THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2019-000120

Gary Griffin and Rachel Griffin,

Plaintiffs/Appellants,

v.

Shannon Rollings, d/b/a Shannon Rollings Real Estate, LLC,

Defendant/Respondent.

[INTIAL] BRIEF OF APPELLANT

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STATEMENT OF THE CASE

This case is about the title to Gary and Rachel Griffins' family residence located at 8 Lake Selisa Drive, North Augusta, South Carolina. Shortly after the January 16, 2015, closing the Griffins learned that adjoining neighbor, Dennis Turner, had for many years claimed ownership to a sizable portion of their front yard. On August 30, 2018, the Appellants brought this action against Respondent Shannon Rollings claiming that the realtor facilitated the sale of unmarketable property to the Griffins by fabricating and publishing a Residential Property Condition Disclosure Statement (hereinafter "Disclosure Statement"), (Title 27, Chapter 50, Article 1), that contained incomplete and deceptive title information.

Shannon Rollings answered alleging that she had complied with the provisions of S.C. Code Ann. § 27-50-70 (2018), which governs the conduct

of realtors, and that she owed no duty to the Griffins to discover and disclose title issues effecting the property. Rollings also alleged the Griffins had brought a negligence action for damages based solely in tort and that the applicable three-year statute of limitations had expired.

Cross-motions for summary judgment came before the trial court on December 11, 2018. On January 10, 2019, the circuit court granted summary judgment to the Respondent realtor. The Griffins served Notice of Appeal on January 24, 2019.

STANDARD OF REVIEW

When reviewing the grant of summary judgment, an appellate court applies the same standard of review as the circuit court under Rule 56, SCRCP. *McLaughlin v. Williams*, 379 S.C. 451 665 S.E.2d 667, at 670 (Ct. App. 2008) Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. To determine whether any trial worthy issues of fact exist, the reviewing court must weigh the evidence and all reasonable inferences in the light most favorable to the non-moving party. *McLaughlin,* 665 S.E.2d at 670.

UNCONTROVERTED HISTORICAL FACTS ABOUT THE PROPERTY

Appellants stipulate, or admit as true, the following well-pled factual allegations directly quoted from the first two pages of the trial court's "Order Granting Defendant's Motion for Summary Judgment,"[1] and also directly quoted from pages 1 and 2 of "Defendant Shannon Rollings ... Memorandum in Support of Motion for Summary Judgment:"

> "Specifically, this action arises out of a real estate transaction which took place on January 16, 2015, involving the property located at 8 Lake Selisa Drive, North Augusta, South Carolina. ("Subject Property"). Defendant Realtor acted as agent for Milton and Teresa Rollins, sellers of the Subject Property. Shortly after the purchase of the property, the neighbor, Mr. Dennis Turner attempted to assert claim to portions of the front yard of the Griffins and began to erect a fence. By Order of the Master in Equity, Mr. Turner was directed to take down the fence and not to place any obstruction on the Griffin property." [Order, P. 1, 2; Rollings Memo, P. 1]
>
> "The historical facts regarding the land upon which the Subject Property sits are significant. In 1972 W.M. Gregory, a developer and his daughter, Barbara Parr, developed and

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[1] The trial court's "Order Granting Defendant's Motion for Summary Judgment" was drafted by counsel for the Respondent and became the "final order" of the trial court. Transcript, P. 47, L. 20 – P. 48, L. 8; Anderson E-Mail Correspondence dated December 12, 2018, and January 10, 2019.

conveyed residential lots to various purchasers in the subdivision where the Subject Property is located. Dennis Turner owns the property located at 9 Lake Selisa Drive. He is the adjoining landowner. In August of 2007, Turner acquired a quit-claim deed that purportedly granted him an ownership interest in both the paved portion of Lake Selisa Drive and the abutting properties within a fifty (50) foot right of way of the street. The Plaintiffs allege that shortly after the quit-claim deed was recorded, Mr. Turner began giving notice of his ownership of Lake Selisa Drive to adjoining landowners." [Order, P. 2; Rollings Memo, P. 1, 2]

