

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 Sarah Sharper, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 City of North Charleston, et al. )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 CASE NO.: 2017-CP-10-4820

**MOTION AND ORDER INFORMATION  
 FORM AND COVERSHEET**

|  |   |
|--|---|
| Plaintiff's Attorney:<br>Jarrel L. Wigger, Bar No. _____<br>Address:<br>8086 Rivers Avenue, Suite A<br>North Charleston, SC 29406<br>Phone: 553-9800 Fax 553-1648<br>E-mail: jwigger@wiggerlawfirm.com Other: _____  | Defendant's Attorney:<br>Phillip S. Ferderigos, Bar No. 16709<br>Address:<br>288 Meeting Street, Suite 200<br>Charleston, SC 29401<br>Phone: 577-7700 Fax 577-7708<br>E-mail: pferderigos@barnwell-whaley.com<br>Other: _____ |
| <input checked="" type="checkbox"/> <b>MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)</b><br><input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)</b><br><input type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)</b>   |   |
| <b>SECTION I: Hearing Information</b>  |   |
| Nature of Motion: Motion to Dismiss Pursuant to SCRPC Rule 12(b)(6)<br>Estimated Time Needed: 1 hour                      Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO   |   |
| <b>SECTION II: Motion/Order Type</b>   |   |
| <input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.  |   |
| _____<br>Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant  | November <u>12</u> , 2018<br>Date submitted   |
| <b>SECTION III: Motion Fee</b>   |   |
| <input checked="" type="checkbox"/> PAID – AMOUNT: \$ _____<br><input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br>(check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br><input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief<br><input type="checkbox"/> Motion for Stay in Bankruptcy<br><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br><input type="checkbox"/> Proposed order submitted at request of the court; or,<br>reduced to writing from motion made in open court per judge's instructions<br>Name of Court Reporter: _____<br><input type="checkbox"/> Other: _____ |   |
| <b>JUDGE'S SECTION</b><br><input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____   | JUDGE CODE _____<br>Date: _____   |

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

MOTION FEE COLLECTED: \$ \_\_\_\_\_

CONTESTED – AMOUNT DUE: \$ \_\_\_\_\_

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 Sarah Sharper, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 City of North Charleston, County of )  
 Charleston, Department of Health and )  
 Environmental Control, South Carolina )  
 Department of Transportation, Banks )  
 Construction Company, United Contractors, )  
 Inc., Banks/United Joint Venture and )  
 HLA, Inc., )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 CASE No.: 2017-CP-10-4820

CITY OF NORTH CHARLESTON'S  
 MOTION TO DISMISS PURSUANT  
 TO SCRCR RULE 12(b)(6)

FILED  
 2018 NOV 14 PM 2:38  
 JULIE J. ARMSTRONG  
 CLERK OF COURT

TO: JARREL L. WIGGER, ESQUIRE AND I. KEITH McCARTY, ESQUIRE, COUNSELLOR  
 FOR PLAINTIFF:

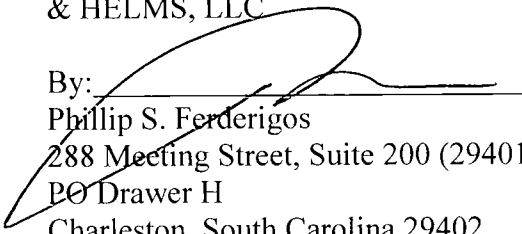
PLEASE TAKE NOTICE that on the tenth day after service of this Motion upon you, or as soon thereafter as counsel can be heard, the undersigned will move before a Judge of this Court in the Charleston County courthouse for a Motion to Dismiss Pursuant to SCRCR Rule 12(b)(6) for failure to state a claim based on the pleadings of the Plaintiffs. This Motion is based on the grounds that the Plaintiffs have failed to state a claim for relief pursuant to SCRCR Rule 12(b)(6) based on the statute of limitations, the Hawkins v. City of Greenville, 358 S.C. 280, 594 S.E.2d 557 (Ct. App. 2004) decision, the Graham v. Town of Latta, 417 S.C. 164, 789 S.E.2d 71 (Ct. App. 2016) decision, S.C. Code Ann. § 5-31-450, and the South Carolina Tort Claims Act.

Defendant City of North Charleston further incorporates as if stated herein the additional grounds for dismissal as set forth in the motions for dismissal of the Co-Defendant governmental entities to the extent said ground apply to this Defendant.

Pursuant to the South Carolina law outlined above, Defendant City of North Charleston is entitled to a judgment on the pleadings.

Respectfully submitted,

BARNWELL WHALEY PATTERSON  
& HELMS, LLC

By:   
Phillip S. Ferderigos  
288 Meeting Street, Suite 200 (29401)  
PO Drawer H  
Charleston, South Carolina 29402  
(843) 577-7700 tel  
(843) 577-7708 fax  
[pferderigos@barnwell-whaley.com](mailto:pferderigos@barnwell-whaley.com)

