3/14/23

No. 22-898

In The
Supreme Court of the United States

RONALD I. PAUL,

Petitioner,

v.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Firm of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Firm, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation,

Respondents.

On Petition For A Writ Of Certiorari To The South Carolina Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether a settlement agreement in an eminent domain case with three parties and two of the parties agreed to a settlement between them, that did not include the other party, violates the just compensation clause of the Fifth and Fourteenth Amendments of the United States Constitution for the other party, requiring declaratory relief be entered in favor of the other party.

RELATED CASES

2002-CP-400-4800

South Carolina Department of Transportation vs Keith J. Buckles and G.L. Buckles et al., Case No: 2002-CP-400-4800, State of South Carolina, County of Richland, Court of Common pleas, ***Judgment entered March 11, 2005.***

South Carolina Department of Transportation vs Keith J. Buckles and G.L. Buckles et al., Opinion Case No: 2006-UP-360, In the South Carolina Court of Appeal, Opinion entered October 23, 2006.

South Carolina Department of Transportation vs Keith J. Buckles and G.L. Buckles et al., In the Supreme Court of South Carolina, Certiorari Denied October 18, 2007.

South Carolina Department of Transportation vs Keith J. Buckles and G.L. Buckles et al., Case No: 2002-CP-400-4800, State of South Carolina, County of Richland, Court of Common pleas, ***Judgment entered January 28, 2008 and February 5, 2008.***

South Carolina Department of Transportation vs Keith J. Buckles and G.L. Buckles et al., Opinion Case No: 2009-UP-228, In the South Carolina Court of Appeal, Opinion entered May 27, 2009.

South Carolina Department of Transportation vs Keith Buckles and G.L. Buckles et al., In the Supreme Court of South Carolina, Certiorari Denied January 7, 2010.

RELATED CASES – Continued

South Carolina Department of Transportation vs Keith J. Buckles and G.L. Buckles et al., Case No: 2002-CP-400-4800, State of South Carolina, County of Richland, Court of Common pleas, ***Judgment entered March 24, 2010***.

South Carolina Department of Transportation vs Keith Buckles and G.L. Buckles et al., Appeal Dismissed, Case Tracking Number 2010165247, Trial Court Case No: 2002-CP-400-4800, In the South Carolina Court of Appeal, Order entered January 19, 2011.

South Carolina Department of Transportation vs Keith Buckles and G.L. Buckles et al., In the Supreme Court of South Carolina, Certiorari Denied October 19, 2011.

2005-CP-400-6516

G.L. Buckles as Personal Representative of the Estate of Keith Buckles vs Ronald Paul, Case No: 2005-CP-400-6516, State of South Carolina, County of Richland, Court of Common pleas, Judgment entered June 4, 2007.

G.L. Buckles as Personal Representative of the Estate of Keith Buckles vs Ronald Paul, Opinion Case No: 2009-UP-226, In the South Carolina Court of Appeal, Opinion entered May 27, 2009.

G.L. Buckles as Personal Representative of the Estate of Keith Buckles vs Ronald Paul, In the Supreme Court of South Carolina, Certiorari Denied January 11, 2010.

RELATED CASES – Continued

2006-CP-400-6410

Ronald I. Paul vs J. Charles Ormond, Jr., et al. Case No: 2006-CP-400-6410, State of South Carolina, County of Richland, Court of Common pleas, Judgment entered December 5, 2007.

Ronald I. Paul vs J. Charles Ormond, Jr., et al. Opinion Case No: 2009-UP-229, In the South Carolina Court of Appeals, Opinion entered May 27, 2009.

Ronald I. Paul vs J. Charles Ormond, Jr., et al. In the Supreme Court of South Carolina, Certiorari Denied March 9, 2010.

2008-CP-400-1259

Ronald I. Paul vs South Carolina Department of Transportation et al., Case No: 2008-CP-400-1259, State of South Carolina, County of Richland, Court of Common pleas, Judgment entered March 25, 2009.

Ronald I. Paul vs South Carolina Department of Transportation et al., Opinion Case No: 2010-UP-504, In the South Carolina Court of Appeal, Opinion entered November 19, 2010.

Ronald I. Paul vs South Carolina Department of Transportation et al., In the Supreme Court of South Carolina, Certiorari Denied October 19, 2011.

Ronald I. Paul vs South Carolina Department of Transportation, et al., Petition No: 11-7921, In the Supreme

RELATED CASES – Continued

Court of the United States, Petition Denied April 16, 2012.

FEDERAL CASES

Paul v. South Carolina Department of Transportation, In the United States District Court for the district of South Carolina, et al., c/a No. 3:12-cv-01036-CMC-PJG, Judgment entered February 6, 2013.

Paul v. South Carolina Department of Transportation, In the United States District Court for the district of South Carolina, et al., c/a No. 3:13-cv-00367-CMC-PJG, Judgment entered May 20, 2013.

Paul v. South Carolina Department of Transportation, In the United States District Court for the district of South Carolina, et al., c/a No. 3:13-cv-01852-CMC-PJG, Judgment entered October 8, 2014.

Ronald I. Paul v. South Carolina Department of Transportation, In the United States Court of Appeals for the Fourth Circuit, et al., Appeal Case No. 13-2431, Opinion entered May 14, 2014.

Ronald I. Paul v. South Carolina Department of Transportation, In the United States Court of Appeals for the Fourth Circuit, et al., Appeal Case No. 14-2146, Opinion entered April 8, 2015.

RELATED CASES – Continued

Paul v. de holczer et al., In the United States District Court for the district of South Carolina c/a No. 3:15-cv-02178-CMC-PJG, Judgment entered July 28, 2015.

Ronald I. Paul v. Paul v. de holczer et al., In the United States Court of Appeals for the Fourth Circuit, Appeal Case No. 15-2059, Opinion entered February 4, 2016.

Ronald I. Paul vs Paul D. de Holczer, et al., Petition No 15-8680, In the Supreme Court of the United States, Case considered closed August 11, 2016.

Paul v. South Carolina Department of Transportation, et al., In the United States District Court for the district of South Carolina et al., c/a 3:16-cv-01727-CMC-PGJ, Judgment entered November 8, 2016.

Ronald I. Paul v. South Carolina Department of Transportation, In the United States Court of Appeals for the Fourth Circuit, et al., Appeal Case No. 17-1057, Opinion entered June 8, 2017.

2018-CP-400-5641

Ronald I. Paul vs South Carolina Department of Transportation et al., Case No. 2018-CP-400-5641, State of South Carolina, County of Richland, Court of Common pleas, Judgment entered November 13, 2019.

Ronald I. Paul vs South Carolina Department of Transportation et al., Appeal Opinion No: 2022-UP-051, In

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the South Carolina Court of Appeal, Opinion entered February 9, 2022.

Ronald I. Paul vs South Carolina Department of Transportation et al., In the Supreme Court of South Carolina, Certiorari Denied February 10, 2023.

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STATE STATUTE

UNITED STATES CONSTITUTION

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The case is from state courts: (2018-CP-400-5641). The opinion of the highest state court (South Carolina Court of Appeals) to review the merits appears at Appendix 1 to the petition and is unpublished. All lower court opinions are attached in the appendix.

JURISDICTION

The case is from state courts: (2018-CP-400-5641). The date on which the highest state court (South Carolina Court of Appeals) decided my case was on February 9, 2022. A copy of that decision appears at Appendix 1. A timely petition for rehearing was thereafter denied on, March 18, 2022. And a copy of the order denying rehearing appears at Appendix 6. Thereafter, a timely petition for writ of certiorari was filed with the South Carolina Supreme Court on April 14, 2022. And a copy of the order denying the writ of certiorari appears at Appendix 25.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I. South Carolina Code Section 28-2-40. Compromise or settlement permit.

> At any time before or after commencement of an action, ***the parties may agree to and carry out***, according to its terms, a compromise or settlement as to any matter, including all or any part of the compensation or other relief.

II. **U.S. Constitution: Fifth Amendment – Rights of Persons** . . . nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Constitution: Fourteenth Amendment – Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection Section 1 . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

The Respondents, in eminent domain case # 2002-CP-400-4800 (hereinafter referred to as case 4800). On or about February-March 23, 2004, Quinn, Buckles, SCDOT, Rucker, Gresham, Moore and de Holczer agreed to a settlement between them.

Then all Respondents, including Ormond took a position claiming and declaring case 4800 had settled for just compensation. This was an intentionally false statement by **officer of the court** because all respondents knew without Petitioner's consent or approval, as a matter of law, respondents could not settle the case for just compensation.

Now, as set forth above, there exists an actual controversy between Petitioner and respondents as to whether the settlement agreement in case 4800 between Condemner (SCDOT) and the Land and Building Owners (the Buckles) applied equally to the Commercial Lease Owner (Paul), as just compensation.

REASONS FOR GRANTING THE PETITION

The Court should review this case to determine if Petitioner is entitled to **declaratory relief**, because a settlement agreement between the Condemner and Land and Building Owners as a matter of law, did not satisfy the just compensation clause of the Fifth and Fourteenth Amendments of the United States

Constitution for all parties, in other words to address an ongoing or continuing violation of federal law in the future;

(a) because the settlement sum did not include a party with a commercial lease;

(b) when the commercial lease owner was not a party to any settlement negotiations;

(c) when the commercial lease owner did not sign the consent order to settle the case;

(d) when the settlement did not include an appraisal sum of the commercial lease owner property at its highest and best use;

(e) and when there is no dispute between the parties that the commercial lease owner never agrees to any settlement.

