23002

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge Tanya A. Gee, Circuit Court Judge

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Case No: 2013-CP-40-05675

Willie J. Riley,..... Appellant,

v.

Dennis Wayne Catoe,..... Respondent.

RECORD ON APPEAL

Willie J. Riley
84 Wild Indigo Ct.
Columbia, SC 29229
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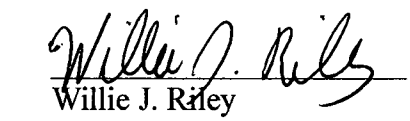
The undersigned hereby certifies that the Record On Appeal contains all material proposed to be included by any of the parties and not any other material.

May 16, 2016

Respectfully submitted,



Willie J. Riley
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CIVIL ACTION NO.: 2013-CP-40-05675
COUNTY OF RICHLAND	)	
Willie J. Riley,	)	
Plaintiff,	)	
vs.	)	**ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT DENNIS WAYNE CATOE**
Dennis Wayne Catoe and Does,	)	
Defendants.	)	

I. INTRODUCTION

This is a legal malpractice action. This matter came before the Court on March 2, 2015, for a hearing on the Defendant Dennis Wayne Catoe, Esquire's, [hereinafter "Catoe" or "Defendant"], Motion for Summary Judgment, as filed in the Court record with supporting Exhibits on December 3, 2014. Defendant Catoe's Motion for Summary Judgment is based on the grounds that the current action was not properly commenced by Plaintiff prior to the expiration of the applicable three (3) year statute of limitations as a matter of law. S.C. Code Ann. §§ 15-3-530 and 15-3-535 (Supp. 2013); Epstein v. Brown, 363 S.C. 372, 610 S.E.2d 816, 818 (2005); Kelly v. Jolley, 386 S.C. 626, 682 S.E.2d 1, 5 (Ct. App. 2009).

Present at the hearing and advancing arguments before the Court were counsel for the Defendant Catoe, Leslie A. Cotter, Jr., Esquire, ["Cotter"], and Pro-se Plaintiff Willie J. Riley, [hereinafter "Riley" or "Plaintiff"]. During the hearing, Mr. Cotter argued Defendant Catoe's Motion for Summary Judgment under Rule 56(c), S.C.R.Civ.P., and cited and referenced the legal authorities and the attached, filed Exhibits 1 and 2 contained in Defendant Catoe's Motion. Mr. Riley responded and stated his oral arguments in opposition to the Defendant's dispositive motion and handed up to the Court at copy of a letter dated June 5, 2013, written by Mr. Catoe to

Mr. Riley, which the Court marked as [Plaintiff's] Exhibit 1.

As the record, even when construed in a light most favorable to the Plaintiff as the non-moving party, contains no genuine issue as to any material fact, Defendant Catoe is entitled to a granting of summary judgment in his favor as the claims of the Plaintiff are barred and have not been properly commenced against Defendant Catoe prior to the expiration of the applicable statute of limitations. Summary Judgment shall be granted to the Defendant Catoe based on the reasons stated herein.

II. BACKGROUND

By way of background, the Plaintiff's original Complaint, [which was defective as a matter of law and did not contain an expert affidavit as mandated under S.C. Code Ann. § 15-36-100 (Supp. 2013)], was filed on September 17, 2013; but, the original Complaint was dismissed by the Court's Order as filed February 18, 2014. Thereafter, Plaintiff filed an Amended Complaint on March 4, 2014,[1] in which Mr. Riley, in essence, re-asserted the allegations contained in the original Complaint that Defendant Catoe engaged in professional negligence and legal malpractice with respect to the representation of Mr. Riley in a July 29, 2008, real estate closing transaction involving the purchase of a foreclosure property for the sum of $3,800.00 by Mr. Riley [in which Defendant Catoe was retained as the closing attorney concerning this real estate transaction involving the sale of a parcel of land located at 2181 Whittaker Parkway, Orangeburg, South Carolina 29115 (the "Subject Property")]. See, Amended Complaint, ¶¶ 4-5. In the Amended Complaint, Riley alleges that Defendant Catoe negligently failed to adequately ensure and protect Plaintiff's interests in this real estate closing transaction resulting in a defective title to the Subject Property purchased by Plaintiff and various alleged damages to

[1] Plaintiff's Amended Complaint contained an expert affidavit filed in accordance with S.C. Code Ann. §15-36-100.

Plaintiff. See, Amended Complaint (unnumbered) pp. 2-7, ¶ 4-5, 14, 15-31.

In response to Plaintiff's Amended Complaint, Defendant Catoe timely filed a Verified Answer to the Amended Complaint, with attached Exhibits, ["Answer"], on March 19, 2014. In Defendant Catoe's Answer, Mr. Catoe generally denied the material allegations of the Amended Complaint, denied that he had engaged in any actionable conduct, denied that he had any liability to the Plaintiff, and asserted various affirmative defenses. Among other affirmative defenses, Defendant Catoe asserted that Plaintiff's claims were barred by the applicable statute of limitations. S.C. Code Ann. §§ 15-3-530 and 15-3-535 (Supp. 2013). [Three year statute of limitations for legal malpractice lawsuits].

Under the Discovery Rule, the statute of limitations for legal malpractice lawsuits begins to run from the date the injured party either knows or should know, by the exercise of reasonable diligence, that a cause of action exists for wrongful conduct. Epstein, 610 S.E.2d at 818; See Dean v. Ruscon Corp., 321 S.C. 360, 468 S.E.2d 645 (1996); S.C. Code Ann. § 15-3-535. See also Berry v. McLeod, 328 S.C. 435, 492 S.E.2d 794 (Ct. App. 1997). The exercise of reasonable diligence means simply that an injured party must act with some promptness where the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party **might** exist. **The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery developed.** Id. (emphasis applied). Under § 15-3-535, the statute of limitations is triggered not merely by knowledge of an injury but by knowledge of facts, diligently acquired, sufficient to put an injured person on notice of the existence of a cause of action against another. Epstein, 610 S.E.2d at 818; True v. Monteith, 327 S.C. 116, 120, 489 S.E.2d 615, 617 (1997).

As referenced hereinbelow, and as the record contains no genuine issue as to any material fact, Defendant Catoe is entitled to a granting of summary judgment in his favor as the purported claims of Plaintiff are barred and have not been properly commenced against this Defendant prior to the expiration of the applicable statute of limitations. Rule 56(c), S.C.R.Civ.P.

III. SUMMARY JUDGMENT STANDARD

The purpose of a summary judgment is to expedite disposition of cases which do not require the services of a fact finder. George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). The grant of summary judgment is proper when it is clear no genuine issue of material fact exists and that the moving part is entitled to a judgment as a matter of law. George v. Empire Fire & Marine Inc. Co., 344 S.C. 582, 545 S.E.2d 500 (2001); Café Assocs., Ltd. v. Gerngross, 305 S.C. 6, 406 S.E.2d 162 (1991). "A court considering summary judgement neither makes factual determinations nor considers the merits of competing testimony; however, summary judgment is completely appropriate when a properly supported motions sets forth facts that remain undisputed or are contested in a deficient manner." David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006).

"Summary judgment is appropriate when a plaintiff does not commence an action within the applicable statute of limitations." McMaster v. Dewitt, 411 S.C. 138, 148, 767 S.E.2d 451, 456 (Ct. App. 2014) (citing Kreutner v. David, 320 S.C. 283, 286-287, 465 S.E.2d 88, 90 (1995) (affirming "the grant[ing] of summary judgment because the statute of limitations has expired.")).

In ruling on a motion for summary judgment, the court must view the evidence and the inferences which can be drawn therefrom in the light most favorable to the non-moving party. Café Assocs., 406 S.E.2d at 164. "However, it is not sufficient for a party to create an influence

that is not reasonable or an issue of fact that is not genuine." Town of Hollywood v. Floyd, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013). As stated by our Supreme Court:

> [T]he plain language of Rule 56 mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to [that] party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be 'no genuine issue as to any material fact,' since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. The moving party is 'entitled to a judgment as a matter of law' because the non-moving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof.

Baughman v. American Tel. & Tel. Co., 306 S.C. 101, 116, 410 S.E.2d 537, 545-46 (1991) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)).

Further, under Rule 56(e), S.C.R.Civ.P.:

> When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

Viewing the record in this fashion based upon the appropriate standard of review, and construing the record in the light most favorable to Plaintiff, as a non-moving party, I find and conclude that there is no genuine issue of material fact with respect to Defendant Catoe's entitlement to summary judgment as a matter of law for the reasons herein stated.

IV. LAW / ANALYSIS

A. *Under the Discovery Rule "very little is required to start the statute of limitations clock."*

South Carolina Code Ann. §15-3-530 (Supp. 2013) provides a three year statute of limitations for legal malpractice lawsuits. Epstein, 610 S.E.2d at 818; Kelly, 682 S.E.2d at 5.

Under the Discovery Rule, the statute of limitations **begins to run from the date the injured party either knows or should know, by the exercise of reasonable diligence, that a cause of action exists for the wrongful conduct.** Id.; see also, Dean, 468 S.E.2d 645 (1996); S.C.Code Ann. § 15-3- 535; and Berry, at 445, 492 S.E.2d at 800.

The exercise of reasonable diligence means simply that an injured party must act with some promptness where the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party **might** exist. **The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery developed.** Epstein, 610 S.E.2d at 818 (emphasis in original). Under § 15-3-535, the statute of limitations is triggered not merely by knowledge of an injury but by knowledge of facts, diligently acquired, sufficient to put an injured person **on notice** of the existence of a cause of action against another. Id.; Kelly, 682 S.E.2d at 5; True, 489 S.E.2d at 617 (emphasis added).

Specifically, the Discovery Rule focuses upon whether the complaining party acquired knowledge **of any facts** "sufficient to put said party on inquiry, which, if developed, will disclose" the alleged conduct. Walter J. Kline, Co. v. Kneece, 239 S.C. 478, 483, 123 S.E.2d 870, 874 (1962) (emphasis added) (quoting Tucker v. Weathersbee, 98 S.C. 402, 82 S.E. 638 (1914)). Therefore, the application of the Discovery Rule is in large measure a function of determining what facts and circumstances were known or discoverable by the plaintiff and when they were known or discoverable.

In Burgess v. American Cancer Soc'y, 300 S.C. 182, 386 S.E.2d 798 (Ct. App. 1989), Burgess, suing her former attorney for legal malpractice, contended that although the plaintiff claimed she was aware that a Cancer Society employee, Oullah, was having an affair with her

former attorney, McLeod, she was unaware that Oullah was passing information she had learned from McLeod about Burgess's claim to managerial level personnel at the Cancer Society office. The trial court and the Court of Appeals held "as a matter of law, that Burgess's knowledge of the alleged affair between McLeod, her attorney, and Oullah, then Executive Secretary of ACS, constituted such knowledge of existing facts which were sufficient to put Burgess on inquiry and had she pursued such inquiry, it would have disclosed alleged communications between McLeod and Oullah." Id. at pp. 800-801. Hence, in order for the statute to commence to run it is not necessary that a plaintiff need acquire precise information of the attorney's incorrect or negligent conduct but merely acquire "such facts as would have led to the knowledge thereof, if pursued with reasonable diligence." Id. at p. 800. Because Burgess was aware of the affair, the appellate court held that she was on notice to inquire further and, inasmuch as she was on notice, the statute had commenced to run. Burgess illustrates how little information the Plaintiff must possess to cause the statute of limitations to commence to run in South Carolina. As the Fourth Circuit Court of Appeals observed, South Carolina's statute of limitations requires "very little to start the clock." Roe v. Doe, 28 F.3d 404, 407 (4th Cir. 1994) (applying South Carolina law cited with approval in Maher v. Tietex Corp., 331 S.C. 371, 379, 500 S.E.2d 204, 212 (Ct. App. 1998)).

B. ***Date of discovery is an objective test and one for the Court.***

Moreover, the date on which discovery should have been made is an objective, not subjective, question. Kreutner v. David, 320 S.C. 283, 465 S.E.2d 88 (1995); Kelly, 682 S.E.2d at 5; Burgess, 386 S.E.2d at 800. Therefore, such a determination is properly one for the court, not a jury. The Discovery Rule focuses upon whether the plaintiff acquired knowledge of any facts sufficient to put him on inquiry, which if developed, would have disclosed the alleged wrongdoing. Burgess, 386 S.E.2d at 800; Berry, 492 S.E.2d 794. The fact that the injured party

may not comprehend the full extent of the damage is immaterial, where the injured party has notice that a claim against another party might exist. Dean, 468 S.E.2d 645.

As the Court of Appeals stated, "whether the particular plaintiff actually knew he had a claim is not the test. Rather, **courts must decide** whether the circumstances of the case would put a person of common knowledge and experience **on notice** that **some right** of his has been invaded, or that **some claim** against another party **might exist**." Bayle v. South Carolina Dept. of Transp., 344 S.C. 115, 123, 542 S.E.2d 736, 740 (Ct. App. 2001), (quoting Young v. South Carolina Dept. of Corrections, 333 S.C. 714, 719, 511 S.E.2d 413, 416 (Ct. App. 1999) (emphasis added)). Moreover, the date of discovery is not dependent on when the plaintiff discovers a witness to support or prove his case. Johnston v. Bowen, 313 S.C. 61, 437 S.E.2d 45 (1993).

Furthermore, "[t]he statute [of limitations] is not delayed until the injured party seeks advice of counsel or develops a full-blown theory of recovery; instead, reasonable diligence requires a plaintiff to 'act with some promptness.'" Kelly, 682 S.E.2d at 5-6; Maher, 500 S.E.2d at 207 (internal citations omitted).

C. ***Undisputed facts and circumstances in the Court Record which placed Plaintiff on Inquiry Notice of a Potential Claim and Application of Law to Undisputed Facts in the Record.***

It is clear that the three (3) year statute of limitations is a bar to the legal malpractice claims asserted by Plaintiff against Defendant Catoe in this action. Even under the Discovery Rule, as referenced in the statutes and cases cited herein, when applied to the undisputed record facts in this case, Mr. Riley was aware of the problem with his title to and ownership of the Subject Property, for which the real estate closing transaction occurred on July 29, 2008, **no later than early June 2009, when Mr. Riley sought and received the advice of an independent attorney, William E. Booth, III, Esquire, [hereinafter "Booth"]. Moreover, Mr. Riley's**

attorney representing him in June of 2009, Mr. Booth, wrote a letter dated June 3, 2009, to Mr. Catoe. This June 3, 2009, letter, which is attached as **Exhibit 1 to Defendant Catoe's Motion for Summary Judgment**, contains the following statements by Mr. Booth regarding the Subject Property:

> I am looking at a HUD-1 Settlement Statement dated July 29, 2009, for the purchase by Willie Riley of certain property in Orangeburg County [the Subject Property] from Aurora Loan Services, LLC [the Seller of the Subject Property to Mr. Riley].
>
> ...
>
> Based on discussions with Mr. Riley and my review of the deeds, I do not believe Aurora [the Seller] had good title for the property [the Subject Property] described in the deed.
>
> ...
>
> I believe the examination of the title should show that Aurora Loan Services [the Seller] did not have good title to this property [the Subject Property].

