

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS**

EDGAR W. DICKSON , First Circuit

Case # 2009-CP-18-2200

Rene McMasters now known as Rene McMasters Ronaghan, Respondent,
v.
H. Wayne Charpia a/k/a Howard W. Charpia and Jody E. Charpia,
Appellants.

FINAL BRIEF

**“Motion to Reconsider” and “Motion to Vacate”
Appellant # 2013-002311**

Frank M. Cisa
858 Lowcountry Blvd.
Ste. 101
Mt. Pleasant, SC 29464

**Howard W. Charpia
Jody E. Charpia
1450 Jahnz Ave.
Summerville, SC 29485
843-873-0976**

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TABLE OF AUTHORITIES

- Home Port rentals , Inc. v. Roger Moore , 369 S.C 493 # 26182**
- The Linda McCompany, Inc. v James G. Shore SC Opinion # 26878**
- Linda LaRosa v. Debra Johnston , Court of Appeals South Carolina # 2735**
- Barnett v. Piedmont Shirt Corp , 230 S.C. 34 , 38, 94 S.E. 2d 1, 3**
- Cheraw & C.R. Co. v. Marshall , 40 S.C. 59 , 63**
- Hardee v. Lynch , 212 S.C. 6 , 46 SE 2d 179 (1948)**
- Garrison v. Owens , 258 S.C. 442 (1972)**
- Webster v. Clanton , 259 S.C. 387 , 391 (1972) Supreme Court**
- Moore v. Moore , 376 S.C. 467 , 657 S.E. 2d 743 (2008)**
- Cameron & Barkley Co. v. SC Procurement Panel , 317 S.C.**
- Dept. Social Services v. Holden , 319 S.C. 72, 78) (1995)**
- Ballenger v. SC Dep't of Health and Env'tl. Control , 331 S.C)**
- Tyron Federal Savings v. Phelps , 307 S.C. 361) (1992)**
- Rule 59 , SCRCF**

STATEMENT OF THE ISSUES

1. Judgment rendered August 5 , 2004 is extinguished and has lost its active energy.
1. Did the Court violate the Appellant's "due process" and the "due process clause" ?

STATEMENT OF THE CASE

The judgment rendered against Charpia Residentials LLC and Howard W. Charpia on August 5 , 2004 has lost its active energy , case # 2002-CP-18-932 , i.e ten years .

There is no judgment in this case # 2009-CP-18-2200 . The Defendants in this case are Howard W. Charpia and Jody E. Charpia .

This judgment falls within Section 15-39-30 , which is a statute of repose. A statute of repose is an absolute time limit beyond which liability no longer exists and is not tolled for any reason . *Id at 404 , 438 S.E. 2d at 243*

Execution is the only process to enforce a judgment . (Cheraw & C.R Co. V. Marshall , 40 S.C . 59, 63, 18 S.E. 247 , 249 (1893)

A Compulsory Order of Reference was signed by Judge Edgar Dickson On April 27 , 2010 referring this matter to the Master-In-Equity for the purposes of conducting a hearing , making findings of facts and conclusions of law and to render a final decree with direct appeal to the South Carolina Court of Appeals in accordance with Section 14-11-85 .

This hearing has *never* been held .

Once the Judge issues a ruling disposing of the case , his jurisdiction of the matter , except for the correction of merely clerical errors , ends .

(Barnett v. Piedmont Shirt Corp , 230 S.C. 34 , 38, 94 S.E. 2d 1, 3)

The Defendants were not properly notified of the hearings on July 30 , 2012 and January 9 , 2013.

FACTS

- 1. Judgment rendered on August 5, 2004 . (page 24 / record on appeal)**
- 2. Compulsory Order of Reference signed on April 27 , 2010 . (page 10,11)**
- 3. There has never been a hearing by the Master-in-Equity . (page 12)**
- 4. Improper notice for an Order of Foreclosure Sale on July 30 , 2012 (pages 5 , 6) (subject matter or grounds of argument)**
- 5. Defendant (Appellant) was not listed for hearing on roster for July 30 , 2012 . (pages 7 , 8 , 9)**