In ***Ex parte Young***, 209 U.S. 123 (1908), the court held "a plaintiff may seek prospective injunctive and declaratory relief to address an ongoing or continuing violation of federal law or a threat of a violation of federal law in the future."

On October 21, 2002, the respondents SCDOT, Oscar K. Rucker, Macie M. Gresham, Natalie J. Moore and Paul D. de Holczer filed an Amended Condemnation Notice against Petitioner Paul. On or about October 28, 2003, the state official **(NOT THE BUCKLES)** terminated Paul's commercial lease a sealed instrument by means of court order, without payment of just

compensation to Paul, *in other words to be clear, zero $0.00. dollars and cents*

What the lower court ignored is that under South Carolina Code section 28-2-40. "Compromise or settlement permit. At any time before or after commencement of an action, **the parties may agree** to and carry out, according to its terms, a compromise or settlement as to any matter, including all or any part of the compensation or other relief". In other words, **all parties** must agree to any settlement.

In addition, the lower courts ignored that, "traditionally and for good reasons, statutes of limitation are not controlling measures of equitable relief. Such statutes have been drawn upon by equity solely for the light they may shed in determining that which is decisive for the chancellor's intervention, namely, whether the plaintiff has inexcusably slept on his rights so as to make a decree against the defendant unfair." Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946); see Russell v. Todd, supra, 309 U.S. [280] at page 289, 60 S.Ct. [527] at page 532, 84 L.Ed. 754 [(1940)]; Prudential Lines, Inc. v. Exxon Corp., 704 F.2d 59, 65 (2d Cir. 1983)?

Petitioner has not slept on his rights so as to make a decree against the defendant unfair, therefore, a statute of limitations defense may not be considered. Holmberg v. Armbrecht, 327 U.S. 392, 396 (1946). In this case, however, there is no suggestion Petitioner delayed seeking relief, in fact, the Record on Appeal shows, and it cannot be disputed that Paul has been

pursuing his rights diligently to this present date and extraordinary circumstance stood in his way [Pace v. DiGuglielmo, 544 U.S. 408, 418 (2005)].

Petitioner implores this court to review his case; such a settlement agreement can only be considered contrary to the principles of fairness and what is right, that was vigorously argued before the lower Court at every stage: in his Complaint that appears at Appendix 27, Transcript of oral argument that appears at Appendix 34, in his Motion for Reconsideration that appears at Appendix 40, in his Final Brief of Appellant that appears at Appendix 45, in his Amended Petition for rehearing that appears at Appendix 53 and in his Petition for Writ of Certiorari that appears at Appendix 58 **that was unquestionably and completely ignored by the lower Courts**.

CONCLUSION

The Court should grant the petition for a writ of certiorari and reverse the decision of the South Carolina Court of Appeals, grant Petitioner Declaratory judgment ordering that the Respondents are prohibited from enforcing the settlement agreement between the Condemner (SCDOT) and the Land and Building Owners (the Buckles) against the Commercial Lease Owner (Petitioner) as payment of just compensation against or/to Petitioner and, are barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation

against or/to Petitioner, an a order of continuing jurisdiction of this Court for the purposes of enforcing any judgment so ordered.

Respectfully submitted,

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March 14, 2023

INDEX TO APPENDICES

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Ronald I. Paul, Appellant,

v.

South Carolina Department of Transportation; Paul D. de Holczer, individually and as a partner of the law firm of Moses, Koon & Brackett, PC; Michael H. Quinn, individually and as senior lawyer of Quinn Law Firm, LLC; J. Charles Ormond, Jr., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Gamer; Oscar K. Rucker, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation, Respondents.

Appellate Case No. 2019-002076

Appeal From Richland County
Jocelyn Newman, Circuit Court Judge

Unpublished Opinion No. 2022-UP-051
Submitted January 1, 2022 – Filed February 9, 2022

AFFIRMED

Ronald I. Paul, of Columbia, pro se.

Michael H. Quinn, of Quinn Law Firm, LLC, of Columbia, for Respondent Michael H. Quinn.

Andrew F. Lindemann, of Lindemann & Davis, P.A., of Columbia, for Respondents South Carolina Department of Transportation, Macie M. Gresham, Oscar K. Rucker, and Natalie J. Moore.

B. Michael Brackett, of Moses & Brackett, and Andrew F. Lindemann, of Lindemann & Davis, P.A., both of Columbia, for Respondent Paul D. de Holczer.

J. Charles Ormond, Jr., of Ormond/Dunn, of Columbia, for Respondent J. Charles Ormond, Jr.

PER CURIAM: Ronald I. Paul appeals the circuit court's grant of the motions to dismiss by the South Carolina Department of Transportation (SCDOT), Paul D. de Holczer, Natalie J. Moore, Michael H. Quinn, and J. Charles Ormond, Jr. (collectively, Respondents) under Rule 12(b)(6), SCRCP. On appeal, Paul argues the

circuit court erred by (1) dismissing SCDOT as an improper party when his complaint contained a state law claim, (2) determining the statute of limitations governing his claim was three years, (3) not finding the statute of limitations began to run on the date of the last overt act of conspiracy, (4) dismissing Respondents on the basis of res judicata and collateral estoppel, (5) finding that Quinn and Ormond were not state actors, and (6) dismissing his complaint with prejudice without an opportunity to replead or amend. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

As to issues two and three, we hold the circuit court properly granted Respondents' motions to dismiss because Paul's complaint reflects he pursued causes of action under 42 U.S.C. section 1983 for alleged conduct that occurred outside the applicable three-year statute of limitations. *See Grimsley v. S.C. Law Enforcement Div.*, 396 S.C. 276, 281, 721 S.E.2d 423, 426 (2012) ("On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the [circuit] court." (quoting *Rydde v. Morris*, 381 S.C. 643, 646, 675 S.E.2d 431, 433 (2009))); *id.* ("That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the 'facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case.'" (quoting *Rydde*, 381 S.C. at 646, 675 S.E.2d at 433)); *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006) ("In considering such a motion, the [circuit] court must

base its ruling solely on allegations set forth in the complaint."); *Owens v. Okure*, 488 U.S. 235, 249-50 (1989) ("[W]here state law provides multiple statutes of limitations for personal injury actions, courts considering [section] 1983 claims should borrow the general or residual statute for personal injury actions."); S.C. Code Ann. § 15-3-530(5) (2005) (providing a three-year limitations period for personal injury actions); *Est. of Mims v. S.C. Dep't of Disabilities & Special Needs*, 422 S.C. 388, 399, 811 S.E.2d 807, 813 (Ct. App. 2018) ("In South Carolina, [section] 1983 claims are subject to a three-year statute of limitations."); *Blanck v. McKeen*, 707 F.2d 817, 819 (4th Cir. 1983) ("[T]he time when a [federal] cause of action accrues is governed by federal, not state, law."); *id.* ("[T]he statute of limitations does not begin to run until the plaintiff discovers, or by the exercise of due diligence should have discovered, the facts forming the basis of his cause of action."); *id.* at 820 ("[A claimant's] action is time-barred as long as they were 'on notice' of the conduct about which they complain.").

As to issue six, we hold the circuit court properly dismissed Paul's claims with prejudice because Respondents' dismissal was not due to any correctable pleading deficiency. *See Spence*, 368 S.C. at 129, 628 S.E.2d at 881 ("When a complaint is dismissed under Rule 12(b)(6) for failure to state facts sufficient to constitute a cause of action, the dismissal generally is without prejudice. The plaintiff in most cases should be given an opportunity to file and serve an amended complaint."); *Skydive Myrtle Beach, Inc. v. Horry Cnty.*,

426 S.C. 175, 189, 826 S.E.2d 585, 592 (2019) ("A circuit court does not have 'discretion' to dismiss a complaint with prejudice for failure to state a claim under Rule 12(b)(6) without at least considering whether to allow leave to amend under Rule 15(a)[, SCRCP]."); *Alterna Tax Asset Grp., LLC v. York Cnty.*, 434 S.C. 328, 334, 863 S.E.2d 465, 468 (Ct. App. 2021) ("[W]e are mindful that [circuit] courts should not dismiss pleadings with prejudice at the 12(b) stage without allowing the pleader to amend its complaint (*unless amendment would be futile*)." (emphasis added)).

Because the resolution of issues two, three, and six are dispositive, we need not address the remaining issues on appeal. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (ruling an appellate court need not address remaining issues when its resolution of a prior issue is dispositive).

AFFIRMED.[1]

THOMAS, GEATHERS, and VINSON, JJ., concur.

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[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

The South Carolina Court of Appeals

Ronald I. Paul, Appellant,

v.

South Carolina Department of Transportation; Paul D. de Holczer, individually and as a partner of the law firm of Moses, Koon & Brackett, PC; Michael H. Quinn, individually and as senior lawyer of Quinn Law Firm, LLC; J. Charles Ormond, Jr., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; Oscar K. Rucker, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation, Respondents.

Appellate Case No. 2019-002076

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting

a rehearing. Accordingly, the petition for rehearing is denied.

