

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

71630

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

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

Thaddeus F. Segars,

Appellant,

v.

Fidelity National Title
Insurance Company,

Respondent.

PETITION FOR REHEARING

Michael W. Mogil (SC Bar #11933)
Mogil Law Firm
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Tel. (843)785-8110

Attorney for Appellant

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MAR 20 2014

SC Court of Appeals

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INTRODUCTION

Pursuant to Rule 221(a) and Rule 240(i), SCACR the Appellant Thaddeus Segars respectfully petitions this Court for a rehearing of Opinion No. 2014-UP-094, dated March 5, 2014.

ARGUMENT

When the court fails to address some of the arguments raised in the appeal, “a *prima facie* case for rehearing has been made.” Covar v. Sallat, 22 S.C. 265, 272 (1885). Rehearing is warranted when the Court has overlooked or misapprehended an argument. Kennedy v. S.C. Retirement System, 349 S.C. 531, 564 S.E.2d 322 (2001). The Court’s Opinion in this matter does not address the specific facts, argument and issues raised by the Appellant, and thereby potentially overlooks and/or misinterprets arguments raised in the appeal.

Appellant’s primary arguments in appeal were as follows:

- A. The Order granting a motion to dismiss was premature, because Appellant might have prevailed on at least one theory of the case were the case to proceed;
- B. The trigger date for the statute of limitations was the date on which Appellant learned that its claim was denied by Respondent, because prior to that time Appellant neither knew, nor should have known, that Respondent would assert that its policy did not cover the risks;
- C. Alternatively, that the statute of limitations was tolled by the filing of cases in 2008 or, in equity, the 2011 case should have been held to relate back to the 2008 cases;
- D. Appellant was a bona fide purchaser of the subject insurance policies and therefore entitled to a discovery date later than the policies’ origination dates;
- E. The said policies covered the losses suffered by Appellant; and

F. Respondent is vicariously liable for its agent's negligence.

While the Court's Opinion affirming the lower court's order sets forth the legal authorities relied upon by the Court, the Opinion does not articulate the Court's application of those authorities to the specific facts and arguments raised by the Appellant. To wit, the Order is silent on how Appellant failed to state facts sufficient to constitute a cause of action and does not elaborate on the merits or deficiencies of Appellant's argument. The Order does not address why Appellant was not entitled to a discovery date based upon the date on which the insurance claims were denied. The Order does not address specifically why equitable tolling should not have been applied in this case.

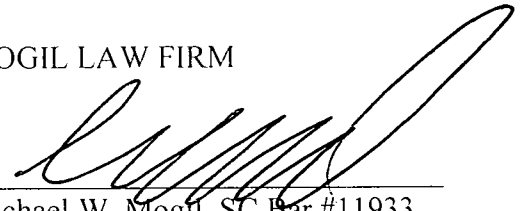
CONCLUSION

WHEREFORE, for the reasons set forth herein, the Appellant, Thaddeus F. Segars, seeks an Order granting rehearing.

Dated: March 19, 2014

Respectfully Submitted,

MOGIL LAW FIRM



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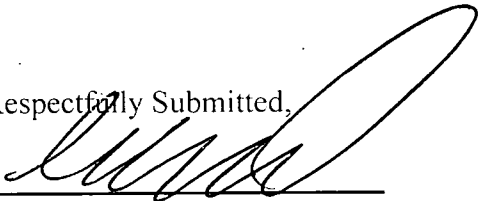
CERTIFICATE OF SERVICE

I, Michael W. Mogil, do hereby certify that on the March 19, 2014, I served a true and accurate copy of the Appellant's Petition for Rehearing the above matter, by depositing a copy of the same in the U.S. Mail, first class postage prepaid, and addressed to:

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

March 19, 2014

Respectfully Submitted,


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March 19, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Via U.P.S. Overnight

Re: Thaddeus Segars v. Fidelity National
Appellate Case No. 2012-212732

Dear Ms. Kitchings,

Enclosed for filing in the above-referenced matter, please find the original and seven (7) copies of Appellant's Petition for Rehearing, along with the original and once copy of a Certificate of Service. Also enclosed is a check for the \$25 filing fee. I am requesting that one of the enclosed copies of the Petition and the copy of the Certificate be time-stamped and returned to my office in the enclosed self-addressed envelope.

Thank you for your attention in this matter.

Very Truly Yours,

MOGIL LAW FIRM



Michael W. Mogil

Cc: Amy P. Hunt
Horack Talley
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Charlotte, NC 28202

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