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.

RESPONDENTS PENN AMERICA INSURANCE COMPANY, GLOBAL INDEMNITY GROUP, INC., CHRISTIAN STEGMAIER, ESQ., AND COLLINS & LACY P.C.'S REPLY TO APPELLANT'S RETURN TO THE MOTION TO STRIKE APPELLANT'S "MEMORANDUM" FILED MARCH 5, 2021, APPELLANT'S "NOTICE" FILED MARCH 8, 2021, AND APPELLANT'S "REPLY BRIEF" FILED MARCH 10, 2021 AND REQUEST FOR SANCTIONS

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

On March 22, 2021, Respondents Penn America Insurance Company ("Penn America"), Global Indemnity Group, Inc. ("Global"), Christian Stegmaier, Esq. ("Stegmaier"); and Collins & Lacy P.C. (Collins & Lacy) (collectively "these Respondents"), filed their motion to strike Appellant's "Memorandum" filed March 5, 2021, Appellant's "Notice" filed March 8, 2021, and Appellant's "Reply Brief" filed March 10, 2021. Appellant filed a return to the motion to strike on March 31, 2021. This reply to the return follows.

Appellant's return suggests that the attorneys who have or currently do represent Penn America and Global should not be permitted to participate in the instant appellate litigation and should no longer be licensed to practice law at all. Appellant claims that that the attorneys and law firms who are parties to the instant appeal, and other non-party attorneys, failed to disclose and participated in a fraudulent conspiracy against him. Appellant claims that had "the extrinsic fraud" been reported, he would have collected millions of dollars from various parties.

Appellant also repeats some of the identical allegations that are contained in Appellant's prior filings, which are the subject of the instant motion to strike. These Respondent's motion to strike was based upon arguments that Appellant's filings and the contents thereof were improper either because of their scurrilous nature, lack of relevance, or attempt to raise an issue not raised before the Circuit Court and in initial briefing.

Ironically, Appellant quotes a portion of the South Carolina lawyer's oath, which provides that an attorney "will never seek to mislead an opposing party, the Judge or Jury by

a false statement of fact or law." Though not cited in Appellant's return, the oath also provides: "To opposing parties…, I pledge fairness, integrity, and civility,…."; and "I will maintain the dignity of the legal system and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged." Rule 402(k), SCACR. What seems lost on Appellant, who is not an attorney, is that the attorney Respondents would be violating their oath by reporting that any type of fraud was committed with respect to Hutson's 2012 Settlement Agreement and Consent Order with TLC Holdings, or otherwise, as they have no personal knowledge or information to support the same. Despite numerous opportunities to present evidence of fraud, Appellant has produced none. Rather, Appellant continuously cites to a letter from Tim Newton—who had limited information and documents at the time—stating there "might possibly" be a basis to claim extrinsic fraud, which Appellant could investigate and pursue if he so desired.

While the narrow issue before this Court with respect to the instant motion is whether to strike three of Appellant's filings and the appropriateness of any sanctions for his abuse of the appellate court system, Appellant's return concludes with an enumeration of fourteen requests. Due their numerosity and repetitiveness, Appellant's requests can be summarized as asking the Court to:

(a) issue rulings that:

i. "these attorneys' filings are cloaked with fraud;"

ii. the Respondents have not responded to or proven that they have reported fraud on the courts, which Appellant asserts was required by law; and

iii. Appellant is entitled to restitution because Respondents failed to report and conspired with the authors of the extrinsic fraud upon the courts;

(b) send "this case" to a jury;

(c) preclude Respondents from defending against the instant appeal;

(d) "throw out the dishonest lawyers;"

(e) deny the motion to strike, based upon Appellant's averment that the filings "prov[e] fraud upon the court" and Appellant's assertion that his lawsuit against Judge Hood shows that Judge Hood failed to reprimand the attorneys and misquoted that law and is "directly associated with this entire corruption that Respondents are actively involved in"; and

(f) deny the request for sanctions.

Respondent's request that this Court making findings regarding the merits of the appeal and remand the case for a jury trial are not issues presently before the Court, as the appeal itself has not yet been submitted to the Court for consideration. Rather, the narrow focus of this Court with respect to the instant motion relates to the propriety of three of Appellant's filings, which fail to comply with the appellate court rules. It should further be noted that a request for injunctive relief is not a claim triable before a jury, as there is no right a trial by jury for equitable actions. See Cedar Cove Homeowners Ass'n v. DiPietro, 368 S.C. 254, 258, 628 S.E.2d 284, 286 (Ct. App. 2006) (concluding that an action seeking injunctive relief is one in equity); id. ("The character of an action as legal or equitable depends on the relief sought."); Lester v. Dawson, 327 S.C. 263, 267, 491 S.E.2d 240, 242 (1997) (holding there is no right to trial by jury for equitable actions). Due to Appellant's

appeal from the Order striking his answer to the Complaint for Permanent Injunction, that matter has not yet proceeded in the Circuit Court. A jury trial would only be necessary or appropriate in the unlikely event that—once the merits of the appeal are ripe for ruling—this Court were to reverse the Circuit Court's disposition of Appellant's counter and third-party claims for various forms of fraud and unfair and deceptive trade practices.

