

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

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Case No. 2014-CP-10-1827  
Appellate Case No. 2014-002079

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Coastal Federal Credit Union. . . . . Appellant

v.

Angel Latoria Brown . . . . . Respondent

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APPELLANT'S REPLY TO RESPONDENT'S INITIAL BRIEF

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Sarah Dalonzo-Baker  
KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.  
Post Office Box 19806  
Raleigh, NC 27619  
Telephone:(919) 848-9640  
Facsimile: (919) 848-4216  
Attorney for Appellant

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**SC Court of Appeals**

**TABLE OF CONTENTS**

Table of Authorities.....iii

Argument.....3

Proof of Service.....4

**TABLE OF AUTHORITIES**

**CASES**

Anthony v. Padmar, Inc., 307 S.C. 503, 415 S.E.2d 828 (Ct.App. 1992)..... 1

Briggs v. Richardson, 273 S.C. 376, 256 S.E.2d 544 (1979)..... 1

Brown v. County of Berkeley, 366 S.C. 354, 622 S.E.2d 533 (2005)..... 1

Garrett v. Snedigar, 293 S.C. 176, 359 S.E.2d 283 (Ct.App. 1987)..... 1

Hedgepath v. AT&T, 348 S.C. 340, 363 559 S.E.2d 327, 340 (Ct.App 2001) ..... 1

Morris v. Anderson County, 349 S.C. 607, 610, 564 S.E.2d 649, 651 (2002)..... 2

Olson v. Faculty House of Carolina, Inc., 354 S.C. 161, 580 S.E.2d (2003)..... 1

Pitts v. Jackson Nat’l Life Ins. Co., 352 S.C. 319, 338, 574 S.E.2d 502, 512  
(Ct.App. 2002)..... 2

Tanner v. Florence City-County Bldg Comm’n, 333 S.C. 549,  
511 S.E.2d 369 (Ct.App. 1999) ..... 1

## ARGUMENT

Respondent asserts in her Initial Brief that a denial of a motion for summary judgment is an interlocutory order and therefore not immediately appealable. The Defendant therefore argues that if this Court reverses the trial court's holding that Plaintiff's lawsuit against Defendant is time-barred, that it cannot then go on to make a determination on the merits as to Plaintiff's Motion For Summary Judgment on its substantive claim against Defendant but must remand for further action by the trial court regarding same. (Initial Brief for Respondent, pages 8- 9.) However, South Carolina appellate courts have expressly recognized an exception to that rule, holding that interlocutory orders which are typically not appealable become so when they are companions to issues that are immediately appealable. *See, e.g., Hedgepath v. AT&T*, 348 S.C. 340, 363 559 S.E.2d 327, 340 (Ct.App. 2001); *see also Briggs v. Richardson*, 273 S.C. 376, 256 S.E.2d 544 (1979); *Brown v. County of Berkeley*, 366 S.C. 354, 622 S.E.2d 533 (2005).

In support of her position, Respondent cites to the case of *Olson v. Faculty House of Carolina, Inc.*, 354 S.C. 161, 580 S.E.2d (2003), in which the South Carolina Supreme Court overruled three cases that touched on the issue of interlocutory appeals: *Tanner v. Florence City-County Bldg Comm'n*, 333 S.C. 549, 511 S.E.2d 369 (Ct. App. 1999), *Anthony v. Padmar, Inc.*, 307 S.C. 503, 415 S.E.2d 828 (Ct. App. 1992), and *Garrett v. Snedigar*, 293 S.C. 176, 359 S.E.2d 283 (Ct.App. 1987). However, *Hedgepath v. AT&T*, *Briggs v. Richardson*, and *Brown v. County of Berkeley* are all still good law. More importantly however, the South Carolina Supreme Court decided *Brown v. County of Berkeley* in 2005, which was two years after the *Olson* decision.

In *Brown*, the Court briefly addressed interlocutory orders and specifically stated that “[c]ourts have made a practice of accepting appeals of denials of interlocutory orders not ordinarily immediately appealable when these appeals are companion to issues that are reviewable. *Pitts v. Jackson Nat’l Life Ins. Co.*, 352 S.C. 319, 338, 574 S.E.2d 502, 512 (Ct.App. 2002) (citing *Morris v. Anderson County*, 349 S.C. 607, 610, 564 S.E.2d 649, 651 (2002).”

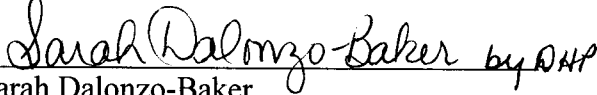
*Brown v. County of Berkley*, 366 S.C. at 362, n. 5, 622 S.E.2d at 538, n. 5.

