NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

STEWART TITLE GUARANTY COMPANY Appellant v. DONALD P. GRAHAM, I/T/D/B/A/ DILLON MCCANDLESS KING COULTER & GRAHAM, LLP AND DILLON MCCANDLESS KING COULTER & GRAHAM LLP Appellee	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1670 WDA 2011

Appeal from the Order entered September 27, 2011
In the Court of Common Pleas of Allegheny County
Civil Division at No(s): GD 07-018918

BEFORE: MUSMANNO, J., BOWES, J., and WECHT, J.

MEMORANDUM BY WECHT, J. Filed: February 21, 2013

Stewart Title Guaranty Company ("Appellant") challenges the trial court order dated September 21, 2011, and filed on September 27, 2011. That order dismissed all claims in the instant matter based upon the outcome of a limited trial conducted in a separate but related case. We affirm.

The dispute in this matter arose from a land deal. The trial court related the factual and the procedural history of this litigation as follows:

> [T]his litigation arises out of an installment judgment note dated May 5, 2000 with a confession of judgment clause executed in favor of Lauren D. Baltic by "Jeffrey M. Robinson individually" and "Jefferson Woodlands L.P. [by] Jeffrey M. Robinson its general partner" as "makers." On January 9, 2002, at GD-02-

> 000555, Baltic filed a complaint in confession of judgment in the amount of $66,416.87 plus interest and attorney's fees against "Jeffrey M. Robinson, individually, and t/b/d/a Jefferson Woodlands, L.P., Jefferson Woodlands, L.P. A PA Limited Partnership."[2]
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> [2] It appears that no entity named Jefferson Woodlands, LP was registered with the Department of State.
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> Jefferson Woodlands Partners, LP is a Pennsylvania limited partnership registered with the Department of State. At the time the complaint in confession of judgment was filed, Jefferson Woodlands Partners, LP owned six parcels of land.
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> On April 16, 2002, Jefferson Woodlands Partners, LP executed an agreement of sale to sell these properties to Gill Hall [Land Co ("Gill Hall")]. The owner of Gill Hall hired Attorney Donald Graham ["Appellee"[1]] to handle the closing and obtain title insurance. [Appellee] was a licensed title agent for [Appellant]. [Appellee's] title examination revealed Baltic had confessed judgment against Robinson and Jefferson Woodlands, LP. The title examination revealed that the Baltic judgment was not against Jefferson Woodlands Partners, LP, the seller of the property.
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> The title policy that [Appellee] issued did not except the Baltic judgment.
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> On February 23, 2006, Baltic commenced execution proceedings in the amount of $87,770.15 against the properties sold by Jefferson Woodlands Partners, LP to Gill Hall. Gill Hall made a claim for title insurance for the Baltic [j]udgment; [Appellant] denied the claim.
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> On April 21, 2006, [Appellant] purchased the judgment from Baltic for $73,880.58 (Complaint and Answer and New Matter ¶51), and caused her to assign her Installment Judgment Note and related Promissory Note to [Appellant].

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[1] In point of fact, both Mr. Graham and Dillon McCandless King Coulter & Graham, LLP are named defendants and appellees in this matter. Since the allegations center around the acts of Mr. Graham, however, we refer to these parties collectively as Appellee.

With respect to [Appellant's] claims against [Appellee], in my March 23, 2011 Memorandum, I ruled that all claims are dismissed if a fact-finder finds that before he issued the title policy, [Appellee], advised Larry Neish of [Appellant] of the Baltic judgment that was entered only against Jeffrey Robinson and Jefferson Woodlands, LP. I stated that while [Appellee] has other defenses to [Appellant's] claims against him, the only issue that [would] be addressed in the initial trial [was] whether [Appellee], before he issued the title policy, advised Larry Neish of the Baltic judgment that was entered only against Robinson and Jefferson Woodlands, LP.