"On January 16, 2015, Milton and Teresa Rollins sold the Subject Property to the Plaintiffs via general warranty deed prepared by closing attorney Richard Taylor. In connection with this transaction, Mr. Taylor prepared a Deed of Easement which conveyed to the Griffins the right to ingress and egress the Subject Property. In exchange for this easement, the Rollins paid Mr. Turner one thousand and five hundred dollars ($1,500.00)." [Order, P. 2; Rollings Memo, P. 2]

Appellants stipulate, or admit as true, the following facts asserted by the Respondent and quoted from page 3 of the trial court's "Order Granting Defendant's Motion for Summary Judgment:"

"Defendant Realtor was previously involved in Civil Action No. 2017-CP-02-01437 where the Plaintiffs brought claims against Fidelity Bank, Milton P. Rollins, Teresa F. Rollins

and Shannon Rollings, d/b/a Shannon Rollings Real Estate, LLC. A voluntary dismissal of Defendant Realtor without prejudice was entered on December 11, 2017. The present action was served upon the Defendants in September, 2018." [Order, P. 3]

The present action was electronically filed on August 30, 2018. [Summons/File Stamp]

In 2011, four years before the Griffins purchased 8 Lake Selisa Drive, Dennis Turner erected, for the first time, fencing across the front yard of the subject property. [Turner Depo. P. 36, L. 24, to P. 38, L. 2] Either the Rollins, or their tenants, tore down the previously erected fencing to clear the front yard of 8 Lake Selisa Drive of obstructions. [Turner Depo. P. 19, L. 20, 21; P. 20, L. 4-6]

CONTROVERTED FACTS WHICH TEND TO REFUTE SUMMARY JUDGMENT

Respondent Shannon Rollings was Milton and Teresa Rollins "exclusive" real estate agent for the sale of 8 Lake Selisa Drive to the Griffins. [Rollings Afd. Par. 2, 3, 18] Rollings, and/or her employees, provided two marketing documents that were relied upon by the Griffins (through their purchasing agent, realtor Grant Sutton), for their purchase of 8

Lake Selisa Drive, namely: (1) the color sales brochure, containing the "MLS" listing information; and (2) the South Carolina Residential Property Disclosure Statement. [Sutton Afd. Par. 2, 3, and 4, with verified exhibits "A", and "B"] With regard to "marketing" the property, the Disclosure Statement was "attached" to the sales brochure. [Sutton Afd. Par. 2]

Rollings specifically admitted that she (vis-à-vis her "agency"), had "standard procedures" for "receiving, "transferring," and "uploading" both the sales brochure and the Disclosure Statement. [Rollings Supp. Afd. Par. 7-9]

The Disclosure Statement and the color sales brochure do not disclose Turner's title claim to the Griffins' front yard. [Sutton Afd. Par. 2, and 3, with attached Exhibits "A," and "B"] Page 3, Paragraphs 16, and 17, of the Disclosure Statement specifically requested the disclosure of such title information as "claims," "encroachments from adjacent property," and liens. [Sutton Afd. Exhibit "B," P 3, Par. 16, 17] Turner's title claim was not disclosed at the specific place on the form where adverse title information was required to be revealed. [Sutton Afd. Exhibit "B," P 3, Par. 16, 17]

The sellers, Milton and Teresa Rollins, testified that they never signed or initialed the Disclosure Statement that was provided to the Griffins' agent, Grant Sutton [Rollins Depo. P. 39, L. 22 to P. 42, L. 2; Sutton Afd. Par. 4]

Rollins further testified that they never even saw the Disclosure Statement until their own lawyer showed it to them in his office after this present law suit began. [Rollins Depo. P. 39, L. 11 to P. 40, L. 9; P. 41, L. 6 to 11] Someone working in Respondent Rollings' real estate office telephoned Teresa Rollins and orally asked the seller to provide over the phone some of the information requested on the Disclosure Statement form, but no one from Rollings' agency ever actually showed the Rollins the completed document that was marketed by the realtor or used to consummate the sale to the Griffins. [Rollins Depo., P. 41, 54, 56, 58]

