

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2019-001488

RECEIVED
MAY 19 2020
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, John Doe #2, Respondents.

**RESPONDENTS PENN AMERICA INSURANCE COMPANY
AND GLOBAL INDEMNITY GROUP, INC.'S
RESPONSE TO APPELLANT'S MOTION TO EXPEDITE APPEAL**

COMES NOW Respondents Penn America Insurance Company and Global Indemnity Group, Inc. (collectively "Respondents PAIC"), and in response to Appellant's Motion to Expedite Appeal states the following:

This appeal arises from the trial court's July 18, 2020 Orders granting the dispositive motions in favor of Respondents in the *pro se* action filed against them by Appellant. Respondents PAIC issued a Commercial General Liability Policy to their named insured, BWR, Inc. d/b/a Big Water Resort, for which Appellant was a corporate officer. Respondents PAIC provided Appellant with a defense, subject to a reservation of rights, in two lawsuits. Both lawsuits were resolved

within policy limits and without any personal exposure to Appellant. Nonetheless, Appellant filed the instant lawsuit against Respondents PAIC and their coverage counsel, Respondents Newton and Murphy, asserting a variety of claims in contract and tort. These claims center around the alleged failure of the insurer to pursue counterclaims on Appellant's behalf, or otherwise undertake an independent action to set aside a 2012 Consent Order based upon a theory of "extrinsic fraud."

With respect to the status of the instant appeal, the Initial Brief of Appellant was filed on March 3, 2020 and the Initial Briefs of the respective Respondents were filed on April 2, 2020 and April 23, 2020. Appellant filed two "Responses" to the Initial Briefs, the first directed at the Newton/Murphy Brief and filed April 27, 2020 and the second directed at the PAIC Brief and served May 4, 2020. Respondents PAIC have filed a Response in Opposition to Appellant's Motion to Exceed Page Limits and Motion to Strike Appellant's "Reply Brief" entitled "Appellant's Response to (Penn America, et al.) Respondent's Initial Brief." Respondents PAIC assert that there is no basis to grant the motion to exceed page limits and that Appellant's "Reply Brief" should be stricken based upon significant non-compliance with the Appellate Court Rules and its inclusion of an issue not raised in the Initial Brief and facts not supported by the Record.

Once the pending motions are ruled upon and initial briefing is complete, Appellant will have thirty (30) days to serve the Record on Appeal, containing all of the matter designated to be included within it by any party. Rule 210, SCACR. Appellant has not yet served the Record on Appeal upon any of the Respondents. Within twenty (20) days after service of the Record on Appeal, the parties must each file and serve their Final Briefs and Appellant must file the Record on Appeal with this Court. Rule 211, SCACR.

In his recent Motion to Expedite, Plaintiff cites his age and low income and the "mental stress" and "thinking" and "researching" required of him in this case as basis for expediting this

matter. Respectfully, these are not a basis to expedite an appeal. See, e.g., In re Expediting Appeals from Termination of Parental Rights Proceedings, 366 S.C. 670, 671, 623 S.E.2d 661 (Ct. App. 2005) (ordering expediting of appeals from termination of parental rights proceedings, adoption proceedings, and/or DSS actions involving the custody of a minor child, in recognition of the need for stability in children’s lives); Willis v. Wukela, 379 S.C. 126, 128, 665 S.E.2d 171, 172 (2008) (granting motion to expedite appeal in case involving election dispute from mayoral primary); Florence Cty. v. Moore, 344 S.C. 596, 600, 545 S.E.2d 507, 509 (2001) (granting motion to expedite appeal in case involving dispute over start date of newly elected county treasurer’s term). Respondents PAIC share a desire to see finality in this matter. Nonetheless, Respondents PAIC cannot represent to this Court that there is anything about this case that warrants an expedited appeal, particularly in light of the constraints on the Court’s resources during the current public health crisis.

Based upon the foregoing, Respondents PAIC respectfully request that this Honorable Court deny Appellant’s Motion to Expedite.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,



CHRISTIAN STEGMAIER

S.C. Bar No. 68648

cstegmaier@collinsandlacy.com

LAURA R. BAER

S.C. Bar No. 101076

lbaer@collinsandlacy.com

COLLINS & LACY, P.C.

