

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

RECEIVED

SEP 20 2013

SC Court of Appeals

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL

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Respondents.

RECORD ON APPEAL TAB # 001

The Appellant's Gloria Myers and Jerome Myers, by affixing their signatures below, herein certify that the Designation of Matter to be included in the RECORD ON APPEAL contains no matter which is irrelevant to the appeal.

The Appellant's Matter is identified as:

		descriptions -- designation of matter	pages	pages	pages
Tab No. 00	1	Forged--H.Myers G.D. Power of Attorney	2	9 & 11	11 & 14
Tab No. 00	2	1st contract to sale property	3	14	
Tab No. 00	3	Police Report sign @2nd contract to sale property	3	14	
Tab No. 00	4	Transcript Judge Dennis Hrg February 11, 2013 ORDER - transcript January 25, 2013 -- Judge Dennis Form ORDER_ transcript October 24, 2012 ORDER May 2, 2012 missing instruction to compel R.26 ORDER to Defendant Cezar E. McKnight ORDER Oct 26, 2011 for ref. Hon. Judge Roger Young	3	15	
Tab No. 00	5	Plaintiff's Motion to Reconsider (Nov. 7, 2011) as the Dismissal of Defendants Shelly All and Dennis Christensen was not approved by Judge R. Young hence-- NO PROPOSED ORDER was shared with Pro Se Party as required by SCRCR P.5(b)(3). Thus Plaintiff's Second Motion to Reconsider FILED 12/11/2012	3		
Tab No. 00	6	Chas. City Police letter dtd November 7, 2008 "Forgery" SC Criminal Code §16-5-30 a violation against Plaintiffs	9	11	
Tab No. 00	7	H.Myers V.A. Competency Rating Decision Dec 2008	10		
Tab No. 00	8	<i>Hooper</i> S.Ct citation	10		
Tab No. 00	9	Summons & Complaint (March 7, 2011) First Amended Complaint (August 2011) Second Amended Complaint (September 23, 2011)	11		
Tab No. 00	10	Carolina Truck Stop No. 20 -- S.Ct Decision	11		
Tab No. 00	11	Hon. Jeffery Young Hrg Transcript July 23, 2012	11		
Tab No. 00	12	ORDER Jeffery Young July 26, 2012	11		
Tab No. 00	13	Hon. Stephanie McDonald -- Transcript April 24, 2012 & ORDER Error (April 27, 2012)	1	13	14
Tab No. 00	14	ORDER May 2, 2012 McDonald return to: ORDER April 27, 2012 Roger Young <i>bad faith</i> by Attys Shelly All and Dennis Christensen who added themselves to a Proposed ORDER without copy to pro se parties as required by SCRCR P.5(b)(3); Appellants to correct the ORDER October 26, 2011 Roger Young	13		
Tab No. 00	15	"Partial Stipulation" for the two Police Officers Defendant w letter from City Attorney.	14		

signature sheet next page.

OBERMAN & OBERMAN, LLC
ATTORNEYS AND COUNSELLORS AT LAW
104 CHURCH STREET
CHARLESTON, SOUTH CAROLINA 29401

MARVIN I. OBERMAN
HAROLD A. OBERMAN

October 16, 2008

TELEPHONE (843) 577-7010
FACSIMILE (843) 722-7359
EMAIL: obermanlaw@bellsouth.net

Gloria J. Myers
5320 Jury Lane
N. Charleston, SC 29406

Jerome M. Myers
2320 Taylor Street
N. Charleston, SC 29406

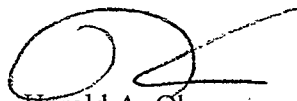
RE: Henry Myers

Dear Gloria and Jerome:

At your request, I have given you my only copy of Hans Mayer Gidion's report. I do not have a copy in my file, so please do not lose this document.

With warmest personal regards, I remain

Yours very truly,



Harold A. Oberman

HAO/shb

F:\ob\myers786\trclients.j16

FAX TRANSMITTAL SHEET

HANS MAYER GIDION
 EXAMINER OF QUESTIONED DOCUMENTS
 218 MERRYMONT DRIVE
 AUGUSTA, GEORGIA 30907
 TEL/FAX: (706) 860-4267

SINCE 1966

My Case Number:

072808

Date: Thursday, August the 7th, 2008. Time: 06:00 A.M.



Harold A. Oberman, Attorney at Law, Oberman & Oberman,
 To: 104 Church Street, Charleston, South Carolina 29401.

Office: (843) 577-7010
 Phone No: FAX: (843) 722-7359

of Pages (including this sheet): Five (5).

Message: PAGE 1 is this FAX TRANSMITTAL SHEET. PAGES 2, 3,

and 4 comprise the REPORT OF EXAMINATION in the matter of the

DURABLE POWER OF ATTORNEY bearing the questioned "Henry Myers"

signature on page 3 which is dated 12 April 2007. PAGE 5 is a

chart which displays, in chronological order be date, the sig-

natures described under the heading EXHIBITS in the REPORT.

Respectfully,

Hans M. Gidion
 HANS M. GIDION
 DOCUMENT EXAMINER



"I'm as close as your phone"

AUG 07 2008

HANS MAYER GIDION
EXAMINER OF QUESTIONED DOCUMENTS
218 MERRYMONT DRIVE
AUGUSTA, GEORGIA 30607
(706) 880-4267

Thursday,
August the 7th, 2008

Harold A. Oberman, Esquire,
Attorney at Law,
Oberman & Oberman,
104 Church Street,
Charleston, South Carolina 29401

RE: In the matter of a STATE OF SOUTH CAROLINA, COUNTY OF
CHARLESTON - DURABLE POWER OF ATTORNEY bearing a questioned
"Henry Myers" signature on page 3 and dated 12 April, 2007.
[My Case Number: 072808].

REPORT OF EXAMINATION

EXHIBITS:

- Q Copy of a STATE OF SOUTH CAROLINA, COUNTY OF CHARLESTON
DURABLE POWER OF ATTORNEY consisting of four (4) pages.
Page three (3) bears a 12 April, 2007 date.
A questioned facsimile "Henry Myers" signature appears on
page 3 above the typed HENRY MYERS name.
A copy of a RECORDER'S PAGE is attached as page five (5)
indicating that the DURABLE POWER OF ATTORNEY was filed
by WILLIE W. MYERS, PO BOX 12124 CHARLESTON SC 29412 at
12:43 PM on April 13, 2007, in Charleston County, SC.
The five (5) pages are identified by the stamped informa-
tion on the top of each individual page with BK E 622 PG
552; BK E 622 PG 553; BK E 622 PG 554; BK E 622 PG 555;
and BK E 622 PG 556.
- K(1-8) The following described pages are all copies.
- K(1) Page entitled MEDICAL RECORD - REQUEST FOR ADMINISTRA-
TION OF ANESTHESIA AND FOR PERFORMANCE OF OPERATIONS
AND OTHER PROCEDURES dated 3/31/03. A known facsimile
"Henry Myers" signature appears on the Patient or
authorized person line.
- K(2) Page entitled MEDICAL RECORD - REQUEST FOR ADMINISTRA-
TION OF ANESTHESIA AND FOR PERFORMANCE OF OPERATIONS
AND OTHER PROCEDURES dated 6/20/03. A known facsimile
"Henry Myers" signature appears on the Patient or
authorized person line.

- one -

Hans Mayer Gidion
HANS M. GIDION
DOCUMENT EXAMINER

Page 2 of a REPORT OF EXAMINATION dated Thursday, August the 7th, 2008 with reference to the matter of a STATE OF SOUTH CAROLINA, COUNTY OF CHARLESTON ~ DURABLE POWER OF ATTORNEY bearing a questioned "Henry Myers" signature on page 3 and dated 12 April, 2007. [My Case Number: 072808].

EXHIBITS (continued):

- K(3) Page entitled **MEDICAL RECORD - REQUEST FOR ADMINISTRATION OF ANESTHESIA AND FOR PERFORMANCE OF OPERATIONS AND OTHER PROCEDURES** dated 9-19-03. A known facsimile "Henry Myers" signature appears on the Patient or authorized person line.
- K(4) Page entitled **MEDICAL RECORD - REQUEST FOR ADMINISTRATION OF ANESTHESIA AND FOR PERFORMANCE OF OPERATIONS AND OTHER PROCEDURES** dated 10-28-03. A known facsimile "Henry Myers" signature appears on the Patient or authorized person line.
- K(5) Page 2 of a document entitled **STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON (TITLE NOT EXAMINED) TITLE TO REAL ESTATE** dated the 7th day of July, 2005. This page, further identified by the stamped impression **BK J 546 PG 801** displays a known facsimile "Henry Myers" signature above the printed **HENRY MYERS** name.
- K(6) Page 2 of a document entitled **STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON TITLE TO REAL ESTATE (Title Not Examined)** dated the 25th day of May, 2006. This page, further identified by the stamped impression **BK P 588 PG 511** displays a known facsimile "Henry Myers" signature above the printed **HENRY MYERS** name.
- K(7) Page entitled **STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON AFFIDAVIT** dated May 25, 2006. This page, further identified by the stamped impression **BK P 588 PG 512** displays a known facsimile "Henry Myers" signature on the Grantor, Grantee, or Attorney that prepared this form line.
- K(8) Page entitled **Department of Veterans Affairs REQUEST FOR AND AUTHORIZATION TO RELEASE MEDICAL RECORDS OR HEALTH INFORMATION** dated 16 July 2008. This page, a VA FORM 10-5345, displays a known facsimile "Henry Myers" signature in the **SIGNATURE OF PATIENT OR PERSON AUTHORIZED TO SIGN FOR PATIENT** block.

PURPOSE OF EXAMINATIONS:

To determine whether **HENRY MYERS** did, or did not, sign his name to the original of the document described under the heading of **EXHIBITS**, above, and further identified as **Exhibit Q**.

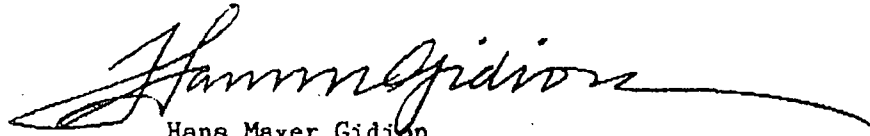
Handwritten signature
HANS M. GIDCYN
DOCUMENT EXAMINER

Page 3 of a REPORT OF EXAMINATION dated Thursday, August the 7th, 2008 with reference to the matter of a STATE OF SOUTH CAROLINA, COUNTY OF CHARLESTON - DURABLE POWER OF ATTORNEY bearing a questioned "Henry Myers" signature on page 3 and dated 12 April, 2007. [My Case Number: 072808].

RESULTS OF EXAMINATIONS:

It is to be emphasized that the following opinions by the undersigned are based on the items submitted for examination and comparison purposes.

1. The author of the facsimile "Henry Myers" signatures appearing on the documents designated Exhibits K(1-8) did **NOT** write his name on the original DURABLE POWER OF ATTORNEY dated 12 April, 2007. a copy of which, designated Exhibit Q, was submitted for examination and comparison purpose.
2. There are examinations which cannot be conducted when only a copy (or reproduction) of a document is submitted for examination purposes. It is therefore requested that the original of Exhibit Q be sent to the undersigned for a period of not to exceed seven (7) working days to possibly resolve other questions which cannot be answered at this time. The original shall be returned to its submitter in exactly the same condition as when it is received. All examinations by the undersigned are non-destructive in nature.



Hans Mayer Gidion
Forensic Examiner of Questioned Documents
August 7, 2008

KNOWN

K1 March 31, 2003

FULLY UNDERSTAND THE CONTENTS OF THIS AUTH

Henry Myers
 (Patient or authorized person)
 is the of the age

K2 June 20, 2003

Henry Myers
 (Patient or authorized person)
 is the of the age

K3 September 19, 2003

Henry Myers
 (Patient or author)

K4 October 28, 2003

FULLY UNDERSTAND THE CONTENTS OF THIS AUTH

Henry Myers
 (Patient or authorized person)
 is the of the age

K5 July 7, 2005

Henry Myers
 HENRY MYERS

INFLUENCE OF THE UNITED STATES OF AMERICA.

K6 May 25, 2006

Henry Myers

HENRY MYERS

K7 May 25, 2006

Signed Henry Myers
 Grantor, Grantee, or Attorney that prepared this form

QUESTIONED

Q April 12, 2007

Henry Myers
 HENRY MYERS

KNOWN

K8 July 16, 2008

SIGNATURE OF PATIENT OR PERSON AUTHORIZED TO SIGN FOR
Henry Myers
 FOR VA USE ONLY
 Address, Social Security Number TYPE AND EXTENT OF MATER

808220

Klaus Mayer-Glaser

BKE 622PG552

STATE OF SOUTH CAROLINA,)
) DURABLE POWER OF ATTORNEY
 COUNTY OF CHARLESTON)

KNOW ALL MEN BY THESE PRESENTS, that I, HENRY MYERS (251-24-2447),
 have made, constituted and appointed, and by these presents do make, execute and
 appoint
 my wife, WILLIE W. MYERS, my true and lawful attorney in fact, for me and in my name
 and stead, and for my use. Generally to do and perform any and every act which could be
 done by me as fully as I might or could do if personally present. The generality of the
 power herein granted is not limited in any way by the grant of special and particular
 powers hereinafter expressed, to-wit:

To ask for, demand, sue for, levy, recover and receive all such sum or sums of
 money, debts, rents, goods, wares, dues, accounts, and other demands and things
 whatsoever, which are or shall be due, owing or payable to me, or detained from me in any
 manner whatsoever;

To institute and prosecute or to defend or to settle or to assert any right in my name
 any action at law, suit in equity, or special proceeding before any court or commission or
 board, and to do any and all things necessary, convenient or desirable in connection
 therewith.

To compromise and settle any claim or demand existing against me or in my behalf
 to carry such compromise into effect.

BKE 622PG553✓

To negotiate, make and execute any contract in my name, for me and in my behalf, and without in any way limiting the general scope of this power, including contracts either to buy, sell, lease, mortgage, repair or operate, any real or personal property.

To borrow money for me and to execute in my name any note or bond or other evidence of indebtedness, and to pledge or mortgage any personal or real property to secure the same and to execute in my name all papers necessary to effectuate such mortgage or pledge.

To execute in my name and deliver any bill of sale or deed of conveyance or other instrument conveying property, real or personal, upon any terms whatsoever.

To enter any lock box rented in my name in any bank (with an officer of the bank in which the same is located) and to withdraw therefrom securities and to sell or exchange the same, and to do all things necessary or convenient in connection therewith.

To sign my name to any check upon any checking account standing in my name in any bank, and by means or such check or checks to withdraw from such account funds now on deposit therein or hereafter deposited, or to empower the payees of such checks to make such withdrawal.

✓ To endorse in my name any check, draft, note or other negotiable instrument.

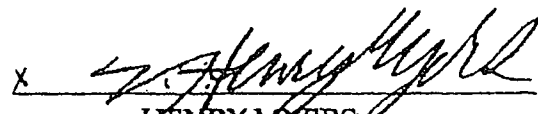
To make, execute, sign my name to and deliver any and all documents, instruments and writings of any and every kind, nature and description that might be required by law, or that might be necessary, or in the discretion of my said attorney, convenient, desirable or beneficial to me.

BKE 622PG554

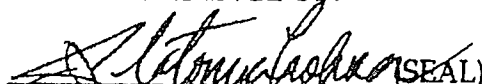
the matters hereinabove mentioned, and generally all and every other matter whatsoever necessary to be done in the exercise of the powers herein granted, for me and in my name to do, execute and perform as fully as I might or could do if personally present, or if the matter requires more special authority than is herein given, ratifying and confirming all and whatsoever my said attorney shall lawfully do in and about the premises by virtue hereof.

This Power of Attorney shall not be affected by my physical disability or mental incompetence which would render me incapable of managing my own estate and it is my intent that the authority conferred shall be exercisable notwithstanding my physical disability or mental incompetence. All acts done by my attorney in fact pursuant to the power during any period of disability or mental incompetence shall have the same effect and inure to the benefit and bind me or my heirs, devisees, legatees and personal representatives as if I were mentally competent and not disabled, all in accordance with the provisions of Section 62-5-501, South Carolina Probate Code.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Charleston, South Carolina, this 10 day of April, 2007.

x 
HENRY MYERS

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

 (SEAL)
(WITNESS 1)

3212 Oak Spring St.
CITY/STATE RESIDENCE WITNESS 1

 (SEAL)
(NOTARY PUBLIC/WITNESS 2)

Columbia, SC 705 4th Ave
CITY/STATE RESIDENCE NOTARY PUBLIC K. STREE, SC.

BKE 622PG555

Signed, Sealed, Published and Declared by the said

HENRY MYERS, as and for his Power of Attorney,

(PERSON GIVING POWER OF ATTORNEY)

in the presence of us, who, at his request and in his presence, and in the presence of each

other, all present together, have hereunto subscribed our names as witnesses:

Latonya Hobson

(WITNESS 1 SIGNATURE)

[Signature]

NOTARY PUBLIC/WITNESS 2 SIGNATURE)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

PERSONALLY appeared before me

Latonya Hobson

(PRINT NAME OF WITNESS 1)

and made oath that he saw the within named HENRY MYERS sign,

seal and as his act and deed deliver the within written Power of

Attorney, and that he/she with Carol E. McKnight witnessed

(PRINT NAME OF NOTARY PUBLIC/WITNESS 2)

the execution thereof.

Latonya Hobson

(SIGNATURE OF WITNESS 1)

SWORN to before me this 12th
day of April, 2007.[Signature]
NOTARY PUBLIC

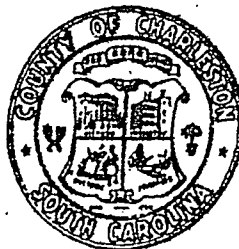
(SEAL)

My Commission Expires: 9/24/2011

BKE 622PG556

RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

Filed By:

WILLIE W. MYERS
PO BOX 12124
CHARLESTON SC 29412

Number of Pages:

5

FILED

April 13, 2007

12:43:43 PM

BKE

622PG552

Charlie Lybrand, Registrar
Charleston County, SC

DESCRIPTION	AMOUNT
P/ATTY	\$ 15.0
Postage	\$ 0.5

TOTAL	\$ 15.5
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DRAWER:

A - bmm

DO NOT STAMP BELOW THIS LINE

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 002

OBERMAN & OBERMAN, LLC
ATTORNEYS AND COUNSELLORS AT LAW
104 CHURCH STREET
CHARLESTON, SOUTH CAROLINA 29401

MARVIN I. OBERMAN
HAROLD A. OBERMAN

October 23, 2008

TELEPHONE (843) 577-7010
FACSIMILE (843) 722-7359
EMAIL: obermanlaw@bellsouth.net

Exit Realty Home Store
10050 Dorchester Road
Summerville, SC 29485

BY COURIER

RE: Henry Myers
Shrimp Street - Sol Legare (TMS No. 330-10-00-003)

Dear Sir or Madam or To Whom It May Concern:

This is to inform you that the property you have listed on Shrimp Street (TMS No. 330-10-00-003) is under Court Order not to be sold. For this property to be sold, the Charleston County Probate Court must issue an Order. Any sale without this Order will not be valid. Please take this as appropriate notice.

Yours very truly,



Harold A. Oberman

HAO/shb

f:\ob\myers786\ltr\exil.j23

Oberman & Oberman

From: "Ken Quick" <Ken@ExitRealtyHS.com>
 To: <ObermanLaw@bellsouth.net>
 Sent: Thursday, October 23, 2008 3:23 PM
 Subject: re: exit.j23

Mr. Harold A. Oberman,

I am in receipt of your letter dated October 23, 2008 and would like to inform you that we do not have the property on Shrimp St., TMS# 330-10-00-003, listed on the multipal listing service. Attached please find a copy of the Withdrawn listing and a copy of the history of this past listing. Please note that once we were informed of the problem that exist on the above mentioned property, we withdrew it on March 18, 2008.

To be honest with you, I am confused, is there something that has not been brought to my attention by my sales associate? If so please let me know, and I will address it with her.

Thank you in advance for any information that you can share with me.

Sincerely,

Ken Quick

Ken Quick Broker/Owner
 GRI, ABR, e-PRO, SRES

mailto: Ken@ExitRealtyHS.com
www.ExitRealtyHomeStore.com
 Service Summerville, SC
 and the Tri-Counties

Exit Realty Home Store
If Service is a Thing of the
Past... Nobody Told Us!

10050 Dorchester Rd. Ste. 110
 Summerville, SC. 29485
 Office: 843 873-0021
 Fax: 843 873-0079
 Cellular: 843 901-0058

Confidentiality Note: The information contained in this message, and any attachments, may contain confidential and/or privileged material. It is intended solely for the person or entity to which it is addressed. Any review, retransmission, dissemination, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

10/23/2008

0 SHRIMP ST**CHARLESTON, SC 29412****LP: \$375,000**

MLS#: 2805408m - VAC
Area: (21) CHS-James Island
Municipality: (24) JAMES ISLAND

Status: Withdrawn**Click photo for additional media and enlargement****Low Price:**

Zoning: Residential
Address: 0 SHRIMP ST

Tax Map#: 330-10-00-003**City:** CHARLESTON**Zip:** 29412**Lot Size:** 0**Acres:** 4.10**Subdiv:** SOL LEGARE**Subsec:****Grade Sch:** JAMES ISLAND ELEMENTARY **Middle Sch:** JAMES ISLAND**High Sch:** JAMES ISLAND CHARTER**Legal Desc:** TMS #330-10-00-003**Dev Status:** Other**Docs Avail:** Aerial Photo

Existing Util: Sewer @ Site, Water,
Electricity

Road St/cnty Road**Front:****Income:****Misc:****Structures:** Util/stg Bld**Uses:** Residential**Lot Desc:** Tidal Creek, Marshfront, 2-5 Acres**Amenities:****Auction:** Auction Type:**Reserve Amt:**

Directions: Take Folly Road towards Folly Beach. Turn right onto Sol Legare Road by Piggly Wiggly. Turn right onto Shrimp Street. The lot is at the end of Shrimp Street.

Remarks: Quiet marshfront property. Holland Island Creek borders the back 2 sides of the property, which leads to the Stono River. Looking into the possibility of obtaining a dock permit. Peaceful, natural views of marshlands beckon you outdoors. Beautiful, mature trees and palms on the property. Approximately .9 acres are highland, approximately 3.2 acres are marsh. With the exception of 2 old storage buildings and some minor cleanup, property is cleared and ready to build on. Just minutes from Folly Beach, and about 10 minutes from the Connector, and downtown Charleston. A public boat landing is close - about one mile from the property. Peaceful, country setting, but close to all the amenities of a city. Call today for an appointment to view the property. Don't miss this great opportunity to build the home of your dreams on this spectacular parcel of land. Buyer to verify acreage, schools, and anything of importance.