Grant Sutton, testified that neither he nor the Griffins changed or altered the information contained in the Disclosure Statement from the way it was delivered to him from Shannon Rollins. He returned it to Rollings in the same condition (boxes unchecked), but for his clients, the Griffins, affixing their signatures. [Sutton Afd. Par. 2, 3, with attached Exhibit B, particularly P. 3, Par. 16, 17; Rollings Supp. Afd. Exhibit B, P. 5] After the Griffins signed both the "Purchase and Sale Agreement" and the "Disclosure Statement," on December 11, 2014, Respondent Rollings formally "accepted" both documents. [Sutton Afd. Par. 4; Rollings Supp. Afd. Par. 14] Rollings admitted that her "office" "received" back the Disclosure Statement on the same day it was signed by the Griffins and that she (or someone from her

office), made a "careful review and consideration" of the document with the Griffin's agent, Grant Sutton. [Rollings Supp. Afd. Par. 14]

The Rollins testified that if their realtor, Respondent Rollings, had ever shown them the Disclosure Statement to complete they would have answered the questions differently and would have answered with "more information." [Rollins Depo. P. 44, L. 1 – 17; P. 58, L. 2-25]

Both of the Griffins testified that prior to their purchase of the property they were completely unaware of Turner's encroachment and ownership claim to a portion of their front yard. [R. Grif. Afd. Par. 2, 6; G. Grif. Afd. Par. 2, 5; Grif. Depo. P. 207, L. 9 – 208, L. 6] The Griffins (and/or their purchasing agent), performed acts of due diligence prior to the purchase of the property which produced the following paperwork. The due diligence documentation makes no reference to Turner's adverse title claim:

(1) At closing, the Griffins were given copies of the warranty deed and its cross-referenced survey. The survey (the "Satcher" survey), shows the front yard of 8 Lake Selisa Drive abutting a street and

not the private property of an adjacent land owner.[2] [G. Grif. Afd. Par. 4-a, attached Exhibit A]

(2) The Griffins obtained two appraisals on the subject property both of which expressly stated: "No apparent adverse easements or encroachments noted...property is considered in line with other properties in the area ... property conforms to the neighborhood." [G. Grif. Afd., Par. 4-b, with attached Exhibits "C" and "D"]

(3) The Griffins testified that they visited and walked the property several times, met the neighbors (particularly including Dennis Turner, and the sellers, Milton and Teresa Rollings), and saw nothing and heard nothing from anyone that would distinguish 8 Lake Selisa Drive from any typical home on a cul-de-sac in an Aiken County subdivision. [R. Grif. Afd. Par. 5; G. Grif. Afd, Par. 4-c]

(4) Griffins purchased a "Home Inspection" of the subject property, which did not indicate the presence of any obstructions, fencing, fabrications, or structural work on the premises that was connected

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[2] Shortly after the closing, the Griffins purchased another survey (dated February 5, 2015), which had the same information about the front yard, as the pre-closing survey. [G. Grif. Afd. Exhibit "B," McKie Survey]

to or abutted neighboring land. [Rollings, Rule 34, SCRCP, P. 00018, 00020]

(5) The Griffins retained the professional services of realtor Grant Sutton, employed by Meybohm Realty, as their agent for the purchase of the property and relied upon him to both review and advise them about the pre-closing paperwork. [Rollings Afd. Par. 14; G. Grif. Afd. Par. 4; Grif. Depo. P. 90, L. 2-7; Sutton Afd., Par. 2: "I [Sutton], reviewed the Disclosure Statement with the Griffins and saw no red flags that would cause me to discourage their purchase of the property."]