6. **Improper notice for hearing of January 9 , 2013 . (pages 1, 2, 3, 4)**
7. **Perjury by Clerk on January 9 , 2013 (page 14 lines 13-25) and (page 15 lines 1-19) Defendants never notified of hearing 1-9-13 .**
8. **January 9 , 2013 hearing was for a “foreclosure of a judgment lien”. (page 16 lines 20-24)**
9. ***Execution is the only process to enforce a judgment . (Cheraw & C.R Co. V. Marshall , 40 S.C . 59, 63, 18 S.E. 247 , 249 .***
10. **Case *never* heard by Master-in-Equity per AFFIRMED order by the Appellant Court . (pages 21 , 22 no. 1)**
11. **A “nulla bona” was issued on May 19 , 2010 . (page 23)**
12. **Judge Edgar Dickson was a Defendant in a civil action brought by the Appellant in 2012 , case # 2012-CP-18-2380 .**
13. **Motion to Disqualify Judge Dickson filed on October 12 , 2012 . (pages 25 , 26) *Motion never heard .***

CONCLUSION

This judgment rendered on August 5 , 2004 has lost its “active energy “ and is extinguished . A judgment lien is purely statutory , its duration as fixed by the legislature may not be prolonged by the Courts . (Garrison , 258 , S.C at 446-47 , 189 S.E. 2d at 33)

Judgment falls within Section 15-39-30 , a statute of repose . A statute of repose is an absolute time limit beyond which liability no longer exists and is not tolled for any reason . (Id at 404 , 438 S.E. 2d at 243)

South Carolina Courts will not permit a litigant to bypass the ten-year limitation on executions by styling an action as something other than an action to execute . (Garrison v. Owens , 258 S.C. 442,445, 189 SE 2d 31,32)

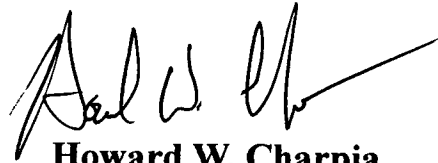
South Carolina Courts have consistently held that a judgment is utterly extinguished ten years from date of entry . (Hardee v. Lynch , 212 S.C 6 , 46 S.E. 2d 179 1948)

Appellant was not properly notified for the hearing on July 30 , 2012 . It is an error of law for the Court to decide a case on a ground not before it. (Griffin v. Capital Cash , 310 S.C. 288 , 294 , 423 S.E. 2d 143 , 147)

Procedural “due process” requires notice and the opportunity to be heard at a meaningful time and a meaningful manner . (Cameron & Barkley v SC Procurement Panel , 317 S.C)

If a Judge permits an ex parte attachment , i.e seizure of real estate without giving you notice of a hearing in a State Court proceeding , this is a deprivation of property without “ due process “ , violating the 5th and 14th Amendment.

WHEREFORE , the Appellants pray that they may be heard on this matter and pray that this Court void and /or reverse all Orders in case # 2009-CP-18-2200 . Said judgment has lost its “active energy “ and is extinguished .

A handwritten signature in black ink, appearing to read "Howard W. Charpia", with a long horizontal stroke extending to the right.

**Howard W. Charpia
Jody E. Charpia
1450 Jahnz Ave.
Summerville , SC 29485
843-873-0976
quarterback@sc.rr.com**

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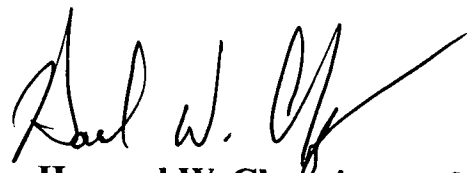
RENE McMASTERS (RONAGHAN).....Respondent

vs.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

CERTIFICATION

**I , Howard W. Charpia , hereby state that to the best of my knowledge ,
the FINAL BRIEF , complies with Rule 211 (b) .**



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Summerville , SC 29485**

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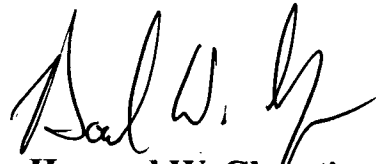
PROOF OF SERVICE

**I , Howard W. Charpia , hereby certify that I mailed the "FINAL BRIEF"
to:**

**Attorney Frank M. Cisa
858 Lowcountry Blvd. Suite 101
Mt. Pleasant , SC 29464**

**South Carolina Court of Appeals
1015 Sumter Street
Columbia , SC 29201**

Dated mailed 10-14 , 2014


**Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville , SC 29485**