

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2020-001708
Civil Action Case No. 2020-CP-40-03810

Penn America Insurance Company and Global Indemnity Group, Inc.,

Plaintiff/Counter-Defendants,

v.

Morris Beach Hutson a/k/a M.B. Hutson,

Defendant/Counter-Plaintiff,

AND

Morris Beach Hutson a/k/a M.B. Hutson,

Third-Party Plaintiff,

v.

Timothy J. Newton, Esq.; Murphy & Grantland, P.A.; Christian Stegmaier, Esq.;
and Collins & Lacy P.C.,

Third-Party Defendants.

of whom Morris Hutson is the Appellant,

and Penn America Insurance Company; Global Indemnity Group, LLC; Timothy J. Newton, Esq.; Murphy & Grantland, P.A.; Christian Stegmaier, Esq.; and Collins & Lacy P.C. are the Respondents.

**DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON
APPEAL BY RESPONDENTS PENN AMERICA INSURANCE COMPANY,
GLOBAL INDEMNITY GROUP, INC., CHRISTIAN STEGMAIER, ESQ., AND
COLLINS & LACY P.C.**

In accordance with Rule 209 of the Appellate Court Rules, Respondents Penn America Insurance Company and Global Indemnity Group, Inc., Christian Stegmaier, Esq., and Collins & Lacy P.C., designate the following portions of the transcript, pleadings, orders, exhibits, or other materials, to be included in the Record on Appeal:

Orders/Decisions

1. Form 4 Order, entered Oct. 29, 2020.
2. Order Granting Newton, et al.'s Motion to Dismiss, entered Dec. 9, 2020.
3. Order Granting Penn America, et al.'s Motions to Strike, entered Dec. 9, 2020.
4. Order Denying Hutson's Motion for Temp. Injunction, entered Dec. 9, 2020.
5. Order Granting Penn America, et al.'s Motion for Temp. Injunction, entered Dec. 9, 2020.
6. Form 4 Order, entered Feb. 17, 2021.

Pleadings

7. Plaintiff's Summons & Complaint, filed Aug. 10, 2020 (20 pages).
8. Plaintiffs' Notice of Motion and Motion for Temporary Injunction, filed Aug. 10, 2020 (248 pages, including all exhibits to filing);
 - a. Exhibit A, Eviction Order, Mar. 21, 2014;
 - b. Exhibit B, Class Action Report & Recommendation, Apr. 5, 2016;
 - c. Exhibit C, Class Action Order Adopting R&R/Granting Summ. J., May 20, 2016;
 - d. Exhibit D, Class Action Order Granting Sanctions, Oct. 6, 2017;
 - e. Exhibit E, Defamation Action Order Granting Summ. J., Mar. 2, 2017;
 - f. Exhibit F, Coverage Action Settlement Agreement and Release, Sept. 16, 2016;
 - g. Exhibit G, Bad Faith Action Amended Complaint, Dec. 18, 2018;
 - h. Exhibit H, Order Granting Penn America, et al. Motion for Summ. J., July 18, 2019;
 - i. Exhibit I, Order Granting Newton/Murphy Motion to Dismiss/for Summ. J. July 18, 2019;
 - j. Exhibit J, Weissenstein Malpractice Action, Judge Curtis Order Granting Summary Judgment, Feb. 25, 2019;

- k. Exhibit K, Burn Malpractice Action Order of Dismissal, April 10, 2019;
 - l. Exhibit L, Atlantic Coast Action Order of Dismissal, Apr. 11, 2019;
 - m. Exhibit M, Hutson E-mail, June 16, 2020;
 - n. Exhibit N, Hutson E-mail, June 21-22, 2020;
 - o. Exhibit O, Hutson E-mail, July 6, 2020;
 - p. Exhibit P, Hutson E-mail, July 8, 2020;
 - q. Exhibit Q, Hutson E-mail, July 16, 2020;
 - r. Exhibit R, Hutson E-mail, July 18, 2020;
 - s. Exhibit S, Hutson E-mail, July 19, 2020;
 - t. Exhibit T, Hutson E-mail, July 17, 2020;
 - u. Exhibit U, Hutson E-mail, July 27, 2020; and
 - v. Exhibit V, Hutson E-mail, Aug. 8, 2020.
9. Hutson's Amended Cross Complaint and Motion for Temporary and Permanent Injunction, Aug. 26, 2020 (78 pages, including all exhibits to filing);
- a. Ex. 1: Appellate Case No. 2019-1488, Hutson Reply Brief;
 - b. Ex. 2: Appellate Case No. 2019-1488, Hutson Response to Motion for Sanctions;
 - c. Ex. 3: E-mail from Newton to Hutson, Aug. 13, 2018; and
 - d. Ex. 4: Affidavit of Mark Hardee.
10. Newton and Murphy & Grantland's Motion to Dismiss, or in the alternative, Motion for Summary Judgment, Sept. 15, 2020 (262 pages, including all exhibits to filing);
- a. Exh. 1: Appellate Case No. 2019-1488, Newton/Murphy Initial Brief of Respondents, Apr. 2, 2020;
 - b. Exh. 2: Appellate Case No. 2019-1488, Newton/Murphy Mem. Opposing Emergency Motion, July 9, 2020;
 - c. Exh. 3: Appellate Case No. 2019-1488, Newton Reply Mem. in support of Motion to Strike, July 9, 2020;
 - d. Exh. 4: Hutson Counterclaims filed in Ejectment Action, Dec. 29, 2011;
 - e. Exh. 5: Hutson Counterclaims filed in Federal Class Action, Dec.16, 2014;
 - f. Exh. 6: Counterclaims filed in the Defamation Action *pro se* on March 29, 2016;
 - g. Exh.7: E-mail dated Nov. 11, 2010 re: Big Water lifetime membership info (cited in Magistrate Baker's Report and Recommendation);

