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PRACTICE AND PROCEDURE

I. COURT REDEFINES THE MAIN PURPOSE RULE AND ELIMINATES THE EQUITABLE CLEAN-UP DOCTRINE

In *Floyd v. Floyd*¹ the South Carolina Supreme Court held that, when a plaintiff asserts both legal and equitable claims in a complaint, a jury should decide the legal issues² and the court should decide the equitable issues.³ The court noted that the primary function of the “main purpose” doctrine⁴ is to “administratively categorize” an action containing both legal and equitable relief.⁵ The court expressed concern that equity judges applying the main purpose rule had begun to rule on purely legal issues.⁶ Accordingly, the supreme court questioned three of its recent decisions⁷ and adopted the approach of *Island Car Wash, Inc. v. Norris*.⁸ Although the *Floyd* court did not expressly discuss the issue, the holding effectively invalidates the “equitable clean-up doctrine”⁹ in South Carolina.

1. 412 S.E.2d 397 (S.C. 1991).

2. In South Carolina a party must demand a jury trial. S.C. R. Civ. P. 38(d).

3. *Floyd*, 412 S.E.2d at 399.

4. After the merger of law and equity, courts utilized the main purpose doctrine to determine whether a cause of action was primarily legal or equitable. If the main purpose of the complaint was legal, the matter was placed on the jury roster. On the other hand, if the complaint raised primarily equitable issues, the matter was referred to the equity side of the court. See generally John E. Sanchez, *Jury Trials in Hybrid and Non-Hybrid Actions: The Equitable Clean-Up Doctrine in the Guise of Inseparability and Other Analytical Problems*, 38 DEPAUL L. REV. 627 (1989) (discussing use of the equitable clean-up doctrine before and after the merger of law and equity).

5. *Floyd*, 412 S.E.2d at 399.

6. *Id.*

7. *Baughman v. AT & T*, 298 S.C. 127, 378 S.E.2d 599 (1989); *Collins Music Co. v. Ingram*, 285 S.C. 108, 328 S.E.2d 477 (1985); *Johnson v. South Carolina Nat'l Bank*, 285 S.C. 80, 328 S.E.2d 75 (1985).

8. 292 S.C. 595, 358 S.E.2d 150 (Ct. App. 1987), *adopted by Floyd*, 412 S.E.2d at 399.

9. The “equitable clean-up doctrine” allows an equity court with proper jurisdiction to dispose completely of an action, including deciding legal issues and granting legal relief. Several South Carolina cases have employed this doctrine, see, e.g., *Alderman v. Cooper*, 257 S.C. 304, 185 S.E.2d 809 (1971) (per curiam); *Bramlett v. Young*, 229 S.C. 519, 93 S.E.2d 873 (1956); *Parker Peanut Co. v. Felder*, 207 S.C. 63, 34 S.E.2d 488 (1945); however none of these cases have expressly adopted the term “equitable clean-up doctrine.” The term is used, however, in jurisdictions throughout the United States. See, e.g., *Burris v. Cross*, 583 A.2d 1364 (Del. Super. Ct. 1990); *Higgins v. Barnes*, 530 A.2d 724 (Md. 1987); *Jarvill v. City of Eugene*, 594 P.2d 1261 (Or. Ct. App. 1979) (en banc), *aff'd and modified*, 613 P.2d 1 (Or.), *cert. denied*, 449 U.S. 1013 (1980).

The plaintiffs in *Floyd*, siblings acting individually and as shareholders of J.F. Floyd Mortuary, Inc., brought suit against the mortuary, several of its shareholders and officers, and the executrix of their uncle's estate. Alleging numerous separate causes of action, the plaintiffs sought both legal and equitable relief.¹⁰ The defendants denied the material allegations of the complaint and moved to have the court transfer the entire action to the master-in-equity or to the nonjury calendar for determination.¹¹ The trial judge granted the motion and transferred the case to the nonjury calendar.

