

**THE STATE OF SOUTH CAROLINA  
In the Supreme Court**

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**Jul 12 2024**

APPEAL FROM LEXINGTON COUNTY  
COURT OF COMMON PLEAS  
Edgar W. Dickson, Circuit Court Judge

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**S.C. SUPREME COURT**

Appellate Case No: 2024-0001004

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Sandra R. Hoffman,.....Appellant,

v.

State Farm Fire and Casualty  
Company,.....Respondent.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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**COUNSEL FOR APPELLANT**

Petitioner, Plaintiff Sandra Hoffman submits the following Return to the Defendant State Farm Insurance Company's Writ of Certiorari as the Court of Appeals properly determined the statute of limitations in this breach of contract matter was there years from the breach of the contract. Furthermore, in the Court's de novo review of the facts of the Plaintiff's claim for breach of contract the Court of Appeals property ruled the Defendant State Farm was estopped from asserting a statute of limitations defense due to the Plaintiff's reliance on the Defendant's representations, and actions.

### **ARGUMENT**

State Farm Insurance Company continues to incorrectly rely on a statute of limitations defense in a contract action that was asserted to the Plaintiff directly, the lower court and the Court of Appeals. State Farm Insurance Company should not be permitted to confuse a jury with allegations of a statute of limitations defense that this insurance company is tasked with the knowledge of, as a matter of law, while asserting the Plaintiff is tasked with the same knowledge that she correctly applied. The Plaintiff properly presented the matter and the Court of Appeals properly held the Defendant could not incorrectly assert a statute of limitations defense.

- I. **The Court of Appeals properly ruled the Defendant was prohibited from asserting a statute of limitations defense as the statute of limitations did not begin to run until the contract was breached and the Plaintiff established all the elements for Equitable Estoppel.**

Defendant claims:

“The Court of Appeals erred in reversing the circuit court on the basis of equitable estoppel, as that theory was neither raised to nor ruled upon by the circuit court.”

The Defendant backs up this assertion with a statement that the Plaintiff did not allege estoppel, tolling or reliance to the circuit court. This is factually incorrect. Both the Defendant and the Plaintiff

testified she continued to submit information and the Defenant continued to investigate, evaluate and communicate with her regarding the claim four years after the triggering event. [ROA 117 - 118 &120-122].

The Court properly found the statute of limitations for a breach of contract is three years from the date the action accrues. A breach of contract action does not accrue until the contract is breached this requires that some party must refuse, or neglect to perform some duty required by the terms of the contract. *Tillinghast v. Bos. & Port Royal Lumber Co.*, 39 S.C. 484, 485, 18 S.E. 120, 121 (1893) (*mere fact one enters into a contract gives no cause of action, action does not arise until there is some breach*) see also *Maher v. Tietex Corp.*, 331 S.C. 371, 500 S.E.2d 204, 207 (S.C. Ct. App. 1998), (Plaintiffs, however, correctly argue the limitations period accrues from the date of the breach and not the date of the loss.); *Lowcountry Block LLC v. The Cincinnati Ins. Cos.*, Civil Action No. 9:17-1147-RMG, 2017 U.S. Dist. LEXIS 120346, at 4 (D.S.C. Aug. 1, 2017). The Plaintiff did not have a cause of action against the Defendant until the Defendant breached the contract. The statute of limitations simply does not run from the date of loss but runs three years from the breach.

The Court therefore properly held the Defendant was estopped from asserting a statute of limitations defense claiming the statute of limitations ran from the date of loss, as such would shorten the statute of limitations which is in violation of state law. *SC Code* § 15-3-140, see also *Scott v. Guardsmark Sec.*, 874 F. Supp. 117, 121 (D.S.C. 1995). Therefore, the Court of Appeals correctly applied equitable estoppel to this case and this ruling should stand.

**II. There is clear evidence in the record from the testimony of the State Farm Adjuster, the claims file and the Plaintiff, supporting the Court's finding as a matter of law.**

The Plaintiff offered sufficient proof supporting the Court of Appeals 's finding of equitable estoppel.

The Defendant claims:

“The Court of Appeals erred in finding equitable estoppel where there is not evidence in the record to support a genuine issue of material fact as to that doctrine.”

Plaintiff testified in response to the question in deposition - “Did you talk with anyone at State Farm concerning the statute of limitations at anytime? A: No. Like I said, I just assumed that since she told me about the opening of the claim, that she would tell me if the claim was coming near the closing. “(Exh A Plaintiff. Depo pg. 181 ln 15-19) [ROA 123]. The facts of the case and record are interpreted in favor of the Plaintiff. A jury could clearly find the Plaintiff’s testimony along with the State Farm adjuster’s testimony and claims file compelling evidence of induced delay.

The Court properly found as a matter of law the clear evidence of the Plaintiff’s reliance on her insurance company in continuing to submit damages in her claim. The Court properly applied the doctrine of equitable estoppel.

**III. The Court of Appeals properly ruled the Defendant was estopped from asserting a statute of limitations Defense as the Plaintiff proved estoppel as a matter of law.**

The Defendant claims :

“The Court of Appeals erred in holding State Farm is “precluded” from asserting the statute of limitations.”

The Defense in this case is 1) continuing to assert the statute of limitations is three years from the date of loss not three years from the date of breach and; 2) claiming State Farm Insurance company, a multi- billion dollar insurance company that issues hundreds of policies every year to citizens of South Carolina, does not know the statute of limitations under their own insurance policy. The position of State Farm is their insured, the Plaintiff, is required to know what the statute of limitations is for her insurance policy BUT State Farm Insurance company is not required to know the statute of limitations for their insurance policy. The absurdity of this argument, coupled with the clear allegations of the

Plaintiff, supported by the testimony of the Defendant adjuster supports the Court's ruling, the Defendant is not permitted to assert this non-valid defense. Furthermore as stated above, this assertion the statute is three years from the date of loss, is in violation of South Carolina state law. *see above Id.*

### **CONCLUSION**

Appellant/ Plaintiff would respectfully request for all the forgoing reasons, the Defendant State Farm's petition for Certiorari be denied.

Respectfully submitted:

July 12, 2024  
Columbia, South Carolina

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