Agnt Notes: HAS BEEN TEMPORARILY WITHDRAWN FROM MARKET PENDING RESOLVEMENT OF EASEMENT ISSUES. Contact Tammy Thompson, 412-1856 with any questions. There is an easement of necessity on neighboring property, until final easement issues are resolved. Please call listing agent for showing instructions. Please do not enter storage building(s) due to unknown condition & safety of building. Click here to report incomplete or inaccurate information

Prospect Ex:**Taxes:****Owner:** OF RECORD**CntngncyRsn:****Financing:** Conventional, Cash**HOA Fee:****List Date:** 2/13/2008**Assumable:** No**Assmt Ratio:****Exp Date:** 2/12/2009**C/R:****SpAssmt:****List Agent:** (17903) TAMMY L. THOMPSON**Type/Comp/SubAccept:** EXRTSEL/5 %/N**List Office:** (8193) EXIT REALTY HOME STORE**Variable:** N**Co-Off:** (8193) EXIT REALTY HOME STORE**Co-Agt:**

(10343) LAURENCE SMITH

Contacts: Agent Mobile Agent Office Direct
 (843) 412-1856 (843) 873-0021

--Information deemed reliable but not guaranteed--Copyright: 2008 by the Charleston Trident MLS Association of REALTORS

Prepared by KEN QUICK of EXIT REALTY HOME STORE on 10/23/2008 3:10:42 PM

	MLS#	Date	Sys Date	Sta	Cat	Ar	Property Address	Price	DOM	Agent	ChangeBy	Ofc ID
1	2805408m	03/18/08		WTH	VAC	21	0 SHRIMP ST	\$375,000	7	17903		8193
		03/18/08		BOM		21		\$375,000	34	17903		8193
		02/22/08		WTH		21		\$350,000	8	17903		8193
		02/15/08		BOM		21		\$350,000	2	17903		8193
		02/15/08		WTH		21		\$350,000	2	17903		8193
		02/13/08		ACT		21		\$350,000	2	17903		8193

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF CHARLESTON

IN THE MATTER OF HENRY MYERS

CASE NUMBER 200710-0091

INVENTORY AND APPRAISEMENT

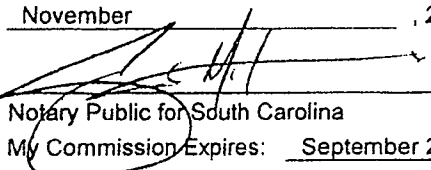
☒ ORIGINAL
☐ SUPPLEMENTAL # _____

Conservator: Willie W. M. Myers

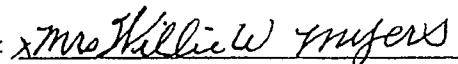
The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

Copies of this inventory have been sent to the following persons:*

SWORN to before me this 20th day of
November, 20 07


Notary Public for South Carolina

My Commission Expires: September 24, 2011

Signature: 

Name: Willie W. M. Myers

Address: 301 Lexington Avenue

Kingstree, SC 29556

Telephone (O): 843 354-2260

(H): _____

The gross fair market valuation of all assets, regardless of situs, should be given as of the date of appointment. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting, or adding to an original inventory.

The type and amount of any encumbrances that may exist with reference to any item should be disclosed.

RECAPITULATION

Schedule A - Real Estate	\$370,000.00
Schedule B - Investments	
Schedule C - Anticipated Annual Receipts	39504.00
Schedule D - Life Insurance	12500.00
Schedule E - Jointly Owned Property	0
Schedule F - Other Miscellaneous	0
Schedule G - Transfers prior to incapacity	0
Schedule H - Powers of Appointment	0
Schedule I - Annuities	
TOTAL GROSS VALUE	\$ _____
ENCUMBRANCES	(_____)
TOTAL NET WORTH	\$ 422,004.00

*Within thirty (30) days following appointment, the original inventory shall be filed with the Probate Court. A copy must be provided to the protected person, if he/she has attained the age of 14 years, and to any parent or guardian with whom the protected person resides and to other interested persons as directed by the Court.

Just Listed! Must see to appreciate!



Build the home of your dreams on this beautiful piece of property.



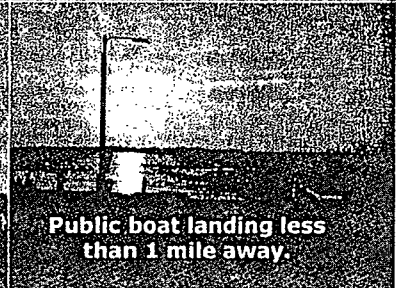
This beautiful lot is at the end of a quiet street and backs up to Holland Island Creek.



With exception of storage buildings/minor cleanup, this property is ready to build on.



Mature palms & oak trees.



Public boat landing less than 1 mile away.

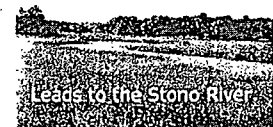
- o Beautiful 4.1 acre property on James Island.
- o Located at the end of very quiet Shrimp Street.
- o Deep water access & possibility of dock permit.
- o Great opportunity to build the home of your dreams - on the lot of your dreams!
- o Great investment opportunity!
- o .9 acres highland with 3.2 acres marsh.
- o Northern & Eastern sides of property are bordered by Holland Island Creek, which accesses the Stono River, less than 2 miles away.
- o Acres and acres of beautiful, unspoiled, natural views from this property!!
- o Public boat landing less than 1 mile away.
- o Folly Beach is just 2 minutes away.
- o Downtown Charleston & the Connector are just 10 minutes away.
- o ***DON'T MISS THIS GOLDEN OPPORTUNITY!***



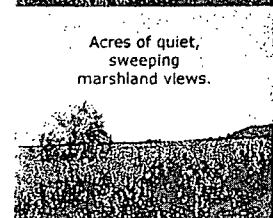
Unspoiled beauty!



Front of property.



Leads to the Stono River



Acres of quiet, sweeping marshland views.

24. **ENFORCEMENT:** The parties agree that Broker may take action to enforce this Agreement or collect any associated costs, fees, and damages. Owner agrees to reimburse or indemnify or pay all Broker costs in enforcing this Agreement or collecting costs, fees, and damages including any incidental expenses or attorneys fees.

25. **OTHER TERMS AND CONDITIONS:** _____

THE UNDERSIGNED HEREBY WARRANTS THAT THEY OWN THE PROPERTY AND/OR HAVE THE AUTHORITY TO EXECUTE THIS AGREEMENT. THIS IS A LEGALLY BINDING AGREEMENT. OWNER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. OWNER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT. OWNER AGREES TO RECEIVE COMMUNICATIONS FROM BROKER AT THE EMAIL ADDRESS, PHONE AND FAX NUMBER LISTED BELOW.

IN WITNESS WHEREOF, this agreement has been duly executed by the parties.

Owner: Henry Myers Mrs Wilb W Myers Date 02/13/2008 Time 12:20 pm
Henry Myers

Email: _____ Phone: 810-1471 Fax: _____

Witness: Bernice M. McClary Date 02/13/2008 Time 12:22

Owner: _____ Date _____ Time _____

Email: _____ Phone: _____ Fax: _____

Witness: _____ Date _____ Time _____

Owner's Mailing Address: 301 Lexington Avenue
Kingstree, SC 29556-3607

Real Estate Firm: EXIT REALTY HOME STORE Phone: _____

By: [Signature] Date 13 Feb 08 Time 12:30

My Commission Expires
April 27, 2016

The foregoing form is available for use by the entire real estate industry. The use of the form is not intended to identify the user as a REALTOR®. REALTOR® is the registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. Expressly prohibited is the duplication or reproduction of such form or the use of the name "South Carolina Association of REALTORS®" in connection with any written form without the prior written consent of the South Carolina Association of REALTORS®. The foregoing form may not be edited, revised, or changed without the prior written consent of the South Carolina Association of REALTORS®.

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Form 220
PAGE 5 OF 5

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 003

INCIDENT REPORT

SC0100000		DISPATCH NUMBER 2008-006122B		ORIGINAL CASE NUMBER		PAGE 1 OF 1 PAGES		NCIC ENTRY		INQ. ENT.	

INCIDENT TYPE 1. TRESPASSING				INCIDENT CODE		COMPLETED ☒ YES ☐ NO		FORCED ENTRY ☐ YES ☒ NO		PREMISE TYPE RESIDENCE		TYPE VICTIM ☒ INDIVIDUAL ☐ BUSINESS ☐ FINANCIAL INST. ☐ GOVERNMENT ☐ RELIG. ORG. ☐ SOC./PUB. ☐ OTHER ☐ UNKNOWN ☐ POLICE OFF.	
						☐ YES ☐ NO		☐ YES ☐ NO					
						☐ YES ☐ NO		☐ YES ☐ NO					

INCIDENT LOCATION: 2085 SHRIMP ST JAMES ISLAND						ZIP CODE 29412		WEAPON TYPE N/A									
BEGINNING INCIDENT DATE 03/01/08		24 HR. CLOCK		ENDING INCIDENT DATE 03/19/08		24 HR. CLOCK		DISP. DATE 03/20/08		DISP. TIME 1033		TIME ARRIVED 1033		DEPART TIME 1350		TRACT # 301E	

NAME: (LAST, FIRST, MIDDLE) MYERS-TAYLOR, MELBA										RELATIONSHIP TO SUBJECT STRANGER		RESIDENT J		RACE B		SEX F		AGE 52		DOB 05/22/55		ETH N			
HEIGHT 503		WEIGHT 200		HAIR GRY		EYES BRO		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										DRIVERS LIC / ID & STATE SC- 007443029				SOCIAL SECURITY #			
ADDRESS # 2085				STREET NAME SHRIMP ST				CITY JAMES ISLAND				STATE SC		ZIP CODE 29412		DAY PHONE 795-2648				EVENING PHONE 795-2648		H			
OCCUPATION RETIRED						EMPLOYER NONE						ALIAS NONE						NIC #							

NAME: (LAST, FIRST, MIDDLE)										RELATIONSHIP TO SUBJECT		RESIDENT		RACE		SEX		AGE		DOB		ETH			
HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										DRIVERS LIC / ID & STATE				SOCIAL SECURITY #			
XXX		XXX		XXX		XXX																			
ADDRESS #				STREET NAME				CITY				STATE		ZIP CODE		DAY PHONE				EVENING PHONE		H			
☐ VISIBLE INJURY		☐ NO		☐ YES		☒ COMPLAINT OF NON-VISIBLE INJURIES		☐ NO		☐ YES		USING ALCOHOL		☐ NO		☐ YES		☐ UNK		☐ TWO-MAN VEHICLE		☐ DETECTIVE SPLASHT		☐ ALONE	
EXPLAIN OCCUPATION				EMPLOYER				DRUGS		☐ NO		☐ YES		TYPE		☐ UNK		☐ ONE-MAN VEHICLE		☐ OTHER		☐ ASSISTED			
OCCUPATION						EMPLOYER						ALIAS						NIC #							

NAME: (LAST, FIRST, MIDDLE) SMITH, LAURENCE D.										RELATIONSHIP TO SUBJECT		RESIDENT		RACE		SEX		AGE		DOB		ETH			
HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										DRIVERS LIC / ID & STATE				SOCIAL SECURITY #			
602		340		GRY		BLU												SC- 007443029							
ADDRESS # 10050 SUITE 110				STREET NAME DORCHESTER RD				CITY SUMMERVILLE				STATE SC		ZIP CODE 29485		DAY PHONE 8733-0021				EVENING PHONE 224-4591		B			
☐ VISIBLE INJURY		☐ NO		☐ YES		☒ COMPLAINT OF NON-VISIBLE INJURIES		☐ NO		☐ YES		USING ALCOHOL		☐ NO		☐ YES		☐ UNK		☐ TWO-MAN VEHICLE		☐ DETECTIVE SPLASHT		☐ ALONE	
EXPLAIN OCCUPATION				EMPLOYER				DRUGS		☐ NO		☐ YES		TYPE		☐ UNK		☐ ONE-MAN VEHICLE		☐ OTHER		☐ ASSISTED			
OCCUPATION REAL ESTATE						EMPLOYER EXIT REAL ESTATE CO.						ALIAS NONE						NIC # N/A							

(A) CHARGE										(C) CHARGE									
(B) CHARGE										(D) CHARGE									

-SOL LEGARE- Compl, Myers-Taylor, says that Exit Real Estate Company posted "For Sale" signs on her father's property. Myers-Taylor says that to get to her fathers land, they had to cross her land which is plainly posted "No Trespassing". Myers-Taylor says she talked with the listing agent from Exit Real Estate and told the agent that they had trespassed when they had crossed her property to post the signs.

R/D talked with Subj, Smith, and he said that yes, they did talk with Myers-Taylor and Ms. Myers-Taylor was upset. He said threats of a lawsuit were exchanged. Smith did say they would not cross Myers-Taylor's property again, they had been given temporary permission from another neighbor to access the property without having to go on Myers-Taylor's property.

TYPE (GROUP)										TOTAL VALUE		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	
STOLEN													
DAMAGED													
BURNED													
RECOVERED												JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
SEIZED													

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18					
				☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER					
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY													
REPORTING OFFICER(S) MDEP T. A. LAWSON				DATE 03/20/08		BADGE NUMBER 8748		APPROVING OFFICER <i>[Signature]</i> 8/5/08		DATE 03/20/08		BADGE NUMBER 8527	
								FOLLOW-UP INVESTIGATION ☐ YES ☐ NO					

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 004

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Jerome Myers & Gloria Myers,)

Plaintiffs,)

Vs.)

Cezar E. McKnight, Willie O.W.)

McFadden-Myers, & Latonya Hobson,)

Defendants.)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

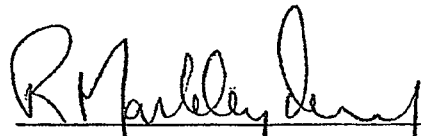
CASE NO: 2011-CP-10-2026

ORDER

FILED
2013 JAN 25 PM 2:51
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before me upon first Motion for Reconsideration filed by Plaintiffs on October 30, 2012 and second Motion for Reconsideration filed by Plaintiff's on December 11, 2012. The Order of Dismissal with Prejudice, which Plaintiffs are asking this Court to reconsider was filed in this case on December 03, 2012, therefore the October 30, 2012 Motion for Reconsideration was filed prematurely. After fully considering both said Motions, this Court finds no need for oral argument in this matter and therefore both Motions for Reconsideration are denied;

AND IT IS SO ORDERED!


The Honorable R. Markley Dennis, Jr.
Presiding Judge, 9th Circuit

Charleston, South Carolina
January 22, 2013

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF COMMON PLEAS

Jerome Myers, et al.,

PLAINTIFF,

v.

Cezar E. McKnight, et al.

DEFENDANT.

TRANSCRIPT OF COURT RULING
C/A #:2011-CP-10-02026

CHARLESTON COUNTY COURTHOUSE
February 11, 2013

BEFORE:

HONORABLE MARKEY DENNIS, PRESIDING JUDGE.

APPEARANCES:

Mr. Jerome Myers
Ms. Gloria Myers

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

PAGE

Certificate of Service 2

EXHIBITS

(There were no exhibits marked)

1 The Court: Jerome Myers. Motion to Dismiss. I've
2 already ruled on that. I ruled on it based on the
3 Memorandums that were submitted in the motion. So, the
4 motion has been resolved. I deny the motion to
5 reconsider. So, the original Order is the final Order.

6 Mr. Myers: So ...

7 The Court: The original Order that I filed becomes
8 the Order of the case.

9 Mr. Myers: Yes, sir, but we were ready to go to a
10 jury trial.

11 The Court: I understand. I dismissed your action
12 and that Order stands, so you can take the next step if
13 you want to. That means you appeal my Order.

14 Mr. Myers: Okay. Thank you, sir.

15 Ms. Myers: Thank you.

16 The Court: Thank you. Sorry to keep you waiting.

17 Ms. Myers: No problem. Thank you very much.

18 The Court: You're very welcome.

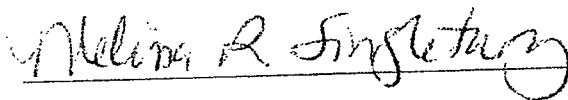
19 (End)
20
21
22
23
24
25

CERTIFICATE

This is to certify that the transcript in the matter of Jerome Myers, et al. Vs. Cezar E. McKnight, consisting of One (1) page is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 17th day of June, 2013.

A handwritten signature in cursive script, reading "Melissa R. Singletary", is written over a horizontal line.

Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-10-2026

JEROME MYERS, ET AL
PLAINTIFF(S)

CEZAR E. MCKNIGHT, ET AL
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ 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), SCRPC; ☐ Rule 41(c), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ 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: Defendant's Motion for Summary Judgment was granted; as a result all other motions are moot; formal order to follow via mail.

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	n/a	\$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.

Circuit Court Judge

2060
Judge Code

10/22/2012
Date

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:



State of South Carolina
The Circuit Court of the Ninth Judicial Circuit

Deborah A. Garrison
Circuit Court Reporter

January 20, 2013

P O Box 901
Johns Island, SC 29457
dgarrison@sccourts.org

Mr. & Mrs. Jerome Myers
2321 Taylor Street
Charleston, SC 29406

In Re: 07-CP-10-2026
Jerome Myers v Cezar McKnight
Hearing of October 22, 2012
Before The Honorable R. Markley Dennis, Jr.

Your File No.

Transcript of Hearing	\$	45.50
Postage & Handling		2.50
Electronic transmittal		n/a
Total	\$	48.00
Less Deposit		40.00
Amount Waived per Court Reporter		8.00
Due	\$	-0-

Check to be made Payable to: Deborah Garrison

Federal ID No.: 57-0897678

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
Jerome Myers,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 07-CP-10-2026
	)	
Cezar McKnight,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing was held the above-captioned action on October 22, 2012, before The Honorable R. Markley Dennis, Jr. in Courtroom 3E of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by Counsel, as follows:

APPEARANCES:

Jerome Myers, Plaintiff
 2321 Taylor Street
 Charleston, SC 29406
 Appearing *Pro Se*

Cezar McKnight, Esq.
 (Information Not Provided)
 Appearing *Pro Se*

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dgarrison@scsccourts.org

Jerome Myers v. Cezar McKnight
Case No. 07-CP-10-2026
Hearing of October 22, 2012
Before The Honorable R. Markley Dennis, Jr.

2

1 THE COURT: This is Jerome Myers'
2 lawsuit -- and you're here for what?

3 MR. MYERS: A Motion.

4 THE COURT: All right. Did we hear
5 this? Was the attorney not present?

6 LAW CLERK: It's this one.

7 THE COURT: Thank you. Which one
8 is it?

9 LAW CLERK: Starting with number
10 twenty-one.

11 THE COURT: Okay. I note that
12 there's been a number of defense counsels.
13 Mr. McKnight, are you -- are there other
14 defense counsels present other than you?

15 MR. MCKNIGHT: Your Honor, some
16 of the other defense counsels have already
17 been dismissed.

18 THE COURT: I see. So this is just
19 yours, your part?

20 MR. MCKNIGHT: Yes, sir.

21 THE COURT: All right. These are
22 Motions to dismiss filed by the plaintiff. It
23 -- is the motion for summary judgment that you
24 filed dispositive of the Complaint?

25 MR. MCKNIGHT: It is, Your Honor.

1 We believe that it will be.

2 THE COURT: Okay. Well, why don't
3 we here that first?

4 MR. McKNIGHT: Thank you, Your
5 Honor. May it please the Court, ---

6 THE COURT: Yes, sir.

7 MR. McKNIGHT: First of all, my
8 apologies to the Court for our tardiness.

9 THE COURT: No apology necessary.
10 The court apologizes for y'all having to sit
11 around and wait. I'm sorry.

12 MR. McKNIGHT: But all parties
13 were here on time, Your Honor.

14 THE COURT: That's no problem.

15 MR. McKNIGHT: Thank you, Your
16 Honor. May it please the court?

17 THE COURT: Yes, sir.

18 MR. McKNIGHT: We filed a motion
19 for summary judgment and/or to dismiss earlier
20 on this year. Let me give the court some
21 procedural history so that it will better
22 understand what is going on.

23 THE COURT: Sure.

24 MR. McKNIGHT: I'm Cezar McKnight,
25 for the defense.

1 THE COURT: Yes, sir.

2 MR. McKNIGHT: We filed a motion
3 to amend the pleadings, which was granted by
4 Judge Jeffrey Young earlier this year; which
5 allowed us to amend our pleadings to properly
6 plead a statute of limitations issue that we
7 discovered had arisen.

8 THE COURT: Okay.

9 MR. McKNIGHT: And, basically,
10 Your Honor -- and Judge Young has granted our
11 ---

12 THE COURT: I find that. That
13 Order was filed on July 26th, 2012. The court
14 has a copy.

15 MR. McKNIGHT: Yes, sir.

16 THE COURT: The court has the
17 original.

18 MR. McKNIGHT: What we are
19 alleging now, Your Honor, is that in the
20 Summons and Complaint of the plaintiffs, they
21 allege that their causes of action arise from
22 an issue that occurred on or around 2007.
23 Specifically around April 12th, 2007.

24 They go on then to file their
25 Summons and Complaint commencing this action

1 on March 17th, 2011. We assert that is
2 outside the statute of limitations and we
3 respectfully move to dismiss, with prejudice,
4 this action.

5 THE COURT: Very well. I will be
6 happy to hear from you, Mr. Meyers. Mr. or
7 Mrs. Myers.

8 MR. MYERS: Good morning, Your
9 Honor.

10 THE COURT: Good morning, sir.

11 MR. MYERS: I've got a transcript
12 where the judge told him that -- that got him
13 out of default, right? So the judge told them
14 that he had to answer the questions. He never
15 answered the questions. He told the judge
16 that he had an Order, and he handed it up.
17 The judge read the Order but he said, 'I want
18 you to answer the questions before I let you
19 out of default.' I have the transcript right
20 here of what the judge said. Shall I ---

21 THE COURT: No, sir. I appreciate
22 that. I appreciate the transcript but the
23 Order is very clear. It is the defendant's
24 Motion to amend pleadings and it was granted.
25 Which he served an amended pleading and filed

1 a Motion for summary judgment. "Defendant's
2 Motion for summary judgment was denied." That
3 was based on the pleadings at that present
4 time. It would not have involved the matter
5 which has now been raised in the amended
6 Answer.

7 "Plaintiff's Motion for summary
8 judgment is denied." That was the result
9 of the hearing.

10 I now need you to address the issue
11 that was raised in the Motion for summary
12 judgment based on the Complaint being filed
13 beyond the statute of limitations.

14 MR. MYERS: Well, sir, we -- we
15 filed on time. What we did -- the forgery
16 was where they made, that my father signed a
17 power of attorney. We sent it to the hand-
18 writing expert and the expert told us that it
19 was fraud, a forgery. That is when the time
20 started then. We knew it was fraud then.
21 We were not three years too late, sir. He's
22 trying to say that we were three years too
23 late. We are not.

