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**Sep 17 2021**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

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Appellate Case No. 2019-001488  
Civil Action Case No. 2018-CP-40-06344

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MB Hutson/MB Hudson, .....Appellant,

v.

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

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**RESPONDENTS' RESPONSE TO  
APPELLANT'S MOTION FILED SEPTEMBER 7, 2021  
REGARDING THE RECORD ON APPEAL**

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Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules and all other applicable authority, Respondents Penn America Insurance Company and Global Indemnity Group, Inc. ("Respondents PAIC"), Timothy J. Newton ("Newton") and J.R. Murphy ("Murphy") (collectively "Respondents"), hereby respond to Appellant M.B. Hutson's Motion filed September 7, 2021 regarding correction and clarification of the Record on Appeal (hereinafter "ROA"). For the reasons set forth below, Hutson's Motion should be denied.

## ARGUMENT

This Court has been crystal clear in its directives regarding the ROA. Since March 11, 2021 (over six months ago), Hutson has had one, and only one, duty—to re-file the February 22, 2021 ROA in compliance with the per-volume page limit and with no changes to the content or pagination.

### **I. Modification of the content of the ROA should not be permitted.**

To the extent Hutson seeks modification of the content of the ROA, any such request is long overdue. This Court has repeatedly ruled that the content of the re-filed ROA is to remain unchanged from the February 22, 2021 version. Pursuant to Rule 240(i), SCACR, motions for reconsideration will not be entertained. Therefore, any request to change the content or pagination of the ROA should be denied.

### **II. The alleged issues with the Index to the ROA have been resolved.**

Concerning the Index to the ROA, Hutson's motion is also a rehash of issues that were previously resolved. Respondents informed Hutson of the changes to the Index to which they consented and included them in a motion. (Respds' Third Joint Mot. for Corr. and Clarification of the ROA filed Mar. 31, 2021, Exh. A.) This Court granted Respondents' Motion on May 5, 2021. Hutson should incorporate those changes into the Corrected, Amended Index filed February 23, 2021.

### **III. The Index should reflect the changes to which Respondents consented.**

Respondents would show the changes to the Index to which they consented are appropriate. The changes are necessary to reflect the fact that Exhibits 1 and 2 to Newton's Affidavit are now located in the Appendix. Respondents also requested that Hutson correct the page numbers for the Certificate of Compliance and the Appendix in the version of the Index

filed on February 23, 2021. These changes are not substantive. They were requested to ensure that the Index accurately references the documents contained in the ROA.

### **CONCLUSION**

For the above reasons, Hutson's motion for clarification should be denied. The content of the ROA has been specified by prior Order. The pagination and number of pages per volume are established through prior Orders. The content of the Index has been agreed to by the parties and is not in need of clarification.

Respondents therefore request the following rulings:

- (1) Volume II of the ROA should be re-filed and served within ten days;
- (2) Volume III of the ROA should be corrected to comply with this Court's July 15, 2021 Order and filed and served within ten days; and
- (3) Hutson should be directed to re-file the Index within ten days incorporating the agreed changes as reflected in Respondents' Third Motion filed March 31, 2021, Exhibit A; and
- (4) Hutson's failure to comply with directives (1), (2), and (3) within ten days should result in automatic dismissal of this appeal.

*[Signature page follows]*

Respectfully submitted,

*s/Christian Stegmaier (with permission)*

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Dated: September 17, 2021

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CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondents Timothy J. Newton and J.R. Murphy, do hereby certify that I have this date served the foregoing **RESPONDENTS' RESPONSE TO APPELLANT'S MOTION FILED SEPTEMBER 7, 2021 REGARDING THE RECORD ON APPEAL** by causing the same to be deposited in a United States Postal Service mailbox, postage prepaid, and via electronic mail, addressed to the following:

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Dated: September 17, 2021