,including disclosure to the tribunal...The rule is based on the special obligation that lawyers have to protect tribunals from criminal or FRAUDULENT conduct that undermines the integrity of the adjudicative process." (p. 262)*

Now, Respondents blame Appellant as a bad person for losing case after case of which Respondents were obligated to defend this Appellant. The failure to uphold the SCRCP Rules by the insurance companys and their attorneys requires this Honorable Appeals Court to come to the rescue of the Appellant.

All Respondents state that on September 16, 2016, Appellant executed a Settlement Agreement and Release (prepared by Murphy & Grantland, Tim Newton and JR Murphy in behalf of PAIC) in a declaratory judgment action, in exchange for monetary consideration, whereby Appellant released Respondents for certain claims. Therefore, Respondents declare that Appellant is barred from filing any lawsuit against them due to that Settlement Agreement. However, Appellant refutes that Respondents' claim is valid. The U.S. Supreme Court defined in the Southern Development Co. V. Silva, 125 U.S. 247, 8 S.Ct. 881, 31 L.Ed (1887) that the legal elements of a civil fraud are as follows:

1. "The defendant has made a representation in regard to a material fact,"

2. "The representation was false,"

3. "The representation was intended to provoke an action by the plaintiff,"

4. "The plaintiff suffered damage as a result, and"

5. "In acting, the plaintiff reasonably assumed the representation was true."

In this case and situation, Respondents misrepresented to Appellant the material fact that they were defending Appellant in those cases, when, in fact (due to the known extrinsic fraud) it was impossible for these Respondents to effectively defend this Appellant because they chose NOT to expose the Fraud Upon the Courts by those suing this Appellant under the cloak of Fraud and res judicata. Respondents were totally aware that Appellant would be damaged and lose any opportunity of collecting restitution from TLC and their lawyers. Respondents took NO action to eliminate the extrinsic fraud even though Respondents had an obligation to do so (SCRCP Rule 3.3). Furthermore, if the fraud was not exposed, Respondents ability to defend Appellant was impossible resulting in a bona fide "insurance fraud" against this Appellant. If this case law and Appellant's response (regarding being barred), is a disputed issue then it is required to be sent to a jury.

It is this Appellant's opinion that the Respondents have thereby become co-conspirators to extrinsic fraud. Respondents were fully aware of the extrinsic fraud and totally cognizant that Appellant was being greatly damaged. Nevertheless, they agreed to a settlement with TLC et. al. in excess of $1.8M even while this Appellant repeatedly implored them not to do so based on the knowledge of the extrinsic fraud. Therefore, Respondents never defended this Appellant, they only appeared to do so, going through the motions of a jury trial, while securing their own purposes at the expense of this Appellant. Extrinsic Fraud prevents a party from presenting their

case in full. I remind the court that in Respondent Tim Newton's two page letter (EXHIBIT 4.1-4.3) dated August 13, 2018, he, as counsel for PAIC, wrote to Appellant This Respondent's letter is a material fact of evidence: (Exhibit 4.2 item 16)

> *"It's hard to see why TLC and its lawyers should not have, in good faith, simply told you (and the court) that the Big Water Resort property was undevelopable because it was already obligated to double lifetime memberships as a private club. It appears that could easily have averted the entire fiasco. Since attorneys were involved, and it resulted in your inability to present your case in court, and possibly led to the sanctions order and judgment against you, there might possible be extrinsic fraud on the court to support setting aside the Consent Order. See Chewning v. Ford Motor Co, 354 S.C. 72, 579 S.E. 2d 605 (2003)."*

In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "fraud upon the court is fraud which is directed to the Judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury....it is where the judge has not performed his judicial function -- thus where the impartial functions of the court have been directly corrupted". Due to the existence of the massive extrinsic fraud presented by TLC and their lawyers in State and Federal Courts and the supporting Respondents, Appellant had no chance to get justice from the judges for Appellant's case was never heard due to the fraud. It was intentional plotting by TLC and their lawyers and all Respondents were aware of the situation and intentionally set back and quietly cooperated with TLC and their lawyers causing Appellant millions in damages. This case must be heard by a jury.