24 When the handwriting expert tells us
25 that it was fraud, that's when we started ---

1 THE COURT: Why did you send it to
2 the handwriting expert?

3 MR. MYERS: Well, we sent it to the
4 handwriting expert because we didn't know if
5 it was fraud or not.

6 THE COURT: Well, why did you ---

7 MR. MYERS: We didn't know if ---

8 THE COURT: Well, why would you
9 send it if you didn't think it was fraud?

10 MR. MYERS: Because it, like I
11 said, didn't look like my daddy's handwriting.

12 THE COURT: Thank you, sir.

13 MR. MYERS: I knew my father's
14 handwriting. I looked at it and I said, 'this
15 is not my father's handwriting right here.'

16 THE COURT: That's right and you
17 saw -- and you knew that in 2007.

18 MR. MYERS: Sir, ---

19 THE COURT: You knew that in 2007?

20 MR. MYERS: Sir, I ---

21 THE COURT: No, I am asking you a
22 question.

23 MR. MYERS: I didn't know it until
24 the handwriting expert told me that it was a
25 ---

1 THE COURT: No, sir. You said "it
2 doesn't look like my father's handwriting."

3 MR. MYERS: Well, I wasn't sure
4 until we ---

5 THE COURT: I didn't ask you
6 whether you were sure. I asked you why did
7 you send it and you said "because it wasn't my
8 father's handwriting."

9 MR. MYERS: Because -- I said it
10 didn't look like my father's handwriting.

11 THE COURT: Yes, sir.

12 MR. MYERS: But I didn't know for
13 sure and that's why I sent it to a handwriting
14 expert, sir.

15 THE COURT: Has there been an
16 affidavit filed in response to the Motion for
17 summary judgment?

18 MR. McKNIGHT: None from the
19 plaintiff that I am aware of; no, sir.

20 THE COURT: All right. What else,
21 sir?

22 MS. MYERS: May I speak?

23 THE COURT: Yes, sir. Yes, ma'am.

24 MS. MYERS: My name is Gloria
25 Myers. We did file the affidavit of the

1 handwriting expert. As a matter of fact, we
2 filed ---

3 THE COURT: I understand that,
4 ma'am.

5 MS. MYERS: Oh, okay.

6 THE COURT: I am aware of that.
7 You filed that in conjunction with your Motion
8 for summary judgment.

9 MS. MYERS: Yes, sir.

10 THE COURT: That's fine. I under-
11 stand that.

12 MS. MYERS: Yes, sir.

13 THE COURT: The issue -- that is
14 really not the issue. That's a part of the
15 record. The issue really deals specifically
16 with the Amended Answer. That is, did the
17 Complaint -- was the Complaint filed beyond
18 the period of time that the statute of
19 limitations requires.

20 The problem is -- and I understand
21 that you confirmed it, and that's precisely
22 what you did, ---

23 MS. MYERS: Yes, sir.

24 THE COURT: And that is not
25 uncommon.

1 MS. MYERS: Um-humm.

2 THE COURT: But the problem is that
3 the time is triggered the minute that you --
4 the law is very clear, it doesn't have to be
5 confirmed before it begins to run. It started
6 the day that you knew or should have known
7 that you had a lawsuit. That time ran when
8 you looked at it and said 'this is not my
9 father's signature.' That is when it began.
10 It started that day. So you ---

11 MRS. MYERS: Well, ---

12 THE COURT: So you had three years
13 to get all that done and you filed your
14 action.

15 MS. MYERS: Well, during that time
16 we did alert an attorney into looking into the
17 -- before we got it to the handwriting expert.

18 THE COURT: I understand that.

19 MR. MYERS: Then we sent it off to
20 make sure that, when we come into court, that
21 ---

22 THE COURT: Yes, ma'am. I under-
23 stand what you did. I am not quarreling with
24 that. The problem is that the time had run on
25 you at the time that you filed your Complaint.

1 That is the problem.

2 MS. MYERS: I don't understand how
3 the time ---

4 THE COURT: It's a legal issue. It
5 is strictly legal. It doesn't have a thing in
6 the world to do with whether you had somebody
7 -- and the affidavit speaks for itself, there
8 is no question about that.

9 MS. MYERS: Yes, sir.

10 THE COURT: That expert's opinion
11 is that it is a fraud, that it is not correct.
12 I understand that.

13 MS. MYERS: South Carolina Code 15-
14 36-100, ---

15 THE COURT: What's that?

16 MS. MYERS: To me it says that it
17 can be set aside by the court on the sworn
18 expert's -- the handwriting expert's
19 affidavit. We attached that and it was filed
20 with the Complaint.

21 THE COURT: Yes, ma'am. I am not
22 worried with whether you complied with the
23 affidavit of the expert. That is not what I
24 am talking about, ma'am. You're missing my
25 point. It's there. There is no question

1 about that.

2 The problem is that the statute of
3 limitations began to run the minute that you
4 knew that it was -- that minute that you saw
5 and had cause to believe that there was some-
6 thing wrong with the signature.

7 MS. MYERS: Um-humm.

8 THE COURT: That's when the statute
9 began to run, under the law. So you had three
10 years from the date of that knowledge.

11 MS. MYERS: We believed it from the
12 minute that we saw it from the affidavit.

13 THE COURT: No, ma'am. I beg your
14 -- I appreciate your -- that's what your
15 statement is. The court does not agree with
16 it, that that tolled the statute.

17 MR. MYERS: Your Honor?

18 THE COURT: Yes, sir, what else do
19 you want to say?

20 MR. MYERS: Sir, the judge that had
21 them in default ---

22 THE COURT: You keep talking about
23 default. That's over. The fraud was -- he
24 was allowed to file an Answer. The judge
25 didn't rule on the default. He ruled on the

1 Amended Answer. Motion for summary judgment
2 is granted. Therefore, the case is concluded.

3 MR. McKNIGHT: Thank you, Your
4 Honor. Your Honor, may I forward to you a
5 prepared Order?

6 THE COURT: Yes.

7 MR. McKNIGHT: Madame Clerk, may
8 I have your e-mail address so that I can send
9 it to you?

10 THE COURT: Yes. Do you have an e-
11 mail address, sir?

12 MR. MYERS: No, sir.

13 MR. McKNIGHT: I will send it to
14 them. I will send it by mail.

15 THE COURT: Yes, sir. Send it by
16 mail. Don't send it by e-mail.

17 MR. McKNIGHT: Yes, sir.

18 THE COURT: Thank you.

19 MR. McKNIGHT: Thank you, Judge.

20 THE COURT: Thank you very much.
21 We will just do a form Order that because I'm
22 granting summary judgment that all other
23 Motions are moot.

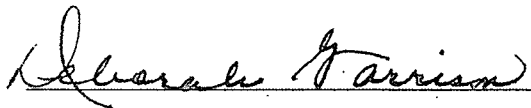
24 (HEARING CONCLUDED)

25

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the
hearing held before The Honorable R. Markley
Dennis, Jr., on October 22, 2012;

I further certify that I am neither kin
nor counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina

March 31, 2013

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 005

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF _____)

_____ JUDICIAL CIRCUIT)

CASE NO.: 2011-CP-10-2026)Jerome Myers and Gloria Myers)MOTION AND ORDER INFORMATION
FORM AND COVERSHEETShelly K. All, Cesar E. McKnight Plaintiff,)Ms. Willie O.W. McFadden)and Latonya Hobson,)

Defendant.)

Plaintiff's Attorney: <u>Pro Se</u> _____, Bar No. _____ Address: <u>Jerome MYERS</u> <u>2321 TAYLOR ST</u> <u>N CHARLESTON S.C</u> Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____																
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)																	
SECTION I: Hearing Information																	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☐ NO																	
SECTION II: Motion/Order Type																	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.																	
<u>Jerome Myers</u> Signature of Attorney for ☒ Plaintiff / ☐ Defendant Date submitted _____																	
SECTION III: Motion Fee																	
☐ PAID - AMOUNT: \$ <u>25</u> ☐ EXEMPT: (check reason) <table style="width: 100%; margin-top: 5px;"> <tr> <td>☐ Rule to Show Cause in Child or Spousal Support</td> <td>☐ Domestic Abuse or Abuse and Neglect</td> </tr> <tr> <td>☐ Indigent Status</td> <td>☐ State Agency v. Indigent Party</td> </tr> <tr> <td>☐ Sexually Violent Predator Act</td> <td>☐ Post-Conviction Relief</td> </tr> <tr> <td>☐ Motion for Stay in Bankruptcy</td> <td>☐ Motion for Publication</td> </tr> <tr> <td>☐ Motion for Execution (Rule 69, SCRCP)</td> <td>☐ Proposed order submitted at request of the court; or,</td> </tr> <tr> <td colspan="2">reduced to writing from motion made in open court per judge's instructions</td> </tr> <tr> <td colspan="2">Name of Court Reporter: _____</td> </tr> <tr> <td colspan="2">☐ Other: _____</td> </tr> </table>		☐ Rule to Show Cause in Child or Spousal Support	☐ Domestic Abuse or Abuse and Neglect	☐ Indigent Status	☐ State Agency v. Indigent Party	☐ Sexually Violent Predator Act	☐ Post-Conviction Relief	☐ Motion for Stay in Bankruptcy	☐ Motion for Publication	☐ Motion for Execution (Rule 69, SCRCP)	☐ Proposed order submitted at request of the court; or,	reduced to writing from motion made in open court per judge's instructions		Name of Court Reporter: _____		☐ Other: _____	
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☐ Motion for Stay in Bankruptcy	☐ Motion for Publication																
☐ Motion for Execution (Rule 69, SCRCP)	☐ Proposed order submitted at request of the court; or,																
reduced to writing from motion made in open court per judge's instructions																	
Name of Court Reporter: _____																	
☐ Other: _____																	
JUDGE'S SECTION																	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____																
CLERK'S VERIFICATION																	
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____																	

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Jerome Myers and Gloria Myers)
Plaintiffs,)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
Case No.: 2011-CP-10-2026

vs)

Shelly K. All; Cezar E. McKnight;)

Ms. Willie O.W. McFadden-Myers:)

and Latonya Hobson.)

Defendants.)

Friz

NOTICE OF MOTION AND MOTION

FOR RECONSIDERATION AND RELIEF

FROM ERROR IN THE COURT'S ORDER

2011 NOV -7 PM 3:05
JULIE J. ARMSTRONG
CLERK OF COURT
FILED

TO: THE HONORABLE JUDGE ROGER YOUNG; AND PRO SE DEFENDANTS APPEARING INDIVIDUALLY AS Shelly K. All; Cezar E. McKnight; Ms. Willie O.W. McFadden-Myers; and Latonya Hobson.

Please take NOTICE that the Plaintiffs above captioned move pursuant to Rules 59 and 6 of the SC Rules of Civil Procedure hereby moves for this honorable court to reconsider the order as detailed below; and to relieve the Plaintiffs from certain grammatical factual errors needing clarifications. The ORDER FILED OCT 26 2011 was downloaded online by the Plaintiffs as the Court Clerk only mailed the Plaintiffs a letter claiming as being certified for being mailed the ORDER to the Plaintiffs on OCT 29 2011 as served and received on NOV 2 2011.

1. The Plaintiffs OBJECT to having arrived at the scheduled hearing date and time only to see the the Attorneys, as Defendants, were behind the closed doors with the Court; and
2. The Plaintiffs OBJECT to the language of the last sentence of the first ORDERS paragraph where it states "Pro se Plaintiffs and counsel for the Defendants [SIC Shelly K. All & Cezar E. McKnight] were present, and this Court entertained and considered oral arguments." It must be changed to include "the Plaintiffs as having been excluded from the contents and conversations held the closed doors meeting that the Plaintiffs were not privy to."; and
3. The Facts of the case refer to the Plaintiffs Father as being "their incompetent father." The record must show that the father is not deemed incompetent by the US Department of Veterans Affairs. He lives in his own home and is active with his life, his family and his church in the City of Charleston.

AND IT IS SO MOVED: TO SET THE RECORD AS CORRECTED.

11-2026

Based upon the above Plaintiffs Jerome Myers and Gloria Myers respectfully request that the Defendants complaints be motion for reconsideration and relief from error in the courts order and for such other and further relief as deemed just and proper.

Respectfully Submitted

Jerome Myers and Gloria Myers
Jerome Myers + Gloria Myers
Jerome Myers and Gloria Myers

2321 Taylor Street
North Charleston, SC 29406
843-614-2766

IN THE STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Jerome Myers and Gloria Myers)

Plaintiffs,)

vs)

Shelly K. All; Cezar E. McKnight;)

Ms. Willie O.W. McFadden-Myers:)

and Latonya Hobson.)

Defendants.)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Case No.: 2011-CP-10-2026

Second
NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION AND RELIEF
FROM ERROR IN THE COURT'S ORDER
& CORRECT AUGUST 7, 3007 TO 2008 TIMES

FILED
2012 DEC 11 PM 1:34
JULIE J. ARMSTRONG
CLERK OF COURT

TO: THE HONORABLE JUDGE R. Markley Dennis; AND PRO SE DEFENDANTS
APPEARING INDIVIDUALLY AS Shelly K. All; Cezar E. McKnight; Ms. Willie O.W.
McFadden-Myers; and Latonya Hobson.

The Plaintiffs assert that there has been a gross mutual miscalculation of the 3 years statute of
limitations for the following undisputable facts:

1. The Court issued the attached ORDER on November 6, 2012 (and the Clerk entered the
attached Notice of the JUDGEMENT on December 3, 2012 (Mailed December 4, 2012)
2. At the ORDER on [IT's] page #2 at lines 3,4, and 5; it states the year 2007. The error
was repeated twice in the Plaintiffs Rule 60(b) Second Motion dtd as FILED October 30,
2012.
3. This was a Plaintiffs typographical error noted in the text of their the **Second Motion**
R.60(b) for which with this correction request changing the two typo from August 7,
2007 to read "August 7, 2008".
 - a. The forgery was before the the Probate of Daddy Myers, the forger was known by
the certainty of the §15-36-100 affidavit of Mr. Gidion after August 7, 2008.
4. This was the correct date that any layman, lawyer or judge or Court knew with certainty
of the forgery of the Power of Attorney signatures of Daddy Myers. Certainly not before
could the Plaintiffs [or any other laypersons or judiciary] would have had this strict poof

before the absolute proof of the Expert Affidavit via SC Code § 15-36-100. This began the limitations clock to have filed and served a Rules compliant civil action.

5. The Plaintiff's October 30, 2012 **Second Motion R.60(b)** is restated herewith with the correction changing the dated possibly referred to by the ORDER as "*sometime in 2007*". A place in time likely taken from August 7, 2007 rather than the correct date **August 7, 2008**; and as explained below:

- From and including: **Friday, August 8, 2008 Expert Affidavit signed by Gidion**
To and including: **Thursday, March 17, 2011 date civil action FILED.**
- It is 952 days from the start date to the end date, end date included:
 - Or 2 years, 7 months, 10 days including the end date

Clearly, the SC Code Annotated at §15-36-100 requires the affidavit to attach to the civil suit and only with Mr. Gidion's Expert Affidavit [Enclosure (3)] dated as shown August 7, 2008 until the civil action was FILED on March 17, 2011 is really four month within the required 3 years Statute of Limitation requirement.

With the assertion of 'knew or should of known' -- which was only the 'suspected' forgery -- and "suspect" is not defined by the ORDER's use of the SC Statute of Limitations and this is why the State Legislature forced the "know without a doubt about that which can be alleged in the Complaint". Here and only here is where the Plaintiffs can only be adjudicated by "**what and when**" they "**knew with certainty**" via SC Code Annotated at §15-36-100; and that time clock began on **August 7, 2008** when Mr. Gidion sent his documents to the then Plaintiff's law firm of Oberman & Oberman. To have filed their civil action prior to August 7, 2008; the Plaintiff's would have been with certainly subjected to a dismissal for a lack of the required expert's affidavit. This Complaint was correctly and timely FILED on March 17, 2011.

The language wrongfully drafted into and copied into the Court's; the ORDER says '*sometimes in 2007*' likely referred to the **start** of the Daddy Myers Probate matter; while the true start date of this Court of Common Pleas civil action was proper with '**only with any certainty, August 7, 2008.**'

This proper time calculation equates to 2 years 7 months 10days inclusive vice the references in the ORDER (prepared by defendant attorney Mr. Cesar McKnight) [It] states that the three years '*has run*'

when IN FACT the Plaintiff's were within the three years by more than 4 months and 20 days
and as such are most timely.

The ORDER and the JUDGEMENT should be VACATED and the Complaint must be re-
instated and set for the trial w jury demand.

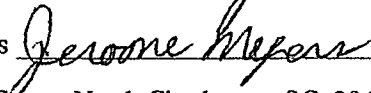
Respectfully submitted this 10th day of December 2012.

BY:

Gloria Myers



Jerome Myers



2321 Taylor Street, North Charleston, SC 29406-6232

(843) 747-6741

Enclosure (3)

(1) ORDER dtd November 6, 2012

(2) JUDGEMENT NOTICE dtd December 3, 2012

(3) EXPERT AFFIDAVIT OF GIDION dtd August 8, 2008.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2011-CP-10-2026
	)	
JEROME MYERS & GLORIA	)	
MYERS,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	ORDER OF DISMISSAL WITH
	)	PREJUDICE
CEZAR E. MCKNIGHT,	)	
WILLIE O.W. MCFADDEN-	)	
MYERS, & LATONYA HOBSON,	)	
	)	
Defendants.	)	
_____	)	

This matter came before the Court for a hearing on October 22, 2012, for consideration of Defendants' Motion for Summary Judgment. Pro se Plaintiffs and counsel for the Defendants were present and this Court entertained and considered oral arguments.

FACTS

Pro se, sibling Plaintiffs bring this action alleging misrepresentation, fraud, and forgery regarding a power of attorney for their father. Defendants have filed a Motion for Summary Judgment alleging that this matter must be dismissed due to the fact that the statute of limitations for the Plaintiff's causes of actions had run.

emo9/1

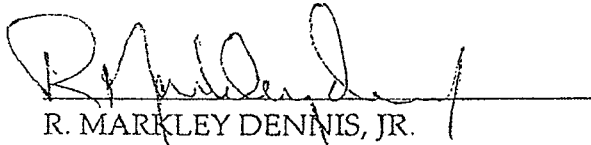
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

An action alleging fraud must be brought within three years of the Plaintiffs discovering or should have discovered the existence of the causes of action. §15-3-530 South Carolina Code of Laws Annotated. The Plaintiffs admit that they discovered the facts that gave rise to their causes of action sometime in 2007. However the Plaintiffs did not file their Complaint commencing this action until March 17, 2011, well more than three years after they discovered or should have discovered them. These facts make it clear that the statute of limitations for the causes of action at issue here has run and the Plaintiffs' case must be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. Defendants' Motion for Summary Judgment is granted;
2. The case of Jerome Myers & Gloria Myers v. Cezar E. McKnight, Willie O.W. McFadden Myers and Latonya Hobson Case No.: 2011-CP10-2026 is DISMISSED WITH PREJUDICE.

AND IT IS SO ORDERED!


R. MARKLEY DENNIS, JR.
PRESIDING CIRCUIT COURT JUDGE
COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

November 6, 2012

Monica Craver, South Carolina

RMDG/2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2011-CP10-2026
Jerome Myers & Gloria Myers,	)	
	)	
PLAINTIFFS	)	
	)	
v.	)	
	)	CERTIFICATE OF SERVICE
CEZAR E. MCKNIGHT,	)	
WILLIE O.W. MCFADDEN-	)	
MYERS, & LATONYA HOBSON,	)	
	)	
DEFENDANTS.	)	
_____	)	

The undersigned hereby certifies that a true copy of the Order of Dismissal, along with Certificate of Service has been served upon the Plaintiffs by mailing a copy properly addressed with sufficient postage affixed thereto this 28th day of November, 2012 to the address below:

Jerome Myers and Gloria Myers
 2321 Taylor Street
 Charleston, SC 29406

BY: _____

Elaine Epps, Secretary

JULIE J. ARMSTRONG

CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258

RETURN SERVICE REQUESTED



www3.charlestoncounty.org

55



JEROME MYERS
2321 TAYLOR ST
NORTH CHARLESTON SC 29406-6232

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Order/Dismissal with prej

CASE NO: 2011CP1002026

Jerome Myers , plaintiff, et al VS Cezar E McKnight , defendant, et al

This judgment was entered on the 03th day of December, 2012, and a copy mailed first class on Tuesday, December 04, 2012; to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at www3.charlestoncounty.org.

IN THE STATE OF SOUTH CAROLINA)
PLEAS

COUNTY OF CHARLESTON)

Jerome Myers and Gloria Myers)

Plaintiffs,)

vs)

Shelly K. All; Cezar E. McKnight;)

Ms. Willie O.W. McFadden-Myers:)

and Latonya Hobson.)

Defendants.)

IN THE COURT OF COMMON

NINTH JUDICIAL CIRCUIT

Case No.: 2011-CP-10-2026

CERTIFICATE OF SERVICE for:

NOTICE OF MOTION &

MOTION TO RECONSIDER

Judge's Dennis' ORDER & JUDGMENT

CERTIFICATE OF SERVICE

I, Jerome Myers, affirm that on this day I have placed a copy of this **NOTICE OF MOTION & MOTION TO RECONSIDER Judge's Dennis' ORDER & JUDGMENT** in the USPS mail with first class postage affixed to the following Defendants:

1. Shelly K. All, 260 W. Coleman Blvd., Ste D, Mt. Pleasant, SC 29464
2. Cezar E. McKnight, 106 East Main Street, Lake City, SC 29560
3. Ms. Willie O.W. McFadden-Myers, 301 Lexington Ave., Kingstree, SC 29526
4. Latonya Hobson, 3213 Oak Spring Street, Columbus, OH 43219

December 10, 2012

BY:

Gloria Myers

Jerome Myers

2321 Taylor Street, North Charleston, SC 29406-6232

(843) 747-6741

FILED
DEC 11 2012

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 006



JOSEPH P. RILEY, JR.
Mayor

City of Charleston

GREGORY G. MULLEN
Chief of Police

SOUTH CAROLINA

POLICE DEPARTMENT

November 7, 2008

To Whom It May Concern:

On or about March of 2008, Mrs. Gloria Myers drop off documents involving her father signature on a possible questionable power of attorney document, to me (Sgt. Donald Daquigan). I then in turn the documents over to Elizabeth Spencer, who is with the Charleston Police Dept. Elderly Support Unit. On 11/07/08, Mrs. Spencer returned the documents to me, and I then returned the documents to Mrs. Gloria Myers.

Respectfully submitted

Sgt. Donald Daquigan

Charleston P.D.

(843) 720-2487

daquigand@ci.charleston.sc.us



THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 007



DEPARTMENT OF VETERANS AFFAIRS
Columbia SC
1801 Assembly St.
Columbia SC 29201

Henry Myers

VA File Number
07 838 531

Represented by:
AMERICAN LEGION

Rating Decision
December 15, 2008

INTRODUCTION

The records reflect that you are a veteran of the World War II Era. You served in the Army from March 12, 1943 to December 29, 1945. Since our last review of your claim, we received additional evidence on October 10, 2008. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

You are considered competent.