/s/ Paula H. Thomas J.

/s/ John D. Geathers J.

/s/ Jerry D. Vinson, Jr. J.

Columbia, South Carolina

cc:
Ronald I. Paul
Andrew F. Lindemann, Esquire
B. Michael Brackett, Esquire
John Charles Ormond, Jr., Esquire
Michael H. Quinn, Esquire
The Honorable Jocelyn Newman

FILED
Mar 18 2022

STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND**	**IN THE COURT OF COMMON PLEAS**
Ronald I. Paul, Plaintiff v. South Carolina Department of Transportations; Paul D, de Holczer, individually and as a partner of the law film of Moses, Koon & Brackett, PC; Michael H. Quinn, individually and as senior lawyer of Quinn Law Firm, LLC; J. Charles Ormond, Jr. individually and as partner of the Law Finn of Holler, Dennis, Corbett, Ormond, Plante & Garner; Oscar K. Rucker, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation, Defendants.	Civil Action No. 2018-CP-40-5641 **ORDER GRANTING MOTIONS TO DISMISS** (Filed Nov. 13, 2019)

This matter is before this Court on the Motions to Dismiss filed by the Defendants South Carolina Department of Transportation ("SCDOT"), Paul D. de Holczer, Natalie J. Moore, Michael H. Quinn, Quinn Law Firm, LLC, and J. Charles Ormond, Jr. A hearing Was held on August 8, 2019, with the *pro se* Plaintiff and counsel for these Defendants present. After a review of the pleadings, the written submissions of the parties, and the oral arguments of the parties, this Court grants the Motions to Dismiss on the bases set forth below.

Background and Procedural History

This litigation arises from a condemnation action that was commenced in 2002 by SCDOT and captioned *South Carolina Department of Transportation v. Buckles*, Civil Action Number 2002-CP-40-4800. That condemnation action was tried by former Circuit Court Judge Reginald I. Lloyd in October 2004. The Defendant Ormond was Ronald Paul's legal counsel in that 2002 condemnation action. The Defendant Quinn represented Keith Buckles and G.L. Buckles, who were the landowners in that action, The Defendants de Holczer and Moore represented SCDOT in that action. In the Order of Judgment filed March 11, 2005, Judge Lloyd directed the Clerk of Court to disburse $2,450.00 to the Plaintiff Ronald Paul as the just compensation payable for his leasehold interest.[1] That Order was

[1] The pertinent pleadings and orders filed in the 2002 condemnation action and subsequent litigation commenced by the Plaintiff have been submitted into the record, and this Court

subsequently appealed by Paul, and the Court of Appeals affirmed on October 23, 2006. The South Carolina Supreme Court later denied a petition for writ of certiorari.

On February 20, 2008, the Plaintiff Ronald Paul filed a civil action bearing Civil Action Number 2008-CP-40-1259 in the Court of Common Pleas against most of the same Defendants as in this case, including SCDOT, de Holczer, and Quinn. That Complaint included causes of action for civil conspiracy in several particulars. By Order filed March 25, 2009, Special Circuit Court Judge Joseph M. Strickland granted the Defendants' motion to dismiss based on a statute of limitations defense and other defenses. The Plaintiff appealed to the Court of Appeals which affirmed the dismissal on November 19, 2010. On October 9, 2011, the Supreme Court denied a petition for writ of certiorari.

The Plaintiff thereafter filed several lawsuits in the United States District Court, including the following:

> *Paul v. South Carolina Department of Transportation*, C/A No. 3:12-1036-CMC-PJG
> *Paul v. South Carolina Department of Transportation*, C/A No. 3:13-367-CMC-PJG

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takes judicial notice of those pleadings and orders. *See*, *Freeman v. McBee*, 280 S.C. 490, 313 S.E.2d 325, 327 (Ct. App. 1984) ("[a] court can take judicial notice of its own records, files, and proceedings for all proper purposes including facts established in its records").

Paul v. South Carolina Department of Transportation, C/A No. 3:13-1852-CMC-PJG
Paul v. South Carolina Department of Transportation, C/A No. 3:15-2178-CMC-PJG
Paul v. *South Carolina Department of Transportation.*, C/A No. 3:16-1727-CIVIC-PGJ

In these federal lawsuits, the Plaintiff alleged causes of action under 42 U.S.C. § 1983 for civil conspiracy in which he sought both declaratory and monetary relief. In the 2012 action, which was brought against the same Defendants as in the present case, the United States District Judge Cameron Currie granted the Defendants' motions to dismiss without prejudice. The Plaintiff thereafter continued to file the identical or nearly identical Complaints in 2013, 2015, and 2016, and each of those lawsuits were dismissed by Judge Currie without prejudice and without issuance of service of process. In dismissing the 2016 action, Judge Currie imposed a pre-filing injunction on the Plaintiff. In those previous lawsuits, the Plaintiff alleged conspiracy claims under state and federal law against the current Defendants arising from the prosecution of the 2002 condemnation action, including a settlement reached with the Buckles parties as well as actions taken during the trial of that case in October 2004.

On October 26, 2018, the Plaintiff filed the current lawsuit in state court. This action includes federal Section 1983 civil conspiracy claims against the same Defendants. In lieu of filing Answers, the Defendants SCDOT, de Holczer, Moore, Quinn, and Ormond filed

the Motions to Dismiss currently before this Court asserting a number of separate and independent bases for dismissal as discussed below.

Legal Analysis

I. Statute of Limitations Defense

The applicable statute of limitations for the Plaintiff's federal conspiracy claims is three years. The Plaintiff contends, however, that the applicable statute of limitations is twenty years. He relies on S.C. Code Ann. § 15-3-520(b), which provides for a twenty year statute of limitations for an action upon a sealed instrument, and argues that his Section 1983 action is based upon a commercial lease with the Buckles that constitutes a sealed instrument. The Court finds the Plaintiff's position to be unpersuasive. In determining the proper statute of limitations in a Section 1983 claim, the United States Supreme Court has found that the federal court should adopt the state law statute of limitations for personal injury. *Wilson v. Garcia*, 471 U.S. 261, 276 (1985). Under South Carolina law, the statute of limitations for a personal injury claim is three years. *See*, S.C. Code Ann. § 15-3-530(5). Consequently, it has been held that "[t]he statute of limitations for section 1983 causes of action arising in South Carolina is three years." *Hamilton v. Middleton*, 2003 WL 23851098 (D.S.C. 2003). *See also*, *Simmons v. South Carolina State Ports Authority*, 694 F.2d 64 (4th Cir. 1982). In the case at bar, the Plaintiff did not file his current Complaint until October 26, 2018. Thus, all

claims arising prior to October 26, 2015 are time-barred.

The record, which includes orders and pleadings from the prior 2008, 2012, 2013, 2015, and 2016 lawsuits, demonstrates that the Plaintiff's alleged claims accrued and were known to the Plaintiff prior to October 26, 2015. During the hearing, the Plaintiff conceded that his current Section 1983 claims are the same as those previously brought in federal court and were known to him prior to 2015, and that the acts on which he is basing his claims occurred prior to that date. The Court further recognizes that the allegations of the current Complaint itself reflect that the causes of action accrued during the course of the 2002 condemnation action which, including appeals, ended in October 2007. The Plaintiff's 2008 state court litigation raised the sane facts and conspiracy claims as presently re-asserted in the 2018 action. That lawsuit was dismissed on the merits, and that dismissal was upheld on appeal. The 2008 action, including appeals, ended in October 2011. The series of federal court actions further demonstrate that the Plaintiff was well aware of the existence of his claims prior to October 26, 2015. As a result, this Court concludes that the Plaintiff's current Complaint is time-barred and is dismissed with prejudice.

II. Claim and Issue Preclusion

The Defendants have also asserted res judicata (claim preclusion) and collateral estoppel (issue preclusion) as additional bases requiring the dismissal of this action. The Court agrees with the Defendants' position, "Under the doctrine of res judicata, a final judgment on the merits in a prior action will preclude the parties from relitigating any issues actually litigated or those that might have been litigated in the first action." *Wright v. Marlboro County School District*, 317 S.C. 160, 452 S.E.2d 12, 14 (Ct. App. 1994). "The res judicata defense requires a showing of three essential elements: (1) the prior judgment must be final, valid and on the merits; (2) the parties in the subsequent action must be identical to those in the first; and (3) the second action must involve matters properly included in the first action." *Id.* Importantly, "[r]es judicata bars not only issues litigated in a prior action, but issues that could have been litigated." *Plum Creek Development Co. v. Conway*, 328 S.C. 347, 351, 491 S.E.2d 692 (Ct. App. 1997). *See also*, *Jimmy Martin Realty Group Inc. v, Fameco Dist.*, 300 S.C. 192, 386 S.E.2d 803 (Ct. App. 1989).

This Court finds that the Plaintiffs current Complaint is barred by res judicata. The Plaintiff has previously litigated the same claims in the 2008 action, which resulted in a dismissal on the merits as issued by Judge Strickland. The three elements of res judicata are all satisfied. The 2008 action is final, valid., and on the merits. The parties in the 2008 action are identical, with the exception that Natalie Moore was not a party

to that case. Lastly, the conspiracy claims asserted in both actions are the same. And certainly, even if not precisely the same, res judicata is a bar to any other claims that could have been brought as part of the 2008 action, which includes a Section 1983 claim for civil conspiracy.

