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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Opinion No. 5342 (S.C. Ct. App. refiled December 16, 2015)

John Steven Goodwin, Louise C. Goodwin, Thomas I. Puckett and Brenda C. Puckett, Robert Nahama and Jeanne E. Nahama, Thomas Holland and Sharon Louise Holland, Joyce C. Sobel, Robert W. Waruszewski, Richard N. Taylor, Robert K. Spillers (a/k/a Robert Spillers), and Deborah T. Spillers (a/k/a Deborah Spillers), Patrick A. DiAngelo and Deborah A. DiAngelo, Gary E. Owens and Joyce M. Owens, Fount L. Shults and Lynda M. Shults, and Dennis Ridgeway and Teresa Lynn Ridgeway, .. Plaintiffs,

Of whom John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens are Respondents,

V.

Landquest Development, LLC, Kyle C. Corkum, South Bay Properties, LLC, C. R. Thompson and Sons, LLC, Ronald L. Charlton, Bonnie N. Charlton, James R. Charlton, and Bayside Property, Inc., The City of Georgetown, Hartford Casualty Insurance Company, Hartford Fire Insurance Company, and National Land Sales, Inc., f/k/a Source One Communities, LLC a/k/a Source One Signature Communities, Defendants,

Of whom Landquest Development, LLC, Kyle V. Corkum and South Bay Properties, LLC are Petitioners,

PETITION FOR A WRIT OF CERTIORARI

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CERTIFICATE OF COUNSEL

Counsel for Landquest Development, LLC, Kyle V. Corkum and South Bay Properties, LLC certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on December 16, 2015.

QUESTIONS PRESENTED

1. Did the Court of Appeals err in overlooking or failing to appreciate the important dates that were the basis for the circuit court's decision?
2. Did the Court of Appeals err in holding - in conflict with *Maxwell v. Genez*, 356 S.C. 617, 591 S.E. 2d 26 (2003) - that it is not necessary to comply with the statute of limitations when restoring a case that has been stricken?
3. Did the Court of Appeals err in creating multiple conflicting rules regarding the time limit for restoring cases that have been stricken?

STATEMENT OF THE CASE

This case was commenced July 9, 2009. The case was struck because of South Bay Properties, LLC's bankruptcy by Judge Hyman's order dated July 22, 2011. South Bay Properties, LLC's bankruptcy was dismissed August 12, 2011. Four of the Plaintiffs moved to restore this case and to consolidate this case with a separate case pending in circuit court by a motion filed January 22, 2013.

Judge Culbertson found and concluded that the motion to restore this case was not timely because the statute of limitations had expired. The claims alleged in the complaint arose more than three years before the motion to restore was filed and the running of the statute of limitations had not been stayed. Judge Culbertson denied the motion to restore.

The Court of Appeals reversed the denial of the motion to restore and remanded for further proceedings. *John Steven Goodwin, et al. v. Landquest Development, LLC et al.*, Opinion No 5342 (S.C. Ct. App. filed August 12, 2015; withdrawn, substituted and refiled December 16, 2015). Petitioners seek a writ of certiorari to review the Court of Appeals decision.

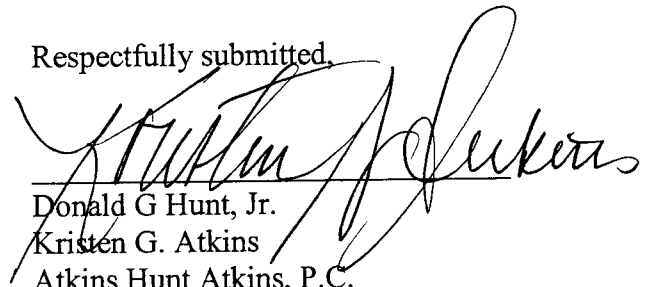
ARGUMENT

Prior to the filing of this petition, defendants Ronald L. Charlton, Bonnie N. Charlton, James R. Charlton and Bayside Property, Inc. (*collectively* “*Charlton Defendants*”) filed a petition for writ of certiorari presenting four (4) questions for review supported by arguments. For purposes of judicial economy, petitioners respectfully adopt and incorporate by reference sections 2, 3 and 4 of the argument section of the Charlton defendants’ petition appearing on pp. 5-9 of their petition.

CONCLUSION

For the reasons stated herein, Landquest Development, LLC, Kyle V. Corkum and South Bay Properties, LLC ask the Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,



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14 January 2015

THE STATE OF SOUTH CAROLINA
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SC Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2013-001644

John Steven Goodwin, et. al., Appellants,

v.

Landquest Development, LLC, et. al. Respondents.

PROOF OF SERVICE

I, Kristen G. Atkins, the undersigned *pro hac vice* attorney for the Petitioners Landquest Development, LLC, Kyle V. Corkum and South Bay Properties, LLC, do hereby certify that I have served upon the Respondents in the above referenced matter, by forwarding a copy of the same, via email and/or first class mail postage prepaid, unless otherwise stated below, to the following counsel listed below:

Documents:

PETITION FOR WRIT OF CERTIORARI AND APPENDIX

Counsel:

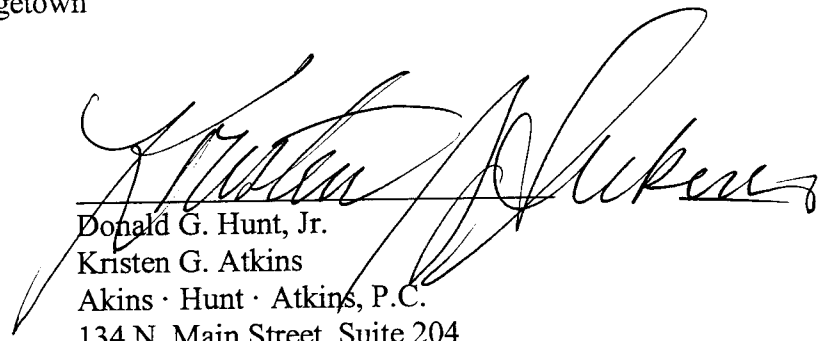
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14 January 2015



14 January 2015

VIA FED EX OVERNIGHT DELIVERY

South Carolina Court of Appeals
Clerk of Court
1220 Senate Street
Columbia, SC 29201

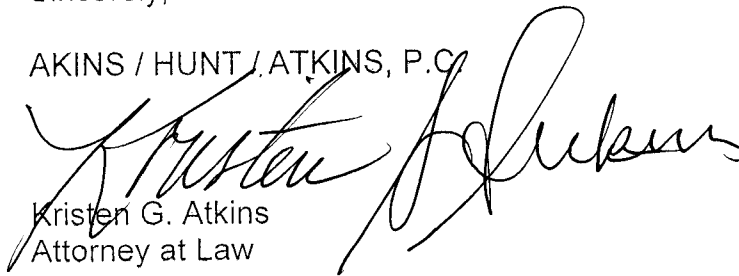
**Re: *Goodwin, et al. v. Landquest Development, LLC, et al.*
*Appellate Case No. 2013-001644***

Dear Clerk:

Please find enclosed the a copy of Petitioners' Landquest Development, LLC, Kyle V. Corkum and South Bay Properties, LLC's Petition for Writ of Certiorari and Proof of Service. Please file and return a file stamped copy to us in the self-addressed stamped envelope. If you need anything else, please let me know. With every good wish, I remain

Sincerely,

AKINS / HUNT / ATKINS, P.C.


Kristen G. Atkins
Attorney at Law

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SC Court of Appeals

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