Thus, it is undisputed in the record before the Court that at least by June 3, 2009, Plaintiff Riley, [who is listed as receiving a carbon copy of this letter from Mr. Booth], and Mr. Riley's then attorney, Mr. Booth, knew that legitimate problems, disputes, and issues were presented concerning and involving errors in Mr. Riley's deed and title and in the examination of title and the real estate closing by Defendant Catoe involving the Subject Property and a potential legal malpractice claim against the closing attorney, Defendant Catoe, existed at that time.

Consequently, at a minimum, the three (3) year statute of limitations period began to run at least by June 3, 2009, which would require that any legal malpractice action be commenced within three (3) years of that date, or by on or about June 2, 2012, against Defendant Catoe. As referenced above, the original Complaint was not filed until September 17, 2013, more than three years later; and, the original Complaint was dismissed by the Court's Order as filed February 18, 2014. Further, the Amended Complaint was not filed until March 4, 2014, which was also more than three (3) years later than the above referenced June 3, 2009, letter from Mr. Booth to Mr. Catoe. Thus, the three (3) year statute of limitations has run on and bars Plaintiff's claims

against Defendant Catoe as a matter of law.

Additional grounds on which the Defendant Catoe's Motion for Summary Judgment are based include Requests for Admission submitted on behalf of the Defendant Catoe, pursuant to Rule 36, S.C.R.Civ.P., which were served on Plaintiff Riley on October 9, 2014, and which Plaintiff Riley provided neither any written answer nor objection to these Requests for Admission, all of which is referenced in an Affidavit of Mr. Cotter that was attached and filed on December 3, 2014, as **Exhibit 2 to the Defendant Catoe's Motion for Summary Judgment.**

Mr. Cotter's Affidavit [**Exhibit 2**] states that, as defense counsel of record for Defendant Catoe, he served Plaintiff Riley with Requests for Admission on behalf of Defendant Catoe [attached as **Exhibit A to Mr. Cotter's Affidavit**] by both email, [at the email address which Mr. Riley had previously communicated], and by U.S. Mail, [at the U.S. Mail address which Mr. Riley provided to the Court and which was previously utilized to serve Mr. Riley with other documents in this matter], on October 9, 2014. Affidavit of Cotter, ¶¶ 3 and 4. Mr. Cotter's Affidavit further states that: (a) "more than thirty (30) days after the service of these Requests for Admission has now elapsed" [in particular, more than fifty (50) days after service of these Requests for Admission has now elapsed] as of the December 3, 2014, date of Mr. Cotter's Affidavit, and, (b) Mr. Riley "has neither provided any written answer nor objection addressed to these matters contained in these Requests for Admission (**Exhibit A**) to date (as of December 3, 2014);" and, that [thus], "pursuant to Rule 36(a) and (b), S.C.R.Civ.P., and upon present information and belief, the matters contained in these Requests for Admission, [attached as **Exhibit A to Mr. Cotter's Affidavit**], are, and should be, all deemed admitted." Affidavit of Cotter, ¶¶ 5 and 6.

At the March 2, 2015, hearing before the Court, Plaintiff contended that he "did not

receive Defendant Catoe's Requests for Admission" and that he called and emailed Mr. Cotter [without indicating the date(s) of such] to advise Mr. Cotter that he did not receive the Requests for Admission of Defendant Catoe. Plaintiff provided no affidavit or evidence to support these contentions. Mr. Cotter responded and advised that Mr. Riley's verbal statement at the March 2, 2015, hearing, was the first time that he had heard such a contention. Mr. Cotter further advised that, since serving Defendant Catoe's Requests for Admission on October 9, 2014, and since also serving these Requests for Admission as an attachment (**Exhibit A**) to his December 3, 2014, Affidavit [**Exhibit 2 to Defendant Catoe's Motion for Summary Judgment**, (which, as contained on the Certificate of Service, were served on Mr. Riley on December 3, 2014, by email and by U.S. Mail to the same, respective, email and U.S. Mail address for Mr. Riley)], and up to the time of the March 2, 2015, hearing, he was not aware of any such contention by Mr. Riley or any call or email to him from Mr. Riley in regard to Mr. Riley allegedly "not receiving" these Requests for Admission on behalf of Defendant Catoe.

Therefore, on this record, even construed in the light most favorable to the Plaintiff as the non-moving party, I find and conclude that these Requests for Admission on behalf of Defendant Catoe are, and shall be, deemed admitted by operation of Rule 36, S.C.R.Civ.P.

Accordingly, there are a few additional grounds and undisputed facts in the instant record contained within these Requests for Admission which exist to further establish that the three (3) year statute of limitations has run on Plaintiff's claims against Defendant Catoe. For example, Request for Admission Nos. 7, 8 and 9 reference the same subject matters in the above referenced and discussed June 3, 2009, letter from Mr. Riley's then attorney, Mr. Booth, concerning Plaintiff's knowledge of the error or problem with Mr. Riley's deed and title to, and ownership of, the Subject Property. In addition, Request for Admission No. 11 contains a

reference to an August 4, 2009, letter from Mr. Riley's then attorney, Mr. Booth, to Kenneth W. Ebner, Esquire, [hereinafter "Ebner"], on which Mr. Riley is listed as receiving a copy (and on which Mr. Catoe is also listed as receiving a copy), that was attached as **Exhibit 3 to Request for Admission No. 11, subpart (a)**. In this August 4, 2009, letter to (**Exhibit 3**) Mr. Ebner, Mr. Booth states in the first paragraph:

> I am in the process of trying to fix some title problems that have been discovered in regards to the above referenced property [property within the historical chain of title to or involving the Subject Property]. I understand that you were the closing attorney for Mrs. Felder [who was a Purchaser of or involved with property in the historical chain of title to or involving the Subject Property].

Therefore, in the alternative, even if the above referenced and discussed June 3, 2009, letter from Mr. Booth to Mr. Catoe would not be the starting date for the running of the applicable three (3) year statute of limitations, I find and conclude this August 4, 2009, letter from Mr. Riley's then attorney, Mr. Booth, to Mr. Ebner, (**Exhibit 3**), would serve as an alternative starting date for the running of the three (3) year statute of limitations with respect to Plaintiff Riley's claims against Defendant Catoe.

In the presented record, with either the June 3, 2009, letter from Mr. Booth [and the date of June 3, 2009] or the August 4, 2009, letter from Mr. Booth [and the date of August 4, 2009] as the beginning of the applicable Discovery Rule date to commence the running of the three-year statute of limitations, Mr. Riley's claims against Mr. Catoe are time-barred as a matter of law.

In a case with somewhat similar facts, the Supreme Court held that the statute of limitations was a bar to the assertion of a legal malpractice claim. In Christensen v. Mikell, 324 S.C. 70, 476 S.E.2d 692 (1996), a landowner sued his former attorney for failing to obtain title insurance. The trial judge found that the owner knew as early as March 1986 that he did not have title insurance on the property. The Supreme Court held that the owner, therefore, was on inquiry

notice by March 1986 that he may have a potential claim against the attorney. The owner's lawsuit against the attorney, which was not brought within the statutory limitations period, was barred and the Supreme Court affirmed an order for summary judgment for the attorney.

A party's knowledge of an injury has barred legal malpractice claims in other South Carolina cases. In Mitchell v. Holler, the record established that the party contacted two other attorneys complaining of the conduct of her former attorney at her criminal trial. 311 S.C. 406, 429 S.E.2d 793 (1993). The Supreme Court found that the party knew or should have known at the time she contacted the other attorneys that she might have a claim against the former attorney. Id. The Court affirmed an order dismissing the party's legal malpractice claim as barred by the statute of limitations. Id.

In Peterson v. Richland County, the Court of Appeals found that the party had knowledge of her injury at the time she commenced an action to foreclose on a judgment. 335 S.C. 135, 515 S.E.2d 553 (Ct. App. 1999). By that time, it was clear that she knew that an error had been committed in the indexing of her judgment. Id. The Court pointed out that although she may have believed that the clerk's office was to blame for the error, she had facts before her that should have put her on notice that she might have a claim against her attorney. Id. The Court of Appeals affirmed an order for summary judgment in favor of the attorney based on the expiration of the statute of limitations. Id.

The Supreme Court has also affirmed summary judgment based on evidence in the record that a party should have known she might have a claim against her attorney when he "stonewalled" more than nine requests for the recorded mortgage and title policy following a loan closing. At that time the party was on notice that the borrower had not repaid the loan and that the attorney would not provide the mortgage or title policy. While the Supreme Court did

not condone the attorney's conduct in that case, it nonetheless affirmed the grant of summary judgment because the statute of limitations had expired on the claim. Kreutner v. David, 320 S.C. 283, 465 S.E.2d 88 (1995).

D. ***Equitable estoppel or tolling has not been established and is not present in this record as a matter of law.***

At the March 2, 2015, Hearing before the Court, Plaintiff Riley asserted that, in essence, despite the running of the statute of limitations, Defendant Catoe should be estopped from raising the bar of the statute of limitations or the Court should apply the doctrine of equitable tolling to toll the running of the statute of limitations. As support for his argument, Mr. Riley made reference to a June 5, 2013, letter Mr. Catoe sent to Mr. Riley which Plaintiff contends establishes or justifies the tolling of the statute of limitations in this action. The Court received a copy of the June 5, 2013, letter referenced by Mr. Riley, which was marked as **[Plaintiff's] Exhibit 1** in the Court record.

At the Hearing, the Court carefully reviewed this June 3, 2013, letter, **[Plaintiff's] Exhibit 1,** and considered the Plaintiff's contentions. From the bench, I found and concluded that Plaintiff's assertions are without merit. In particular, I found and concluded that this June 5, 2013, **[Plaintiff's] Exhibit 1**, references, in general, Mr. Catoe's on-going voluntary pursuit, prior to and during June 2013, at Mr. Catoe's own expense, of an action to quiet title [and clear up any confusion] concerning the Subject Property.[2] This June 5, 2013, letter also contains comments about Mr. Riley's list of claimed damages (allegedly) incurred as a result of the delay in using the Subject Property until it could be legally cleared or title could be quieted. However,

[2] The Court also notes that Mr. Catoe references the non-jury civil action to quiet title Mr. Catoe voluntarily pursued in Defendant Catoe's Answer, and Exhibits B and C attached thereto, filed in the Court record.

it provides no evidence or any material issue of fact to establish any basis in fact or in law to support equitable estoppel or tolling of the statute of limitations in this case.[3]

As a preliminary or threshold matter, the Court notes that under South Carolina law, the party claiming the statute of limitations should be tolled bears the burden of establishing sufficient facts to justify its use. Hooper v. Ebenezer Sr. Servs. & Rehab. Ctr., 386 S.C. 108, 115, 687 S.E.2d 29, 32 (2009). Moreover, the South Carolina Supreme Court has cautioned that "equitable tolling is a doctrine that should be used sparingly and only when the interests of justice compel its use." Id., at 117, 687 S.E.2d at 33.

Moreover, Plaintiff, as the party claiming that Defendant Catoe should be estopped from raising the statute of limitations or that the statute of limitations should be tolled bears the burden of establishing such, has failed to bear or carry the burden of establishing any sufficient or material facts to justify equitable estoppel or tolling in this record nor do the interests of justice compel its use in this matter. Plaintiff has not directed the Court's attention to any action by Mr. Catoe that would establish Mr. Catoe led Mr. Riley to believe that he would not assert the statute of limitations as a defense. Further, Plaintiff Riley could have protected his professional negligence or legal malpractice action against Mr. Catoe while the action to quiet title with respect to the title problems existing on the Subject Property was being pursued. See, Epstein, 610 S.E.2d at 821 (the Supreme Court rejected Epstein's argument that requiring him to pursue an appeal while simultaneously pursuing a malpractice suit against his attorney would have put him in the awkward position of arguing inconsistent positions in two different courts).

Under the above referenced applicable law and after careful review of the June 5, 2013,

[3] The Court, also, notes that Plaintiff has submitted no affidavit or other evidence except this June 5, 2013, letter to support or provide any basis for equitable estoppel or tolling in this record.

letter, **[Plaintiff's] Exhibit 1,** and Plaintiff's contentions, I find and conclude that neither the June 5, 2013, letter from Mr. Catoe nor any other evidence presented in the record before the Court, even when construed in the light most favorable to the Plaintiff as the non-moving party, establishes any material issues of fact to justify equitable estoppel or tolling of the statute of limitations.

Therefore, as the Court is mindful the Supreme Court has cautioned that the doctrine of equitable estoppel or tolling is to be used sparingly, I find and conclude application of the doctrine is not justified or present in this record as a matter of law. Plaintiffs' claims may not withstand summary judgment as Plaintiffs' claims against Defendant Catoe are barred by the applicable three (3) year statute of limitations as a matter of law.

V. CONCLUSION

For the foregoing reasons, and based upon the applicable case and statutory law, and based upon the entire record, construed in the light most favorable to Plaintiff as the non-moving party, I am constrained to conclude that, pursuant to the Discovery Rule, the statute of limitations began to accrue or run at least by June 3, 2009, [when Plaintiff Riley's then attorney, Mr. Booth, wrote a letter to Mr. Catoe (attached as **Exhibit 1 to Defendant Catoe's Motion for Summary Judgment**, as discussed above) and Plaintiff Riley, and Mr. Booth, knew that legitimate problems, disputes, and issues existed involving errors in Mr. Riley's deed and title and in the examination of title and the real estate closing by Defendant Catoe involving the Subject Property and a potential legal malpractice claim against Defendant Catoe existed at that time], or, alternatively, by August 4, 2009, [when Mr. Booth, as Plaintiff Riley's then attorney, wrote a letter to Mr. Ebner (attached as **Exhibit 3 to Request for Admission No.**

11, as discussed above), referencing the title problems, disputes, and issues existing involving errors in Mr. Riley's deed and title and in the examination of title and the real estate closing by Defendant Catoe involving the Subject Property]; and, these dates are more than three (3) years before commencement of Plaintiff's action against Defendant Catoe here on September 17, 2013, [the filing of Plaintiff's original Complaint, which was dismissed by the Court's February 18, 2014, Order] or on March 4, 2014, [the filing of Plaintiff's Amended Complaint]. S.C. Code Ann. §§ 15-3-530 and 15-3-535 (Supp. 2013); Epstein, 610 S.E.2d at 818; Kelly, 682 S.E.2d at 5.