1330 Lady Street, Sixth Floor

P.O. Box 12487

Columbia, SC 29211

(803) 255-0404 (phone)

(803) 771-4484 (fax)

ATTORNEYS FOR RESPONDENTS PENN
AMERICA INSURANCE COMPANY AND
GLOBAL INDEMNITY GROUP, INC.

**RESPONDENTS PAIC'S RESPONSE TO
APPELLANT'S MOTION TO EXPEDITE
APPEAL**

Columbia, South Carolina
May 18, 2020

CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondents Penn America Insurance Company and Global Indemnity Group, Inc., do hereby certify that I have this date served the foregoing RESPONDENTS PAIC'S RESPONSE TO APPELLANT'S MOTION TO EXPEDITE APPEAL by causing the same to be deposited in a United States Postal Service mailbox, postage prepaid, addressed to the following:

MB Hutson/MB Hudson
Post Office Box 2755
Orangeburg, SC 29116
Pro Se Appellant

John R. Murphy, Esquire
Timothy J. Newton, Esquire
Post Office Box 6648
Columbia, SC 29260
Pro Se Respondents

RECEIVED
MAY 19 2020
SC Court of Appeals



CHRISTIAN STEGMAIER
S.C. Bar No. 68648
cstegmaier@collinsandlacy.com
LAURA R. BAER
S.C. Bar No. 101076
lbaer@collinsandlacy.com
1330 Lady Street, Sixth Floor
P.O. Box 12487
Columbia, SC 29211
(803) 255-0404 (phone)
(803) 771-4484 (fax)

ATTORNEYS FOR RESPONDENTS PENN
AMERICA INSURANCE COMPANY AND
GLOBAL INDEMNITY GROUP, INC.

Dated: May 18, 2020



Christian Stegmaier | D: 803.255.0454 | E: cstegmaier@collinsandlacy.com

RECEIVED
MAY 19 2020
SC Court of Appeals

May 18, 2020

VIA UNITED STATES MAIL
The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: MB Hutson/MB Hudson v. Penn America Insurance Company, Global Indemnity Group, Inc., Timothy J. Newton, Esq., J.R. Murphy, Esq., John Doe #1, and John Doe #2
Appellate Case No. 2019-001488
Claim No. 16011284
C&L File No. 000774-01021

Dear Ms. Kitchings:

Please find enclosed for filing the unbound original and one (1) copy of *Respondents Penn America Insurance Company and Global Indemnity Group, Inc.'s Response to Appellant's Motion to Expedite Appeal* in the above referenced matter. Please file the original and return a clocked copy of same in an envelope provided for your convenience.

Pursuant to the Supreme Court's Order "re: Operation of the Appellate Courts During the Coronavirus Emergency" (2020-03-20-01), no additional copies are being provided. If any additional copies are required, please let us know.

By copy of this letter and enclosure, we are serving same on all parties.

Thank you for your time and attention. Should you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

Christian Stegmaier

CS/net
Encl.

The Honorable Jenny A. Kitchings

May 18, 2020

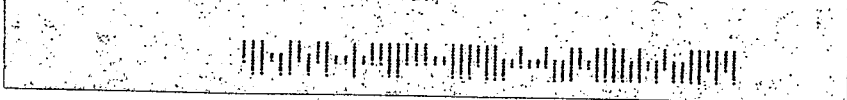
Page 2

cc (via U.S. Mail and email):

M. B. Hutson, Appellant *pro Se*

John Robert Murphy, Esquire, Murphy & Grantland, P.A.

Tim Newton, Esquire, Murphy and Grantland, PA



Hasler FIRST-CLASS MAIL
05/18/2020
US POSTAGE \$001.60⁰



ZIP 29201
011E11673897

Collins Lacy
ATTORNEYS AT LAW

1330 Lady Street, Sixth Floor (29201) Post Office Box 12487 | Columbia, SC 29211

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

774-1021

RECEIVED
MAY 19 2020
SC Court of Appeals