

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Case No. 2011-CP-07-0931
Appellate Case No. 2012-212732

RECEIVED
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SC Court of Appeals

Thaddeus F. Segars,

Appellant,

v.

Fidelity National Title
Insurance Company,

Respondent.

RECORD ON APPEAL

Michael W. Mogil (SC Bar #11933)
Mogil Law Firm
2 Corpus Christie Place, Ste. 303
Hilton Head Island, SC 29928
Tel. (843)785-8110
Attorney for Appellant

Amy P. Hunt
Horack, Talley, Pharr & Lowndes, P.A.
301 South College Street, Suite 2600
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(704)377-2500
Attorney for Respondent

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Thaddeus F. Segars v. Fidelity National Title Insurance Company

Case No. 2011-CP-07-0931

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FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2011CP0700931

Thaddeus Segars

Fidelity National Title
Insurance Company

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

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: _____
- ☐ 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:

Order granting Defendant's Motion to Dismiss filed on 5/24/2012.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

8/07 Mullen
Circuit Court Judge-Carmen T. Mullen

2142
Judge Code

5/23/12
Date

For Clerk of Court Office Use Only

This judgment was entered on 19 June, 2012, and a copy mailed first class or placed in the appropriate attorney's box on 20 June, 2012, to attorneys of record or to parties (when appearing pro se) as follows:

Thaddeus Segars 87 Singleton Beach Rd Hilton Head
Island, SC 29928
Michael W. Mogil 2 Corpus Christie Place Ste. 303 Hilton
Head Island, SC 29928

Amy Purwin Hunt 301 S.College St., Ste. 2600 Charlotte,
NC 282026006

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jamie Thompson

Jerri Ann Roseneau - Clerk of Court

Court Reporter-N/A

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS F. SEGARS,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE INSURANCE
COMPANY,

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No. 2011-CP-07-0093

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS

BEAUFORT COUNTY, S.C.
CLERK OF COURT

2012 MAY 24 AM 10:25

THIS MATTER CAME ON FOR HEARING before the Honorable Carmen T. Mullen, Judge presiding over the April 25, 2012 Session of the Beaufort County Common Pleas Court upon the motion of Defendant Fidelity National Title Insurance Company to dismiss Plaintiff's Complaint pursuant to Rules 12(b)(2), 12(b)(4), 12(b)(5), and 12(b)(6).

Attorney Michael Mogil entered an appearance on behalf of Plaintiff, and attorney Amy Hunt appeared on behalf of Defendant. The Court reviewed and considered the Complaint, Motions to Dismiss, authorities presented, and arguments of counsel; and the Court makes the following findings of fact and conclusions of law:

1. The title insurance policies at issue in this lawsuit were issued on June 23, 2004 (the Lot 2 Policy) and August 9, 2004 (the Lot 3 Policy).

2. The restrictions and plats of which Plaintiff complains were matters of public record prior to the issuance of the title insurance policies and are specifically referenced in the policies.

3. Plaintiff filed two prior actions against the same Defendant on July 16, 2008 (Beaufort County Case Number 2008-CP-07-2579) and August 4, 2008 (Beaufort County Case

CM

Number 2008-CP-07-2741). In these prior actions, the claims against Defendant were substantially the same as in the present action.

4. A Stipulation of Dismissal without prejudice was filed as to both of the prior actions on February 19, 2010.

5. The present action was filed on February 24, 2011.

6. The Court finds that Plaintiff discovered or should have discovered the facts underlying his Complaint at the time of the issuance of the title insurance policies, because the matters of which he now complains were matters of public record at that time. Plaintiff is not a bona fide purchaser because sufficient record notice was available as of the date of the issuance of the policies to charge him with a duty to inquire, which if pursued with due diligence, would have supplied him with knowledge of the restrictions and plats.

7. Accordingly, the Court finds that Defendant's Motion to Dismiss should be allowed, because Plaintiff's claims are all barred by the applicable statute of limitations under S.C. Code. Ann. § 15-3-530(1).

IT IS HEREBY ORDERED that the motion to dismiss is allowed as to all claims in the Complaint.

AND IT IS SO ORDERED.

May 23, 2012
Beaufort, South Carolina



The Honorable Carmen T. Mullen
Common Pleas Judge, Beaufort County



STATE OF SOUTH CAROLINA PH 4: 45)
JAN 24 2011)

COUNTY OF BEAUFORT, JEROME)
BEAUFORT COUNTY, S.C.)

THADDEUS SEGARS,)
)

Plaintiff,)
)

vs.)

FIDELITY NATIONAL TITLE)
INSURANCE COMPANY.)
)

Defendant(s).)
)
)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CIVIL ACTION NO: 2011-CP-07-0931

SUMMONS

TO: FIDELITY NATIONAL TITLE INSURANCE COMPANY:

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 said Complaint on Thaddeus Segars, at 87 Singleton Beach Road, Hilton Head Island, SC 29928 within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for a judgment by default for the relief demanded in this Complaint.

Respectfully submitted,



Thaddeus Segars Pro Se

February 24, 2011
Hilton Head Island, South Carolina

87 Singleton Beach Road
Hilton Head Island, SC 29928

2011 FEB 24 PM 4: 45
 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT
 THADDEUS SEGARS,) CIVIL ACTION NO: 2011-CP-07- 0931
 Plaintiff,)
 vs.) **COMPLAINT**
 FIDELITY NATIONAL TITLE)
 INSURANCE COMPANY.)
 Defendant(s).)
 _____)
)

The Plaintiff, Thaddeus Segars, complaining of and against the above-named Defendants, would respectfully show unto this Honorable Court:

PARTIES AND JURISDICTION

1. That the parties, subject matter, and all things hereinafter alleged are within the jurisdiction of this Court.
2. Plaintiff Thaddeus Segars (hereinafter "Plaintiff" or "Segars") is a citizen and resident of Beaufort County, South Carolina. He brings this action individually, and in his capacity as a joint venture partner of Frederick Cerrato and Steve Carb by joint venture agreement relating to Lot 2 and Segars only to Lot 3.
3. Plaintiff purchased that certain real property (hereinafter "Lot 2" and "Lot 3") which is the subject matter of this action and it sits in Beaufort County, South Carolina and is described as follows:

"Lot 2" all that certain piece, parcel and lot of land showing and depicted as "Lot 2" containing 0.16 acres, more or less, in the Singleton Beach Place Extension area of Hilton Head Island, South Carolina, depicted on that plat of survey entitled "Boundary

Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Land Survey, LLC, Ralph O. Vanadore, SCRLS #7606 recorded in the Beaufort County Register of Deeds Office on December 15, 2003 in Plat book 96 at page 160. For a more particular description as to the courses, meets, and bounds and distances of said lots, references here by made to the above-described plat of record.

"Lot 3" all that certain piece, parcel and lot of land shown and depicted as "Lot 3" containing 0.14 acres, more or less, in the Singleton Beach Place Extension area of Hilton Head Island, South Carolina, depicted on that plat of survey entitled "Boundary Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606 and recorded in the Beaufort County Register of Deeds Office on December 15, 2003 in Plat Book 96 at Page 1560. For a more particular description as to the courses, metes, bounds and distances of said lots, reference is hereby made to the above-described plat of record.

4. Defendant Fidelity National Title Insurance Company is a corporation organized under the laws of the State of California, and issues title insurance covering real property located in Beaufort County, South Carolina, including Lot 2 and Lot 3.
5. Venue is proper in Beaufort County pursuant to the Code of Laws of South Carolina because the Defendants conduct business in Beaufort County and the property that is the subject of this action is located in Beaufort County.

FACTS

6. On January 29, 2003, a plat, entitled Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389, Hilton Head Island, South Carolina"(hereinafter "January 29, 2003 Plats") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 91 at Page 90. Said plat, dated November 12, 2002, was prepared for J.J Development, Inc., Wayzata, LLC, Eldred David, Martha Avery, William

Coleman, David Smart, and Irene Booker, and represented a Future Beach Management Baseline.

7. Segars relied on the January 29, 2003 Plat in forming his understanding of the building envelope for Lot 2 and Lot 3.
8. On November 20, 2003 a corrective Plat, entitled "Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389 Lot 15 Singleton Beach Place, Hilton Head Island, Beaufort County, South Carolina" (hereinafter "November 20, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 102. Said corrective plat, dated November 18, 2003, was prepared for J.J. Development, inc. Wayzata, LLC, Eldred Davis, Martha Avery, William Coleman, David Smart, Irene Booker & Nancy Flynn by Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606. Said plat which included Lot 2 and Lot 3, removed the future OCRM line depicted in that certain plat recorded in Plat Book 96 at Page 90.
9. Segars had no knowledge that the corrective Plat of November, 2003 was filed at the time it was filed.
10. On December 15, 2003, a corrective plat, entitled "Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389 Lot 15 Singleton Beach Place, Hilton Head Island, Beaufort County, South Carolina" (hereinafter "December 15, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 160. Said corrective plat, dated December 4, 2003, was prepared by

Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606, on behalf of J.J. Development, Inc., Wayzata Limited Partnership, and Richardson Street Partners, LLC. Said plat which included Lot 2 and Lot 3, removed the future OCRM line depicted in that certain plat recorded in Plat Book 96 at Page 90.

11. Segars had no knowledge that the corrective Plat of December 15, 2003 was filed at the time it was filed.

FIRST CAUSE OF ACTION

[Breach of Contract against Fidelity National Title]

12. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
13. Subsequent to the joint venture' purchase of Lot 3, Segars, Cerrato, and Carb and Lot 2 only by Segars, were provided with an ALTA Owner's Title Insurance Policy (hereinafter the "Policy") dated June 23, 2004 for Lot 2 and August 9, 2004 for Lot 3, Lot 2 policy number 51338-6027, Lot 3 policy number 2008.2730640-75096808, insured by Fidelity National Title Insurance Company.
14. Pursuant to Covered Risk 11, conflicting policy number 5671-1100 for expanded coverage, of the Policy, Fidelity insured Segars against "failure if the land to be improved with a one to four family residential structure" sustained or incurred by Segars by reason of him having unbuildable land to Lot 2. Pursuant to Covered Risk 5(a)(b), of the Policy, Fidelity insured Segars against "violation or enforcement of any law, ordinance, permit, or government regulation restricting, regulating, prohibiting, or relating to (a) the occupancy, use, or enjoyment of the land (b) the character, dimensions, or location of any

improvement erected on the land.” sustained or incurred by Segars by reason of him having unbuildable land to Lot 3. Only upon plaintiffs request for policies for Lot 2 and Lot 3 were the policies provided to plaintiff months after closing.