Pursuant to my ruling that all claims against [Appellee] are dismissed if a fact-finder finds that[,] before he issued the title policy, [Appellee] advised Larry Neish of [Appellant] of the Baltic judgment that was entered only against Jeffrey Robinson and Jefferson Woodlands, LP, on June 21, 2011, I presided over a non-jury trial addressing this single issue.

At the trial, [Appellee] presented two witnesses: [Appellee] and Lawrence Neish. These were the only persons who testified.

[Appellee] testified that before he issued the title policy that is the subject of this litigation, he had a conversation with Mr. Neish of [Appellant] with regard to the Baltic judgment.

[Appellee] testified that in the course of running a search, he came across the Baltic judgment. It was [Appellee's] opinion that this judgment did not attach to the property but he had never issued a policy for [Appellant] in which there was a judgment unless it was an exception to the title insurance. He needed to talk to Mr. Neish to be sure he understood what he would need to do in order to issue the policy (T. 5). He testified that he outlined the background for Mr. Neish where he had uncovered a related Baltic judgment that in his opinion did not attach. Mr. Neish advised [Appellee] that he did not have any reason to disagree on the issue of attachment and "ultimately it was my call because I was issuing the policy and he would stand behind me in whatever decision I made on that" (T. 6).

[Appellee] testified that he came to be speaking to Mr. Neish because Mr. Neish was "agency counsel." Whenever there were questions he was the person that [Appellee] would call. He had had other communications with Mr. Neish about other transactions. He issued the policy on February 14, 2003 which was after his discussion with Mr. Neish (T. 6-7).

Mr. Neish testified that his responsibilities for [Appellant] in 2006 were as follows: His position was Western Pennsylvania District Manager and Underwriting Counsel. He was also somewhat of a claims counsel because [Appellant] did not have one in the Pittsburgh Office. As Agency Manager and Underwriting Counsel, he would communicate with agents regarding ongoing procedures, answer any questions, help them out with any difficulties they were having, and things of that nature (T. 26).

It would have been within his area of responsibility to receive a telephone call such as [Appellee] described prior to the issuance of a policy (T. 26). He does not recall the specifics of any telephone calls with [Appellee] regarding the Baltic judgment, but he recalls many conversations with [Appellee]. It was not unusual for [Appellee] to call him. On some occasions, he makes notes or a record with respect to an oral inquiry received from one of the agents. He does not know of any notes made of this telephone call, if it did occur (T. 26). He testified that about a third of his time during the day is spent taking telephone calls from agents. Most of them were not attorneys so he looked [forward] to attorney questions because it was a little more challenging or substantive. He testified that the absence of notes neither proves nor disproves that the telephone call could have occurred as described by [Appellee] (T. 28-29).

I found to be credible the testimony of [Appellee] describing his conversation with Mr. Neish prior to the issuance of the title policy. I found the testimony of Mr. Neish that [Appellee] frequently telephoned him, and that the telephone call described by [Appellee] is the type of a call for which Mr. Neish would provide guidance [*sic*]. Furthermore, Mr. Neish did not testify that the advice that he gave to [Appellee], as described by [Appellee], was a response that Mr. Neish would never have given.

The only remaining claim against [Appellee] is a legal malpractice claim based on the failure to include the Baltic judgment as a judgment for which there was no title insurance (T. 35).

[Appellant] contends that its written agreement with [Appellee] provides "no exceptions are granted unless it's confirmed in writing and accepted by [Appellant]" (T. 37). I asked counsel for [Appellant], if this is so, why doesn't Mr. Neish every time he picks up the phone, say that the caller is not allowed to rely on

> anything that Mr. Neish tells him? Counsel for [Appellant] responded, "That is what the contract says" (T. 37).
>
> [Appellant's] position is without merit. According to Mr. Neish's testimony, [Appellant] gave him authority to provide advice to agents through telephone inquiries. [Appellant] cannot contend that [Appellee's] representation fell below a reasonable standard of care when [Appellee's] decision not to except the Baltic judgment was known to and approved by [Appellant].
>
> Furthermore, in a legal malpractice case, there can be no recovery where the client is even one percent negligent.

