

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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S.C.C.A. Case No. 2013 - 000371

Case No. 2011-CP-10-2026

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Jerome Myers & Gloria Myers , Appellants,

v.

Shelly K. All; Cezar E. McKnight; Ms. Willie O.W. McFadden-Myers; & Latonya Hobson;  
Respondents.

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**FINAL REPLY**

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- 1. Carolina Truck Stop No.20 Opinion No. 25213 Filed November 20, 2000 .....pg. 5
- 2. Citizens' Bank v. Heyward 135 S.C. 190, 133 S.E. 709 (1925) and  
Bank for Savings and Trusts v. Towe 231 S.C. 268, 98 S.E.2d 539 (1957) ....pg. 6
- 3. 7A C.J.S. *Attorney & Client* § 181, at 284(1980);  
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- 6. 27A Am.Jur.2d *Equity* § 148, at 626 (1996) ..... pg. 6
- 7. 27A Am.Jur.2d *Equity* § 189, at 666±67 (1996) .....pg 6

**Law of the Case:**

( as to a conflict about the October 26, 2011Order vice Motion to Reconsider & J. Roger Young's Court )

- 8. Transcript of hearing Judge Stephanie P. McDonald, Date April 24, 2012 .....pg. 3 & 4
- 9. Order: Judge Stephanie P. McDonald, Form Order dated May 2, 2012 .....pg. 3 & 4

**Statutes:**

- 10. South Carolina Code 16-13-10. *Forgery* .....pg. 4 & 5
- 11. South Carolina Code 16-5-30. *Duty and liability of officers* .....pg. 4

**S.C. Rules of Attorney-Client Conduct ( as to Respondent(s) Shelly K. All Law Firm )**

- 12. R.407 [1] .....pg. 3
- 13. R.407 [9] .....pg. 3

**INITIAL REPLY: Rule 208(b)(3)**

**I. Status of the case: [Update]**

1. The entire matter is from the instance of an expert determination about a forgery of the Appellant's father on a Power of Attorney by Respondent(s) -- McKnight; McFadden-Myers; and Hobson. Respondents Shelly K. All and Dennis Christensen were the Attorney's hired by the Appellant's to pursue the forgery. Christensen and All miserably failed their duty and Rule of Attorney Conduct R.407[1] & [9].
2. The Appellant's Initial Brief was timely filed with the SC Court of Appeals. There are four Respondents. Only Respondent Shelly K. All has timely filed her Initial Response. The Appellants received this one Response on August 23, 2013.
3. Respondents -- McKnight; McFadden-Myers; and Hobson **have not filed their** INITIAL RESPONSE as of September 2, 2013. South Carolina Court of Appeals Rule 210(a) for RECORD ON APPEAL **does not require any further service upon these three (3) Respondents.**

**II. Statement of the INITIAL REPLY Issues:**

4. The Initial Response of Shelly K. All states that from Judge Roger Young's Order October 26, 2011 that four Defendants were dismissed from the case, however, the PROPOSED ORDER was prepared by Shelly All and or her law partner Dennis Christensen. No PROPOSED ORDER was served upon these Appellants. This must have been perfected, it was not. As such, The Appellants filed their Motion to Reconsider. TAB #005? The matter never could get reset on the Docket before Judge Roger Young and this alone should be cause for a REMAND.
5. Judge Stephanie McDonald admonished these Respondents at her hearing April 24, 2012 TAB #013 and her Form 4 Order May 2, 2012 TAB #014 states that these **matters about dismissals raised in the Appellant's {Second}Motion to Reconsider can be heard only before Judge Roger Young's Court** (& Not done as the matter was next docketed before traveling circuit Judge Jeffery Young; who knew nothing about the case history) TAB #011 Respondent McKnight was clearly Forum Shopping against the capabilities of pro ser parties.

6. The Appellants timely filed and served a **Motion(s) to Reconsider** Judge Roger Young's Order as to error of including Shelly K. All and Dennis Christensen in a Dismissal WHEN the consent signed by the Appellants with the Attorneys for the two (2) Police Department Defendants from the Civil Action, (Only the two Police should have been investigated by the Internal Affairs about their failures to acts committed against these Appellants causes pursuant to the SC Criminal Code SC §16--5-30 per 16-13-10 Forgery (e.g. the family property of the Father via a forged Power of Attorney)
- a. That Appellant SCRCP 41 40j Stipulation Document is to Consent is attached at TAB #015 Note that IT was not signed by the two police officers and both Appellants as is required by R.41. Therefor: there is not any lawfully executed Consent Order from Judge Roger Young's Court; as would have been required signed by Judge Roger Young... this emphasized per the Order of Judge McDonald. TAB #013 pages 13 -21 of Transcript and Order TAB #014

**South Carolina Code 16-5-30. Duty and liability of officers**

*Any constable, sheriff or magistrate, upon receipt of notice from any person that he has knowledge of an intention or attempt to destroy his property or to collect a mob for that purpose, shall take all legal means necessary for the protection of such property as is attacked or threatened to be attacked, and if such constable, sheriff or magistrate, upon receipt of such notice or upon knowledge of such intention or attempt to destroy such property in any wise received, shall neglect or refuse to perform his duty in the premises, he shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office and, on conviction thereof, shall forfeit his commission.*

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*South Carolina Code 16-13-10. Forgery*

*(A) It is unlawful for a person to:*

*(1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;*

*(2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing;*

*(3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or*

*(4) willingly act or assist in any of the premises, with an intention to defraud any person.*