15. Said deeds conveying title to Lot 3 to Segars, Carb and the Cerratos and Lot 2 only to Segars was subject to the Declaration of Covenants, Conditions, and Restrictions for Singleton Place (hereinafter “Covenants and Restrictions”), dated August 30, 1995 and recorded September 7, 1995, in the Office of the Register of Deeds for Beaufort County, SC in Book 801 at Page 715, as supplemented in Book 945 at Page 1792, as supplemented in Book 1082 at Page 898, and as supplemented in Book 1887 at Page 2282. Said Covenants and Restrictions establish that no residence shall be constructed with a square footage less than 2,500 square feet.
16. The above deeds, upon which Fidelity insured Segar’s (and Carb and Cerratos’) title to Lot 3 and Lot 2 only to Segars, conveyed Lot 2 and Lot 3 subject to the December 15, 2003 Plat, which under the prevailing and existing coastal land use restrictions established in the Hilton Head Island Land Management Ordinance (“LMO”), as applied to Lot 2 and Lot 3, allowed the construction of a residence on Lot 2 Lot 3 of only approximately 1,800 square feet.
17. Thus, given the limited building envelope created by the OCRM restrictions, the LMO and the December 15 Plat, a marketable structure could not be erected on Lot 2 and Lot 3 because the Singleton Beach covenants precluded a structure of less than 2500 square feet. As a result, at the time Cerrato(s), Segars and Carb purchased Lot 3 and Segars

separate purchase of Lot 2, its market value was not \$1,800,000.00, and \$1,600,000.00 and as a result Lot 3 was uninsurable at the price of \$1,800,000.00 and Lot 2 was uninsurable at the price of \$1,600,000.00

18. Fidelity National issued the Policies to Segars, insuring Lot 2 for \$1,600,000.00 and Lot 3 for \$1,800,000.00, without notifying him of the affect of these conflicting restrictions.
19. Segars, at closing and all times previous thereto, was unaware of these conflicting restrictions to Lot 2 and Lot 3 that prevented any structure from being constructed. Had Segars been aware of said conflicting restrictions he would not have closed the purchase of Lot 2 and Lot 3. Thus, at the time Lot 2 and Lot 3 was conveyed to Segars, Lot 2 and Lot 3 were unbuildable as defined in the Declaration of Covenants and Policies.
20. As a result of the conflicting restrictions, Segars has been damaged due to inability to improve the property Lot 2 and Lot 3.
21. Lot 2 and Lot 3 were zoned residential R-4 however with said restrictions the lots represent little if no value and or could be a liability.
22. Segars has fully performed under said Policies by remitting a premium at closing, and in properly filing a claim with Fidelity pursuant to the Policies.
23. Fidelity has refused to coverage Segars' damages resulting from the inability to build residential for Lot 2 and Lot 3. Said refusal is a breach of the Policies.
24. Fidelity's breach is the proximate cause of Plaintiff's continued damages.
25. As a result of Fidelity's breach, Segars has incurred damages in an amount to be determined at trial and will continue to suffer damages as a result of Fidelity's breach.

SECOND CAUSE OF ACTION

[Declaratory Judgment against Fidelity National]

26. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
27. Fidelity provided Segars, Cerrato and Carb, as the owners of Lot 3, and Segars owner of Lot 2, with an owner's title insurance policies.
28. Segars has suffered losses subsequent to his purchase of Lot 2 and Lot 3.
29. Segars' losses are covered losses under the Policies provided by Fidelity.
30. Fidelity denied Segars' claims for coverage.
31. As a result, Segars seeks a declaratory judgment pursuant to the South Carolina Declaratory Judgment Act, Section 15-53-10 et. al. of the South Carolina Code of Laws, that his losses are covered by the owner's title insurance policies provided by Fidelity.

THIRD CAUSE OF ACTION

[Vicarious Liability against Fidelity National]

32. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
33. Subsequent to closing on Lot 2 and Lot 3 Segars received said policies provided by Fidelity's agent Weston Newton of which was of no merit or value.
34. Deeds conveying Lot 2 and Lot 3 reference same lots of exceptions from Fidelity once again sustaining vicarious liability of Fidelity's agent Weston Newton.
35. Segars has suffered losses subsequent to his purchase of Lot 2 and Lot 3.
36. As a result, Segars seeks a declaratory judgment pursuant to the South Carolina Declaratory Judgment Act, Section 15-53-10 et. al. of the South

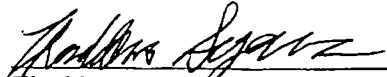
Carolina Code of Laws, that his losses are covered by the owner's title insurance policies provided by Fidelity.

WHEREFORE, Plaintiff Thaddeus Segars prays for judgment against Defendant Fidelity National Title Insurance Company in the following particulars:

- a. for damages for breach of contract in an amount to be determined at trial;
- b. for a declaratory judgment finding that Segars' damages as a result of his purchase of Lot 2 and Lot 3 are covered by his owner's title insurance policies with Fidelity;
- c. for attorneys fees, costs and other expenses in prosecuting this action; and
- d. punitive damages due to vicarious liability by Fidelity
- e. for a trial by jury on the all legal claims set forth herein.

Dated: February 24, 2011
Hilton Head Island, South Carolina

Respectfully Submitted,


Thaddeus Segars, Pro Se

87 Singleton Beach Road
Hilton Head Island, SC 29928

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS F. SEGARS,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE INSURANCE
COMPANY,

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No. 2011-CP-07-00931

ANSWER

Defendant, Fidelity National Title Insurance Company ("Fidelity"), by and through undersigned counsel, Horack, Talley, Pharr & Lowndes, P.A., hereby responds to the Complaint filed by Plaintiff, Thaddeus F. Segars, as follows:

ANSWER

Fidelity does not waive its right to assert Motions to Dismiss pursuant to Rule 12(b)(2), (4), (5), and (6) of the South Carolina Rules of Civil Procedure, as evidenced by the Motion to Dismiss filed simultaneously herewith. Nothing contained herein shall be construed as Fidelity consenting to the jurisdiction of this Court or waiving any service or jurisdictional defenses. Subject to and without waiving any defenses, Fidelity responds to the numbered paragraphs of the Complaint as follows:

Parties and Jurisdiction

1. Paragraph 1 is a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 1 are denied.
2. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 2; accordingly, those allegations are denied.

3. Upon information and belief, the deeds for the properties identified in paragraph 3 are in writing, speak for themselves, are matters of public record, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

4. It is admitted that Fidelity is organized under the laws of the State of California. It is admitted that Fidelity issues title insurance policies related to real property located in Beaufort County, South Carolina and that Fidelity issued title insurance policies related to Lot 2 and Lot 3, as described in the Complaint. Any remaining allegations of paragraph 4 are denied.

5. Paragraph 5 is a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 5 are denied.

Facts

6. The January 29, 2003 plat referenced in paragraph 6 is in writing, speaks for itself, is a matter of public record, and is the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

7. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 7; accordingly, those allegations are denied.

8. The November 20, 2003 corrective Plat is in writing, speaks for itself, is a matter of public record, and is the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

9. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 9; accordingly, those allegations are denied.

10. The December 15, 2003 corrective Plat is in writing, speaks for itself, is a matter of public record, and is the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

11. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 11; accordingly, those allegations are denied.

First Cause of Action

[Breach of Contract against Fidelity National Title]

12. Fidelity hereby incorporates by reference as if fully set forth herein its responses to paragraphs 1 through 11 of the Complaint.

13. It is admitted that Fidelity issued owners title insurance policies on Lot 2 and Lot 3 (the "Policies"). The Policies are in writing, speak for themselves, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

14. The Policies referenced in paragraph 14 are in writing, speak for themselves, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

15. The deeds and Declaration of Covenants, Conditions, and Restrictions for Singleton Place referenced in paragraph 15 are in writing, speak for themselves, are matters of public record, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

16. The documents referenced in paragraph 16 are in writing, speak for themselves, are matters of public record, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

17. Paragraph 17 is a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 17 are denied.

18. The Policies referenced in paragraph 18 are in writing, speak for themselves, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied. Furthermore, it is specifically denied that Fidelity owed Segars any additional duty. Any remaining allegations of paragraph 18 are denied.

19. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 19; accordingly, those allegations are denied.

20. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 20; accordingly, those allegations are denied.

21. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 21; accordingly, those allegations are denied.

22. It is admitted that the owners paid a premium at closing for the owners title insurance policies and that claims pursuant to the Policies were submitted. Any remaining allegations of paragraph 22 are denied.

23. Denied.

24. Denied.

25. Denied.

Second Cause of Action

[Declaratory Judgment against Fidelity National]

26. Fidelity hereby incorporates by reference as if fully set forth herein its responses to paragraphs 1 through 25 of the Complaint.

27. The Policies referenced in paragraph 27 are in writing, speak for themselves, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied.

28. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 28; accordingly, those allegations are denied.

29. Denied.

30. Admitted.

31. Paragraph 31 is a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 31 are denied.

Third Cause of Action

[Vicarious Liability against Fidelity National]

32. Fidelity hereby incorporates by reference as if fully set forth herein its responses to paragraphs 1 through 31 of the Complaint.

33. The Policies referenced in paragraph 33 are in writing, speak for themselves, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied. Any remaining allegations of paragraph 33 are denied.

34. The deeds referenced in paragraph 34 are in writing, speak for themselves, and are the best evidence of the contents thereof; accordingly, any allegations inconsistent therewith are denied. Any remaining allegations of paragraph 34 are denied.

35. Fidelity lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 35; accordingly, those allegations are denied.

36. Paragraph 36 is a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 36 are denied.

37. Paragraph 37 is a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 37 are denied.

FIRST AFFIRMATIVE DEFENSE

The claim of the Plaintiff is specifically excluded and excepted by the terms of the Policies.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has marketable title to the properties (Lot 2 and Lot 3) covered by the Policies.

THIRD AFFIRMATIVE DEFENSE

Plaintiff holds title to the properties (Lot 2 and Lot 3) as they are insured under the Policies.

rescind the purchase of the properties. Any claims arising out of the transaction at issue should be barred under the doctrines of ratification, waiver, estoppel, release, and/or laches.

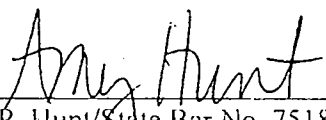
WHEREFORE, Defendant Fidelity National Title Insurance Company, respectfully prays the Court as follows:

- (1) That the allegations against Fidelity be dismissed with prejudice and Plaintiff have and recover nothing of it;
- (2) That Fidelity have and recover its costs of this action, including reasonable attorneys' fees, be charged to Plaintiff;
- (3) That the Court enter a declaratory judgment pursuant to the South Carolina Declaratory Judgment Act, § 15-53-10, *et al.*, stating that Plaintiff's losses, if any, are not covered by the owner's title insurance Policy issued by Fidelity;
- (4) That there be trial by jury; and
- (5) For such other and further relief as the Court may deem just and proper.

This the 14th day of April, 2011.

HORACK, TALLEY, PHARR & LOWNDES, P.A.

By: _____


Amy P. Hunt/State Bar No. 75185
*Attorneys for Defendant Fidelity National Title
Insurance Company*
301 South College Street, Suite 2600
Charlotte, N.C. 28202-6006
Telephone: 704/377-2500
Facsimile: 704/372-2619
Email: AHunt@HorackTalley.com

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS F. SEGARS,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE INSURANCE
COMPANY,

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No. 2011-CP-07-00931

MOTIONS TO DISMISS

Defendant Fidelity National Title Insurance Company (hereinafter, "Fidelity"), by and through the undersigned counsel, hereby moves, pursuant to South Carolina Rule of Civil Procedure 12(b), to dismiss the specific claims against him asserted in the Complaint, as follows:

FIRST MOTION TO DISMISS

Pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure, Fidelity moves the Court to dismiss the Complaint for lack of jurisdiction over the person due to insufficiency of process and insufficiency of service of process.

SECOND MOTION TO DISMISS

Pursuant to Rule 12(b)(4) of the South Carolina Rules of Civil Procedure, Fidelity moves the Court to dismiss the Complaint for insufficiency of process.

THIRD MOTION TO DISMISS

Pursuant to Rule 12(b)(5) of the South Carolina Rules of Civil Procedure, Fidelity moves the Court to dismiss the Complaint for insufficiency of service process.

FOURTH MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, Fidelity moves the Court to dismiss all causes of action raised in the Complaint on the grounds that each of these claims fails to state any claim for which relief can be granted.

Respectfully submitted, this the 14th day of April, 2011.

HORACK, TALLEY, PHARR & LOWNDES, P.A.

