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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-402

Filed 4 November 2026

New Hanover County, No. 24CVS004753-640

STEFFANIE M. LONGMIRE, Plaintiff,

v.

PHMC-WNC, LLC d/b/a REBELLION and/or d/b/a REBELLION NC, Defendant.

Appeal by plaintiff from order entered 19 September 2025 by Judge Ricardo Jensen in New Hanover County Superior Court. Heard in the Court of Appeals 15 October 2026.

Dowling PLLC, by Troy D. Shelton, and Speaks Law Firm, PC, by Brian A. Geschickter, Jeffrey B. Watson, and Jonathan Salmons, for plaintiff-appellant.

Crossley McIntosh Collier Hanley & Edes, PLLC, by Andrew Hanley and Myers Dean, for defendant-appellee.

ARROWOOD, Judge.

Steffanie Longmire ("plaintiff") appeals from the trial court's order granting summary judgment to PHMC-WNC, LLC ("PHMC"). For the following reasons, we affirm the trial court's order.

I. Background

The present case is plaintiff's second action related to her allegation that she was injured in a fall at Rebellion, a restaurant in Wilmington, on 13 March 2021. Her original complaint was filed on 2 February 2024 and sought damages for her injuries which she alleged were caused by the restaurant's negligence. She named as defendants Proof Hospitality 1, LLC ("PH 1") and Proofhospitality MC, LLC ("PMC"), believing them to be the owners of Rebellion. PH 1 and PMC are limited liability corporations registered with the North Carolina Secretary of State. PH 1 was dissolved on 1 December 2021, after which PMC was created on 17 January 2022. Both PH 1 and PMC share the same COO, Brian Westlye ("Westlye"), and street address, 15 South Front Street, Wilmington, North Carolina. 15 South Front Street is also the street address for Rebellion.

According to an affidavit, plaintiff's previous trial counsel identified the defendants in the first action by searching the Secretary of State's records for "Rebellion" and "Rebellion NC." Plaintiff's counsel found nothing listed at 15 South Front Street. Plaintiff's counsel then went to Rebellion's website which bore the copyright representation, "© 2018 Proof Hospitality." She searched the Secretary of State's records for "Proof Hospitality" which populated PH 1 and PMC as results. A local news article from 2019 also stated that the restaurant was owned by "PROOFhospitality."

On 14 February 2024, plaintiff served her original complaint on the registered agents of PH 1 and PMC, including Westlye. On 20 February 2024, PH 1 and PMC

requested an extension of time to respond to plaintiff's complaint, which the trial court granted. Meanwhile, the statute of limitations on plaintiff's claim expired on 12 March 2024. On 11 April 2024, PH 1 and PMC filed a collective answer in which they alleged that they did not own or operate the restaurant where the injury occurred. PH 1 and PMC then moved for summary judgment on 17 June 2024.

On 28 June 2024, plaintiff filed a motion to amend her complaint and relate back. The purpose of the amendment was to change the named party-defendant to PHMC. PHMC, a limited liability company managed by Westlye, has a Certificate of Assumed Name to do business under the name "Rebellion." The Certificate was on file with both the Secretary of State and the New Hanover County Register of Deeds but listed the address of PHMC as 215 Brookwood Avenue, Wilmington, NC.

On 8 November 2024, the trial court issued an order denying plaintiff's motion to amend and granting summary judgment in favor of PH 1 and PMC. Plaintiff appealed to this Court and we affirmed the trial court's order in *Longmire v. Proof Hospitality 1, LLC*, No. COA25-352, 2025 WL 3469447 (N.C. Ct. App. Dec. 3, 2025). As part of that decision, we held that the trial court did not abuse its discretion by finding that plaintiff's motion to amend her complaint would be futile, despite plaintiff's assertion of equitable estoppel.

While her first appeal was pending, plaintiff filed her complaint for the present action against PHMC on 19 December 2024. PHMC filed a motion to dismiss and an answer raising a statute of limitations defense on 24 February 2025. PHMC's motion

to dismiss was converted to a motion for summary judgment which the trial court granted on 19 September 2025. The trial court found that the action was not filed within the statute of limitations period and there was no genuine issue of material fact for trial as to whether PHMC should be equitably estopped from invoking an affirmative statute of limitations defense. Plaintiff filed notice of appeal to this Court on 8 October 2025.