Trial Court Opinion ("T.C.O."), 1/17/2012, at 1-5. at 1-5.

The account set forth above leaves out important and undeniably problematic aspects of how this case proceeded in the court below. The problems seem to have arisen from confusion among the court and the parties concerning the interrelationship of three related cases, and the effect upon each of those cases of the March 23, 2011 order and the June 21, 2011 limited trial that occurred pursuant to that order. Thus, we relate these events before we proceed to address Appellant's issues.

The three cases arising out of the instant controversy are docketed as follows: GD 06-014281 and GD 07-018918, Stewart Title Guaranty Company v. Donald P. Graham, *et al.*; and GD 07-23690, Gill Hall Land Co. v. Stewart Title Guaranty, Co., *et al.*[2] On April 2, 2008, Appellee filed a motion for summary judgment at all three dockets. Therein, Appellee

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[2] The instant appeal concerns only the case docketed at GD 07-018918.

argued that neither Gill Hall Land Co. nor Appellant could prove impropriety by Appellee in issuing the title insurance policy to Gill Hall Land Co.[3]

In response to Appellee's motion for summary judgment, the trial court issued an order not contained in the record herein. However, the trial court described this order as follows: "In my March 23, 2011 Memorandum, I ruled that all claims are dismissed if a fact-finder finds that before he issued the title policy, [Appellee] advised Larry Neish of Stewart Title of the Baltic judgment . . . ." T.C.O. at 2.[4] Thus, the trial court held a bench trial

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[3] In proceeding further, we must note that we are severely hampered by the fact that the docket at GD 07-019818, and the certified record sent to this Court at that docket, has itself been infected by the above-mentioned confusion. Taken in isolation, that record contains only some of the documents and reflects only some of the events critical to the entangled evolution of these three cases. In that connection, we must note that we are precluded by Pa.R.A.P. 1921 and the note thereto from considering any materials not contained in the certified record transmitted to this Court on appeal. ***Richner v. McCance***, 13 A.3d 950, 956 n.2 (Pa. Super. 2011). This is important inasmuch as Appellant has included in its reproduced record and cited in its brief a number of items that are not contained in the certified record for the instantly captioned matter, and thus may not be considered in our disposition of this case. ***Id.*** ("References in appellate briefs to missing documents do not remedy their lack of inclusion in the certified record."). Nonetheless, upon careful review of the record properly before us, we believe that we may proceed to resolve the issues based on that record.

[4] This description lacks a detailed account of the effect of that order on the motions for summary judgment, as such. We are told by Appellee that the order proposed dismissal across the board if the fact-finder determined that Appellee informed Appellant of the Baltic judgment. The trial court allegedly so ruled because it determined as a matter of law that the judgment, as recorded in the name of a non-entity (whether due to a typographical error or otherwise), could not attach to the property. Brief for Appellee at 19 ("[T]he trial court **already determined** on summary

(Footnote Continued Next Page)

restricted solely to that issue. A transcript of the trial in question has been added as a supplement to the certified record in this case, despite originally having been docketed only at GD 06-014281.[5]

Following the limited trial at GD 06-014281,[6] by verdict dated June 22, 2011, the trial court ruled as follows: "A verdict is entered in favor of [Appellee] as to all claims raised against [Appellee]." Although this order was never docketed in the matter now before us, the trial court purported to enter that verdict at GD-07-023690 and at the instant litigation, GD-07-

(Footnote Continued) ––––––––––––––––––––––

judgment that [Appellee's] opinion that the Baltic Judgment against Jefferson Woodlands, LP did not attach a lien to the property sold to Gill Hall by Jefferson Woodlands *Partners*, LP was correct, as a matter of law." (emphasis in original)). Thus, if Appellee duly informed Mr. Neish, Appellant's undisputed agent, no claim could lie for negligence or breach of fiduciary duty because Appellee had rendered accurate advice to Mr. Neish, who in turn authorized Appellee to issue the policy. We cannot embrace this putative ruling in resolving the case before us, because it is not included in the certified record for this case. ***See*** *supra* n.3.