*(B) A person who violates the provisions of this section is guilty of a:*

*(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is five thousand dollars or more;*

*(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than five thousand dollars.*

*If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both*

7. The Appellants attorneys Shelly K. All (and Dennis Christensen) Law Firm were never released by any Court Order at Probate as is required in Carolina Truck Stop #20. These attorneys were hired to pursue the matters of the forgery in the Charleston County Common Pleas -- Circuit Courts' forum. The forgery Expert Affidavit was given to the Appellants October 16, 2008 by the Oberman & Oberman Law Firm. TAB #010

a. The Respondents somehow commenced IT at Probate with a Petition by the other three (3) Respondents; where the forgery was not heard in open court proceedings. True the Probate has concurrent authority of the Court of Common Pleas in Charleston County;

however, the forgery and its expert affidavit were hidden from any open court trial opportunity.

- b. In fact, the Respondent's (Shelly All Law Firm) were instrumental in changing these forgers presence by their being promoted into Guardians and Conservators for the Appellants father.
- c. Later, in December 2008, the South Carolina Medical University in conjunction with the United States Department of Veteran Affairs both not only made the determination that the Appellant's father was not mentally incapacitated -- nor did IT require the Father to be a Ward of the State or VA. Too, these new medical determinations released the Appellant's fathers VA Disability Income into his own name and controls. The State has no control over these Federal matters. The Appellant's father returned to his home and lived out his life with his children, grand and great-grand children.
- d. The Probate Court ex-Guardian was silent twenty months after December 2008.
- e. Now the three missing Respondents have appeared as Rule to Show Cause Petitioners in what appears to be as an extra-judicial alternative to appearance as Respondents.

8. AS to the 3-Year Statute of Limitations and Appellant's Attorneys Misconduct; Other Appellant Argument arises without their Motion(s) to Reconsider were never to be heard:

- a. These Appellant's Attorneys, Respondent Shelly K. All Law Firm, with Dennis Christensen, argument here that the acts and omissions of the Appellants attorneys are attributable to them. **But this is not a hard and fast rule.** Rather, it is one that is "to be applied rationally, with a fair recognition that justice to the litigates is always polestar." Citizens' Bank v. Heyward and Bank for Savings and Trusts v. Towe.
  - i. 7A C.J.S. Attorney & Client § 181, at 284(1980); cf. Graham v. Town of Loris, 272 S.C.442, 248 S.E.2d 594 (1978) (*holding the general rule that an attorney's neglect is attributable to the client does not apply if there has been a wilful and unilateral abandonment of client by counsel*);
  - ii. 27A Am.Jur.2d Equity § 148, at 626(1996) (*"Fairness will bar application of laches where the result would be unjust; laches does not operate harshly, as may a statute of limitation. Statutes of limitation, further, may work great practical injustice the doctrine of laches, never."*).
  - iii. "[T]he general rule that a client is bound by the acts and omissions of his attorney may not apply where the conduct of counsel is outrageously in violation of his implicit duty to devote reasonable efforts in representing his client." 7A C.J.S. Attorney & Client § 181, at 285 (1980).

- iv. See 27A Am.Jur.2d Equity § 189, at 666±67 (1996) ("For laches to apply in cases where real property is in dispute, there generally must be prejudice arising from some change in the condition or relation of the property or parties such that it would be unfair to allow maintenance of the claim."). Provident Life & Accident Ins. Co. v. Driver, 317 S.C. 471, 479, 451 S.E.2d 924, 929 (Ct.App. 1994).

September 2, 2013 BY:

Jerome Myers Jerome Myers  
Gloria Myers Gloria Myers  
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**Certificate of Service:** The Appellant's, Gloria Myers and Jerome Myers, by affixing their signatures below, herein certify that the their FINAL REPLY BRIEF has been placed in the USPS with first class postage affixed to "each party who has served a Brief":

1. Shelly K. All (& Dennis Christensen)'s, 260 W. Coleman Blvd., Ste D, Mt. Pleasant, SC 29464  
(843) 971-1199
2. ~~Cezar E. McKnight, 106 East Main St., Lake City, SC 29560 843-374-4529~~
3. ~~Willie O.W. McFadden Myers, 301 Lexington Ave., Kingstree, SC 29556~~
4. ~~Latonya Hobson, 3213 Oak Spring St., Columbus, OH 43219~~

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September 16, 2013 BY:

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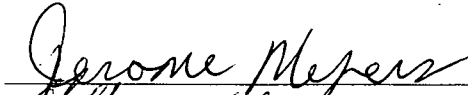
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SD COURT OF APPEALS

- iv. See 27A Am.Jur.2d Equity § 189, at 666±67 (1996) ("For laches to apply in cases where real property is in dispute, there generally must be prejudice arising from some change in the condition or relation of the property or parties such that it would be unfair to allow maintenance of the claim."). Provident Life & Accident Ins. Co. v. Driver, 317 S.C. 471, 479, 451 S.E.2d 924, 929 (Ct.App. 1994).

September 2, 2013 BY:

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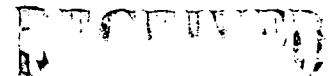
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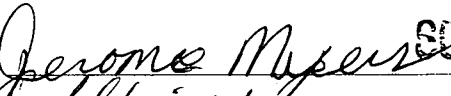
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2. ~~Cezar E. McKnight, 106 East Main St., Lake City, SC 29560 843-374-4529~~
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4. ~~Latonya Hobson, 3213 Oak Spring St., Columbus, OH 43219~~



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