- h. Exh. 8: Excerpts from Susan Stroman deposition transcript; and
 - i. Exh. 9: Excerpts from TLC Rule 30(b)(6) deposition transcript.
- 11. Penn America Ins. Co, et al.'s Motion to Stay/Strike/Dismiss Hutson's Amended Counterclaims and Third-Party Claims and Motion for Temp. and Permanent Injunction, filed Sept. 16, 2020 (10 pages) ("First Motion to Strike").
- 12. Hutson's Memorandum to Defendant's Amended Cross Complaint, filed Sept. 16, 2020 (5 pages).
- 13. Hutson's Notice of Extrinsic Fraud, filed Sept. 16, 2020 (3 pages).
- 14. Hutson's Response to First Motion to Strike, filed Sept. 24, 2020 (30 pages).
- 15. Hutson's Answer to Complaint, filed Sept. 25, 2020 (18 pages with attachment); and
 - a. Attachment: Sept. 16, 2020 Letter from Hutson to Stegmaier.
- 16. Penn America Ins. Co, et al.'s Motion to Strike Portions of Defendant's Answer, filed Sept. 28, 2020 (129 pages, including all exhibits to filing) ("Second Motion to Strike");
 - a. Exhibit A, Membership Agreement;
 - b. Exhibit B, Ejectment Complaint filed Dec. 14, 2011, Case No. 2011-CP-14-602;
 - c. Exhibit C, Judge Norton's Order Approving Settlement Class entered Feb. 1, 2016, CA No. 2:14-cv-01583-DCN;
 - d. Exhibit D, Ejectment Answer and Counterclaims filed Dec. 29, 2011, Case No. 2011-CP-14-602);
 - e. Exhibit E, Ejectment Settlement Agreement filed Apr. 13, 2012, Case No. 2011-CP-14-602);
 - f. Exhibit F, Ejectment Consent Order filed Apr. 13, 2012, Case No. 2011-CP-14-602;
 - g. Exhibit G, Judge James' Order entered Mar. 21, 2014, Case No. 2011-CP-14-602;
 - h. Exhibit H, Answer to Amended Complaint and Pro Se Counterclaims Back (accompanying exhibits not included), filed Dec. 16, 2016, Case No. 2015-CP-14-0615; and
 - i. Exhibit I, Judge Cothran's Order Granting Summ. Jmt, entered Mar. 2, 2017, Case No. 2015-CP-14-0615.

17. Penn America Ins. Co, et al.'s Amended Motion to Strike Hutson's "Notice of Extrinsic Fraud" and "Memorandum to Defendant's Amended Cross Complaint," filed Sept. 30, 2020 (52 pages, including all exhibits to filing) ("Third Motion to Strike");
 - a. Exhibit A, Answer to Amended Complaint and Pro Se Counterclaims Back (accompany exhibits not included), filed Dec. 16, 2016, Case No. 2015-CP-14-0615;
 - b. Exhibit B, Response by Defendant, filed Dec. 20, 2016, Case No. 2015-CP-14-0615; and
 - c. Exhibit C, Judge Cothran's Order Granting Summ. Jmt, entered Mar. 2, 2017, Case No. 2015-CP-14-0615.
18. Hutson's Addendum Response to Plaintiffs' First Motion to Strike, filed Oct. 1, 2020 (12 pages).
19. Hutson's Response to Plaintiffs' Second and Third Motions to Strike, filed Oct. 1, 2020 (34 pages).
20. Penn America Ins. Co, et al.'s Response to and Motion to Strike Hutson's (1) 9/24/2020 Response to Motion; (2) Hutson's 9/30/2020 Response to Motion; and (3) Hutson's 9/30/2020 Addendum Response to Motions, filed October 5, 2020 (10 pages).
21. Hutson's Supplemental Response to Plaintiff's Second and Third Motions to Strike, filed Oct. 8, 2020 (21 pages).
22. Newton and Murphy & Grantland's Memorandum in Support of Motion to Dismiss/Summary Judgment, filed Oct. 9, 2020 (71 pages, including all exhibits to filing);
 - a. Exh. 10: Newton's Memorandum in Support of Dismissal/Summary Judgment in the Bad Faith Action;
 - b. Exh. 11: Newton's Reply Memorandum in Support of Dismissal/Summary Judgment in the Bad Faith Action;
 - c. Exh 12: Newton's Amended Response to Hutson's Supplemental Memorandum in the Bad Faith action;
 - d. Exh. 13: Wilkerson E-mail dated Aug. 31, 2017;
 - e. Exh. 14: Hutson E-mail dated Sept. 22, 2017;
 - f. Exh. 15: Hutson E-mail dated Dec. 10, 2017 [filed separately on Oct. 12, 2020];
 - g. Copy of Newton Exh. W (from Bad Faith Action): Hutson's Memo. in Response to Motion for Summary Judgment in Federal Class Action, filed Mar. 14, 2016; and

