

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Case No.: 2010-CP-40-8155  
Appellate Case No. 2014-000272

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JUL 23 2014

SC Court of Appeals

Howard Nankin and Nancy Nankin ..... Appellants,

v.

Donald M. Danford d/b/a Don Danford Interiors ..... Respondent.

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RESPONDENT'S REPLY TO APPELLANTS'  
RETURN TO MOTION TO DISMISS APPEAL

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Respondent calls the Court's attention to two principles underlying the Motion to Dismiss which Appellants would overlook.

First, Election of Remedies is a doctrine created to prohibit the recovery of damages more than once. A plaintiff is not entitled to double recovery for the same loss, no matter what name the claim is given. *Adams v. Grant*, 292 S.C. 581, 358 S.E.2d 142 (Ct. App. 1986). This case before this Court is only about the renovation of a single bathroom.

Second, the fact that Appellants have not yet collected on the judgment does not change the fact that they have and are pursuing recovery with all available means. In *Brown v. Felkel*, 320 S.C. 292, 465 S.E.2d 93 (Ct. App. 1995), our Court determined that the failure to collect on the alternative judgment

did not preclude the conclusion that plaintiff had elected his remedy and could not pursue the matter further.

We reassert those matters set forth in the Motion to Dismiss and ask this Court to focus on the purpose of the court created rule to make a claimant choose and not sit on the fence. These Appellants have made their choice.

Respectfully submitted.

  
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July 23, 2014

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PROOF OF SERVICE

I certify that I have served the **RESPONDENT'S REPLY TO APPELLANTS' RETURN TO MOTION TO DISMISS APPEAL** on Appellants by depositing a copy of the same in the United States Mail, postage prepaid, on July 23, 2014, addressed to their attorneys of record, Wesley D. Peel and Matthew H. Stabler, Bruner, Powell, Wall & Mullins, LLC, Post Office Box 61110, Columbia, South Carolina 29260.

  
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