In *Brown*, the Court then went on to examine whether there was a sufficient nexus between the issues before it to justify the Court’s review of the related interlocutory order. *Id.* Therefore, the South Carolina Supreme Court clearly indicated that allowing what would otherwise be interlocutory appeals when they are companions to immediately appealable issues is in fact within the appropriate purview of the appellate courts of South Carolina.

In the instant case, both parties filed Motions for Summary Judgment. Plaintiff’s Motion For Summary Judgment asserted that the applicable statute of limitations was 6 years as provided by relevant provisions of the South Carolina UCC, and asked for a money judgment against Defendant in the amounts set forth in its Complaint. Defendant’s Motion For Summary Judgment asserted that the applicable statute of limitation was 3 years and that Plaintiff was therefore time-barred in bringing its lawsuit against Defendant in any amount. The Hon. R. Markley Dennis, Jr. denied Plaintiff’s Motion for Summary Judgment and granted Defendant’s Motion for Summary Judgment on the statute of limitations issue. (SJ Order.) Both rulings are obviously intimately related and based on opposing arguments of the very same issues. Accordingly, per the decisions in *Hedgepath v. AT&T*, *Briggs v. Richardson*, and *Brown v. County of Berkeley*, Judge Markley’s denial of Plaintiff’s Motion for Summary Judgment is

appropriately before this Court for review in the event Judge Markley's decision on the applicable statute of limitations is reversed herein.

Respectfully submitted this the 29th day of January, 2015.

  
Sarah Dalonzo-Baker  
Kirschbaum, Nanney, Keenan & Griffin, P.A.  
Post Office Box 19806  
Raleigh, NC 27619  
Telephone: (919) 848-9640  
Facsimile: (919) 848-4216  
Attorney for Appellant

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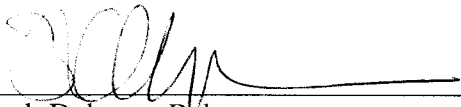
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PROOF OF SERVICE

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I certify that I have served Appellant's Reply to Respondent's Initial Brief on Angel Latoria Brown by depositing a copy of it in the United States Mail, postage prepaid, on January 29, 2015, addressed to her attorney of record, Matthew M. Billingsley, 2803 Carner Avenue, North Charleston, SC 29405.

January 29, 2015

  
\_\_\_\_\_  
Sarah Dalonzo-Baker  
Kirschbaum, Nanney, Keenan & Griffin, P.A.  
Post Office Box 19806  
Raleigh, NC 27619  
Telephone:(919) 848-9640  
Facsimile: (919) 848-4216  
Attorney for Appellant

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**KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.**

Attorneys At Law  
2418 Blue Ridge Road, Suite 200  
Raleigh, North Carolina 27607

SARAH DALONZO-BAKER  
CHARLES N. GRIFFIN III  
PAMELA P. KEENAN  
NINA G. KILBRIDE  
RONALD I. KIRSCHBAUM  
KRISTA F. NORSTOG LEONARD  
DAVID P. NANNEY, JR.

MAILING ADDRESS:  
  
POST OFFICE BOX 19766  
RALEIGH, NC 27619  
TELEPHONE: (919) 848-0420  
FACSIMILE: (919) 848-3619  
[sdalonzobaker@kirschlaw.com](mailto:sdalonzobaker@kirschlaw.com)

January 29, 2015

Ms. V. Claire Allen, Deputy Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: Coastal Federal Credit Union, Appellant v. Angel Latoria Brown, Respondent  
Case No. 2014-002079

Dear Ms. Allen:

Please find enclosed Appellant's Reply to Respondent's Initial Brief. Although dated January 12, 2015, we did not receive Respondent's Initial Brief in our offices until January 20, 2015 due to an apparent delay with the postal service. Based on our receipt date, I believe this Reply to be timely.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Respectfully,

KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.



Sarah Dalonzo-Baker

cc: Matthew M. Billingsley

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JAN 30 2015

**SC Court of Appeals**

From: (919) 848-1636  
Debbie Page  
Kirschbaum Nanney Keenan & Griffin  
2418 Blue Ridge Rd, Suite 200  
P. O. BOX 19806 (27619)  
RALEIGH, NC 27607

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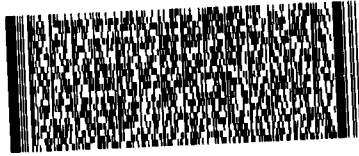
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