EVIDENCE

- Medical evidence submitted by the veteran showing treatment by Dr. Jessica Broadway, Assistant Professor of Psychiatry, dated October 2, 2008
- Rating Decision dated December 1, 2008
- Notification Letter dated December 2, 2008
- Medical statement provided by Dr. Robert T. McDonald of Charleston VA Medical Center dated May 5, 2008



DEPARTMENT OF VETERANS AFFAIRS

Regional Office
1801 Assembly Street
Columbia SC 29201

SEP 11 2008

HENRY MYERS
5320 JURY LN
NORTH CHARLESTON SC 29406

In Reply Refer To: 319/213
C 07 838 531
MYERS, Henry

Dear Mr. Myers:

We received your request for an extension of time to provide evidence regarding your ability to manage your funds on August 5, 2008.

Based upon your request, we have extended the due process period for sixty days from the date of this letter, to allow you to submit the additional evidence. However, if the evidence is not received at the end of the sixty day period, we will take our proposed action.

Do You Have Questions Or Need Assistance?

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833.
Use the Internet	Send electronic inquiries through the Internet at https://iris.va.gov .
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address at the top of this letter.

In all cases, be sure to refer to your VA file number 07 838 531.

If you are looking for general information about benefits and eligibility, you should visit our website at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://iris.va.gov>.



Exhibit (A) (B)

REASONS FOR DECISION

Competency to handle disbursement of funds.

You are considered competent.

A mentally incompetent person is defined as one who, because of injury or disease, lacks the mental capacity to control or manage his or her own affairs, including disbursements of funds without limitation. Where there is a doubt as to whether the beneficiary is capable of administering his or her funds, such doubt will be resolved in favor of competency.

In the rating decision, dated December 1, 2008, we rated you incompetent based on information submitted by Dr. Robert T. McDonald of Charleston VA Medical Center. The physician reported you suffer from advanced dementia and that you are not capable of handling your affairs, including financial issues. In addition to, a letter provided by Walter R. Kaufmann dated April 8, 2008, shows appointment as your fiduciary. Since there was a definite finding of incompetency by a physician in this case and you were not shown to be able to manage personal affairs to include disbursement of funds, we rated you incompetent for purposes of managing VA payments.

In our letter dated December 2, 2008, we informed you of our final decision rating you incompetent for purposes of managing VA payments. Since our last review of your claim, we received medical evidence provided by you showing treatment by Dr. Jessica Broadway, Assistance Professor of Psychiatry, dated October 2, 2008, showing improvement in your overall condition with prescribed Celexa. The physician also noted that you are likely capable of managing your own funds as of this date. You expressed concern of the possibility of your estranged wife spending your money on herself and not ensuring your well-being is cared for after the bills have been paid.

Based on the above information, you are shown to be able to manage personal affairs to include disbursement of funds. Therefore, we have determined that you are now competent for VA purposes.

The effective date, December 15, 2008, is the date of the rating decision.

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our web site, www.va.gov.

Exhibit (A)(B)

MYERS, HENRY
001118763 11/05/24 M B
10/02/08 03:00PM NEW
BROADWAY MD, JESSICA L
V# 243119625 A# 5411037 M100
PSYCH GERIATRICS PGO

Assessment: Regarding his diagnoses, I believe that his co-morbid medical problems and testing on MMSE is reflective of mild vascular dementia (which may also have an Alzheimer's component, as most vascular pathology accompanies plaques and tangles on autopsy), low education, and depression. As far as his capacity to manage his own funds, he seems to have a fair grip on current events (including with the economy) and is able to logically state how he would go about paying his bills. I do not believe that his dementia is so advanced at this time that he is unable to handle his own check. Of course, he does have a progressive condition and may not be able to manage his own affairs in the future. I cannot predict when this time may come.

Axis I: Vascular dementia, mild (290.40); R/O Alzheimer's dementia, mild (290.00); Depression NOS (311); Anxiety NOS (300.00)

Axis II: Deferred

Axis III: Arthritis, Prostate cancer, peripheral vascular disease, glaucoma, hypertension

Axis IV: moderate (financial, separation from estranged wife who still has his check)

Axis V: 60-65

Plan:

1. Regarding his treatment of depression, anxiety, and mild dementia — I believe that he is on appropriate medications at this time. I would suggest that his Celexa be increased. However, he doesn't know the dose right now and his daughter plans to get back with me. This is currently being rx'd by his PCP at the VAMC, so his PCP may want to increase this at his next visit (which is going to be soon from what I understand). He is not yet appropriate for Namenda.
2. Regarding his ability to manage his funds, I believe that he is likely capable of doing this right now. Of course, his condition will progress in the future. I would recommend to the VA and the patient one of three courses of action: a) that he is allowed to manage his own funds for now and monitored for progression, b) that he assign another family member to be his payee, or c) that he designate Family Services to be his payee. It seems, per his report, that the main problem is his estranged wife spending his money for herself and not passing along any extra after the bills are paid.
3. Finally, I have suggested that if he doesn't want her to be his designated NOK or have authority when he becomes more ill, he needs to begin getting a POA in place with a person of his choice (or get a divorce).
4. RTC 2-3 months for f/u.

Jessica Broadway MD 10/02/08 4:35 pm
Jessica Broadway, MD (pager 14582)
Assistant Professor of Psychiatry

Note — pt given 2 copies of this evaluation, 1 for the VA and 1 for Dr. MacDonald.

Exhibit "A"

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 008

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

Floree Hooper, as Personal Representative of the Estate of Albert L. Clinton,
Deceased, Petitioner,

v.

Ebenezer Senior Services and Rehabilitation Center, Respondent.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from York County
S. Jackson Kimball, III, Circuit Court Judge

Opinion No. 26748
Heard September 17, 2009 - Filed December 14, 2009

REVERSED AND REMANDED

John S. Nichols, of Bluestein, Nichols, Thompson & Delgado, of Columbia,
and Robert V. Phillips, of McGowan, Hood, Felder & Johnson, of Rock Hill, for
Petitioner.

R. Gerald Chambers and R. Hawthorne Barrett, both of Turner, Padgett,
Graham & Laney, of Columbia, for Respondent.

JUSTICE BEATTY: Floree Hooper ("Hooper"), acting as Personal Representative of the Estate of Albert L. Clinton, brought this action alleging claims for wrongful death and survival against Ebenezer Senior Services and Rehabilitation Center ("Ebenezer"). The trial court granted summary judgment in favor of Ebenezer, finding the claims were untimely asserted. The South Carolina Court of Appeals affirmed. Hooper v. Ebenezer Senior Servs. & Rehab. Ctr., 377 S.C. 217, 659 S.E.2d 213 (Ct. App. 2008). This Court granted Hooper's petition for a writ of certiorari. We now reverse and remand.

I. FACTS

The facts, in the light most favorable to Hooper, are as follows.[1] Ebenezer was a nursing home located in York County. In February 2003, Albert L. Clinton was placed at Ebenezer by his family. When he was admitted, Clinton had been diagnosed with short- and long-term memory deficits and impaired decision-making ability. Ebenezer was on notice that Clinton was at risk for the development of decubitus ulcers[2] and that he had to be given proper nutrition and be repositioned every two hours to avoid this condition.

Within three weeks of his admission to Ebenezer, Clinton developed severe decubitus ulcers. In April 2003, Clinton was admitted to Piedmont Medical Center in Rock Hill, South Carolina, where he was diagnosed with dehydration, hypernatremia[3], and severe decubitus ulcers. As a result of the allegedly negligent treatment at Ebenezer, Clinton was transferred to another long-term care facility in May 2003. Clinton died on May 15, 2003.

On February 6, 2006, Hooper filed with the York County Court of Common Pleas a summons and complaint in which she alleged substandard care and treatment rendered by Ebenezer contributed to Clinton's death. She asserted claims for wrongful death and survival. It is undisputed by the parties that the statute of limitations on these claims began to run upon Clinton's death on May 15, 2003 and expired three years later on May 15, 2006. See, e.g., S.C. Code Ann. § 15-3-530 (2005) (providing a three-year statute of limitations period for the claims enumerated therein).

According to an affidavit prepared by Hooper's attorney and supporting documents, in order to effectuate service Hooper's attorney called the number for Ebenezer and was told that the business had been sold and it was now "Agape Rehabilitation." Hooper's attorney drove by the building where Ebenezer had been located and saw a sign identifying the premises as "Agape Rehabilitation of Rock Hill."

The attorney searched the website for the South Carolina Secretary of State and found Ebenezer was listed as a business in good standing with a registered agent (Jack G. Hendrix, Jr.) located at 1415 Richland Street, Columbia, South Carolina. On February 8, 2006, the attorney forwarded the pleadings to the Richland County Sheriff's Office for service upon the agent at the designated Columbia address. At the end of February or the beginning of March, the attorney received an Affidavit of Non-Service from the Richland County Sheriff's Office stating service was not successful because the agent had moved to an unknown address.

The attorney then hired a private investigator, who found a personal address for the agent. On March 21, 2006, the attorney mailed the pleadings to the Richland County Sheriff's Office for a second attempt at service upon the agent. On April 10, 2006, the Richland County Sheriff's Office returned the pleadings and advised the attorney that the address was in Lexington County and therefore was not within its jurisdiction.

Immediately thereafter on April 13, 2006, approximately one month before the three-year statute of limitations was due to expire, the attorney forwarded the pleadings to the Lexington County Sheriff's Office for service upon the registered agent. The attorney made numerous follow-up calls to the Lexington County Sheriff's Office to determine the status of service and each time was told that the agent was being served and that he would be notified when service was complete. On June 12, 2006, after the statute of limitations had run, the attorney received an Affidavit of Non-Service from the Lexington County Sheriff's Office informing him that they had, in fact, been unable to effect service on the agent because "per [a] neighbor [the] agt [agent] left his wife a year ago [and it is] unknown where he lives now."

According to the attorney, he then hired a private investigator to try to serve Agape Rehabilitation. An Affidavit of Service and supporting documents indicate service was accomplished on June 15, 2006 by a process server upon Janet Inkelaar, who indicated that she was the Administrator of Agape Rehabilitation and that she was authorized to accept service on behalf of Ebenezer. Inkelaar stated Ebenezer had been taken over by Agape Rehabilitation of Rock Hill in December 2004, but the two businesses were "affiliated."

Ebenezer moved to dismiss Hooper's action on the basis service was not completed before the running of the three-year statute of limitations of section 15-3-530, nor within the time limits of Rule 3(a)(2) of the South Carolina Rules of Civil Procedure (SCRCP), which requires that service be made within the

statute of limitations or, if made thereafter, that it be made within 120 days of filing the summons and complaint. Ebenezer alleged Hooper's decedent died on May 15, 2003; therefore, the three-year statute of limitations expired on May 15, 2006. In this case, the summons and complaint were filed on February 6, 2006[4] and service was not effected until June 15, 2006, which was after the running of the statute of limitations and more than 120 days after filing of the summons and complaint.

The parties submitted affidavits and other materials, so the trial court converted the motion into one for summary judgment.[5] The trial court granted summary judgment to Ebenezer, finding Hooper's action was not timely commenced because service did not occur within the statute of limitations or within 120 days of filing the summons and complaint as required by Rule 3(a)(2), SCRCP.

The trial court rejected Hooper's argument that the 120-day period should not begin running until the last day of the statute of limitations, finding this conflicts with the clear and unambiguous wording of Rule 3(a)(2). The trial court also rejected Hooper's arguments that the statute of limitations should be equitably tolled or that Ebenezer should be equitably estopped from asserting the statute of limitations based on its failure to accurately list its registered agent for service of process with the Secretary of State as required by state law.

The Court of Appeals affirmed. Hooper v. Ebenezer Senior Servs. & Rehab. Ctr., 377 S.C. 217, 659 S.E.2d 213 (Ct. App. 2008). We granted Hooper's petition for a writ of certiorari to review the decision of the Court of Appeals.

II. LAW/ANALYSIS

A. Standard of Review

Rule 56(c) of the South Carolina Rules of Civil Procedure provides that a trial court may grant a motion for summary judgment only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP.

"In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party." Brockbank v.

Best Capital Corp., 341 S.C. 372, 378-79, 534 S.E.2d 688, 692 (2000). An appellate court reviews the granting of summary judgment under the same standard applied by the trial court under Rule 56(c), SCRCP. Id. at 379, 534 S.E.2d at 692.

B. Equitable Tolling

On appeal, we first consider Hooper's argument that the statute of limitations should be equitably tolled for the delay in service that occurred while Hooper was trying to serve Ebenezer's nonexistent agent. Hooper asserts she was entitled to rely upon the public records and Ebenezer's failure to name a viable registered agent with the South Carolina Secretary of State as required by state law thwarted her repeated attempts to effect service. Hooper asserts that, under all the circumstances, it would be inequitable for Ebenezer to be allowed to benefit from its conduct by obtaining a complete dismissal of her claims. We agree.

"Tolling" refers to suspending or stopping the running of a statute of limitations; it is analogous to a clock stopping, then restarting." 51 Am. Jur. 2d Limitation of Actions § 169 (2000). "Tolling may either temporarily suspend the running of the limitations period or delay the start of the limitations period." Id.

South Carolina law provides for tolling of the applicable limitations period by statute in certain circumstances. See S.C. Code Ann. § 15-3-30 (2005) (stating exceptions to the running of the statute of limitations when the defendant is out of the state); id. § 15-3-40 (providing exceptions for persons under a disability, including being underage or insane).

In addition to these statutory tolling mechanisms, however, "[i]n order to serve the ends of justice where technical forfeitures would unjustifiably prevent a trial on the merits, the doctrine of equitable tolling may be applied to toll the running of the statute of limitations." 54 C.J.S. Limitations of Actions § 115 (2005). "Equitable tolling is a nonstatutory tolling theory which suspends a limitations period." Ocana v. Am. Furniture Co., 91 P.3d 58, 66 (N.M. 2004).

Equitable tolling is judicially created; it stems from the judiciary's inherent power to formulate rules of procedure where justice demands it. Rodriguez v. Superior Court, 98 Cal. Rptr. 3d 728 (Ct. App. 2009). "Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period 'to ensure fundamental practicality and fairness.'" Id. at 736 (citation omitted).

The party claiming the statute of limitations should be tolled bears the burden of establishing sufficient facts to justify its use. Ocana, 91 P.3d at 65; see also 54 C.J.S. Limitations of Actions § 115 ("The party who seeks to invoke equitable tolling bears the devoir of persuasion and must, therefore, establish a compelling basis for awarding such relief.").

It has been observed that "[e]quitable tolling typically applies in cases where a litigant was prevented from filing suit because of an extraordinary event beyond his or her control." Ocana, 91 P.3d at 66. However, jurisdictions have considered tolling in a variety of contexts and have developed differing parameters for its application.[6] See, e.g., Irby v. Fairbanks Gold Mining, Inc., 203 P.3d 1138, 1143 (Alaska 2009) ("Under the doctrine of equitable tolling, when a party has more than one legal remedy available, the statute of limitations is tolled while the party pursues one of the possible remedies."); Abbott v. State, 979 P.2d 994, 998 (Alaska 1999) ("Federal precedent equitably tolls the limitations period in three circumstances: (1) where the plaintiff has actively pursued his or her judicial remedies by filing a timely but defective pleading; (2) where extraordinary circumstances outside the plaintiff's control make it impossible for the plaintiff to timely assert his or her claim; or (3) where the plaintiff, by exercising reasonable diligence, could not have discovered essential information bearing on his or her claim." (footnotes omitted)); Kaplan v. Morgan Stanley & Co., ___ A.2d ___, ___ (Vt. 2009) (2009 WL 2401952) ("Equitable tolling applies either where the defendant is shown to have actively misled or prevented the plaintiff in some extraordinary way from discovering the facts essential to the filing of a timely lawsuit, or where the plaintiff has timely raised the same claim in the wrong forum." (citing Beecher v. Stratton Corp., 743 A.2d 1093, 1098 (Vt. 1999)); cf. Machules v. Dep't of Admin., 523 So. 2d 1132, 1134 (Fla. 1988) (stating the doctrine of equitable tolling, unlike equitable estoppel, does not require deception or misrepresentation by the defendant; rather, it serves to ameliorate the harsh results that sometimes flow from a strict, literalistic application of administrative time limits).

In our view, the situations described above do not constitute an exclusive list of circumstances that justify the application of equitable tolling. "The equitable power of a court is not bound by cast-iron rules but exists to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all the circumstances, to deny it would permit one party to suffer a gross wrong at the hands of the other." Hausman v. Hausman, 199 S.W.3d 38, 42 (Tex. App. 2006). Equitable tolling may be applied where it is justified under all the circumstances. We agree, however, that equitable

tolling is a doctrine that should be used sparingly and only when the interests of justice compel its use.

We have previously tolled a statute of limitations based on equitable considerations. In Hopkins v. Floyd's Wholesale, 299 S.C. 127, 382 S.E.2d 907 (1989), a workers' compensation case, we tolled the running of the statute of limitations for the time that the employee was induced by the employer to believe the claim would be taken care of without filing a claim (the "reliance period"). In reaching this result, we considered two methods of treating the claim: (1) requiring that the claim be filed a "reasonable time" after the reliance period, or (2) tolling the statute of limitations during the reliance period. Id. at 129, 382 S.E.2d at 908-09. We held the better rule was to toll the running of the statute of limitations during the reliance period, as this "rule estopping employers from asserting the statute of limitation[s]" provided greater certainty and gave the employee the greatest benefit of the equitable rule. Id. at 130, 382 S.E.2d at 909.

In Schriber v. Anonymous, 848 N.E.2d 1061 (Ind. 2006), a widow brought medical malpractice and wrongful death claims arising out of the death of her husband. The widow encountered difficulties in effecting timely service because the defendant, a healthcare facility, failed to file a certificate of assumed name for its business designation and to conspicuously post its facility license in public view as required by state law. Id. at 1063. The Indiana Supreme Court, while deciding the case on another basis, observed that the proper procedure should have been for the court to judicially toll the expiration of the applicable limitations period for the time that the defendant's actions hindered the plaintiff's discovery of the proper entity name and thus delayed her attempt to effect service. Id. at 1063-64.

In the current appeal, we find Ebenezer's failure to properly list its registered agent for service with the Secretary of State as required by state law hindered Hooper's pursuit of service.^[7] Although Ebenezer argues it is entitled to the dismissal of Hooper's action because she should have pursued alternative means of service, such as publication or service upon the Secretary of State, nowhere in Ebenezer's arguments does it acknowledge the obvious fact that the need for alternative means of service was caused by Ebenezer's own failure to supply the correct information regarding its agent to the Secretary of State as required by law. In fact, as Hooper noted in her brief, though several years had passed, Ebenezer still had not supplied the name of an appropriate agent for service of process to the Secretary of State at the time this case was initially brought before our Court. Hooper was entitled to rely on the public records and she diligently pursued service on what turned out to be a

nonexistent agent. Thus, it is not equitable that Ebenezer be the beneficiary of the drastic consequence of a dismissal.

Moreover, it is important to note that a party utilizes these alternative methods of service only after first exercising reasonable or due diligence to effect service on an individual or agent. See e.g., S.C. Code Ann. §§ 15-9-710 & -730 (2005) (providing that when an individual or corporate agent, respectively, cannot be located in this State after the exercise of due diligence, service may be had by publication once this fact has been established by affidavit to the satisfaction of the court); id. § 33-44-111 (2006) (stating if an agent for a limited liability company cannot be found after the exercise of reasonable diligence, service may be had upon the Secretary of State).

In this case, Hooper first tried to effect service upon the agent named by Ebenezer at the address it supplied to the Secretary of State. When that was unsuccessful, Hooper hired a private investigator, who found a personal address for the agent. Hooper contacted the Lexington County Sheriff's Department on numerous occasions and was told that service was being made. She was not notified until one month after the running of the statute of the limitations that service had been unsuccessful because the whereabouts of the agent could not be determined.

Hooper finally was able to effect service after the statute of limitations had run, only after she exercised reasonable and due diligence to serve Ebenezer's agent. Under Rule 3(a)(2), SCRCP, even if the limitations period has run, service may still be effected if it is accomplished within 120 days of filing of the summons and complaint. Unfortunately, Hooper was approximately one week past the 120 days. Thus, under the unique circumstances of this case, we conclude it is appropriate to equitably toll the statute of limitations for the time Hooper spent in pursuit of Ebenezer's nonexistent agent.

Finally, we note that public policy and the interests of justice weigh heavily in favor of allowing Hooper's claim to proceed. The statute of limitations' purpose of protecting defendants from stale claims must give way to the public's interest in being able to rely on public records required by law.

CONCLUSION

As a matter of law and public policy, we reverse the trial court's grant of summary judgment in favor of Ebenezer and remand for further proceedings consistent with this opinion.[8]

REVERSED AND REMANDED.

TOAL, C.J., WALLER and PLEICONES, JJ., concur. KITTREDGE, J., concurring in result only.

[1] On a motion for summary judgment, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Bovain v. Canal Ins., 383 S.C. 100, 678 S.E.2d 422 (2009).

[2] Commonly referred to as bed sores. Webster's Third New International Dictionary 588 (2002).

[3] An excessive amount of sodium in the blood. Dorland's Illustrated Medical Dictionary 741 (25th ed. 1974).

[4] Ebenezer states in its materials that filing of the summons and complaint occurred on February 8, 2006, but this appears to be a scrivener's error.

[5] See, e.g., Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999) (allowing a motion to dismiss to be treated as a motion for summary judgment where the trial court considers materials outside the pleadings and the parties have a reasonable opportunity to respond to the materials).

[6] We note that in the jurisdictions referenced above that discuss tolling a limitations period when a plaintiff is prevented from filing a complaint, filing generally marks the time for commencement of an action. See, e.g., Alaska R. Civ. P. 3(a) (Alaska); Rule 1-003 NMRA (New Mexico); V.R.C.P. 3 (Vermont); see also Fed. R. Civ. P. 3 (federal rules).

[7] Under South Carolina law, corporations and limited liability companies must designate and continuously maintain an agent for service of process. See S.C. Code Ann. § 33-5-101 (2006) (corporations); id. § 33-44-108 (limited liability companies).