Alternatively, the Defendants argue that the Plaintiffs current Complaint should be dismissed based on the doctrine of collateral estoppel. This Court agrees. Under South Carolina law, collateral estoppel "prevents a party from relitigating in a subsequent suit an issue actually and necessarily litigated and determined in a prior action." *Jinks v. Richland County*, 355 S.C. 341, 585 S.E.2d 281, 285 (2003). "A party claiming preclusive effect under collateral estoppel must demonstrate that the particular issue was (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." *Crosby v. Prysmian Communications Cable and Systems USA, LLC*, 397 S.C. 101, 723 S.E.2d 813, 817 (Ct. App. 2012).

The record includes not only the 2008 dismissal order issued by Judge Strickland but also the federal court orders issued by Judge Currie, all of which address various defenses and insufficiencies applicable to the Plaintiffs repetitive Complaints. In fact, in her Order in the 2016 action, Judge Currie observed:

> Paul is correct in noting that the prior dismissals were without prejudice and, consequently, do not preclude him from filing a new

> action against the previously named Defendants. That the dismissals were without prejudice does not, however, render them without meaning. The dismissal Orders (and incorporated Reports) in Paul I, Paul II, Paul III, and Paul IV stand as authority for the proposition that the allegations in each of those cases failed for reasons explained in each of those Orders (and Reports). It follows that the prior decisions are on-point authority for dismissal of Paul's present complaint to the extent it merely repeats prior allegations and claims found in his prior complaints. This is particularly true as to Paul III and Paul IV, both of which the Fourth Circuit summarily affirmed "for the reasons stated by the district court." Paul III, *aff'd*, 599 F.App'x 108; Paul IV, *aff'd*, 631 F.App'x 197. Under these circumstances, the Report properly relied on prior rulings as to repetitive allegations and claims.

Therefore, in applying the defense of collateral estoppel, the Court also concludes that the current Complaint must be dismissed on the same bases that the prior Complaints have been dismissed.

III. Defendants Quinn and Ormond Not "State Actors"

As an additional basis for dismissal, the Defendants Quinn, Ormond, and their law firms argue that they are not "state actors" and were not acting under "color of state law" in their representation of the Plaintiff and the Buckles parties in the 2002 condemnation

action. In order to state a cause of action under 42 U.S.C. § 1983, a plaintiff must allege that (1) the defendant deprived him of a federal right, and (2) did so under color of state law. *Gomez v. Toledo*, 446 U.S. 635, 640 (1980). The Fourth Circuit has recently held that "private actors are not amenable to suit under § 1983. In addition, private attorneys do not act under color of state law and a § 1983 suit may not be maintained against an attorney based on his representation." *Marcantoni v. Bealefeld*, 734 Fed. Appx. 198, 199 (4th Cir. 2018), The Court, therefore, concludes that the Defendants Quinn, Ormond, and their law firms are not proper parties and are dismissed on this additional basis.

IV. Defendant SCDOT Not a "Person" Amenable to Suit under 42 U.S.C. § 1983.

As an additional basis for dismissal, the Defendant SCDOT argues that it is not a proper party in any action brought pursuant to 42 U.S.C. § 1983. This Court agrees. In *Will v. Michigan State Police*, 491 U.S. 58 (1989), the United States Supreme Court held that the state is not a "person" amenable to suit under Section 1983. *See also*, *Alabama v. Pugh*, 438 T.J.S. 781 (1978); *Pennhurst State School & Hosp. v. Haldeman*, 465 U.S. 89 (1984). The same is true for a state agency such as SCDOT. The federal courts have consistently ruled that South Carolina state agencies such SCDOT are the arms or alter egos of the state and, therefore, do not qualify as "persons" amenable to suit under 42 U.S.C. § 1983. *See e.g.*, *South Carolina Department of*

Disabilities and Special Needs v. Hoover Universal, Inc., 535 F.3d 300 (4th Cir. 2008) (SCDMH, as a state agency and "arm of the state," is not a "person" amenable to suit under 42 U.S.C. § 1983).

This Court concludes that the Defendant SCDOT is not a "person" or proper party not just for money damages claims but also for claims seeking injunctive or prospective relief. The United States Supreme Court has explained that "a State cannot be sued directly in its own name regardless of the relief sought." *Kentucky v. Graham*, 473 U.S. 159, 169, n.14 (1985). Similarly, in *Arizonians for Official English v. Arizona*, 520 U.S. 43 (1997), the Supreme Court held that "§ 1983 creates no remedy against a State." 520 U.S. at 69. Thus, the Defendant SCDOT is dismissed on this additional basis.[2]

IT IS, THEREFORE, ORDERED that, based on the reasons stated herein, the Defendants' Motions to Dismiss are granted and the Plaintiff's Complaint is dismissed with prejudice as to the Defendants South

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[2] With respect to grounds that may be characterized as pleading deficiencies, a dismissal under Rule 12(b)(6), SCRCP, should generally be without prejudice, and "[t]he plaintiff in most cases should be given an opportunity to file and serve an amended complaint." *Spence v. Spence*, 368 S.C. 106, 628 S.E.2d 869, 881 (2006). However, where the dismissal is premised on legal grounds which cannot be corrected by an opportunity to amend, the dismissal should properly be entered with prejudice and without an opportunity to replead or amend. *Id.* The Court notes that the Plaintiff's federal claims are dismissed on the merits and not because of any correctable pleading deficiency. *See, Skydive Myrtle Beach, Inc. v. Horry County*, 426 S.C. 175, 826 S.E.2d 585 (2019).

Carolina Department of Transportation, de Holczer, Moore, Quinn, Ormond, and their law firms.

AND IT IS SO ORDERED.

JOCELYN NEWMAN
Presiding Circuit Court Judge,
Fifth Judicial Circuit

[SEAL]

Richland Common Pleas

Case Caption: Ronald I Paul vs SC Department Of Transportation , defendant, et al

Case Number: 2018CP4005641

Type: Order/Dismissal

So Ordered

Jocelyn Newman

Electronically signed on 2019-11-13 16:01:04 page 10 of 10

FORM 4

STATE OF SOUTH CAROLINA COUNTY OF Richland IN THE COURT OF COMMON PLEAS	**JUDGMENT IN A CIVIL CASE** **CASE NO.** 2018CP4005641
Ronald I Paul PLAINTIFF(S)	SC Department Of Transportation et al DEFENDANT(S)

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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **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 A PM APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Plaintiff's Motion for Reconsideration (filed on November 25, 2019) is DENIED without hearing in accordance with Rule 59(f), SCRCP.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This Judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11126/2019 .

Ronald I Paul for Ronald I Paul
Ronald I Paul for Ronald I Paul

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

[SEAL]

Richland Common Pleas

Case Caption: Ronald I Paul vs SC Department Of Transportation , defendant, et al

Case Number: 2018CP4005641

Type: Order/Electronic Form 4

So Ordered

Jocelyn Newman

Electronically signed on 2019-11-26 12:24:18 page 3 of 3

The Supreme Court of South Carolina

Ronald I. Paul, Petitioner,

v.

South Carolina Department of Transportation; Paul D. de Holczer, individually and as a partner of the law firm of Moses, Koon & Brackett, PC; Michael H. Quinn, individually and as senior lawyer of Quinn Law Firm, LLC; J. Charles Ormond, Jr., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Gamer; Oscar K. Rucker, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation, Respondents.

Appellate Case No. 2022-000466

ORDER

Based on the vote of the Court, the petition for a writ of certiorari to review the court of appeals' decision in *Paul v. S.C. Dep't of Transp.*, Op. No. 2022-UP-051 (S.C. Ct. App. filed Feb. 9, 2022), is denied.

FOR THE COURT

BY /s/ Patricia A. Howard
CLERK

Columbia, South Carolina
February 10, 2023

cc:
Andrew F. Lindemann, Esquire
John Charles Ormond, Jr., Esquire
Michael H. Quinn, Esquire
Ronald I. Paul
The Honorable Jenny Abbott Kitchings

STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND**	**IN THE COURT OF COMMON PLEAS**
RONALD I. PAUL Plaintiff, Vs. SOUTH CAROLINA DEPARTMENT OF TRANSPORTATIONS: PAUL D. DE HOLCZER, individually and as a partner of the law firm of Moses. Komi & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Firm, LLC; J. CHARLES ORMOND, JR., individually and as partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Gamer; OSCAR K. RUCKER, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation. Defendants.	**CIVIL ACTION FILE NO.** **COMPLAINT** **CIVIL CONSPIRACY 42 USC 1983** **(JURY TRIAL DEMANDED)**

INTRODUCTION

1. The Plaintiff, RONALD I. PAUL, complaining of the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATIONS; OSCAR K. RUCKER, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern

* * *

COUNT ONE
DECLARATORY JUDGMENT 42 U.S.C. 1983

101. Paragraphs 1 through 100 above are set forth herein as if more fully stated in their entirety.

102. In that, in case 4800, on or about February – March 23, 2004 Quinn, Buckles, SCOOT, Rucker, Gresham, Moore and de Holczer agreed to a settlement between them.

