THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas
Judge Robert Hood, Fifth Circuit

Case # 2020-CP-400-3810

Appellate # 2020-001708

Penn America Insurance Company and Global Indemnity Group, LLC, Plaintiffs/Counter-Defendants,	
v.	
Morris Beach Hutson a/k/a M.B. Hutson, Defendant/Counter-Plaintiff,	
AND	Appellate's Reply Brief to Respondents': Penn America, et al; Timothy J. Newton, Esq., JR Murphy, Esq., and John Grantland, Esq., of Murphy Grantland, P.A. and Christian Stegmaier, Esq. of Collins and Lacy, P.C.
Morris Beach Hutson a/k/a M. B. Hutson, Third Party Plaintiff,	
v.	
Penn America Ins. Co. & Global Indemnity Group, LLC, Timothy J. Newton, Esq. of Murphy Grantland, P.A.; & Christian Stegmaier, Esq. of Collins & Lacy P.C., Third Party Defendants,	Initial Brief.
of whom Morris Hutson is the Appellant,	"Silver Bullet"
and Penn America Ins. Co. & Global Indemnity Group, LLC, Timothy J. Newton, Esq., of Murphy Grantland, P.A., & Christian Stegmaier, Esq. of Collins & Lacy P.C., are the Respondents.	3/10/2021

1. The Legal Department of Penn America Insurance Company and Global Indemnity Insurance Company (hereinafter PAGI), Insurers of Hutson, and their South Carolina attorneys:

(a) Christian Stegmaier, Esq. (of Collins & Lacy, P.C.), and

(b) Timothy J. Newton, Esq., John Grantland, Esq. and J.R. Murphy, Esq. (of Murphy Grantland, P.A.),

CANNOT TAKE THE POSITION individually and/or corporately, in word nor in writing, that they did not know about the Extrinsic Fraud enacted upon the Court(s), underlying these cases of which they each had *all the documents and filings* made by TLC Holdlings, LLC's attorneys, at both:

(c) Turner Padget Graham and Laney, and

(d) Womble, Carlyle, Sandridge and Rice (Thomas Harper, Esq.).

2. PAGI and their legal teams (named in #1, above) never filed any paper to the court that disclosed/reported/noticed the S. C. Courts of the Extrinsic Fraud Upon the Courts and fraud upon Appellant/Hutson which was their professional obligation as required by some (50) South Carolina Rules and Laws (see below).

3. South Carolina law # 27-33-30 required TLC Holdings, LLC and/or their attorneys to record the four hundred seventy (470) memberships with long-term use rights for the land (of over one (1) year):

"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. (SC # 27-33-30).

4. TLC Holdings, LLC, nor their attorneys fulfilled the requirements of this statute. Therefore, the Title Search completed (2011) via Hutson's attorney thru Williamson Research Services showed a "clear title."

5. Appellant/Hutson's sole purpose for signing the Lease Purchase Agreement was to develop the property and sell small lots and cabins. That purpose is/was clearly stated in the Lease Purchase Agreement (hereinafter LPA), the contract with TLC Holdings, LLC) as:

"The parties acknowledge that the Purchaser intends to develop and construct condominiums or other residential dwelling structures on certain portions of the unimproved Premises. In the event Purchaser closes on any one or more unimproved Sub-parcel(s) as referenced in this Section 1.3, Purchaser shall pay thirty-five percent(35%) of the gross profits from the sale of any and all residential dwelling units to the Seller which shall be applied to reduce the Purchase Price for the entire Premises." LPA, p. 3, ll. 10 – 15.

6. PAGI's Attorney Laura Paton cites the following frauds:

45. That Richard Clark and Steve Lovell controlled, owned and operated other corporate entities, hereinafter referred to as "John Doe Corporations", which were created to perform single purpose functions in order to effectuate the sole will of Messrs. Clark and Lovell.

46. That in or around December 2010, Defendant Hutson met with the TLC parties and advised the TLC parties that he sought to purchase the lake-front land at 5215 Dingle Pond Road, Summerton, SC, close the campground currently operating at the property, and develop water-front condominiums on the land.

47. 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").

48. 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.

49. 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.

50. That during the December 2010 meeting the TLC parties advised Mr. Hutson that BWR had no known debt.

51. 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.

52. That during and after the December 2010 meeting, the TLC parties concealed BWR's $300,000 annual losses.

53. That during the December 2010 meeting the TLC parties advised Mr. Hutson that BWR had no accounting records.

54. That during the December 2010 meeting the TLC parties advised Mr. Hutson that the value of BWR was $500,000 and the value of the land at 5215 Dingle Pond Road, Summerton, SC was $6 million.