[8] Based on our holding, we need not reach Hooper's remaining arguments regarding the 120-day provision of Rule 3(a)(2), SCRCP and equitable estoppel. However, we note that, at oral argument, Hooper's counsel conceded the appropriateness of the ruling of the Court of Appeals regarding the application of Rule 3(a)(2), SCRCP.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 009

STATE OF SOUTH CAROLINA

COUNTY OF

Jerome Myers
Gloria Myers

Plaintiff(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2011 -CP- 10 -2026

vs.
Attorney Cezare E. McKnight
Ms. Willie O. W. McFadden
Ms. Latoya Hubson
(Please Print) Jerome Myers + Gloria Myers
Submitted By: Jerome Myers + Gloria Myers

Address:
2321 Taylor St.
Chas. S.C. 29406

SC Bar #:

Telephone #: 614-2766 + 747-6741

Fax #:

Other:

E-mail:

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)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
☐ Previous Notice of Intent Case #
20 -CP-
☐ Notice/ File Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☒ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | ☐ Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☐ Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☒ Other (599) | ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | ☐ Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| ☐ Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature:

Jerome Myers
Gloria Myers

Date: March 17, 2011

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

2011-CP-10-2026

STATE OF SOUTH
COUNTY OF
CHARLESTON

IN THE COURT OF
COMMON PLEAS FOR
THE NINTH JUDICIAL
CIRCUIT

Jerome Myers and
Gloria Myers

CASE NO

FILED
2011 MAR 17 PM 1:16
JULIE J. ARMSTRONG
CLERK OF COURT

Plaintiff,

SUMMONS

V.S

Jury Trial

Defendants,

Attorney Dennis J. Christensen,
Attorney Shelly K. Alb, Attorney
Cezar E. McKnight, Sgt.
Donald Daquigan, MS. Elizabeth
Spencer - Elderly Support Unit,
MS. Willie O. W. McFadden Myers, MS.
Latonya Hobson

TO THE DEFENDANT ABOVE NAMED

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 Com-
plaint on the Plaintiffs Jerome Myers and Gloria
Myers 2321 Taylor Street, Charleston, South Carolina
29406 Within (30) days after service here of, exclusive.

Of the day of such service, and if you fail to answer the Complaint within the time afore-said, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and Judgment by default may be rendered against you for the relief demanded in the Complaint.

Jerome Myers

Jerome Myers

Gloria Myers

Gloria Myers

2321 Taylor St.

Charleston, SC 29406

747-6741 or 614-2766

Charleston, South Carolina
March 17, 2011

2011-CP-10-2026

Defendants Are:

① Attorney Dennis J. Christensen
260 West Coleman Boulevard Suite D
Mt. Pleasant, Charleston, S.C 29467

② Attorney Shelly K. All
260 West Coleman Boulevard Suite D
Mt. Pleasant, Charleston, S.C 29467

③ Attorney Cezar E. McKnight
108 W. Main Street Kingstree
South Carolina 29556

④ Ms. Willie O. W. McFadden Myers
301 Lexington Ave.
Kingstree, South Carolina 29556

⑤ Ms. Latonya Hobson
3212 Oak Spring Street
Columbia, Ohio 43219

⑥ Sgt. Donald Daquigan
West Ashley Police Dept.
180 Lockwood Boulevard
Charleston, South Carolina 29403

(1).

Complained

Defendants Continued:

⑦ Ms. Elizabeth Spencer - Dept. Elderly Support
Unit of The Downtown Police Dept.
180 Lockwood Boulevard
Charleston, South Carolina 29403

FILED
MAR 17 PM 1:16
JULIE J. ARISTON
CLERK OF COURT

Statement OF Claim of Complaint

The Plaintiffs, The Myers Brother and Sister,
Jerome Myers and Gloria Myers, File Pro Se, This
is a Civil Action under Local Civil Rule 73.02 DSC,
Complaint against these names of Defendants as
individuals and designated Other wise as officers
of South Carolina Courts or employees of local
Government entities; and where at all times
Pertinent to this matter residents of the State of
South Carolina and in Cities located outside of
Charleston County.

At ALL times, these Officers and Governmental
employees are subject to Official Duties and
Obligations of their offices and their employment
being subject to an (1) Official Duty to Perform
(2) A Time Limit to those Official Acts of Law,
we, The Myers, Children Jerome Myers and
Gloria Myers, Hired Attorney Dennis J. Christens-
en to take care of Our Case of Forgery of the
Durable Power, that was committed on April 12, 2007.

(2)

This Document was sign illegal and the Signatures, was not Our Father's Mr. Henry Myers.

Our Father, was in Trinity Mission of Charleston, South Carolina 29414 at 2230 Ashley Crossing Drive, After his Leg Surgery at The V.A. Hospital in February 2007.

We, Met with Attorney Dennis J. Christensen to Discuss, the illegal Signatures of the Durable Power Of Attorney case which was Fraud.

We, bought in legal Documents showing Our Father's legal Signatures, which he had sign these Documents legally and The illegal Document of Durable Power of Attorney on April 12, 2007 were different and not his signatures and he did not give permission for anyone to sign any Documents for Henry Myers at anytime.

Attorney Dennis J. Christensen examine these Documents which had signatures of Our father that was legally sign, Compare to the illegal Sign, Signatures, Notary and Wittness on April 12, 2007. Attorney Dennis J. Christensen agree to take the Fraud case, assuring us that he could get Justice, for us and Our Father. After, Meeting with Attorney Dennis J. Christensen, he give us an appointment with him to meet, the first of June 2007.

Continued Next
(3)

Upon Arriving for Our Appointment at the Office of Attorney Dennis J. Christensen, by Our Surprise Attorney Dennis J. Christensen introduce us to his partner Shelly K. ALL and Was turning Our case about the Forgey of the Durable Power of Attorney over to Attorney Shelly K. ALL.

We, Went into her Office to discuss this matter of the Fraud Document which was Sign illegal, Witness and Notary on April 12, 2007, even though we were expecting to Continued this Case with Attorney Dennis-J. Christensen.

We, Left the Meeting with another appt. for the end of the month of June 2007.

We met with, Attorney Shelly K. ALL at the Office, Discussing a phone call about the Sign ature of the illegal, Sign of the power of the Attorney that was Notary, witness and Sign by those whom insisted that, the illegal Documents Of the Durable Power of Attorney was sign in their Presence on April 12, 2007.

Which, Our Father Didn't sign any Documents of the Durable Power of Attorney nor, gave permission for the illegal Signatures, of the Durable of Power of Attorney, which was Sign, Witness and Notary by others.

MS. Willie O. W. McFadden-Myers Sign the Durable of The Power Attorney illegal and Grand-Daughter MS. Latonya Hobson Witness and Sign the illegal Documents.

(4)

Attorney Cezar McKnight, Noturize and Witness this Documents of Durable Power of Attorney, that was illegal Sign on April 12, 2007.

This, illegal Document was Surpose to be Sign in these Wittness's Presence, which this didn't take place on April 12, 2007 by Mr. Henry Myers, with his signatures.

We became very, discourage, after finding out this information and the Durable Of Power of Attorney was not Sign with, our father's signatures Nor his permission, for this Documents to be Sign by other's for him.

We Felt, that there were no-one listening and Fighting for the Rights of Our father.

Our, Dad is a World War II Veteran and Worked all his life, to accomplished what he has been Bless with.

So, We went to the City Police Dept. Downtown And Explain to them what have happen with the Documents that was Fraud.

The Desk Police recommened, that we go back to the area Where the Fraud was committ-ed on April 12, 2007 West Ashley Police Dept.

We Met with Police Sgt. Donald Daquigan We explain to him that the Document of the Durable of Power Attorney that was not Sign by our father, nor consented to have anyone Sign any Documents for him.

(5).

Sgt. Donald Daquigan, agree to investigate this matter concerning Fraud of The Durable Power of Attorney that took place on April 12, 2007 of illegal Signature and Witnesses and Notary.

Sgt. Donald Daquigan, assure us he would keep in touch, there where a few weeks before we heard anything, from him.

We, decided to call, Sgt. Donald Daquigan after not hearing from him.

Sgt. Donald Daquigan through a phone conversation, that he turn our case over to Ms. Elizabeth Spencer Dept. of Elderly Support Unit.

He, told us that she would be able to help us in this matter of Fraud Document of the Durable Power of Attorney that committed against my Father's right.

Ms. Elizabeth Spencer - Dept. Elderly Support Unit at the City Police Dept. called us to meet with her at the City Police Dept. Downtown. We met with Ms. Elizabeth Spencer at the City Police Dept. in the middle of the floor, at a table.

We, discuss the documents with Ms. Elizabeth Spencer about fraud that was committed against our father on April 12, 2007.

Ms. Elizabeth Spencer, assure us that Sgt. Donald Daquigan have fax over to her documents that concern the illegal documents.

(6)

We left, the Meeting with Ms. Elizabeth Spencer assuring us that, this was white Collar Crime and this illegal will be taken care of by her and She would, Keep in touch by phone calls, because, She said that, She didn't have an Office for us to meet with her in.

Before, we left, Our Meeting with Ms. Elizabeth Spencer, Agree that the signature on the Durable Power of Attorney was illegal compare to the Legal Documents that we have given to Sgt. Donald Daquigan that was fax over to her from his Office.

We didn't, hear from Ms. Elizabeth Spencer for over a few weeks, We try to call, her at Office, left message's, this continues on for a few more weeks.

We decided to call Sgt. Donald Daquigan to find out if he, knew any information from Ms. Elizabeth Spencer, since he turn this case over to her, Sgt. Donald Daquigan, wanted us to meet him at the City Police Dept. Downtown to recieved our Documents, that we have given to Elizabeth Spencer through him.

Sgt. Donald Daquigan, gave us a Folder without a case number. We ask where was the Case number, since, they were investigating on our behalf, But, Sgt. Donald Daquigan let us know, there wasn't a case number, because this wasn't a case. We recieved, a letter with the Folder, from Sgt. Donald Daquigan, on November 7, 2008.

(7)

We, tried to present some more evidence to
Sgt. Donald Daquican, and Ms. Elizabeth
Spencer but they didn't wanted see or know
about it.

It seem, that we tried to, recieved Help in
this, matter of Fraud of illegal Documents and
evidence and every where we turn on getting
Justice in this matter,

~~x Jerome Myers~~

~~x Leroy Myers~~

2321 Taylor Street
Charleston, S.C. 29406
747-6741 or 614-2766

(-8)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS NINTH
	)	JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO: 2011-CP-10-2026
	)	
JEROME MYERS AND GLORIA	)	FIRST AMENDED COMPLAINT
MYERS AS PERSONALLY AND IN HER	)	JURY TRIAL DEMANDED
CAPACITY AS POWER OF ATTORNEY	)	
FOR HENRY MYERS	)	
VS.	)	
CEZAR E. MCKNIGHT, WILLIE O.W.	)	
MCFADDEN MYERS AND LATONYA	)	
HOBSON	)	
_____	)	

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

THE PARTIES and VENUE

1. Plaintiff Gloria Myers is of legal age and is a resident of Charleston County.
2. Plaintiff Jerome Myers is of legal age and is a resident of Charleston County.
3. Defendant Cezar E. McKnight is an attorney, licensed to practice law within the State of South Carolina. Mr. McKnight is also licensed as a notary public and was appointed by the Governor to serve a ten year term. At all relevant times, Defendant McKnight had a place of business at 106 East Main Street, Lake City, South Carolina 29560
4. Defendant Willie O.W. McFadden Myers (McFadden) married Henry Myers approximately 20 years ago.

5. Latonya Hobson is the adult granddaughter of Willie O.W. McFadden and resides in Columbus, Ohio.

GENERAL ALLEGATIONS

4. On April 12, 2007 Defendants McKnight, McFadden and Hobson participated in a scheme to create the fraudulent durable power of attorney (POA) of Henry Myers. The fraudulent POA purportedly vested power in the name of Defendant McFadden, who forged the signature of Henry Myers; the forged signature was notarized by Defendant McKnight and witnessed by Defendant Hobson. Shortly thereafter, Defendant McFadden moved out of the residence which she shared with Henry Myers and neither Mr. Myers nor Ms. McFadden has lived together as husband and wife.

5. Defendants used the POA to seize checks, cash and other property belonging to Henry Myers without his permission or knowledge. Defendant McFadden used the fraudulent POA to force Henry Myers's veteran benefit checks, Social Security checks and savings accounts to be used for her personal benefit. Parts of these holdings were used to pay Defendant McKnight for legal services and other funds went to and continue to go to Defendant Hobson. Evidence also reveals that the Defendants attempted to use the fraudulent POA to sell Henry Myers real estate holdings, including his personal residence

FIRST CAUSE OF ACTION---MISREPRESENTATION AND FRAUD

Plaintiffs are informed and believe and thereon allege that, at all times herein mentioned each of the defendants sued herein was the agent of the other defendants and were at all times acting within the purpose and scope of such relationship.

When the defendants prepared the POA, notarized and witnessed it they intended to use the POA to falsely represent to third parties that Defendant had durable power of attorney rights. They knew these representations were false, and were made by defendants with the intent to defraud and deceive Henry Myers and with the intent to induce others to act in the manner herein alleged.

SECOND CAUSE OF ACTION----FORGERY

Plaintiffs, at the time these representations were made by defendants and at the time defendants took the actions herein alleged, were ignorant of the forgery or the falsity of defendants' representations and believed them to be honest persons who had their father's best interest in mind. Henry Myers, at the time Defendants took the actions herein alleged, was ignorant of Defendants' secret intention to create an unauthorized POA and use it to defraud him. As a proximate result of Defendants' fraud and deceit and the facts herein alleged, Henry Myers and the plaintiffs have been damaged in a sum to be proven at trial.

THIRD CAUSE OF ACTION---VIOLATIONS OF FIDUCIARY DUTIES AND DUTIES PROSCRIBED BY STATE LAW

Defendant McKnight is an attorney and notary public. By virtue of his role as attorney and notary, he is deemed to be a fiduciary, which means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument. In this case, Mr. McKnight violated his duties as a licensed attorney and notary as described herein

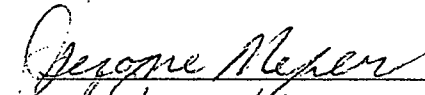
PRAYER

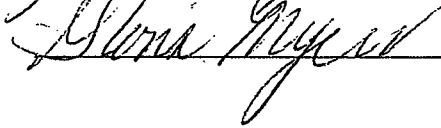
Plaintiffs pray for judgment against defendants, jointly and severally, and against their marital communities as follows:

1. For injunctive and declaratory relief restraining the Defendants from further use of the POA;
2. for judgment in such amount as shall be proven at the time of trial;
3. for prejudgment interest at the statutory rate on all items of special damages;
4. for punitive damages as allowed by law;
5. for an award of attorney's fees as allowed by law;
6. For an award of costs and disbursements incurred herein; and
7. For such other and further relief as the Court deems just and equitable.

PLAINTIFFS DEMAND A JURY TRIAL

DATED at Charleston, South Carolina this _____ day of August 2011.





STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
)
JEROME MYERS AND GLORIA)
MYERS AS PERSONALLY AND IN HER)
CAPACITY AS POWER OF ATTORNEY)
FOR HENRY MYERS)
VS.)
CEZAR E. MCKNIGHT, WILLIE O.W.)
MCFADDEN MYERS AND LATONYA)
HOBSON DENNIS CHRISTENSEN)
SHELLY ALL)
_____)

IN THE COURT OF COMMON PLEAS NINTH
JUDICIAL CIRCUIT

CASE NO: 2011-CP-10-2026

SECOND AMENDED COMPLAINT
JURY TRIAL DEMANDED

FILED
2011 SEP 23 AM 11:19
JULIE J. ARISTRONG
CLERK OF COURT

SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

THE PARTIES and VENUE

1. Plaintiff Gloria Myers is of legal age and is a resident of Charleston County; she has been authorized to proceed in this matter by a duly granted General Durable Power of Attorney executed by and for her father, Henry Myers.
2. Plaintiff Jerome Myers is of legal age and is a resident of Charleston County.
3. Defendant Cezar E. McKnight is an attorney, licensed to practice law within the State of South Carolina. Mr. McKnight is also licensed as a notary public and was appointed by the Governor to serve a ten year term. At all relevant times, Defendant McKnight had a place of business at 106 East Main Street, Lake City, South Carolina 29560;

4. Defendants Law Office of Dennis J. Christensen, P.A. and attorneys Dennis Christensen and Shelly All are attorneys, licensed to practice law within the State of South Carolina. An at all relevant time, Defendants place of business was 260 West Coleman BLVD Mt, Pleasant, SC 29464;

5. Defendant Willie O.W. McFadden Myers (McFadden) married Henry Myers approximately 20 years ago.

6. Latonya Hobson is the adult granddaughter of Willie O.W. McFadden and resides in Columbus, Ohio.

GENERAL ALLEGATIONS

6. On April 12, 2007 Defendants McKnight, McFadden and Hobson participated in a scheme to create the fraudulent durable power of attorney (POA) of Henry Myers. The fraudulent POA purportedly vested power in the name of Defendant McFadden, who forged the signature of Henry Myers; the forged signature was notarized by Defendant McKnight and witnessed by Defendant Hobson. Shortly thereafter, Defendant McFadden moved out of the residence which she shared with Henry Myers and neither Mr. Myers nor Ms. McFadden has lived together as husband and wife.

5. Defendants used the POA to seize checks, cash and other property belonging to Henry Myers without his permission or knowledge. Defendant McFadden used the fraudulent POA to force Henry Myers's veteran benefit checks, Social Security checks and savings accounts to be used for her personal benefit. Parts of these holdings were used to pay Defendant McKnight for legal services and other funds went to and continue to go to Defendant Hobson. Evidence also reveals that the Defendants

attempted to use the fraudulent POA to sell Henry Myers real estate holdings, including his personal residence.

6. On May 6, 2007, Plaintiff Gloria Myers entered into a contract with the Law Office of Dennis J. Christensen, P.A. and attorneys Dennis Christensen and Shelly All to provide legal representation services. Specifically, Defendants Christensen and All were hired to provide legal services for Henry Myers. In spite of being paid and shown detailed documentation and witness statements concerning a scheme to steal the assets of Henry Myers, through the fraudulent actions of the co-Defendants named in this complaint, Defendants Christensen and All breached their duty to provide services by allowing co-Defendants to wrongfully take Henry Myers and place him in a nursing home in Florence, South Carolina, nearly 120 miles away from his home. Defendants also allowed co-Defendants to execute a scheme to defraud Henry Myers of his real estate, bank savings, pension and Social Security checks and other assets through the use of a forged Power of Attorney in violation of law. Defendants Christensen and All refused to file objections or otherwise pursue legal causes of actions in violation of instructions given them by plaintiff in breach of their duties as attorneys licensed to practice law.

First Cause of Action---Legal Malpractice and Breach of Contract

7. Plaintiffs are informed and believe and thereon allege that, at all times herein mentioned Defendants Christensen and All were the agent of the other and were at all times acting within the purpose and scope of the attorney/client relationship.

8. Defendants Christensen and All were required to provide legal advice and care they violated their fiduciary duty as attorneys by violating their legal obligations under the oral contract and state law.

9. That Defendants under the applicable standard of care owed a duty to the Plaintiff. The Defendants breached this duty and standard of care by failing to properly follow instructions and provide legal representation services as directed and otherwise follow the laws of the state of South Carolina.

10. That as a direct and proximate result of the breach of the applicable standard of care by Defendants, Plaintiffs: 1) suffered emotional pain and suffering in the past and will suffer such pain and suffering into the future, 2) incurred expenses in the past and will incur future expenses, 3) suffered loss of money, including interest on an unauthorized loan, 4) suffered permanent losses (enlargement of debt) and damages caused by the direct and proximate result of the negligent actions and breaches of the applicable standards of fiduciary care by all of the Defendants without any act or omission on the part of the Plaintiffs directly thereunto contributing; that the Plaintiffs and did not assume the risk of said losses.

SECOND CAUSE OF ACTION---MISREPRESENTATION AND FRAUD

11. Plaintiffs are informed and believe and thereon allege that, at all times herein mentioned each of the Defendants sued herein was the agent of the other Defendants and were at all times acting within the purpose and scope of such relationship.

12. When the Defendants prepared the POA, notarized and witnessed it they intended to use the POA to falsely represent to third parties that Defendant had durable

power of attorney rights. They knew these representations were false, and were made by Defendants with the intent to defraud and deceive Henry Myers and with the intent to induce others to act in the manner herein alleged.

THIRD CAUSE OF ACTION---FORGERY

13. Plaintiffs, at the time these representations were made by Defendants and at the time Defendants took the actions herein alleged, were ignorant of the forgery or the falsity of Defendants' representations and believed them to be honest persons who had their father's best interest in mind. Henry Myers, at the time Defendants took the actions herein alleged, was ignorant of Defendants' secret intention to create an unauthorized POA and use it to defraud him. As a proximate result of Defendants' fraud and deceit and the facts herein alleged, Henry Myers and the Plaintiffs have been damaged in a sum to be proven at trial.

FOURTH CAUSE OF ACTION---VIOLATIONS OF FIDUCIARY DUTIES AND DUTIES PROSCRIBED BY STATE LAW

14. Defendant McKnight is an attorney and notary public. By virtue of his role as attorney and notary, he is deemed to be a fiduciary, which means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument. In this case, Mr. McKnight violated his duties as a licensed attorney and notary as described herein

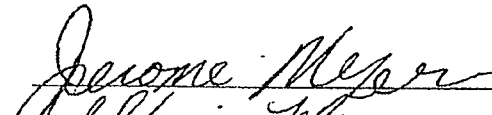
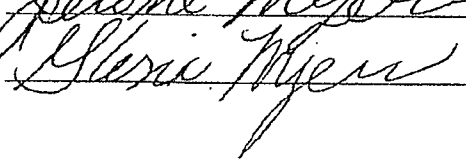
PRAYER

Plaintiffs pray for judgment against Defendants, jointly and severally, and against their marital communities as follows:

1. For injunctive and declaratory relief restraining the Defendants from further use of the POA;
2. For judgment in such amount as shall be proven at the time of trial;
3. for prejudgment interest at the statutory rate on all items of special damages;
4. for punitive damages as allowed by law;
5. for an award of attorney's fees as allowed by law;
6. For an award of costs and disbursements incurred herein; and
7. For such other and further relief as the Court deems just and equitable.

PLAINTIFFS DEMAND A JURY TRIAL

DATED at Charleston, South Carolina this 22 day of September 2011.

September 23, 2011

(11) 2026

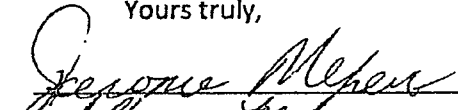
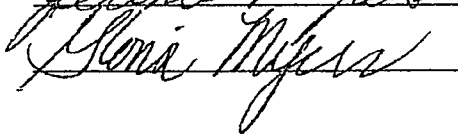
Ms. Julie J. Armstrong
Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Myers v. Cezar E. McKnight.
CASE NOs: 2011CP1002026

Dear Clerk of the Court:

Please find enclosed for filing plaintiff's Motion for Second Amended Complaint

Yours truly,

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 0010

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

Ex Parte: J. P. Strom, Jr., Petitioner,

In Re: Collins Entertainment Corporation,
Respondent,

v.

Columbia "20" Truck Stop, Inc. d/b/a Columbia
"20" Truck Stop, Vern Adkins and Union Oil of
California, Defendants.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Richland County
L. Casey Manning, Circuit Court Judge

Opinion No. 25213
Heard October 5, 2000 - Filed November 20, 2000

AFFIRMED

Tom Young, Jr., of Strom & Young, L.L.P., of
Columbia; and Richard Mark Gergel and W.
Allen Nickles, III, both of Gergel, Nickles &
Solomon, P.A., of Columbia, for petitioner.