The Griffins were repeatedly told that they would also get at closing an ingress-egress easement which would guarantee their right to access their property over the roadway of Lake Selisa Drive. Closing attorney Taylor testified that he "showed" a copy of the easement to the Griffins and explained that "the purpose of the Deed of Easement," was to "remove any doubt that the purchasers [the Griffins], had an absolute right to use the roadway [Lake Selisa Drive], for ingress and egress." [Taylor Depo. P. 56,

L. 9 to P. 57, L. 1] "We prepared a Deed of Easement[3] so that the Griffins would have an absolute right to use the roadway." [Taylor Depo. P. 20, L. 9-12] The Griffins recalled the easement conversation which occurred at closing, "Richard Taylor ... told us that it [easement], was to access our property ... that was the extent of it." [Grif. Depo. P. 216, L. 8-21] Realtor Sutton testified that the easement was "to guarantee that the Griffins would have ingress egress along Lake Selisa Drive to get to their property. We were all aware that the easement would be part of the closing." [Sutton Afd. Par. 5]

[3] The Deed of Easement makes no reference to an adverse title claim touching upon the front yard of the Griffins' property. [R. Grif Afd. Par. 8, with attached Exhibit B/Deed of Easement]

ARGUMENTS

I. THE TRIAL COURT ERRONEOUSLY IGNORED GENUINE ISSUES OF MATERIAL FACT IN GRANTING SUMMARY JUDGMENT TO THE DEFENDANT REALTOR.

Summary judgment was not appropriate in this case because trial worthy issues of material fact existed which precluded judgment as a matter of law. *McLaughlin v. Williams*, 379 S.C. 451, 665 S.E.2d 667, at 670 (Ct. App. 2008) While the Appellants agree that Rollings owed no duty to the Griffins to discover and publicize adverse title claims effecting the property, the realtor did have a legal duty to the Griffins (and to all prospective buyers), to refrain from engaging in the deceitful and negligent distribution of a phony Disclosure Statement.

The language of S.C. Code Ann. § 27-50-70 (2018) reasonably sets forth the terms of liability arising from a realtor's duty toward "prospective purchasers" such as the Griffins. The statute expressly provides:

> (A) A listing agent or any real estate licensee operating for any party in a residential real estate transaction must inform in writing each owner covered by the listing agreement of the owner's obligations prescribed in this article. If the listing agent performs this duty, he is not liable for the owner's refusal or failure to provide a prospective purchaser with a disclosure

statement.

(B) This article does not conflict with or alter the duties of the real estate licensee pursuant to the regulations of the commission. The real estate licensee, whether acting as the listing agent or selling agent, is not liable to a purchaser if:

(1) the owner provides the purchaser with a disclosure form that contains false, incomplete, or misleading information; and

(2) the real estate licensee did not know or have reasonable cause to suspect the information was false, incomplete, or misleading.

S.C. Code Ann. § 27-50-70 (2018)

Clearly, realtor Rollings had a duty to inform the Rollins "in writing" of their "obligations," as the sellers, when filling out the Disclosure Statement form. S.C. Code Ann. § 27-50-70(A) (2018). If Rollings, the listing agent, had performed this duty, she would not have been liable for the production and distribution of a dishonest and inaccurate Disclosure Statement. According to the plain English language of the statute, the duty ran from Rollings, "as the listing agent," to the "prospective purchasers," the Griffins. S.C. Code Ann. § 27-50-70(A) (2018).

This same code provision goes on to detail, in pertinent part, that the listing agent, Rollings, would not have been liable to the "purchasers," the Griffins, ***if*** "(1) the owner [had provided] the purchaser with a disclosure

statement that [contained] false, incomplete, or misleading information; and (2) *the real estate licensee did not have reasonable cause to suspect that the information was false, incomplete, or misleading."* S.C. Code Ann. § 27-50-70(B) (2018). As a matter of law, the determination of liability turns on whether the Disclosure Statement provided to the Griffins was "false, incomplete, or misleading," and whether Rollings had "reasonable cause to suspect" its potentially fraudulent nature.

The trail court erroneously ignored material facts presented by the Griffins. The Disclosure Statement was "misleading" and "incomplete," because Page 3 of the form (Paragraphs 16, and 17), was left completely blank. Particularly with regard to concealing Turner's adverse ownership claim, neither the brochure nor the Disclosure Statement reveal the true status of the title. The concealment was outrageously deceitful in light of the factual history presented by the Appellants. Turner's past fencing off of a portion of the front yard of 8 Lake Selisa Drive (because Turner thought he had title to it), and the subsequent tearing down of the barrier by the Rollins, were notorious events.