[5] The copy of the transcript evidently was ordered by Appellant in connection with this appeal, filed in the trial court at GD 07-018918 on October 21, 2011, and received in this Court on January 25, 2012.

[6] Appellant characterizes the action at GD 06-014281 as a declaratory judgment action, and we have no reason to believe otherwise. However, inasmuch as the certified record in the instant case contains neither the docket nor the complaint in that action, we have no way of verifying this. The distinction, in any event, is immaterial to our disposition of the instant case.

018918, in its Order of Court docketed on September 27, 2011, in which it denied Appellant's post-trial motions filed at GD 06-014281.[7]

That September 27, 2011 Order of Court, which followed a September 19, 2011 argument on Appellant's post-trial motions at GD 06-014281,[8] but which was entered at all three dockets, warrants reproduction:

> On this 21st day of September, 2011, it is ORDERED that
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> I.
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> for the reasons discussed at the September 19, 2011 argument (at which a court reporter was present), my June 22, 2011 nonjury verdict is entered at GD-06-014281, GD-07-018918, and GD[-]07-023690;
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> II.
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> for the reasons discussed at the September 19, 2011 argument, my June 22, 2011 verdict is a verdict dismissing all claims of [Appellant] in the three actions against [Appellee];
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> III.
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> for the reasons discussed at the September 19, 2011 argument, most of the matters which [Appellant] has raised through requests for post-trial relief are matters that I decided in the summary judgment proceedings considering the motions for summary judgment filed at the three above-captioned cases and, thus, should not be addressed in a motion for post-trial relief; and
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> IV.

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[7] Although its exclusion from the certified record ordinarily would preclude our consideration of the verdict, we take notice of it here to establish the fact of it, based upon the trial court's reference to same in its denial of post-trial motions.

[8] The transcript of these proceedings also has been added as a supplement to the certified record in this case.

> the motions for post-trial relief filed by [Appellant], which are deemed to be filed in each of the three above-captioned cases, are denied.

Order of Court, 11/27/2011. In this unusual way, the trial court dismissed all of Appellant's claims in these overlapping cases, including the case now before us.

This appeal followed. Appellant raises the following issues:[9]

> I. WHETHER APPELLANT WAS DENIED DUE PROCESS OF LAW WHEN ITS CAUSES OF ACTION WERE DISMISSED WITHOUT A JURY TRIAL[?]
>
> II. WHETHER A LIMITED TRIAL ON AN ISOLATED FACT, IN A SEPARATE LAWSUIT, IS SUFFICIENT TO DISMISS APPELLANT'S CAUSES OF ACTION[?]

Brief for Appellant at 4.[10]

In its first issue, Appellant argues that it was denied due process of law by the procedural irregularities set forth hereinabove. Brief for Appellant at 12-16. Appellant notes that, in the instant action, it sought relief against

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[9] The trial court did not order Appellant to prepare a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).

[10] This case is sufficiently unusual that it is difficult to determine our standard of review. Appellant does challenge aspects of the trial court's approach to the limited trial at GD 06-014281, as to at least some of which our standard of review would call upon us to determine whether the trial court abused its discretion. However, Appellant's challenges essentially go to the trial court's prerogative to resolve the case before us based upon the result in the related declaratory judgment case. Thus, we will treat all of Appellant's arguments as presenting questions of law, which require *de novo* review, and as to which our scope of review is plenary. ***See Borough of Heidelberg v. WCAB***, 928 A.2d 1006, 1009 (Pa. 2007).

