

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF Pickens  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP3900266

Click Properties, Llc et al  
PLAINTIFF(S)

Thomas Sc Properties Llc et al  
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRCP;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

See Page 2

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/04/2022 .

RECEIVED

OCT 24 2022

SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

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Defendants filed a Motion for Summary Judgment as to all causes of action and the Motion was heard on May 23, 2022, just prior to the start of the case.

At the onset of the hearing, Plaintiffs' counsel asserted that it was not going forward on the cause of action for its 7th cause of action for a declaratory judgment for easement by necessity and that it was not pursuing a claim for adverse possession.

After review of the briefs and argument of counsel, the Court denied the Motion for Summary Judgment as to the following causes of action: (1) nuisance per se; (2) negligence; (3) declaratory judgment-quiet title; (4) declaratory judgment-acquiescence; (5) declaratory judgment-prescriptive easement. The Motion as to the 8th Cause of action for injunction was held in abeyance pending the outcome of the trial. As to each of these causes of action, the Court found that there was a genuine issue of material fact and the Defendants' Motion is respectfully denied and the Plaintiffs would be entitled to proceed to trial on these issues.

As to the cause of action for declaratory judgment for easement by estoppel, the Court finds that Summary Judgment is warranted. The elements of Easement by estoppel are as follows: "(1) conduct that amounts to a false representation or concealment of material facts, or, at least that is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those that the party subsequently attempts to assert; (2) intention, or at least expectation, that such conduct shall be acted on by the other party; (3) knowledge, actual or constructive, of the real facts." *Paine Gayle Properties, LLC v. CSX Transp., Inc.*, 400 S.C. 568 (2012). The evidence shows that the Defendants did not acquire their property until May 2018 and began taking action that clearly led the Plaintiffs know that they were not going to let them use this property. Further, the filed plat from 1996 clearly showed that a good portion of the driveway in question was on the Defendants' property. Considering all evidence and reasonable inference in light most favorable to Plaintiff, the Court finds that there is no genuine issue of material fact as to this cause of action and Defendants are entitled to judgment as a matter of law. Therefore, the Court grants Defendants' Motion for Summary Judgment as to the equitable estoppel cause of action.

It is so ordered.



Pickens Common Pleas

**Case Caption:** Click Properties, Llc , plaintiff, et al VS Thomas Sc Properties Llc ,  
defendant, et al  
**Case Number:** 2020CP3900266  
**Type:** Order/Electronic Form 4

So Ordered

s/ Honorable Perry H. Gravely, #2755