While realtor Rollings may not reasonably have known about the extraordinary history of her clients' neighborhood, the realtor had reason to know about the critical paragraphs that were left blank in the Disclosure

Statement that was attached to her glossy colored marketing brochure [Sutton Afd., Par. 2, see attached Exhibit A]. The attachment was placed there by Rollings as part of the realtor's advertising scheme. On, December 11, 2014, each page of the Disclosure Statement was initialed by Griffins. Realtor Rollings could not have reasonably confirmed that the document had been properly executed by the buyers (on December 11, 2014), *and the sellers (*on May 10, 2014), without also seeing that directly above the various initials on Page 3 of the form, all the boxes were left blank. [Sutton Afd. Par. 2, 3, and 4, with attached Exhibit B; See Rollings Supp. Afd. Par. 14, Rollings' "careful review and consideration" of the document; Rollings Supp. Afd. Exhibit B]

S.C. Code Ann. § 27-50-70(a) (2018) required Rollings to "inform" the Rollins of their "prescribed" disclosure "obligations." The trail court erroneously ignored material evidence presented by the Griffins that reasonably suggested the entire Disclosure Statement was a fabrication that was created intentionally, or by gross negligence, in the realty office of the Respondent. Rollins never actually signed or initialed the Disclosure Statement that was provided to the Griffins. [Rollins Depo, P. 39, L. 22 to P. 42, L. 2] The sellers never saw the Disclosure Statement until their own lawyer showed it to them months after the closing. [Rollins Depo, P. 39,

L. 11 to P. 40, L. 9; P. 41, L. 6 to 11] Realtor Rollings never got the Defendant sellers, Milton and Teresa Rollins, to personally review and actually sign the form. Instead, someone from Rollings office called Teresa Rollins on the telephone and orally requested some of the disclosure information used in the form, but never actually showed the Rollins the completed disclosure form. [Rollins Depo, P. 41, 54, 56, 58]

Rollings deceitful and gross mishandling of the form, violated the realtor's legal obligation to "inform" the Rollins in good faith of their "prescribed" disclosure "obligations." S.C. Code Ann. § 27-50-70(a) (2018). Teresa Rollins testified that if she had ever been shown the Disclosure form she would have checked the boxes "no representation," with regard to claims and encroachments. [Rollins Depo, P. 44, 45]

Defendant Rollings "accepted" the Disclosure Statement after it was signed by the Griffins (with Page 3 being left blank), and after being "allegedly" signed by the Rollins. [Sutton Afd. Par. 4, with attached Exhibit "B", P. 3] Grant Sutton, the Griffins' realtor, testified that neither he nor the Griffins changed or altered the completeness of the form in any way from the condition it was delivered to him from Shannon Rollings. He returned it to Rollings in the same condition (boxes unchecked), but for the signatures of his clients. [Sutton Afd., Par. 2, 4, see attached Exhibit B]. Because the

fictitious form appears to have been dated by the sellers on May 10, 2014 (at the inception of the Rollins listing agreement with Rollings), and because the form was attached to the sales brochure signed by the Griffins on December 11, 2014, it is a reasonable inference that the bogus Disclosure Statement was distributed to the public throughout the entire time the house was on the market (from the day it was listed until the day it sold). [Sutton Afd., Par. 2, see attached Exhibit B, P. 5]

Reasonably, Rollings knew, or should have known, the Griffins had been given a Disclosure form that was "incomplete," pursuant to S.C. Code Ann. § 27-50-70(B). In *McLaughlan v. Williams*, 379 S.C. 451, 665 S.E.2d 667, at 672, 673 (Ct. App. 2008), the Court stated, "Under the language of section 27-50-70(B), if a real estate licensee knows the information is incomplete or misleading, the licensee may still be liable to the purchaser."