Appellee on three bases: breach of contract, legal malpractice (styled as negligence), and breach of fiduciary duty. Appellant notes that it requested a jury trial. In short, Appellant:

> alleged that [Appellee] negligently or intentionally mislead [*sic*] it with regard to the Baltic Judgment, failed to conduct an adequate title search, failed to review documents filed of record which indicated that the Baltic Judgment was a lien against the Property and failed to disclose that they were representing other parties, besides [Appellant], in the real estate transaction.

Id. at 12. Appellant argued that, procedural irregularities aside, the trial court erroneously overlooked the express terms of the Retainer Agreement, under which, *inter alia*, issuance of a policy in the presence of any liens on the property to be insured could occur only with prior written consent of Appellant. ***Id.*** at 13. Appellant notes that it furnished both a written expert's opinion to the effect that Appellee negligently performed his duties and a duly filed certificate of merit. ***Id.*** at 14.

In support of its due process argument, Appellant notes that no hearings or trials were conducted as to these claims. Appellant contends that it "was never advised that the non-jury trial in the Dec[laratory] Action [at GD 06-014281] was also being conducted in this action. Importantly, the limited, non-jury trial[] did not address the Retainer Agreement or the breach of fiduciary duty." ***Id.*** at 15. Appellant casts as error the issuance of a "verdict" in a declaratory judgment action to begin with, and notes that the trial court's evident reliance upon its finding that Appellee was not negligent was improper inasmuch as it was based upon a finding of conduct

that did not satisfy the terms of the Retainer Agreement. ***Id.*** Appellant concludes:

> Most importantly, the court did not explain how a verdict in a separate lawsuit could be retroactively applied to dismiss [Appellant's] causes of action and somehow eliminate its right to a jury trial.
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> No citation to authority is required to support the notion that a party is constitutionally entitled to its day in court. The record in this matter is completely devoid of any indication that [Appellant] was ever provided an opportunity to present witnesses or evidence to a jury. [Appellant] is entitled to a jury trial, as requested in its initial filing, and the refusal to permit exercise of this fundamental right is a denial of due process.

Id. at 15-16.

Appellee argues that Appellant waived its request for a jury trial in the instant action when it agreed that a non-jury verdict should be entered in this case. Brief for Appellee at 17-19. In support of this claim, Appellee cites the transcript of the argument on post-trial motions at GD 06-014281, which, as noted *supra* n.8, has been added to the certified record in this action. Specifically, Appellant cites the following discussion:

> THE COURT: There were three motions for summary judgment filed in three actions by [Appellee].
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> APPELLEE'S COUNSEL: Yes.
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> APPELLANT'S COUNSEL: Correct, I agree with that, Your Honor.
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> THE COURT: So I guess if you look at the docket right now and say we felt that summary judgment was entered in the malpractice action but I guess you are saying now it wasn't.
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> APPELLANT'S COUNSEL: No, we had a trial.

> THE COURT: I said that's a factual issue. I can't grant summary judgment because of that factual issue but I also said if you can prove that then I do believe you met all of the other requirements as a matter of law.
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> APPELLANT'S COUNSEL: So I guess the verdict should be entered in all three dockets in order to make the docket accurate.
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> * * * *
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> APPELLANT'S COUNSEL: I guess, Judge, in a malpractice wouldn't that conclude the case . . .?
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> THE COURT: Maybe. I don't know. I can't tell you whether it is a final judgment but what you got from me was a non-jury verdict.
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> THE COURT: For which you correctly filed to the extent that you don't like what I did during the trial but basically what you don't like is what I did during the summary judgment proceeding.
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> APPELLANT'S COUNSEL: I guess what it comes down to, I never saw it that way but, yes, I understand that now.

Notes of Testimony, 9/19/2011, at 12-16.