103. In that all defendants, including Ormond took a position claiming and declaring case 4800 had settled for just compensation. This was an intentionally false statement, because all defendants knew without Paul's consent or approval, as a matter of law, defendants could not settle the case for just compensation,

104. Now, as set forth above, there exists an actual controversy between Plaintiff and Defendants as to whether the settlement agreement in case 4800 between SCDOT and the Buckles applied equally to Paul, as just compensation.

105. Therefore, Plaintiffs seek declaratory relief and a judicial determination pursuant to:

Section 28-2-10, *et seq and* 28-2-40. Compromise or settlement permit. At any time before or after commencement of an action, the parties may agree to and carry out, according to its terms, a compromise or settlement as to any matter, including all or any part of the compensation or other relief and, 28 U.S.C. § 2201, 2202 and Rule 57 of the Federal Rules of Civil Procedure as follows:

(a) That Defendants are prohibited / barred from enforcing the settlement agreement between SCDOT and the Buckles as payment of just compensation against or/ to Paul, because the evidence shows Paul never agree to any settlement;

(b) That Defendants are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul, because Paul was not a party to any settlement negotiations;

(c) That Defendants are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul, because Paul did not sign the consent order to settle the case;

(d) That Defendants are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul,

because the settlement did not include an appraisal of Paul property (highest and best use).

106. Because of the foregoing Paul has suffered a denial of its Constitutional rights, the right to payment for taking of his property as otherwise allowed in accordance with the Takings Clause of the Fifth Amendment, *in other words to be clearly, zero $0.00. dollars and cents,* and the resultant financial damages approximating $310,000.00.

COUNT TWO
CIVIL CONSPIRACY
42 U.S.C. 1983

107. Paragraphs 1 through 117 above are set forth herein as if more fully stated in their entirety.

108. In case 4800, the Defendants have conspired to deprive Paul of his Fifth Amendment and Fourteenth Amendment of the United States Constitution;

(a) in that the Defendants acted jointly in concert in February 2004, March 2004, September 7, 2004, October 14, 2004, October 20, 2004 and January 8, 2008, to deprive Paul of payment for his property taken in October 2002, pursuant to the South Carolina Eminent Domain Procedures Act, Section 28-2-10, *et seq.,* in that all defendants, including Ormond took a position claiming and declaring case 4800 had settled for just compensation. This was an intentionally false statement, because all defendants knew without Paul's consent

or approval, as a matter of law, defendants could not settle the case for just compensation,

(b) in furtherance of the conspiracy the defendant Paul D. de Holczer stated that Paul have no right to have a jury trial which resulted in deprivation of a constitutional right, his rights to have a trial by jury and,

(c) in furtherance of the conspiracy the defendant Michael H. Quinn threaten Paul's expert witnesses with criminal prosecution and threaten to have his expert witnesses arrested, if they testified.

109. Because of the foregoing Paul has suffered a denial of its Constitutional rights, the inability to set forth all his evidences, before a jury, as otherwise allowed in accordance with the State and Federal Constitutionally established and protected safeguards designed to prevent just such occurrences and, the resultant financial damages approximating $310,000.00.

110. Further, because of the foregoing actions the Defendants have deprived Paul of its property without just compensation and Paul has suffered a denial of its Constitutional rights, the right to payment for taking of his property as otherwise allowed in accordance with the Takings Clause of the Fifth Amendment, *in other words to be clearly, zero $0.00. dollars and cents,* and the resultant financial damages approximating $310,000.00.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Paul requests the following relief

1. A judgment for monetary damages for the losses suffered because of the actions of the Defendants in the violation of Paul's civil rights and for consequential damages, in an amount to be determined at trial, and approximating $310,000.00;

2. Declaratory judgment ordering that the Defendants are prohibited from enforcing the settlement agreement between SCDOT and the Buckles against Paul as payment of just compensation against or/ to Paul and, are barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul;

3. An order of continuing jurisdiction of this Court for the purposes of enforcing any judgment so ordered;

4. A judgment for monetary damages Actual, Consequential and Special damages as a direct and proximate result of All Defendant's covert and overt acts and omissions, Plaintiff has been injured for which SCDOT/ Rucker/ Gresham/ Moore and de Holczer and Quinn and Ormond are liable, for property and property rights at 2115 two notch rd $310,000.00 and for property and property rights at 2318 two notch rd $528,000.00. Plaintiff would have had his property, property rights, goodwill, going concern value, livelihood and financial health for another twenty years until his retirement at age or between ages sixty-two to sixty-seven;

5. A judgment for monetary damages against SCDOT/ Rucker/ Gresham/ Moore and de Holczer and Quinn and Ormond for Actual, Consequential and Special Damages for $838,000.00 Dollars, plus interest and prejudgment interest;

6. Punitive damages in an amount to be assessed by the jury as just and proper and in an amount enough to punish SCDOT/ Rucker/ Gresham/ Moore and de Holczer and Quinn and Ormond to deter future misconduct, for ALL defendants intentional, willful, wanton, and reckless covert and overt acts;

7. Grant Plaintiffs costs of suit and reasonable attorneys' fees and other expenses pursuant to 42 U.S.C. § 1988; and,

8. Grant such other relief as the Court may deem appropriate.

Jury Trial is demanded.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26 day of October 2018, respectfully submitted,

/s/ Ronald I. Paul

Ronald I. Paul
Post Office Box 4353
Columbia, South Carolina 29240
Plaintiff, *Pro se* (803) 414-2305

State of South Carolina) In the Court of Common Pleas
) Fifth Judicial Circuit
County of Richland) 2018-CP-40-05641

Ronald I. Paul,
Plaintiff,

vs.

South Carolina Department of Transportation, et al,
Defendants.

August 8, 2019
Columbia, South Carolina

Before:

The Honorable Jocelyn Newman, Judge

Appearances:

Ronald I. Paul,
Pro se Plaintiff

Andrew Lindemann, Esquire,
Michael Quinn, Esquire
J. Charles Ormand, Esquire
Attorneys for the Defendants

Bonnie H. Kelly, CVR
Circuit Court Reporter

* * *

[43] attorneys, we was representing such and such people." But that's not the law. So I list it in there that they can sue that they conspired with State officials or acted under color of law. And they did both of them. And

that's in the four corners of the complaint. They didn't address that.

Next, Your Honor, Defendant South Carolina Department of Transportation claim they's [sic] not a person subject to suit under 42 USC 1983. Now, they [sic] not a person, Your Honor, far as money damages, but – but derogatory relief – I mean, declaratory relief, they are a person. Let me explain that, Your Honor.

Because I have no other choice or no other way to get relief but for derogatory relief – I mean, declaratory relief. Now, what take places, Your Honor, every time I come to court to try to get paid for my property taken that I wasn't paid for, here comes South Carolina Department of Transportation with this settlement agreement beating across my head, "The case settled for just compensation. The case settled for just compensation."

In other words, the settlement between South Carolina Department of Transportation and the Buckles apply to you, too. I had nothing to do with it, I knew nothing about it. It didn't involve my property. You [44] didn't talk to me about it. How does this refer to me? So that's why I need declaratory relief on this issue to stop them from running with that settlement agreement that don't [sic] have nothing to do with me, beating me across the head with it.

Two reasons, Your Honor. It occurs to South Carolina Department of Transportation in the order or they authorized the Defendants to act in such a manner. In other words, Your Honor, claim and declaring the case

had settled for just compensation without my approval or without my consent. They can't – they cannot settle this case with just some text because I was a party, too. I was a party to it, I have a commercial lease filed. So they cannot settle this case as a matter of law for just compensation.

But here go South Carolina Department of Transportation with this settle agreement that's – that have just a period. They don't know where it's at now. Claim it – it never was one. Beating me across the head with it. There's no – case settled for just compensation subject.

That's why I'm here in State Court, Your Honor, to get this issue settled that Judge Curry refused to deal with in Federal Court, refused to take concurrent jurisdiction over this. And that's – she put that in her [45] order, Your Honor. I – I don't know where it's at, but I think probably Mr. Quinn filed it. But if you need a copy of it, I can – I can – I can get it to you.

Your Honor, when you look at Exhibit G (as read): "Judgement zero public index"; Exhibit H, we see an amount of $154,300. Now, somebody put that I was paid that. I – I can tell you, Your Honor, I never was paid that.

Exhibit K (as read): " – question that's not relevant to the claims or defenses raised in – in this litigation." That's in response from South Carolina Department of Transportation and others when I requested a copy of the settlement agreement. They said, "It's not relevant at this time. We don't know where it's at."

Judge Manning's order, on page 9, which is Exhibit I (as read): "Plaintiff's two motions to compel discovery, are denied as moot."

In other words, I can't have a settlement agreement. Ain't got nothing to do with me, but you beating me over my head talking about case settlement just compensation. In other words, you're saying I don't have no rights to any.

What they doing, they take the settlement agreement, beat me over the head with, and then say, "Well, Judge Lloyd awarded you $2,450 from the settlement agreement." I mean, I got nothing to do with the settlement agreement. [46] I never agreed to this.

That – this is – that is not – Mr. Quinn is – is one of the best South Carolina – at least I thought he was – one of the best attorneys when it comes down to end of – end of demand. But the statement he just got up and made is incorrect. I got transcripts of record of Mr. Quinn in – where he got up and said that McDonald's was entitled to one million dollars because it was a good business. Now, I didn't bring them [sic] transcripts with me, but I got them because I didn't know they was [sic] going to argue outside the four corners of the complaint.

