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Jul 14 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Kristi F. Curtis Circuit Court Judge

CASE NUMBER 2019-000873

MB Hutson, Appellant

vs

A. Paul Weissenstein, Respondent


MOTION FOR

REHEARING

Since this two (2) year struggle in the Appellate Court has resulted in an "AFFIRMED" ruling in favor of Respondent, this Appellant is humbly filing this motion for another hearing due to the Court's stated lack of clarity on the date and time that this Appellant fully understood that Respondent Paul Weissenstein had committed the Malpractice against this Appellant. So this is about the statute of limitations, and the Appellant wishes to re-address this particular issue.

The Appellant submitted an affidavit from an expert witness as to the Malpractice and feels confident that the suit was filed in a timely manner. This fee of \$50.00 has been paid to the Court and received by the Court.

July 15, 2022



MB Hutson, Pro Se
1545 Biltmore Street
Orangeburg, South Carolina 29115
(803) 308-2714

Appellant wishes to bring to the attention of the Honorable Court the following regarding the time element when the Appellant knew for sure about the malpractice.

1. Appellant had worked with Weissenstein ever since he had hired Weissenstein (_ October, 25th 2011), and provided Weissenstein with all contracts, documents, and paperwork, including the written agreements between Big Water Resort and the 470+ Family Member contracts for the “sole right of use” the land, etc. for up to one/two lifetimes.
2. Weissenstein/Respondent had read many of the Family Members’ contracts, after which Appellant had driven Attorney Weissenstein to the Big Water Resort Campground when many campers were there. Weissenstein expressed no concerns about title issues and was anxious to move forward with the project and the proposed single-home closings.
3. Weissenstein had never mentioned “defective title.” He was actively involved in moving forward with the development. Weissenstein handled all closings and negotiated with the banks for loans and funding for construction and permanent loans. He was well-established and recognized in the area, with signage attesting to his specialty in Real Estate.
4. Appellant, being a layman, having confidence in this real estate attorney, and impressed with his attorney’s eagerness to move forward, had no genuine concern about the good title. At one point, Appellant wondered about the title and had asked his attorney, Weissenstein, if there could be a problem with these Family Members. Weissenstein replied, “I don’t see a problem.”

5. Later, a few Family Members approached Appellant asking how Appellant could develop their property since they had two life-times “right of use.” Appellant then called and spoke to Weissenstein about those stated member concerns. Weissenstein stated that in his opinion, the “members” would not compromise the development. Appellant, relying on Respondent’s expertise verified by Respondents’ continued actions in contacting banks and seeking final approval with the County, proceeded to move forward with the development.
6. As time passed, Appellant became suspicious and concerned about whether Weissenstein had given him good advice about Appellate’s voiced title concerns. Appellant then contacted Michael S. Medlock, South Carolina Underwriting Counsel for Stewart Title Guaranty Company, by way of a telephone call and explained the entire situation to him. Medlock offered to write Appellant a short letter addressing my concerns, and did so.

October 2, 2015, at 10:32 A.M. EDT (attached.) reading:

“TO WHOM IT MAY CONCERN”:

“I HAVE BEEN ADVISED THAT THE PROPERTY MENTIONED ABOVE IS ENCUMBERED BY SEVERAL HUNDRED PRIVATE MEMBERSHIP AND USE AGREEMENTS. THESE AGREEMENTS DO NOT APPEAR IN THE PUBLIC RECORD; HOWEVER, ANY TITLE POLICY WILL CONTAIN EXCEPTIONS TO THESE INTERESTS ONCE KNOWN TO THE COMPANY REGARDLESS OF RECORDING STATUS”.