Thus, because the current action was initiated and commenced more than three (3) years after these dates, it is time-barred by the statute of limitations as a matter of law; and, Defendant Catoe's Motion for Summary Judgment is meritorious as no genuine issues of material fact exists in the record. Rule 56(c), S.C.R.Civ.P.

IT IS THEREFORE HEREBY ORDERED, that the Motion for Summary Judgment of Defendant Catoe shall be, and hereby is, GRANTED based upon the expiration of the statute of limitations. IT IS FURTHER ORDERED that judgment shall be entered in favor of Defendant Dennis Wayne Catoe.

AND IT IS SO ORDERED at Conway, South Carolina, this 23 day of April, 2015.

J. Ernest Kinard, Jr.
South Carolina Circuit Court Judge, Presiding
Fifth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMEN .N A CIVIL CASE

CASE NUMBER: 2013CP4005675

Willie J Riley

PLAINTIFF(S)

Dennis Wayne Catoe
Does

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____ **Judge Code** _____ **Date** _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ **day of** _____, **20** _____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 May 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Willie J Riley — Mark Weston Hardee — Leslie A. Cotter Jr.

Willie J Riley

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

SCRCP Form 4C (10/2011)

(2)

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	CIVIL ACTION NO.: 2013-CP-40-05675
)	
Willie J. Riley,)	
)	
Plaintiff,)	**ORDER DENYING RECONSIDERATION**
)	
vs.)	
)	
Dennis Wayne Catoe and Does)	
)	
Defendants.)	
)	

Defendant Dennis Wayne Catoe filed a motion for summary judgment in the above-captioned matter on December 3, 2014. That motion was heard by the Honorable J. Ernest Kinard, Jr. on March 2, 2015. In an order signed on April 23, 2015, and filed on May 18, 2015, Judge Kinard granted summary judgment, finding that Plaintiff Willie J. Riley's action for legal malpractice was initiated more than three years after the cause of action accrued and was therefore barred by the statute of limitations. Judge Kinard passed away on May 19, 2015, and Plaintiff Riley timely filed a motion for reconsideration on May 29, 2015. The undersigned has taken over the matter pursuant to Rule 63 of the South Carolina Rules of Civil Procedure.

Upon succeeding Judge Kinard, I have ordered and reviewed the March 2, 2015 transcript. I have also carefully considered Plaintiff Riley's motion for reconsideration, [1] Judge

[1] In his motion, Plaintiff argues, among other things, that he should be allowed to file his action for legal malpractice within a year of June 20, 2013, the date he claims an underlying action was reversed by the South Carolina Court of Appeals. It is unclear why Plaintiff Riley listed this date, and although he attached the Court of Appeals' opinion, the copy of the opinion that was attached does not include the caption of the case or the date of the decision. A search of Westlaw and South Carolina's Appellate Case Management System (available online) revealed that the Court of Appeals decided the case on November 21, 2012, and sent the remittitur on December 7, 2012. Riley v. Green, 400 S.C. 609, 610, 735 S.E.2d 550, 551 (Ct. App. 2012).

Kinard's order granting summary judgement, and all other case filings. I certify that I am familiar with the record and able to rule on this motion without prejudice to the parties.

After this careful review, the motion for reconsideration is hereby DENIED.

Tanya A. Gee

June 30, 2015

FORM 4

STATE OF SOUTH CAROLIN
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN :IVIL CASE

CASE NO. 2013 CP-40-05675

Willie J. Riley

PLAINTIFF(S)

Dennis Wayne Catoe and Does

DEFENDANT(S)

Submitted by:	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

RECEIVED
AUG 05 2015
SC Court of Appeals

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : The Order Denying Reconsideration is attached.

RICHLAND COUNTY
FILED
2015 JUN 30 P 12:09
JEANNETTE W. WALKER
C.C.P. & G.S.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Tanya A. Lee
Circuit Court Judge

2756
Judge Code

June 30, 2015
Date

For Clerk of Court Office Use Only

This judgment was entered on the ___ day of ___, 20 ___ and a copy mailed first class or placed in the appropriate attorney's box on this 7 day of July, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

(3)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
WILLIE J. RILEY, Plaintiff, vs. DENNIS WAYNE CATOE AND DOES Defendants.	Case No.: 2013-CP-40-05675 **MOTION FOR RECONSIDERATION**

To, the Honorable J. Ernest Kinard, Jr., I, Pro-se Plaintiff Willie J. Riley asks that you reconsider and amend an order dated April 23, 2015 at Columbia, South Carolina. Case No. 2013-CP-40-05675 based on the following Grounds and Arguments.

Attorney Mislead the Courts

At the March 2, 2015 hearing before the court, Defendant Cate's Attorney, Mr. Cotter, Jr. stated to the courts that M r. Riley up until that day Plaintiff Riley has not responded to his request of Admission. Plaintiff Riley stated then that Plaintiff Riley had sent an email responding to the request for Admission, but did not receive a response back from Mr. Cotter Jr, which Plaintiff Riley sent the email to the email address provided by Mr. Cotter Jr. as a email for response.

Plaintiff Riley, would like to state that Plaintiff Riley was not able to response to the admission request due to illness and another case that Mr. Riley was involve in, and Plaintiff Riley would like for the courts to see attachment (Labeled as 1) for evidence that Plaintiff Riley did attempt to answer the Request for Admission before the March 2, 2015 court date as the email is dated December 8, 2014.

Therefore, Plaintiff Riley asks the Honorable J. Ernest Kinard, Jr. to reconsider his order and amend in favor of Plaintiff Riley dismissing the motion for Summary Judgement.

Equitable estopped or tolling

(The reliance period)

Plaintiff Riley, stated at the March 2, 2015 hearing Defendant Catoe, has stated more than once that Plaintiff Riley, could not file a claim with the Insurance company until the case was over and we(meaning the Insurance company and defendant Catoe) knew the total amount of the damages. These statements by Defendant Catoe was made on the court room steps outside the court house on October 6, 2010 in Orangeburg, South Carolina, after a hearing.

Defendant Catoe also stated that day October 6, 2010, that Plaintiff Riley, should not be concerned with the statute of limitations, based on the title insurance would only cover $3800.00 dollars and that Defendant Catoe would submit Plaintiff Riley claim to Defendant Catoe Insurance Company. Defendant Catoe stated that he could not represent Plaintiff Riley, but Defendant Catoe stated "he would not fight it". See [Exhibit 1] from March 2, 2015, Summary Judgement Hearing.

Plaintiff Riley, relied on Defendant Catoe to keep and uphold his promise that Plaintiff Riley would not have to be concern with the statute of limitations. Plaintiff Riley stated, if Plaintiff would have known Defendant Catoe was not going to keep his promise, Plaintiff Riley would have ended the pursuit to clear title and proceeded with the claim against defendant Catoe for the full amount of damages the Plaintiff at that had occurred.

Therefore, Plaintiff relied on Defendant Catoe for a period of two years based on Defendant Catoe promise to present Plaintiff Riley case to Defendant Catoe insurance company. In Hopkins v. Floyd's Wholesale , 299S.C.127,382S.E.2d907(1989), a worker's compensation case we tolled the running of the statute of limitations for the time that the employee was induced by the employer to believe the claim would be taken care of without filing a claim ("the reliance period"). Plaintiff would like to use [Exhibit 1] as evidence, that Defendant Catoe promise to submit claim to Defendant Insurance Company.

"Under South Carolina law, a Defendant may be estopped from claiming the statute of limitations as a defense, if the delay that otherwise would give operation to the statute has been induced by the defendants conduct." Kleckley v. NW. Nat.Cas.Co., 338S.C.131,136,526 S.E. 2d 218, 200 (200). (Internal quotation omitted). "Such inducement may consist of conduct that suggests a lawsuit is not necessary." Kleckley, 338 S.C. at 136-37,526 S.E.2d at 220. (Also, see attached letter dated August 25, 2009).

Plaintiff Riley would like to also state that in order to file a claim against an attorney for negligence, the claim must be accompany by an expert affidavit. It's hard to get an expert affidavit with facts, it would be impossible to get an expert to give an affidavit base on the assumption of a Plaintiff might have a case against an attorney.

Acknowledgement

Section -15-3-130 suits on causes saved from bar of statute by part payment or written acknowledgment. – See [Exhibit 1] from Summary Judgement Hearing. "A simple voluntary relinquishment of a right with knowledge of all the fact- an expression of intention not to demand a certain thing is sufficient to constitute a waiver." South Carolina Tax Comm'n v. Metropoloitan Life Ins.Co., 266 S.C. 34, 40, 221 S.E.2d 522, 524 (1975).

"Waiver of [the statute of] limitations may be shown by wards or conduct. Thus, waiver may result from express agreement ,..from failure to claim the defense or by any action or inaction manifestly inconsistent with an intention to insist on the statute ." Mende, 304 S.C. at 315, 404S.E 2d at 34 (quoting 54 C.J.S. Limitation of Actions §22 at 52(1987), (See letter dated September 20, 2011.

Discovery Rule

Plaintiff Riley states that he has never seen or received a copy of neither letters until after Plaintiff Riley requested files from Defendant Catoe after the end of the trial which was dated (June 20, 2013). Therefore Plaintiff Riley could not have been put on notice based on the evidence Defendant Catoe's Attorney presented as copies Plaintiff Riley had received. Plaintiff Riley also states that it is untrue that plaintiff Riley was listed as receiving copies from Mr. Booth.

Mr. Booth was never Mr. Riley's Attorney

Plaintiff Riley states that Mr. Booth was never retain by Mr. Riley through any type of payments or written agreement from Mr. Riley, therefore Mr. Booth never represented Mr. Riley as a client. Mr. Booth was completing an investigation, to obtain factual material to inform Mr. Riley of his choices, which Mr. Booth never completed. (See attached letter dated August 24, 2009.)

Under 15-3-535, the statute of limitations is triggered not merely by knowledge of an injury but by knowledge of facts, diligently acquired, sufficient to put an injured person on notice of the existence of a cause of action against another. True v. Monteith 327 S.C. 116, 118,489 S.E.2 615, 617 (1997).

Therefore, Mr. Booth did not have the facts of the case against the Defendant Catoe to determine Plaintiff Riley, had a claim back in 2009.

[Exhibit 2] Dated June 3, 2009, stating that Mr. Booth was inquiring and trying to obtained files of the case, from Defendant Catoe. [Exhibit 3] dated August 4, 2009, Mr. Booth stated that he believed that a mutual mistake occurred. Therefore there was no mention of a claim against Defendant Catoe, from Mr. Booth two months after Defendant Catoe wanted the court to believe that Plaintiff Riley whom is not an attorney should have known there was a claim.

Reversal on Appeal

Section 15-3-90. Effect of reversal of Judgement.

If an action shall be commenced within the time prescribed therefor and a judgement therein be Reversed on Appeal the Plaintiff or, if he die and the cause of action survive, his heirs or representative may commence a new action within one year after the reversal. (See attached Reversed and Remanded)

According to Section 15-3-90, Plaintiff Riley should have been given one year to file Plaintiff claim against Defendant Catoe. Plaintiff Riley stating that the case was reversed on appeal and judgement was not rendered until June 20, 2013. Therefore, Plaintiff Riley believes that Plaintiff Riley had until June 20, 2014 to file Plaintiff claim, which Plaintiff Riley filed his Amended Complaint on March 4, 2014 putting Plaintiff Riley within the statute of limitation period. Therefore, Plaintiff Riley asks the Honorable J. Ernest Kinard Jr., to reconsider his ruling and rule in favor of the Plaintiff. Thanks.

Tolling due to Judge was unable to continue

Plaintiff Riley also would like the Honorable J. Ernest Kinard Jr., to take in reconsidering his order dated April 23, 2015 and filed May 18, 2015 on the grounds that on August 2, 2010 the case had to be postponed due to the judge having a doctor appointment which prolonged the case for two months, then after the November 1, 2010 order was Appeal and Reversed and Remanded on November 21, 2012. The case was not heard until April 24, 2013 based on the Judge retiring due to illness. Therefore, Plaintiff Riley was not given the entire three years that the statute allows for Plaintiff to file his case against Defendant Catoe.

Plaintiff Riley would also like to add for evidence showing Defendant Catoe was aware that Plaintiff Riley, had in the past had problems receiving Defendant Catoe request. (See attached letter dated May 16, 2014.)

Continue of Representation

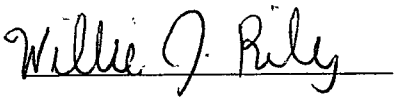
Plaintiff Riley would like for the Honorable J. Ernest Kinard Jr., to reconsider his order based on the Continuously Representation Rule, (See attached letter dated August 3, 2009)

that Plaintiff Riley, allow Defendant Catoe to right his wrong, in attempt to mitigate the damages of the claim, in favor of the Defendant.

Therefore, Plaintiff Riley, should not be punished for attempting to do the right thing and follow the law which states to file a claim you must try to mitigate the damages.

Plaintiff Riley would also like to add, Plaintiff Riley at the time before filing Plaintiff Riley claim against Defendant did not know that Plaintiff could have protected himself from the expiring of the statute of limitations, based on Plaintiff Riley relied on Defendant Catoe, his paid attorney to protect Plaintiff interest at all times during litigation.