By: Amy Hunt
Amy P. Hunt/State Bar No. 75185
Attorneys for Defendant Fidelity National Title Insurance Company
301 South College Street, Suite 2600
Charlotte, N.C. 28202-6006
Telephone: 704/377-2500
Facsimile: 704/372-2619
Email: AHunt@HorackTalley.com

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS SEGARS,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE
INSURANCE COMPANY.

Defendant(s).

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT

) CIVIL ACTION NO: 2011-CP-07-

) **ANSWER TO MOTION TO DISMISS**

Plaintiff Thaddeus Segars, hereby requests that the Motion to Dismiss be denied based on the following:

FIRST MOTION TO CONTINUE

It is nearly impossible for a prose Plaintiff to know and understand all rules of civil procedure. Please let the court recognize the Plaintiff as a professional realtor, licensed and practicing under the Realtor code of ethics. (Article 1. When representing a buyer, seller, landlord, tenant, or other client as an agent, Realtors® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve Realtors® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, Realtors® remain obligated to treat all parties honestly.)

SECOND MOTION TO CONTINUE

The Plaintiff wants the court to understand that his former attorney, Mike Mogil, was asked verbally and by numerous e-mails, to not allow time to file run its course. Plaintiff does not want to challenge attorney, Mike Mogil, for failure to assist.

0023

THIRD MOTION TO CONTINUE

Plaintiff wants the court to know that his former council, Mike Mogil, did not want to continue representation of Plaintiff for reasons only to be shared if the court asks.

FOURTH MOTION TO CONTINUE

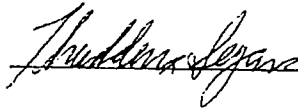
Closing attorney for Lots 2 and Lot 3, Weston Newton, failed to explain or reveal any title policy language, exhibits or plats of description.

FIFTH MOTION TO CONTINUE

Plaintiff was required to purchase said policy without any explanation of what policy stated, covered or did not cover. Closing attorney was an agent of Fidelity and failed in his duty to provide an accurate policy.

May 20, 2011
Hilton Head Island, South Carolina

Respectfully submitted,



Thaddeus Segars Pro Se
87 Singleton Beach Road
Hilton Head Island, SC 29928

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS SEGARS

Plaintiff(s)

vs.

DAVID CARROLL AND FIDELITY NATIONAL TITLE
INSURANCE COMPANY

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2008-CP - 07-02579

(Please Print)

Submitted By: Michael W. Mogil

Address: 2 Corpus Christie Place, Ste. 303

303 Professional Building

Hilton Head Island, SC 29928

SC Bar #: 11933

Telephone #: 843-785-8110

Fax #: 843-785-9676

Other:

E-mail: mike@mogillaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

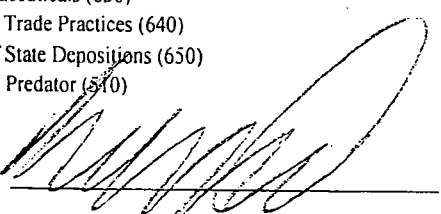
DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☒ **JURY TRIAL** demanded in complaint. ☐ **NON-JURY TRIAL** demanded in complaint.
☒ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
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☐ Out-of State Depositions (650)
☐ Sexual Predator (670) | | |

Submitting Party Signature: 

Date: 7-15-08

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

0025

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville,
Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

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2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

0026

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT

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) · CIVIL ACTION NO: 2008-CP-07- 02579

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PLAIN L DEM

- # PLAIN L DEM

PLAIN L DEM

LLC, Ralph O. Vanadore, SCRLS #7606 and recorded in the Beaufort County Register of Deeds Office on December 15, 2003 in Plat Book 96 at Page 1560. For a more particular description as to the courses, metes, bounds and distances of said lots, reference is hereby made to the above-described plat of record.

4. Defendant David Carroll (hereinafter "Carroll") is upon information and belief, a citizen of Beaufort County, South Carolina and a licensed real estate agent.
5. Defendant Fidelity National Title Insurance Company is a corporation organized under the laws of the State of California, and issues title insurance covering real property located in Beaufort County, South Carolina, including Lot 3.
6. Venue is proper in Beaufort County pursuant to the Code of Laws of South Carolina because the Defendants conduct business in Beaufort County and the property that is the subject of this action is located in Beaufort County.
7. The subject matter of this lawsuit is also being litigated among Segars and other parties in the pending case Cerrato et al v. Segars et al, 2007-CP-07-2007.

FACTS

8. On January 29, 2003, a plat, entitled Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389, Hilton Head Island, South Carolina"(hereinafter "January 29, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 91 at Page 90. Said plat, dated November 12, 2002, was prepared for J.J Development, Inc., Wayzata, LLC, Eldred David, Martha Avery, William Coleman, David Smart, and Irene Booker, and represented a Future Beach Management Baseline.
9. Segars relied on the January 29, 2003 Plat in forming his understanding of the building

envelope for Lot 3.

10. On November 20, 2003 a corrective Plat, entitled "Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389 Lot 15 Singleton Beach Place, Hilton Head Island, Beaufort County, South Carolina" (hereinafter "November 20, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 102. Said corrective plat, dated November 18, 2003, was prepared for J.J. Development, inc. Wayzata, LLC, Eldred Davis, Martha Avery, William Coleman, David Smart, Irene Booker & Nancy Flynn by Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606. Said plat which included Lot 3, removed the future OCRM line depicted in that certain plat recorded in Plat Book 96 at Page 90.
11. Segars had no knowledge that the corrective Plat of November, 2003 was filed at the time it was filed.
12. On December 15, 2003, a corrective plat, entitled "Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389 Lot 15 Singleton Beach Place, Hilton Head Island, Beaufort County, South Carolina" (hereinafter "December 15, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 160. Said corrective plat, dated December 4, 2003, was prepared by Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606, on behalf of J.J. Development, Inc., Wayzata Limited Partnership, and Richardson Street Partners, LLC. Said plat which included Lot 3, removed the future OCRM line depicted in that certain plat recorded in Plat Book 96 at Page 90.

13. Segars had no knowledge that the corrective Plat of December 15, 2003 was filed at the time it was filed.
14. Richardson Street Partners, LLC conveyed Lot 3 to Best Real Estate Group, LLC pursuant by deed dated April 29, 2004, and recorded June 8, 2004 in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 1968 at Page 1695.
15. On May 11, 2004, Segars entered into a Contract of Sale with Best Real Estate Group, LLC for the purchase of Lot 3, which at the time had not closed on its own purchase of Lot 3.
16. Pursuant to said Contract of Sale, Carroll of Charter One Realty was the listing agent for Best Real Estate Group, LLC.
17. Best Real Estate Group, LLC conveyed Lot 3 to Frederick J. Cerrato, Steven M. Cerrato, Kenneth C. Oliver, Thaddeus Segars, and Steven M. Carb d/b/a Lot 3 Singleton Beach, a Joint Venture, pursuant to that certain deed dated July 23, 2004, and recorded August 8, 2004 in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 1999 at Page 1940.

FIRST CAUSE OF ACTION
[Contribution against David Carroll]

18. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
19. Pursuant to civil action number 2007-CP-07-2007, Frederick J. Cerrato, Steven M. Cerrato, and Steven M. Carb have filed suit against Segars alleging Segars, in his capacity as the real estate agent for their purchase of Lot 3, is liable to them for their alleged losses sustained as a result of the purchase of Lot 3.

20. Without acknowledging any liability pertaining to said cause of action, to the extent Segars is found liable to Frederick J. Cerrato, Steven M. Cerrato, and Steven M. Carb, it is as a result of erroneous statements made by or withholding of information by Carroll, as agent for Best Real Estate Group to Segars; namely, the presentation to Segars of the January 29, 2003 Plat and house plans depicting that an residence in excess of 4,000 square feet could be constructed on Lot 3.
21. Carroll knew or should have known that a residence in excess of 4,000 square feet could not be constructed on Lot 3 within the building envelope created by the November 20, 2003 Plat and subsequent plats of record.
22. Segars reasonably relied on these representations as the agent for his co-purchasers.
23. In the event a judgment is entered in favor Frederick J. Cerrato, Steven M. Cerrato, and Steven M. Carb in civil action number 2007-CP-07-2007, Carroll is responsible for contribution to Segars in an amount to be determined at trial, pursuant to Section 15-38-10 through Section 15-38-70 of the South Carolina Code of Laws; namely, the South Carolina Uniform Contribution Amongst Tortfeasors Act.

SECOND CAUSE OF ACTION
[Equitable Indemnification against David Carroll]

24. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
25. To the extent that any liability is placed upon Segars in civil action number 2007-CP-07-2007, it is as a result of the erroneous information provided to Segars by Carroll, as the real estate agent for Best Real Estate Group, LLC, and not as a result of any misconduct by

Segars.

26. As a result, equity demands that Carroll be made to indemnify Segars for any judgment against Segars in civil action number 2007-CP-07-2007.

THIRD CAUSE OF ACTION

[Breach of Contract against Fidelity National Title]

27. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
28. Subsequent to the joint venture' purchase of Lot 3, Segars, Cerrato, and Carb were provided with an ALTA Owner's Title Insurance Policy (hereinafter the "Policy") dated August 9, 2004, policy number 2008.2730640-75096808, insured by Fidelity National Title Insurance Company.
29. Pursuant to Covered Risk 3 of the Policy, Fidelity insured Segars against loss or damages, sustained or incurred by Segars by reason of him having unmarketable title to Lot 3.
30. Unmarketable title is defined within the ALTA 1992 Owner's Policy as "an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title."
31. Said deed conveying title to Lot 3 to Segars, Carb and the Cerratos was subject to the Declaration of Covenants, Conditions, and Restrictions for Singleton Place (hereinafter "Covenants and Restrictions"), dated August 30, 1995 and recorded September 7, 1995, in the Office of the Register of Deeds for Beaufort County, SC in Book 801 at Page 715, as

supplemented in Book 945 at Page 1792, as supplemented in Book 1082 at Page 898, and as supplemented in Book 1887 at Page 2282. Said Covenants and Restrictions establish that no residence shall be constructed with a square footage less than 2,500 square feet.

32. The above deed, upon which Fidelity insured Segar's (and Carb and Cerratos') title to Lot 3, conveyed Lot 3 subject to the December 15, 2003 Plat, which under the prevailing and existing coastal land use restrictions established in the Hilton Head Island Land Management Ordinance ("LMO"), as applied to Lot 3, allowed the construction of a residence on Lot 3 of only approximately 1,800 square feet.
33. Thus, given the limited building envelope created by the OCRM restrictions, the LMO and the December 15 Plat, a marketable structure could not be erected on Lot 3 because the Singleton Beach covenants precluded a structure of less than 2500 square feet. As a result, at the time Cerrato(s), Segars and Carb purchased Lot 3, its market value was not \$1,800,000.00, and as a result Lot 3 was uninsurable at the price of \$1,800,000.00.
34. Fidelity National issued the Policy to Segars, insuring Lot 3 for \$1,800,000.00, without notifying him of the affect of these conflicting restrictions.
35. Segars, at closing and all times previous thereto, was unaware of these conflicting restrictions to Lot 3 that prevented a marketable structure from being constructed. Had Segars been aware of said conflicting restrictions he would not have closed the purchase of Lot 3. Thus, at the time Lot 3 was conveyed to Segars, Lot 3 was unmarketable as defined in the Policy.
36. Said conflicting restrictions remain to date. Thus, were Segars and his partners to receive a contract offer to purchase Lot 3, Segars and his partners would not be able to provide marketable title to the prospective purchaser, and the prospective purchase would be released

from the contract.