O. W. Bannister, Jr. and James W. Bannister,
of Bannister & Wyatt, L.L.C., of Greenville, for
respondent.

Desa Ballard, of Desa Ballard, P.A., of West
Columbia, as amicus curiae.

CHIEF JUSTICE TOAL: We granted certiorari to review the decision of the Court of Appeals reversing a Circuit Court order which granted J.P. Strom, Jr's motion to be retroactively relieved as counsel of record in the captioned matter.

FACTUAL/ PROCEDURAL BACKGROUND

Respondent Collins Entertainment Corporation ("Collins") retained Petitioner J.P. Strom, Jr. ("Strom") and Eric Bland ("Bland") to represent it in a contract dispute with Columbia "20"

Truck Stop. On February 9, 1996, Strom and Bland filed a circuit court action entitled *Collins Entertainment Corporation v. Columbia "20" Truck Stop, Inc., et al*, C/A No. 96-CP-40-0527 ("*Columbia "20"*"). On February 12, 1996, the circuit court issued a temporary restraining order in the case to prevent the sale of Columbia "20" to a third party. On February 20, 1996, prior to the scheduled injunction hearing, the parties entered into a consent order which held the matter in abeyance while Collins negotiated with the third party. Strom alleges he was contacted via telephone by Collins' in-house counsel, Timothy Youmans ("Youmans") in March of 1996, and told to close his file. Youmans and co-counsel Bland deny Strom was relieved of any obligations. Strom claims he closed his file in March and mailed a final bill to Collins in April 1996. Strom contends he has performed no work on the *Columbia "20"* file since that time. It is uncontested, however, that the *Columbia "20"* case remained on the trial docket, with Strom shown as counsel of record, until July 1997. Strom has produced no written documentation of his discharge. However, he has not billed Collins for any work since the *Columbia "20"* action was held in abeyance.

On June 10, 1997, Strom and several other attorneys, filed *Joan Caldwell Johnson, et al. v. Collins Entertainment, Inc. et al.*, C/A No. 3:97-2136-17 (D.S.C.) ("*Johnson*"), a federal class action challenging the legality of the video poker industry in South Carolina. When Strom filed this action against Collins, he was still the attorney of record for Collins in the *Columbia "20"* action. In June 1997, the parties received notice that the *Columbia "20"* case was on the docket for trial during the week of July 8, 1997. However, *Columbia "20"* was dismissed pursuant to Rule 41(a), SCRCP and an executed Stipulation of Dismissal on July 11, 1997, before the case went to trial.

On June 19, 1997, Strom filed a motion requesting that the circuit court delete his name as counsel of record in the *Columbia "20"* action, retroactive to March of 1996. Collins contested the motion, claiming it had not discharged Strom in March of 1996, or anytime thereafter. Following a hearing in August 1997, the Honorable L. Casey Manning issued an order dated August 8, 1997, granting Strom's motion. Judge Manning's Order retroactively relieved Strom as counsel of record pursuant to Rule 60(a), SCRCP, based on clerical mistake. Judge Manning affirmed his findings in a further Order denying Collins' motion for reconsideration. Collins appealed.

The Court of Appeals overturned Judge Manning's Order, holding there was no clerical mistake and that Rule 11(b), SCRCP, is the only proper method for an attorney to withdraw as counsel of record. This Court granted certiorari, and the issues before this Court are:

- I. May Strom raise the principle of estoppel as an additional sustaining ground?
- II. Did the Court of Appeals correctly hold that once an attorney becomes the attorney of record in an action, withdrawal can only be accomplished by order of the court pursuant to Rule 11(b), SCRCP?

LAW/ ANALYSIS

I. Estoppel

Strom argues this Court should apply the principle of estoppel as an additional sustaining ground to overrule the Court of Appeals' decision and to uphold the trial court's decision. We disagree.

As discussed below in Section II, there are strong policy reasons which impel us to require strict adherence to Rule 11. Therefore, we can not allow Strom to interpose estoppel to prevent the enforcement of Rule 11, even if the record indicates Collins did not suffer any prejudice. To allow the use of estoppel in this instance would defeat the strong public policy behind the enforcement of Rule 11.⁽¹⁾

In light of this ruling on the merits, it is not necessary for this Court to address Collins' contention that Strom's estoppel argument was not properly raised as an additional sustaining ground.

II. Rule 11(b), SCRCP

Strom argues the Court of Appeals erred in holding that an attorney can only be relieved as counsel by obtaining a court order utilizing the procedure set forth in Rule 11(b), and may not retroactively be relieved pursuant to Rule 60(a). We disagree.

Rule 11, SCRCP, provides: "An attorney may be changed by consent, or upon cause shown, and upon such terms as shall be just, upon application, by order of Court, *and not otherwise.*" (emphasis added). We hold that after entering an appearance with the court, an attorney must receive a court order pursuant to Rule 11(b) in order to be relieved as counsel. As this Court stated in *Culbertson v. Clemens*, 322 S.C. 20, 25, 471 S.E.2d 163, 165 (1996):

In all actions, it is of vital importance, not only to the parties involved but to the court as well, that the correct attorneys are listed as the attorneys of record. The best way to achieve this is by strict adherence to Rule 11(b), which was designed to eliminate any confusion regarding which attorneys are representing parties by requiring that any changes be made by application to the court.

It is irrelevant whether the attorney is discharged or seeks to withdraw for his own reasons. A client has the absolute right to trust and rely upon attorneys whom he believes to be his counsel of record. In the instant case, the only evidence that Strom was discharged by Collins is the testimony of Strom himself and the absence of billing records during a time when the matter was held in abeyance. Contrarily there is evidence that Collins still believed Strom would continue to represent it if and when the case proceeded to trial. As the text of Rule 11(b) implies, either the attorney, the replacement attorney, or the client may apply for a court order changing or removing an attorney. If an attorney is discharged, and the client or the new attorney fails to apply for a court order, it is incumbent upon the discharged attorney to do so himself. In a situation such as this one where the client claims not to have discharged the attorney, strict adherence to Rule 11(b) would have solved the confusion. If Strom had filed a Rule 11(b) motion at the time he believed he was discharged, Collins would have been notified and could have corrected Strom's belief.

Strong policy considerations dictate that a client and the court must be unequivocally informed when an attorney intends to withdraw from representing a party, for whatever reason. Equally strong policy considerations dictate that the court must, by order, approve a client's discharge of an attorney of record in a court proceeding. The conflict in understanding between Collins and Strom in this case is a perfect illustration of the need for adherence to Rule 11's requirement of a court order. Here, Strom and Collins' in-house

counsel, Youmans, both testified credibly about their understanding of their telephone conversation. Unfortunately each lawyer interpreted the conversation differently.

We hold that in order to be removed as counsel of record, an attorney must receive a court order pursuant to 11(b), SCRCP. In a case where an attorney believes he has been discharged, if the client fails to request a court order changing attorneys, the attorney is required to request such an order on his own motion.⁽²⁾ In *Smith v. Bryant*, 141 S.E.2d 303 (N.C. 1965), the North Carolina Supreme Court articulated the policy behind placing such an obligation on an attorney. The Court held that an attorney who has entered a formal appearance in an action is "not at liberty to abandon [the client's] case without (1) justifiable cause, (2) reasonable notice to [the client], and (3) permission of the court." *Id.* at 305. The court explained: "[a]n attorney not only is an employee of his client but also is an officer of the court. This dual relation imposes a dual obligation." *Id.* at 306. Based on case law and policy, once an attorney has made a formal appearance and becomes attorney of record in an action, withdrawal can only be accomplished by order of the court.⁽³⁾

Since a court order is required to relieve an attorney of record, the trial court erred in relieving Strom pursuant to Rule 60(a), SCRCP. Rule 60(a), SCRCP, provides: "Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time." Failure to file a motion to be relieved as counsel of record does not amount to a clerical error. A clerical error "is a mistake or omission by a clerk, counsel, judge or printer, *which is not the result of exercise of judicial function.*" *Dion v. Ravenel, Eiserhardt Assocs.*, 316 S.C. 226, 230, 449 S.E.2d 251, 253 (Ct. App. 1994) (emphasis added).

Furthermore, the trial court's order removing Strom as counsel of record should not have been granted *nunc pro tunc*. *Nunc pro tunc* is a phrase applied to acts allowed to be done after the time when they should have been done, with a retroactive effect. Black's Law Dictionary 737 (7th ed. 1991). *Nunc pro tunc* orders can only be used to place in the record evidence of judicial action that has actually taken place. "A prerequisite for a *nunc pro tunc* order . . . is some previous action by the court that is not adequately reflected in its record." *Deweese v. Sweeney*, 947 S.W.2d 861 (Tenn. Ct. App. 1996), *app. den'd* (1997); *see also Simons v. Atlantic Coast Line R.R. Co.*, 235 F.Supp. 325, 330 (D.S.C. 1964) (*nunc pro tunc* entry cannot be made to serve the office of correcting a decision or of supplying non-action on the part of the court); *Carroll v. Carroll*, 338 S.W.2d 694, 695 (Ky. 1960) ("The error could not be corrected by *nunc pro tunc* order because such an order can be used only for the purpose of placing in the record evidence of judicial action that has actually been taken, not to correct an error or supply an omission of judicial action."); 20 Am. Jur. *Courts* § 29 (1995) (the order cannot supply the record with action that the court failed to take).

Strom needed a court order under Rule 11(b), SCRCP, to be relieved as counsel. Since such action was not taken, Strom could not be relieved as counsel of record by a *nunc pro tunc* order.⁽⁴⁾

CONCLUSION

For the foregoing reasons, the decision of the Court of Appeals is **AFFIRMED**.

MOORE, WALLER, BURNETT AND PLEICONES, JJ., concur.

1. The conduct between the parties is not at issue in this appeal. Although this Court expresses no opinion as to the merits of any subsequent litigation between Collins and Strom, we note nothing in this opinion would prevent Strom from presenting his estoppel argument in a subsequent civil suit.
2. Strom cites *In re Tillman*, 319 S.C. 461, 462 S.E.2d 283 (1995), in support of his argument that a discharged attorney does not have an obligation to file a Rule 11(b) motion. Strom accurately cites *Tillman* for the proposition that an attorney who is discharged can no longer perform work on the client's case. However, requiring an attorney to file a motion to change attorneys under Rule 11(b) does not constitute "continuing representation after discharge."
3. Many other states follow similar rules requiring that attorneys of record, even those who are discharged, can only be relieved as counsel upon filing with the court. See, e.g., *Farkas v. Sadler*, 375 A.2d 960 (R.I. 1977) (effective withdrawal, at the insistence of either counsel or client, is dependent upon consent of the court); *Sweet v. Sweet*, 676 N.Y.S.2d 853 (N.Y. Fam. Ct. 1998) (even after discharge, there are only two ways an attorney who has made an appearance in a case can withdraw: (1) by service on other parties and filing a consent to change attorneys with the court and (2) by motion to the court); *Reddic v. State*, 976 S.W.2d 281 (Tex. Ct. App. 1998) (either the attorney or the client must justify severance of the attorney-client relationship to the trial court); *Dunn v. Duke*, 456 S.E.2d 65 (Ga. Ct. App. 1995) (formal withdrawal by attorney cannot be accomplished until after trial court issues an order permitting withdrawal).
4. There are also strong policy reasons not to allow the circuit court to retroactively relieve a lawyer of all responsibility for things not done during the period of retroactivity. For example, an attorney could fail to file a pleading, to submit discovery when due, or to attend a hearing, and then claim he was absolved of any responsibility for that failure or neglect because a court relieved him as counsel retroactive to a time prior to the misconduct.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 011

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO.: 2011-CP-10-2026

Jerome Myers and Gloria Myers,)
Plaintiffs,)

vs.)

Cezar E. McKnight, Willie O.W.)
McFadden-Myers, and Latonya)
Hobson,)
Defendants.)

ORIGINAL

TRANSCRIPT OF PROCEEDINGS
HEARING ON MOTIONS
BEFORE JUDGE W. JEFFREY YOUNG
ON JULY 23, 2012

A P P E A R A N C E S

For the Plaintiffs:

JEROME MYERS
GLORIA MYERS

For the Defendants:

CEZAR EDWARD MCKNIGHT

ROLAYNE M. VOLPE, CCR, RPR
Official Court Reporter for the Ninth Judicial Circuit
Charleston, South Carolina 29413
RolayneVolpe@sccourts.org

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25**DESCRIPTION****PAGE**

PROCEEDINGS

4

REPORTER'S CERTIFICATE

14

E X H I B I T S**DESCRIPTION****PAGE**

(No exhibits were marked during the proceedings.)

Reported By:
 ROLAYNE M. VOLPE, CCR, RPR

1 The above-styled cause came on for hearing of
2 motions on the 23rd day of July, 2012, at 11:48 a.m., before
3 Judge Jeffrey Young, Judge At Large, serving today in the
4 Ninth Judicial Circuit Court for the County of Charleston,
5 when the following proceedings were had and entered of
6 record, to wit:

7 PROCEEDINGS

8 MOTIONS HEARING

9 THE COURT: Thank you. Please be seated.
10 All right, sir. What is the next case?
11 THE CLERK: 2011-2026, Myers versus McKnight.
12 THE COURT: Let me review the file for a moment.
13 THE CLERK: We have five different motions.
14 THE COURT: Are these plaintiff or defense
15 motions?
16 THE CLERK: A mix.
17 THE COURT: A mix.
18 THE CLERK: Three plaintiff, two defense.
19 THE COURT: Okay. I think there might be a mistake
20 here. I've got a motion to -- to reconsider a case that I
21 haven't heard. It's Roger Young, not Jeffrey Young. I
22 don't know that I'm going to be able to hear that. Would
23 y'all rather have Judge Roger Young hear everything since
24 he's apparently been involved with this? And that may have
25 been some scheduling problems. Because I'm looking at a

Reported By:
ROLAYNE M. VOLPE, CCR, RPR

1 Form 4, says that the Plaintiffs' Motion to Amend and
2 Reconsider must be heard by Roger Young.

3 THE CLERK: Okay. That's not on our --

4 THE COURT: That's not before us today?

5 THE CLERK: No, sir.

6 THE COURT: Okay. What's before us today?

7 THE CLERK: We have a Motion for a Jury Trial by
8 the Plaintiff, Motion to Dismiss by Plaintiff, Motion for
9 Summary Judgment by Plaintiff, Motion to Amend Pleadings by
10 Defendant, and Motion for Summary Judgment by Defendant.

11 THE COURT: Okay. Then -- then that -- we can go
12 ahead with those, then. As long as it's not a motion to
13 reconsider something I've never considered before. I've got
14 to put that one aside.

15 Plaintiffs are asking -- here's one -- I guess the
16 first one that -- you're asking to dismiss your case?

17 MR. MYERS: No.

18 THE COURT: Plaintiffs have asked that the Court
19 dismiss with prejudice. . .

20 MS. MYERS: Dismiss the case of the Defendants
21 requesting to amend.

22 THE COURT: Okay. So this -- Okay. Objection to
23 motion. . .

24 I guess I'm just trying to figure out -- it looks
25 like one we do have is Plaintiffs' Motion for Summary

1 Judgment.

2 MS. MYERS: Yes. But that was already settled as
3 well.

4 THE COURT: That's settled as well?

5 MS. MYERS: Uh-huh.

6 THE COURT: Who settled it?

7 MS. MYERS: It was settled through -- we had
8 judgment under McDonald. But then the case was still open.

9 MR. McKNIGHT: Your Honor?

10 THE COURT: Yes.

11 MR. McKNIGHT: If I may, for some clarity?

12 THE COURT: Yes, sir.

13 MR. McKNIGHT: The Plaintiffs filed a suit against
14 several defendants. There was an order -- there was an
15 order dismissing some of the parties. Grant and -- that was
16 issued on -- and that was issued by --

17 THE COURT: Yeah, I see that.

18 MR. McKNIGHT: Right. So the parties that only
19 remain are myself --

20 THE COURT: Okay.

21 MR. McKNIGHT: -- Ms. McFadden -- I'm
22 sorry, Ms. Myers -- Ms. McFadden-Myers, pardon me,
23 and Ms. Hobson. Those other -- that other issue -- those
24 other issues with the other parties, like Mr. Christensen
25 and the others, those -- those have been disposed of. Those

1 matters have been disposed of.

2 THE COURT: So I guess the only thing we're doing
3 is the ones concerning Mr. Cezar McKnight?

4 MR. McKNIGHT: Yeah, McKnight -- I'm going to
5 represent -- I'm representing myself, Ms. McFadden-Myers,
6 and Ms. Hobson, your Honor.

7 THE COURT: Okay. Which motion do you want to hear
8 first?

9 MR. MYERS: Well --

10 THE COURT: Stand when you speak to the Court, just
11 like him.

12 MR. MYERS: We're going -- Judge McDonald --
13 McDonald had ruled a default on -- on Mr. McKnight. And on
14 May the 28th -- May the 2nd, 2012, under Rule 15(e), and we
15 are going on the Judge ruling that against him in default.

16 MR. McKNIGHT: Your Honor, if I may?

17 THE COURT: Yes, sir.

18 MR. McKNIGHT: The Court -- they filed a -- there
19 was a Request to Admit filed. We did not answer those
20 requests to admit in time, and Judge McDonald issued an
21 order deeming that those requests to admit be admitted --

22 THE COURT: Okay.

23 MR. McKNIGHT: -- to the Court.

24 THE COURT: That would be normal. Yeah.

25 MR. McKNIGHT: Yeah. That's what -- that's --

1 that's what we -- that's what's -- that's what he's
2 referring to.

3 MR. MYERS: And the Judge ruled on it.

4 THE COURT: Okay. Well, that doesn't mean you won
5 the case, though. It means that those issues have been
6 resolved.

7 MR. MYERS: Okay.

8 THE COURT: So he can't put up evidence to the
9 contrary at a trial.

10 MR. MYERS: Right.

11 THE COURT: So on that -- I guess that's resolved.
12 That doesn't mean you win the case.

13 MR. MYERS: I see.

14 THE COURT: So just -- just saying, yeah, those
15 facts, but that fact may not win the case for you.

16 Okay. That's that issue. What's your next issue?

17 MR. MYERS: Okay. The next issue, we filed summary
18 judgment.

19 THE COURT: Summary judgment.

20 MR. MYERS: Yeah. To go to trial.

21 THE COURT: All right. So this would be the motion
22 that was filed on May 17th?

23 MS. MYERS: That's correct.

24 THE COURT: Okay. Plaintiffs', Myers, Motion for
25 Summary Judgment Liability.

1 MS. MYERS: Yes.

2 THE COURT: Is that the one we're here today to
3 discuss; is that your understanding?

4 MR. McKNIGHT: Your Honor, that's their motion.
5 Yes, sir. We have our own.

6 THE COURT: Right. Okay.

7 MR. McKNIGHT: Yes, sir.

8 THE COURT: All right. I'll hear from you.

9 MR. MYERS: Sir, the Motion of Summary Judgment was
10 to be filed at -- he did not answer none of the questions on
11 time, and we got the evidence that -- where he admitted
12 fraudury [sic], agree with, they saw my father sign some
13 paper for Power of Attorney over the estate. And -- and my
14 stepmother, she -- she agree with it, and her granddaughter
15 agree with it, that they saw my daddy sign the paperwork, to
16 be a -- give her the Power of Attorney for Ms. Myers over
17 the estate. And we send the paper off to have an expert
18 stipulate that it was fraud. My father never signed that
19 paperwork.

20 THE COURT: Well, I think there's a motion for a
21 trial in here as well.

22 MR. MYERS: Correct.

23 THE COURT: Mr. --

24 MR. McKNIGHT: Your Honor, as far as I'm concerned,
25 we're at the mercy of the Clerk. As soon as we get to

1 trial, we'll be -- absent any other actions by the Court
2 before.

3 THE COURT: Yeah. I'm going to go ahead and allow
4 you the trial.

5 MR. MYERS: Yes, sir.

6 THE COURT: You're certainly entitled to that. But
7 I don't know that I'm going to rule on summary judgment. Of
8 course, you're going to be able to present what evidence
9 that you have.

10 MR. MYERS: Okay.

11 THE COURT: Not just affidavits. But you're going
12 to have to produce evidence.

13 MR. MYERS: Right.

14 THE COURT: Of course, your request to admissions
15 will be submitted to the Court at that point in time.

16 MR. McKNIGHT: Yes, sir.

17 MR. MYERS: Okay.

18 THE COURT: So I guess what I need to do is just
19 move this to the jury trial --

20 MR. MYERS: Right.

21 THE COURT: -- docket.

22 MR. MYERS: That's what we want.

23 THE COURT: He has motions as well. So let me hear
24 his motions and see where we go.

25 Mr. McKnight?

1 MR. McKNIGHT: Thank you, your Honor. May it
2 please the Court. Good afternoon.

3 We have -- we filed a Motion to Amend the Pleadings
4 Pursuant to Rule 15(a) of the South Carolina Rules of
5 Criminal -- I'm sorry -- South Carolina Rules of Civil
6 Procedure. Your Honor, we are asking the Court to allow us
7 to amend the pleadings so that we can add an affirmative
8 defense, and that being, the statute of limitations in this
9 matter. This matter was filed on March 11th -- I'm sorry,
10 March 17, 2011, and the alleged -- the allegations in this
11 lawsuit take place sometime in 2007, beyond the statute of
12 limitations. We ask the Court to allow us to amend and --
13 so that we can make that affirmative defense, your Honor.

14 THE COURT: Does the Plaintiff have any objection
15 to their --

16 MR. MYERS: I have objections, sir. He
17 had -- he had enough time to -- to answer all the papers,
18 under Rule 15(e), and he didn't do it. Now he want to --
19 we -- we --

20 THE COURT: It's my discretion on that. We
21 liberally allow -- if you hadn't included something, I would
22 allow you to amend your pleadings. I will allow him to
23 amend his Answer.

24 MR. McKNIGHT: Thank you. Your Honor, would the
25 Court like for me to prepare an order, or are you going to

1 do a Form 4?

2 THE COURT: Please prepare me an order.

3 MR. McKNIGHT: Yes, sir.

4 THE COURT: And send them a copy.

5 MR. McKNIGHT: Yes, sir, your Honor. And to where
6 do you want me to send your order?

7 THE COURT: Send it to Sumter, to my Sumter office.

8 MR. McKNIGHT: Sumter office.

9 THE COURT: 141 North Main Street. And please
10 prepare that within ten days, sending them a copy, and then
11 the case will move on to the jury trial docket.

