

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2014-CP-10-1827
Appellate Case No. 2014-002079

Coastal Federal Credit Union. Appellant

v.

Angel Latoria Brown Respondent

APPELLANT'S FINAL REPLY BRIEF

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ARGUMENT

Respondent asserts in her Initial Brief that a denial of a motion for summary judgment is an interlocutory order and therefore not immediately appealable. The Defendant therefore argues that if this Court reverses the trial court's holding that Plaintiff's lawsuit against Defendant is time-barred, that it cannot then go on to make a determination on the merits as to Plaintiff's Motion For Summary Judgment on its substantive claim against Defendant but must remand for further action by the trial court regarding same. (Initial Brief for Respondent, pages 8- 9.) However, South Carolina appellate courts have expressly recognized an exception to that rule, holding that interlocutory orders which are typically not appealable become so when they are companions to issues that are immediately appealable. *See, e.g., Hedgepath v. AT&T*, 348 S.C. 340, 363 S.E.2d 327, 340 (Ct.App. 2001); *see also Briggs v. Richardson*, 273 S.C. 376, 256 S.E.2d 544 (1979); *Brown v. County of Berkeley*, 366 S.C. 354, 622 S.E.2d 533 (2005).

In support of her position, Respondent cites to the case of *Olson v. Faculty House of Carolina, Inc.*, 354 S.C. 161, 580 S.E.2d (2003), in which the South Carolina Supreme Court overruled three cases that touched on the issue of interlocutory appeals: *Tanner v. Florence City-County Bldg Comm'n*, 333 S.C. 549, 511 S.E.2d 369 (Ct. App. 1999), *Anthony v. Padmar, Inc.*, 307 S.C. 503, 415 S.E.2d 828 (Ct. App. 1992), and *Garrett v. Snedigar*, 293 S.C. 176, 359 S.E.2d 283 (Ct.App. 1987). However, *Hedgepath v. AT&T*, *Briggs v. Richardson*, and *Brown v. County of Berkeley* are all still good law. More importantly however, the South Carolina Supreme Court decided *Brown v. County of Berkeley* in 2005, which was two years after the *Olson* decision.

In *Brown*, the Court briefly addressed interlocutory orders and specifically stated that “[c]ourts have made a practice of accepting appeals of denials of interlocutory orders not ordinarily immediately appealable when these appeals are companion to issues that are reviewable. *Pitts v. Jackson Nat’l Life Ins. Co.*, 352 S.C. 319, 338, 574 S.E.2d 502, 512 (Ct.App. 2002) (citing *Morris v. Anderson County*, 349 S.C. 607, 610, 564 S.E.2d 649, 651 (2002).”

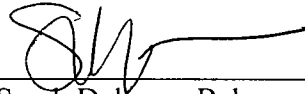
Brown v. County of Berkley, 366 S.C. at 362, n. 5, 622 S.E.2d at 538, n. 5.

In *Brown*, the Court then went on to examine whether there was a sufficient nexus between the issues before it to justify the Court’s review of the related interlocutory order. *Id.* Therefore, the South Carolina Supreme Court clearly indicated that allowing what would otherwise be interlocutory appeals when they are companions to immediately appealable issues is in fact within the appropriate purview of the appellate courts of South Carolina.

In the instant case, both parties filed Motions for Summary Judgment. Plaintiff’s Motion For Summary Judgment asserted that the applicable statute of limitations was 6 years as provided by relevant provisions of the South Carolina UCC, and asked for a money judgment against Defendant in the amounts set forth in its Complaint. (R., pp. 17-36). Defendant’s Motion For Summary Judgment asserted that the applicable statute of limitation was 3 years and that Plaintiff was therefore time-barred in bringing its lawsuit against Defendant in any amount. (R., pp. 37-39). The Hon. R. Markley Dennis, Jr. denied Plaintiff’s Motion for Summary Judgment and granted Defendant’s Motion for Summary Judgment on the statute of limitations issue. (R., pp. 55-57). Both rulings are obviously intimately related and based on opposing arguments of the very same issues. Accordingly, per the decisions in *Hedgepath v. AT&T*, *Briggs v. Richardson*, and *Brown v. County of Berkeley*, Judge Markley’s denial of Plaintiff’s Motion for

Summary Judgment is appropriately before this Court for review in the event Judge Markley's decision on the applicable statute of limitations is reversed herein.

Respectfully submitted this the 30th day of April, 2015.



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