37. As a result of the conflicting restrictions, Segars has been damaged due to the unmarketability of his title to Lot 3.
38. Segars has fully performed under said Policy by remitting a premium at closing, and in properly filing a claim with Fidelity pursuant to the Policy.
39. Fidelity has refused to coverage Segars' damages resulting from the unmarketability of Lot 3. Said refusal is a breach of the Policy.
40. Fidelity's breach is the proximate cause of Plaintiff's continued damages.
41. As a result of Fidelity's breach, Segars has incurred damages in an amount to be determined at trial and will continue to suffer damages as a result of Fidelity's breach.

FOURTH CAUSE OF ACTION

[Declaratory Judgment against Fidelity National]

42. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
43. Fidelity provided Segars, Cerrato and Carb, as the owners of Lot 3, with an owner's title insurance policy.
44. Segars has suffered losses subsequent to his purchase of Lot 3.
45. Segars' losses are covered losses under the Policy provided by Fidelity.
46. Fidelity denied Segars' claim for coverage.
47. As a result, Segars seeks a declaratory judgment pursuant to the South Carolina Declaratory Judgment Act, Section 15-53-10 et. al. of the South Carolina Code of Laws, that his losses are covered by the owner's title insurance policy provided by Fidelity.

WHEREFORE, Plaintiff Thaddeus Segars prays for judgment against Defendant David Carroll in the following particulars:

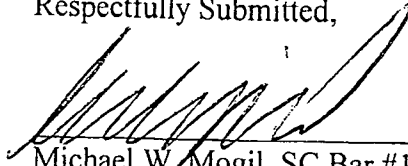
- a. for contribution pursuant to Section 15-38-10 through Section 15-38-70 of the South Carolina Code of Laws in an amount to be determined at trial;
- b. for equitable indemnification in an amount to be determined at trial; and
- c. for such other and further relief as this Honorable Court deems just and proper.

WHEREFORE, Plaintiff Thaddeus Segars prays for judgment against Defendant Fidelity National Title Insurance Company in the following particulars:

- a. for damages for breach of contract in an amount to be determined at trial;
- b. for a declaratory judgment finding that Segars' damages as a result of his purchase of Lot 3 are covered by his owner's title insurance policy with Fidelity;
- c. for attorneys fees, costs and other expenses in prosecuting this action; and

Dated: July 15, 2008
Hilton Head Island, South Carolina

Respectfully Submitted,


Michael W. Mogil, SC Bar #11933
Law Office of Michael W. Mogil, P.A.
303 Professional Building
Hilton Head Island, SC 29928
Tel.: (843)785-8110
mmogil@mogillaw.com
Attorney for Plaintiff Thaddeus Segars

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

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Plaintiff,

vs.

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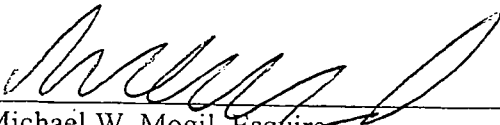
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Civil Action No. 2008-CP-07-02579

2010 FEB 19 PM 12:35
BEAUFORT COUNTY, S.C.
CLERK OF COURT

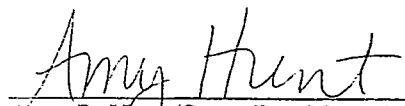
STIPULATION OF DISMISSAL

Pursuant to South Carolina Rule of Civil Procedure 41(a)(1)(B), Plaintiff hereby
dismisses Defendant Fidelity National Title Insurance Company, without prejudice.

This 8 day of February, 2010.


Michael W. Mogil, Esquire
Law Office of Michael W. Mogil, P.A.
Counsel for Plaintiff
303 Professional Building
Hilton Head Island, SC 29928

STIPULATED TO BY:


Amy P. Hunt/State Bar No. 75185
Horack, Talley, Pharr & Lowndes, P.A.
Attorneys for Defendant Fidelity National Title
Insurance Company
301 South College Street, Suite 2600
Charlotte, N.C. 28202-6006

0037

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS F. SEGARS

Plaintiff(s)

vs.

RICHARDSON STREET PARTNERS, et. al.

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2008 -CP-CP-07-279

(Please Print)

Submitted By: Michael W. Mogil, Esq.
Address: 2 Corpus Christie Place, Ste. 303
303 Professional Building
Hilton Head Island, SC 29928

SC Bar #: 11933
Telephone #: 843-785-7491
Fax #: 843-785-9676
Other:
E-mail: mmogil@mogillaw.com

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☐ Sexual Predator (510) | | |

Submitting Party Signature: _____

Date: _____

August 1, 2008

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0038

FOR MANDATED ADR COUNTIES ONLY

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Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

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You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

0039

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
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STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS F. SEGARS,

Plaintiff,

VS.

RICHARDSON STREET PARTNERS,
LLC, J. PAUL GAUGHF, and FIDELITY
NATIONAL TITLE INSURANCE
COMPANY.

Defendant(s).

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CIVIL ACTION NO: 2008-CP-07-279

COMPLAINT
(JURY TRIAL DEMANDED)

2005-11-14 PM 3:42

The Plaintiff, Thaddeus F. Segars, complaining of and against the above-named the Defendants, would respectfully show unto this Honorable Court:

PARTIES AND JURISDICTION

1. That the parties, subject matter, and all things hereinafter alleged are within the jurisdiction of this Court.
2. Plaintiff Thaddeus Segars (hereinafter "Plaintiff" or "Segars") is a citizen and resident of Beaufort County, South Carolina.
3. Segars purchased that certain real property (hereinafter "Lot 2") which is the subject matter of this action and it sits in Beaufort County, South Carolina and is described as follows:

All that certain piece, parcel and lot of land showing and depicted as "Lot 2" containing 0.16 acres, more or less, in the Singleton Beach Place Extension area of Hilton Head Island, South Carolina, depicted on that plat of survey entitled "Boundary Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Land Survey, LLC, Ralph O. Vanadore, SCRLS #7606 and recorded in the

Beaufort County Register of Deeds Office on December 15, 2003 in Plat Book 96 at Page 160. For a more particular description as to the courses, metes, and bounds and distances of said lots, reference is hereby made to the above-described plat of record.

4. Defendant Richardson Street Partners, LLC (hereinafter "Richardson") is a South Carolina limited liability company that does business in Beaufort County, South Carolina and is the entity that sold Lot 2 to Segars..
5. Defendant Paul Gaughf (hereinafter "Gaughf") is upon information and belief, a citizen of Sumter County, South Carolina, and conducts business in Beaufort County, South Carolina as the managing member of Richardson.
6. Defendant Fidelity National Title Insurance Company (hereinafter "Fidelity") is a corporation organized under the laws of the State of California, and provides title insurance on real property in Beaufort County, South Carolina.
7. Venue is proper in Beaufort County pursuant to the Code of Laws of South Carolina because the Defendants conduct business in Beaufort County and the property that is the subject of this action is located in Beaufort County.

FACTS

8. In November 2002 a plat dated November 12, 2002 entitled "Boundary Reconfiguration of Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389, Hilton Head Island, South Carolina" was presented to Segars and Gaughf (as managing member of Richardson). Said plat depicted a future OCRM line for Lot 2.. Said plat was prepared for J.J Development, Inc., Wayzata, LLC, Eldred David, Martha Avery, William Coleman, David Smart, and Irene Booker, and was recorded January 29, 2003 (hereinafter the "January 29, 2003 Plat") in the office of the Register of

Deeds for Beaufort County, South Carolina in Plat Book 91 at Page 90.

9. On November 13, 2003, Richardson and Gaughf had an architectural drawing prepared by Allen Cauble, Residential Designer for Cauble & Company, Inc. that depicted a residence approximately 4,000 square feet could be constructed on Lot 3 Singleton Beach Place, which is adjacent to but smaller than Lot 2.
10. On November 20, 2003 a corrective Plat, entitled "Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389 Lot 15 Singleton Beach Place, Hilton Head Island, Beaufort County, South Carolina" (hereinafter "November 20, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 102. Said corrective plat, dated November 18, 2003, was prepared for J.J. Development, inc. Wayzata, LLC, Eldred Davis, Martha Avery, William Coleman, David Smart, Irene Booker & Nancy Flynn by Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606. Said plat which included Lot 2, removed the future OCRM line depicted in that certain plat recorded in Plat Book 96 at Page 90. The effect of removing the future OCRM line depiction was to decrease the potential building envelope for the lot pursuant to the density regulations imposed by the Town of Hilton Head Island Land Management Ordinance (LMO).
11. On December 15, 2003, a corrective plat, entitled "Boundary Reconfiguration of: Singleton Beach Place Extension Comprising Parcels: 10, 10A (2 Parcels), 10B, 10C, 10D, 10H, 10N (2 Parcels), 350 and 389 Lot 15 Singleton Beach Place, Hilton Head Island, Beaufort County, South Carolina" (hereinafter "December 15, 2003 Plat") was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 160. Said

corrective plat, dated December 4, 2003, was prepared by Sea Island Survey, LLC, Ralph O. Vanadore, SCRLS #7606, on behalf of J.J. Development, Inc., Wayzata Limited Partnership, and Richardson Street Partners, LLC. Said plat which included Lot 2, removed the future OCRM line depicted in that certain plat recorded in Plat Book 96 at Page 90.

12. Richardson purchased Lot 2 pursuant to that certain Limited Warranty Deed dated December 18, 2003 and recorded December 19, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 1887 at Page 2258.
13. During the negotiations for Segars' purchase of Lot 2, Richardson and Gaughf provided Plaintiff with a copy of the architectural drawing prepared in November 2003, which depicted a 4,000 square foot residence.
14. Thereafter, on March 15, 2004 Segars entered into a Contract of Sale with Richardson for the purchase of Lot 2.
15. Segars closed on the purchase of Lot 2 on June 7, 2004, and the deed of Lot 2 from Richardson to Segars, dated May 24, 2004, was recorded August 23, 2004, in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 1976 at Page 1964.
16. In late 2005 Segars learned of the corrective plat recorded on December 15, 2003, and as a result, the residence represented in the architectural drawing provided to Segars could not be constructed on Lot 2, but that pursuant to said plat only a residence approximately 2,000 square feet could be constructed on Lot 2.

FIRST CAUSE OF ACTION

(Breach of Contract - Implied Covenant of Good Faith and Fair Dealings)

17. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
18. On March 15, 2004 Segars entered into a valid Contract of Sale with Richardson for the purchase of Lot 2 by Segars.
19. There exists in every contract an implied covenant of good faith and fair dealing between the parties.
20. Segars fully performed all of his obligations under the March 15, 2004 Contract of Sale, including but not limited to, the closing on the purchase of Lot 2 and paying valuable consideration for the property in the amount of \$1,600,000.00.
21. Richardson breached the Contract of Sale by in bad faith representing to Segar that a residence in excess of 4,000 square feet could be built on Lot 2, when Richardson knew or should have known, from the December 15, 2003 Plat prepared for Richardson, that the applicable OCRM lien would not permit a 4,000 square foot residence to be constructed on Lot 2, but only a residence slightly larger than 2,000 square feet.
22. As a result, the value of Lot 2 was and is considerably less than the stated purchase price, in an amount to be proven at trial.
23. In addition, Lot 2 has been unmarketable since closing, causing damage to Segars represented by carrying costs for the property.
24. Richardson's breach is the proximate cause of Segars' damages.
25. As a result of Richardson's breach, Segars is further informed and believes that pursuant to

paragraph 9 of the Contract of Sale he is entitled to an award of all attorneys fees, costs and expenses incurred in this action.