The trial judge considered the case in its entirety and concluded that the legal remedies sought were secondary to, and dependant upon, the equitable relief demanded; therefore, under the main purpose doctrine the entire case should be tried in a court of equity.¹² The plaintiffs appealed, asserting that the trial judge erred in concluding that they were not entitled to a jury trial on the legal issues.¹³

In reversing the trial court's decision, the supreme court relied on its pre-1978 cases, which recognized that legal and equitable issues are separable and should be decided respectively by a jury, if demanded, and a judge.¹⁴ The *Floyd* court expressed concern that "the pendulum appears to have swung with steadied progress toward decisions tending to place within the sole purview of the equity judge issues properly triable only by jury."¹⁵ Therefore, the court cited *Beacon Theatres, Inc. v. Westover*¹⁶ and Rule 38 of the South Carolina Rules of Civil Proce-

10. *Floyd*, 412 S.E.2d at 398. The plaintiffs demanded, among other forms of relief, actual damages, punitive damages, appointment of a receiver, rescission of a contract, and an injunction. *Id.*

11. *Id.*

12. *Id.* The trial court relied on four recent South Carolina Supreme Court decisions: *Baughman v. AT & T*, 298 S.C. 127, 378 S.E.2d 599 (1989); *Collins Music Co. v. Lightsey*, 285 S.C. 108, 328 S.E.2d 477 (1985); *Johnson v. South Carolina National Bank*, 285 S.C. 80, 328 S.E.2d 75 (1985); and *Insurance Financial Services, Inc. v. South Carolina Insurance Co.*, 271 S.C. 289, 247 S.E.2d 315 (1978). *Floyd*, 412 S.E.2d at 398.

13. *Floyd*, 412 S.E.2d at 398.

14. *Id.* at 398-99 (citing *Airfare, Inc. v. Greenville Airport Comm'n*, 249 S.C. 265, 153 S.E.2d 846 (1967); *Winter v. United States Fidelity & Guar. Co.*, 240 S.C. 561, 126 S.E.2d 724 (1962); *Spencer v. National Union Bank*, 192 S.C. 355, 6 S.E.2d 755 (1940); *Greenville v. Ormand*, 44 S.C. 119, 21 S.E. 642 (1895)).

15. *Id.* at 399.

16. 359 U.S. 500 (1959).

ture¹⁷ and concluded that the main purpose doctrine mandates the use of a jury in an action that presents legal issues.¹⁸

An analysis of South Carolina case law prior to *Johnson v. South Carolina National Bank*¹⁹ reveals a dual function of the main purpose doctrine: First, the doctrine aids courts in construing the language of a complaint; and second, it guides courts in determining whether the legal or equitable issues should be adjudicated first. In *Alford v. Martin*²⁰ the South Carolina Supreme Court noted that “[t]he character of an action is determined by the complaint in its main purpose and broad outlines and not merely by allegations that are merely incidental.”²¹

When a complaint asserts facts supporting either a legal or equitable cause of action, the court employs the main purpose rule to construe the ambiguous language and properly classify the action as legal or equitable. For example, in *Ogilvie v. Smith*,²² the complaint asserted two causes of action: the first was clearly at law,²³ however, the second cause of action raised issues that could have supported an action at law or equity.²⁴ Relying on *Alford*’s articulation of the main purpose rule, the *Ogilvie* court held that the language of the complaint raised primarily equitable issues; therefore, the court, not the jury, should decide the

17. S.C. R. Civ. P. 38(a). Rule 38(a) provides:

The right of trial by jury as declared by the Constitution or as given by a statute of South Carolina shall be preserved to the parties inviolate.

Issues of fact in an action for the recovery of money only or of specific real or personal property must be tried by a jury, unless a trial be waived.

Id. In *Insurance Financial Services, Inc. v. South Carolina Insurance Co.*, 271 S.C. 289, 247 S.E.2d 315 (1978), the South Carolina Supreme Court interpreted the predecessor to Rule 38(a), S.C. CODE ANN. § 15-23-60 (Law. Co-op. 1976), the language of which is identical to that of rule 38(a). The court held that section 15-23-60 does not guarantee the right to a jury trial if an action raises both legal and equitable issues because the section applies only to actions for the recovery of money. *Insurance Fin. Servs.*, 271 S.C. at 292-93, 247 S.E.2d at 317. *Floyd* apparently overrules this interpretation of the rule by mandating jury determination of legal issues.

18. *Floyd*, 412 S.E.2d at 399.