55. That TLC parties and Mr. Hutson negotiated for Mr. Hutson to lease the land with the option to purchase in 12 months for $6 million or 24 months for $7 million.

56. That during the December 2010 meeting the TLC parties and Mr. Hutson discussed the length of the Lease Purchase Agreement so that Mr. Hutson would have sufficient time to secure the necessary permits to develop the property.

57. That prior to executing the Lease Purchase Agreement and the Membership Interest Purchase Agreement (hereinafter collectively "the Agreements" attached as Exhibits A and B), Mr. Hutson searched the property title record; no liens or encumbrances were found.

58. That prior to purchase by Mr. Hutson, the TLC parties negotiated with Black River Electric for underground power.

59. That prior to purchase by Mr. Hutson, the TLC parties received, but refused to pay, for the cost of installation of the underground power.

60. 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.

61. That subsequent to the December 2010 meeting, the TLC parties and Mr. Hutson executed the Membership Interest Purchase Agreement for BWR and a Lease Purchase Agreement for the property at 5215 Dingle Pond Road, Summerton, SC (hereinafter collectively "the Agreements").

62. That the Membership Interest Purchase Agreement includes a representation by the TLC knowledge of the Sellers threatened."

63. That the Membership Interest Purchase Agreement includes a representation by the TLC parties that, "Seller represents, warrants and covenants to Purchaser as follows: "(the business is) In compliance with all laws regulations and orders applicable to its business."

64. That the Membership Interest Purchase Agreement includes a representation by the TLC parties representing that they had “good and marketable title to all of its properties and assets.”

65. 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.

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)

66. That prior to execution of the Agreements, the TLC parties knew that there were approximately 700 “Retail Membership Agreements” encumbering the property.

67. That prior to the execution of the Agreements, 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'."

68. That the TLC parties knowingly and / or negligently failed to disclose and / or concealed information that the Retail Membership Agreements provided that each holder: 1) a right to use campground facilities, and services solely for members recreational and enjoyment, (emphasis supplied), 2) this right to use the facilities ranges from 5 years up

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

70. That the TLC parties knowingly and / or negligently failed to record the timeshares encumbering the property as required by statute and, therefore, hid from disclosure the encumbrances upon the property prior to Defendant Hutson's execution of the Agreements.

71. That the TLC parties had a statutory duty to record the encumbrances pursuant to 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'."

72. That Mr. Hutson and his attorney performed title searches with the Clarendon County Register of Deeds prior to purchase and no encumbrances as to the time shares were found.

73. 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.

74. 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 require disclosure by statute and induced Mr. Hutson to enter into the Agreements.

75. 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.

76. 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 his reliance on the TLC parties representations.

77. 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.

FOR A SECOND CAUSE OF ACTION

(Fraud, or in the Alternative, Negligent Misrepresentation – Material Misrepresentation as to Financial Position as to the TLC Parties)

78. That prior to execution of the Agreements, the TLC parties advised Mr. Hutson that the value of BWR was $500,000 and the value of the land at 5215 Dingle Pond Road, Summerton, SC was $6 million.

79. That prior to execution of the Agreements, the TLC parties advised Mr. Hutson that BWR had an annual income of approximately $200,000.00.

80. That 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 per year, outstripping its income.

81. That prior to execution of the Agreements, the TLC parties advised Mr. Hutson that BWR had no accounting records.

82. That prior to execution of the Agreements, the TLC parties knew that the operating expenses of BWR exceeded its income.

83. That prior to execution of the Agreements by Mr. Hutson, the TLC parties negotiated with Black River Electric for underground power.

84. That prior to execution of the Agreements by Mr. Hutson, the TLC parties received, but refused to pay, for the cost of installation of the underground power.

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

86. That Mr. Hutson had a right to rely, and did rely, on the various representations of the TLC parties' as to the condition of their business and its encumbrances, including, but not limited to, those representations expressly outlined in the Agreements signed by the TLC parties.

87. That the TLC parties actively, intentionally, willfully, wantonly, recklessly, and / or negligently misrepresented and / or concealed the financial condition, including, but not limited to, the operating costs and expenses of BWR, to induce Mr. Hutson to purchase BWR and enter into the Agreements.

88. That the TLC parties actively, intentionally, willfully, wantonly, recklessly, and / or negligently misrepresented and / or concealed the financial condition, including, but not limited to, the annual income of BWR and accounting records of BWR, to induce Mr. Hutson to purchase BWR and enter into the Agreements.