Dated: May 29, 2015



Willie J. Riley

Willie J. Riley
84 Wild Indigo Court
Columbia, SC 29229
(803) 414-5501

Label 1

Subject: Fwd: Hi, Mr. Cotter, Jr.. I would like to apologize for the delay. I was feeling a little bit ill and I was busy with another case.I see you say that you sent me an email. my current email account is Delljames2@aol.com ,I also can be reached at 803 381 5627. . Again I apologies for the delay. I will sent it out no later than the 12th of December. 2014. I know you have filed a motion for a summary judgment on the grounds of Statue of limitation. I'm a little surprise that Mr.Catoe. didn't made you aware of our discussion pertaining to that. Once again apologies for the delay. thanks, Mr. Willie J. Riley. Case number. 2013-CP-40-05675

From: delljames2@aol.com (delljames2@aol.com)

To: valencia_cohen@yahoo.com;

Date: Wednesday, March 4, 2015 6:41 PM

delljames2@aol.com

-----Original Message-----
From: delljames2 <delljames2@aol.com>
To: lcotter <lcotter@richardsonplowden.com>
Sent: Mon, Dec 8, 2014 10:12 AM
Subject: Hi, Mr. Cotter, Jr.. I would like to apologize for the delay. I was feeling a little bit ill and I was busy with another case.I see you say that you sent me an email. my current email account is Delljames2@aol.com ,I also can be reached at 803 381 5627. . Again I apologies for the delay. I will sent it out no later than the 12th of December. 2014. I know you have filed a motion for a summary judgment on the grounds of Statue of limitation. I'm a little surprise that Mr.Catoe. didn't made you aware of our discussion pertaining to that. Once again apologies for the delay. thanks, Mr. Willie J. Riley. Case number. 2013-CP-40-05675

delljames2@aol.com

Subject: Fwd: Question. .concerning case no. 2013-CP -40-0567

From: delljames2@aol.com (delljames2@aol.com)

To: valencia_cohen@yahoo.com;

Date: Wednesday, May 27, 2015 3:07 PM

delljames2@aol.com

-----Original Message-----
From: delljames2 <delljames2@aol.com>
To: Lcotter <Lcotter@RichardsonPlowden.com>
Sent: Thu, Dec 18, 2014 07:28 PM
Subject: Question. .concerning case no. 2013-CP -40-0567

Hi, Mr. Cotter, Jr.
I'm writing to ask could I get the name of the seller's attorney that handle the closing on July 29th 2008.. The firm name ..Morris, Hardwick and Schneider. I got the name off the Hud settlement charges. .I didn't speak with or seen the seller's attorney in the room where I was, but I did see a gentleman walk into another room. .
Thanks.
delljames2@aol.com

Dennis Wayne Catoe
Attorney and Counselor at Law
121 Executive Center Drive
Suite 218 Congaree Bldg
Columbia, South Carolina 29210
Post Office Box 601, Irmo, South Carolina 29063

Telephone:
(803) 407-2500
(803) 407-2211

Facsimile:
(803) 612-5135

September 20, 2011

Willie Riley
129 Pamela Lane.
Orangeburg, South Carolina, 29118

Re: Riley vs Ulysses Green et al
Lot 3, 11 and 12, 2181 Whittaker Parkway, Orangeburg, SC

Dear Mr. Riley:

I am still waiting to hear the status of the appeal filed by Mr. Radeker to the Supreme Court. This should be processed by the end of September. If it proceeds, I will need to file a response brief. I will keep you posted.

As this process can take several months, I wanted to remind you that the taxes are delinquent and past due on Lots 11 and 12. This property was sold at tax sale and the last day to redeem them is December 6, 2011. You must pay these taxes to protect this property until this litigation is completed or settled. Under Judge Bergdorf's Order, each party had to maintain the property to prevent loss or devaluation. I have enclosed a copy of this Order. As I read the Order, you were to be compensated for payment of the taxes on Lot 11 and 12 which implies you were to pay them. If you fail the pay these taxes and Lot 11 and 12 are lost through tax sale, then the court could rule that Mr. Green should get Lot 3 as the other lots were lost by you for failure to maintain taxes. Please understand that any payment on these taxes should be credited to you in any final resolution. Note that Mr. Green has not paid the 2010 taxes on Lot 3 in the amount of $1,355.68 and I am notifying his attorney of this.

I understand your frustration with this litigation but that prior to the Court's ruling, Mr. Radeker and his client, prior to the Judge's ruling, offered to settle by giving you clear title to Lot 11 and 12 if they got Lot 3. I suggested you take it but you refused. I understand Lot 3 is worth more and that is that was your motivation. Please realize that I took your case for no fee in order to get you clear title of Lots 11 and 12 since I handled at your purchase closing. This was to avoid a claim against the title company and my office for the error of the title abstractor. Your intent was to buy Lot 11 and 12 and this is the property that you renovated until the problem was discovered. You had a good case as to Lot 11 and 12, but not Lot 3. I believe my duty ended

when you were offered Lots 11 and 12 free and clear and then you walked away from the offer in order to go after Lot 3. The Judge's ruling was a compromise and I support it. This is why I am defending against the appeal.

My concern is that you could lose on the appeal and not receive even Lot 11 and 12, although I think this is very unlikely. More likely, the ruling will stand or you could get just Lots 11 and 12 as these are the lots you thought you purchased and on which you did the renovation. Also, despite repeatedly requests by me, you presented very non-specific invoices supporting your renovations on these lots at the court hearing. The Court accepted your testimony but the appellate court may question how much work was actually done. The Court may simply give you Lots 11 and 12 and assume that you get the benefit from the repairs you made without getting into the dollar credits. If you get Lots 11 and 12 and those lots are lost at tax sale, then you have nothing. If you incur that loss, then my position and I think the position of the title insurance company is that you incurred those damages by your actions in refusing to settle for clear title to lot 11 and 12 when you had the chance. I, on behalf of myself and the title company, fulfilled our duty to defend against claims against the insuranced property, Lots 11 and 12. We had no duty to get you Lot 3. I have incurred thousands of dollars in attorney hours and hundreds of dollars in court costs and we still have an appeal to defend. Yet there seems to be no effort to settle with Mr. Green. I am open to suggestions, but I think the only settlement will come upon direct talks between you and Mr. Green.

As Mr. Green has not paid the tax on Lot 3, he may be hurting financially and open to settlement. One possible settlement would be to get Lot 11 and 12 plus a cash settlement, to be determined by the parties, in exchange to giving him Lot 3. This monetary amount should cover your reasonable loss of use of the property for the last couple of years of litigation. This money could be used to pay your back taxes. As Mr. Green is incurring heavy legal fees and may not prevail on appeal, this type of offer may be acceptable. Remember, even if the appeal is denied, you and Mr. Green jointly own all 3 lots but have to pay all pending taxes or lose the property.

I am trying make this clear. You must maintain the taxes on Lot 11 and 12. This is your obligation under the Order and these are simply your taxes. If this is a hardship to you, then I would strong suggest you try to settle this matter with Mr. Green or authorize me to make an offer to Mr. Radeker. Understand that if you get clear title to Lot 11 and 12, you may be able to get a loan to pay the taxes. You may wish to see if the appeal is to be heard first, but if the appeal goes forward, you should make an attempt to settle. In either event, you must pay the taxes due or expect to lose Lot 11 and 12.

Sincerely,

Dennis Wayne Catoe

Dennis Wayne Catoe
Attorney at Law

DWC/cmf

Subject: Conversation between Willie Riley and Mr. Dennis Wayne Catoe. .July 05 2013. .at 4:34pm.

From: O.M.E OME (ome.music.ent@gmail.com)

To: valencia_cohen@yahoo.com;

Date: Monday, March 9, 2015 11:16 AM

Hi. Mr Catoe, this is Mr Riley.. I would like to know would you like to attempt to settle this matter out of court. If so i would need a response by Monday July 8, 2013 no latter then 12 pm. If I dont hear from you I would be filling a compliant with the courts..thanks.

Subject: Conversation. Between Willie Riley and Mr. Dennis Wayne Catoe.. July 05 2013. at 4:40 pm.

From: O.M.E OME (ome.music.ent@gmail.com)

To: valencia_cohen@yahoo.com;

Date: Monday, March 9, 2015 11:13 AM

I can only assume from this that you have no attorney I would only pay $2000 otherwise i turn it over to insurance company and their lawyer will deal with you If you want to settle for $2000 i will draw up papers and pay you next week Otherwise i will have insurance lawyers contact you

Subject: Conversation between Willie Riley and Mr. Dennis Wayne Catoe. .July 05 2013. .at 4 :44pm. Text from Mr. Catoe.

From: O.M.E OME (ome.music.ent@gmail.com)

To: valencia_cohen@yahoo.com;

Date: Monday, March 9, 2015 11:18 AM

$2000 is my deductible it makes no sense for me to pay more than that no matter the amount of claim

Subject: Conversation between Willie Riley and Mr. Dennis Wayne Catoe. .July 05 2013. .at 4:46pm..sent by Mr Riley. to Mr. Catoe. .Mr . Riley phone number 803 381 5627 .. Mr . Catoe phone number. . 803 407 2500 or 803 730 1856..

From: O.M.E OME (ome.music.ent@gmail.com)

To: valencia_cohen@yahoo.com;

Date: Monday, March 9, 2015 11:35 AM

I understand but i would not accept that.. I just wanted to give you a chance before i did the filling..thanks.

1. That he is the Plaintiff in the above-entitled action.

2. That he is licensed builder law in South Carolina.

3. That he spent considerable time, labor and costs in improvements on the house known at Lot 11 and 12 in the current legal matter.

4. That a detailed expenses are as follows:

Purchase	$4,000.00
Electric	$6,500.00
Plumbing	$2,200.00
Materials	$9,200.00
Outside Plumbing	$1,300.00
Clean up	$ 600.00
Land clearing	$ 750.00
Water connecting	$1,300.00
House Lifting	$1,600.00
Truck renting	$ 120.00
Workers	$17,000.00
Contractor	$ 8,000.00
Total	$52,570.00

Willey Riley

SWORN TO BEFORE ME
this _____ day of October, 2010

Notary Public for South Carolina
My Commission Expires:

Opt 1 no change Order

① delay 6mos - 12mos+

② additional taxes, no rentals

Value Lot 3 62,900 (44,030) 70807

Lot 11,12 25,540 (17,878)

88,440

- 4,682.29 → Utility taxes

83,757.71

1,700.88 tax pd 11812

82,056.83

÷ 2

41,028.415 high

* 30% Adj for Market $28,719 low

~~Opt 2~~

3pt 2 tax clear Lot 11,12

FMV $25,540

loss rental 2yr $3600

unpaid tax $1700.88

0

BOOTH
LAW FIRM, LLC

WILLIAM E. BOOTH III
BOOTHLAW@BELLSOUTH.NET

CONSOLIDATED BUSINESS PARK
3231 SUNSET BOULEVARD, SUITE A
WEST COLUMBIA, SC 29169

P: 803.791.9211
F: 803.791.3159

August 24, 2009

ORIGINAL VIA FACSIMILE (739-6231)

Kenneth W. Ebener, Esquire
24 Shadowfield Dr.
West Columbia SC 29169

Re: Harriett Felder - Lot 3 and Eastern half of Lot 2 on Plat of Property of H.A. Lyons by H. Frank O'Cain dated May 31, 1961, recorded in Office of Clerk of Court for Orangeburg County in Plat Book 17 at Page 83
(Our File No. 4591.1026)

Dear Mr. Ebener:

This is a follow-up to my letter of August 4, 2009, requesting a copy of Ms. Felder's file. I have not heard from you, and would like to get these files as soon as possible.

Very truly yours,

William E. Booth III

WEBIII/eje
C: Dennis Wayne Catoe, Esquire **(Via Facsimile 612-5135)**
Willie Riley

BOOTH

LAW FIRM, LLC

WILLIAM E. BOOTH III
BOOTHLAW@BELLSOUTH.NET

CONSOLIDATED BUSINESS PARK
3231 SUNSET BOULEVARD, SUITE A
WEST COLUMBIA, SC 29169

P: 803.791.9211
F: 803.791.3159

MEMORANDUM

FROM: William E. Booth III
Booth Law Firm, LLC

TO: Dennis Catoe, Esquire **(Via Facsimile 612-5135)**

DATE: August 24, 2009

RE: Willie Riley – 2181 Whitaker Parkway, Orangeburg, SC 29115

OUR FILE NO.: 4591.1026

Have you heard from Ken Ebener in response to your letter of August 3, 2009? I have not heard from him as far as my letter.

WEBIII/ee

BOOTH
LAW FIRM, LLC

WILLIAM E. BOOTH III
BOOTHLAW@BELLSOUTH.NET

CONSOLIDATED BUSINESS PARK
3231 SUNSET BOULEVARD, SUITE A
WEST COLUMBIA, SC 29169

P: 803.791.9211
F: 803.791.3159

June 3, 2009

ORIGINAL VIA FACSIMILE (781-4226)

Dennis Wayne Catoe, Esquire
121 Executive Center Drive
Columbia, SC 29210

Re: Closing – Willie Riley – 2181 Whitaker Parkway, Orangeburg, SC 29115
(Our File No. 4591.1026)

Dear Dennis:

I am looking at a HUD-1 Settlement Statement dated July 29, 2008, for the purchase by Willie Riley of certain property in Orangeburg County from Aurora Loan Services, LLC. I noticed that he purchased title insurance, and I understand that he has requested the issuance of the title insurance policy, but your office informed him that the final policy had not been prepared.

Based on discussions with Mr. Riley and my review of deeds, I do not believe Aurora had good title for the property described in the deed. I have a copy of the deed recorded on August 1, 2008, in Deed Book 1276 at Page 263. The legal description refers to the property as Lot Numbers 11 and 12. I believe the examination of title should show that Aurora Loan Services did not have good title to this property.

I request that you call me as soon as possible to further discuss this matter. I would like to review your title examination report to determine if this property was researched for forty years. Mr. Riley believed that he was purchasing Lot Number 3 and one half of Lot Number 2. He believes that title to this property was in the name of Daniel Green, Jr., at the time of his death on January 11, 2000.

Very truly yours,

William E. Booth III

WEBIII/eje
C: Willie Riley

COPY

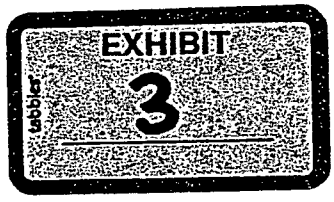
BOOTH
LAW FIRM, LLC

WILLIAM E. BOOTH III
BOOTHLAW@BELLSOUTH.NET

CONSOLIDATED BUSINESS PARK
3231 SUNSET BOULEVARD, SUITE A
WEST COLUMBIA, SC 29169

P: 803.791.9211
F: 803.791.3159

August 4, 2009



Kenneth W. Ebener, Esquire
24 Shadowfield Dr.
West Columbia SC 29169

Re: Harriett Felder - Lot 3 and Eastern half of Lot 2 on Plat of Property of H.A. Lyons by H. Frank O'Cain dated May 31, 1961, recorded in Office of Clerk of Court for Orangeburg County in Plat Book 17 at Page 83
(Our File No. 4591.1026)

Dear Mr. Ebener:

I am in the process of trying to fix some title problems that have been discovered in regards to the above-referenced property. I understand that you were the closing attorney for Mrs. Felder.

I am enclosing a form that Ms. Felder has signed authorizing you to release to me all of the documents relating to this property in your file or in the file of Superior Title. I would appreciate if you would contact me to discuss a time I may be able to come to your office and review your file.

I am enclosing copies of the following that I believe establish that a mutual mistake occurred and she was not deeded the property she agreed to purchase and paid for at closing:

1. HUD-1 from purchase of the property by Ms. Felder;
2. Plat referenced above;
3. Deed into Ms. Felder; and
4. Order of the Probate Court.

I look forward to hearing from you on this.

Very truly yours,

William E. Booth III

RILEY 0735

WEBIII/eje
Enclosure
C: Dennis Wayne Catoe, Esquire (w/o Enc.)
Willie Riley (w/o Enc.)

