

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
JUL 15 2020
SC Court of Appeals

MB Hutson/ MB Hudson

Appellant.

v.

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

Respondents.

APPELLATE'S RESPONSE TO TIM NEWTON'S MEMORANDUM IN OPPOSITION TO
APPELLANT HUTSON'S EMERGENCY MOTION TO HAVE OPEN HEARING AND IN
SUPPORT OF NEWTON'S MOTION TO DISMISS APPEAL

Comes now the Appellant who states the following:

Twenty-four hours prior to the Common Pleas hearing in front of Judge Nettles, Respondents Tim Newton, JR Murphy and Christian Stegmaier, Esq. served this Pro Se Appellant over 2,000 sheets of paper, of a six year history that included TLC Holdings, LLC's cases, *BUT DELIBERATELY AVOIDED MENTIONING THE UNDERLYING EXTRINSIC FRAUD.*

Respondents knew that the Appellant could not possibly read those papers in order to properly present his case in less than 24 hours. Additionally, each Respondent plotted and served this Pro Se Appellant *additional papers* during a most disadvantageous period of time within minutes prior to the hearing before Judge Nettles. This was deliberately done to overwhelm and distract the Appellant. Furthermore, it was obvious before Judge Nettles in court that this ploy amused the Respondents.

Respondent Newton's current attack is on Appellant's credibility. This Appellant refuses to respond to Newton's attack which uses decades of an old divorce issue(s) from another state. That is in *no way associated* with this Extrinsic Fraud Case, and is not in any way relevant. Appellant has been totally truthful and all parties need to stay focused on the issues of this case. The Respondent, throwing piles of unrelated papers into play that have no relevance to the on-going Appeals Court matter, is again attempting to distract the court from the Extrinsic Fraud issues of which these Respondents are guilty:

The first occurrence of Extrinsic Fraud by Respondents was their participating in the underlying Extrinsic Fraud with TLC and TLC's attorneys whereby the lawyers for TLC *concealed pertinent information from the Courts and Judges*. These concealments prevented Appellant from having his case fully heard and precipitated his losses in court. They are:

1. Appellant was required to purchase the Big Water Campground company operations (Membership Purchase Agreement, hereinafter: MIPA) prior to being given the right to sign a contract to purchase the 108 acres of land. The land was owned by the Sellers of the Big Water Resort in another LLC known as TLC Holdings, LLC (hereinafter TLC).
2. Once Appellant executed the MIPA, closing on the Big Water Resort LLC, Appellant gradually began to learn of serious undisclosed deficiencies. Those included sewer

moratoriums, business shortfalls, etc. Some of the deficiencies were not recognized by this Appellant nor his attorney (Paul Wessinstein, Esq.) until *after* Appellant was evicted from the Big Water Resort. Those concealments consisted of the following:

Big Water Resort had no land on which to legally operate. TLC never would give a contractual agreement for the use of the land to Appellant (then Buyer) on which to operate the Big Water Resort. This left Appellant having hundreds of members holding approximately 70 years of "rights to use" the property and its amenities while Appellant had no legal right to the property.

Big Water Resort was losing approximately \$300,000.00 per year and had done so for about nine (9) consecutive years. That financial picture was skillfully undisclosed to the Buyer (this Appellant). Consequently, Appellant found himself being obligated to hundreds of members holding Retail Membership Agreements (RMAs) for up to 70 years while the campground was losing monies each year and no long term lease even existed to guarantee the land availability for which those RMAs held that 'right to use.' Undisclosed obligations to operate the campground for up to 70 years totaled approximately \$22M to honor those RMAs which was completely unsustainable for this Appellant. Consequently Appellant found himself losing monies each month and each year causing him to enter a financial free-fall.

Not only had TLC never made nor recorded any long-term lease for Big Water Resort for the use of the land, TLC did not record the 'right to use' RMA contracts for long term rights to the use of the land as State law requires. This hid that fact from any potential buyer. During the 'due diligence period' Appellant had title search done to check title (completed 3/15/2011 by Williamson Research Services via Nester and Jackson, P.A. of Santee), but

since Sellers (TLC) did not record those multi-decade contracts for 'rights to use the land' as they had been illegally hidden them, title issues did not appear on the title examiners radar screen in 2011.