There are many disputed issues that only a jury can decide after all evidence has been presented. Any legitimate Court or Judge clearly understands that a defendant or Appellant cannot have justice if their case cannot be heard due to misrepresentation, concealment or lack of disclosure that creates extrinsic fraud. Respondents have submitted thousands of papers to the common pleas court giving all types of reasons and fly by night excuses why Appellant lost every case including all cases lost by Respondent's which caused major damages to Appellant. Appellant reminds the Appeals Court what Respondent Timothy Newton, Esq. wrote(above). Newton states that he wrote the legal advice since he and the other Respondents had a common interest with Appellant. Where is any such common interest since he and his firm represents the two insurance companies, and not Appellant? Newton nor his firm ever had a retainer agreement with Appellant. Just more attempted fancy footwork to slip by the Courts and Judges.

This further proves that Respondents were fully aware of the fraud but failed to disclose it to the State and Federal Judges. Fraud was actively being perpetrated against the Courts and Appellant. Insurance companies and attorneys representing the insurance companies were and are guilty. The Court of Appeals CANNOT disregard the intentional fraud perpetrated nor the fact that it was concealed by these Respondents. Reverse Judge Nettles' decision in favor of Appellant.

CONCLUSION

For the reasons stated above, this Court should reverse the judgment of the circuit court.

It is this Appellant's understanding and belief that all Courts and Honorable Judges clearly understand the definition and consequences of extrinsic fraud during any hearing, ruling or trial.

No fair and honorable Judge should allow and accept all statements made by attorneys who are officers of the Court as holding truth. Many attorneys (officers of the Court) are disbarred annually for misrepresenting, concealing extrinsic fraud and allowing intentional fraud upon the courts in order to win for their clients since wins bring far more money and repeat business. Appellant prays to this honorable Appeals Court to reverse Judge Nettles's order for it totally ignores the extrinsic fraud and supports Defendants, these respondents based strictly on his trust in these Respondents, who all authored their own "order."

One can only wonder and ask why Tim Newton/Murphy & Grantland who represented the insurance companies, disregarded their fiduciary duties and did not expose (as required) known Fraud Upon The Courts. Respondents are guilty of extrinsic fraud through M&G's co-conspiracy with TLC and their lawyers. SC Appellate Court Rule 407 in Item [3] clearly states:

> *"a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4."*

By not disclosing the discovered underlying extrinsic fraud in the SC court system put in place by attorneys for the Plaintiffs (TLC), and which impeded these Respondents from equitably, fairly, and honestly representing their clients, the Insurance Companies (also Respondents in this appeal), all these attorneys dis-serviced the insurance companies that they represented (who have since disengaged the M & G firm) and thereby the Insurance Company dis-serviced this Appellant, whom those Insurance Companies were engaged via a policy/contract to protect.

Such conspiracy is against the United States of which the court system is a part. Therefore,

it is also conspiracy to defraud the United States and a federal offense under 18 U.S.C. S 371. The crime is that of two or more persons who conspire to commit an offense against the United States or to defraud the United States. Certainly this extrinsic fraud, which is intentional, is against the United States Courts.

Appellant, again, pleas with this honorable court to reverse Judge Nettles decision to grant summary judgment which was in favor of all Respondents as there was an abundance of evidence submitted that should have caused Judge Nettles to forward the bench hearing to a jury. Respondents blamed Appellant's losses to frivolous actions when, actually, Respondents were intentionally losing all hearings and trials due to the existence of the underlying extrinsic fraud which Respondents had become fully aware of and refused to legally address when the SCRPC Rule 4.1(b) "requires a lawyer to disclose material facts necessary to avoid assisting in a criminal or fraudulent act." Comment 4 notes that their only permissible act would have been to withdraw from the cases, which they did not. Therefore, Respondents are guilty.

