

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**Nov 08 2021**

**SC Court of Appeals**

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

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

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Penn America Insurance Company and Global Indemnity Group, LLC,

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.

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**RESPONDENTS' FIRST MOTION FOR CORRECTION  
OF THE RECORD ON APPEAL  
AND REQUEST FOR ABEYANCE OF FINAL BRIEFING DEADLINES**

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Pursuant to Rule 210 of the South Carolina Appellate Court Rules and all other applicable authority, Respondents Penn America Insurance Company, Global Indemnity Group, Inc., Christian Stegmaier, Esq., and Collins & Lacy, PAIC (“Respondents PAIC”), and Respondents Timothy J. Newton, Esq. and Murphy & Grantland, P.A (“Respondents Newton/M&G”) (collectively “Respondents”), jointly move this Court for an Order directing correction of the Record on Appeal. In support thereof, Respondents state as follows:

1. On Thursday, October 28, 2021, Appellant served and filed a five-volume Record on Appeal in this matter via e-mail filing.

2. On Friday, October 29, 2021, Appellant served and filed an “adjusted” five-volume Record on Appeal in this matter via e-mail filing (“the Record”). Based upon this filing, Respondents have discarded the prior filing made on October 28, 2021.

3. Respondents have meticulously reviewed the content of the 15-page Index and the 2,096-page Record, contrasting the same with the three Designations of Matter filed by the respective parties to this matter on February 6, 2021, March 8, 2021, and March 9, 2021, as well as the pleadings on file in the Richland County Public Index.

4. Respondents identified numerous errors and extraneous, argumentative language in the Index to the Record. The Index often refers to documents in a manner other than how the document is captioned, and exhibit numbers are omitted or confusing. While Respondents will not detail every instance, examples include:

- a. The Index fails to list that Hutson’s Amended Cross Complaint/Motion starts on page 307;
- b. The Index fails to note that the documents beginning on pages 400 to 673 are Exhibits to Newton and Murphy & Grantland’s Motion to Dismiss/for Summary

Judgment filed Sept. 15, 2020, and unnecessarily refers to sub-exhibit numbers within those exhibits;

- c. The document indexed as starting on page 749 is improperly characterized as “Stegmaier’s letter to McBride seeking the courts support to squelch Hutson’s efforts for justice 9/28/20”;
- d. The document indexed as starting on page 826 is improperly states that the Judge James’ Order was not properly identified.
- e. The failure to ident the items listed in the Index makes it difficult to discern where exhibits to filings are referenced.

These errors, and the manner in which the Index is organized, will make it difficult for Respondents to complete their final briefing

5. Respondents further identified errors and omissions in the content of the Record.

While many of errors are inconsequential, such that we will not note them here and are not seeking their correction, the following six errors require correction:

- a. The Record is missing one page of the five-page Form 4 Order filed Feb. 17, 2021. The Order should be provided in its entirety.<sup>1</sup>
- b. The Record is missing Exhibit 7 to the M&G Motion to Dismiss, a one-page e-mail dated Nov. 11, 2010.<sup>2</sup>

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<sup>1</sup> This document was properly designated by Respondents Newton/M&G as item 35 of their designation, and by Respondents PAIC as item 6 of their designation.

<sup>2</sup> This document was properly designated by Respondents Newton/M&G as item 9.g of their designation, and by Respondents PAIC as item 10.g of their designation.

- c. The Record is missing Exhibit 13 to the M&G Memorandum Supporting Motion to Dismiss, a one-page e-mail from John Wilkerson dated August 31, 2017.<sup>3</sup>
  - d. The Record is missing Hutson's original motion for emergency hearing filed on January 28, 2021, a 21-page filing including exhibits.<sup>4</sup>
  - e. The Record is missing Exhibit 31 to the M&G Memorandum in Support of Motion for Sanctions filed Feb. 12, 2021, a 329-page transcript of Hutson's May 18, 2015 deposition in class action suit.<sup>5</sup>
  - f. The Record is missing the two-page e-mail from Judge Hood's chambers requesting draft Orders, dated Oct. 23, 2020.<sup>6</sup>
6. Rather than request Appellant revise the Index to the Record, which would require Respondents to conduct yet another review of it as compared to the Record of over 2,000 pages, Respondents have prepared a proposed Index, attached hereto as Exhibit A.
- a. Respondents propose that this corrected Index be substituted for the Index in each volume of the Record filed on October 29, 2021, and affixed to and any all future electronic or paper filings of the Record.
  - b. If the Court requires new PDF copies of volumes One through Five with the substituted Index be electronically filed with the Court, Respondents request that Respondents be permitted to make those submissions. Otherwise, Respondents will

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<sup>3</sup> This document was properly designated by Respondents Newton/M&G as item 21.d of their designation, and by Respondents PAIC as item 22.d of their designation.

<sup>4</sup> This document was properly designated by Respondents Newton/M&G as item 27 of their designation.

<sup>5</sup> This document was properly designated by Respondents Newton/M&G as item 34.i of their designation.