II. THE TRIAL COURT ERRONEOUSLY REJECTED THE TEN YEAR STATUTE OF LIMITATIONS APPLICABLE TO THE PLAINTIFF'S CLAIM FOUNDED UPON TITLE TO REAL PROPERTY AS PROVIDED BY S.C. CODE ANN. § 15-3-350 (2018)

The Griffins contend that their claim against the Respondent realtor is subject to a ten year statute of limitations under the provisions of S.C. Code Ann. § 15-3-350 (2018). The Griffins contend that in this particular case the

criticized Disclosure Statement was a real estate entitlement that uniquely arose from the Appellants' interest in the title to their family residence.[4] It appears that no appellate court in South Carolina has ever specifically addressed the appropriate statute of limitations for a realtor's alleged violation of South Carolina's Disclosure Statement statute, particularly in a matter that exclusively pertains to the concealment of information effecting the title to real property.

The code provision relied upon by the Plaintiffs, is entitled *Action founded on title or for rents or services,* and provides as follows:

> No cause of action or defense to an action founded upon a title to real property or to rents or services out of the same shall be effectual unless it appear that the person prosecuting the action or making the defense or under whose title the action is prosecuted or the defense is made, or the ancestor, predecessor or grantor of such person, was seized or possessed of the premises in question within ten years before the committing of the act in respect to which such action is prosecuted or defense made. S.C. Code Ann. § 15-3-350 (2018).

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[4] Appellants do not contend that all cases and controversies involving a "Disclosure Statement" (Title 27, Chapter 50, Article 1), would necessarily invoke the ten year limitations provision of S.C. Code Ann. § 15-3-350 (2018).

Plaintiffs contend that their present action is "founded upon a title to real property or to ... services out of the same." The Griffins were entitled, by authority of the South Carolina Legislature, to have received proper delivery of an honest and truthful Disclosure Statement that would have alerted them to Turner's ownership claim to their front yard. In this case, the Disclosure Statement was also a "service" important to the Griffin's receipt of good "title to real property." The specific language cited above in the statute, "committing of the act in respect to which such action is prosecuted," contemplates such a negligent "act" by a realtor effecting "title to real property" as the Griffins have alleged against realtor Rollings.

Griffins contend that one of the legislative purposes of the Disclosure Statement law (Title 27, Chapter 50, Article 1), was to bring to light the type of title defects that would not appear to a closing attorney performing a title search at the R.M.C. office, or appear to a good faith buyer performing a "due diligent" evaluation of the property. Turner's repeated efforts to fence off the Griffins' front yard uniquely appears to be a matter of notorious neighborhood history, that reasonably was not recorded in the chain of title at the local courthouse. Page 3, paragraphs 16, and 17, of the Disclosure Statement expressly required the disclosure of such critical information as "encroachments to or from adjacent real property," "claims," "judgments,"

"tax liens," "other liens," and "governmental actions that could *effect title to property*." [Emphasis supplied]; [Sutton Afd., Exhibit B, P. 3]

The South Carolina Court of Appeals held in *Jenkins v. Brown*, 340 S.C. 557, at 561, 532 S.E. 2d 302 (Ct. App. 2000), that an interest that touches the land itself, or "runs with the land" (such as a tobacco allotment), is such "an interest in land" that "the ten year statute of limitations applies." Griffins contend that the revealing of "encroachments to or from adjacent real property," "claims," "judgments," "tax liens," and "other liens" (as required on Page 3 of the Disclosure Statement), are all interests in land that run with the land. When these adverse interests are known to the seller and realtor they must be honestly divulged in the Disclosure Statement. In the Griffins case, the Disclosure Statement would have provided notice of a claim to the land not reasonably discoverable through due diligence or professional title examination.