Appellant was contractually given only a 24 month right to buy and close the 108 acres for development. Only after this Appellant's eviction for not closing within the 24 months (after being pulled into Federal Court as a third Party Defendant by TLC (then being class action sued by the RMA holders – who won) did this Appellant learn from an attorney, who was the SC Underwriting Counsel with the Stewart Title Guaranty Company, that the trap set by TLC who orchestrated the sales agreement and the contracts with the owners of the RMAs (granting 70+ years of rights to use the property) created “a cloud on title that would be excepted to in any title insurance policy.” (October 2, 1015, Michael S. Medlock, Stewart Title Guaranty Company)

Appellant *could not have ever in his lifetime* purchased the property for the contracted purpose of development. TLC's fraud, cleverly and contractually orchestrated by their attorneys was criminally designed. Even though this Appellant had accomplished most of his development plans from Clarendon County, TLC purposely sold the Big Water Resort (MIPA) to this Appellant knowing full well that he could never legally operate the business on the land because TLC would not, and in fact could not, legally issue a long-term contractual agreement for the land use for development. This meant that all 740 70+ year RMAs for use of the land became the full responsibility of the Appellant who had no land to honor those obligations.

TLC's attorneys prepared all contracts and settlement agreements and were fully aware that they could never be able to sell the 108 acres to Appellant for development; they

merely wanted to escape the \$22 M obligation. None of the evidence of TLC's fraud was disclosed to the courts and judges. To the contrary, TLC's attorneys concealed the knowledge that they had in order to commit Extrinsic Fraud and be assured they could win all cases that went to court. That worked for them until the Federal class action suit. Therein, they maneuvered and sued this Appellant as a third party defendant and *they* contacted his insurance company from which they were paid monies to totally offset their defeat and losses in the class action suit.

This Appellant paid hundreds of thousands to TLC and lost the rights to develop the 108 acres. TLC evicted and sued this Appellant, and then raped Appellant's Insurance Company to pay off holders of the RMAs.

Respondents knew about all the fraud being perpetrated on the courts by TLCs attorneys but would not expose it, nor expose their comrades and fellow law school graduates, nor stand for justice.

Respondents saw through the concealments, but then joined in support of the concealments and never disclosed those crimes by their colleagues to the Courts and Judges. When asked why by this Appellant, Newton replied, "someone could go to jail. We lawyers just don't do each other that way." Instead, the Respondents required the Appellant to attend the jury trial orchestrated by TLC and *their* attorneys, knowing that this Appellant would not prevail. Thereby, these *Respondents refused to honor their oath and refused to stand for justice.* Thereby, Respondent's fully partnered with the extrinsic fraud created by TLC and their attorneys.

The **second occurrence of Extrinsic Fraud** by Respondents was all Respondents fully understood the fraud this Appellant had endured by TLC and their lawyers, *yet* all Respondents who now, or did, represent the insurance companies created a second extrinsic fraud by deciding not to even defend their insured from the extrinsic fraud created by TLC's attorneys. These Respondents decided not report to the Courts, nor to the Judges, the fraud perpetrated upon them by TLC's attorneys. They made a decision to 'pretend like they were going to diligently represent' this Appellant while absolutely knowing that they could win no cases due to the existing extrinsic fraud. Yet, they elected not to report the extrinsic fraud to the Courts and Judges. This could have only been to satisfy the umbrella insurance carrier (then Torus, now Starstone) who had

"threatened to sue Penn America if it didn't hurry up and settle¹."

"Hurry up" meant to get a quick conclusion of Appellant's case which would get the case off the umbrella insurance carrier's 'books.' The follow-up actions by the Respondents (which was offering NO DEFENSE, NO DISCLOSURE, NO OPPOSITION in the jury trial) sold out their insured, this Appellant, as they buckled under Torus' threat.

This Appellant is now suffering due to his resultant indigence, great depression, lack of income for life and humiliation. This Appellant's rights were stripped from him directly caused by attorney actions. His case never got heard due to the wrongful actions of attorney Respondents who were not defending his rights but subverting to corporate pressure. Not one of the Respondents care one iota about the misery and torture that this Appellant endures daily: every day, and night, of his life.

¹ Email to Hutson from Tim J. Newton (Respondent) November 30, 2018 @ 10:54 AM

This Appellant has more than proven his case and now begs for real and honest Justice. It is clear that no Respondent is going to be honest, as they are trying to cover themselves from the just repercussions for their actions, for their violations of professional oaths, and for violating of the rules of their profession to report extrinsic fraud. They are aware that being a part of extrinsic fraud is legally wrong. No insurance company, nor officers of the court, should ever attempt to defraud the honorable courts and judges. If and when they do, consequences should be administered immediately. Appellant is in amazement as to how far wrong attorneys are willing to go, and dare to go, to win, or lose, a case in total abstention to their oath and standards.