89. That the TLC parties actively, intentionally, willfully, wantonly, recklessly, and / or negligently misrepresented and / or concealed the financial condition, including, but not limited to, the debt owed to Black River Electric, to induce Mr. Hutson to purchase BWR and enter into the Agreements.

90. That as a result of the TLC parties' intentional, active, willful, wonton, and / or reckless and / or negligent misrepresentations and / or concealments, inducing Mr. Hutson to enter into the Agreements, he has suffered irreparable harm including, but not limited to, significant financial harm.

91. 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.

FOR A THIRD CAUSE OF ACTION

(Defamation / Libel Per Se as to the TLC parties)

92. That on or about April 3, 2014, the TLC parties wrote to the members of the Big Water Resort Campground the letter at Exhibit C.

93. That in their correspondence, the TLC parties included untrue statements impugning Mr. Hutson's performance as one-time owner of Big Water Resort.

94. That the TLC parties' correspondence was made with actual and / or implied malice and intended to degrade and reduce the character and / or reputation of Mr. Hutson to others.

95. That as a direct and proximate result of the TLC parties' actions, including, but not limited to, the malicious publication of libelous materials to the members of the Big Water Resort, 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.

AS A FOURTH CAUSE OF ACTION AGAINST THE TLC PARTIES

(Breach of Contract Accompanied by a Fraudulent Act, or, in the alternative, Breach of Contract)

96. That the TLC entities and Defendant Hutson entered into the Agreements as outlined above.

97. That the Agreements contained certain provisions as outlined above including, but not limited to:

a. Warranties as to good and marketable title to all its properties and assets;

b. Seller represents, warrants and covenants to Purchaser as follows: . . . further, there are no actions, suits, or proceedings, either at law or equity . . . or to the knowledge of Sellers, threatened;

c. Seller represents, warrants and covenants to Purchaser as follows: (e.) In compliance with all laws, regulation and orders applicable to its business"

98. That in breach of the afore mentioned Agreements, the TLC entities:

a. Did not have marketable title and, in fact, such title was encumbered by timeshares;

b. That a substantial outstanding debt was owed Black Water Electric which could lead to litigation;

c. That the TLC entities failed to record timeshares as required by statute; and d. Other such breaches as may be determined.

99. This constitutes a breach of the Agreements with Mr. Hutson and accompanying this breach was the fraudulent acts:

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 / misrepresentations as may be discovered.

100. The TLC entities either knew or should have known of said defects, all of which proximately caused the damage herein above and hereinafter described and entitles Mr. Hutson to punitive damages.

AS A FIFTH CAUSE OF ACTION AGAINST THE TLC PARTIES

(Violation of the South Carolina Unfair Trade Practices Act S.C. Code § 39-5-10, et seq.)

101. The TLC parties and the John Doe Corporations' creation of BWR and the subsequent offering and sale of BWR and the lease-purchase of the property, along with other representations to the holders of the Retail Membership Agreements in BWR, potential purchasers of BWR pre-dating Mr. Hutson's purchase, and the public at large, constituted the conduct of trade and commerce within the meaning of S.C. Code Section 39-5-20(a).

102. The TLC parties and the John Doe Corporations, and each of them, through their acts and omissions including, but not limited to, the following particulars, conducted unfair and deceptive practices within the meaning of S.C. Code Section 39-5-140(a) and 27-31-430, S.C. Code of Laws as amended:

a) in failing to disclose the Vacation Time Shares encumbering the property;

b) In failing to record the memberships as required pursuant to

c) In failing to pay and subsequently hiding the debt owed to Black River Electric;

d) in failing to provide any additional consideration for subsequent attempts to modify their agreement;

e) 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;

f) in making false representations as to the condition of the business and properties at issue in the Agreements and/or 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

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

103. The conduct of The TLC parties in their ownership and management of TLC Holdings, BWR, and the John Doe Corporations, as described above, was knowing and willful, and the TLC parties knew or should have known that such conduct was a violation of S.C. Code Section 39-5-20 and 27-31-430.

104. Mr. Hutson is a person within the meaning of S.C. Code Section 39-5-140(a) and has suffered actual, direct, and proximate damages as a direct and proximate result of unfair and deceptive acts of the TLC parties, in an amount to be determined by the trier of fact.

105. The aforesaid acts of the TLC parties impact the public interest in that they constituted unfair and deceptive acts and have the potential for repetition and, in fact, occurred at the

execution of the Agreements and may continue to occur as the TLC entities engage in other enterprises related to the Retail Memberships and BWR and, as such, are acts which can, have and will affect the public at large by repetition.