Now, this was – for – I went down – I drove down and got them [sic] records. This was for a lease, a person who leased the property. And they have a McDonald's there, and they condemned that property in – county. They were gonna open up that road. And Mr. Quinn argued that McDonald was entitled to one

million dollars, and they only was taking a little corner of the property, blocking access to something or other, blocking so the person couldn't make an immediate left turn. They had to go up make a right turn or something or other like that. But they didn't even take the entire property.

But today, he argued something different.

Now, like I say, Your Honor, I didn't bring the transcript of record, but they filed in Federal Court, and

* * *

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[55] **CERTIFICATE**

I, the undersigned Bonnie H. Kelly, previously an Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Richland County, South Carolina, on the 15th day of January, 2020.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

e/Bonnie H. Kelly, CVR
Bonnie H. Kelly, CVR
Court Reporter

Columbia, South Carolina
October 25, 2020

STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND** RONALD I. PAUL Plaintiff, Vs. SOUTH CAROLINA DEPARTMENT OF TRANSPORTATIONS; PAUL D. DE HOLCZER, individually and as a partner of the law firm of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Finn, LLC; J. CHARLES ORMOND, JR., individually and as partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Gamer; OSCAR K. RUCKER, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation. Defendants.	**IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT** **CIVIL ACTION FILE NO. 2018-CP-400-5641** **NOTICE OF MOTION AND MOTION FOR RECONSIDERATION PURSUANT TO SCRCP 59(e)**

TO: DEFENDANTS SOUTH CAROLINA DEPARTMENT OF TRANSPORTATIONS; PAUL D. DE HOLCZER; NATALIE J. MOORE; MICHAEL H. QUINN AND J. CHARLES ORMOND.

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, will move before the Presiding Judge of this Honorable Court of Common Pleas for Richland County at the Richland County Courthouse, Columbia, South Carolina, at such time and

* * *

1983 includes private individuals, the term "person" in § 1983 includes private individuals and corporations acting under color of law, Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982), and local governmental entities and natural persons such as state, county, and municipal officials, Monell v. New York City Dep't of Social Servs., 436 U.S. 658 (1978).

During the hearing on August 8, 2019, Plaintiff believe Defendant Quinn appeared to argue the merits and make arguments outside of the four corners of the Complaint filed on October 26, 2018, that conflicted with arguments he made before The Honorable Edward B. Cottingham (Exhibit B and C).

EXCEPTION TO ELEVENTH AMENDMENT IMMUNITY

Defendant SCDOT claimed that SCDOT is not a "person" amenable to suit under 42 U.S.C. § 1983. Plaintiff concedes that SCDOT is not a "person"

amenable to suit under 42 U.S.C. § 1983 for monetary damages. Plaintiff argues, however, that for purposes of declaratory relief, his claim may proceed despite the Eleventh Amendment or sovereign immunity because he is seeking declaratory relief a declaration relating to the future performance of official duties. See Ex parte Young, 209 U. S. 123 (1908) (recognizing exception to immunity where plaintiff seeks prospective relief against a state official in his official capacity to prevent future violations). In addition, Under the Uniform Declaratory Judgments Act. S.C. Code Ann. §§ 15-53-30; Rule 57, SCRCP. "Any person . whose rights, status or other legal relations are affected by a statute . may have determined any question of construction or validity arising. under the . statute . and obtain a declaration of rights, status or other legal relations thereunder." S.C. Code Ann. § 15-53-30 (1976). This case presented a justiciable controversy. See Graham v. State Farm Mut. Auto. Ins. Co., 319 S.C. 69, 459 S.E.2d 844 (1995) (justiciable controversy exists when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party).

In other words, Plaintiff's Complaint ask the court to "declare" a number of facts and legal conclusions to be true or false, sufficient to convert, the claim to one for declaratory relief; see Complaint pages 24-25.

Declaratory relief is the only remedy Plaintiff have against SCDOT. Plaintiff have standing to pursue declaratory relief against SCOOT. (See exhibits G, H, K and I page 9 attached to Plaintiff's Combined

Memorandum and Amended Memorandum in opposition to all Defendants' Motions to Dismiss filed on February 11 and April 5, 2019) because Paul seeks only declaratory relief to end the ongoing violation of the Fifth Amendment of the United States Constitution, the provision known as the Takings Clause, which states that "private property [shall not] be taken for public use, without just compensation by state officials, there is no danger that the issuance of an declaratory relief or a declaration would disturb State sovereignty. See Bragg v. West Virginia Coal Ass'n, 248 F.3d 275, 292 (4th Cir. 2001) ("[T]he Eleventh Amendment does not preclude private individuals from bringing suit against State officials for declaratory relief designed to remedy ongoing violations of federal law.").

The Supreme Court has stated that "the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." *Worth v. Seldin*, 422 U.S. 490, 498 (1975). The standing "inquiry involves both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise." *Id.* The constitutional aspects of standing "import[] justiciability: whether the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." *Id.* (citations omitted). Consequently, "at an irreducible minimum, Art. III requires the party who invokes the court's authority to 'show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant,' and that the injury 'fairly can be traced to the

challenged action' and 'is likely to be redressed by a favorable decision.'" *Valley Forge Christian Coll. v. Am.'s United for Separation of Church and State, Inc.*, 454 U.S. 464, 472 (1982) (citations omitted).

CONCLUSION

Plaintiff disagree and object to Defendant Quinn Statement of the Facts; Defendants Ormond, SCDOT, De holczer and Moore backgrounds that are misleading, to the extent they include factual inaccuracies, contested factual matter and arguments.

For the aforementioned reasons, the Court Order Granting defendants Motions to Dismiss filed on November 13, 2019 should be vacated/reversed and an order enter denying defendants Motions to Dismiss.

Respectfully submitted,

/s/ Ronald I. Paul

Ronald I. Paul
Post Office Box 4353
Columbia, South Carolina 29240
Plaintiff, *Pro se* (803) 414-2305

Columbia, South Carolina

November 25, 2019

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE JOCELYN NEWMAN
Circuit Court Judge
Fifth Judicial Circuit

Appellate Case No. 2019-002076
CASE NO: 2018-CP-400-5641

RONALD I. PAUL..... Appellant,

V.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Finn of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Finn, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation.....Respondents.

FINAL BRIEF OF APPELLANT

Ronald I. Paul
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Appellant, *Pro Se* litigant
(803) 414-2305

* * *

STATEMENT OF ISSUES ON APPEAL

I. Did the Court erred in dismissing the complaint in its entirely and dismissing SCDOT as an improper party that contained a State Law claim; action for declaratory judgment under South Carolina code section 28-2-10, *et seq and* 28-2-40, Compromise or settlement permit, that included all Respondents SCDOT, Rucker, Gresham, Moore, de Holczer Quinn and Ormond?

II. Did the Court err in ruling that, as a matter of law, that the applicable statute of limitations is three years and dismissing with prejudice?

III. Did the Court err in dismissing case number 2018-CP-4011.5641 as a new limitations period is created with each overt act in furtherance of the conspiracy, and the statute of limitations begins to run on the date of the last overt act?

IV. Did the Court erred in granting Respondents motion to dismiss citing res judicata (claim preclusion) and collateral estoppel (issue preclusion) where the united states District Court of South

Carolina dismissed the previous cases without prejudice, is inconsistent with years of United States Supreme Court and other appellate Court precedents, and therefore erroneously found that Appellant's federal claims were dismissed on the merits in federal court and not because of any correctable pleading deficiency?

V. Did the Court erred in granting Respondent's Quinn and Ormond motion to dismiss when the complaint had stated facts to support the Sections 1983 civil conspiracy claim and that they were state actors, and compounded the error by relying upon, and unpublished opinion with no precedential value?

VI. Did the Court err in dismissing the Complaint with prejudice and without an opportunity to replead or amend, in this post- ***Knick*** world?

* * *

ARGUMENTS

I The Court erred in dismissing the complaint in its entirely and dismissing SCDOT as an improper party that contained a State Law claim ; action for declaratory judgment under South Carolina code section 28-2-10, *et seq and* 28-2-40, Compromise or settlement permit, that included all Respondents SCDOT, Rucker, Gresham, Moore, de Holczer Quinn and Ormond.

The Appellant brought a declaratory judgment action against SCDOT and all the other Respondents seeking, *inter alia*, a declaration. (R 55) On pages 24-25, paragraphs 101-106 Appellant's identify the

federal Declaratory Judgment Act, 28 U.S.C. § 2201, 2202 and Rule 57 of the Federal Rules of Civil Procedure).[1] (R 55-56)

As a basis for the relief sought, the power to issue a declaratory judgment pursuant to those statutes and rule are discretionary, as the declaratory relief sought would—in and of itself—serve a useful purpose in clarifying the parties' legal relations.[2] (R 55, 434 lines 7-25, 435 lines 1-25, 436 lines 1-25)

The declaratory relief sought was—in fact—a State Law claim or action under South Carolina code section 28-2-10, *et seq and* 28-2-40 Compromise or settlement permit; South Carolina code section 15-53-10, *et seq* and Rule 57 of the South Carolina Rules of Civil Procedure.[3] (R 55, 432 lines 17-25, 433 lines 1-7)

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[1] The district court had declined to exercise supplemental jurisdiction over the state law claim, dismissing it without prejudice, (R. 432 lines 17-25, 433 lines 1-7, 183)

[2] Even though this action is substantively brought under federal law, namely 42 U.S.C 1983 civil conspiracy, the procedural aspects of the case are governed by the South Carolina Rules of Civil Procedure *See, Norton v. Norfolk Southern Railway Co.*, 350 S.C. 473, 567 S.E.2d 851, 853 (2002) (federal claim brought in state court is controlled by federal substantive law and state procedural law") Therefore, SCRCP 57, is applicable to this case. This is the same as the language of Federal Rule 57 except that the appropriate State Code references are substituted for the Federal statute.