- h. Copy of Huston's Exhibits 1.1-1.3 (from bad faith action): Retail Membership Agreements.
23. Hutson's Addendum of Law, filed Oct. 13, 2020 (11 pages).
24. Newton and Murphy & Grantland's Response to Hutson's Addendum of Law, filed Oct. 14, 2020 (234 pages, including all exhibits to filing);
- a. Exh. 16: Transcript of Hearing before Hon. Michael Nettles, June 26 2019;
 - b. Exh. 17: Affidavit of W. Mark Hardee with attachments;
 - c. Exh. 18: E-mails from Hutson to John Wilkerson and Thomas Harper, Aug. 27-28, 2018;
 - d. Exh. 19: E-mail from Hutson and attached draft Complaint, Oct. 29, 2018;
 - e. Exh. 20: E-mail chain between Hutson and John Wilkerson, Oct. 22, 2018;
 - f. Exh. 21: E-mail from Hutson to Newton, Nov. 1, 2018;
 - g. Exh. 22: E-mail from Hutson to Penn America, Nov. 6, 2018;
 - h. Copy of Newton Exh. V (from bad faith action): E-mail between Hutson and Newton; and
 - i. Copy of Hutson's Exh 7.0 (from bad faith action): Letter from Newton to Hutson, Nov. 8, 2018.
25. Hutson's Reply to Newton and Murphy & Grantland's Response to Hutson's Addendum of Law, filed Oct, 20, 2020 (6 pages).
26. Hutson's Questions and Requests for Judge Hood, filed Oct. 26, 2020 (2 pages).
27. Hutson's Amended Motion for Emergency Hearing with attachments A, B, and C, Jan. 28, 2021 (21 pages).
28. Plaintiffs' and Third-Party Defendants' Response to Hutson's Amended Motion for Emergency Hearing, with Exhibits B & C [Exhibit A is separately designated under "Transcripts"], Jan. 28, 2021 (12 pages, including Exs. B And C).
29. Hutson's Reply to Plaintiffs' and Third-Party Defendants' Response to Hutson's Amended Motion for Emergency Hearing, Feb. 1, 2021 (19 pages).
30. Hutson "Revisits His Motion for an Amended Emergency Hearing," Feb. 9, 2021 (3 pages).

Transcript

31. Complete transcript of motions hearing held before the Hon. Robert E. Hood, October 15, 2020 (78 pages).

Exhibits

No additional exhibits were received at the hearing, all such documents having been attached to the parties' prior court filings.

Other Documents

32. Hutson E-mail to Judge Hood, Oct. 16, 2020 (providing e-mails between Hutson and Clerk on Sept. 3 and 17, 2020).
33. E-mail from Judge Hood's Chambers requesting draft Orders, dated Oct. 23, 2020.
34. Notice of Appeal, served Jan. 4, 2021.
35. Huston Letter to Commission on Lawyer Conduct, Jan. 20, 2021.
36. Huston Letter to Judge Hood, dated Feb. 17, 2021.

Respondents certify that this Designation contains no matter, which is irrelevant to the appeal.

Respectfully submitted,
COLLINS & LACY, P.C.

s/Christian Stegmaier _____
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ATTORNEYS FOR RESPONDENTS PENN
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**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON
APPEAL**

March 8, 2021

RECEIVED

Mar 08 2021

SC Court of Appeals

CERTIFICATE OF SERVICE
(Appellate Case No. 2020-001708)

I, the undersigned, attorney for Respondents Penn America Insurance Company, Global Indemnity Group, Inc., Christian Stegmaier, Esq., and Collins & Lacy, P.C. do hereby certify that I have this date served the foregoing **Designation of Matter** upon all parties, by electronic mail and/or by placing a copy in the United States mail, postage prepaid, on March 8, 2021, addressed to the following:

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s/Christian Stegmaier

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Attorneys for Respondents Penn America Insurance Company, Global Indemnity Group, Inc., Christian Stegmaier, Esq., and Collins & Lacy, P.C.

Dated: March 8, 2021