

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

William H. Seals, Circuit Judge

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DEC 07 2017

SC Court of Appeals

Case No. 2016-CP-21-1230

Harvey R. Campbell, Jr.,..... Appellant

Vs.

Lee Lyerly and Ellen Marie Stone Lyerly Respondents

Appellate Case No. 216-002315

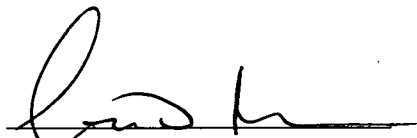
MEMORANDUM ON PETITION FOR REHEARING

Appellant, has moved for a rehearing. This Court has by unpublished opinion 2017-UP-438 ruled against Appellant. The Court cited two cases *Duckworth v. Cameron*, 244 S.E.2d 217, 270 S.C. 647 (S.C., 1978) and *Martin v. Ellisor*, 266 S.C. 377, 223 S.E.2d 415 (S.C., 1976).

The Court cited *Martin* for the proposition that a court is required to apply the plain language of a unambiguous statute literally. The Court cited *Duckworth*

for the proposition that the statute was to be applied at the time of entering into of the contract. Reliance on *Duckworth* was misplaced. In *Duckworth* the statute as it then existed was silent as to when it applied. After *Duckworth* was decided, the Legislature amended the statute by adding the words “who first has not procured a license or registered with the commission” and creating a fine for a lapse in licensing. This introduced a time element into the restriction on filing suit and not on having a license at the time of contracting. Under amended statute the filing of suit is conditional on having a license. This is the logical interpretation of the plain meaning of all the words of the statute. This Courts interpretation makes the added language of the statute meaningless and defies the mandate of *Martin v. Ellisor*, 266 S.C. 377, 223 S.E.2d 415 (S.C., 1976)

Respectfully submitted,



LOUIS D. NETTLES
Folkens Law Firm, PA
PO Box 6139
Florence, South Carolina 29502
Attorney for Appellants
843-665-0100

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December 7, 2017

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CERTIFICATE OF SERVICE

I certify that I have served the Appellant's Petition for Rehearing and Memorandum along with the Certificate of Service on Respondent's Attorney by depositing copies of the same in the United States Mail, postage prepaid, on December 7, 2017 addressed to the following address:

Gary I. Finklea, Esq.
Finklea Law Firm
P. O. Box 1317
Florence, South Carolina 29503



LOUIS D. NETTLES
Folkens Law Firm, PA
PO Box 6139
Florence, South Carolina 29502
Attorney for Appellants
843-665-0100

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SC Court of Appeals

December 7, 2017

The Honorable V. Claire Allen
Deputy Clerk, The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

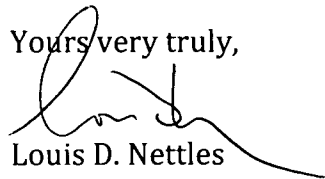
RE: Campbell v. Lyerly 2016-CP-21-1230
2016-002315

Dear Ms. Allen;

Enclosed please find Appellant's Motion for Rehearing, Memorandum, Certificate of Service and a check for the filing fee.

With kind regards, I am,

Yours very truly,



Louis D. Nettles

CC: Gary I. Finklea, Esq