

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2020-CP-36-349

DANIEL PRUITT, PLAINTIFF/APPELLANT

KYLE PARKER, ET AL.,
DEFENDANT/RESPONDENT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for Plaintiff	<input type="checkbox"/>
	Defendant	<input type="checkbox"/>
	Self-Represented Litigant	<input type="checkbox"/>

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SC Court of Appeals

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), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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:

THIS MATTER CAME BEFORE THE COURT on January 11, 2021 on an appeal from Magistrate Koon's dismissal of Mr. Pruitt's case. The hearing was held via WebEx videoconferencing with Mr. Pruitt appearing pro se and Defendant being represented by John Cuttino. The Court took the matter under advisement so as to review further the pleadings and case law cited by the parties. Based upon a thorough review and after full consideration of the arguments made, the Court finds as follows:

1. As to Mr. Pruitt's cause of action for legal malpractice, Mr. Pruitt failed to file an expert affidavit detailing the specific instances of malpractice committed by Defendants. Furthermore, and more to the point, after Defendants were relieved by the probate court, Mr. Pruitt retained new counsel and was ultimately successful in the underlying litigation. Therefore, per case law he suffered no injury. For these reasons (failure to file an expert affidavit and lack of legally cognizable injury), the Court affirms the dismissal by Judge Koon.
2. To the extent that Mr. Pruitt's complaint could be read alleging a breach of contract, the magistrate correctly dismissed this action as being outside the statute of limitations. The undisputed facts are that the relationship between Mr. Pruitt and Defendants began deteriorating in the fall of 2016. Mr. Pruitt demanded his legal fees be reimbursed on December 11 and 14, 2016, Defendants were ultimately relieved on February 22, 2017, and Mr. Pruitt's case file was given to him by Defendants. The present action was not instituted until May 19, 2020. In his brief, Mr. Pruitt states, "it was not until the case was concluded and Mr. Pruitt won that he decided to sue his former attorney and in preparing came across that email [allegedly establishing malpractice via conflict of interest or breach of contract]." The magistrate was correct that the earliest Mr. Pruitt knew or should have known of any alleged breach