<sup>6</sup> This document was properly designated by Respondents PAIC as item 33 of their designation.

be required to undergo another in-depth review of the Record to ensure no additional alterations are made by Appellant.

7. Rather than request Appellant resubmit the entire Record and insert the missing content of the Record where it belongs categorically and chronologically, Respondents propose that Appellant be directed to prepare a Sixth Volume of the Record, in accordance with the proposed Index, which contains all of and only the following:

Form 4 Order, entered Feb. 17, 2021 (complete) ..... 2070

EXHIBIT TO Newton and Murphy & Grantland’s Motion to Dismiss, or in the alternative, Motion for Summary Judgment, filed Sept. 15, 2020:

Exh. 7: E-mail dated Nov. 11, 2010 re: Big Water lifetime membership info (cited in Magistrate Baker’s Report and Recommendation) ..... 2075

EXHIBIT TO Newton and Murphy & Grantland’s Memorandum in Support of Motion to Dismiss/Summary Judgment, filed Oct. 9, 2020:

Exh. 13: Wilkerson E-mail dated Aug. 31, 2017 ..... 2076

Hutson Motion for Emergency Hearing with Exhibits, filed Jan. 28, 2021..... 2077

EXHIBIT TO Third-Party Defendants Timothy J. Newton and Murphy & Grantland, P.A.’s Memorandum in Opposition to Defendant / Third-Party Claimant Morris Beach Hutson a/k/a M.B. Hutson’s “Revisited” Amended Motion for an Emergency Hearing and in Support of Motion for Sanctions, filed Feb. 12, 2021:

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E-mail from Judge Hood’s Chambers requesting draft Orders, Oct. 23, 2020 ..... 2427

Amended Certificate of Compliance..... 2429

8. Having already expended significant time and resources reviewing the Index and the Record, Respondents seek corrections in the proposed manner in an effort to efficiently and expediently move this case forward to final briefing.<sup>7</sup>

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<sup>7</sup> These parties are involved in Appellate Case No. 2019-1488, where four motions for clarification and correction of the Record on Appeal have still not yielded compliance with the Court’s directives.

9. Because Appellant is pro se, Respondents have not sought to obtain his consent to this Motion.

### CONCLUSION

Based upon the foregoing, Respondents respectfully request that this Honorable Court:

- (1) Direct the Clerk to substitute the Index attached hereto as Exhibit A for the Index included in Volumes One through Five of the Record on Appeal filed with this Court on October 29, 2021. If the Court requires new PDF copies of volumes One through Five with the substituted Index be electronically filed with the Court, Respondents request that Respondents be permitted to make those submissions;
- (2) Direct Appellant to use the Index attached hereto as Exhibit A as the Index for any future filings of the Record on Appeal, whether electronic or paper;
- (3) Direct Appellant to prepare, file, and serve Volume Six of the Record in including *all of and only* the content addressed in this motion and in accordance with the Index attached hereto as Exhibit A;
- (4) The deadlines for filing the final briefs in this matter be held in abeyance until twenty days following correction of the Record on Appeal; and
- (5) For such other and further relief as deemed just and proper.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

*s/Laura R. Baer* \_\_\_\_\_

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**RESPONDENTS' FIRST MOTION THIRD  
JOINT MOTION FOR CORRECTION OF THE  
RECORD ON APPEAL**

Columbia, South Carolina

Dated: November 8, 2021

**CERTIFICATE OF SERVICE**

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' FIRST MOTION FOR CORRECTION OF 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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P.C.

Dated: November 8, 2021

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*MB Hutson/MB Hudson vs. Paul Weissenstein*, Civ. Action No. 2018-CP-43-1583  
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**Transcripts**

Transcript of Motions Hearing held before the Hon. Robert E. Hood, October 15, 2020..... 1991

**Exhibits**

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

**Other Documents**

Hutson E-mail to Judge Hood, Oct. 16, 2020 (providing e-mails between Hutson and Clerk on Sept. 3 and 17, 2020)..... 1372

E-mail from Judge Hood’s Chambers requesting draft Orders, Oct. 23, 2020 ..... Vol. 6: 2427

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Form 4 Order, entered Feb. 17, 2021 (complete) ..... 2070

EXHIBIT TO Newton and Murphy & Grantland’s Motion to Dismiss, or in the alternative, Motion for Summary Judgment, filed Sept. 15, 2020:

Exh.7: E-mail dated Nov. 11, 2010 re: Big Water lifetime membership info (cited in Magistrate Baker’s Report and Recommendation)..... 2075

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EXHIBIT TO Third-Party Defendants Timothy J. Newton and Murphy & Grantland, P.A.’s Memorandum in Opposition to Defendant / Third-Party Claimant Morris Beach Hutson a/k/a M.B. Hutson’s “Revisited” Amended Motion for an Emergency Hearing and in Support of Motion for Sanctions, filed Feb. 12, 2021:

Exh. 31: Transcript of Hutson Deposition in Class Action, May 18, 2015 ..... 2098

E-mail from Judge Hood’s Chambers requesting draft Orders, Oct. 23, 2020 ..... 2427

Amended Certificate of Compliance..... 2429

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