106. These unfair and deceptive acts are acts which will affect members of the public, beyond the parties to the above-described transactions, in the form of other consumers who may be injured by purchasing new memberships or other such timeshare that the TLC parties and the John Doe Corporations offer on the land which, upon information and belief, those entities, and / or the amalgamated John Doe Corporations own and operate whereby placing members of the public in danger of harm.

107. 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.

AS A SIXTH CAUSE OF ACTION

(Amalgamation, Alter Ego Liability and Piercing the Corporate Veil as to the TLC Parties and the John Doe Corporations)

108. The TLC parties, by and through various instrumentalities and alter-egos and other companies to be named at a later date were the original developers and / or operators of BWR.

109. That the TLC parties, with their John Doe Corporations, combined and joined together through various instrumentalities, alter egos, and amalgamated entities, to facilitate to process of developing BWR, encumbering BWR with various debts, and concealing such debts from Mr. Hutson.

110. The TLC parties created and controlled numerous and various entities (hereinafter the John Doe Corporations) to be expressly named at a later date, for the sole purpose of the activities solely relating to development and sale of memberships related to BWR.

111. The TLC parties and the John Doe Corporations created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of Messrs. Lovell and Clark to achieve their financial goals and to perpetrate the activities more particularly described herein.

112. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between The TLC parties and the John Doe Corporations and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

113. The TLC parties created entities which were created to perform single purpose functions in order to effectuate the sole will of the TLC parties to perpetuate the acts described herein. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, the TLC parties and the John Doe Corporations actively and directly in the activities herein, and in fact put BWR in the stream of commerce.

114. The TLC parties and the John Doe Corporations created and controlled numerous and various John Doe Corporations / corporate entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of memberships, and other activities solely relating to BWR as described more particularly herein.

115. The sham entities established by the TLC parties and / or the John Doe Corporations were and are characterized by one or more of the following: (I) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) Insolvency; (5) Lack(ed) proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates.

116. Upon information and belief, each shared the same mailing / emailing address, the TLC parties and the John Doe Corporations directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or the TLC parties and the John Doe Corporations directly contracted for the sham entities in the name of the TLC parties and the John Doe Corporations.

117. The TLC parties and the John Doe Corporations directed and oversaw the fraudulent / negligent actions described herein.

118. There would exist a broad element of injustice and fundamental unfairness if the acts of the TLC parties, including Messrs. Lovell, Clark, and TLC Holdings, LLC, and the John Doe Corporations, and each of them individually, were not regarded as the acts of one another.

119. At the time BWR and the Lease-Purchase Agreement were offered and placed into the stream of commerce by the TLC parties and the John Doe Corporations, the faulty defects and deficiencies heretofore described were hidden and concealed through the acts and omissions of the TLC parties and the John Doe Corporations.

120. That the TLC parties and the John Doe Corporations, knew or should have known of the existence of the said defects and deficiencies, which were unknown by and / or concealed from Mr. Hutson.

121. These hidden defects, including, but not limited to, defective, un-marketable title and outstanding and oppressive debts, which unbeknownst to Mr. Hutson, rendered the business and the Lease-Purchase Agreement undevelopable and worthless.

122. The resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

123. Mr. Hutson suffered damages and injuries when the TLC parties and the John Doe Corporations put BWR and the properties described in the Lease-Purchase Agreement into the stream of commerce and continue to be damaged and injured through the date of this filing.

124. As a direct and proximate result thereof, the TLC parties and the John Doe Corporations are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, 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 warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

Cannons and Rules currently being violated by the Officers of the Court include:

I. CANNON (3) d

The trial court has the inherent authority, within the exercise of sound judicial discretion, to dismiss an action when a plaintiff has perpetrated a fraud on the court, or where a party refuses to comply with court orders". Kornblum v. Schneider, 609So. 2d 138, 139 (Fla. 4th DCA 1992)".

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.*

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge* that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.*

II. SCRPC, Rule 1.6 p. 81 (2016 ed) Wherein "a lawyer shall not reveal information .... unless the client gives informed consent.

III. Case Law also states that when a judge acts as a trespasser of the law, when a judge does not follow the law, he then loses subject matter jurisdiction and the Judges orders are void, of no legal force or affect.

IV. United States Court of Appeals for the Sixth Circuit has delineated five (5) elements of conduct that constitute 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;"
5. "That deceives the Court."