II. Discussion

On appeal, plaintiff contends that the trial court erred by "deciding the question of equitable estoppel as a matter of law" and granting summary judgment to PHMC. For the following reasons, we disagree.

A. Standard of Review

"Our standard of review from an order granting summary judgment is *de novo*." *Bryan v. Kittinger*, 282 N.C. App. 435, 437 (2022) (citing *Forbis v. Neal*, 361 N.C. 519, 524 (2007)). Summary judgment is proper when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." N.C.G.S. § 1A-1, Rule 56(c) (2025).

B. Equitable Estoppel

"[A] defendant may properly rely upon a statute of limitations as a defensive shield against 'stale' claims, but may be equitably estopped from using a statute of

limitations as a sword, so as to unjustly benefit from his own conduct which induced a plaintiff to delay filing a suit." *Friedland v. Gales*, 131 N.C. App. 802, 806 (1998) (citations omitted).

> The party seeking to invoke [equitable estoppel] must satisfy several essential elements: "(1) conduct on the part of the party sought to be estopped which amounts to a false representation or concealment of material facts; (2) the intention that such conduct will be acted on by the other party; and (3) knowledge, actual or constructive, of the real facts. The party asserting the defense must have (1) a lack of knowledge and the means of knowledge as to the real facts in question; and (2) relied upon the conduct of the party sought to be estopped to his prejudice."

Williams v. Advance Auto Parts, Inc., 251 N.C. App. 712, 720 (2017) (quoting *Parker v. Thompson-Arthur Paving Co.*, 100 N.C. App. 367, 370 (1990)). "[E]ven where the other party has engaged in misrepresentation, the proponent must have exercised due diligence in attempting to discover the relevant facts or omissions." *Id.* (citing *Bailey v. Handee Hugo's, Inc.*, 173 N.C. App. 723, 727 (2005)).

Plaintiff's assertion of equitable estoppel fails because she has not met her burden to show conduct on the part of PHMC which "amounts to a false representation or concealment of material facts" or that she lacked "the means of knowledge as to the real facts in question." As to PHMC's conduct, plaintiff argues that prior to the filing of the lawsuit, "PHMC buried its ownership of the restaurant inside a web of near-identical entities whose every public identifier pointed away from it." Plaintiff further contends that PHMC's agents continued the misrepresentation

by moving for an extension of time to answer the original complaint, which she alleges was intended to conceal the true ownership of the restaurant so that plaintiff would rely on the request for the belief that she had named the proper party. Both arguments are unavailing.

While the three separate "Proof Hospitality" entities may have been confusing, PHMC's ownership was not "buried." PHMC maintained a Certificate of Assumed Name to engage in business under the name of the restaurant, "Rebellion."[1] The certificate was on file with both the Secretary of State and the New Hanover County Register of Deeds. While the address on the certificate did not match the address of the restaurant, plaintiff has acknowledged other public records linking PHMC to 15 South Front Street, including annual reports.

After the suit was filed, neither PHMC nor its agents misrepresented or concealed the true ownership of the restaurant. In their first responsive pleading, PH 1 and PMC clearly denied ownership of the restaurant. The extension of time for PH 1 and PMC to file their answer did mean that the defendants did not clarify the true ownership of Rebellion until after the statute of limitations had already expired. However, requesting an extension does not rise to the level of active

[1] Plaintiff also asserts there was confusion caused by the restaurant being referred to as "Rebellion NC" instead of "Rebellion" on its website and social media pages. The signs at the restaurant read simply "Rebellion." We do not consider the addition of "NC" to the restaurant's name online to be so confusing to lead a reasonable person to believe that the Certificate of Assumed Name was not associated with the restaurant.

misrepresentation or concealment this Court has considered sufficient in the past. *See, e.g., Hatcher v. Flockhart Foods, Inc.*, 161 N.C. App. 706, 710 (2003) (concluding equitable estoppel applied where the defendant store's insurer corresponded with the plaintiff for over a year on behalf of the wrong store); *Pierce v. Johnson*, 154 N.C. App. 34, 43 (2002) (concluding equitable estoppel applied where the defendant's son and executor of his estate accepted service by signing their shared name and made Offers of Judgment before revealing the defendant had died). Notably, plaintiff does not allege that PHMC or its agents misrepresented or concealed their ownership of Rebellion in direct communications with her. Considered altogether, plaintiff's allegations do not show conduct on the part of PHMC amounting to a false representation or concealment of material facts.