There is similarly no basis to preclude these Respondents from defending against this appeal or for removing their counsel. These Respondents timely filed their initial brief and designation on March 8, 2021. There is no motion pending before this Court which seeks to strike these Respondents' brief. See Rule 208(a)(4), SCACR. Appellant's mere discontent with the arguments raised by Respondent's in their briefing (which Appellant has not directly addressed or refuted) and Respondents unwillingness to allow Appellant's frivolous and improper filings to go uncontested, are not a basis to preclude these Respondents from presenting their defense through counsel of their choosing. Appellant further provides no basis for the removal of undersigned counsel, one of whom is a party to the appeal. Even if such a basis did exist, which these Respondents deny, a return to a motion to strike is the not the appropriate vehicle to seek such relief. Additionally, while not specifically referenced in the paragraphs requesting relief, Appellant avers that Respondents' counsel should be disbarred. Aside from the lack of any misconduct to warrant such action, imposition of such attorney discipline is not within the power and jurisdiction of this Court.

When Appellant finally did address the relief that is ripe before the Court—the striking of Appellant's "Memorandum," "Notice" and "Reply Brief" and the imposition of sanctions against Appellant—he failed to provide a legitimate explanation for why his filings should

not be stricken and not sanctioned as frivolous. Appellant cannot hide behind his status as an unrepresented litigant, as he has pursued pro se claims in numerous cases in state court and in federal court and is actively engaged in two other state court appeals. While, thus far, Appellant has not succeeded on any of his claims, he should understand at this juncture that an appellant can file a brief and reply brief and that the prohibition against frivolous appeals and filings in Rule 269, SCACR, applies to attorneys ***and parties***. Plaintiff's extraneous "Memorandum" and "Notice" do not substitute for or supplement his briefing.

These Respondents have granted Appellant great leeway with respect to his designation of matter to be included in the Record on Appeal, which includes filings in the underlying Circuit Court case made after the notice of appeal was filed. However, Appellant's attempt to provide this Court with his unanswered Complaint against the Honorable Robert E. Hood, filed in March 2021 as a separate civil action, as supplemental argument in this appeal is simply untenable and contradictory to the appellate court rules.

Further, Appellant's return fails to address the myriad of procedural and substantive problems with his "Reply Brief." [1]

In sum, Appellant's return to the Motion to Strike fails to address the merits of the motion and instead focuses on lodging insults and accusations against counsel and requesting relief that is not properly before this Court to grant.

[1] Appellant did, after instructed to do so by the Clerk, file a motion to exceed the page limits for his Reply Brief. However, he provided no substantive reason as to why he required more than twenty-five pages to make his repetitive and unresponsive statements and arguments.

CONCLUSION

Based on the arguments set forth in the original motion and in the foregoing reply, Respondents Penn America, Global, Stegmaier and Collins & Lacy respectfully request that their Motion to Strike be granted and that the Court impose any and all sanctions against Appellant Hutson for his continued abuse of the appellate system as this Honorable Court deems just and proper.

These Respondents are **not** seeking to hold any deadline for the filing of the Record in Appeal in abeyance during the pendency of the Motion to Strike, as the content of the Record will not be affected by the Court's ruling. See Rule 240(b), SCACR.

[SIGNATURES ON NEXT PAGE]

Respectfully submitted,
COLLINS & LACY, P.C.

s/Christian Stegmaier

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Columbia, South Carolina
April 7, 2021

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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 **Respondents Penn America Insurance Company, Global Indemnity Group, Inc., Christian Stegmaier, Esq., And Collins & Lacy P.C.'S Reply to Appellant's Return to the Motion to Strike Appellant's "Memorandum" filed March 5, 2021, Appellant's "Notice" filed March 8, 2021, and Appellant's "Reply Brief" filed March 10, 2021 and Request for Sanctions** upon all parties, by electronic mail and/or by placing a copy in the United States mail, postage prepaid, on April 7, 2021, addressed to the following:

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Dated: April 7, 2021