November 12, 2018  
Charleston, South Carolina

**ATTORNEYS FOR CITY OF NORTH  
CHARLESTON**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 12<sup>th</sup> day of November, 2018, I mailed a copy of the foregoing Motion to Dismiss Pursuant to SCRPC Rule 12(b)(6), with sufficient postage and properly addressed as follows:

|  |   |
|--|---|
| <p>Jarrel L. Wigger, Esquire<br/>8086 Rivers Avenue, Suite A<br/>North Charleston, SC 29406</p> <p>I. Keith McCarty, Esquire<br/>McCarty Law Firm, LLC<br/>1212 Wappoo Road<br/>Charleston, SC 29407</p> | <p>Roy P. Maybank, Esquire<br/>Amanda R. Maybank, Esquire<br/>Maybank Law Firm, LLC<br/>531 Savannah Highway<br/>Charleston, SC 29407</p> <p>Jonathan J. Anderson, Esquire<br/>Anderson Reynolds &amp; Stephens, LLC<br/>P.O. Box 87<br/>Charleston, SC 29402</p> |
|--|---|

Barnwell Whaley Patterson & Helms, LLC

By:   
Beverly Mitton, Legal Assistant



**Phillip S. Ferderigos, Esquire, Partner**  
**Charleston Office**  
[pferderigos@barnwell-whaley.com](mailto:pferderigos@barnwell-whaley.com)

November 14, 2018

Charleston County Clerk of Court  
ATTN: Mallory  
100 Broad Street, Room 106  
Charleston, SC 29401

PLAINTIFFS:

1. Andrew Wells and Allison Wells, 2017-CP-10-4926
2. Bob Frederking and Myrtle Frederking, 2017-CP-10-4841
3. Brenda Wrighton, 2017-CP-10-4896
4. Claire Gallagher, 2017-CP-10-4839
5. Constance Verge, 2017-CP-10-4895
6. Darlene Taylor William, 2017-CP-10-4904
7. Darryl Beech, 2017-CP-10-4931
8. Diane Blazer As Guardian Of Charles Eichmann, 2017-CP-10-4924
9. Elizabeth Bright, 2017-CP-10-4897
10. Franklin Griffin and Delores Griffin, 2017-CP-10-4893
11. Geneva Ravenel and Rufus Ravenel, 2017-CP-10-4898
12. Henry Bennett and Anjenette Bennett, 2017-CP-10-5108
13. Ismael Hernandez, 2017-CP-10-4837
14. Jason Gardner, 2017-CP-10-4823
15. Jesses and Patricia Frazier, 2017-CP-10-4826
16. Katie Miller and James Miller, Jr. 2017-CP-10-04838
17. Kaye Brown, 2017-CP-10-4835
18. Kelvin Jackson, 2017-CP-10-4899
19. Kevin Drayton, 2017-CP-10-4930
20. Kevin Thompson, 2017-CP-10-4894
21. Latosha Gadsden, 2017-CP-10-4827
22. Leigh Hemingway, 2017-CP-10-4925
23. Mabel Livingston, 2017-CP-10-4845
24. Maezell Jefferson and Mitchell Jefferson, 2017-CP-10-4825
25. Melissa Washington, 2017-CP-10-4821
26. Mellany Robinson, 2017-CP-10-4923
27. Milton Green and Myrtle Green, 2017-CP-10-4842
28. Oglivia Gibson 2017-CP-10-4903

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[www.barnwell-whaley.com](http://www.barnwell-whaley.com)

SOUTH CAROLINA OFFICE:  
288 Meeting Street, Suite 200, Charleston, SC 29401  
P 843.577.7700 F 843.577.7708

NORTH CAROLINA OFFICE:  
201 N. Front Street, Suite 1003, Wilmington, NC 28401  
P 910.679.1388 F 910.679.4663

REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

November 14, 2018

Page 2

29. Otis Green and Angela M. Green, 2017-CP-10-4901
30. Patricia Hall-Frazier and Jesse Frazier, 2017-CP-10-4826
31. Rebecca Kapperman-Brown, 2017-CP-10-4927
32. Renotia Fludd, 2017-CP-10-4929
33. Robert Mixson and Mixson Rental Properties, LLC, 2017-CP-10-4900
34. Roberta Frasier, 2017-CP-10-4907
35. Sarah Sharper, 2017-CP-10-4820
36. Sullay Sesay, 2017-CP-10-4836
37. Tammy McCall, 2017-CP-10-4905
38. Tanya Driggers, 2017-CP-10-4892
39. Theresa Jenkins, 2017-CP-10-4824
40. Tuan Le, 2017-CP-10-4906
41. Valerie Pearson, 2017-CP-10-4928
42. Virginia Ivery and Lonnie G. Ivery, 2017-CP-10-4847
43. Virginia James and Alex Z. James, 2017-CP-10-4891
44. Willie Moore and Sheran Moore, 2017-CP-10-4840

DEFENDANTS IN ALL CASES LISTED ABOVE:

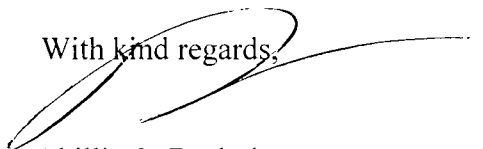
City of North Charleston, County of Charleston, Department of Health and Environmental Control, South Carolina Department of Transportation, Banks Construction Company, United Contractors, Inc, Banks/United Joint Venture and HLA Inc.

Dear Mallory:

Thank you for your call today in regard to the motions you received. I understand that since the cases were consolidate I only needed to send one check for \$25. Please find enclosed our check for \$25. You may return the \$1,100 check in the envelope provided herein.

Thank you for your assistance.

With kind regards,



Phillip S. Ferderigos

Enclosure

PSF/bbm