

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE)	Civil Action No. 2008-CP-23-06496
)	
Gregory E. Singleton and Mary Y. Singleton,)	
)	
Plaintiff,)	
)	
v.)	
)	
John Sherman dba Carolina Development Group,)	
)	
Defendant.)	
)	

ORDER
RECEIVED
 JUL 08 2020
 SC Court of Appeals

This matter concerns (1) the Defendant's motion to conform the captions of Plaintiff's Notice and Motion for Supplemental Proceedings and Rule to Show Cause to the caption of the original Complaint and (2) the Defendant's motion to dismiss the Supplemental Proceedings motion and to Dismiss/Quash the Rule to Show Cause with prejudice because the judgment at issue is no longer enforceable. For the reasons discussed below, the Court grants the Defendant's motions.

PROCEDURAL BACKGROUND

This case was originally filed on August 26, 2008 under the caption: *Gregory E. Singleton and Mary Y. Singleton, Plaintiffs, vs. John Sherman d/b/a Carolina Development Group, Defendant.*¹ The case went into default, and on April 19, 2010, the Court entered a final judgment against the Defendant in the amount of \$79,930.00.

¹ The designation "dba" means "doing business as." which is merely descriptive of the person doing business under that name. The person who does business as a sole proprietor under a trade name remains one person, personally liable for all his obligations. *See Auto-Owners Ins. Co. v. Rhodes*, 405 S.C. 584 (2013).

On March 20, 2020, the Plaintiffs filed a Notice and Motion for Supplement Proceedings, followed by the filing of an unsigned Rule to Show Cause on April 17, 2020², to enforce the April 19, 2010 judgment. The Defendant filed a Motion to Dismiss the Supplemental Proceedings and the Rule to Show Cause with prejudice on May 18, 2020 and a Motion to Conform the Caption to the Original Pleadings on May 21, 2020.

With the consent of the parties, the Court held a telephone conference hearing to consider the Defendant's motions on May 29, 2020.

ANALYSIS AND DECISION

I. MOTION TO CONFORM THE CAPTION.

The caption set by the original Complaint is *Gregory E. Singleton and Mary Y. Singleton, Plaintiffs, vs. John Sherman d/b/a Carolina Development Group, Defendant*. That caption is the official caption of this case. However, in the Supplemental Proceedings Motion and the Rule to Show Cause, the Plaintiffs inadvertently drafted the caption to read, *Gregory (George) E. Singleton and Mary Y. Singleton, Plaintiffs, vs. John Sherman and Carolina Development Group, Defendants*. The parties have consented to have the caption of these filings amended to conform to the caption in the original Complaint, and the Court ORDERS that those captions are so conformed.

II. MOTION TO DISMISS NOTICE AND MOTION OF SUPPLEMENT PROCEEDINGS AND DISMISS/QUASH RULE TO SHOW CAUSE WITH PREJUDICE.

² The Rule to Show cause was signed by the Plaintiffs' counsel on April 23, 2020.

The Court grants the Defendant's motion to dismiss the Supplemental Proceedings and the Rule to Show Cause with prejudice. A judgment in South Carolina is enforceable for ten years from the date of entry. S.C. Code Ann. § 15-39-30. Our Supreme Court has interpreted that statute as providing a bright line rule that once the ten-year-period expires, the judgment becomes unenforceable, regardless of whether a party has initiated an action to enforce the judgment prior to the expiration of the ten years. *Gordon v. Lancaster*, 425 S.C. 386, 823 S.E.2d 173 (2018).

In the present case, the Plaintiffs filed the Notice and Motion for Supplemental Proceedings and, arguably, the Rule to Show Cause before the ten-year enforceability period for the April 19, 2010 final judgment expired. However, it is now May 29, 2020, more than ten years after the entry of the April 19, 2010 final judgment. The ten-year life of the judgment cannot be extended by the Court, and the judgment is no longer enforceable.

The Court finds that the judgment entered in this case (C.A. No. 2008-CP-23-06496) no longer has any active energy and no longer has any enforceability.

It is, therefore, ORDERED, that the Plaintiff's Supplemental Proceedings Motion and Rule to Show Case are dismissed with prejudice. Because there is no just reason for delay, the Court directs the Clerk of Court to enter this Order as the Court's final judgment.

JUDGE'S ELECTRONIC SIGNATURE TO FOLLOW

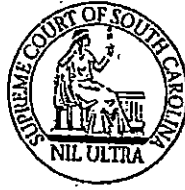


Greenville Common Pleas

Case Caption: George E Singleton , plaintiff, et al vs. John Sherman , defendant, et al
Case Number: 2008CP2306496
Type: Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

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May 23, 2016

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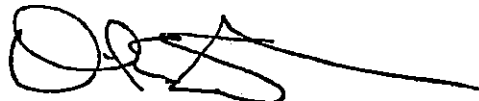
Re: Exemptions from E-Filing
Appellate Case No. 2016-001049

Dear Mr. Talley:

This responds to your request to be excused from mandatory Electronic Filing in accordance with Section 2(e) of the South Carolina Electronic Filing Policies and Guidelines. I hereby grant your request.

You are authorized to file documents as a Traditional Filer in participating E-Filing courts, and you will be marked as "Excused from E-Filing" in the Attorney Information System. It is strongly recommended that you inform the clerk of court in a cover letter attached to any Traditional Filing that you have been excused from participation in order to prevent the clerk from rejecting your filing.

Very truly yours,



CLERK

Certificate of Electronic Notification

Recipients

Christopher Antley - Notification transmitted on 06-02-2020 03:02:39 PM.

Fletcher Smith - Notification transmitted on 06-02-2020 03:02:39 PM.