South Carolina Rule 3.3. Candor Towards the Tribunal: "One who intentionally conceals critical evidence for the sole purpose of self preservation at the cost of disgracing, deceiving,

plotting and defrauding the Honorable Court, is creating Extrinsic fraud upon the court".

SCRPC, Rule 8.3 (b) and cmt. 1. "As a self-regulating profession, lawyers are expected to report serious misconduct by other lawyers to appropriate disciplinary authorities. The duty to report the misconduct of others extends even to misconduct by another lawyer in the same firm".

Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities

(A) Respect for Law. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

CANNON (3) d,2:

The trial court has the inherent authority, within the exercise of sound judicial discretion, to dismiss an action when a plaintiff has perpetrated a fraud on the court, or where a party refuses to comply with court orders". Kornblum v. Schneider, 609So. 2d 138, 139 (Fla. 4th DCA 1992)".

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.*

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge* that a lawyer has committed a

violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.*

Lawyer's Oath South Carolina Appellate Court Rule 402 (k) SCRPC p. 1, ll. 10-11.

"To opposing parties and their counsel, I pledge fairness, integrity and civility, not only in court, but also in all written and oral communications."

NOTE: Case Law also states that when a judge acts as a trespasser of the law, when a judge does not follow the law, he then loses subject matter jurisdiction and the Judge's orders are void, of no legal force or affect.

Conspiracy (18 U.S. C. 371): A combination or agreement to accomplish an unlawful purpose, or to use illegal means in accomplishing a lawful purpose.

South Carolina Rules of Professional Conduct:

Rule **8.3**. **Reporting Professional Misconduct (p. 404)**

(b) "A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate professional authority".

Additionally, in **"Mandatory Duty to Report Serious Misconduct"** (p. 406): continues:

"As a self-regulating profession, lawyers are expected to report serious misconduct by other lawyers to appropriate disciplinary authorities. The duty to report the misconduct of others extends even to misconduct by another lawyer in the same firm". (emphasis mine.)

SOUTH CAROLINA RULES OF PROFESSIONAL CONDUCT (p. 408 – 409):

Rule 8.4. Misconduct

"IT IS PROFESSIONAL MISCONDUCT FOR A LAWYER TO:

(C) "commit a criminal act involving moral turpitude";
(D) "engage in conduct involving dishonesty, fraud, deceit or misrepresentation";
(E) "engage in conduct that is prejudicial to the administration of justice"

PAGI's attorney Tim Newton, Esq. lays out fraud and extrinsic fraud upon the Court in email:

From: "Tim J. Newton" <tnewton@murphygrantland.com>
Date: August 13, 2018 at 10:49:58 AM EDT
To: "Mr. H" <hmr226621@gmail.com>
Subject: RE: Setting aside the Judgment

Mr. Hutson,

I need to remind you that I don't represent you and I can't represent you because I represent Penn-America. To the extent there is a common interest, I note the following:

1. Renee Roark testified at trial in the defamation action that you contacted her in October 2010 looking for waterfront property to develop.

2. Susan Stroman admitted at trial sending you an e-mail dated November 11, 2010 in which she indicated the campground could possibly be moved or the members bought out. However, she denied having said that on behalf of TLC.

3. The alleged lease between Big Water Resort, LLC and TLC Holdings, LLC, if it existed, was never recorded, although it was for a term of more than a year.

4. The membership agreements between the campground members and Big Water Resort, LLC were never recorded. Possibly they should have been, since they granted campground members a rights to use Big Water Resort, LLC's facilities for life plus the lifetime of a survivor. See S.C. Code s 27-33-30 (requiring "any . . . agreement for the use . . . of real estate" to be recorded.

5. There is some case law indicating lifetime memberships are for the duration of the club member, and can only be terminated for cause. Paul Gabrillis, Inc. v. Dahl, 154 Or. App. 388,

961 P.2d 865 (Or. Ct. App. 1998); Martin v. Town & Country Dev., Inc., 230 Cal. App. 422, 41 Cal. Rptr. 47 (Cal. Ct. App. 1964).

6. The campground membership agreements I have seen do not specify what particular property is included in "BWR's present and future campground recreation facilities."

7. The Lease-Purchase Agreement pertains to all of TLC's property at the Campground site.

8. The Membership Interest Purchase Agreement in Big Water Resort, LLC does not specify what property is subject to the campground membership agreements.

9. The Settlement Agreement dated March 30, 2012 is between TLC Holdings, LLC (and its principals) and Hutson only. TLC is represented as the landlord, and Hutson is represented as the tenant. Big Water Resort, LLC and the campground members are not parties.