SECOND CAUSE OF ACTION
(Fraudulent Misrepresentation)

26. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
27. Richardson and Gaughf represented to Segars that a residence in excess of 4,000 square feet could be built on Lot 2 and thus the value of Lot 2 was \$1,600,000.00.
28. Richardson's and Gaughf's representations regarding the square footage of a residence that could be built on Lot 2, and thus the value of Lot 2, were false due to the recording of a corrective plat, prepared for Richardson, recorded December 15, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 160, which showed an OCRM line that would not permit even a 4,000 square foot residence could not be built on Lot 2, but instead a residence approximately 2,000 square feet to be constructed.
29. The square footage of a residence that could be built on Lot 2 was material to Segars decision to enter into the Contract of Sale to purchase Lot 2 in March 2004.
30. Since the December 15, 2003 Plat states on its fact that it was prepared for Richardson, Richardson and Gaughf either knew of the falsity of said representation or made said misrepresentation recklessly and with a disregard for their truthfulness or falsity.
31. By providing Segars with an architectural drawing of a residence in excess of 4,000 square feet and representing that a larger residence it could be constructed on Lot 2, Richardson and Gaughf intended for Plaintiff to rely on said misrepresentation when he entered into the

Contract of Sale in March 2004.

32. Segars had no knowledge of the falsity of Richardson's and Gaughf's misrepresentation prior to entering the Contract of Sale on March 15, 2004 or prior to closing on the purchaser of Lot 2 on June 7, 2004. In fact Segars did not learn of the falsity of these representations until late 2005.
33. Segars in fact relied, and had a right to rely, on Richardson's and Gaughf's representations.
34. Richardson's and Gaughf's misrepresentations have caused damages to Segars; namely, Segars has purchased Lot 2 for \$1,600,000.00 which is an amount vastly in excess of the lots true value and Segars is burdened by carrying the excess financing he acquired to purchase Lot 2 at that price.
35. Said damages were proximately caused by Richardson's and Gaughf's misrepresentations, as they were foreseeable results of inducing Segars to enter into the Contract of Sale and closing the purchase of Lot 2 while relying on said misrepresentations.

THIRD CAUSE OF ACTION

(Negligent Misrepresentation)

36. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
37. Richardson and Gaughf misrepresented to Plaintiff the value of Lot 2 by misrepresenting the square footage of a residence that could be built on Lot 2.
38. Richardson and Gaughf had a pecuniary interest in these misrepresentations, because of the additional profit from the sale of a lot that could support a larger house.
39. In choosing to make a representation regarding the allowable square footage of a residence

to be constructed on Lot 2, Richardson and Gaughf had a duty of care to ensure that the information being represented was accurate.

40. Richardson and Gaughf breached this duty of care, because they negligently failed to take reasonable action to ascertain the validity of these representations.
41. Segars as the purchaser of Lot 2, justifiably relied on Richardson's and Gaughf's representations regarding the allowable square footage of a residence on Lot 2, and thus the value of Lot 2, when Segars entered into the Contract of Sale in March 2004.
42. Segars has suffered a pecuniary loss as a proximate cause of his reliance on said misrepresentations as they materially affected his decision to purchase Lot 2.

FOURTH CAUSE OF ACTION
(Fraudulent Concealment)

43. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
44. At the time Segars entered into the Contract of Sale on March 15, 2004 Richardson and Gaughf concealed and/or suppressed the material fact that only a residence slightly larger than 2,000 square feet could be constructed on Lot 2 and not a residence in excess of 4,000 square feet as depicted in the architectural drawing provided to Segars.
45. Richardson and Gaughf had a duty to Segars, by choosing to make representations regarding a material fact; namely, the size of a residence that could be constructed on Lot 2, to make said representations accurately.
46. Richardson and Gaughf intentionally concealed this fact with an intent to defraud Segars into entering into a Contract of Sale for Lot 2 and closing on the purchase of Lot 2 for

\$1,600,000.00.

47. At the time Segars entered into the Contract of Sale in March 2004 he was unaware of the December 15, 2003 Plat and its affects concealed by Richardson and Gaughf..
48. Segars would not have entered into a Contract of Sale for Lot 2 or closed the purchase of Lot 2 if he had known that the facts Richardson and Gaughf concealed, as he would not have valued Lot 2 at \$1,600,000.00.
49. As a result of Richardson's and Gaughf's concealment, Segars purchased Lot 2 and has been damages as a result.

FIFTH CAUSE OF ACTION
(Breach of Contract against Fidelity National)

50. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
51. Subsequent to closing on the purchase of Lot 2, Segars was provided with an owner's title insurance policy (hereinafter the "Policy") from Fidelity, being Policy # 51338-6027.
52. The Policy insured the conveyance of Lot 2 to Segars, pursuant to that certain deed recorded August 23, 2004, in the office of the Register of Deeds in Beaufort County, SC in Deed Book 1976 at Page 1964, in the amount of \$1,600,000.00.
53. Said deed conveying title to Lot 2 to Segars was subject to the Declaration of Covenants, Conditions, and Restrictions for Singleton Place (hereinafter "Covenants and Restrictiosn"), dated August 30, 1995 and recorded September 7, 1995, in the Office of the Register of Deeds for Beaufort County, SC in Book 801 at Page 715, as supplemented in Book 945 at Page 1792, as supplemented in Book 1082 at Page 898, and as supplemented in Book 1887

at Page 2282. Said Covenants and Restrictions establish that no residence shall be constructed with a square footage less than 2,500 square feet.

54. The above deed, upon which Fidelity insured Segars' title to Lot 2, conveyed Lot 2 subject to the December 15, 2003 Plat, which under the prevailing and existing coastal land use restrictions, as established in the Hilton Head Island Land Management Ordinance, as applied to Lot 2 prevented the construction of a residence on Lot 2 to approximately 2,000 square feet.
55. Thus, at the conveyance of Lot 2 to Segars, Lot 2 was unmarketable or insurable at \$1,600,000.00, because a marketable structure could not be erected given the restrictions applicable to Lot 2.
56. Segars has suffered losses subsequent to his purchase of Lot 2.
57. Segars' losses are covered losses under the owner's title insurance policy provided by Fidelity.
58. Segars fully performed under said Policy by remitting a premium at closing, and in properly filing a claim with Fidelity pursuant to the Policy.
59. Segars has requested that Fidelity provide coverage for his damages and losses.
60. Fidelity has refused coverage to Segars in breach of the Policy.
61. Fidelity's breach is the proximate cause of Segars' damages.

SIXTH CAUSE OF ACTION
(Declaratory Judgment)

62. Plaintiff re-alleges the allegations contained in the above-stated paragraphs as if fully repeated verbatim herein.
63. Fidelity provided Segars, as a new-owner of Lot 2, with an owner's title insurance policy, being #51338-6027.
64. Segars has suffered losses subsequent to his purchase of Lot 2.
65. Segars' losses are covered losses under the owner's title insurance policy provided by Fidelity.
66. Fidelity denied Segars' claim for coverage.
67. Segars seeks a declaratory judgment, pursuant to the South Carolina Declaratory Judgment Act, Section 15-53-10 et.al., that his losses are covered by the owner's title insurance policy provided by Fidelity.

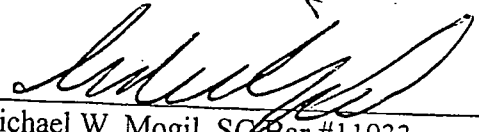
WHEREFORE, Plaintiff Thaddeus F. Segars prays for a judgment against Defendants Richardson Street Partners, LLC, Paul Gaughf and Fidelity National Title Insurance Agency in the following particulars:

- a. for damages for breach of contract, fraudulent misrepresentation, negligent misrepresentation, and fraudulent concealment in an amount to be determined at trial;
- b. for damages against Fidelity National due to its failure to provide coverage.
- c. for a declaratory judgment from this Court ordering Fidelity National to provide coverage under its insurance policy issued to Plaintiff;

- e. for attorneys fees, costs, and other expenses in prosecuting this action;
- f. for punitive damages for fraudulent misrepresentation and fraudulent concealment;
- g. for a trial by jury on the all legal claims set forth herein.

Dated: August 1, 2008
Hilton Head Island, South Carolina

Respectfully Submitted,



Michael W. Mogil, SC Bar #11933
Law Office of Michael W. Mogil, P.A.
303 Professional Building
Hilton Head Island, SC 29928
Tel.: (843)785-8110
mmogil@mogillaw.com
Attorney for Plaintiff Thaddeus Segars

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

THADDEUS F. SEGARS,

Plaintiff,

vs.

RICHARDSON STREET PARTNERS,
LLC; J. PAUL GAUGHF and FIDELITY
NATIONAL TITLE INSURANCE
COMPANY,

Defendants.

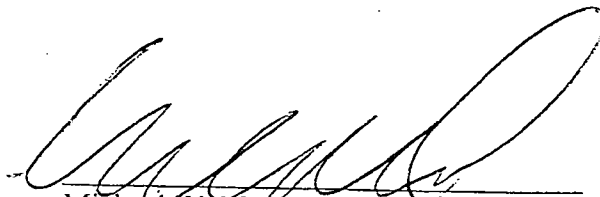
2010 FEB 19 PM 12:30
JEROME L. LEE, JR.
CLERK OF COURT
BEAUFORT COUNTY, S.C.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No. 2008-CP-07-02791

STIPULATION OF DISMISSAL

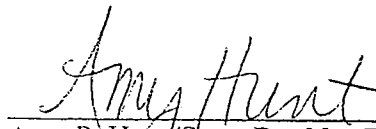
Pursuant to South Carolina Rule of Civil Procedure 41(a)(1)(B), Plaintiff hereby
dismisses Defendant Fidelity National Title Insurance Company, without prejudice.

This 2 day of February, 2010.



Michael W. Mogil, Esquire
Law Office of Michael W. Mogil, P.A.
Counsel for Plaintiff
303 Professional Building
Hilton Head Island, SC 29928

STIPULATED TO BY:



Amy P. Hunt/State Bar No. 75185
Horack, Talley, Pharr & Lowndes, P.A.
*Attorneys for Defendant Fidelity National Title
Insurance Company*
301 South College Street, Suite 2600
Charlotte, N.C. 28202-6006

0053

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

COURT OR COMMON PLEAS
2011-CP-07-00931

THADDEUS SEGARS,

Plaintiff,

V.

FIDELITY NATIONAL TITLE
INSURANCE COMPANY,

Defendant.

TRANSCRIPT OF RECORD

April 25, 2012
Charleston, South Carolina

B E F O R E:

THE HONORABLE CARMEN T. MULLEN, JUDGE

A P P E A R A N C E S:

MR. MICHAEL W. MOGIL, ESQUIRE
REPRESENTING THE PLAINTIFF

MS. AMY P. HUNT, ESQUIRE
REPRESENTING THE DEFENDANT

Anne Bouley Meyer, RPR
Circuit Court Reporter

0054:

1 MS. HUNT: Good morning, Your Honor, Amy Hunt on
2 behalf of the defendant, Fidelity National Title
3 Insurance Company.

4 This is our motion to dismiss plaintiff's
5 complaint based on Rules 12(b)(2), (4), (5) and (6).

6 MR. MOGIL: Good morning, Your Honor, Michael
7 Mogil here with Mr. Segars who has asked me to re-enter
8 the case and appear with him today. I do not have a
9 notice of appearance.

10 I just recently notified Ms. Hunt and confirmed,
11 this was two days ago, that I would in fact would be
12 coming after Mr. Segars confirmed that he wanted me.

13 So I would argue and appear with your
14 permission, and Ms. Hunt's consent.

15 MS. HUNT: I have no objection.

16 THE COURT: Okay. We will go ahead and enter
17 you as attorney of record for Mr. Segars. Yes, sir,
18 you may.

19 Additionally, Mr. Segars had a previous case, I
20 have not idea if it's related in any way to this, in
21 which he asked me to recuse myself. It was a case
22 against Weston Newton. And I think his argument was
23 because Mr. Newton is a county council person, that
24 somehow there was some kind of possibility, I guess,
25 that I would be more inclined to assist him, or I don't

1 quite know what.