Appellant reminds Respondents and the S. C. Court of Appeals that (18 U.S.C. § 1341) that "Mail Fraud" prohibits any "scheme or artifice to defraud" that uses or invokes any authorized depository for mail." (The Fraud Trial by ACFE (Association of Certified Fraud Examiners). These Respondents use the United States Mail to progress their fraud to the Federal and State Courts of the United States of America.

Respectfully submitted,

March 1, 2020

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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

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.

PROOF OF SERVICE

I certify that I have served the **APPELLANT'S INITIAL BRIEF** on Penn America Insurance Company & Global Indemnity Insurance Company, addressed to the insurance companys' attorney of record, Christian Stegmaier, at Collins & Lacy, 1330 Lady St., 6th Floor, Columbia, SC 29201, and also to J. R. Murphy, Esq., and Timothy Newton, Esq. (both acting as Pro Se, of record, and both at Murphy & Grantland, P.A. at Post Office Box 6648, Columbia, SC 29260.

March 2, 2020

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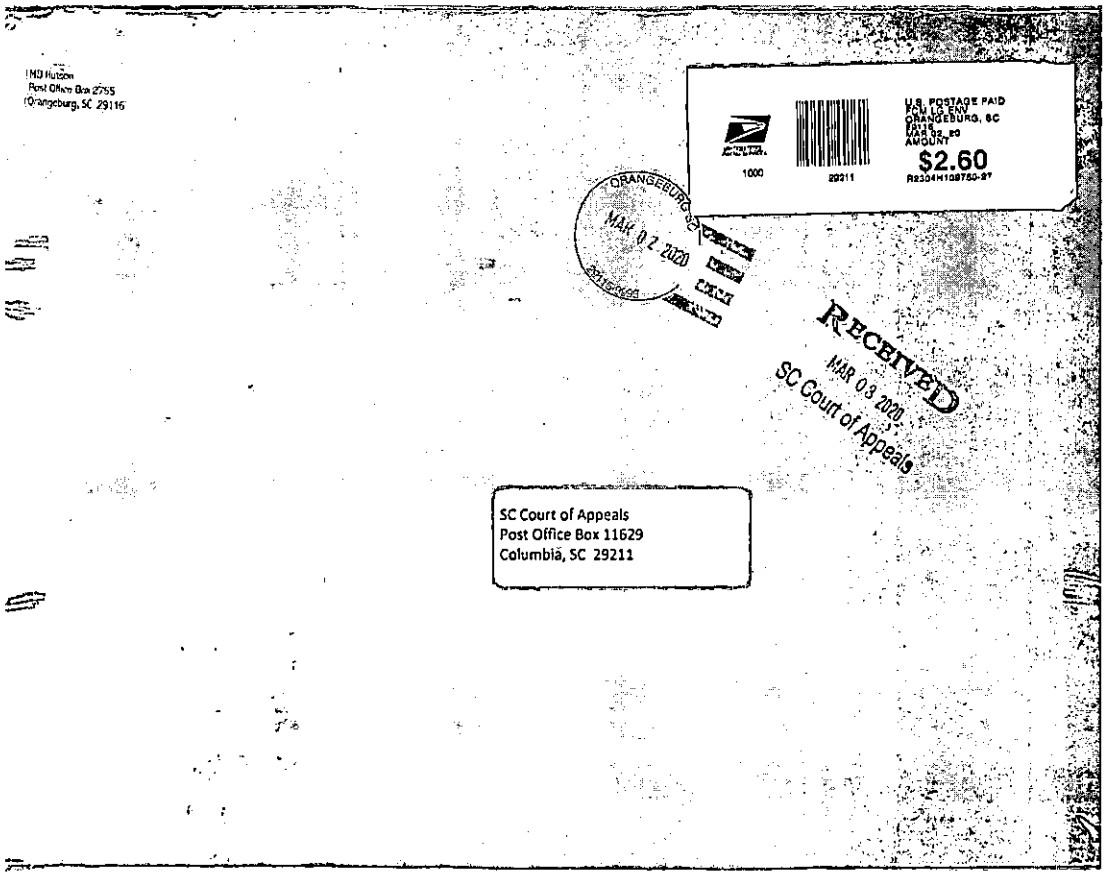
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