IF THERE ARE HUNDREDS OF MEMBERSHIP AGREEMENTS FOR EXCLUSIVE USE OF PORTIONS OF THE PROPERTY FOR 2 LIFETIMES, THAT IS A CLOUD

*ON TITLE THAT WOULD BE EXCEPTION TO IN ANY TITLE INSURANCE
POLICY.*

*MY OPINION IS NO LENDING INSTITUTION WOULD LEND ON THIS AS THEY
WOULD REQUIRE A SUBORDINATION AND NON-DISTURBANCE AGREEMENT
FROM EACH INTERESTED PARTY TO OBTAIN A CLEAR TITLE POLICY”.*

(Attached)

7. For the first time, Appellant became knowledgeable to the extent that he searched for an attorney who would represent him and sue A. Paul Weissenstein for Malpractice. Appellant could not find an attorney in South Carolina willing to sue another attorney for malpractice.
8. Therefore, the Appellant filed suit against his attorney (Weissenstein) for Malpractice for not disclosing that he could not handle or close any of the lots and cabins due to defective title due to the existing “sole right of use” that all of the Family Memberships held.

NOTE: Appellant

reminds this Honorable Court that a real estate attorney is held to higher standards than a layman, and I trusted my attorney, Weissenstein.

9. Weissenstein had written letters to banks and attended planning board meetings with this Appellant until I filed suit. During a telephone conversation with my attorney, when the subject came up about defective title, he stated,

“I am so sorry that just went right over my head” —APW.

10. Appellant received Stewart Title Company’s letter on October 2, 2015, and Appellant filed suit against attorney Paul Weissenstein on September 4th, 2018. These two dates prove that

the complaint was filed **within 36 months.** The Appellant would have filed sooner but could not find any attorney who would take the case, so to meet the deadline, the Appellant resorted to filing as a Pro Se. This case should be sent to “remand” since a jury needs to hear all evidence. Appellant has lost hundreds of thousands of dollars as well as spent close to five years trying to achieve justice.

MB Hutson

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER COUNTY

RECORDED
IN THE COURT OF COMMON PLEAS
2018 SEP 4 PM 12:42
CASE NO. _____
JAMES L. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

MB HUTSON/MB HUDSON

PLAINTIFF.

VS.

PAUL WEISSENSTEIN ATTORNEY/
PAUL WEISSENSTEIN.

DEFENDANT

2018-CP-43-1583

LEGAL MALPRACTICE

COMPLAINT FOR LEGAL MALPRACTICE

WHEREAS MB Hutson/Hudson, hereby referred to as Plaintiff, resides in Orangeburg, South Carolina, and Defendant, Paul Weissenstein, Attorney/Paul Weissenstein, hereinafter referred to as Defendant, resides in Sumter, South Carolina, and said malpractice occurred in and around Sumter County at Defendant's law office and related Planning Board Meetings shortly after the signing of the Retainer Agreement on October 25, 2011 (Exhibit 2), and until the courts were notified of a Substitution of Attorney on January 8, 2014 (Exhibit 13).

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SUMTER

RECORDED

2018 SEP 14 Civil Action No. 2018-CP-_____

MB Hutson a/k/a MB Hudson,

DAVID L. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Plaintiff,

2018-CP-43-1583

vs.

SUMMONS

Paul Weissenstein (Attorney)/

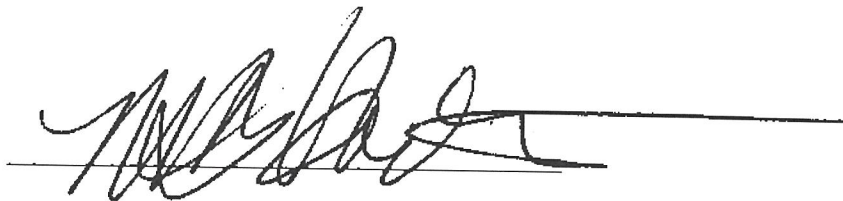
Paul Weissenstein,

Defendant.