We appreciate how Appellee might argue, based upon this discussion, that we should infer Appellant's acquiescence in, and consequent waiver to, the disposition of the instant matter based upon the decision in the limited trial in the declaratory judgment action. Nonetheless, we believe the inference suggested is weak, at best. Rather than standing for the proposition that Appellant knowingly waived any objection to the conduct of the underlying trial and the trial court's decision to extend its ruling in the declaratory judgment action to effectuate the dismissal of all claims in the instant case, we read this discussion, and the balance of the September 19

proceedings, as manifesting nothing so much as the persistent confusion that has defined this litigation. Nonetheless, our review of the entire September 19 hearing indicates no clear objection, as such, to the extension of the declaratory judgment action's determination to the instant case.

Setting that aside, we find two related considerations that militate in favor of rejecting Appellant's argument on this point. First and foremost, Appellant knowingly has flouted Pa.R.A.P. 2119(a), which calls upon litigants before this Court to provide in support of their arguments "such discussion and citation of authorities as are deemed pertinent." We have held that we "will not consider the merits of an argument which fails to cite relevant case or statutory authority." ***In re Estate of Whitley***, 50 A.3d 203, 209 (Pa. Super. 2012) (quoting ***Iron Age Corp. v. Dvorak***, 880 A.2d 657, 665 (Pa. Super. 2005)). Appellant effectively owns up to this omission when it offers that "[n]o citation to authority is required to support the notion that a party is constitutionally entitled to its day in court." Brief for Appellant at 16.

Second, Appellant's claim that it had no knowledge of the trial court's intention to consider the outcome of the trial pertinent to, or dispositive of, the remaining actions is dubious at best. The underlying motions for summary judgment filed by Appellee were filed under all three captions. Hence, their disposition, unless the trial court specified otherwise, at least had the obvious potential to affect all three cases. As well, Appellee captioned its pre-trial statement at all three dockets. Moreover, on the

cover sheet to that document, in boldface, Appellee purported to underscore that the cases were "**CONSOLIDATED AT GD 07-018918**" (emphasis in original). While nothing in the docket or certified record suggests that these cases were ever consolidated, the fact remains that Appellant was served with this document on May 9, 2011, as indicated in the certificate of service appended thereto. Moreover, at the conclusion of the limited trial, after reciting its findings of fact, the court specifically stated that it would "be entering a judgment dismissing the claims against Mr. Graham," Notes of Testimony, 6/21/2011, at 40, a comment that, at a minimum, should have prompted Appellant to request a clarification. Hence, Appellant cannot reasonably claim that it had no awareness whatsoever that the outcome of that trial at least might be ruled to bear on the other pending cases, including this one. Consequently, Appellant had due cause, and numerous opportunities, to preserve the due process claim it makes now before this Court.

None of this is to say that Appellant might not be due relief under these circumstances for some properly articulated reason. But instead, Appellant has offered us a pithy truism regarding a broad constitutional principle, a claim of ignorance that the record does not bear out, and little else. There is no indication that Appellant, upon recognizing confusion as to precisely what the consequences of the limited trial's outcome might be, made any effort to clarify the situation, to preserve its objection to whatever it might have learned had it done so, or otherwise to protect its due process

rights *vis-à-vis* the complained-of approach to this case. ***See*** Pa.R.A.P. 302(a) (requiring that an appellant have presented a given argument on appeal to the trial court in the first instance); ***Arthur v. Kuchar***, 682 A.2d 1250, 1254 (Pa. 1996) ("Issues not preserved for appellate review may not be considered by an appellate court, even where the alleged error involves a basic or fundamental mistake."). Appellant's failure to do so constitutes waiver of the issue in question. ***Arthur***, *supra*.

Indeed, it does not appear that Appellant, who was represented throughout these proceedings by his present counsel, lodged any due objection to preserve any such arguments until it appeared before this Court. ***See*** Brief for Appellant at 9 (identifying the "place of raising issues on appeal" for issue I, dismissal without trial, as occurring "[u]pon notice of dismissal," by the method of "Appeal to Superior Court"). Thus, in addition to running afoul of Rule 2119(a), Appellant faces the additional impediment to this Court's review of his failure to challenge the complained-of events first before the trial court, as required by Pa.R.A.P. 302(a).