12 MR. McKNIGHT: Yes, sir. And, your Honor, would
13 you -- my other question --

14 THE COURT: Or if you want to get me an order
15 before the end of this week, I will be here all week.

16 MR. McKNIGHT: Okay. It would be -- probably -- it
17 probably will come via fax, or maybe I'll e-mail it to -- if
18 I could have your Clerk's E-mail address, that would --

19 THE LAW CLERK: Wyounglc@sccourts, with an S at the
20 end --

21 MR. McKNIGHT: Yes, sir.

22 THE LAW CLERK: -- dot org.

23 MR. McKNIGHT: Thank you.

24 THE COURT: All right. And also put in there that
25 their motion to have a jury trial is granted.

1 MR. McKNIGHT: Yes, sir.

2 Your Honor, with regard to our Motion for Summary
3 Judgment, we sort of jumped the gun on that, realizing that
4 we had not yet filed --

5 THE COURT: After you've -- after you file your
6 Amended Answer, if you want to redo your Motion for Summary
7 Judgment, I will hear that -- or somebody will hear it at
8 that time.

9 MR. McKNIGHT: Thank you, Judge.

10 THE COURT: Thank you.

11 MS. MYERS: Thank you very much.

12 THE COURT: Thank y'all.

13 MR. McKNIGHT: Permission to approach the Court?

14 THE COURT: Yes, sir.

15 (Time is 11:59 a.m.)

16 (Mr. McKnight approaches the bench, and a
17 discussion is held off the record.)

18 (Back on the record.)

19 MR. McKNIGHT: Your Honor, am I correct in telling
20 the Clerk that we're holding that Motion for Summary
21 Judgment in abeyance until after the amended pleadings --

22 THE COURT: Really, probably ought to leave them
23 out.

24 MR. MYERS: So my summary judgment still stands;
25 right? Am I following the Court record --

1 THE COURT: It's not -- Well, you may want to hold
2 off until after he files his Amended Complaint.

3 MR. MYERS: Okay.

4 THE COURT: I'm not dismissing anything.

5 MR. MYERS: Okay. Fine.

6 THE COURT: But after that, you may want to file an
7 amended motion as well.

8 MS. MYERS: Thank you. That's all we need to know.
9 But this still stands?

10 THE COURT: Yes, sir. I hadn't dismissed anything.

11 MR. MYERS: But Ms. Shelly All --

12 THE COURT: Who?

13 MR. MYERS: Ms. Shelly All. Another case
14 that -- let me see.

15 THE COURT: I don't know anything about that. I'm
16 just down here for this week doing what they tell me to do.
17 If they didn't tell me to do it, I'm not doing it.

18 MR. MYERS: All right.

19 THE CLERK: That's it for this morning. Back at
20 2:30.

21 THE COURT: Court's in recess until 2:30.

22 (The hearing of this cause concluded at
23 12:01 p.m., on July 23rd, 2012.)
24
25

REPORTER'S CERTIFICATE

STATE OF SOUTH CAROLINA)
) ss.
COUNTY OF CHARLESTON)

5 I, **ROLAYNE M. VOLPE**, Certified Court Reporter, CCR, and
6 Registered Professional Reporter, RPR, do hereby certify
7 that the transcript of the foregoing proceedings accurately
8 reflects the events that occurred before me to the best of
9 my ability at the time and place set out on the caption
10 hereto, the witnesses having been duly cautioned and sworn,
11 or affirmed, to tell the truth, the whole truth, and nothing
12 but the truth.

13 I FURTHER CERTIFY that I am neither counsel for,
14 related to, nor employed by any of the parties to the action
15 in which these proceedings were taken or to any attorney or
16 counsel employed by the parties hereto, nor financially
17 interested, directly or indirectly, in the outcome of this
18 action.

19 CERTIFIED AND SIGNED on this 26th day of August, 2012.

ORIGINAL

ROLAYNE M VOLPE
NOTARY
PUBLIC
SOUTH CAROLINA

ROLAYNE M. VOLPE, CLERK, RPA
Certified Court Reporter and
Registered Professional Reporter

Reported By:
ROLAYNE M. VOLPE, CCR, RPR

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 012

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
JEROME MYERS & GLORIA)
MYERS,)
)
Plaintiffs,)
)
v.)
)
CEZAR E. MCKNIGHT,)
WILLIE O.W. MCFADDEN-)
MYERS, & LATONYA HOBSON,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2011-CP-10-2026

ORDER GRANTING DEFENDANT'S
MOTION TO AMEND THEIR
ANSWER AND DENYING
PLAINTIFF'S & DEFENDANT'S
MOTION FOR SUMMARY
JUDGEMENT

FILED
2012 JUL 26 AM 9:25
BY JULIE J. ARMSTRONG
CLERK OF COURT

This matter came before the Court for a hearing on July 23, 2012, for consideration of a number of motions including: 1) Plaintiff's Motion for Summary Judgment, 2) Defendant's Motion for Summary Judgment and Defendant's Motion to Amend Pleading. Pro se Plaintiffs and counsel for the Defendants were present and this Court entertained and considered oral arguments.

FACTS

Pro se, sibling Plaintiffs bring this action alleging misrepresentation, fraud, and forgery regarding a power of attorney for their father. Defendants have filed a Motion to Amend Pleadings pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure (SCRCP) and a Motion for Summary Judgment



Pursuant to Rule 56(e) of the SCRC.P. The Plaintiff's have filed a Motion for Summary Judgment Rule (56(e)).

DEFENDANT'S MOTION TO AMEND PLEADING

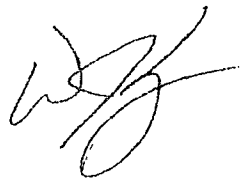
Leave to amend pleadings "shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a) S.C.R.Civ.P. This Court finds that the amendment adds to the Defendants' Answer the affirmative defense that the statute of limitations in this matter has run. This Court further finds that granting the Defendants leave to amend the Answer is in the interest of justice and will not prejudice the Plaintiffs. Therefore, for the aforementioned reasons, Defendants' Motion to Amend Pleading is granted.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants withdrew their Motion for Summary Judgment and as a result the Defendants' Motion for Summary Judgment is dismissed without prejudice.

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Summary judgment is only appropriate when it is clear that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of fact. Garvin v. Bi-Lo, Inc., 343 S.C. 625, 627, 541 S.E.2d 831, 833 (2001). In ruling on a motion for summary judgment, the evidence and the inferences which can be drawn therefrom must viewed in the light most favorable to the nonmoving party. Id.

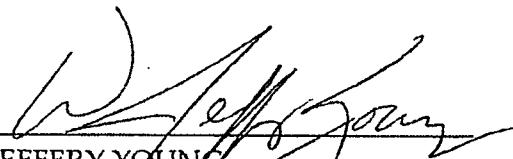


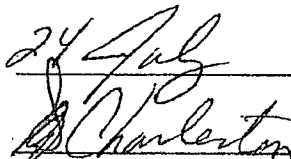
After review, this Court finds that genuine issues of fact exists and Plaintiffs are not entitled to judgment as a matter of law and therefore summary judgment is not appropriate at this time. The Plaintiffs' Motion for Summary Judgment is denied for this reason.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. Defendants' Motion to Amend Pleading is **GRANTED**.
2. Defendants' Motion for Summary Judgment is **DENIED**.
3. Plaintiffs' Motion for Summary Judgment is **DENIED**.

AND IT IS SO ORDERED!


W. JEFFERY YOUNG
PRESIDING CIRCUIT COURT JUDGE
COURT OF COMMON PLEAS

 24 July 2012
Charleston South Carolina

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 0013

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Jerome Myers and Gloria Myers,	)	CASE NO. 2011-CP-10-2026
	)	
PLAINTIFFS,	)	
	)	
VS.	)	Charleston, South Carolina
	)	
Shelly K. All, Cezar E.	)	
McKnight, Ms. Willie O.W.	)	
McFadden-Myers, and Latonya	)	
Hobson,	)	
	)	
DEFENDANTS.	)	

TRANSCRIPT OF RECORD

(A certification sheet will be attached bearing an original signature in blue ink
if this transcript has been certified by the court reporter.)

COMMENCING:

April 24, 2012 at 10:15 a.m.

Before The Honorable Stephanie P. McDonald

APPEARANCES:

Plaintiffs: Jerome Myers and Gloria Myers, Pro Se

Defendants: Cezar Edward McKnight, Esquire
Shelly K. All, Esquire

Phyllis Norton, CVR-Master, Nationally Certified Verbatim Court Reporter
100 Broad Street, Suite 236, Charleston, SC 29401
(843) 958-5083 PNorton@sccourts.org

INDEX

PROCEEDING - Page 3

NO SWORN TESTIMONY

EXHIBITS - None Proffered

CERTIFICATION OF TRANSCRIPT - See Page 22

A transcript certified by the court reporter will bear an original signature on the attached certification sheet. Please contact the court reporter for additional certified transcripts.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 THE COURT: All right. And I see we have a couple of
2 motions, motion to compel and motion to amend?

3 MS. MYERS: Yes.

4 THE COURT: Okay. Happy to hear from ---

5 MS. MYERS: Good morning. I am Gloria Myers, pro se.
6 And this is my brother Jerome Myers, pro se. And we came
7 before you, Judge, for a motion -- motion for compelling
8 being requested by plaintiff.

9 And we are asking for admission, admit, and to compel
10 discovery for Defendant McKnight. We were asking that he
11 file his answer. We sent him some -- thought -- you know,
12 some questions and voluntary withdrawal from the case due to
13 conflict of interest. Four months later the defendant had
14 not received a response to this letter either of (inaudible)
15 request for admission ---

16 THE COURT: I'm sorry, ma'am?

17 MS. MYERS: Either of questions that we request for
18 admission.

19 THE COURT: Okay. When did you serve the request to
20 admit on him?

21 MS. MYERS: We served that on September -- served that
22 on September the 30th.

23 THE COURT: On September 30th?

24 MS. MYERS: Uh-huh.

25 THE COURT: And have you received any response at all?

1 MS. MYERS: No, it was November the 26th.

2 THE COURT: Okay. Of 2011?

3 MS. MYERS: Of 2011. And we have not received anything
4 from him at all except for recently where he sent us a
5 letter. Okay, he sent us a letter stating that -- that come
6 from now and defended by and through their counsel, Cezar
7 McKnight, Esquire, through the South Carolina Rules of Civil
8 Procedure Rule 56 and notify you on the 10th day as soon
9 as -- hereafter ---

10 THE COURT: I tell you what, ma'am, could you hand -- I
11 might take a look at that.

12 MS. MYERS: Okay.

13 THE COURT: It would be easier for me.

14 MS. MYERS: All right.

15 THE COURT: If somebody could bring it up.

16 THE DEPUTY: I will.

17 THE COURT: Thank you, sir. And I will give it right
18 back to you.

19 MS. MYERS: Okay.

20 THE COURT: I just want to take a look at it. Thank
21 you.

22 THE COURT: Okay. I am looking at a letter dated
23 April 16, 2012. Is that what you are ---

24 MS. MYERS: Yes, that is the letter that he sent us.

25 THE COURT: Those don't -- this doesn't address the

1 request to admit.

2 MS. MYERS: No, but that's ---

3 THE COURT: Do you have anything from him that
4 addresses ---

5 MS. MYERS: No.

6 THE COURT: --- the request to admit?

7 MS. MYERS: No.

8 THE COURT: Okay. Let me hear from the defendant ---

9 MS. MYERS: Okay.

10 THE COURT: --- and then I will hear back from you
11 again.

12 MS. MYERS: All right.

13 THE COURT: Yes, sir. How about the request to admit?

14 MR. MCKNIGHT: Thank you, Your Honor, may it please the
15 court. Just as for a matter of efficient -- for the matter
16 of efficiency, there is a motion to dismiss pursuant to them
17 failing to meet the statute of limitations. And I think if
18 you address that matter the necessity of replying to their
19 request to admit and/or discovery request is moot.

20 THE COURT: When was the motion to dismiss filed?

21 MR. MCKNIGHT: It was filed on April 16th, 2012.

22 THE COURT: No, sir. Are you Mr. McKnight?

23 MR. MCKNIGHT: I am.

24 THE COURT: Okay. And you are the defendant?

25 MR. MCKNIGHT: I am one of the defendants; yes, I am.

1 THE COURT: Okay. Were you properly served with the
2 request to admit?

3 MR. MCKNIGHT: I was.

4 THE COURT: Okay. And you have not answered them at
5 all?

6 MR. MCKNIGHT: I have not.

7 THE COURT: Okay. Explain to me why not.

8 MR. MCKNIGHT: Your Honor, because number one this
9 process is very convoluted, so let me explain exactly what
10 is going on. This matter stems from a matter out of probate
11 court where I represented their ex mother-in-law.

12 THE COURT: Okay.

13 MR. MCKNIGHT: Well, not their ex mother-in-law, their
14 mother-in-law. She is still married to him. This matter
15 was thoroughly adjudicated properly before the court and all
16 of their allegations are -- have already been ruled upon by
17 the probate court.

18 Primarily their allegations which based upon what they
19 have pled I can't even tell because that is why we made the
20 motion to dismiss pursuant to twelve -- for them failing to
21 comply -- I'm sorry ---

22 THE COURT: Right, but I guess my point is the motion
23 to dismiss was made what, a week ago?

24 MR. MCKNIGHT: Yes, ma'am. And as my understanding of
25 the law we at any time can raise the issue of statute of --

1 of violating the statute of limitations.

2 THE COURT: Is there an answer that has been filed?

3 MR. MCKNIGHT: An answer by whom?

4 THE COURT: By you. Are you not ---

5 MR. MCKNIGHT: Yes, I have filed an answer.

6 THE COURT: Okay. Did you plead the statute of
7 limitations as an affirmative defense?

8 MR. MCKNIGHT: I did not. But we denied all of their
9 allegations within there. But, Your Honor, by me -- but
10 that still doesn't preclude me from raising the issue of
11 statute of limitations.

12 THE COURT: You may have waived it.

13 MR. MCKNIGHT: Pursuant to which holding in which --
14 which -- which case law ---

15 THE COURT: Sir, you need to give me some law. But I
16 will pull it up for you in just a second. What I need you
17 to do for me ---

18 MR. MCKNIGHT: Okay.

19 THE COURT: --- is explain why you didn't answer their
20 request for admission or object to them.

21 MR. MCKNIGHT: Your Honor, the only -- we did not in
22 anticipation of me filing this motion which is to dismiss.
23 And beyond that, Your Honor, we have also filed -- we have
24 also filed a motion pursuant to Rule 56 because for them
25 failing to pay the claim for which ---

1 THE COURT: When was ---

2 MR. MCKNIGHT: -- for which it would be granted.

3 THE COURT: Well, actually I think that is a 12(b)
4 motion, but ---

5 MR. MCKNIGHT: Yeah, that is a 12(b) motion, but you
6 have to also plead that Rule 56 as well. It is ---

7 THE COURT: When did you file that?

8 MR. MCKNIGHT: That was filed on April 16th ---

9 THE COURT: Well, they get ten days of notice for any
10 kind of hearing on a motion for summary judgment, Mr.
11 McKnight.

12 MR. MCKNIGHT: But they have already answered, Your
13 Honor. They filed an answer -- they filed a response to it.

14 THE COURT: Right. But they don't have to have a
15 hearing for ten days ---

16 MR. MCKNIGHT: Okay.

17 THE COURT: --- if they don't want to.

18 MR. MCKNIGHT: When we ---

19 THE COURT: Did you bring your rules with you? We may
20 need to go through our rules.

21 MR. MCKNIGHT: I've got mine.

22 THE COURT: Okay. All right. Take a look at Rule 56
23 for me while I pull up this statute of limitations case for
24 you.

25 MR. MCKNIGHT: Thank you.

1 THE COURT: All right. Now take a look at Rule 12 for
2 me if you would.

3 MR. MCKNIGHT: Any particular sub part; just 12(b) in
4 general?

5 THE COURT: Six.

6 MR. MCKNIGHT: Just 12(b)(6). Okay.

7 THE COURT: Okay. Tell me why you have not waived your
8 statute of limitations defense.

9 MR. MCKNIGHT: The court's indulgence.

10 THE COURT: Sure.

11 MR. MCKNIGHT: Your Honor, if I'm reading this
12 correctly it lists the things that must be stated in the
13 responsive pleading. I understand that.

14 And considering that fact I see that pursuant to Rule
15 12(b)(6) it should be included in there. But I don't see
16 where you -- where it states in the rule that you
17 specifically waive it by not pleading it.

18 THE COURT: If it is an affirmative defense and you
19 don't plead it, you waive it. Generally you file a 12(b)(6)
20 motion in lieu of an answer or with an answer at the same
21 time.

22 You object to certain parts. You move to dismiss
23 certain portions of the complaint and you answer certain
24 portions of the complaint or you move to dismiss the whole
25 thing.

1 You don't get to wait four months after they have
2 served request to admit on you and you didn't answer them to
3 then move to dismiss.

4 MR. MCKNIGHT: Okay.

5 THE COURT: The rules just don't work that way. So I
6 need to know why you didn't answer their request to admit
7 and why they should not be deemed admitted per the rule.

8 MR. MCKNIGHT: Court's indulgence just for a second,
9 Your Honor.

10 THE COURT: Certainly.

11 MR. MCKNIGHT: Your Honor, at this time I really do not
12 have an answer. Because I had my actual copy of your answer
13 in my file, and I actually left it so ---

14 THE COURT: What do you need, sir?

15 MR. MCKNIGHT: The -- my answer ---

16 THE COURT: Your answer?

17 MR. MCKNIGHT: --- to their original summons and
18 complaint.

19 THE COURT: Well, actually that's not what I am asking
20 you about. What I want to know is why under Rule 36 the
21 request for admission or the request to admit should not be
22 deemed admitted as they were properly served. I guess four or
23 five months ago and no response has been given.

24 MR. MCKNIGHT: And beyond that, Your Honor, one of the
25 other reasons is because we've got two competing pleadings.

1 We have got the original summons and complaint that we
2 answered, but we also have another -- an amended summons and
3 complaint with which they filed.

4 THE COURT: Okay. Respectfully, sir, that doesn't have
5 anything to do with the question I am asking you. All I am
6 asking -- I am not asking you about the answer. I am not
7 asking you about the statute of limitations. I am not
8 asking you about 12(b)(6) or waiving affirmative defenses.

9 I am asking you why you didn't answer their request to
10 admit and why they should not now be deemed admitted
11 pursuant to the plain language of Rule 36.

12 MR. MCKNIGHT: For that, Your Honor, we don't have an
13 answer. I guess you would have to assume that they are
14 admitted.

15 THE COURT: Okay. The request to admit are admitted.

16 MS. MYERS: Thank you.

17 THE COURT: Okay. What is the next motion? Yes, sir.

18 MS. MYERS: Okay. The next motion is -- the next
19 motion is Mot. 3, motion to amend the complaint. We are
20 asking that pro se plaintiff come now and file this motion
21 for ---

22 (Ms. All entering courtroom and doors slamming)

23 --- reconsideration ---

24 THE COURT: I'm sorry, I couldn't hear because of the
25 door. I'm sorry.

1 MS. MYERS: I'm sorry. Reconsideration ---

2 THE COURT: I'm sorry, what are you here for?

3 MS. ALL: The same case, Your Honor. I am Shelly All.

4 THE COURT: Oh, I apologize. I thought everybody was
5 here. We started early, and that is our fault. The parties
6 indicated that everybody was here.

7 MS. ALL: Well, I am only here on the motion to amend,
8 because I was dismissed as a party. I am also here on
9 behalf of Dennis Christensen. We were both dismissed as
10 parties, but the motion to amend is trying to add us ---

11 THE COURT: I understand. Let's start back over.

12 MS. MYERS: Okay.

13 THE COURT: Mr. McKnight, you are an attorney?

14 MR. MCKNIGHT: Yes, Your Honor, I am ---

15 THE COURT: Okay. Is there anybody else missing
16 attorney wise? We started early because you represented
17 that everybody was here ---

18 MR. MCKNIGHT: Right.

19 THE COURT: --- and that y'all were ready to go.

20 MR. MCKNIGHT: And in my belief, Your Honor -- and I
21 didn't mean to mislead the court. I honestly thought that
22 everyone was here too. Because I assumed -- Ms. All has
23 been dismissed.

24 THE COURT: Okay.

25 MR. MCKNIGHT: Mr. Christensen has been dismissed. I

1 would like -- as you can understand this thing is very
2 convoluted. And they filed motions to be dismissed. And
3 based upon -- and they were grant -- those motions were
4 granted.

5 THE COURT: Okay.

6 MR. MCKNIGHT: That is why I assumed that ---

7 THE COURT: Okay.

8 MR. MCKNIGHT: --- it was just the parties.

9 THE COURT: All right. And Ms. All, do you have any
10 involvement whatsoever -- I just granted a motion to deem
11 certain request for admission that were served upon Mr.
12 McKnight granted. They are admitted because he didn't
13 respond to them. Do you have any dog in that fight
14 whatsoever? Because we started early, and that is my fault.

15 MS. ALL: No, Your Honor.

16 THE COURT: Okay.

17 MS. ALL: I was not served with any discoveries.

18 THE COURT: So you are set. Okay. So the motion to
19 amend is as to her client?

20 MS. MYERS: It is her -- yes.

21 THE COURT: Okay. I am happy to hear from you.

22 MS. MYERS: Okay. Thank you. Okay. We are asking for
23 reconsideration as ---

24 THE COURT: Okay, let me stop you real quick.

25 MS. MYERS: Okay.

1 THE COURT: I am not allowed to reconsider another
2 judge's order.

3 MS. MYERS: Okay.

4 THE COURT: So did somebody dismiss her client?

5 MS. MYERS: No, what happened ---

6 THE COURT: Yes, sir, or I am happy to hear from
7 anybody.

8 MR. MCKNIGHT: Judge Young has already ruled on that,
9 the motion to admit ---

10 MS. MYERS: No, ma'am.

11 MR. MCKNIGHT: The motion to amend if I -- if I
12 believe -- in my review of the file. And what they have
13 done is they have filed a motion to reconsider Judge Young's
14 order denying them the ability to amend their complaint.

15 THE COURT: Well, no, they granted -- he granted their
16 motion to amend.

17 MR. MCKNIGHT: I'm sorry, what did you say, Your Honor?

18 MS. ALL: Your Honor ---

19 THE COURT: I am happy to hear from you.

20 MS. ALL: Okay.

21 THE COURT: Thank you.

22 MS. ALL: They filed an original motion to amend.

23 We -- we filed a motion to dismiss their complaint.

24 THE COURT: Okay.

25 MS. ALL: Okay. And that was scheduled for a hearing.

1 And at the same time they had filed a motion to amend their
2 complaint removing both myself and Dennis Christensen as
3 defendants.

4 THE COURT: Okay.

5 MS. ALL: Judge Young granted their motion to amend the
6 complaint and dismissed us as defendants because they took
7 us out of the first amended complaint and then said that our
8 motion to dismiss at that point was moot.

9 Then they filed a second motion to amend the complaint
10 now trying to add us back as defendants. And that is what
11 the motion today -- scheduled today is for.