10. The Settlement Agreement, in para. 5, obligates Hutson to submit a Qualified Plat for a proposed subdivision "as shown on Exhibit 'A' attached hereto." There are provisions for an acreage release, and it appears the payments owed to TLC may be paid from the proceeds of the subdivision and sale of parcels of the property.

11. The copy of this Settlement Agreement that was made an exhibit at Hutson's bankruptcy deposition had two hand drawings immediately after the last page, which reads "Exhibit A." These drawings depict the approximate location of the proposed development as being on the campground parcel.

12. Despite the language in the Lease-Purchase Agreement and the Settlement Agreement that the subdivision and sale pertained to unimproved portions of the property, the letter that TLC's attorney Tom Harper submitted to the Clarendon County Planning Commission with TLC's approval depicts a development on the campground property.

13. The Consent Order filed April 13, 2012 incorporates the Settlement Agreement but does not otherwise mention Big Water Resort, LLC or the campground members. It reads as if it pertains to a mere landlord-tenant dispute.

14. Bonnie Youmans testified at trial (by way of her deposition) that she thought all of TLC's property was part of the Big Water Resort campground and she would have considered it a violation of the campground memberships to have developed condominiums on the campground property. This testimony was unopposed.

15. I can see how you could argue that the Consent Order is invalid because it attempts to adjudicate the rights of parties not before it. If you were ordered to develop property that was subject to lifetime use rights, that probably should have been brought to the court's attention. Furthermore, I can see how you could argue you did not realize you were being obligated to violate the rights of the campground members by developing since TLC never specified exactly which property was subject to the campground memberships.

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, t

Tim N.

RULE 3.3: CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) apply when the lawyer is representing a client before a tribunal as well as in an ancillary proceeding conducted pursuant to the tribunal's adjudicative authority, such as a deposition. These duties continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Comment

[1] This Rule governs the conduct of a lawyer who is representing a client in the proceedings of a tribunal. See Rule 1.0(q) for the definition of "tribunal." It also applies when the lawyer is representing a client in an ancillary proceeding conducted pursuant to the tribunal's adjudicative authority, such as a deposition. Thus, for example, paragraph (a)(3) requires a lawyer to take reasonable remedial measures if the lawyer comes to know that a client who is testifying in a deposition has offered evidence that is false.

[2] This Rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client’s case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

Representations by a Lawyer:

[3] An advocate is responsible for pleadings and other documents prepared for litigation, but is usually not required to have personal knowledge of matters asserted therein, for litigation

documents ordinarily present assertions by the client, or by someone on the client's behalf, and not assertions by the lawyer. Compare Rule 3.1. However, an assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry. There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation. The obligation prescribed in Rule 1.2(d) not to counsel a client to commit or assist the client in committing a fraud applies in litigation. Regarding compliance with Rule 1.2(d), see the Comment to that Rule. See also the Comment to Rule 8.4(b).

Legal Argument

[4] Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph (a)(2), an advocate has a duty to disclose directly adverse authority in the controlling jurisdiction that has not been disclosed by the opposing party. The underlying concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case.

Offering Evidence

[5] Paragraph (a)(3) requires, that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes. This duty is premised on the lawyer's obligation as an officer of the court to prevent the trier of fact from being misled by false evidence. A lawyer does not violate this Rule if the lawyer offers the evidence for the purpose of establishing its falsity.

[6] If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of a witness's testimony will be false the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present the testimony that the lawyer knows is false.

[7] The duties stated in paragraphs (a) and (b) apply to all lawyers, including defense counsel in criminal cases. Counsel, however, may allow the accused to give a narrative statement if the accused so desires, even if counsel knows that the testimony or statement will be false. See also Comment [9]. When a narrative statement is offered under these circumstances, the lawyer may not examine the witness or use the false testimony in the closing argument.

[8] The prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances. See Rule 1.0(h). Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood.

[9] Although (a)(3) only prohibits a lawyer from offering evidence the lawyer knows to be false, it permits the lawyer to refuse to offer testimony or other proof that the lawyer reasonably believes is false. Offering such proof may reflect adversely on the lawyer's ability to discriminate in the quality of evidence and thus impair the lawyer's effectiveness as an advocate. Because of the special protections historically provided criminal defendants, however, this Rule does not permit a lawyer to refuse to offer the testimony of such a client where the lawyer reasonably believes but does not know that the testimony will be false. Unless the lawyer knows the testimony will be false, the lawyer must honor the client's decision to testify. See also Comment [7].