[3] *Greer v. McFadden*, 295 S.C. 14, 17, 366 S.E.2d 263, 265 (Ct. App. 1988) (holding even if a pro se claim is not framed with expert precision, where the point is clear, the issue should be addressed)

> THE COURT: Why did you choose to do that?

(R 432 line 17)

> MR. PAUL: Your Honor, when I was filing in Federal Court, Judge Curry had – wouldn't take concurrent jurisdiction and it's in one of her orders. She refused to take concurrent jurisdiction over the settlement agreement. She called it a "contract-based claim," that, you know, from my understanding, that you need -to settle that in State Court. I'm not – I'm not going to deal with the settlement agreement. You need to deal with that in State Court; but she didn't say them [sic] exact words, but she put it in her order say that it's a contract State based claim and she refused to take concurrent jurisdiction.
>
> She – she didn't use them [sic] exact words, but basically, that's what she said. And that's why I'm here in the State Court.

(R 432 lines 18-25, 433 lines 1-7)

Therefore, in case 4800 (2002-CP-400-4800 Eminent Domain case hereinafter referred to as "case 4800"). On or about February – March 23, 2004 Quinn, Buckles, SCDOT, Rucker, Gresham, Moore and de Holczer agreed to a settlement between them. (R 266, 305 lines 13-15)

In that all Respondents, including Ormond took a position claiming and declaring case 4800 had settled for just compensation. This was an intentionally false

statement, because all Respondents knew without Paul's consent or approval, as a matter of law, Respondents could not settle the case for just compensation. (R 55-59, 434 lines 7-25, 435 lines 7-25, 436 lines 1-25)

Now, as set forth above, there exists an actual controversy between Appellant and Respondents as to whether the settlement agreement in case 4800 between SCDOT and the Buckles applied equally to Paul, as just compensation. (R 55, 305)

Therefore, Appellant seek declaratory relief and a judicial determination pursuant to: (R 55-56, 305 lines 13-21)

Section 28-2-10, *et seq and* 28-2-40. Compromise or settlement permit. At any time before or after commencement of an action, the parties may agree to and carry out, according to its terms, a compromise or settlement as to any matter, including all or any part of the compensation or other relief and, South Carolina code section 15-53-10, *et seq* and Rule 57 of the South Carolina Rules of Civil Procedure:

(a) That Respondents are prohibited / barred from enforcing the settlement agreement between SCDOT and the Buckles as payment of just compensation against or/ to Paul, because the evidence shows Paul never agree to any settlement;

(b) That Respondents are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul,

because Paul was not a party to any settlement negotiations;

(c) That Respondents are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul, because Paul did not sign the consent order to settle the case;

(d) That Respondents are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul, because the settlement did not include an appraisal of Paul property (highest and best use).

"In South Carolina jurisprudence, settlement agreements are viewed as contracts." Harris-Jenkins v. Nissan Car Mart, Inc., 348 S.C. 171, 177, 557 S.E.2d 708, 711 (Ct.App. 2001);Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009)

Because of the foregoing Paul has suffered a denial of its Constitutional rights, the right to payment for taking of his property as otherwise allowed in accordance with the Takings Clause of the Fifth Amendment, *in other words to be clearly, zero $0.00. dollars and cents*, (R 248-249) and the resultant financial damages approximating $310,000.00. (R 56-57)

The Court concluded that the "Defendant SCDOT is not a "person" or proper party not just for money damages claims but also for claims seeking injunctive or prospective relief. Thus, the Defendant SCDOT is dismissed on this additional basis". (R 25) However,

count one for declaratory judgment, is a State Law claim or action that includes SCDOT to resolve an actual controversy. (R 65, 434 line 7- p 436 line 25) See McCall v. Batson, 285 S.C. 243, 329 S.E.2d 741 (1985)

Lastly, in count one, Respondents statute of limitations argument is without merit, as "statutes of limitations are not controlling measures of equitable relief." Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946) In count one, equitable relief is all that Appellant has sought. (R 55 #105 (a) (b), 56 (c) (d)

As of today, Respondents have not filed answers to the Appellant's Complaint to this action. (R 261-262, 265)

* * *

CONCLUSION

For these reasons stated, this court should reverse the judgments orders of the circuit court; reversal and remand for further proceedings are warranted.

Respectfully submitted,

/s/ Ronald I. Paul
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Appellant, *Pro se* (803) 414-2305

Columbia, South Carolina

January 19, 2021

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE JOCELYN NEWMAN
Circuit Court Judge
Fifth Judicial Circuit

Appellate Case No. 2019-002076
CASE NO: 2018-CP-400-5641

RONALD I. PAUL..... Appellant,

V.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Finn of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Finn, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation.....Respondents.

AMENDED MEMORANDUM IN SUPPORT OF PETITION FOR REHEARING

The Appellant Ronald I Paul of Richland County, has petitioned this Court for a rehearing of the recent decision in Paul v. SCDOT, Op. No. 2022-UP-051 (S.C. Ct. App. filed February 9, 2022). Appellant respectfully submits that the following points were overlooked or misapprehended and not address by this Court:

I

Issue one

It appears this Court overlooked or misapprehended and did not address—in count one—equitable relief—is all that Appellant has sought. Therefore, respondent's statute of limitations argument is without merit, as "statutes of limitations are not controlling measures of equitable relief." Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946)

See (Br. of Appellant p.16) then go to (R 434 lines 13-25) and (R. 435 lines 1-25) then go to (R 55-56) then go to (R 57 prayer for relief #2)[1]

[1] Under the doctrine of Ex pate Young, 209 U.S. 123 (1908), a plaintiff may seek prospective injunctive and declaratory relief to address an ongoing or continuing violation of federal law or a threat of a violation of federal law in the future. See In re Deposit

The Court overlooked that, "traditionally and for good reasons, statutes of limitation are not controlling measures of equitable relief. Such statutes have been drawn upon by equity solely for the light they may shed in determining that which is decisive for the chancellor's intervention, namely, whether the plaintiff has inexcusably slept on his rights so as to make a decree against the defendant unfair". Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946); See Russell v. Todd, supra, 309 U.S. [280] at page 289, 80 S.Ct. [527] at page 532, 84 L.Ed. 754 [(1940)]; Prudential Lines, Inc. v. Exxon Corp., 704 F.2d 59, 65 (2d Cir. 1983)

Appellant has not slept on his rights so as to make a decree against the defendant unfair," therefore, a statute of limitations defense may not be considered. Holmberg v. Armbrecht, 327 U.S. 892, 396 (1946). In

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Ins. Agency, 482 F.3d 612, 618 (2d Cir. 2007); Ward v. Thomas, 207 F.3d 114, 120 (2d Cir. 2000); See, e.g., Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261, 269-78, 117 S.Ct. 2028, 138 L.Ed.2d 438 (1997) (opinion of Kennedy, J.); id. at 291-96, 117 S.Ct. 2028 (O'Connor, J., concurring); Green v. Mansour, 474 U.S. 64, 68-70, 106 S.Ct. 423, 88 L.Ed.2d 371 (1985); Edelman, 415 U.S. at 663-68, 94 S.Ct. 1347; In re Dairy Mart Convenience Stores, Inc., 411 F.3d 367, 372 (2d Cir.2005). See generally 17 Charles Alan Wright, Arthur R. Miller Edward H. Cooper, Federal Practice and Procedure § 4231 (2d ed. 1988 Supp. 2005); Suffice it to say that the doctrine remains a land-mark of American constitutional jurisprudence that operates to end ongoing violations of federal law and vindicate the overriding "federal interest in assuring the supremacy of that law." Green, 474 U.S. at 68, 106 S.Ct. 423; see Pennhurst State Sch. Hosp. v. Halderman, 465 U.S. 89, 105-06, 104 S.Ct. 900, 79 L.Ed.2d 67 (1984).

this case, however, there is no suggestion Appellant delayed seeking relief.

If the Complaint was unclear, Respondents should have requested clarification and Appellant would have clarified and Amended his Complaint if necessary.[2] Here, the circuit court erred in effectively preventing Appellant from litigating a post-ruling motion to amend by immediately dismissing the claims "with prejudice." Skydive Myrtle Beach, Inc. v. Horry Cnty. 426 S.C. 175 (S.C. 2019) • 826 S.E.2d 585 (Decided Mar 13, 2019).

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* * *

tribunal is generally bound to apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory or legislative history to the contrary.

