

RESULTS

Dismissal obtained for clients on first day of trial

September 19, 2016

David Overstreet and Steve Kropski obtained a dismissal of their clients from a claim involving allegations of amalgamation amongst the developer, builder and lender, unfair trade practices, and construction defects to property in Horry County. The case had been pending for over 2 years with significant discovery conducted including foreign depositions and multiple experts. After qualifying the jury, the Court heard motions, and the trial judge granted the dismissal of all four of the firm's clients, including 2 individual defendants, the lender, and a separate Virginia corporation. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Summary Judgment granted in Malpractice case

August 30, 2016

David Overstreet and Mike McCall prevailed on summary judgment in a case involving a North Carolina transactional firm. The case arose out of a development in the mountains of Western North Carolina in which certain boundary disputes existed involving the lots that were sold to the original developing members. Plaintiffs alleged that the law firm involved in the closings had knowledge of the boundary issues and failed to reveal that information to Plaintiffs before purchase. After over a year of depositions, the Court granted summary judgment to the law firm on the basis that Plaintiffs' had failed to commence the lawsuit within the applicable statute of limitations and North Carolina statute of repose. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Appellate Court upholds decision that malpractice action barred

September 2, 2015

The South Carolina Court of Appeals recently upheld a summary judgment obtained by David Overstreet and Mike McCall in a legal malpractice action. The case had been filed in South Carolina, but it arose out of a law firm's representation of a client in a North Carolina personal injury case. David and Mike argued that Plaintiff's claims against the law firm were time-barred under North Carolina's statute of repose for professional negligence cases. South Carolina does not have a comparable statute of repose, which set the stage for a dispositive choice of law dispute. They argued

that the statute of repose is substantive law, that Plaintiff's claims were governed by the substantive law of North Carolina, and that the case should be dismissed. The Circuit Court agreed and granted the law firm summary judgment. In a reported case, the Court of Appeals then upheld that decision.

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Federal Court Grants Dispositive Motion for Financial Services Firm

June 1, 2015

David Overstreet and Steve Kropski recently obtained the dismissal of a multi-national financial services firm from a pending case in District Court. The Court granted the Motion to Dismiss with prejudice based upon the argument that the firm owed no duty to the Plaintiff.

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SC Court of Appeals Upholds Summary Judgment for Lawyer

July 16, 2014

David Overstreet prevailed at the South Carolina Court of Appeals in a legal malpractice case. The Court affirmed the lower court's grant of summary judgment for their client in a complicated transactional manner in which Plaintiff had asserted damages over \$1,000,000. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss Granted and Affirmed by the Court of Appeals in Professional Negligence Case

September 08, 2013

David Overstreet obtained dismissal of a case for a lawyer accused of professional negligence arising out of the lawyer's defense of a client at a criminal trial. The trial court and Court of Appeals found that the Plaintiff's case was barred by the statute of limitations. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Legal Malpractice Claim Dismissed After Prevailing on Novel Issue of Federal Patent Jurisdiction

September 05, 2012

David Overstreet obtained dismissal of a patent law legal malpractice action after

successfully defeating a motion to remand. Overstreet and McCall asserted federal patent jurisdiction to remove the case from state court and then moved to dismiss the Complaint for failure to file the requisite expert affidavit. The federal district court, the first in the District of South Carolina to address the issue of patent jurisdiction in the context of a legal malpractice claim, agreed that the allegations in the Complaint triggered federal patent jurisdiction. After retaining jurisdiction, the court rejected Plaintiff's argument that the case fell within the common knowledge exception to the expert affidavit statute and dismissed the case against the attorney in its entirety. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Attorney Dismissed from FDCPA Action

August 15, 2012

David Overstreet prevailed on a Motion to Dismiss in a malpractice case filed against a lowcountry attorney over a debt collection matter in federal court. Plaintiffs filed an action for Violation of the Fair Debt Collection Practices Act (FDCPA), Fraud, and Negligent Misrepresentation, alleging that the attorney had harassed the Plaintiffs in collecting an improper debt. The Court held that the FDCPA claim failed as a matter of law and also dismissed the remaining causes of action. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss Granted for Real Estate Attorney

June 07, 2011

David Overstreet recently prevailed on a Motion to Dismiss in state court on behalf of a local real estate attorney in South Carolina. Plaintiffs alleged that the lawyer failed to provide adequate advice with regard to the sales contract and real estate closing he conducted. The Court of Common Pleas granted the attorney's Motion to Dismiss with prejudice on the basis that Plaintiffs failed to present necessary arguments on the standard of care or a supporting expert opinion. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss Granted for Local Estate Attorney

April 18, 2011

David Overstreet obtained a dismissal with prejudice of a local estate attorney in a legal malpractice action. The Plaintiff in the case alleged the attorney had failed to protect a large estate. The Court held that the Plaintiffs did not have the requisite standing to bring the action. *For informational purposes only. Past success does not*

indicate the likelihood of success in future cases.