Additionally, plaintiff did not lack the means to acquire knowledge of the true owner of Rebellion. As discussed above, Certificates of Assumed Name and other public records designated PHMC as the true owner of Rebellion. Thus, plaintiff could have acquired knowledge of the material fact of ownership through a reasonable search. *See Bailey*, 173 N.C. App. at 727 (concluding equitable estoppel did not apply despite clear misrepresentation where the proper defendant could have been discovered through a title search).

We find *Williams v. Advance Auto Parts, Inc.* instructive. There, the plaintiff fell and injured himself in an Advance Auto Parts retail store. *Williams*, 251 N.C. App. at 713. The plaintiff submitted a claim for his injuries to a third-party

administrator for the store's liability policy. *Id.* The administrator responded with a letter naming the insured as "Advance Auto." *Id.* The administrator later twice referred to the insured as "Advance Auto Parts." *Id.* The plaintiff's counsel used the administrator's letter as a basis for searching the North Carolina Secretary of State's corporate registry for the name "Advance Auto." *Id.* at 714. One of the results of the search was "Advance Auto Parts, Inc." *Id.* The counsel further confirmed the result by searching Google for "Advance Auto" and inspecting Advance Auto Parts' website. *Id.* The plaintiff then filed a complaint naming the defendant as "Advance Auto Parts, Inc." *Id.* at 713.

In its answer, Advance Auto Parts, Inc. asserted that it did not own or control the premises where the plaintiff was injured. *Id.* at 713–14. Rather, the premises were owned by Advance Stores Company, Inc., a wholly owned subsidiary of Advance Auto Parts, Inc. *Id.* at 714. A deed was on file with the county's Register of Deeds identifying Advance Stores Company, Inc. as the true owner of the store. *Id.* at 720–21. The plaintiff amended the complaint to include the proper defendant but the statute of limitations had expired. *Id.* at 713. Accordingly, the trial court granted summary judgment to both defendants. *Id.* at 716.

On appeal, this Court determined that equitable estoppel did not prevent Advance Stores Company, Inc. from asserting the statute of limitations as a defense. *Id.* at 720. We reasoned that the administrator's letter did not demonstrate an intent to cause the plaintiff to act on its representation of the insured's name. *Id.*

Additionally, the plaintiff had not "exercised due diligence in discovering the legal owner of the retail store where he was injured." *Id.* We held that "[a]lthough Plaintiff's examination of Advance Auto Parts' website and the Secretary of State's database proved insufficient to discover the legal owner of the store, 'it is not an onerous burden for this Court to impose the task of a title search upon one filing suit.' " *Id.* at 721 (quoting *Bailey*, 173 N.C. App. at 727).

Similarly, here, plaintiff's counsel inspected the restaurant's website and searched the Secretary of State's registry. In fact, plaintiff's counsel started by searching for the name "Rebellion" on the Secretary of State's website but seemingly disregarded the results when none matched the restaurant's address. Where there is a publicly recorded Certificate of Assumed Name for the business where the injury occurred, it is not an "onerous burden for this Court to impose the task" of investigating the holder of that certificate. Consequently, plaintiff cannot show that she lacked means to discover the true owner of Rebellion.

In sum, plaintiff has not met her burden of showing (1) conduct on the part of PHMC which amounts to a false representation or concealment of the identity of Rebellion's owner or (2) that she lacked the means of knowledge as to the identity of Rebellion's owner. Accordingly, plaintiff is unable to assert equitable estoppel to prevent PHMC from invoking the statute of limitations defense.

III. Conclusion

For the foregoing reasons, we affirm the trial court's order granting summary judgment to PHMC.

AFFIRMED.

Judges ZACHARY and STADING concur.

Report per Rule 30(e).