Willie Riley

Name and address

Did you purchase a lot in Newberry?

Explain circumstances of your purchase?

This was Lot 11 & 12, ands at what price

Describe Work on Lots 11 & 12

When and why did you stop repairs?

Ulysses told to stop family land that you should be on lot across the street ie Lot 3

You paid taxes on Lot 11/12 in amount of _____

What you out of pocket loss - repairs to 11/12
Loss revenue
Value drop in 2 years of lots
Taxes paid
Other losses

You are seeking title to Lot 3 why and not 1 and 12? Its what the bank had a right to sell, its what Est of was trying to sell Larry and Thomas rights question? Closer to compensate you for losses of repairs, revenue, legal costs

If you get clear title to Lot 3 what do you think should happen to Lot 11 ansd 12?

.....what do you think Mr Ulysses Green is entitled to?

If you get clear title to lot 11/12 what are your damages - lost revenue 2yrs, valuation drop in two years, legal fees,
And Ulysses get unfair benefit of selling Lot 3 twice after pocket $70,000

Dennis Wayne Catoe

Attorney and Counselor at Law

121 Executive Center Drive
Suite 218 Congaree Bldg
Columbia, South Carolina 29210
Post Office Box 601, Irmo, South Carolina 29063

Telephone:
(803) 407-2500
(803) 407-2211

Facsimile:
(803) 612-5135

August 25, 2009

William E. Booth, III, Esquire
Consolidated Business Park
3231 Sunset Boulevard, Suite A
West Columbia, South Carolina 29169

RE: Willie Riley

Dear Bill:

No response yet from Mr. Ebener. Perhaps he thinks this matter will just go away. I believe if no response is forth coming by end of August starting litigation would be the next step. This might stir Ulysses Green to actually respond. I think we need to discuss if Mr. Riley prefers you to handle this matter or my office. I feel compelled to act on this as Mr. Riley has been harmed, but I don't need a client already dissatisfied before we even begin litigation. If you represent him, then filing a claim against the title insurance may be a necessary step. Perhaps the first of next month we can share our thoughts on this.

Sincerely,

Dennis Wayne Catoe
Attorney at Law

DWC/cmf
Enclosure

RICHARDSON PLOWDEN
RICHARDSON PLOWDEN ROBINSON, P.A.
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202
1900 Barnwell St., Columbia, SC 29201 P 803.771.4400 F 803.779.0016

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578
2103 Farlow St., Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

CHARLESTON 40 Calhoun St., Suite 220 • Charleston, SC 29401
P 843.805.6550 F 843.805.6599

www.richardsonplowden.com

REPLY TO: Columbia
E-mail address for Leslie A. Cotter, Jr.
lcotter@RichardsonPlowden.com
Direct Dial: (803) 576-3710

May 16, 2014

Willie J. Riley
84 Wild Indigo Court
Columbia, South Carolina 29229

Re: Willie J. Riley v. Dennis Wayne Catoe and Does
C/A No.: 2013-CP-40-05675
RPR File No.: 101-2630

Dear Mr. Riley:

According to our records in the above referenced case, we have not received from you the Plaintiff's discovery responses which are now past due under the applicable S.C. Rules of Civil Procedure. Specifically, on April 8, 2014, we served you, as the Pro-se Plaintiff, with the Defendant Dennis Wayne Catoe's ["Catoe"], Interrogatories to Plaintiff and Requests for Production to Plaintiff; but, to date, we have not received your discovery responses in this case.

We would greatly appreciate it if you would please immediately send us the Plaintiff's Answers to our Interrogatories, with the your Verification, and the Pro-se Plaintiff's Responses to our Requests for Production of Documents, with all responsive documents, **as soon as possible and preferably before Monday, June 6, 2014**.

We would like to avoid having to file a Motion to Compel Discovery Responses from you and involve the Court; however, if we do not receive from you your full and complete discovery responses and all responsive documents as required under the Rules at least by Monday, June 6, 2014, we will have no choice but to file a Motion to Compel Discovery and involve the Court. Please note that this letter constitutes our good faith efforts and reasonable notice, in compliance with Rules 11(a) and 37(a), S.C.R.Civ.P., asking that you kindly respond to the past due outstanding discovery requests as soon as possible.

We thank you in advance for your attention and cooperation, and we will look forward to receiving your discovery responses and all responsive documents from you in this case.

Sincerely,

Leslie A. Cotter, Jr.

LAC/smh
Enclosures

REVERSED AND REMANDED

Andrew S. Radeker, Harrison & Radeker, P.A., of Columbia, for Appellant.

Dennis Wayne Catoe, of Columbia, for Respondent.

FEW, C.J.: Willie Riley filed an action to quiet title to a piece of real property the parties refer to as "Lots 11 and 12." He claimed title to the property under a deed from Aurora Loan Services, LLC. Aurora's title was based on a deed it received from the master-in-equity after Aurora successfully prosecuted a mortgage foreclosure action against Harriet Felder. Felder's deed to the property came from Ulysses Green acting as personal representative of his father's estate. Green defended Riley's action on the basis that (1) when he executed the deed to Felder, he intended to convey another piece of property across the street known as "Lot 3," and (2) he had no authority to convey Lots 11 and 12.

The master-in-equity held a trial but did not rule on the merits of the quiet title action. Instead, the master found that "a compromise on the relief would be fairest to the parties" and declared that Riley and Green jointly owned Lot 3 and Lots 11 and 12. The master ordered the parties to sell the land, use the proceeds to reimburse themselves for property taxes and other expenses, and then evenly split any remaining proceeds. Neither Riley nor Green asked for or agreed to the relief the master ordered.

Green appeals, claiming the master did not have the authority to do that. We agree. In an action to quiet title, the court has no authority to impose a compromise on parties who do not agree to it. *See Lowcountry Open Land Trust v. Charleston S. Univ.*, 376 S.C. 399, 410, 656 S.E.2d 775, 781 (Ct. App. 2008) (stating as to specific performance, "[c]ourts only have the authority to specifically enforce contracts that the parties themselves have made; they do not have the authority to alter contracts or to make new contracts for the parties.").

We **REVERSE** the master-in-equity's order and **REMAND** for a new trial.

WILLIAMS, J., and CURETON, A.J., concur.

Dennis Wayne Catoe
Attorney and Counselor at Law
121 Executive Center Drive
Suite 218 Congaree Bldg
Columbia, South Carolina 29210
Post Office Box 601, Irmo, South Carolina 29063

Telephone:
(803) 407-2500
(803) 407-2211

Facsimile:
(803) 612-5135

August 3, 2009

Ulysses Green
458 Staffordshire Rd.
Columbia, South Carolina, 29203

Re: Ulysses Green
Lot 3, 2181 Whittaker Parkway, Orangeburg, SC

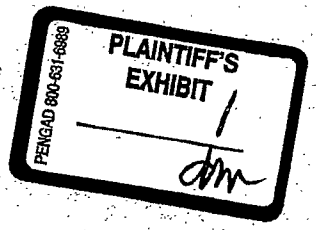
Dear Mr. Green:

As you may recall, I represent Wille Riley. I have not heard from Superior Title. When we spoke last, you indicated you would call them. Reviewing the records it appears that the attorney that represented you was Kenneth Ebener whom may have been working for Superior Title at that time. I have enclosed a letter which I have sent him regarding this matter. I believe it accurately summarizes how we got to this point and how we would like to get it resolved. I would ask you to contact Mr. Ebener or Superior Title as you indicated you wanted some legal advice. If no response is forthcoming, I or Mr. Booth will file litigation to get a judge to order the corrective deed or other relief.

Sincerely,

Dennis Wayne Catoe
Attorney at Law

DWC/cmf
Enclosures



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June 5, 2013

Willie Riley
129 Pamela Lane.
Orangeburg, South Carolina. 29118

Re: Riley vs Ulysses Green et al
Lot 3, 11 and 12, 2181 Whittaker Parkway, Orangeburg, SC

Dear Mr. Riley:

I have called the Master's office to find out when we will get the Order. I reminded them that Mr. Radeker was contacted by me twice that the Order was due and I have yet to receive it or be allowed to review it. I am confident that it should be forthcoming in the next week and I will forward to you at that time. That technically ends by representation of you as you now have clear title to Lots 11, 12.

I am in receipt of your letter which you dropped by my office. I had repeatedly asked you to prepare me a list of reasonable and actual damages that you incurred as a result in the delay in using your property until your lots could be legally cleared. I thought I would submit a claim to the title insurance company on your behalf. Apparently you thought you had won the lottery when I asked you to do so. $70,000 for mental anguish? Really? Your purchase price was only $3,800.00 These damages are not properly recoverable. I simply asked you for actual out of pocket losses due to the loss of use of the property The numbers that you came up with even exceed the amount of the purchase price and alleged improvements.

When your attorney, Mr. Booth, called me on your behalf I thought there was an understanding that you just wanted a clear title that you thought you were getting when we handled your closing on July 22, 2008 rather than file any claim. I took on that representation and filed an action to quiet title. As a result I have spent over 4 years, over $3,000 in costs, and over $10,000 in attorney hours, which included a hearing before the Master in Orangeburg, a rehearing, a defense of an appeal to the Court of Appeals, and a rehearing in front of a new master in Orangeburg at which time a settlement was reached.

As it relates to your damages, I want to refresh your memory of the process. Lot 11, 12 is what you thought you were buying and that is what I had a duty to clear. I agreed to seek alternative relief seeking Lot 3 as this was the lot that the foreclosing bank intended to mortgage and there was a possible argument to be made for it. This was only done as a backup relief if there was a problem about the foreclosure process in the chain of title.

Prior to the Court's ruling at the action to quiet title, Mr. Radeker, attorney for Mr. Green, offered to settle back in April 2011, by giving you clear title to Lot 11 and 12 if they got Lot 3. I suggested you take it but you refused. I understand Lot 3 was worth more and that was your motivation. Please realize that I took your case for no fee in order to get you clear title of Lots 11 and 12 since I handled at your purchase closing. This was to avoid a claim against the title company and my office for the error of the title abstractor. Your intent was to buy Lot 11 and 12 and this is the property that you renovated until the problem was discovered. You had a good case as to Lot 11 and 12, but not Lot 3. I believe my duty ended when you were offered Lots 11 and 12 free and clear and then you walked away from the offer in order to go after Lot 3. The Judge's ruling to award clear title to Lot 11, 12 and Lot 3 to you and Mr. Green equally, was a compromise and I supported it although we didn't ask for it. This is why I defended against the appeal. Please see my letter dated September 20, 2011, enclosed.

I again advised you toward possible settlement prior to the appeal hearing. In the September 20, 2011 letter. I advised you that you could lose on the appeal and not receive even Lot 11 and 12 or that the ruling would stand or you could get just Lots 11 and 12. Even after the Court of Appeals ruling I strongly advised you to settle in my letter dated November 27, 2012, enclosed. Only at the last hearing in front of the new Master pursuant to the Appellant ruling, did you allow me to get you clear title to Lot 11, 12. When I say allow me, you have repeatedly told me that your religious convictions would not let you accept a settlement where Mr. Green "gave" you clear title to Lot 11,12 because you didn't think he had the legal or moral right to do so. This despite my legal advice to take a settlement. Rather I had to structure it so we withdrew our claim for Lot 3 if Mr. Green would not contest out relief for clear title to Lot 11, 12. Only in this manner was it acceptable to you to settle. I believe this delay to settle since April 2011 was brought about by your actions and I think much of it was your financial interest in trying to get a more valuable Lot 3.

Also, despite repeatedly requests by me, you presented very non-specific invoices supporting your improvements on these lots at the court hearing. The Master had some questions about the improvements but structure the relief so as to give you credit based on what you could sell it for. To my knowledge you never had sufficient improvements on Lot 11, 12 that would allow it to be habitual so you could have rented it out. You said you stopped working on the property when Mr. Green complained you were on the wrong property but Mr. Green never brought an action to stop you. There was no reason that you could not continued. Rather you contacted an attorney, Mr. Booth, and insisted to clear title first. I agreed to do so but I question these improvements and any possible loss of rental. You also indicated that much of the improvements were stolen out of the house during the litigation so it makes it difficult to

evaluate your loss. But why didn't you carry insurance that could have covered such a loss? Based on your listed losses, it looks like you want me to build the house from scratch.

In addition, you reference loan interest and monthly payments. We handled a cash closing for you in July 22, 2008 and your title insurance coverage was only for the purchase price of $3,800.00 and the title insurance was only for this amount. Yet you have listed as damages monthly payments and interest. If you borrowed money then there would have been another attorney involved and possible title insurance. Why were these title issues not found then? If these monthly payments refer to lost rent then how could they start a week after our closing when improvements were not completed? And how I am responsible for lost rent until July 2013, a future date, when you could have settled this back in April 2011? You never finished improvements to rent out property.

As the tax costs, they also are erroneous. Now if you had sold the property then the taxes may be legitimate but if you were renting then they still would have been incurred. The market died and this property likely would have been rental.

As to the appeal fees of $2,400, these could have been avoided if you had settled but you chose to roll the dice trying to get Lot 3. This is not my problem.

I might agree the legal fees paid to Mr. Booth and some loss of use may be recoverable but almost your entire list of damages is questionable if not laughable. This is not the lottery or some game. I thought you would have appreciated the fact that I handled this litigation all the way to the Court of Appeals at no costs to you for my fees of even court costs which were substantial. I guess those religious convictions of fairness that prevented you from settling with Mr. Green don't apply to me. As such I think you need to consult with Mr. Booth and an attorney to get a real list of damages if you choose to file a claim. This list will not be taken seriously by my insurance carrier.

Sincerely,

Dennis Wayne Catoe

Dennis Wayne Catoe
Attorney at Law

DWC/cmf

(4)

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2013-CP-40-05675

Willie J. Riley,

Plaintiff,

vs.

Dennis Wayne Catoe and Does,

Defendants.

TRANSCRIPT OF RECORD

March 2, 2015
Columbia, South Carolina

B E F O R E:

THE HONORABLE J. ERNEST KINARD, JR., JUDGE.

A P P E A R A N C E S:

WILLIE J. RILEY, PRO SE
Appearing for the Plaintiff

LESLIE A. COTTER, JR., ESQ.
Attorney for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

MARCH 2, 2015

MR. COTTER: May it please the Court, Your Honor?

THE COURT: Sure.

MR. COTTER: My name is Les Cotter. I am with the Richardson Plowden Law Firm. It is my pleasure to represent Attorney Dennis Wayne Catoe in this matter, which has been brought by Willie J. Riley.

Your Honor, this afternoon we're here on the Defendant's motion for summary judgment based on the expiration of the applicable statute of limitations in a legal malpractice case.