The Griffins further argue that the following language in the Disclosure Statement law, reasonably indicates legislative intent that certain violations of Title 27, Chapter 50, Article 1, can precipitate actions that are "founded on a title to real property." S.C. Code Ann. §15-3-350 (2018). More critically, the following statutory language shows that the Disclosure Statement is an interest in land that arises shortly before the actual title

transfer and is such "an interest in land" that touches the land itself:

1. The five page Disclosure Statement was promulgated by the South Carolina Real Estate Commission, and is required in all South Carolina transactions where title to residential real estate is transferred. [See S.C. Code Ann. § 27-50-10(1) (2018); S.C. Code Ann § 27-50-40(A) (2018); S.C. Code Ann §27-50-50(A) (2018)];
2. S.C. Code Ann. § 27-50-40(A)(5) (2018) expressly requires the Disclosure Statement to obtain such critical title information as: "... restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from a government agency affecting this real property;"
3. Page 3, paragraphs 16, and 17, of the Disclosure Statement expressly requires disclosure of the following critical title information: "easements," "encroachments to or from adjacent real property," "claims," "judgments," "tax liens," "other liens," "governmental actions that could effect title to property;" [Sutton Afd., P. 3]
4. S.C. Code Ann. § 27-50-10(4) (2018) expressly describes a property owner covered by the Disclosure Statement law as a

"person having *a recorded present or future interest* in real estate;" [Emphasis supplied]

5. S.C. Code Ann. § 27-50-10(6) (2018) expressly describes real estate sales contracts as used in the Disclosure Statement as transfers of "ownership of real property;" and,
6. S.C. Code Ann. § 27-50-80 (2018) expressly "obligates" the real estate purchaser to inspect the physical condition of the property and "improvements" made to the land, such that the subject "improvements" would run with the land title, the same as liens, easements, and certain fixtures.

S.C. Code Ann. § 15-3-350 (2018) expressly requires that the action be "founded upon a title to real property." The Appellants reasonably argue that the prosecution of such an action (such as the present one), would tend to perfect the title, or make it whole. The interest in title would "run with the land," and make the land "whole," as opposed to making a person "whole," such as when bringing a personal injury claim. *Jenkins v. Brown*, 340 S.C. at 561. The Griffins further argue that the damages in this case are measured by injury to the *"title"* to their prop*erty*. That is why the Griffins' claim justly merits the longer limitations period provided under S.C. Code Ann. § 15-3-

350 (2018).

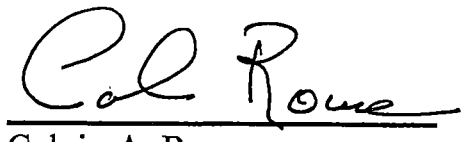
Attorney fees, costs, surveys, appraisals, and other necessary expenses incurred by the Griffins in curing the defects in the title to their property would be such a measurement of the Plaintiffs' damages. The Respondent alleged in the stipulated/uncontroverted facts cited above that "by Order of the Master in Equity, Mr. Turner was directed to take down the fence and not to place any obstruction on the Griffin property." [Order, P. 2] Reasonably, there were expenses entailed in obtaining the order from the Master which was only possible ***if*** the Griffins' had standing "founded upon a title to real property." S.C. Code Ann. § 15-3-350 (2018).

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

February 16, 2019



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Shannon Rollings, d/b/a Shannon Rollings Real Estate, LLC,

Defendant/Respondent.

PROOF OF SERVICE

I certify that I have served the Initial Brief of the Appellants on Shannon Rollings by depositing a copy of it in the United States Mail, postage prepaid, on January 23, 2019, addressed to her attorneys of record, David A. Anderson and Carmen Ganjehsani, P.O. Drawer 7788, Columbia, SC 29202.

February 26, 2019

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February 16, 2019

Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: ***Gary Griffin and Rachel Griffin v. Shannon Rollings et. al.***
Case No. 2019-000120
Filing Appellants' Initial Brief and Appellants' Designation of Matter

Dear Clerk:

With regard to the above referenced case, please find enclosed the Plaintiffs/Appellants Initial Brief and Designation of Matter with attached Proofs of Service.

Most Sincerely,

C. Rouse

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CR/sem
Encl:
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Columbia, SC 29202.

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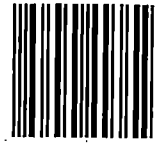

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