We find that Appellant failed properly to preserve this issue in the court below. Moreover, Appellant has provided this Court with no guidance based upon legal authority as to how the trial court proceeded improperly in seeking efficiently to dispose of these three related questions in one fell swoop. Consequently, we are constrained to deem Appellant's first issue waived.

In Appellant's second issue, which it nominally divides into five parts that tend to circle back to points previously made, it asserts initially that the trial court erred in dismissing Appellant's instant cause of action based upon "an isolated fact, in a separate lawsuit." Brief for Appellant at 16. It notes that the parties to the declaratory judgment action differ somewhat from those presently at bar,[11] and that the instant matter did not even exist when the declaratory judgment action was initiated. Moreover, it contends that the trial court merely addressed the negligence count by reference to that fact-finding, and failed entirely to address Appellant's contract claim based upon a theory of indemnification and its claim for breach of fiduciary duty. Again, Appellant raises the dubious claim that it lacked notice of the trial court's intention to use its fact-finding in the declaratory judgment action as a cudgel against the claims set forth in the instant action. ***Id.*** at 16-17.

Appellant concedes that whether Appellee advised Mr. Neish of the Baltic judgment "is an important one and its resolution could constitute one of the facts relevant to an adjudication of the asserted cause of action." ***Id.*** at 17. It disagrees, however, that this fact alone resolves all claims at bar. Somewhat undermining other aspects of its argument, Appellant avers:

> [Appellant's] dispute is not so much that the Court held a trial of this one fact question, but that the Court did not place this fact question in its proper context, refused to allow [Appellant] to

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[11] While this is literally true, Appellant and Appellee are parties to all three actions.

> present testimonial and documentary evidence relevant to that question, and ascribed to that fact question a legal significance inconsistent with applicable law.

Id. It argues that whether Appellee provided notice of the judgment to Mr. Neish, who then authorized Appellee to issue the title policy without exception, is immaterial to whether Appellee's opinion that the judgment did not attach to the title was "based upon erroneous facts or an inadequate investigation." ***Id.*** at 18. Appellant contends that Appellant "was prevented from presenting evidence that would have provided such context," and furnishes eight putative examples of contextual information it was barred from developing at the limited trial. ***Id.*** at 19-20.

Appellant further argues that a "verdict" is an inappropriate outcome in a declaratory judgment action. ***Id.*** at 21. Section 7532 of the Declaratory Judgments Act, 42 Pa.C.S. §§ 7531, *et seq.*, permits a court only to "declare rights, status, and other legal relations." Brief for Appellant at 21. Under 42 Pa.C.S. § 7533, Appellant continues, Appellant "may have determined any question of construction or validity arising under the instrument . . . and obtain a declaration of rights, status, or other legal relation thereunder." By negative inference, Appellant argues (without citation to any pertinent legal authority beyond the statutory provisions cited above) that "the trial court was not empowered, in an action limited to requests for declaratory relief, to instead enter final verdicts on claims in other related litigation." Brief for Appellant at 22.

With respect to Appellant's claims regarding the evidence it allegedly was not allowed to present during the limited trial on the declaratory judgment action, Appellant provides no citations to the certified record in the instant case to indicate that the trial court precluded the introduction of any such evidence, or that Appellant duly objected to the trial court's rulings in this regard, if any. This precludes our consideration of the issues, because this Court cannot discern whether any of these issues were preserved. ***See*** Pa.R.A.P. 302(a); ***Arthur***, 682 A.2d at 1254; ***cf. Commonwealth v. Koehler***, 914 A.2d 427, 438 (Pa. Super. 2006) ("Even if Appellant claimed to have preserved this issue elsewhere in the record, his lack of citation to that portion of the record has impeded our review and violates Pa.R.A.P. 2117(a)(4) and 2119, as it is not this Court's duty to . . . comb through the record to assure the absence of trial court error.").[12] The few citations Appellant does provide, moreover, are virtually all to materials in