Our motion for summary judgment was filed December 3rd, 2014. And in addition to that motion, which was filed, I also filed my own affidavit contemporaneously with that and attached that as an exhibit to the motion. My affidavit on behalf of my client in support of and in conjunction with the motion for summary judgment was simultaneously filed December 3, 2014.

And, Your Honor, I have extra copies of that, if you might need it, for you and your law clerk.

THE COURT: Well, I'm looking for it. I don't see it yet, but it is a pretty thick little file.

MR. COTTER: Yes, sir. Your Honor, may I

approach? I do have extra copies.

THE COURT: I am about to get to it. I'm down to your motion. You said it was attached.

MR. COTTER: Yes, sir.

THE COURT: I'm down to your affidavit.

MR. COTTER: Yes, sir.

In essence, Your Honor, my affidavit, as Your Honor can read and will see, it is based on the fact that we served requests for admission in this case under Rule 36. Those were attached as Exhibit A to our -- to my affidavit.

And as of the date of the filing of my affidavit, we, on behalf of the Defendant, Mr. Catoe, did not receive any responses or objections or anything in response to those.

And as a result of that, by operation of Rule 36A and B, we would request that the matters contained in those requests for admission are and should be deemed all admitted under the rules.

So that is an aspect of our motion for summary judgment. But, of course, Your Honor, the basis of our motion for summary judgment is what the legislature has enacted with respect to the statute of limitations for legal malpractice actions, which is a statutory three years, quote, after the person

knew or by the exercise of reasonable diligence should have known that he had a cause of action. And that is Section 15-3-530 and 15-3-535.

And we're also relying on the seminal case of Epstein versus Brown, found at 610 S.E.2d 816, on Page 18 in particular.

Your Honor, as we have set forth in our motion for summary judgment -- which is really a combination of a motion and memorandum all in one -- with respect to the original complaint, by way of history, Your Honor, it was defective as a matter of law because it did not contain the required contemporaneously filed affidavit of an expert. It was missing the expert affidavit. And therefore it was dismissed by the Court's order filed February 18th, 2014.

Thereafter, the Plaintiff filed an amended complaint which is the complaint which is before Your Honor right now on which our motion for summary judgment is based.

The Plaintiff's amended complaint was not filed until March 4th, 2014. And, Your Honor, on behalf of the Defendants, we submit that it was not -- this action has not been properly commenced as a matter of law within the three year statute of

limitation period for a legal malpractice action against my client, Attorney Dennis Catoe.

And, Your Honor, we have set forth in our motion the triggering dates when the statute of limitation clocks should begin to run. And of course the discovery rule applies. And under the statutes and under the Epstein v. Brown case, it is undisputed in the record that the Plaintiff, Mr. Riley, knew or should have known that he had a potential legal malpractice claim against the Defendant Catoe when he sought and received the advice of an independent attorney, William E. Booth, III, in early June, 2009. And that is when both Mr. Booth and Mr. Riley recognized and knew that they had a legitimate problem with his title to and ownership of the subject property.

And, Your Honor, that is a defined term. It is defined in our answer. And the subject property involved a piece of property located at 2181 Whitaker Parkway in Orangeburg. And I have referenced that in the first page of my motion too.

Your Honor, it was early June, 2009, when the Plaintiff Riley knew that he had a legitimate problem with his title and ownership to the subject property purchased, for which my client, Mr. Catoe,

was the real estate closing attorney.

The real estate closing transaction occurred July 29th, 2008. And, Your Honor, as we have attached as Exhibit 1 to our motion for summary judgment on behalf of Mr. Catoe, Exhibit 1 is a letter that Mr. Booth --

THE COURT: I have seen a letter of August 4th, but that is Exhibit 3.

MR. COTTER: Pardon me?

THE COURT: You know I am a speed reader.

MR. COTTER: Yes, I know you are, Your Honor.

THE COURT: I'm down to Booth's letter of August 3rd, 2009.

MR. COTTER: Yes, sir. That is attached as Exhibit 1. It is also attached to my affidavit. That is correct.

THE COURT: It is Exhibit 3 in here, is all I'm saying.

MR. COTTER: Yes, sir. You have flipped ahead of me. But it is also Exhibit 1, Your Honor.

THE COURT: Okay.

MR. COTTER: And, Your Honor, I have been in front of you a long time, I know you are a speed reader, but that is the date which the three year statute of limitations under the seminal case of

Epstein v. Brown, under the legislative mandate, that is when the three year statute of limitations clock would start. And this action was not commenced within three years after that date.

Thank you, Your Honor.

MR. RILEY: How are you doing, Your Honor? My name is Willie Riley, and I'm representing myself here in a pro se case.

To respond to the statute of limitations, me and Mr. Catoe had an agreement. And he actually told me -- because from 2000 -- around 2010/2011, we left -- we had a continuance at a court date that the judge had to actually leave from court. And the same judge actually left from court actually end up retiring. So we actually had a conversation where he actually, you know, addressed me and gave me the information about the statute of limitations might be running out on the case.

He also insured me that even though that my -- he said even though that my title insurance only covered $3,800, so it didn't really matter because he had his own insurance that he would actually submit a claim to, but he said we could not submit the claim to the insurance company until we actually know the total of the title of the actual

damages.

And he keep giving me this -- he would keep saying this and keep saying this over and over that we can't file for the claim until we actually know what we are filing for. He was saying anything we doing as filing would have been premature.

And I also have a letter from him that, you know, he actually, you know, actually said these things in the letter, you know, actually replying to that he was going to submit a claim to his insurance company.

And this is my first time ever hearing anything about a statute of limitations as far as him using that as a defense.

THE COURT: Well, see, he got a lawyer and you didn't. That is the problem you have got.

MR. RILEY: Uh-huh. Well, you're right.

THE COURT: Statute of limitations is three years, and it would have started running at least from August 4th of 2009. So he is well without the statute of limitations. But the legislature says in that case he mentioned, says that is tough luck. So --

MR. RILEY: But isn't it possible that an attorney could actually, you know, waive his

statute of limitations?

THE COURT: Could be, but that is not in front of me today. You know, if you had an attorney, he might have done that for you. You can't just stand there and say that, you have got to do some stuff. I can't give you legal advice.

MR. RILEY: See, the advice that I have had, you know, that I would like to present is that he actually, in a letter written from him, from his office, showing that, you know, that he was going to actually -- he agreed to actually waive his statute of limitations based on the fact that he had his own insurance company.

THE COURT: Show me the letter.

(Pause.)

THE COURT: Of course they offered to pay you money. Why didn't you take it?

MR. RILEY: Who offered to pay me money?

THE COURT: Somebody. I thought.

(Pause.)

THE COURT: They filed an offer of judgment for you for $8,500 back in December.

MR. RILEY: Yes, he did an offer of judgment of $8,500, but he know the damages amount is way, way over.

THE COURT: You paid $3,000 something for the lot.

MR. RILEY: No, I paid $3,000 something for the lot. And I also did -- and I actually have evidence of that, that he actually submitted to the Appellate Court that I had damages, you know, exceeding $3,800 worth on renovations to this property. And basically that is the reason why he said the -- if it was just about the $3,800, I would have just filed with the title insurance company from Day One, but because of the damages -- and maybe that is what he addressed to me -- that the damages was not going to exceed -- I mean, the title company was not going to exceed the $3,800. But he knew my damages was way exceeded $3,800.

And, I mean, from the law, I was understanding that even from an acknowledgment of debt is also a tolling of the statute of limitations, which he knew from Day One that this claim was based on damages.

I mean, our whole conversation always been to what we never knew the actually amount of the damages to be able to file. And he keep telling me that it would have been premature to even waste the Court's time filing for damages if we haven't got

the concluded price of the actual damages.

And at the same time I was giving him a chance to actually really -- I didn't want to go in court and say I was asking for a certain amount of money when I could have recovered a certain amount of money on the back end of it.

So basically that is where it came from, you know, is just that -- but he always assured me that we were not going to have a problem with the claim.

THE COURT: That is not what this letter says. Mark it as his exhibit.

MR. RILEY: I also have e-mails that he actually, you know, admits to the damages that he knew that I was incurring.

THE COURT: You are reading it the wrong way. He doesn't admit to that. He says he personally is out of pocket $4,000 in costs and $10,000 in legal fees.

MR. RILEY: No. No, Your Honor, I'm saying I have e-mails that he actually sent to another attorney that he actually admit that I was incurring damages from Day One.

THE COURT: He said if you had settled you wouldn't have incurred any of the appeal costs. I read the letter. I know you don't know; the

lawyers know I am a speed reader.

MR. RILEY: My thing, I wasn't speaking on the actual appeal costs, you know what I'm saying, on the appeal costs he was saying that I could have settled with another client, which I never heard anything about, you know, as far as what the client said.

THE COURT: Well, the statute of limitations has got it. Tough luck. All right.

MR. COTTER: Thank you, Your Honor.

THE COURT: Prepare an order.

MR. COTTER: Yes, sir. Thank you, Your Honor.

THE COURT: Put in there he also did about 17 requests for admissions, something like that.

MR. COTTER: Yes, sir.

THE COURT: He never answered those either.

MR. RILEY: I mean, I am going to address you in response to that. I actually -- he said he had sent it to him. I sent an e-mail telling him that I didn't receive it, and he said by the e-mail address. And I responded to him telling him that the e-mail address that he actually sent it to is an e-mail address that I no longer had. And I actually sent him the e-mail address, the current one. And I spoke with him on the phone, and it was

never --

THE COURT: Who are you calling him?

MR. RILEY: I'm sorry. I'm sorry, Your Honor. Mr. --

THE COURT: Cotter?

MR. RILEY: Cotter. And I actually -- I spoke with him on the telephone.

MR. COTTER: Your Honor, I didn't get an e-mail from him after the requests for admission were served, and I don't recall any telephone call I had with him.

THE COURT: Well, put that in your order, sign an affidavit to that effect. Okay.

MR. RILEY: All right, thank you, Your Honor.

(Pause.)

THE COURT: And, incidentally, I don't know this other lawyer. I know Cotter.

MR. RILEY: Huh?

THE COURT: I don't know the one you are suing.

MR. RILEY: Oh, okay.

THE COURT: Okay? Anytime somebody rules against them they say the judge has been meeting with the lawyer. I just don't know him. That's all.

MR. RILEY: Huh? No, you know --

THE COURT: I know, I am just telling you --

MR. RILEY: I mean, I understand your point.

THE COURT: I'm just saying if I had known him I would have said I can't hear the case.

MR. RILEY: Oh, okay. Okay.

MR. COTTER: Your Honor, may I approach and just write down the -- I didn't get a copy of the letter he handed up, so I'm not --

THE COURT: The court reporter can't -- doesn't have it right now. You can get it from her later. You can go to the clerk's office and make a copy.

MR. COTTER: Okay.

THE COURT: He might give you a copy too.

MR. RILEY: I mean, here is a copy of it. I took the letter to his office. You know, we took all the files over there, so he has a copy of the letter.

MR. COTTER: That was long before the requests for admissions were being served. But, anyway.

THE COURT: Anyway. She doesn't have any capability of making a copy.

MR. COTTER: No, no, I understand that. I was just going to approach just to write the date down.

THE COURT: Okay.

MR. RILEY: Your Honor, I have got another quick question. So is there any way I can appeal this decision?

THE COURT: Sure.

MR. RILEY: Do I have to do a request for an appeal or I just need to --

THE COURT: I am not giving you any legal advice. That is the problem when you try to represent yourself. There are time limits on it.

MR. RILEY: Well, I mean, I would like to --

THE COURT: Time you get the thing, you need to do something like in ten days or something.

MR. RILEY: All right. I understand.

THE COURT: It would be in your best interest if you sold the lot.

MR. RILEY: I appreciate it. Thank you.

THE COURT: All right.

(WHEREUPON, the proceedings were concluded.)

(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

RECEIVED
SEP 14 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 2nd day of March, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 12, 2015

s/*Deborah M. McCurdy, RPR*

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

Shelby left message 2:35 pm August 31, 2015

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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August 28, 2015

Willie J. Riley
84 Wild Indigo Ct.
Columbia SC 29229

Re: Willie Riley v. Dennis Catoe
Appellate Case No. 2015-001627

Dear Mr. Riley:

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

Jenny Abbott Kitchings

CLERK

cc: Leslie A. Cotter, Jr., Esquire

(5)

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG) FOR THE FIRST JUDICIAL CIRCUIT

Willie Riley,)

PLAINTIFF,) Docket#-2008-CP-38-1696

vs.)

Ulysses Green, individually and)

as Personal Representative of the)

Estate of Daniel Green, and Estate of Daniel Green)

Pearlie Mae Graves, Sarah Lee Green, Daniel Green, III)

Mildred Ann Green, Larry B. Green, Thomas Price, John Doe)

and Richard Roe, fictitious persons designated to represent)

all the unknown heirs and distributes of Ernestine Green and)

Daniel Green, Jr. deceased, and all other unknown person or)

persons claiming through them or any infant or person under) AMENDED

disability or in the Armed Forces of the United States of) ORDER

America and Mary Roe, fictitious person designated to)

represent the surviving spouse of the parties herein)

claiming a spousal interest in the herein described real)

property and John Doe, Richard Roe and Mary Roe,)

fictitious persons designated as a class to represent all other)

persons unknown claiming any right, title, interest or)

lien upon the real estate described herein, and TO WHOM)

IT MAY CONCERN.)

DEFENDANTS.)

10/11

This Order is amended to reflect changes not timely conveyed between legal counsel prior to submission to the Court. A hearing was held on April 26, 2011, based

on a Motion to Reconsider brought by Andrew S. Radeker, Esquire, on behalf of Defendant Ulysses Green. The motion was denied but counsel for the Plaintiff and Mr. Radeker agreed to amend the Court's previous Order to incorporate changes requested by Mr. Radeker.

This action was brought before me on August 2, 2010, at the Courthouse in Orangeburg, South Carolina. Present at the August 2, 2010 hearing were the Plaintiff, his attorney, Dennis Wayne Catoe, Esquire, Defendant, Ulysses Green, acting pro se, and the Plaintiff's witness, Vince Lyde of Midlands Title, LLC. The case was commenced and testimony was given by Mr. Lyde but due to a scheduling conflict this matter was continued until October 6, 2010. Present at the October 6 hearing were the Plaintiff, his attorney, Dennis Wayne Catoe, Esquire, Defendant, Ulysses Green and his attorney, Andrew S. Radeker, Esquire. The court reporter was Suesan L. Richardson of Low Country Reporting Service whom was present at both hearings. Mr, Radeker was retained by Ulyssess Green after the hearing on the merits had commenced on August 2. All other defendants were not present and are in default. It appears that all defendants have been named and served that there are no unknown defendants or defendants under any disability and no need for a Guardian ad Litem. The evidence and testimony of the parties having been heard, the following findings of facts and conclusions of law are hereby made.

