

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas  
S. Jackson Kimball, Circuit Court Judge

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RECEIVED

MAY 17 2017

C.A. Nos: 2013-CP-46-00438; 2013-CP-46-00440  
Appellate Case No. 2016-001272

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SC Court of Appeals  
83451

Robert Clay Sparrow and Mickey Crowe .....Respondents,

v.

Fort Mill Holdings, LLC, David Baucom and Maurer  
Holdings, LLC .....Appellants.

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**MOTION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF**

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Pursuant to Rule 213, of the South Carolina Appellate Court Rules, Brian McCoy (“McCoy”) respectfully moves this Court for leave to file an *amicus curiae* brief on the issue of whether a North Carolina statute prohibiting deficiency judgments with purchase money mortgages should apply in this case – Arguments II, III, and IV in the Final Brief of Appellants. McCoy represented Appellants in the foreclosure proceeding, including at the mediation that resulted in the settlement agreement at issue.

McCoy is interested in the outcome of this appeal because Appellants recently retained counsel and have threatened to pursue a legal malpractice action against McCoy. Throughout

their briefs, Appellants argue the settlement agreement at issue is void because of McCoy's legal advice regarding the North Carolina anti-deficiency statute. When the Court adjudicates the issues in this appeal, McCoy may become bound by those decisions. See Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517, 534, 787 S.E.2d 485, 494 (2016) ("Consequently, until the appeal is resolved against the client, there is no legally cognizable cause of action for an attorney's alleged malpractice. Upon resolution of the appeal, a cause of action for legal malpractice accrues triggering the statute of limitations."); Carolina Renewal, Inc. v. S.C. Dep't of Transp., 385 S.C. 550, 555, 684 S.E.2d 779, 782 (Ct. App. 2009) (applying collateral estoppel to preclude re-litigating an issue even if the person was not a party, or in privity with a party, to the initial action); see also S.C. Code Ann. § 15-3-530(5) (2005) (stating the statute of limitations for "an action for assault, battery, or any injury to the person or rights of another, not arising on contract and not enumerated by law" is three years).

Accordingly, McCoy has a keen interest in the outcome of this appeal. For these reasons, McCoy respectfully requests leave to file an *amicus curiae* brief with this Court addressing the issues raised by Appellants regarding the North Carolina anti-deficiency statute.

[SIGNATURE PAGE FOLLOWS]

Respectfully Submitted,

COLLINS & LACY, P.C.

By:



JOEL W. COLLINS

[jcollins@collinsandlacy.com](mailto:jcollins@collinsandlacy.com)

KAREN C. RATIGAN

[kratigan@collinsandlacy.com](mailto:kratigan@collinsandlacy.com)

1330 Lady Street, Sixth Floor (29201)

Post Office Box 12487

Columbia, South Carolina 29211

(803) 256-2660 (voice)

(803) 771-4484 (facsimile)

ATTORNEYS FOR BRIAN McCOY

**MOTION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF**

Columbia, South Carolina  
May 17, 2017

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**PROOF OF SERVICE**

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I hereby certify that I served the **Motion for Leave to File Amicus Curiae Brief** upon all parties by placing a copy in the United States mail, postage prepaid, to the below listed parties on May 17, 2017, addressed to the following:

Paul S. Landis, Esquire  
Fayssoux & Landis, P.A.  
209 E. Washington Street  
Greenville, SC 29601

James M. Griffin, Esquire  
Margaret N. Fox, Esquire  
Griffin Davis, LLC  
1116 Blanding Street (29201)  
Post Office Box 999  
Columbia, SC 29202

[SIGNATURE PAGE FOLLOWS]

Respectfully Submitted,

COLLINS & LACY, P.C.

By:   
JOEL W. COLLINS  
[jcollins@collinsandlacy.com](mailto:jcollins@collinsandlacy.com)  
KAREN C. RATIGAN  
[kratigan@collinsandlacy.com](mailto:kratigan@collinsandlacy.com)  
1330 Lady Street, Sixth Floor (29201)  
Post Office Box 12487  
Columbia, South Carolina 29211  
(803) 256-2660 (voice)  
(803) 771-4484 (facsimile)

ATTORNEYS FOR BRIAN McCOY

**PROOF OF SERVICE- MOTION  
FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF**

Columbia, South Carolina  
May 17, 2017



Karen C. Ratigan | D: 803.255.0461 | E: kratigan@collinsandlacy.com

May 17, 2017

**VIA HAND DELIVERY**

The Honorable Jenny A. Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

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MAY 17 2017

SC Court of Appeals

**Re: *David Baucom, Fort Mill Holdings, LLC and Maurer Holdings, LLC adv. McCoy Law Firm and Brian McCoy, Esquire***  
***Claim No. 33799***  
***Appellate File No. 2016-001272***  
***C&L File No. 001326-00139***

Dear Ms. Kitchings:

Please find enclosed the original unbound Motion for Leave to File an Amicus Curiae Brief and original unbound Amicus Curiae Brief in connection with the above referenced matter. Also enclosed are seven (7) copies of the Motion, our firm's check in the amount of \$25.00, representing the motion filing fee and sixteen (16) bound copies of the Amicus Curia Brief. Please file the originals and return a clocked copy of each to our courier.

By copy of this correspondence and enclosure, we are serving counsel of record.

Respectfully,

A handwritten signature in black ink that reads 'Karen C. Ratigan'.

Karen C. Ratigan

KCR/mmm

Enclosures

cc: Paul S. Landis, Esquire  
James M. Griffin, Esquire  
Margaret N. Fox, Esquire