Remedial Measures

[10] Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures. In such situations,

the advocate's proper course is to remonstrate with the client confidentially, advise the client of the lawyer's duty of candor to the tribunal and seek the client's cooperation with respect to the withdrawal or correction of the false statements or evidence. If that fails, the advocate must take further remedial action. If withdrawal from the representation is not permitted or will not undo the effect of the false evidence, the advocate must make disclosure to the tribunal. It is for the tribunal then to determine what should be done making a statement about the matter to the trier of fact, ordering a mistrial or perhaps nothing.

[11] The disclosure of a client's false testimony can result in grave consequences to the client, including not only a sense of betrayal but also loss of the case and perhaps a prosecution for perjury. But the alternative is that the lawyer cooperate in deceiving the court, thereby subverting the truth finding process which the adversary system is designed to implement. See Rule 1.2(d). Furthermore, unless it is clearly understood that the lawyer will act upon the duty to disclose the existence of false evidence, the client can simply reject the lawyer's advice to reveal the false evidence and insist that the lawyer keep silent. Thus the client could in effect coerce the lawyer into being a party to fraud on the court.

Preserving Integrity of The Adjudicative Process

[12] Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as bribing, intimidating or otherwise unlawfully communicating with a witness, juror, court official or other participant in the proceeding, unlawfully destroying or 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.

Duration of Obligation

[13] A practical time limit on the obligation to rectify false evidence or false statements of law and fact has to be established. The conclusion of the proceeding is a reasonably definite point for the termination of the obligation. A proceeding has concluded within the meaning of this Rule when a final judgment in the proceeding has been affirmed on appeal or the time for review has passed.

Ex Parte Proceedings

[14] Ordinarily an advocate has the limited responsibility of presenting one side of the matters that a tribunal should consider in reaching a decision; the conflicting position is expected to be presented by the opposing party. However, in any ex parte proceeding, such as an application for a temporary restraining order, there is no balance of presentation by opposing advocates. The object of an ex parte proceeding is nevertheless to yield a substantially just result. The judge has an affirmative responsibility to accord the absent party just consideration. The lawyer for the represented party has the correlative duty to make disclosures of material facts known to the lawyer and that the lawyer reasonably believes are necessary to an informed decision.

Withdrawal

[15] Normally, a lawyer's compliance with the duty of candor imposed by this Rule does not require that the lawyer withdraw from the representation of a client whose interests will be or have been adversely affected by the lawyer's disclosure. The lawyer may, however, be required by Rule 1.16(a) to seek permission of the tribunal to withdraw if the lawyer's compliance with this Rule's duty of candor results in such an extreme deterioration of the client-lawyer relationship that the lawyer can no longer competently represent the client. Also see Rule 1.16(b) for the circumstances in which a lawyer will be permitted to seek a tribunal's permission to withdraw. In connection with a request for permission to withdraw that is premised on a client's misconduct, a lawyer may reveal information relating to the representation only to the extent reasonably necessary to comply with this Rule or as otherwise permitted by Rule 1.6.

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1. No judge has reported the attorneys' intentional fraud upon the court in Hutson's case, even though Canon rules and South Carolina Rules of Professional Conduct require that judges report such illegal actions.
2. The Officers of the Court, through their intentional lack of reporting have damaged Appellant/Hutson fiscally and impaired his quality, and most likely his length of life in addition to other damages yet to be determined.
3. Therefore, all papers filed (in the Common Pleas and the Appellant Courts) by PAGI's attorneys are tainted and cloaked with fraud. This is due to PAGI's attorneys claiming that all legal filings by Appellant/Hutson are frivolous, while continuing to cover their failure to expose the Extrinsic Fraud that caused Appellant's loses.
4. PAGI and their attorneys fully understood that since Extrinsic Fraud prevents one (in this situation, Hutson) from 'presenting their case' and tilts the scales of justice totally in the favor of those who created and/or fail to expose the Extrinsic Fraud, it has made it impossible for Appellant /Hutson to win any of those tainted cases in court.
5. All PAGI'S attorneys understand that they have committed serious violations and have broken countless rules and laws that would cause them to lose their licenses to practice law. However, in hope of defeating a Pro Se (Hutson), and escaping their just and due consequences for not reporting the Extrinsic Fraud (and its original conspirators—fellow attorneys), to the proper authorities they actively continue to deny that they knew. That, in itself, constitutes extrinsic fraud for they KNEW or SHOULD HAVE KNOWN.

ANOTHER EXAMPLE OF EXTRINSIC FRAUD UPON THE COURT:

1. A police officer is standing at an intersection watching traffic.

2. A citizen approaches the officer asking for directions.

3. All of a sudden, a deranged man steps off a bus in the intersection and starts shooting toward the officer and the Citizen.