2 MR. MOGIL: Please don't hold it against me.

3 THE COURT: Based on the appearance of
4 impropriety in any way, I assured him that I don't
5 particularly have any affinity.

6 So I just want to make sure and put that on the
7 record, see if you have any objection, Mr. Mogil. I
8 see no problem with it.

9 But, again, out of an abundance, I certainly
10 didn't want however I rule for him to take it in any
11 way that I was going with someone else who happens to
12 be on county council.

13 So to that extent are you comfortable, Mr.
14 Mogil?

15 MR. MOGIL: No, I think he's not -- he has to me
16 raised any objection to you hearing this case.

17 THE COURT: Okay.

18 MS. HUNT: We certainly don't have any
19 objection.

20 THE COURT: Okay, that's fine. All right.

21 Let's go ahead and then go forward with the
22 motion, it's a motion dismiss, whenever you are ready.

23 MS. HUNT: Your Honor, unrelated I think to the
24 case that you were just mentioning regarding Weston
25 Newton, this is the second time this set of facts and

1 these claims have been before you.

2 You may recall back a long, long time ago,
3 February of 2010, Mr. Mogil and I appeared in a case
4 that was captioned very similarly. There were two
5 cases at that time, Segars versus Fidelity. There were
6 other parties in and out of those lawsuits.

7 But in February of 2010 we were here on motions
8 for summary judgment, our motions for summary judgment.
9 Following argument, plaintiff took a voluntary
10 dismissal under 41(a) of both cases. And then
11 subsequently a little over a year later, in February of
12 2011, this case was refiled.

13 It's the same facts and allegations, it's just
14 combined into one lawsuit and it's just the two parties
15 at this time.

16 THE COURT: Okay.

17 MS. HUNT: With respect to the 12(b)(2), (4) and
18 (5) motion, plaintiff has never been properly served in
19 this case. The certificate of service is attached to
20 the complaint that was filed with the clerk by Mr.
21 Segars, who was pro se at that time, indicates that he
22 is served Fidelity Title Insurance Company at claims
23 intake department, with a PO Box in Jacksonville,
24 Florida.

25 First of all, it is not the proper name of the

1 company. Secondly, it is not addressed to an officer,
2 agent, director, or any of the other qualifying titles.

3 And third, it's simply not the correct address.
4 It's not where the company is incorporated, not where
5 their registered agent is located.

6 And the legislature has made it very clear, it's
7 very easy to serve insurance companies here. There is
8 a way to do it. There is a statute that allows it.
9 15-9-270 sets forth that service upon the South
10 Carolina Department of Insurance is sufficient service.

11 Fidelity National Title Insurance Company is
12 registered with the South Carolina Department of
13 Insurance, and there is an address on record that can
14 be pulled up very easily, which is the proper mechanism
15 for service.

16 The certificate of service is the only thing in
17 the court file that I have seen. I have not seen a
18 separate affidavit of service, or anything along those
19 lines.

20 There has been a claim underlying this action.
21 This is basically a bad-faith claim, breach of contract
22 claim for denial of coverage under two insurance, title
23 insurance policies. So there have been communications
24 with the claims department outside of this case and
25 subsequent to the filing of this case, none of which we

1 believe constituted proper service.

2 All of the service issues aside, getting to the
3 merits of this case under our 12(b)(6) motion, first
4 and foremost we believe the plaintiff has a statute of
5 limitations issue.

6 The policies at issue in this case are June and
7 August of 2004. The issue complained of, in essence,
8 is that there are conflicting restrictions. There are
9 plats that dictate the building envelope size on these
10 properties, and then there are building restrictions
11 put in by the homeowner's association. And the two
12 conflict such that Mr. Segars cannot build the house
13 that he would like to the build.

14 Both of those documents are a public record.
15 The plat and the restrictions are a public record, and
16 were a public record prior to Mr. Segars' purchase in
17 2004, and the date of issuance of these two policies.

18 Mr. Segars certainly had sufficient record
19 notice available to charge him with the duty to
20 investigate further. Any investigation of the public
21 records would have revealed these plats and these
22 restrictions and would have shown the tension between
23 the two that now causes the problems Mr. Segars
24 complains of.

25 So we don't believe he's entitled to any sort of

1 bona fide purchaser argument that would extend the
2 statute or that would push out his reasonable discovery
3 date. We believe he should have known as of the date
4 of purchase, which is the same as the date of policy,
5 which is 2004. And certainly we are well past the
6 three-year statute of limitations for breach of
7 contract claim.

8 Furthermore, simply with the breach of contract
9 claim there is no causation alleged with respect to
10 Fidelity causing any specific damages to Mr. Segars.
11 Of course causation is a required element of breach of
12 contract.

13 And taking all of the allegations in the
14 complaint in the light most favorable to the plaintiff,
15 we still don't believe the facts have been pled
16 sufficient to support any causation allegation.

17 With respect to the vicarious liability claim,
18 which is another claim in this complaint, again the
19 statute of limitations applies. We believe it's a
20 three-year statute, just as with a breach of contract.

21 It is difficult to understand exactly what the
22 allegations are referring to. I will say --

23 THE COURT: What is the trigger date, in your
24 opinion, of the statute?

25 MS. HUNT: I believe the trigger date is the

1 date of the policy which is 2004 for both policies.
2 And I believe that's because the damages claimed of are
3 cause by matters that were of the public record prior
4 to 2004. So the latest possible date is the date of
5 the policy.

6 The fact that he didn't discover any problems
7 until after the policy is irrelevant, because there was
8 sufficient record notice that he should have known as
9 of the date of purchase.

10 The vicarious liability claim I wanted to raise
11 simply because of your comments earlier on the record.
12 The allegations are that Weston Newton, who was the
13 closing attorney, was an agent of Fidelity, and
14 therefore there is a vicarious liability argument.

15 It's not clear from the claim exactly what the
16 basis of that is. But based on the complaint, it
17 appears to be in essence a malpractice claim, claiming
18 malpractice against the title insurance company based
19 on the acts of the closing attorney. Clearly the
20 closing was in 2004, and we are well past any statute
21 of limitations on that claim as well.

22 THE COURT: Okay. Mr. Mogil.

23 MR. MOGIL: Thank you, Your Honor. As I think
24 Ms. Hunt noted, this case was first before the Court in
25 2010 based on a lawsuit filed at the end of 2008

1 involving both lot two and lot three, Singleton Beach.
2 I was counsel of record in that case.

3 And that case at the summary judgment hearing,
4 which was correctly described by Ms. Hunt, the Court
5 was inclined to grant summary judgment based on the
6 Masterman (phonetic) case. It was the seminal case in
7 South Carolina 1993 that said that marketable title,
8 title insurance did not insure marketable title, it
9 only insured what you owned.

10 At that point in time we decided to dismiss this
11 case by consent, Ms. Hunt consented, to allow Mr.
12 Segars some time to either redevelop his theories of
13 law, find new facts, and allow his parallel lawsuit,
14 which was an errors omission case against the named
15 attorney to proceed.

16 THE COURT: Let me ask you, and I don't mean to
17 interrupt, I apologize. Did any of his joint partners
18 file any lawsuits as well?

19 MR. MOGIL: No, Your Honor. There was extensive
20 litigation between the parties. Ultimately SunTrust
21 sued on the note against all three, all four of those
22 partners.

23 THE COURT: Okay. Because I recall the case
24 with Steve Carp (phonetic), I just remember the name,
25 and just in looking at your complaint. I just remember

1 that name out there. And that was on the note.

2 MR. MOGIL: That's correct, on the note. And
3 then two of the partners filed bankruptcy and moved to
4 Florida. And Mr. Carp and Mr. Segars resolved their
5 differences.

6 But this lawsuit, and one of the two lawsuits in
7 2008 -- which I believe were timely filed at the time
8 because we alleged that they were within three years of
9 the date of discovery of any potential defect in the
10 title, and the case was not dismissed on the statute of
11 limitations back in 2008 -- involve both lot three,
12 which was the partnership, and lot two, which Mr.
13 Segars purchased with his wife.

14 And if you are familiar with Singleton Beach, as
15 I think you are, these are lots next to each other.

16 THE COURT: Right.

17 MR. MOGIL: The underlying matter was caused by
18 the reconfiguration, and a plat that was erroneous and
19 showed a future move of the OCRM line that never moved.

20 THE COURT: Right.

21 MR. MOGIL: That was ultimately all resolved in
22 2010. So as we sit here today, the property is
23 essentially what Mr. Segars thought it would be. But
24 in the interim period, it was not.

25 Mr. Segars was unable to sell. And his

1 partners, and I say Mr. Segars because he was the lead
2 partner in terms of trying to sell this, was not able
3 to sell or refinance the property. So he has re-sued
4 pro se presumably for financial reasons, he and I
5 remain very friendly, but he's sued claiming that he
6 has been damaged.

7 Before getting to the Rule 4, honoring and
8 respecting what Your Honor did instruct us at that
9 time, I think Mr. Segars has plead some new theory and
10 I did find one case that could potentially give him
11 some recourse.

12 What Mr. Segars has really pled in his lawsuit
13 is number one under section 5(A) of the title insurance
14 policy it violates the use and enjoyment provisions
15 because he couldn't use the property the second it was
16 closed because it was automatically violative of the
17 Singleton Beach covenants at the time, because you
18 could only build a 1,600 square foot.

19 There are exceptions under schedule B which
20 refer to matters of record. I think that's what Ms.
21 Hunt was referring to. But I think Mr. Segars'
22 argument is on the face of his policy, he bought title
23 insurance that said that he was buy a lot for \$2
24 million, or \$1.8 million at the time, that could be
25 used.

1 The second area that he pled was vicarious
2 liability. I have not found a case in South Carolina
3 that has recognized a title insurance company being
4 vicariously liable for its agent.

5 But under the general principle and agency
6 theory, I think you would have vicarious liability in
7 the sense Mr. Segars bought -- Mr. Segars and his
8 partner, in lot three and lot two, bought title
9 insurance for the sole purpose of insuring against this
10 event.

11 In their mind, they hired an agent of the
12 company presumably to do due diligence. And the fact
13 that the property was not buildable was not discovered
14 until approximately a year and a half after closing.

15 so Mr. Segars argues, what did I buy title
16 insurance for if the person who -- the agent for the
17 company didn't find what he was supposed to find.

18 The third thing I found, Your Honor, and the
19 reason this is relevant is I think you want to know
20 where this case would be going if you made some
21 exception under Rule 4, is in the case of Stanley
22 versus Atlantic Title Insurance, which I have made a
23 copy of -- and I will hand it up to Your Honor, if you
24 want to take a look at it.

25 This case is not right on point, Your Honor, but

1 discusses the Masterson case. And basically says that
2 there is damages available for partial loss of
3 marketability.

4 Now this is a separate -- in this case there
5 were I think two lots or two pieces of property, and
6 one of them was unmarketable and one of them was. But
7 what Masterson remanded to the Master in Equity on the
8 point of determining damages for the partial loss of
9 marketability.

10 Prior to this case we hadn't found anything that
11 said that there were damages available for loss of --
12 if you could sell -- I think the way it has been said
13 in various hearings in this courtroom is, if you can
14 sell the property for a dollar, it's marketable.