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[12] It is Appellant's responsibility to ensure that the certified record submitted to this court contains all materials necessary to this Court's review. Pa.R.A.P. 1911(a); ***see Smith v. Smith***, 637 A.2d 622, 623 (Pa. Super. 1993) (noting Appellant's responsibility to supply this Court with a complete certified record; emphasizing that a reproduced record offered to remedy any deficiency is not an acceptable substitute for the certified record; and emphasizing that failure to perfect the record before this Court constitutes a waiver of all affected issues). As noted *supra*, Appellant has successfully sought to incorporate into the instant certified record two items pertaining to the declaratory judgment action – the transcripts of the limited trial and of the arguments on Appellant's post-trial motions – but not numerous others it attempts to rely upon in its arguments before this Court. This at least suggests that Appellant is well aware of its responsibility for perfecting the record for this Court's review.

the reproduced record that are not contained in the certified record. For the reasons set forth *supra*, we may not consider these materials in resolving Appellant's claims.

Moreover, once again, Appellant offers no legal authority to support its claims of fundamental error. Under Pa.R.A.P. 2119, as stated *supra*, issues that are not supported by reasoned appellate argument are waived before this Court. Even more than with the first issue, which is somewhat more anomalous and may not have been confronted previously by Pennsylvania appellate courts, these arguments in connection with Appellant's second issue are founded upon more familiar principles concerning the scope, limitations, and effects of, *e.g.*, declaratory judgments; the propriety of entering a verdict in such an action; and the application of same to other proceedings. Thus, the failure to cite supporting authority is even more problematic with respect to these questions, as to which some at least indirectly relevant authority is surely there to be found. These sub-arguments of Appellant's second issue are waived.[13]

The same is true of the remaining arguments, due to various permutations of the same problems highlighted above. For example, Appellant contends that, even if the trial court did not err in its application of

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[13] Notably, the trial court's "verdict," which the court clearly intended to dispose of all three cases, constituted a ruling in the two of the three cases in which there is no question that a "verdict" would not be an incorrect outcome, whatever the decision.

the declaratory judgment findings to the instant proceedings, the ruling was erroneous as a matter of law. Appellant also cites an alleged conflict of interest in Appellee's alleged representation of both Gill Hall and Appellant, Brief for Appellant at 24-25, and challenges the trial court's apparent reliance on parol evidence in finding that a telephone conversation between Appellee and Mr. Neish obviated the obligations stated in clear terms under the retainer agreement between Appellant and Appellee, ***id.*** at 28-29.

With regard to the alleged conflict of interest, Appellant cites only general provisions of the Pennsylvania Rules of Professional Conduct and documents in the reproduced record that are not contained in the certified record at the docket number before this Court. With regard to the parol evidence argument, Appellant does not cite before this Court the place in the record where it raised this objection to the trial court, as required by Pa.R.A.P. 302(a). Accordingly, these arguments, too, are waived.

We do not intend to condone the unnecessarily confusing manner in which the trial court resolved these cases. Furthermore, we are frustrated, as Appellant surely will be after we issue this ruling, by the incomplete record that resulted from the confusion caused by the trial court's approach to this case, which precludes this Court from resolving issues arising from this triad of cases that the trial court saw fit to resolve in this unusual and adumbrated fashion. Nor are the parties blameless: They both failed to detect the brewing problems evinced, *e.g.*, by inconsistent cover pages denoting different cases, and to seek to rectify that lack of clarity before the

cases devolved into the insufficiently differentiated morass we find today. However, we are bound by time-honored principles of issue preservation and fundamental limitations on the scope of what we may review in resolving a given case, which leave us no option but to affirm the trial court's order.

Order affirmed. Jurisdiction relinquished.

Bowes, J. concurs in the result.