This case is about these Respondents, each officers of the court (now representing themselves or Insurance Companies), participating in extrinsic fraud upon the courts for choosing not to expose the underlying and continuing extrinsic fraud which has and is continuing to negatively impact the case(s) against their insured, this Appellant, and choosing rather to sacrifice this Appellant to protect their fellow attorneys and appease insurance companies who admittedly wanted the case quickly off their books (e-mail from Respondent, Tim Newton, Esq., to Appellant dated November 30, 2018:

"...threatened to sue Penn-America if it didn't hurry up and settle."

Respondents chose not disclose the underlying extrinsic fraud to the Federal Court (2:14-CV-01583-DCN-MGB), to the SC State Court (2015-14-615) nor (2018-CP-400-6344), nor to this Appellate Court (2019-001488). Respondents intentionally concealed the underlying extrinsic fraud that was critical to Appellant's ability to win the Jury trial as well as all other courts including #1488 before Judge Nettles. Extrinsic Fraud: "induces a person not to present a case or deprives a person of the opportunity to be heard". Id. at 81, 579. S.E. 2d at

610 (Hilton Head Ctr. Of South Carolina vs: Public Ser".) Respondents have repeatedly avoided disclosing anything about their intentional business decision *not to report such extrinsic fraud to/in the courts.*

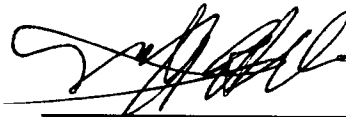
Therefore, Appellant pleads for justice in this Appellate Court. The criminal behavior of these lawyers has caused severe stress that has negatively impacted Appellant's physical and mental health. Appellant has been the victim of these attorneys, who have banded together to protect themselves, creating and covering Extrinsic Fraud Upon the Courts to serve their own purposes while causing enormous distress, devastation and depression for this Appellant. These insurance company attorneys have used extrinsic fraud against this Appellant in collusion with TLC's attorneys. Their plan must be thwarted! What part of life is worth living if "officers of the court" are permitted to twist the law, at will, and run totally out of control while no court or commission does anything about it? Respondents motto has essentially been: 'let's make lots of money' while defrauding the public *and the courts* to suit our personal goals and while hiding under our badges as "Officers of the Court."

Appellant opposes all requests by Respondents that they not be sworn in and asked questions. Respondents have committed extrinsic fraud and through non-disclosure, they continue to do so in this Appellate Court. Merriam Webster Dictionary of Law: "*extrinsic fraud: (as that involved in making a false offer of compromise) that induces one not to present a case in court or deprives one of the opportunity to be heard; also: fraud that is not involved in the actual issues presented to a court and that prevents a full and fair hearing-- called also collateral fraud*".

Appellant has been victimized by "Officers of the Court" and again asks and prays that this case will be reversed and sent to a jury. This Appellant is in desperate need of Justice.

Had Murphy & Grantland's Tim Newton, JR Murphy, Esq., or even the insurance companies, reported the extrinsic fraud prior to the jury trial, the judge would have not allowed the trial to proceed, and subsequently, no \$3.5M judgment would have ever been registered against this unsuspecting Appellant. The fault for this judgment lies with Murphy and Grantland's attorneys and their wanting to protect fellow attorneys.

July 13, 2020

A handwritten signature in black ink, appearing to read 'M B Hutson', written over a horizontal line.

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

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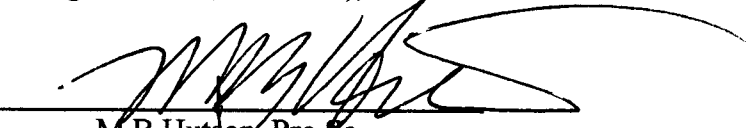
Penn America Insurance
Company, Global Indemnity
Group, Inc., Timothy J.
Newton, Esq., J.R. Murphy,
Esq., John Doe #1 and John
Doe #2,

Respondents,

PROOF OF SERVICE

I certify that I have served the RESPONSE TO TIM NEWTON'S MEMORANDUM IN OPPOSITION TO APPELLANT HUTSON'S EMERGENCY MOTION TO HAVE OPEN HEARING AND IN SUPPORT OF NEWTON'S MOTION TO DISMISS APPEAL with a copy of this Proof of Service 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 July 13, 2020, 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.

July 13, 2020


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

**MB Hetson
POB 2755
Orangeburg, SC 29116**

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