15 This case seems to indicate that that's not
16 true. That you can find damages for partial loss of
17 marketability.

18 On the Rule 4 claim, which is the thrust of this
19 motion to dismiss, Mr. Segars filed the case pro se,
20 and according to the certificate of service did mail a
21 copy to Fidelity at that PO Box, whether it was correct
22 or not. He also mailed simultaneously, with the
23 assistance of an office person, the complaint to Ms.
24 Hunt's office.

25 Five weeks later Ms. Hunt filed a motion to

1 dismiss and qualified answer saying we do not consent
2 to jurisdiction of the court, but here is our motion to
3 dismiss.

4 I think there have been cases, as recently as
5 2009, in South Carolina that say, if a party voluntary
6 appears, they waive a claim that there is no
7 jurisdiction over the party.

8 And I realize Rule 4 is strictly construed. But
9 in this case, Fidelity had already appeared and
10 litigated for two years. The was a 41(a) case. It was
11 only a new case number because that's what is required
12 under 41(a).

13 Mr. Segars sent a copy of the pleadings to the
14 attorney, who had successfully defended the case
15 before. She responded. And at that point Mr. Segars,
16 being a layperson, did not even communicate with me and
17 he didn't realize that he thought that they had been
18 served because she responded with a pleading.

19 And Mr. Segars -- I would argue the Court has --
20 the reason why it's relevant, Your Honor, is the
21 statute of limitations. In order to preserve the
22 statute of limitations under the first case, clearly we
23 are beyond the statute of limitations today.

24 But relating it back to the first 2008 case, I
25 think he'd to have served within 120 days of filing

1 this pro se case. And I think it would be inequitable
2 and unjust to dismiss this on the merits when they did
3 get it, they did appear, it's the same party, the same
4 attorney that appeared before.

5 And I think Mr. Segars should try and get a
6 chance to prove this on the merits and not lose on a
7 technicality because he served the attorney but not the
8 insurance company, who then hired the attorney to
9 respond.

10 THE COURT: Okay. So I'm clear, Ms. Hunt, you
11 were the attorney in the previous case, correct?

12 MS. HUNT: Yes, Your Honor, I was the attorney
13 in the previous case.

14 And with respect to the Rule 4 argument, I think
15 that Rule 4 is strictly interpreted and I think it
16 speaks for itself.

17 The certificate of service in the file indicates
18 where he sent it. He did send it to me. I simply
19 don't think any of that matters. He has not properly
20 complied with Rule 4.

21 A couple of other points I want to address
22 really quickly. I heard Mr. Mogil make reference to
23 this not being discovered until a year and a half after
24 the closing, after the 2004 closing.

25 Again, these were matters of public record.

1 Nothing new hit the public record after 2004 with
2 respect to the plats that he is complaining of, or the
3 restrictions he is complaining of that changed
4 anything. So we do believe the 2004 date is what
5 matters, not a discovery date afterwards.

6 Secondly, with respect to the 2008 case,
7 Fidelity never filed a motion to dismiss based on the
8 statute of limitations in that case, so that issue was
9 never addressed as of the 2008 lawsuit. So I don't
10 think it should have any bearing on today's decision.

11 THE COURT: Okay.

12 What I'm going to do is this. Let me read the
13 Stanley case that you passed up to me. Let me take a
14 look at it.

15 MR. MOGIL: Your Honor, I would be pleased to
16 submit a memorandum or short memorandum on a few more
17 cases I found. Obviously they're all in the citations,
18 the annotations, so I would be giving you what you'd
19 find already.

20 THE COURT: You don't need to.

21 MR. MOGIL: Ex-parte Cannon was one of them.

22 THE COURT: Yeah, I don't need it. I will let
23 you know you all, and I will request someone provide a
24 proposed order. I appreciate it.

25 MS. HUNT: Thank you.

1 MR. MOGIL: Thank you.

2 THE COURT: Thank you.

3 (Whereupon, the proceedings in this matter
4 before the court were adjourned.)

5 * * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record, and of all the proceedings had and evidence introduced in the above captioned case, relative to appeal, in the Circuit Court for South Carolina, on the indicated date.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

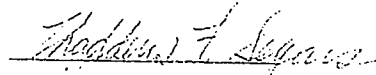
Anne Bouley Meyer

Anne Bouley Meyer, RPR
Circuit Court Reporter

Certificate of Service

This will certify that on March 8, 2011, I did serve a copy of the above Response to Notice and Motion to Dismiss by forwarding the same via first class, U.S. Mail, postage prepaid and properly addressed, to counsel of record as follows:

Fidelity Title Insurance Company
Claims Intake Department
PO Box 45023
Jacksonville, FL 32232


Thaddeus F. Segars

0072



Fidelity National Title Insurance Company

POLICY NO.: SC2179-10-SEGARS775.063-2008.2730640-75096808

OWNER'S POLICY OF TITLE INSURANCE

Issued by

Fidelity National Title Insurance Company

NOTICE IS HEREBY GIVEN THAT THIS POLICY IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF CHAPTER 48 OF TITLE (SEC. 15-48-10 ET. SEQ.) OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without knowledge.
9. Title being vested other than as stated Schedule A or being defective
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

Countersigned:

Authorized Signatory

FIDELITY NATIONAL TITLE INSURANCE COMPANY



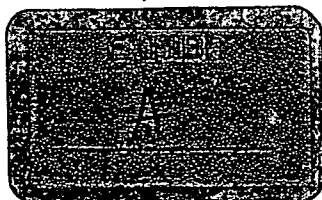
By:

ALTS31

President

Secretary

SC2179 SEGARS775.063
Hilton Head Island/Bluffton Title Agency
18 Pope Avenue
Hilton Head Island, SC 29928
Tel: (843) 842-6111
Fax: (843) 686-1219



ALTA Owner's Policy with South Carolina modifications (6/17/06)

2730640 (6/06)

0073

**Fidelity National Title
Insurance Company**

P. O. Box 45023
Jacksonville, Florida 32232-5023

SCHEDULE A

Policy No.: 2008.2730640-75096808 File No.: SEGARS775.063
Address Reference: 19 Singleton Beach Place, Hilton Head Island SC
Amount of Insurance: \$1,800,000.00 Premium: 2,925.00

Date of Policy: August 9, 2004 at 9:59 AM

1. Name of Insured:

Frederick J. Cerrato and Steven M. Cerrato and Kenneth C. Oliver and Thaddeus Segars and Steven M. Carb d/b/a Lot 3 Singleton Beach, A Joint Venture

2. The estate or interest in the Land that is Insured by this policy is:

Fee Simple

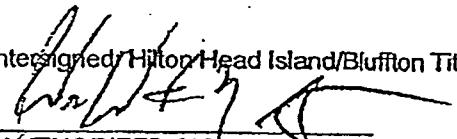
3. Title is vested in:

Frederick J. Cerrato and Steven M. Cerrato and Kenneth C. Oliver and Thaddeus Segars and Steven M. Carb d/b/a Lot 3 Singleton Beach, A Joint Venture

4. The Land referred to in this policy is described as follows:

SEE EXHIBIT 'A' ATTACHED HERETO

Countersigned: Hilton Head Island/Bluffton Title Agency

By: 

AUTHORIZED SIGNATORY

ALTA Owner's Policy (6/17/06)

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

0074

SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes for the year 2004 and subsequent years, a lien not yet due and payable.
2. Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
3. Any encroachments, easements, party walls, conflicts in boundary line, shortage or variation in area or measurements, and/or any facts that a correct survey and/or a physical inspection of the premises would disclose.
4. Rights or claims of parties in possession not shown in public records.
5. Roadways, streams or easements, or claims of easements, if any, not shown by the public records, riparian rights and the title to any filled-in lands.
6. Mortgage from Frederick J. Cerrato and Steven M. Cerrato and Kenneth C. Oliver and Thaddeus Segars and Steven M. Carb d/b/a Lot 3 Singleton Beach, A Joint Venture to SunTrust Mortgage, Inc., dated July 23, 2004, filed for record on August 9, 2004 in Book 1999, Page 1944, in the Office of the Register of Deeds for Beaufort County, in the principal sum of \$1,620,000.00.
7. Conditions and Restrictions, but omitting any restriction based on race, color, religion, sex, handicap, familial status, or national origin, unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (B) relates to handicap but does not discriminate against handicapped persons, as contained in Declaration of Restrictive Covenants and Establishment of Cross-Easements by Wayzata, Limited Partnership and Richardson Street Partners, LLC recorded in Book 1887, Page 2275, as supplemented in Book 1887 at Page 2282, Beaufort County records.
8. Easements, Set Back Lines and other matters as reflected on the plat entitled "Boundary Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Land Survey, LLC, Ralph O. Vanadore, SCRLS #7606 recorded in Plat Book 96 at Page 160.
9. Easement Agreements for Beach Nourishment recorded in Deed Book 551 at Page 1899 and Deed Book 544 at Page 65.
10. Easements, set-back lines and other matters as shown on the plats recorded in Plat Book 26 at Page 198, Plat Book 86 at Page 90, Plat Book 91 at Pages 94, 96 & 97 and Plat Book 96 at Page 160.
11. Restrictions and Easements as recorded in Deed Book 90 at Page 147, Book 1704 at Page 2601, Book 1704 at Page 2605, Book 1887 at Page 2252, Book 1887 at Page 2258, Book 1887 at Page 2272, aforesaid records.
12. Conditions and Restrictions, but omitting any restriction based on race, color, religion, sex, handicap, familial status, or national origin, unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (B) relates to handicap but does not discriminate against handicapped persons, as contained in the Covenants for Singleton Place as recorded in Book 801, Page 715, and supplemented in Book 945 at Page 1792, aforesaid records.
13. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act or other federal law or by SC Code, Chapter 39, Title 48, as amended, or any regulations promulgated pursuant to said state or federal laws.
14. Rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary line separating the publicly used area from the upland private area.
15. Title to that portion of the property lying below the mean high water mark of Atlantic Ocean.

LEGAL DESCRIPTION

EXHIBIT 'A'

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF BEAUFORT, STATE OF SOUTH CAROLINA AND IS DESCRIBED AS FOLLOWS:

ALL that certain piece, parcel or lot of land shown an depicted as "Lot 3" containing 0.14 acres, more or less, in the Singleton Beach Place Extension area of Hilton Head Island, South Carolina, depicted on that plat of survey entitled "Boundary Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Land Survey, LLC Ralph O. Vanadore, SCRLS #7606 and recorded on December 15, 2003 in the Beaufort County Register of Deeds Office in Plat Book 96 at Page 160. For a more particular description as to the courses, metes, bounds and distances of said parcel, reference is hereby made to the above-described plat of record.

Fidelity National Financial Group of Companies' Privacy Statement
July 1, 2001

We recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public personal information ("Personal Information"), and to whom it is disclosed, will form the basis for a relationship of trust between us and the public that we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

In the course of our business, we may collect Personal Information about you from the following sources:

- From applications or other forms we receive from you or your authorized representative;
- From your transactions with, or from the services being performed by us, our affiliates, or others;
- From our internet web sites;
- From the public records maintained by government entities that we either obtain directly from those entities, or from our affiliates or others; and
- From consumer or other reporting agencies.

Our Policies Regarding the Protection of the Confidentiality and Security of Your Personal Information

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

Our Policies and Practices Regarding the Sharing of Your Personal Information

We may share your Personal Information with our affiliates, such as insurance companies, agents, and other real estate settlement service providers. We also may disclose your Personal Information:

- to agents, brokers or representatives to provide you with services you have requested;
- to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- to others with whom we enter into joint marketing agreements for products or services that we believe you may find of interest.

In addition, we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

Right to Access Your Personal Information and Ability To Correct Errors Or Request Changes Or Deletion

Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request correction, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer
Fidelity National Financial, Inc.
4050 Calle Real, Suite 220
Santa Barbara, CA 93110

Multiple Products or Services

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.