CONCLUSION

Based on the foregoing discussion, Appellant respectfully requests that the Court rehear its decision

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[2] Greer v. McFadden, 295 S.C. 14, 17, 366 S.E.2d 263, 265 (Ct. App. 1988) (holding even if a pro se claim is not framed with expert precision, where the point is clear, the issue should be addressed); Additionally, "[a] document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Erickson v. Pardue, 551 U.S. 89, 94 (2007)

in this case and reverse the decision of the trial court and remand for further proceedings.

Respectfully submitted,

/s/ Ronald I. Paul

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Columbia, South Carolina

February 22, 2022

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE JOCELYN NEWMAN
Circuit Court Judge
Fifth Judicial Circuit

Appellate Case No. 2019-002076
CASE NO: 2018-CP-400-5641

RONALD I. PAUL..... Petitioner,

V.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Finn of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Finn, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation.....Respondents.

PETITION FOR WRIT OF CERTIORARI

Ronald I. Paul
Post Office Box 4368
Columbia, South Carolina 29240
Petitioner, *Pro se* (803) 414-2306

* * *

CERTIFICATE OF COUNSEL

Pro Se Petitioner certifies that his Petition for Rehearing was made and finally ruled on by the South Carolina Court of Appeals on March 18, 2022.

QUESTIONS PRESENTED

I. Did the Court of Appeals erred in failing to consider or address that—count one—is a state law claim for equitable relief, in part under the doctrine of Ex parts Young, 209 U.S. 123 (1908), seeking prospective declaratory relief to address an ongoing or continuing violation of federal law in the future only "therefore" respondent's statute of limitations argument is without merit, as "statutes of limitations are not controlling measures of equitable relief." Holmberg v. Armbrecht, 327 U.S. 892, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946)?

a. Did the Courts erred in dismissing the Complaint with prejudice and without an opportunity to replead or amend?

II. Did the Court of Appeals erred in failing to determine whether "clearly established" precedent in Est. of Mims v. S.C. Dep't of Disabilities & Special Needs, 422 S.C. 388, 399, 811 S.E.2d 807, 813 (Ct. App. 2018) certiorari **denied August 3, 2018**, read in conjunction with the statute containing a provision allowing for an extension of the limitations period in S.C. Code Ann. §15-3-530(5) to be 'extended' by a maximum of twenty years S.C. Code Ann. § 15-3.520(b)?

III. Did the Court of Appeals erred in failing to determine whether a new limitations period is created with each overt act in furtherance of a civil conspiracy claim brought under federal section 42 USC 1983 overt acts that injures Paul, and the statute of limitations begins to run on the date of the last overt act?

a. Did the Courts erred in dismissing the Complaint with prejudice and without an opportunity to replead or amend?

IV. Did the Court of Appeals erred in failing to consider or address whether Knick v. Township of Scott, 588 U.S., 139 S. Ct. 2162 (2119) applied retroactively in this case under South Carolina common law tolling and rules, extending (equitable tolling) the start of the limitations period until the day the United States Supreme Court issued the opinion, on June 21, 2019?

* * *

ARGUMENTS

I

ISSUE ONE

The Court of Appeals erred in failing to consider or address that—count one—is a state law claim for equitable relief, in part under the doctrine of Ex parte Young, 209 U.S. 123 (1908), seeking prospective declaratory relief to address an ongoing or continuing violation of federal law in the future only "therefore respondent's statute of limitations argument is without merit, as 'statutes of limitations are not controlling measures of equitable relief." Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946)

On or about February – March 23, 2004, Quinn, Buckles, SCDOT, Rucker, Gresham, Moore and de Holczer agreed to a settlement between them, Paul was not a party to this settlement.[1] (R 266) then go to Judge Barber order (R 81-83) This settlement was under section 28-2-40. "Compromise or settlement permit. At any time before or after commencement of an action, **the parties may agree** to and carry out, according to its terms, a compromise or settlement as to

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[1] However, Paul was a party in the lawsuit, because on October 21, 2002, SCDOT, Oscar K, Rucker, Macie M. Gresham, Natalie J. Moore and Paul D. de Holczer filed an Amended Condemnation Notice against Paul. On or about October 28, 2003, the state official (**NOT THE BUCKLES**) terminated Paul's commercial lease a sealed instrument, without payment of just compensation to Paul, *in other words to be clearly, zero $0.00. dollars and cents.* (R 39, 248-249)

any matter, including all or any part of the compensation or other relief". (R 71)

Subsequently, all Respondents, including Ormond took a position claiming and declaring eminent domain case # 2002-CP-400-4800 (hereinafter referred to as case 4800) had settled for just compensation. This was an intentionally false statement, because all Respondents knew without Paul's consent or approval, as a matter of law, Respondents could not settle the case for just compensation. See (Br. of Appellant p.16) then go to (R 434 lines 13-25) and (R 435 lines 1-25) then go to (R 55-56) then go to (R 57 prayer for relief #2)

FACTS

As of today, there exists an actual controversy between Petitioner and Respondents as to whether the settlement agreement in case 4800 between SCDOT and the Buckles applied equally to Paul, as just compensation.[2] (R 55)

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[2] Under the doctrine of Ex parte Young, 209 U.S. 123 (1908), a plaintiff may seek prospective injunctive and declaratory relief to address an ongoing or continuing violation of federal law or a threat of a violation of federal law in the future. See In re Deposit Ins. Agency, 482 F.3d 612, 618 (2d Cir. 2007); Ward v. Thomas, 207 F.3d 114, 120 (2d Cir. 2000); See, e.g., Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261, 269-78, 117 S.Ct. 2028, 138 L.Ed.2d 438 (1997) (opinion of Kennedy, J.); id. at 291-96, 117 S.Ct. 2028 (O'Connor, J., concurring); Green v. Mansour, 474 U.S. 64, 68-70, 106 S.Ct. 423, 88 L.Ed.2d 371 (1985); Edelman, 415 U.S. at 663-68, 94 S.Ct. 1347; In re Dairy Mart Convenience States, Inc., 411 F.3d 367, 372 (2d Cir.2005). See generally 17 Charles Alan Wright, Arthur R. Miller Edward H. Cooper, Federal Practice and

LAW AND ARGUMENT

The Court overlooked that "traditionally and for good reasons, statutes of limitation are not controlling measures of equitable relief. Such statutes have been drawn upon by equity solely for the light they may shed in determining that which is decisive for the chancellor's intervention, namely, whether the plaintiff has inexcusably slept on his rights so as to make a decree against the defendant unfair". Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946); See Russell v. Todd, supra, 309 U.S. [280] at page 289, 60 S.Ct. [527] at page 532, 84 L.Ed. 754 [(1940)]; Prudential Lines, Inc. v. Exxon Corp., 704 F.2d 59, 65 (2d Cir. 1983)

Petitioner has not slept on his rights so as to make a decree against the defendant unfair," therefore, a statute of limitations defense may not be considered. Holmberg v. Armbrecht, 327 U.S. 392, 396 (1946). In this case, however, there is no suggestion Petitioner delayed seeking relief, in fact, the Record on Appeal shows, and it cannot be disputed that Paul has been pursuing his rights diligently to this present date and extraordinary circumstance (R 55-56) stood in his way [Pace v. DiGuglielmo, 544 U.S. 408, 418 (U.S. 2005)].

Procedure § 4231 (2d ed. 1988 Supp. 2005); Suffice it to say that the doctrine remains a land-mark of American constitutional jurisprudence that operates to end ongoing violations of federal law and vindicate the overriding "federal interest in assuring the supremacy of that law." Green, 474 U.S. at 68, 106 S.Ct. 423; *see* Pennhurst State Sch. Hosp. v. Halderman, 465 U.S. 89, 105-06, 104 S.Ct. 900, 79 L.Ed.2d 67 (1984),

a. The Courts erred in dismissing the Complaint with prejudice and without an opportunity to replead or amend.

If the Complaint was unclear, Respondents should have requested clarification and Petitioner would have clarified and Amended his Complaint if necessary.[3] Here, the courts erred in effectively preventing Petitioner from litigating a post-ruling motion to amend by immediately dismissing the claims "with prejudice." Skydive Myrtle Beach, Inc. v. Horry Cnty. 426 S.C. 175 (S.C. 2019) • 826 S.E.2d 585 (Decided Mar 13, 2019).

* * *

begins from the day the United States Supreme Court issued the opinion, on June 21, 2019. An appellate court must apply the law in effect at the time it renders its decision, Thorpe v. Housing Authority of the City of Durham, 393 U.S. 268,89 S.Ct. 518, 21 L.Ed.2d 474 (1969); The United States Supreme Court stated "[t]he general rule . . . is that an appellate court must apply the law in effect at the time it renders its decision" (id. at 281, 89 S.Ct. 518); Bradley v. School Board of City of Richmond, 416 U.S. 696, 711 (1974), "[a] court or administrative tribunal is generally bound 'to apply the law in effect at the time it renders its decision, unless

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[3] Greer v. McFadden, 295 S.C. 14, 17, 366 S.E.2d 263, 265 (Ct. App. 1988) (holding even if a pro se claim is not framed with expert precision, where the point is clear, the issue should be addressed); Additionally, "[a] document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Erickson v. Pardus, 551 U.S. 89, 94 (2007)

doing so would result in manifest injustice or there is statutory or legislative history to the contrary.

CONCLUSION

Based on the foregoing discussion, the Petitioner Ronald I. Paul respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

/s/ Ronald I. Paul
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Columbia, South Carolina
April 14, 2022