

The State of South Carolina  
In the Supreme Court

Appellate Case No. 2013-000375

Appeal from Beaufort County Court Of Common Pleas  
The Honorable Marvin H. Dukes, III, Master-In-Equity

Civil Action No. 2008-CP-07-00517

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Opinion No. 4995 (S.C. Ct. App. filed June 27, 2012)

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Gregory M. Gottschlich and Donald L. McNeil,

Petitioners,

versus

Strimpfel Custom Homes, Inc., Joseph A. Reeve,  
Jerry L. Richardson, Coastal Surveying Co., Inc.,  
Thomas N. Dye, Jan H. Dye, Ken Oliver,  
The Byrne Corporation d/b/a Dunes Marketing Group,  
Laurich & Deeb, P.A., Robert M. Deeb, Jr. and Charles H. Wiseman,

Defendants,

of whom

Thomas N. Dye, Jan H. Dye, Ken Oliver,  
The Byrne Corporation d/b/a Dunes Marketing Group,  
Laurich & Deeb, P.A., Robert M. Deeb, Jr. and Charles H. Wiseman  
are the

Respondents.

**Reply Brief of Petitioners Gottschlich and McNeil**

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I. The Trial Court was in error to find a person of common understanding would have recognized a potential claim at the closing yet the realtor and legal professionals would not.

Much of the arguments by the Respondents are for an ultimate decision, not a decision on Summary Judgment. The point is not that there is evidence on both sides, the point is that there is a scintilla of evidence that a person of common understanding like Dr. Gottschlich and Dr. McNeil did not and should not have known of a potential claim at the time of the closing on the beach house they bought.

This is not the time to weigh the evidence and arguments presented. It doesn't matter if the realtors or the lawyers present evidence. At this point it is only appropriate to see if Dr. Gottschlich and Dr. McNeil present at least a scintilla of any evidence that a person of common knowledge and experience, in their place, would not be on notice that a right had been invaded. *Dillon County Sch. Dist. No. 2 v. Lewis Sheet Metal Works, Inc.*, 286 S.C. 207, 332 S.E.2d 555 (Ct. App.1985), cert. granted, 287 S.C. 234, 337 S.E.2d 697 (1985), cert. dismissed, 288 S.C. 468, 343 S.E.2d 613 (1986). *Snell v. Columbia Gun Exchange, Inc.*, 276 S.C. 301, 278 S.E.2d 333 (1981); *Graniteville Company, Inc. v. IH Services, Inc.*, 316 S.C. 146, 447 S.E.2d 226 (S.C. App. 1995).

The realtors and the closing lawyers say it is not their responsibility to tell if the house has a proper flood elevation. They are wrong and know better or should. They routinely participate in real estate closings. Lenders require

plats. In this very case, attorney Cary Griffin, counsel for the seller and the Byrnes Corp. d/b/a Dunes Realty sent a copy of the plat to Laurich and Deeb.

The legal requirements for plats that fall under the Floodplain Regulations for Hilton Head require that flood disclosure statements be on all plats and deeds in zones V and A. [www.hiltonheadIslandsc.gov](http://www.hiltonheadIslandsc.gov).

### Floodplain Regulations

All development and construction activity on Hilton Head Island must be permitted and must conform to the International Building Code and the Town's Municipal Code. Municipal Code sections which govern are the Land Management Ordinance, Title 16, Chapter 5 - Design and Performance Standards and Title 15, Building and Building Codes, Chapter 9 - Flood Damage Controls. The FEMA Flood Insurance Rate Map (FIRM) has been adopted as part of the code. It identifies four zones in which a range of flooding and flood damage can occur. A flood disclosure statement is required on all plats and in deeds within V and A zones. (emphasis added)

This house, located at 48 Sea Lane, is in Zone A and therefore a plat of this property must have a flood disclosure statement.

### Flood Hazard Zone Search Results

Address Number	Street Name	Unit	Tax Map	Parcel	FIRM Zone	FIRM Panel District
48	SEA LANE				A7(14)	450250 0014 D

Realtors and lawyers and other professionals in real estate transactions know the important and preclusive effect that plats have in real estate conveyances and these plats in Hilton Head must by law include a flood disclosure statement.

That is why attorney Cary Griffin sent it. That is why the realtor and the closing attorneys should have looked at it and protected their clients.

It is not the kind of information that the lay purchasers of the house can be expected to know is of critical importance. However, it is a legal mandatory disclosure and it is certainly the kind of information that the professionals who took fees from the doctors should understand and appreciate.

## II. The Court Of Appeals Was In Error To Apply The Two Issue Rule.

There is one issue and only one issue in this case. There is no two issue rule conundrum to deconstruct. The issue is not a puzzle assembled from a collection of doctrines and sub-doctrines. It is written in plain words in a clear statute. It sets out one issue.

**Section 15-3-535. Limitation on actions commenced under Section 15-3-530(5). Except as to actions initiated under Section 15-3-545, all actions initiated under Section 15-3-530(5) must be commenced within three years after the person knew or by the exercise of reasonable diligence should have known that he had a cause of action.**

## III. This is an appropriate case for the Supreme Court exercise its discretion and fully resolve the Motions for Summary Judgment.

This case was begun on Feb. 18, 2008. Summary Judgment was filed on Dec. 1, and Dec.4, 2009. The grounds are 1.) statute of limitations, 2.) no

evidence of any breach in the standard of care, and, 3.) damages are speculative.

There has been full discovery and expert testimony by the Plaintiffs and there is no requirement to weigh evidence, just see if the plaintiff has any. The case is old and needs to be resolved.

With respect, your Plaintiffs ask that this Court make that determination.

Respectfully submitted

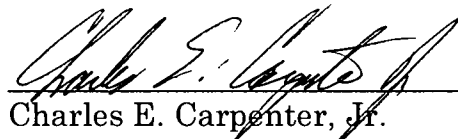


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October 13, 2014.

Certificate Of Compliance

The undersigned hereby certifies that this Brief complies with Rule 211(b), SCACR.



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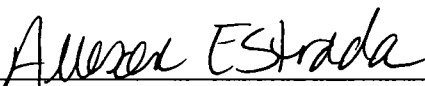
October 13, 2014.

CERTIFICATE OF SERVICE

I, the undersigned, an employee of CARPENTER APPEALS AND TRIAL SUPPORT, LLC for Appellants, Gregory M. Gottschlich and Donald L. McNeil, do hereby certify that I have this date served the foregoing, Reply Brief of Petitioners Gottschlich and McNeil, dated October 13, 2014, by causing same to be deposited in an United States Postal Service mailbox, postage prepaid, addressed to the parties indicated below:

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October 14, 2014.