Privacy Agreement

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guarantees, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION (INAPPLICABLE IN KANSAS AND MISSOURI)

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to

the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Fidelity National Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.

RESIDENTIAL TITLE INSURANCE POLICY — ONE-TO-FOUR FAMILY RESIDENCES
Issued by



Fidelity National Title
INSURANCE COMPANY OF NEW YORK

Homeowner's Policy of Title Insurance For A One-To-Four Family Residence

OWNER'S INFORMATION SHEET

Your Title Insurance Policy is a legal contract between You and Us.

It applies only to a one-to-four family residence and only if each insured named in Schedule A is a Natural Person. If the Land described in Schedule A of the Policy is not an improved residential lot on which there is located a one-to-four family residence, or if each insured named in Schedule A is not a Natural Person, contact Us immediately.

The Policy insures You against actual loss resulting from certain Covered Risks. These Covered Risks are listed beginning on page 2 of the Policy. The Policy is limited by:

- Provisions of Schedule A
- Exceptions in Schedule B
- Our Duty To Defend Against Legal Actions on page 2
- Exclusions on page 5
- Conditions on pages 5 and 6.

You should keep the Policy even if You transfer Your Title to the Land.

If You want to make a claim, see paragraph 3 under Conditions on page 5.

You do not owe any more premiums for the Policy.

This sheet is not Your insurance Policy. It is only a brief outline of some of the important Policy features. The Policy explains in detail Your rights and obligations and Our rights and obligations. Since the Policy—and not this sheet—is the legal document,

YOU SHOULD READ THE POLICY VERY CAREFULLY.

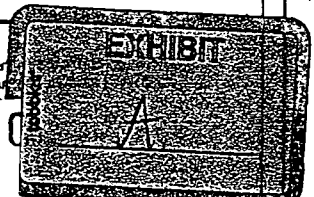
NOTICE IS HEREBY GIVEN THAT THIS POLICY IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF CHAPTER 48 OF TITLE 15 (SEC. 15-48-10 ET. SEQ.) OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

If You have any questions about Your Policy, contact:

FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK
Claim Administration
711 Third Avenue, 5th Floor
New York, NY 10017

Homeowner's Policy of Title Insurance For a One-To-Four Family Residence
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**FIDELITY NATIONAL TITLE
INSURANCE COMPANY OF NEW YORK**

Issued by: Hilton Head Island/Bluffton Title Agency, 18 Pope Avenue, Hilton Head Island, SC 29910

File No. SEGARS, T 775.061
Policy Number: 51338-6027
Issued With Policy No: 5671-1100

Premium \$2,625.00

SCHEDULE A

Date of Policy: 06/23/04 at 11:09 AM
Amount of Insurance: \$1,600,000.00

OWNER'S DEDUCTIBLES/MAXIMUM LIABILITY AMOUNTS: Each of the following coverages are subject to the lesser deductible of 1% of Owners Policy Amount or the Deductibles listed below for each of these Covered Risks; also, subject to the following Maximum Liability Amounts as listed for each Covered Risk:
Covered Risk 14 (Subdivision Law violation) \$2500 Deductible-Maximum Liability Amount \$10,000
Covered Risk 15 (Building Permit) \$5000 Deductible-Maximum Liability Amount \$25,000
Covered Risk 16 (Zoning) \$5000 Deductible-Maximum Liability Amount \$25,000
Covered Risk 18 (Encroachment of wall or fence) \$2500 Deductible-Maximum Liability Amount \$5,000

1. Name of Insured:

Thaddeus F. Segars

2. The estate or interest in the land which is covered by this policy is:

Fee Simple

3. Title to the estate or interest in the land is vested in:

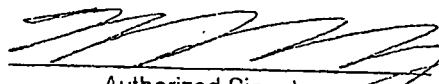
Thaddeus F. Segars

4. The land referred to in this policy is described as follows:

ALL that certain piece, parcel or lot of land shown and depicted as "Lot 2" containing 0.16 acres, more or less, in the Singleton Beach Place Extension are of Hilton Head Island, South Carolina, depicted on that plat of survey entitled "Boundary Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Land Survey, LLC Ralph O. Vanadore, SCRLS #7606 and recorded on December 15, 2003 in the Beaufort County Register of Deeds Office in Plat Book 96 at Page 160. For a more particular description as to the courses, metes, bounds and distances of said parcel, reference is hereby made to the above-described plat of record.

Jones, Patterson, Simpson & Newton, P.A.

Countersigned By:


Authorized Signatory

0081

FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NEW YORK

Issued by: Hilton Head Island/Bluffton Title Agency, 18 Pope Avenue, Hilton Head Island, SC 29910

Policy Number: 51338-6027

SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) which arise by reason of:

1. All assessments and taxes for the year 2002 and all subsequent years.
2. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
3. Any encroachments, easements, party walls, conflicts in boundary lines, shortage or variation in area or measurements, and/or any facts that a correct survey and/or a physical inspection of the premises would disclose.
4. Rights or claims of parties in possession not shown by the public records.
5. Roadways, streams or easements, or claims of easements, if any, not shown by the public records, riparian rights and the title to any filled-in lands.
6. Mortgage from Thaddeus F. Segars to NBSC, dated June 9, 2004, filed for record on June 23, 2004 in Book 1976, Page 1967, in the Office of the Register of Deeds for Beaufort County, in the principal sum of \$1,360,000.00.
7. Conditions and Restrictions, but omitting any restriction based on race, color, religion, sex, handicap, familial status, or national origin, unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (B) relates to handicap but does not discriminate against handicapped persons, as contained in Declaration of Restrictive Covenants and Establishment of Cross-Easements by Wayzata, Limited Partnership and Richardson Street Partners, LLC. recorded in Book 1887, Page 2275, as supplemented in Book 1887 at Page 2282, Beaufort County records.
8. Easements, Set Back Lines and other matters as reflected on the plat entitled "Boundary Reconfiguration of Singleton Beach Place Extension" prepared by Sea Island Land Survey, LLC, Ralph O. Vanadore, SCRLS #7606 recorded in Plat Book 96 at Page 160.
9. Easement Agreements for Beach Nourishment recorded in Deed Book 551 at Page 1899 and Deed Book 544 at Page 65.
10. Easements, set-back lines and other matters as shown on the plats recorded in Plat Book 26 at Page 198, Plat Book 86 at Page 90, Plat Book 91 at Pages 94, 96 & 97.
11. Restrictions and Easements as recorded in Deed Book 90 at Page 147, Book 1704 at Page 2601, Book 1704 at Page 2605, Book 1887 at Page 2252, Book 1887 at Page 2258, Book 1887 at Page 2272, aforesaid records.
12. Conditions and Restrictions, but omitting any restriction based on race, color, religion, sex, handicap, familial status, or national origin, unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (B) relates to handicap but does not discriminate against handicapped persons, as contained in the Covenants for Singleton Place as recorded in Book 801, Page 715, and supplemented in Book 945 at Page 1792, aforesaid records.

**FIDELITY NATIONAL TITLE
INSURANCE COMPANY OF NEW YORK**

Issued by: Hilton Head Island/Bluffton Title Agency, 18 Pope Avenue, Hilton Head Island, SC 29910

13. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act or other federal law or by SC Code, Chapter 39, Title 48, as amended, or any regulations promulgated pursuant to said state or federal laws.
14. Rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary line separating the publicly used area from the upland private area.
15. Title to that portion of the property lying below the mean high water mark of Atlantic Ocean.

Fidelity National Financial Group of Companies' Privacy Statement

July 1, 2001

We recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public information (Personal Information"), and to whom it is disclosed will form the basis for a relationship of trust between us and the public that we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

In the course of our business, we may collect Personal Information about you from the following sources:

- From applications or other forms we received from you or your authorized representative;
- From your transactions with, or from the services being performed by, us, our affiliates, or others;
- From our internet web sites;
- From the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others; and
- From consumer or other reporting agencies.

Our Policies Regarding the Protection of the Confidentiality and Security of Your Personal Information

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

Our Policies and Practices Regarding the Sharing of Your Personal Information

We may share your Personal Information with our affiliates, us as insurance companies, agents, and other real estate settlement service providers. We also may disclose your Personal Information:

- To agents, brokers or representatives to provide you with services you have requested;
- To third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- To others with whom we enter into joint marketing agreements for products or services that we believe you may find of interest.

In addition, we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

Right to Access Your Personal Information and Ability to Correct Errors or Request Changes or Deletion.

Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request corrections, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer
Fidelity National Financial, Inc.
4050 Calle Real, Suite 220
Santa Barbara, CA 93110

Multiple Products or Services

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Case No. 2011-CP-07-0931
Appellate Case No. 2012-212732

Thaddeus F. Segars,

Appellant,

v.

Fidelity National Title
Insurance Company,

Respondent.

CERTIFICATE OF COUNSEL

I, Michael W. Mogil, the undersigned counsel to the Appellant Thaddeus F. Segars, hereby certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material. The Record on Appeal includes the following matter, to which Respondent either objects or does not propose in its Designation of Matter dated March 25, 2013:

Summons and Complaint in Case No. 2008-CP-07-2579

Stipulation of Dismissal in Case No. 2008-CP-07-2579

Summons and Complaint in Case No. 2008-CP-07-2791

Stipulation of Dismissal Case No. 2008-CP-07-2791

Fidelity National Title Policy No. 2008.2730640-75096808

Fidelity National Title Policy No. 51338-602

Appellant avers that said matter was at issue before the lower court and is properly brought before this Honorable Court for review.

May 24, 2013
Hilton Head Island, SC



Michael W. Mogil (SC Bar #11933)
Mogil Law Firm
2 Corpus Christie Place, Ste. 303
Hilton Head Island, SC 29928
Tel. (843)785-8110
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
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Carmen T. Mullen, Circuit Court Judge

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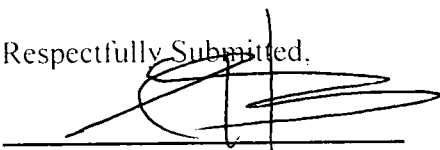
CERTIFICATE OF SERVICE

I, Richard H. Bateman, employed by the Mogil Law Firm, do hereby certify that May 6, 2013, I served a true and accurate copy of the Record on Appeal in the above matter by depositing same with U.P.S. Next Day Air, addressed to:

Amy P. Hunt
Horack Talley
301 S. College St., Ste. 2600
Charlotte, NC 28202

May 6, 2013

Respectfully Submitted,


Richard H. Bateman
Mogil Law Firm
2 Corpus Christie Place, Ste. 303
Hilton Head Island, SC 29928
(843) 785-8110

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MAY 09 2013
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

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JUN 07 2013
SC Court of Appeals

Thaddeus F. Segars,

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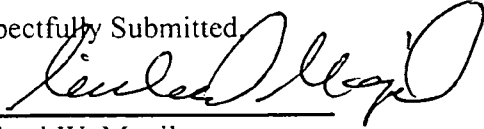
CERTIFICATE OF SERVICE

I, Michael W. Mogil, do hereby certify that on the June 4, 2013, I served true and accurate copies of the Appellant's Final Brief, Final Reply Brief, Record on Appeal and Rule 211 Certification in the above matter, by depositing copies of the same in the U.S. Mail, first class postage prepaid, and addressed to:

Amy P. Hunt
Horack Talley
301 S. College St., Ste. 2600
Charlotte, NC 28202

June 4, 2013

Respectfully Submitted,


Michael W. Mogil
Mogil Law Firm
2 Corpus Christie Place, Ste. 303
Hilton Head Island, SC 29928
(843) 785-8110