12 Previously they had filed a motion to reconsider Judge
13 Young's order, and that has not been heard.

14 THE COURT: Okay. So the only thing remaining is the
15 motion to reconsider Judge Young's order?

16 MS. MYERS: Yes.

17 THE COURT: Ma'am, I don't have the authority to
18 reconsider another judge's order. And -- however ---

19 MS. MYERS: Because we felt like that was a mistake
20 on the moot because we did ask for and we have the
21 information ---

22 THE COURT: Well ---

23 MS. MYERS: --- of Daquigan -- we have a letter also
24 stating that Daquigan and also -- Daquigan and Ms. Spencer
25 was off the case, not -- they made a mistake. We felt like

1 it was a mistake made, so that is why we asked for a
2 reconsideration.

3 THE COURT: Okay. I do not have the authority to
4 reconsider another court's order.

5 MS. MYERS: Okay.

6 THE COURT: It appears however that Ms. All's clients
7 were previously dismissed. Were they dismissed with
8 prejudice?

9 MS. MYERS: No, it wasn't her client. It was her.

10 THE COURT: Oh, it was her personally?

11 MS. MYERS: Her personally, not her client.

12 MS. ALL: Myself, and I am here on behalf of Dennis
13 Christensen who is my partner.

14 THE COURT: Gotcha.

15 MS. ALL: No, we were not dismissed with prejudice,
16 Your Honor. We were dismissed because they had filed a
17 motion to amend their complaint and removed us as
18 defendants.

19 THE COURT: And now they want to put you back?

20 MS. ALL: Yes.

21 THE COURT: So you are seeking to amend the complaint
22 again?

23 MS. MYERS: No, that's not what we are doing.

24 MS. ALL: Yes, Your Honor ---

25 MS. MYERS: We felt like the court made a mistake. And

1 when we asked for Daquigan and Spencer to be removed we sent
2 a letter to the court stating this. We did not ask for
3 Christensen and All to be removed. So that is why we wrote
4 back to the court asking for a reconsideration.

5 THE COURT: Okay.

6 MR. MYERS: We can show you the papers.

7 MS. MYERS: We can show you the papers.

8 THE COURT: I just need to see a copy of the motion
9 that is before me today. I've got the motion to grant the
10 admission of the request for admission that we are not
11 answering. But I need to know what the other motion was.

12 It is styled on my docket as a motion to amend, however
13 it seems to be more of a motion to reconsider which means
14 that we are going to have to just bring y'all back in front
15 of Judge Young or he can decide it on the brief since you
16 have already had a hearing.

17 MR. MYERS: Right.

18 MS. ALL: That is correct, Your Honor.

19 THE COURT: Is that accurate?

20 MS. ALL: It would be a motion to reconsider.

21 THE COURT: Okay. We will get that before Judge Young.

22 MS. MYERS: Thank you.

23 THE COURT: He may decide to rule on that on the
24 paperwork ---

25 MR. MYERS: Right.

1 THE COURT: --- since you have already had a hearing.

2 MS. MYERS: Yes.

3 MR. MYERS: Right.

4 THE COURT: So make sure you send any paperwork that he
5 needs to have specifically stating what the grounds are.
6 You file anything that you would like to in response. And
7 he may or may not set it for a hearing. But I will let him
8 know that that came in front of me and I don't have the
9 jurisdiction to review it.

10 MS. MYERS: Thank you.

11 THE COURT: Okay. Anything else we can deal with here
12 today?

13 MS. MYERS: We are asking that we still stay on the
14 roster for a jury trial.

15 MR. MYERS: Right.

16 THE COURT: Okay, are you on the roster ---

17 MS. MYERS: Yes, we are on the roster.

18 THE COURT: I mean I think Mr. McKnight has got a
19 motion for summary judgment pending now. Once your
20 requisite ten days' notice runs -- hasn't quite run yet.
21 That will be placed on a motions roster.

22 Well, he still gets to have his motion for summary
23 judgment heard. And he may be entitled to summary judgment.
24 I don't know. You haven't had time and proper notice under
25 Rule 56.

1 MS. MYERS: Right.

2 THE COURT: So I don't know what your position is on
3 the roster, where on the jury trial roster you are.

4 MS. MYERS: Okay.

5 THE COURT: Okay. We will get the summary judgment
6 motion or motion to dismiss set and go from there.

7 MR. MYERS: Thank you.

8 MS. MYERS: Thank you, ma'am.

9 THE COURT: Okay.

10 MS. ALL: Thank you, Your Honor.

11 THE COURT: Good to see y'all. We will do a Form 4.

12 MR. MCKNIGHT: Do you want them to prepare an order; or
13 are they going to send a copy to me beforehand ---

14 THE COURT: I don't think you really need an order. I
15 think I can just put in the Form 4 that I prepare that
16 pursuant to the rule to Rule 36 the request to admit are
17 deemed admitted as they weren't answered from five months.

18 MR. MCKNIGHT: Okay.

19 THE COURT: But if y'all want to submit something, that
20 is fine. That might make things more confusing.

21 MS. MYERS: That would be fine.

22 MR. MCKNIGHT: I think they need to submit something,
23 Your Honor.

24 MS. MYERS: We are concerned ---

25 THE COURT: What do you want them to submit?

1 MR. MCKNIGHT: Well, the order itself, Your Honor,
2 because just for clarity we will need it. What they had --
3 what they had -- I -- my ---

4 THE COURT: What is the order going to say other
5 than ---

6 MR. MCKNIGHT: That you granted -- that you granted
7 their motion ---

8 THE COURT: --- defendant did not answer the request to
9 admit for five months, ---

10 MR. MCKNIGHT: Correct.

11 THE COURT: --- he had no defense for not answering ---

12 MR. MCKNIGHT: Right.

13 THE COURT: --- therefore the motion ---

14 MR. MCKNIGHT: Yes, ma'am.

15 THE COURT: ---- to have the request ---

16 MR. MCKNIGHT: Yes.

17 THE COURT: --- to admit deemed admitted pursuant to
18 Rule 36 are -- is granted. What else would the order say?

19 MR. MCKNIGHT: That's what it should say.

20 THE COURT: Okay. Or unless you are saying you are
21 just going to put that in a Form 4?

22 THE COURT: I am going to put that in a Form 4.

23 MR. MCKNIGHT: Okay. That is fine.

24 THE COURT: Okay. But I will be very specific about
25 it.

1 MR. MCKNIGHT: Thank you.

2 THE COURT: That way y'all will be protected.

3 MR. MCKNIGHT: All right.

4 THE COURT: Okay.

5 MR. MCKNIGHT: Thank you.

6 MS. MYERS: Thank you.

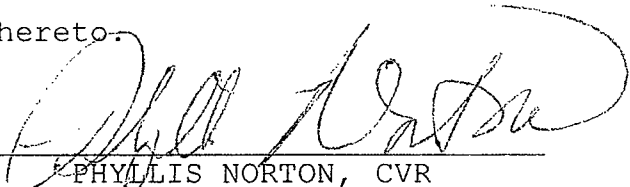
7 (Whereupon the hearing concluded 10:37 a.m.)

(NOTE: A transcript which has been certified by the court reporter will bear an original signature on the below certification sheet. Please contact the court reporter for additional certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, 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 of all the proceedings had and evidence introduced in the captioned case, relative to appeal, in the Family Court for Charleston County, South Carolina, on April 24, 2012.

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



PHYLLIS NORTON, CVR
(Signature in blue ink.)

Date: November 5, 2012

Certified Transcript Provided For: Myers
Certification Reference # 118512-0216

ORIGINAL

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 014

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 -CP- 10 - 02026

JEROME MYERS, ET AL

CEZAR E. MCKNIGHT, ET AL

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ 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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ 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: Plaintiff's motion to compel Requests to Admit is granted. Pursuant to SCRPC 36, Plaintiffs' Requests are deemed admitted by Mr. McKnight, for failure to respond. Plaintiffs' motion to amend/reconsider must be heard by Judge Roger Young.

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	N/A	\$ 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.


Circuit Court Judge

2163
Judge Code

4/24/12
Date

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

only the proper vehicle to request a court to alter or amend a judgment, but also to seek reconsideration of issues and arguments previously presented. Elam v. South Carolina Dept. of Transp., 361 S.E.2d 772 (S.C. 2004). It is well established that a Rule 59(e) motion can be successful in only three situations: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice. Zinkand v. Brown, 478 F.3d 634 (4th Cir. 2007).

Relief from an order or judgment is granted for good cause shown under Rule 60(b) of the South Carolina Rules of Civil Procedure. Grounds for relief include mistake, inadvertence, surprise, or excusable neglect; misrepresentation or other misconduct of the plaintiff; or void judgment. In determining whether relief should be granted, the court considers the promptness with which relief is sought, reasonable explanations for failing to act promptly, the existence of a meritorious defense, and prejudice to the other parties if relief is granted. S.C. R. Civ. P. 60(b); Micronics, Inc. v. S.C. Dep't of Revenue, 345 S.C. 506, 548 S.E.2d 223 (Ct. App. 2001).

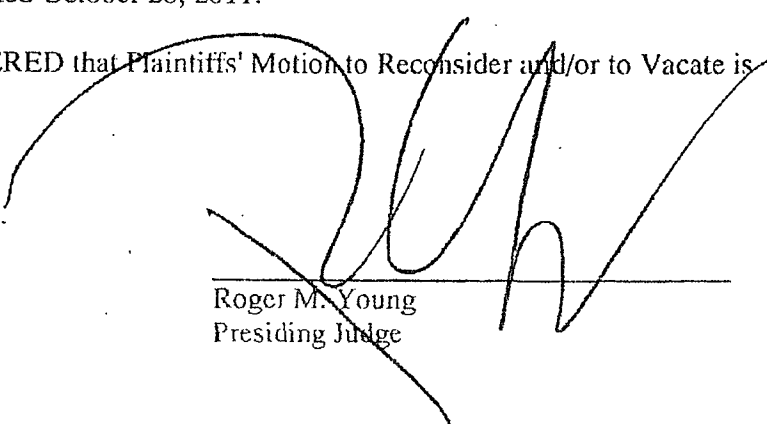
I have thoroughly considered the Plaintiffs' Motion, supporting and opposing material and arguments, and based on same deny Plaintiffs' Motion to Reconsider and/or to Vacate this Court's Order Granting Plaintiffs' Motion to Amend Their Complaint and Denying Plaintiffs' Motion for Summary Judgment dated October 26, 2011.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Reconsider and/or to Vacate is DENIED.

AND IT IS SO ORDERED.

4/24, 2012

Charleston, South Carolina.



Roger M. Young
Presiding Judge

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Jerome Myers and Gloria Myers,
Plaintiffs,

vs.

Dennis J. Christensen; Shelly K. All;
Cezar E. McKnight; Donald Daquigan;
Elizabeth Spencer; Ms. Willie O.W.
McFadden-Myers, and Latonya Hobson
Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
Case No.: 2011-CP-10-2026

ORDER GRANTING PLAINTIFFS'
MOTION TO AMEND THEIR
COMPLAINT AND DENYING
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT

FILED
OCT 26 PM 12:35
JAMES ARMSTRONG
CLERK OF COURT

This matter came before the Court for a hearing on September 9, 2011, for consideration of a number of motions including: 1) Plaintiffs' Motion to Amend Complaint, 2) Plaintiffs' Motion for Summary Judgment and 3) Defendants Daquigan, Spencers, Christensen and All's Motion to Dismiss Pursuant to Rule 12(b)(6). Pro se Plaintiffs and counsel for the Defendants were present, and this Court entertained and considered oral arguments.

Facts

Pro se, sibling litigants bring this suit alleging misrepresentation, fraud, forgery, and breach of fiduciary duty arising out of a conservatorship established for their incompetent father and a power of attorney for their father, which they allege was forged by the Defendants.

Defendants Sgt. Daquigan and Elizabeth Spencer, both employees of the Charleston Police Department, were contacted by the Plaintiffs to report the alleged forgery. They have filed a Motion to Dismiss pursuant to 12(b)(6).

Defendants Dennis Christensen and Shelly All are both attorneys hired by the Plaintiffs to represent them during the appointment of their father's conservatorship. The original complaint appears to allege malpractice, and Defendant Attorneys have filed a Motion to Dismiss pursuant to 12(b)(6).

Plaintiffs' Motion to Amend Complaint

Leave to amend the pleadings "shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a) S.C.R.Civ.P. This Court finds the amendment clarifies Plaintiffs' theories of liability and dismisses Defendants who are not proper parties to this action. This Court further finds that granting Plaintiffs leave to amend the complaint is in the interest of justice and will not prejudice remaining Defendants. Therefore, for the aforementioned reasons, Plaintiffs' Motion to Amend Complaint is granted.

Defendants' Motions to Dismiss

This Courts order granting Plaintiff's Motion to Amend the Complaint, which dismisses Defendants Daquigan, Spencer, Christensen and All, makes Defendants' Motions to Dismiss moot. Defendants are no longer parties to this action.

Plaintiffs' Motions for Summary Judgment

Summary judgment is only appropriate when it is clear that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Garvin v. Bi-Lo, Inc., 343 S.C. 625, 627, 541 S.E.2d 831, 833 (2001). In ruling on a motion for summary judgment, the evidence and the inferences which can be drawn therefrom must be viewed in the light most favorable to the nonmoving party. Id.

After review, this Court finds that genuine issues of fact exist and Plaintiffs are not entitled to judgment as a matter of law and therefore summary judgment is not appropriate at this time. For this reasons, the Plaintiffs' Motions for Summary Judgment are denied.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

- 1) Plaintiffs' Motion to Amend Complaint is **GRANTED**. *R. 5(b)(3) No PROPOSED TO PLAINTIFFS*
- 2) Defendants Daquigan, Spencer, Christensen and All's Motions to Dismiss are **MOOT**. *Defendants are no longer parties to this action.*
- 3) Plaintiffs' for Summary Judgment is **DENIED**. *Second Motion to Reconsider by Plaintiffs*

AND IT IS SO ORDERED.

[Signature], 2011
Charleston, South Carolina.

[Signature]
The Honorable Roger M. Young

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers , Appellants,

v.

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

RECORD ON APPEAL TAB # 015

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

MUTUAL GENERAL RELEASE IN FULL

KNOW ALL PERSONS BY THESE PRESENTS, that we JEROME MYERS and GLORIA MYERS ("PLAINTIFFS"), pro se, by these presents do on behalf of ourselves, our heirs, executors and/or administrators and assigns, release and forever discharge DONALD DAQUIGAN, ELIZABETH SPENCER, and the CITY OF CHARLESTON, including its subdivisions, employees, and representative ("DEFENDANTS"), from any and all claims, demands, damages, actions, or causes of action, resulting or to result, and of and from all claims and demands whatsoever, in law or in equity, which we, our heirs, wards, executors, and/or administrators, or assigns can, shall, or may have, by reason of any matter, cause or thing whatsoever prior to the day hereof, from the foundation of the earth to this date, for any damages of any nature sustained by PLAINTIFFS as alleged in the lawsuit filed in the Circuit Court of Charleston County, South Carolina, JEROME MYERS and GLORIA MYERS v. DENNIS J. CHRISTENSEN, SHELLY K. ALL, CEZAR E. McKNIGHT, WILLIE O.W. McFADDEN, LATONYA HOBSON, DONALD DAQUIGAN, and ELIZABETH SPENCER Case No.: 2010-CP-10-2026, (the "LAWSUIT") including all attorneys' fees and/or costs, claims therefore, and all federal and/or state claims and/or causes of action, and agree to hold DEFENDANTS, its agents, employees, and representatives, harmless and safe therefrom.

It is further agreed that we DONALD DAQUIGAN AND ELIZABETH SPENCER, by these presents do on behalf of ourselves, our heirs, executors and/or administrators and assigns, release and forever discharge PLAINTIFFS, from any and all claims, demands, damages, actions, or causes of action, resulting or to result, and of and from all claims and demands whatsoever, in law or in equity, which we, our heirs, wards, executors, and/or administrators, or assigns can, shall, or may have, by reason of any matter, cause or thing whatsoever prior to the day hereof, from the foundation

of the earth to this date, for any damages of any nature sustained by DONALD DAQUIGAN AND ELIZABETH SPENCER arising from the LAWSUIT, including all attorneys' fees and/or costs, claims therefore, and all federal and/or state claims and/or causes of action.

It is further agreed that this is a full and final MUTUAL GENERAL RELEASE IN FULL (the "RELEASE") of every nature and kind whatsoever, and releases claims that are known and unknown, suspected and unsuspected against PLAINTIFFS AND DEFENDANTS, in connection with the LAWSUIT.

It is further agreed, that there are no collateral or outside agreements of any kind between the parties hereto and that the RELEASE is in accord and satisfaction of disputed claims.

In consideration of the RELEASE, the undersigned also agree that this settlement is the compromise of doubtful and disputed claims and that the RELEASE made thereof is not to be construed as any admission of liability on the part of either PLAINTIFFS OR DEFENDANTS, but rather that this RELEASE is intended to avoid the costs, time and expenses, and uncertainty of legal proceedings and litigation.

The undersigned further declare and represent that no promise or inducement or agreement not herein expressed has been made to them and that this RELEASE contains the entire agreement between the parties hereto, that the terms of this RELEASE are contractual and not a mere recital, and that the proper execution of it and its validity and binding effect are material considerations to the parties hereby released.

The undersigned further agree that a Partial Stipulation of Dismissal with Prejudice signed by PLAINTIFFS and Counsel for DEFENDANT and will be filed with the Charleston County Court of Common pleas dismissing all claims connected with the LAWSUIT against DEFENDANTS with prejudice.

The undersigned agree that this RELEASE is to be governed by and interpreted in accordance with the laws of the State of South Carolina.

We certify by our signatures that we have read and understand the terms of this RELEASE

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of August, 2011, in the presence of the below named witnesses.

IN THE PRESENCE OF:

Karla R. Q.
witness

Jerome Myers
JEROME MYERS

Karla R. Q.
witness

Gloria Myers
GLORIA MYERS

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

VERIFICATION

PERSONALLY APPEARED before me, the undersigned witness, who made oath that (s)he saw JEROME MYERS and GLORIA MYERS sign the foregoing General Release, and that (s)he with the other witness witnessed the execution thereof:

Karla R. Q.
(Witness)

Signed and sworn to before me
this 25th day of August, 2011.

Elizabeth J. Koloshinsky
Notary Public for South Carolina
My Commission Expires: NOTARY PUBLIC MY COMMISSION EXPIRES: 09-31-2016

[signatures continue on following pages]

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JEROME MYERS and GLORIA MYERS,

Plaintiff,

v.

DENNIS J. CHRISTENSEN, SHELLY K.
ALL, CEZAR E. McKNIGHT, WILLIE O.W.
McFADDEN Myers, LATONYA HOBSON,
DONALD DAQUIGAN, and ELIZABETH
SPENCER,

Defendants.

IN THE COURT OF COMMON PLEAS

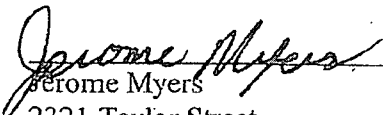
CIVIL ACTION NO.: ~~2010~~-CP-10-2026

2011

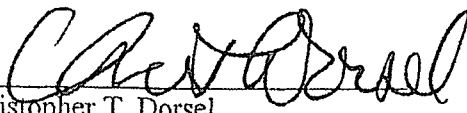
**PARTIAL STIPULATION OF
DISMISSAL WITH PREJUDICE AS TO
DEFENDANTS DAQUIGAN AND
SPENCER ONLY**

FILED
2011 SEP -1 PM 3:41
JULIE J. ARMSTRONG
CLERK OF COURT

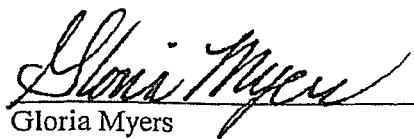
Upon the stipulation of the Plaintiffs, pro se, and the attorneys for Defendants Daquigan and Spencer, plaintiffs hereby dismiss all causes of action against Defendants Donald Daquigan and Elizabeth Spencer in the above captioned case with prejudice and stipulate that plaintiffs are forever barred from instituting or maintaining any further action against said defendants in regard to the matters set forth in the Complaint herein.


Jerome Myers
2321 Taylor Street
Charleston, SC 29406

Plaintiff, *pro se*


Christopher T. Dorsel
Senn, McDonald & Leinbach, LLC
P.O. Box 12279
Charleston, SC 29422

Attorney for Defendants Donald Daquigan
and Elizabeth Spencer



Gloria Myers
2321 Taylor Street
Charleston, SC 29406

Plaintiff, *pro se*

Senn, McDonald & Leinbach, LLC.

Attorneys at Law

3 Wesley Drive
Post Office Box 12279
Charleston, South Carolina 29422-2279
Telephone: (843) 556-4045
Facsimile: (843) 556-4046

Sandra J. Senn
Robin L. Jackson
(Licensed in SC & OH)
Christophèr T. Dorsel

Of Counsel
Hon. Jenny A. Horne
(House District 94)
(Licensed in SC & NC)

August 31, 2011

The Honorable Julie J. Armstrong
Clerk of Court, Charleston County
100 Broad Street, Suite 106
Charleston, SC 29401

RE: *Myers and Myers v. Daquigan, Spencer, et. al.*
Case No: ~~10~~-CP-10-2026

JDH

Dear Ms. Armstrong:

Enclosed please find an original and two (2) copies of our Stipulation of Dismissal in the above referenced case. Please file the original and return the file-stamped copy to my office in the self-addressed stamped envelope. Should you have any questions, please do not hesitate to contact my office.

With kind regards, I am,

Sincerely,



Christopher T. Dorsel, Esquire

CTD/lem
Enclosure

cc: Jerome and Gloria Myers, *pro se*
Shelly K. All, Esquire
Dennis J. Christensen, Esquire
Cezar E. McKnight, Esquire

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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

Case No. 2011-CP-10-2026

RECEIVED

SEP 20 2013

SC Court of Appeals

Jerome Myers & Gloria Myers, Appellants,

v.

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

Certificate of Counsel &

Certificate of Service

RECORD ON APPEAL

Certificate of Counsel: Rule 209(c) -- The Appellants ~~or his counsel shall~~ certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material; &

Certificate of Service: The Appellant's, Gloria Myers and Jerome Myers, by affixing their signatures below, herein certify that the Rule 210(a) -- RECORD ON APPEAL has been placed in the USPS with first class postage affixed to "*each party who has served a Brief*":

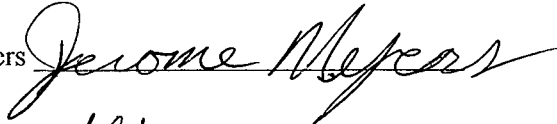
1. Shelly K. All (& Dennis Christensen)'s, 260 W. Coleman Blvd., Ste D, Mt. Pleasant, SC 29464
(843) 971-1199

Signature following page

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~~

September 16, 2013 BY:

Jerome Myers



Gloria Myers



2321 Taylor St.

North Charleston, SC 29406-6232

(843) 747-6741

RECEIVED

SEP 20 2013

SC Court of Appeals