

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 Corkum, South Bay Properties, LLC, Ronald L. Charlton, Bonnie N. Charlton, James R. Charlton and Bayside Property, Inc., are Petitioners,

PETITION FOR A WRIT OF CERTIORARI

Donald G Hunt, Jr.
Kristen G. Atkins
Atkins Hunt Atkins, P.C.
Post Office Box 266
Fuquay-Varina, NC 27526
(919) 552-2020

Pro Hac Vice Attorneys for Landquest Development, LLC,
Kyle V. Corkum and South Bay Properties, LLC

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Donald G Hunt, Jr.
Kristen G. Atkins
Atkins Hunt Atkins, P.C.
Post Office Box 266
Fuquay-Varina, NC 27526
(919) 552-2020

Pro Hac Vice Attorneys for Landquest Development, LLC,
Kyle V. Corkum and South Bay Properties, LLC

Other Counsel of Record:

K. Douglas Thornton
Thornton Law Firm, LLC
1025 Third Avenue
Conway, SC 29526
(843) 488-5858

and

John M. Leiter
Law Offices of John M. Leiter, PA
1203 48th Avenue North, Suite 109
Myrtle Beach, SC 29577
(843) 449-1451
Attorneys for Respondents

Charles T. Smith
608 Cypress Street
Georgetown, South Carolina 29440
(843) 545-6578
Attorney for Ronald L. Charlton, Bonnie N. Charlton,
James R. Charlton and Bayside Property, Inc.

Andrew F. Lindemann
Davison, Morrison & Lindemann, PA
Post Office Box 8568
Columbia, SC 29202-8568
(803) 806-8222

and

Elise F. Crosby
Crosby Law Firm, LLC
405 Dozier Street
Georgetown, SC 29440
(843) 543-3103
Attorneys for The City of Georgetown

James Lynn Werner
Lawrence M. Hershon
Parker, Poe, Adams & Bernstein, LLP
Post Office Box 1509
Columbia, SC 29202
(803) 255-8000
Attorneys for Hartford Casualty Insurance Company
and Hartford Fire Insurance Company

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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.

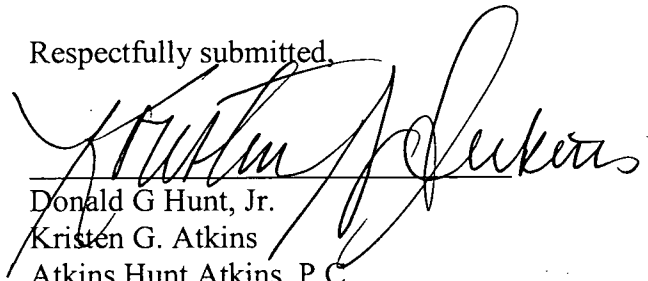
ARGUMENT

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,



Donald G Hunt, Jr.

Kristen G. Atkins

Atkins Hunt Atkins, P.C.

Post Office Box 266

Fuquay-Varina, NC 27526

(919) 552-2020

Pro Hac Vice Attorneys for Landquest
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PROOF OF SERVICE

Donald G Hunt, Jr.
Kristen G. Atkins
Atkins Hunt Atkins, P.C.
Post Office Box 266
Fuquay-Varina, NC 27526
(919) 552-2020

Pro Hac Vice Attorneys for Landquest Development, LLC,
Kyle V. Corkum and South Bay Properties, LLC

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:

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Counsel:

K. Douglas Thornton
Thornton Law Firm, LLC
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Conway, SC 29526
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and

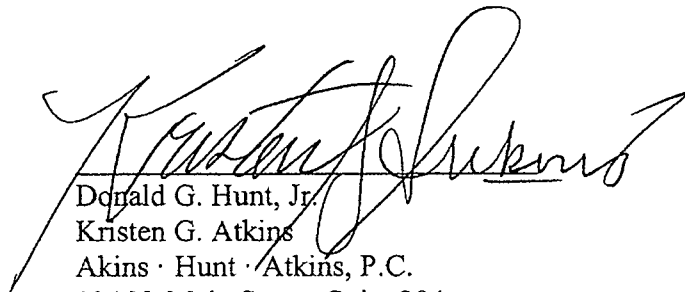
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Columbia, SC 29202
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Attorneys for Hartford Casualty Insurance Company
and Hartford Fire Insurance Company



Donald G. Hunt, Jr.
Kristen G. Atkins
Akins · Hunt · Atkins, P.C.
134 N. Main Street, Suite 204
Post Office Box 266
Fuquay-Varina, NC 27526
Telephone: (919) 552-2020
Facsimile: (919) 552-3221

Pro Hac Vice Counsel for Respondents Landquest
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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:

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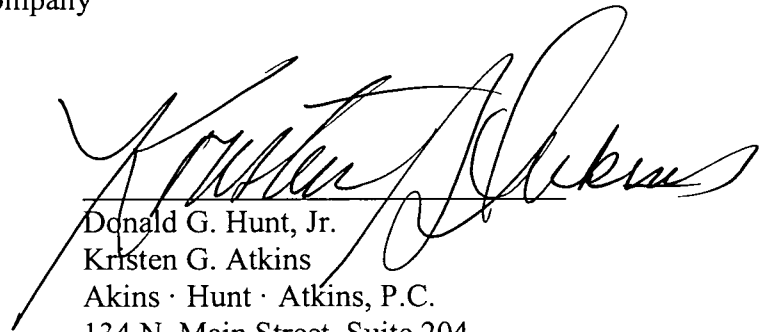
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Attorneys for The City of Georgetown

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Parker, Poe, Adams & Bernstein, LLP
Post Office Box 1509
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(803) 255-8000
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Akins · Hunt · Atkins, P.C.
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Facsimile: (919) 552-3221

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