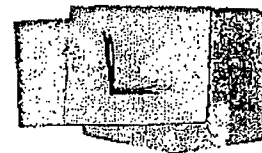
TO: THE DEFENDANT NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint upon its subscribers, at the address shown below, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

*Paul Weissenstein
106 Broad Street
Sumter, South Carolina
29151*



By: MB Hutson/MB Hudson, Plaintiff
Post Office Box 2755
Orangeburg, SC 29116-2755
Telephone: (803) 308-2714
E-mail: hutson4444@gmail.com



From: hutson4444@gmail.com
Date: October 2, 2015 at 10:35:45 AM EDT
To: OFFICE MAX OB <ODS06535CPC@officedepot.com>, cindy exum <cindy.exum@gmail.com>
Subject: Fwd: 5215 Dingle Pond Rd, Summerton SC

Hutson
803.308.2714

Begin forwarded message:

From: Michael Medlock <Michael.Medlock@stewart.com>
Date: October 2, 2015 at 10:32:36 AM EDT
To: "hutson4444@gmail.com" <hutson4444@gmail.com>
Subject: 5215 Dingle Pond Rd, Summerton SC

108 Acres
Clarendon County

To Whom it May Concern:

I have been advised that the property mentioned above is encumbered by several hundred private membership and use agreements. These agreements do not appear in the public record; however, any title policy will contain exceptions to these interests once known to the company regardless of recording status.

If there are hundreds of membership agreements for exclusive use of portions of the property for 2 lifetimes, that is a cloud on title that would be excepted to in any title insurance policy.

My opinion is that no lending institution would lend on this as they would require a subordination and non-disturbance agreement from each interested party in order to obtain a clear title policy

Michael S. Medlock
South Carolina Underwriting Counsel
North Carolina State Counsel / Underwriting Counsel
Stewart Title Guaranty Company

South Carolina Office
4406-B Forest Drive, Suite 102
Columbia, SC 29206
O (803) 765-1631 | M (803) 414-6272 | F (866) 811-2066

North Carolina Office
831 E. Moorehead Street, Suite 355
Charlotte, NC 28202
O (704) 912-3542 | M (803) 414-6272

Oct. 25, 2011

ATTORNEYS RETAINER AGREEMENT

MB Hudson (hereafter referred to as "client") does hereby employ and retain the WEISSENSTEIN LAW FIRM, LLC hereafter referred to as "Weissenstein," to represent client's interest in connection with a litigation case involving a breach of contract regarding real estate. These services are limited to representation in the above matter(s), and it is expressly understood that Weissenstein shall not be responsible for pursuing any additional matters, including appeal, beyond those stated above unless jointly agreed upon in writing.



For compensation, the Client agrees to pay to Law Firm for legal services rendered, costs and attorney's fee as follows:

- Senior Partner \$290.00 per hour
- Paralegal \$ 85.00 per hour

It is understood and agreed that this fee is for services rendered through any trial court proceedings and that an additional fee, and separate fee agreement, will be required for any appellate or supplemental proceedings which may arise from this matter(s).

I further authorize Weissenstein to retain any experts or assistants that he deems needed to fully represent my interests, including paralegals, investigators, court reporters, medical or forensic experts or others and **I agree to be responsible for the costs thereof.**

During the progress of the case, I agree to pay all costs advanced by Weissenstein or incurred by him in connection with the handling of my case. At the time of the execution of this agreement, I have paid a deposit to Weissenstein of Five Hundred and 00/100 (\$500.00) Dollars as an advance deposit for costs and expenses incurred by him in the handling of my case. I agree to maintain a trust account balance on deposit with Weissenstein's office of at least Five Hundred and 00/100 (\$500.00) Dollars. I may be provided with monthly statements reflecting account activity, funds held in trust and funds applied to costs incurred. Upon receipt of monthly statements, I will promptly forward funds necessary to maintain the agree-upon trust account balance for costs and expenses. Any unpaid balances shall be subject to a finance charge as shown on the monthly statement. At the conclusion of representation, the funds held in trust will be applied to outstanding costs and expenses due to Weissenstein Law Firm, LLC and the balance shall be refunded to me within thirty (30) days after the final billing has been fully paid.

[Handwritten Signature] / Oct 25, 2011
Initial / Date

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vs

A. Paul Weissenstein, Respondent

PROOF OF SERVICE

I certify that I have served the **Motion to Re-hear** on Steven Raymond Kropski, Esq., David W. Overstreet, Esq., and Ryan Michael Gunther, Esq. to P.O. Box 22528, Charleston, S.C. 294413-2528 via U.S Mail, postage prepaid on July 15, 2022.

July 15, 2022



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