4. Seeing that the officer does not take any action, and fearing for his life, the citizen, who happens to be licensed and legally armed, jerks out his pistol, shooting the deranged shooter, killing him.

5. Since the officer is required to write up a police report, he takes out his pad and writes that "Citizen shot the deranged man," but intentionally leaves out the crucial facts/evidence that citizen was defending himself (self-defense) because the officer on the scene failed to draw and stop the initial shooter. Therefore, the officer was protecting his own indiscretion and failure to act.

How could that Appellant get a fair trial?

PAGI and their attorneys did the same thing to Appellant/Hutson. They did not take action to stop, nor to report, TLC Holdings, LLC's attorneys from continuing the Extrinsic Fraud which they had originally created. Instead PAGI's attorneys collaborated with TLC Holdlings, LLC and their attorneys. The PAGI attorneys are cowards and liars; law breakers rather than law upholders and have thereby become party to committing Obstruction of Justice, preventing Appellant/Hutson from ever having had his cases heard in Court -- intentionally to speed the process of getting Appellant's case 'off PAGI's books' while fully understanding that they were setting up this Appellant to be permanently and irreparably damaged with indigency and disgrace.

South Carolina Appellate Court Rule 407: page (7) (8) paragraph (5) states:

"A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official actions, it is also a lawyer's duty to uphold legal process."

Rule 3.3. Candor Towards the Tribunal:

"(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal."

Association of Certified Fraud Examiners (ACFE), World Headquarters-The GREGOR BUILDING Austin, TX:

> *" Criminal Fraud Charges; page (8) second paragraph..."This is because one of the elements of civil fraud requires that the defendant knew that the statement was false and intended the victim to rely upon it."*

U.S. Code 1324c. Penalties for document fraud:

"*Falsely make for purposes of this section, the term "falsely make" means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for* which it was submitted"

Respondent's are now using Appellant's failed cases (which were due to the hidden extrinsic fraud) as a defense to prevail for their client PAGI stating that Hutson's cases were frivolous, as well. They are creating this defense to hide their own actions of conspired, extrinsic fraud and deception against both the courts and the Appellant/Hutson. Prosecuting a defense against this Appellant and concealing evidence by way of extrinsic fraud to prevent Appellant from being heard is "Obstruction of Justice".

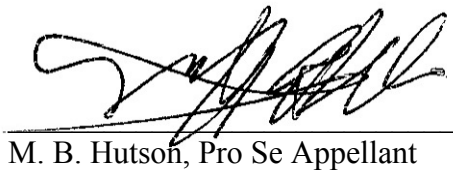
These losses in the courts at the hands of these Respondents for failing to execute their duty to report fraud upon the court by their peers and colleagues is inexcusable and should be dealt with sternly.

Reparations can remedy financial losses, but not reduced years of life. May the Appellate Court or the Common Pleas Judges rise above the fray and administer justice.

The Respondents' illegal case, laden with fraud and corruption against Appellant and the courts demands that this Appellate Court, Common Pleas reverse this case for a jury trial, in its entirety. Otherwise, this Honorable Courts will intentionally allow Extrinsic Fraud to continue to corrupt the Judicial System, as unknowingly Judges before them have done.

HUTSON HAS CLEARLY PROVEN THAT THE JUDGE HEARING THIS CASE MUST SEND IT TO A JURY DUE TO THE CONCRETE PROOF OF LIES, DECEPTION, FRAUD AND EXTRINSIC FRAUD. WITNESSES ARE NEEDED TO TESTIFY AND DEFENDANTS (INCLUDING ALL OF PAGI ATTORNEYS) NEED TO TESTIFY IN FRONT OF A JURY. HUTSON DEMANDS A JURY TRIAL AND NOT TO BE THROWN OUT BY A SUMMARY JUDGMENT.

Respectfully Submitted March 08, 2021; and resubmitted on this document March 10, 2021.



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PROOF OF SERVICE ON FOLLOWING 2 PAGES.

NOTE: ***VERIFICATION OF EMAIL SERVICE TO PARTIES*** IS THE LISTING OF PARTIES NAMES/EMAILS IN THE "CC" SECTION OF THIS EMAIL WHICH IS SERVED TO THE APPELLATE COURT, AS WAS THE ORIGINAL MARCH, 2021 FILING. THIS SATISFIES THE SUPREME COURT'S AMENDED ORDER FOR SERVICE: (ITEM (6), # (3) LINES 6-8).