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SC Court of Appeals

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

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

M B Hutson, Appellant, hereby responds collectively to Respondents (1) Penn America and (2) Global Indemnity Group, Inc. (PAIC) , (3) Timothy Newton, and (4) JR Murphy's Response to Appellant's Motion filed September 7, 2021 regarding the Record on Appeal. For the reasons set forth below, Appellant asserts that "Respondents' Request that Appellant's Motion be denied" should NOT be granted.

ARGUMENT

Upon receiving an said order from the Appellate Court, Appellant made multiple calls to the Appellate Court for guidance in the proper re-filing of the Record of Appeal. As a result, the newly bound Record was completed in/with the utmost compliance to that guidance from the court. Exhibits that were presented in the Appendix, submitted by Respondents' counsel (L. Baer, Esq.) and dually agreed upon by Appellant and Respondents were respected therein. Baer, Esq. assured Appellant that all Respondent parties agreed with that plan.

I. APPELLANT'S ANSWER TO: Newton's "Modification of the content of the ROA should not be permitted."

Appellant resubmitted the ROA from a download from the Court website on the specified date according to the Court's Order. Therefore Newton's grounds for his request should be null and void.

II. APPELLANT'S ANSWER TO: Newton's "Alleged issues with the Index to the ROA": Due to Newton's filings in the lower court being awkward, filed and corrected on different days, L. Baer, Esq. stated that she would include those in an Appendix. She did, in totality. This was agreed upon by Appellant and Respondents (Baer for Newton). Honoring that agreement, the Appendix was unchanged, but submitted in its complete original form in the Record on Appeal. Respondents Motion of May 5, 2021, was not available for the Index of February 23, 2021, and therefore was not available to be in the February 22 Record on Appeal, which was ordered by the Appellate Court to be used for the Record on Appeal. It is the Appellant's position, that if the court wanted something in the Amended Record of Appeal beyond what it strictly stated ("February 22nd filing), the court would have so stated. Respondent Newton's claim that Appellant

Hutson “should incorporate those changes....” goes above and beyond the court’s Order, which was explicitly complied with by Appellant. HOWEVER, Newton fails to mention that Appellant DID HAVE A NOTE at the bottom of that Index Page (3) regarding the contents of the Appendix:

“APPENDIX TO THE RECORD Beginning with Appendix p. 1342

(To be submitted by a Respondent, (at their request and with Appellant's permission per Rule 212), which was inadvertently left out of the record):

--Exhibit 2 to Affidavit of Timothy Newton :

--"Clarendon County Public Index," filed June 25, 2019 (5 pp.)”

NOTE: At that time, Baer, for Respondents and Appellant did not have a breakdown of the page numbers to cite, but agreed that they would begin on p. 1342.

Again, to comply with the Court’s Order to Use the February 22nd ROA and the agreement with Baer, Esq. for the Respondents, the request of Newton, et.al. to redo the ROA appears to be a ploy to avoid progress in this case more so than any valid claim of Appellant’s lack of effort to comply. Appellant asserts that Respondent Newton’s Claim is invalid and this case should not be considered and this appeal should not be dismissed.

III. Appellant’s answer to Newton’s: “THE INDEX SHOULD REFLECT THE CHANGES TO WHICH RESPONDENTS CONSENTED”. In fact and reality, the Index **does precisely reflect** the changes to which Respondents consented.

L. Baer, Esq. Specified that she would begin on the page # set forth in the Index. She did. HOWEVER, what she chose to do extended the agreement, but was not challenged by Appellant. Baer stated she would ADD Ejects 001 to 155 and the Clarendon County Public Index. She added (repeating some files) beyond that. Appellant did not make it an issue although it increased the pages. Having

accommodating Baer and honoring what she felt was appropriate, seeing no reason to challenge that, Appellant finds it now, shall we say “nit-picking” that Newton wants to challenge that and start a chain reaction of having everyone redo their submissions. Appellant sees no reason to challenge Baer’s work. It was a non-issue for Appellant. Furthermore, Appellant sees Newton’s coming in on the heels of Baer’s work that was presented to Appellant as being in full agreement with the other Respondents, and in full cooperation of all parties as merely one other desperate attempt to have this case not reviewed.

Therefore, on the grounds presented above, Appellant requests the following rulings:

- (1) Hutson NOT be required to again make re-filings of the Record on Appeal, which was organized with the cooperative input of Respondents and Appellant.
- (2) NO “automatic dismissal in ten days” should be granted as Respondents’ requests lie outside the Order of the Court that was duly complied with.
- (3) The Court accept the filed Record on Appeal (which is the second one) as Appellant has already duly complied with the requests of the Court.

Respectfully submitted this 21st day of September, 2021.

September 21, 2021



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PROOF OF SERVICE

I certify that I have electronically filed and served a copy of APPELLATE'S RESONSE TO RESPONDENTS' RESPONSE TO APPELLANT'S MOTION FILED SEPTEMBER 7, 2021 REGARDING THE RECORD ON APPEAL with this PROOF OF SERVICE on Penn America Insurance Company & Global Indemnity Insurance Company's, attorneys of record, Christian Stegmaier and Laura Baer, cstegmaier@collinsandlacy.com and lbaer@collinsandlacy.com, respectively, and also to J. R. Murphy, Esq., and Timothy Newton, Esq. (both acting as Pro Se) at jrmurphy@murphygrantland.com and newton@murphygrantland.com, respectively.

September 21, 2021



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