FINDING OF FACT

1. The Summons, Complaint and Lis Pendens were filed October 19, 2009. Defendants, Ulysses Green, Pearlie Mae Graves, Sarah Lee Green, Daniel Green, III, Mildred Ann Green, and Larry B. Green, were served with the Summons and Complaint

by certified mail as evidenced by Affidavits of Service filed with the Court. Service by publication was made upon the remaining known and unknown Defendants, John Doe, Richard Roe and Mary Roe, by publication in a newspaper in the Times and Democrat News in the Orangeburg County, South Carolina area as authorized by the Order for Service of Publication filed with the Court. Defendant, Ulysses Green, had a pending motion for leave to amend his Answer, to which the Plaintiff consented and said Answer was accepted at the final hearing. All other defendants were in default, as shown by Affidavit of Default filed on March 17, 2010. An Order for Reference was filed on April 26, 2010. Notice of the hearing was mailed to the defendants on May 3, 2010 by certified mail as evidenced by Affidavits of Service filed with the Court.

2. Plaintiff, Willie Riley, is a resident and citizen of the County of Orangeburg, State of South Carolina and the property which is subject to this action is located in the County of Orangeburg, State of South Carolina. Ulysses Green, individually and as the Personal Representative of the Estate of Daniel Green, and Sarah Lee Green are residents and citizens of the County of Richland, State of South Carolina. Defendants, Harriet Felder and Mildred Ann Green, are residents and citizens of the County of Orangeburg, State of South Carolina. Defendant, Pearlie Mae Graves, is a resident and citizen of the City of Durham, County of Durham, State of North Carolina. Defendant, Daniel Green, III, is a resident and citizen of the Town of Lakeview Terrace, County of Los Angeles, State of California. Defendant, Thomas Price, is a resident and citizen of the Town of College Park, County of Clayton, State of Georgia. Defendant, Larry Green, is a resident and citizen of the Town of Eastover, County of Richland, State of South Carolina.

3. That the property that is the subject of this action is situate in the County of Orangeburg, Sate of South Carolina, and is described as follows, to-wit:

All that certain piece, parcel or lot of land, with dwelling and other Improvements thereon, situate, lying and being in Orange Township, School District No. 5 (outside), the County of Orangeburg, State of South Carolina, being all of Lot 3 and the eastern half of Lot 2, as shown on a plat of property of H. A. Lyons made by H. Frank O'Cain, C.E., dated May 31, 1961, recorded in the office of the Clerk of Court for Orangeburg County, South Carolina, in Plat book 17 at Page 83, together having the following boundaries and measurements: Northwest by S.C. Highway S-38-796 and fronting thereon 135 feet. Northeast by property of Jones Terrace subdivision 135 feet and Southwest by remaining one-half portion of lot 2 on said plat 150 feet. The same being more fully shown and set forth on the above mentioned plat.

Being the same property conveyed to Daniel Green, Jr. by deed of George R. Zimmerman dated February 22, 1971 and being recorded February 23, 1971, in Deed Book 341 at Page 189 in the Office of the Clerk of Court for the State and County aforesaid.

TMS # 0182-14-05-014.000 (new) 0192-15-08-006.000 (old)
aka 2181 Whittaker Parkway, Orangeburg, SC

And also,

All that certain piece, parcel or lot of land, with dwelling and other Improvements thereon, situate, lying and being in Orange Township, School District No. 5 (outside), the County of Orangeburg, State of South Carolina, designated as Lots No. 11 and 12, on a subdivision plat of property of Willie Jones by H. Frank O'Cain, C.E., dated September 19, 1960, recorded in the office of the Clerk of Court for Orangeburg County, South Carolina, having the following boundaries and measurements: Northeast by lands of Willie Jones and measuring Two Hundred (200) Feet; Northwest by lands of Willie Jones and measuring thereon One Hundred twenty (120) feet; Southwest by Lot No. 10 on said plat, lands of Willie Jones, and measuring thereon Two hundred (200) feet;, and southeast by a county road and measuring thereon one hundred Twenty (120) feet. Said lot being a portion of that same tract of land of ninety-six acres, more or less.

Being the same property conveyed to Ernestine Price by deed of Willie Jones dated October 10, 1960, and recorded in Clerk of County for Orangeburg County on October 13, 1960, in Deed Book 235 at page 352.

TMS # 0182-14-04-012.000 (new) 0192-15-20-0120.000 (old)
aka 2181 Whittaker Parkway, Orangeburg, SC

4. Venue is proper in Orangeburg County pursuant to South Carolina Code Annotated 15-7-10 (1).

5. The Plaintiff brings this action pursuant to the provisions of the South Carolina Uniform Declaratory Judgment Act, Section 15-53-10, Code of Laws of South Carolina, 1976, for the purpose of obtaining a decree adjudging that the Plaintiff is seized in fee simple of a good and marketable title to real estate herein below

described and that no Defendants have any interest or estate in or lien upon the said real estate. Plaintiff has sought to quiet title as to Lot 3 and Lots 11 and 12.

6. Based on the testimony and matters of public record it appears that on or before May 19, 2006, Ulysses Green, as the Personal Representative of the Estate of Daniel Green, and Harriet Felder entered into a real estate sales contract in writing, pursuant to which Harriet Felder agreed to purchase and defendant agreed to sell for the sum of $70,000.00 the property described as follows: 2181 Whittaker Parkway, Orangeburg, SC. A closing was done on May 19, 2006. This sale arose from a Probate Order regarding the Estate of Daniel Green 2000-ES-38-179 dated February 1, 2006, that ordered the sale of two lots, Lot 3 and Lot 1, both located on Whitaker Parkway. A deed purporting to convey Lots 11 and 12 prepared by an attorney for and executed by Ulysses Green, as the Personal Representative of the Estate of Daniel Green. The Orangeburg County Register of Deeds Office records reflect a deed from Mr. Green as PR for the Estate of Daniel Green to Harriet Felder dated May 9, 2006 and recorded May 25, 2006 at Deed Book 1152 at Page 198. It is not contested by Defendant Ulysses Green that he believed that the property that being conveyed in the deed to Harriet Felder was Lot 3. Further, Harriet Felder moved into the Lot 3 although the deed reflected Lot 11 and 12. Ms. Felder gave a mortgage, but that mortgage described "All of Lot 1 and the western One-half of Lot 2" as the property subject thereof. Thereafter, Ms. Felder stopped making mortgage payments and Aurora Mortgage foreclosed on the mortgage. Apparently, the mortgage was reformed in that foreclosure to described Lots 11 and 12 as the property subject thereof; however testimony at court indicated that the appraisal at closing was for Lot 3 and that Lot 3 is the home that Ms.

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Felder moved into. Although the foreclosure proceedings were already commenced, Defendant, Ulysses Green, as the Personal Representative of the Estate of Daniel Green, executed a document entitled corrective deed; however, this deed described "All of Lot 1 and the western One-half of Lot 2" as the property subject thereof. This is not contested by the parties. The foreclosure resulted in a Order and Sale listing Lots 11 and 12 as the property subject thereof. After being the successful bidder upon foreclosure and receiving a Master's deed, dated June 18, 2007, and recorded July 3, 2007, in at Book 1217 at Page 224 to Aurora Loan Services, LLC, Aurora Loan Services, LLC, sold this property listed as Lots 11 and 12 to Plaintiff, Willie Riley, for $3,800.00 by deed dated July 22, 2008 and recorded August 1, 2008, at Book 1276 at page 263. Plaintiff, Mr. Riley, proceeded to do improvement work on the house at Lot 11 and 12 which he testified in the approximate amount of $35,000.00 Plaintiff was approached by Mr. Ulysses Green as to a mistake of the correct lot sold. Plaintiff ceased construction and commenced this legal action to clear the title.

7. The Court heard from counsel for the Plaintiff and counsel for the Defendant Ulysses Green to ascertain the parties' positions and arguments before taking testimony at the October 6 hearing. Plaintiff contends that he is the successor in interest to Harriet Felder and that he is entitled to have Defendant Ulysses Green, individually or as the Personal Representative of the Estate of Daniel Green, execute and deliver to Plaintiff a deed for Lot 3 correcting and reforming this error or in the alternative quieting title on behalf of the Plaintiff. Plaintiff acknowledges that he intended to buy Lots 11 and 12 but contends Estate of Daniel Green nor Defendant Ulysses Green has authority to convey these lots as they belong to the heirs of

Ernestine Green. Ulysses Green testified that Daniel Green was married to Ernestine Green, also known as Ernestine Price at the time of her death. Plaintiff's witness, Vince Lyde, a title abstractor whom had researched the title abstract of Lot 3, Lot 11 and Lot 12, and the probate files for Daniel Green and Ernestine Price testified that the probate files of the Estate of Ernestine Price does not indicate a husband and list her only heirs as her two sons, Thomas Price and Larry B. Green. Plaintiff contends that his damages consisting of repairs to Lots 11 and 12 and loss of revenue for the duration of action which can only be compensated by awarding him Lot 3 which has greater market value. Defendant Ulysses Green contends that Lot 3 should be retained by him as the only heir of the Estate of Daniel Green. All other heirs of Daniel Green or heirs of Ernestine Green have quitclaimed their interest to Ulysses Green or have defaulted in the current action.

Defendant Ulysses Green contends, as is further noted in his memorandum of law filed and served on October 6, 2010, that Plaintiff is not entitled to relief on any of his claims. Defendant Ulysses Green argues that the Plaintiff received no title to Lot 3 or Lots 11, and 12 and thus not entitled to either parcel quieted in the Plaintiff. He points out that under South Carolina Law, "[e]xcept where the will of the decedent authorized to the contrary, a personal representative may not sell real property of the estate except as authorized pursuant to the procedure described in section 62-3-1301, et. Seq." S.C. Code 62-3-711(b). Here, Daniel Green's will did not authorize the personal representative to sell any real property. Though the Probate Court ordered a sale pursuant section 62-3-1301, et. Seq., the ordered sale was of Lot 3,not 11 and 12, which was the property described in the deed. According to Defendant Ulysses Green's

argument, Harriet Felder never received title to any property subject of this case and thus could not mortgage any such property, so that Aurora Loan services foreclosure resulted in no title being conveyed out therefrom to Aurora Loan Services; thus Aurora Loan Services has no title to convey to Plaintiff. Defendant Ulysses Green maintains that the Plaintiff is not entitled to reformation of any deed at issue here because the plaintiff is a buyer from a party that was itself a buyer at foreclosure sale and thus lacked privity with Harriet Felder and with the Estate of Daniel Green. Finally, Defendant Ulysses Green argues that a person cannot claim that he is a bona fide purchaser status if his grantor never had title to the property and as Aurora Loan Services never acquired title to Lot 3 or Lots 11 and 12, the Plaintiff cannot claim that he is a bona fide purchaser for value without notice. Defendant Ulysses Green moved for a directed verdict or involuntary nonsuit at the close of the Plaintiff's evidence on the these grounds, which he renewed at the close of all evidence. The Court denied these motions.

The Plaintiff argues that the public records showed that the Estate of Daniel Green was authorized by the Probate Court to sell property to pay several debts. That erroneously the Probate Order provided for the sale of Lot 1 and Lot 3. All parties agree that Lot 1 was not part of the estate but it is not clear from the records if the Probate Court intended Lot 11 and 12 rather than the erroneously listed Lot 1. Substantial repairs were initiated by Ulysses Green as Personal Representative to Lot 3 which were paid out of the sale at the closing. The Plaintiff's witness indicated that the records reflect an appraisal was done on Lot 3 in conjunction with the sale of a lot to Harriet Felter. All parties agree that Harriet Felter moved into Lot 3 after her loan closing. The

Estate for Daniel Green was paid the net proceeds; however, after Daniel Green failed to file an accounting with the Probate Court, he was removed as the Personal Representative. Although the deed and mortgage reflected Lots 11 and 12, all parties agree that Lot 3 is the lot Harriet Felter intended to purchase. Aurora Loan Services later foreclosed on Ms. Felter and named Lots 11 and 12 relying on its deed and mortgage for Lots 11 and 12. The Plaintiff disputes Defendant's argument that Aurora had no title to convey on any lots but Plaintiff argues instead that Aurora had a defective title which was curable. The Plaintiff has argued that Aurora Loan Service could have brought an action for reformation to correct the deed to Lot 3 based on the facts set forth above. Plaintiff argues he did not bring a reformation action but rather an action to quiet title, naming all parties that may have some interest in these lots, to clear up title to effected lots and resolve errors made at the various prior sales as well as the errors in the Estate of Daniel Green file in Probate Court and the foreclosure action in Master in Equity's Court. The Plaintiff argues that it would not be proper or equitable to allow Defendant Ulysses Green to regain ownership of Lot 3 after being paid in full for the repairs to Lot 3 and retaining all net proceeds to Lot 3 that were never distributed properly through the Estate of Daniel Green. Based on these facts and arguments, the Court denied Defendant's motions for directed verdict.

8. It appears from the testimony and matters of public record that numerous errors were made in the conveyance of these lots which were not properly corrected in the Probate action nor the foreclosure action. Both Plaintiff and Defendant Ulysses Green have arguably "unclean hands" although Defendant's counsel disputes this reference. The Court is in somewhat of a quandary in that Plaintiff is seeking a lot (Lot

3) that he did not intend to buy and for which he did not pay market value and Defendant Ulysses Green was already fully compensated for the previous attempted sale of Lot 3 and now wants to retain title to it. Yet both of these parties are the last two remaining interested parties in this action and both have incurred substantial costs regarding protection of the property. Defendant Ulysses Green has paid delinquent property taxes on Lot 3 in the amount of $4,682.29 to keep it from tax sale and Plaintiff indicates that he has expended approximately $35,000.00 in numerous repairs and expenses on Lots 11 and 12. $902.78 is currently due in taxes for Lots 11 and 12. It appears that a compromise on the relief would be fairest to the parties.

CONCLUSIONS OF LAW

The Court finds that it has jurisdiction over the subject matter as to Lot 3 and Lots 11 and 12, all located in Orangeburg County. The Court finds that it has jurisdiction over all persons necessary to render a decision in this matter.