Motion for Summary Judgment Granted in Professional Negligence Case

November 04, 2010

David Overstreet obtained summary judgment for a lawyer accused of professional negligence in the Lowcountry. In the suit, the Plaintiff claimed the lawyer inappropriately prepared an elderly woman's estate plan resulting in over a \$400,000 loss to the estate. After considerable discovery, including expert depositions, the Court granted the lawyer's motion as a matter of law. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss Granted on Interference with Contract Claim

October 01, 2010

David Overstreet obtained the dismissal of a legal malpractice claim in South Carolina on grounds of attorney immunity to claims by third parties. Plaintiff sued his ex-wife and her lawyer for interference with contractual relationships and civil conspiracy after Plaintiff maintained they prevented a multi-million dollar business deal from closing. The court granted our motion to dismiss on the grounds that ex-husband Plaintiff had no standing to sue the ex-wife's lawyer for actions taken in the course of his representation. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Defense Verdict for Real Estate Attorney Client

February 19, 2010

David Overstreet obtained a defense verdict for a real estate attorney following a trial in Columbia, SC. Plaintiffs alleged that the attorney improperly took a commission on a real estate transaction for which he was also the closing attorney, failed to disclose that he was receiving that commission, failed to disclose other interests, and failed to disclose his ongoing professional relationship with the seller. The jury rendered a defense verdict for the attorney on the legal malpractice claim. The jury returned a verdict of \$4,350 on the breach of fiduciary duty claim, but that award was then reduced by the court to zero following post-trial motions on the issue of set off for settlement funds already tendered by the codefendant. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion for Summary Judgment Granted

December 03, 2009

David Overstreet obtained summary judgment for a closing attorney in a legal malpractice case. A developer sued his closing attorney for failure to properly advise him over the closing, which allegedly resulted in the developer being sued. After the Plaintiff's deposition, a Motion for Summary Judgment was filed on behalf of the closing attorney. After reviewing deposition testimony and related documents, the Court granted the Motion. The Court held that the Plaintiff failed to file the Complaint within the applicable statute of limitations under the South Carolina "notice" rule, as well as failed to timely name an expert witness to support its allegations of professional negligence. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss Granted in Richland County, SC

May 06, 2009

David Overstreet prevailed on a Motion to Dismiss a legal malpractice case in Richland County, South Carolina. Plaintiff sued his deceased father's attorney alleging undue influence and a variety of other claims after Plaintiff's father failed to leave any significant estate holdings to him. The Court held that the Plaintiff was a third party to whom the attorney owed no duty and that no other basis existed to support a cause of action for legal malpractice against the attorney. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion for Partial Summary Judgment Granted in Legal Malpractice Action

December 15, 2008

David Overstreet prevailed on a Motion for Partial Summary Judgment against a real estate attorney. Plaintiff had asserted numerous causes of action against the attorney, and the Court dismissed the causes of action for Unfair Trade Practices, Negligence per se, Breach of Purported Contracts, Assumption of Obligations under Purported Contracts, Intentional Infliction of Emotional Distress, and Violation of Omnibus Adult Protection Act, leaving only one cause of action in the case. The matter later settled. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss granted for a Real Estate Attorney

April 07, 2008

David Overstreet recently prevailed on a Motion to Dismiss in state court on behalf of a local real estate attorney. The Third-Party Complaint alleged that the attorney failed to fulfill his duties as closing attorney, because he failed to gather the

necessary paperwork that would have allowed the closing to go forward before the foreclosure sale. After allowing initial discovery, the Court of Common Pleas granted the attorney's 12(b)(6) Motion to Dismiss with prejudice. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Motion to Dismiss granted in Federal Court

March 13, 2008

David Overstreet obtained the dismissal of an attorney from a legal malpractice case in Federal Court. In the Complaint, Plaintiff alleged the attorney had mistaken her for another person when he filed a civil suit against her the year before. Plaintiff further contended that the attorney refused to agree to dismiss the case until months later when he realized the Plaintiff should never have been sued in the first place. A motion to dismiss was filed on the basis that the attorney never represented the Plaintiff and therefore owed her no duty under the law. The Court granted the Rule 12(b)(6) Motion to Dismiss with prejudice. *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*

Supreme Court upholds Summary Judgment

January 12, 2006

David Overstreet obtained a summary judgment on behalf of an attorney sued for abuse of process, civil conspiracy, and a violation of the South Carolina Frivolous Proceedings Sanctions Act. In the case, Plaintiff contended that the attorney had encouraged parties to have him file multiple baseless lawsuits that were all, eventually, voluntarily dismissed. The lower Court granted the Motion for Summary Judgment which was later upheld by the South Carolina Supreme Court. See *Pye v. Estate of Fox*, 633 S.E.2d 505 (S.C. 2006) *For informational purposes only. Past success does not indicate the likelihood of success in future cases.*