IT IS ORDERED, ADJUDGED, AND DECREED:

1. That the Plaintiff Willey Riley and Defendant Ulysses Green own jointly in fee simple and are entitled to quiet and peaceful possession of that certain parcel of land situated in the County of Orangeburg, State of South Carolina, and described as follows:

All that certain piece, parcel or lot of land, with dwelling and other Improvements thereon, situate, lying and being in Orange Township, School District No. 5 (outside), the County of Orangeburg, State of South Carolina, being all of Lot 3 and the eastern half of Lot 2, as shown on a plat of property of H. A. Lyons made by H. Frank O'Cain, C.E., dated May 31, 1961, recorded in the office of the Clerk of Court for Orangeburg County, South Carolina, in Plat book 17 at Page 83, together having the following boundaries and measurements: Northwest by S.C. Highway S-38-796 and fronting thereon 135 feet. Northeast by property of Jones Terrace subdivision 135 feet and Southwest by remaining one-half portion of lot 2 on said plat 150 feet. The same being more fully shown and set forth on the above mentioned plat.

Being the same property conveyed to Daniel Green, Jr. by deed of George R. Zimmerman dated February 22, 1971 and being recorded February 23, 1971, in Deed Book 341 at Page 189 in the Office of the Clerk of Court for the State and County aforesaid.

TMS # 0182-14-05-014.000 (new) 0192-15-08-006.000 (old)
aka 2181 Whittaker Parkway, Orangeburg, SC

And also,

All that certain piece, parcel or lot of land, with dwelling and other improvements thereon, situate, lying and being in Orange Township, School District No. 5 (outside), the County of Orangeburg, State of South Carolina, designated as Lots No. 11 and 12, on a subdivision plat of property of Willie Jones by H. Frank O'Cain, C.E., dated September 19, 1960, recorded in the office of the Clerk of Court for Orangeburg County, South Carolina, having the following boundaries and measurements: Northeast by lands of Willie Jones and measuring Two Hundred (200) Feet; Northwest by lands of Willie Jones and measuring thereon One Hundred twenty (120) feet; Southwest by Lot No. 10 on said plat, lands of Willie Jones, and measuring thereon Two hundred (200) feet;, and southeast by a county road and measuring thereon one hundred Twenty (120) feet. Said lot being a portion of that same tract of land of ninety-six acres, more or less.

Being the same property conveyed to Ernestine Price by deed of Willie Jones dated October 10, 1960, and recorded in Clerk of County for Orangeburg County on October 13, 1960, in Deed Book 235 at page 352.

TMS # 0182-14-04-012.000 (new) 0192-15-20-0120.000 (old)
aka 2181 Whittaker Parkway, Orangeburg, SC

2. Plaintiff Willey Riley's and Defendant Ulysses Green's title to said real property is hereby forever quieted against any and all claims or demands of other Defendants, herein named, and any person claiming under them to any estate, right, title, lien, or interest in said real property.

3. All other Defendants are permanently enjoined and restrained from asserting any claim or interest in or to said real property or any part thereof.

4. The Plaintiff Willey Riley and Defendant Ulysses Green shall place both properties on the market through a realtor, that they can agree upon, and at a price for each lot as they can agree upon with consultation with their realtor.

5. Upon sale of the properties, certain costs shall be paid from the proceeds, including the closing costs, realtor fees and the Plaintiff Willey Riley shall be reimbursed

taxes paid on Lots 11 and 12 in the amount of $902.78, upon proof of payment thereof, and Defendant Ulysses Green shall be reimbursed $4,682.29, proof of payment thereof for delinquent taxes paid on Lot 3 then the net balance shall be distributed equally between the Plaintiff and the Defendant Ulysses Green. No offset shall be made for Plaintiff's prior improvements of the property as this will be reflected out of the increased sales price of the total lots; however, any improvements or repairs made by either party and with the advise of the realtor after the date of this order shall be reimbursed to the party incurring said cost from the sale prior to the net disbursements to Plaintiff and the Defendant Ulysses Green.

6. That in the event after 6 months from the date of this Order, these properties have not been sold, the Court shall order a public sale based on the terms set forth above to finally dispose this matter.

OLIN DAVIE BURGDORF
MASTER IN EQUITY
for Orangeburg County

Orangeburg, South Carolina
May 25, 2011

(6)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS C/A No.: 2013-CP-40-05675
Willie J. Riley, Plaintiff,	)	(OPPOSITION) MOTION TO DISMISS
V.	)	
Dennis Wayne Catoe and Does, Defendants.	)	

2013 DEC -3 PM 3:33

TO: ALL PARTIES INVOLED,

1.) Plaintiff (Willie J. Riley), is opposing the motion to dismiss for absence of subject matter jurisdiction and failure to state facts sufficient to constitute a cause of action or any claim upon which relief may be granted, pursuant to Rules 12(b) (1) and (6), S.C.R.Civ.P.

2.) The defendant (Catoe), based the instant motion to dismiss on the statutory law of the State of South Carolina S.C. Code. 15-36-100, failure to file an expert affidavit contemporaneously with Plaintiff complaint when alleging professional negligence.

3.) Plaintiff (Riley), request that the motion to dismiss, be denied, on the grounds that this case should fall under the exception in S.C. Code. 15-36-100 (C) (2), which state, the contemporaneous filing requirement of subsection (B) is not required to support a pleaded specification of negligence involving subject matter that lies within the ambit of common knowledge and experience, so that no special learning is needed to evaluate the conduct of the defendant.

4.) Plaintiff (Riley), believes this case falls under S.C. Code. 15-36-100 (C) (2) exception because the defendant (Catoe), has acknowledge fault on the case at hand, which can also be consider as professional negligence. The acknowledgement of fault is in the complaint which states the defendant (Catoe), took on the case to avoid a legal malpractice suit. Therefore, there is no need for an expert affidavit to evaluate the conduct of the defendant.

5.) Plaintiff (Riley), also believe that the case the defendant (Catoe), citied Rotureau v. Chaplin, 2009 WL 5195968 (D.S.C. Dec, 21, 2009)., to influence an order for dismiss with prejudice, should not influence on grounds the case was dismiss without prejudice, and the appeals Court up held the judge decision.

6.) Plaintiff, understand the law is to protect those who have been wrong, also to protect those from being wrong. Plaintiff, states the case should not be dismiss on lack of knowledge of the procedures of the law.

7.) The plaintiff (Riley), filing as a pro se plaintiff, does not excuse the merits and law of the courts and would like the courts to make a decision based on the grounds, merits and law of the courts in this case but asks the court to give plaintiff the benefit of any doubt within the law of the courts.

8.) If court, does not denied motion to dismiss and allow plaintiff (Riley), time to amend.

FACTS.

9.) Plaintiff (Riley), hired Defendant (Catoe), to protect his interest in a closing transaction, to make sure that the Plaintiff (Riley), had a clear title to the property to use as Plaintiff (Riley), chose to.

10.) Defendant (Catoe), was negligent in the handling of the property transaction, as a result Plaintiff, found out later that the title was defective.

11.) Defendant (Catoe), led Plaintiff (Riley), to believe Plaintiff had a clear title to real property.

12.) Defendant (Catoe), lead Plaintiff (Riley), to believe that defendant had done a title search on the real property and the title was free of any defects.

13.) Plaintiff (Riley), paid for the title search to be performed.

14.) Plaintiff (Riley), title to real property was defective.

15.) Plaintiff (Riley), accrued monetary damages, because Plaintiff was not able to use, rent, or sell real property, because of the defective title.

16.) If Defendant (Catoe), would have informed Plaintiff (Riley), of defective title, Plaintiff (Riley), would not have accrued these monetary damages.

17.) Plaintiff (Riley), states Plaintiff has tried to obtain an affidavit of an expert specifying any negligent act or omission by Attorney Catoe, but was unable to get one because of pro se representation and cost related to obtain one.

THEREFORE, Plaintiff prays,

a.) The plaintiff (Riley), request that the motion to dismiss, be denied entirely.

Or

b.) The plaintiff (Riley), ask for a summary judgment in plaintiff (Riley), favor.

I Willie J. Riley the plaintiff, declare that the statements are true and facts, where facts can be proven and opinions where opinions are given.

December 3, 2013.

Willie J. Riley
84 Wild Indigo Court.
Columbia, South Carolina, 29229.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge Tanya A. Gee, Circuit Court Judge

---

Appellant Case No. 2015-001627

Case No: 2013-CP-40-05675

Dennis Wayne Catoe, and Does Respondent,

v.

Willie J. Riley Appellant.

DESIGNATION OF MATTER

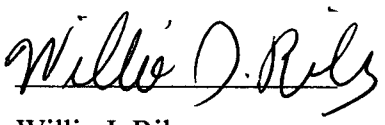
(TO BE INCLUDED IN THE RECORD ON APPEAL)

Appellant proposes the following to be included in Record on Appeal.

1. Order granting Summary Judgment to Respondent
2. Order Denying Reconsideration
3. Motion for Reconsideration and supported attachments
4. Transcript of Record from March 2, 2015
5. Amended order from May 25, 2011
6. Opposition for Motion to Dismiss

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,



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INITIAL BRIEF OF APPELLANT

Willie J. Riley

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Columbia, SC 29229

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Pro Se Appellant

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a. Respondent Catoe, Catoe told Appellant Riley,
b. Appellant Riley had no control,
c. Appellant Riley believes that the case should have been tolled,
d. Appellant Riley believes that the case should have been tolled based, on the Judge retiring,

IV. Did the Judge Err in the start date of the running of the statute of limitation.

a. Mr. William Booth III, never took the case,
b. Appellant Riley never received a letter from William Booth III,
c. Appellant Riley first time seeing those letters,

STATEMENT OF THE CASE

This case was brought by Appellant Willie Riley against Respondent Dennis Wayne Catoe, and others, seeking damages for a defective title in a real estate transaction, which Respondent Dennis Wayne Catoe was the closing attorney that handle the real estate transaction. Respondent Dennis Wayne Catoe, was also the one that was responsible for the title search and also provided the title insurance for the property.

Appellant Willie Riley purchased the real estate property after receiving a clear title report from Respondent Dennis Wayne Catoe on July 29, 2008 for the purchased amount of ($3,800.00) Three thousand and eight hundred dollars, with the intent of tearing down the old house on the property and rebuilding a new one, after expecting the home and the attempt to save the old structure. Appellant Willie Riley started to do rehab on the property. Nine months into the rehab Appellant Willie Riley was approached by a Gentleman who stated Appellant was working on the wrong house. Appellant Willie Riley went straight to Respondent Dennis Wayne Catoe's office and told Respondent Dennis Wayne Catoe what was told to Appellant Willie Riley, since Respondent Dennis Wayne Catoe was the attorney that was responsible for the title search and also the attorney that handles the real estate closing. To Appellant Riley's surprise Respondent Catoe, told Appellant Riley to ignore the gentleman and if Appellant Riley had any more concern to seek another attorney for help.

Appellant Riley did what was told to him by Respondent and search for another attorney to look into the matter. Appellant Riley called several attorneys but most of them wanted upfront fees to look into the case, not sure if there was a real problem, Appellant Riley search for attorney to just look into without upfront cost. Appellant Riley, called Attorney William E. Booth III, Mr. Booth agreed to look over it, but would not take the case until he had all the information. Appellant Riley met with Mr. Booth, Mr. Booth looked over the title but could not give Appellant Riley advice if there was a problem without having more information. Mr. Booth phone the Respondent Catoe, to schedule a meeting and to check over the title search report. Respondent Catoe agreed to a meeting which was attended by Appellant Riley, Mr. Booth, Respondent Catoe and Mr. Vince who performed the title search for Respondent Catoe.

At the meeting Respondent Catoe, apologized for his response, stating he had surgery and was not himself. Respondent Catoe then stated he would continue to look into the matter and resolve any issues with the title stating it should take a few months to go back in front of the Judge and fix the matter. Mr. Booth never was able to retain the files to determine if there was a problem. After the meeting, Respondent Catoe filed the papers with the Courts and a hearing was scheduled August 2, 2010, but had to be continued due to the Judge having to go to the Doctor until October 6, 2010. On November 3, 2010 an order was issued that the property be joint ownership with the gentleman who stated Appellant was working on the wrong piece of property. On April 26, 2011 a hearing was

heard for a Motion to reconsider and it was denied, but an amended order was issued. The case was appealed and heard on, which the case reversed and remand. Due to the Judge retiring, a new judge had to hear the case and a new hearing was scheduled on April 24, 2013 and an order granting Appellant the property with a cost of appeals attached to the title. After the last order Appellant Riley file a complaint against Respondent Catoe for negligence in handling Appellant Riley real estate transaction, seeking damages for lost of use of the property, damages that was caused to the property based on the time it took the litigation's to produce a title which still was not clear.

Appellant Riley first complaint was dismissed on failing to file an expert affidavit with complaint on February 5, 2014 Appellant Riley filed an amended complaint on March 4, 2014. The Respondent Dennis Wayne Catoe filed a Motion for Summary Judgment, based on the statute of limitation and it was granted, order issued, filed April 23, 2015. This appeal followed.

STATEMENT OF FACTS

Dennis Wayne Catoe was hired by Willie Riley to perform the title search for a real estate purchase.

Dennis Wayne Catoe gave Willie Riley a clear title report to the purchased real estate property.

Willie Riley relied on the clear title report and purchased the property and did rehab work on the property for nine months.

Willie Riley did not have a clear title to the property he bought and still does not.

Dennis Wayne Catoe is responsible for the damages Willie Riley accrue based on the fact that it was determine the title was not clear at the time Willie Riley purchased the property and Dennis Wayne Catoe stated the title was clear.

Willie Riley was not able to use the property based on the title not being cleared or finish the property based on the mitigation law.

ARGUMENT

I. Did the judge err in granting Respondent a Summary Judgement, based on the expiring of the statute of limitations?

   a. Respondent Catoe, told Appellant Riley, he did not have to be concern about the statute of limitations running out because the title insurance was only for $3800.00 and he would have to file with Respondent Catoe insurance based on the amount of the damages exceeded the title insurance amount.

b. Appellant had no control over the courts or the judge decisions to continue the case.

c. Appellant Riley, believes that the case should have been tolled for a year on the Reverse of the appeal.

d. Appellant Riley, believes that the case should have been tolled based on the judge retiring and a new judge had to be appointed which a new hearing of the case had to be held.

II. Did the judge err in the start date of the running of the statute of limitations?

a. Mr. William Booth III never took the case and never had the files to determine if there was a case against Respondent Catoe.

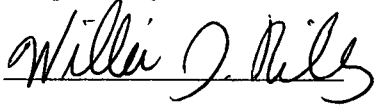
b. Appellant Riley, never received a letter from Mr. William Booth III as stated by Respondent Catoe which was used to determine Appellant Riley start of running of the statute of limitation.

c. Appellant Riley first time seeing those letters from William Booth III was when Appellant Riley ask Respondent Catoe for the case files which was in 2013.

Conclusion

The judge decision to grant Respondent Catoe a Summary Judgement is not supported by the evidence and the law. This Court should reverse the judge decision and dismiss the Summary Judgment and return the case to be placed back on the docket for trial.

Respectfully submitted,



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