19. 285 S.C. 80, 328 S.E.2d 75 (1985).

20. 176 S.C. 207, 180 S.E. 13 (1935).

21. *Id.* at 212, 180 S.E. at 15.

22. 215 S.C. 300, 54 S.E.2d 860 (1949).

23. *Id.* at 305, 54 S.E.2d at 862. The plaintiff sought \$2,500 in actual damages for the defendant’s breach of promise to marry her. *Id.* at 303, 54 S.E.2d at 861.

24. *Id.* at 305, 54 S.E.2d at 862. The facts asserted in the second cause of action supported an action for either damages or the imposition of a constructive trust. *Id.*
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second cause of action.²⁵ Nevertheless, the main purpose rule “does not deprive litigants of the right to a jury trial where appropriate.”²⁶

The rule also serves an important procedural function when a complaint asserts distinct legal and equitable causes of action. In such a case, a court uses the main purpose rule to determine whether the legal issues are primary or subordinate to the equitable issues.²⁷ If the legal issues predominate, those issues will be decided first by a jury; the judge will then decide the equitable issues. However, the main purpose rule does not allow a court to aggregate distinct legal and equitable issues into one action and then assign that action to a court of equity for full determination of the legal issues simply because the equitable issues are dominant. Instead, the equitable clean-up doctrine gives an equity court this power.²⁸

Prior to the merger of law and equity, if a complaint contained both legal and equitable issues, parties were forced to assert their claims either on the equity or law side of the court, or bring two separate causes of action. In the interest of judicial economy and fairness to the parties, equity courts developed the clean-up doctrine to decide legal and equitable issues in the same action.²⁹ Although the merger of law and

25. *Id.* at 305-06, 54 S.E.2d at 862-63. The court also noted: “In a case where it is material or necessary to determine which of two different remedies arising upon the same state of facts a party has elected to pursue, undoubtedly, the prayer for relief may be considered at least as tending to indicate which remedy the plaintiff elected.” *Id.* at 305-06, 54 S.E.2d at 862 (quoting *Speizman v. Guill*, 202 S.C. 498, 515, 25 S.E.2d 731, 737 (1943)).

26. *Floyd v. Floyd*, 412 S.E.2d 397, 399 (S.C. 1991).

27. Although the *Floyd* court did not expressly make this conclusion, the court stated that the main purpose doctrine “reduces the complexity of litigation.” *Id.* at 399. In *Standard Warehouse Co. v. Atlantic Coast Line Railroad Co.*, 222 S.C. 93, 71 S.E.2d 893 (1952), the court stated that “[w]here a case contains both legal and equity issues, it is discretionary with the trial Judge as to which shall be tried first, and ordinarily that one is tried first which is more likely to aid in deciding the entire controversy.” *Id.* at 103, 71 S.E.2d at 895; accord *Johnson v. South Carolina Nat'l Bank*, 292 S.C. 51, 354 S.E.2d 895 (1987) (per curiam); *Airfare, Inc. v. Greenville Airport Comm'n*, 249 S.C. 265, 153 S.E.2d 846 (1967). However, the *Johnson* court noted that when the judge orders separate trials of the legal and equitable issues and there are facts common to both claims, the legal claims must be tried first “absent the ‘most imperative circumstances.’” *Johnson*, 292 S.C. at 56, 354 S.E.2d at 897 (quoting *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 511 (1959)).

28. For a discussion of the equitable clean-up doctrine, see *supra* note 9.

29. See generally *Sanchez*, *supra* note 4.
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equity presumably eliminated the need for the clean-up doctrine, the South Carolina Supreme Court continued to condone its use.³⁰

Floyd, however, effectively invalidates the doctrine. In fact, *Beacon Theatres, Inc. v. Westover*³¹ impliedly holds that the equitable clean-up doctrine is unconstitutional: the right to a jury trial cannot be “‘impaired by any blending with a claim, properly cognizable at law, of a demand for equitable relief in aid of the legal action or during its pendency.’”³² Moreover, the *Floyd* court made no qualifications or exceptions to its holding that juries should decide legal issues and courts equity issues.³³ Arguably, this language includes any and all legal issues before a court of equity under the clean-up doctrine.

In clarifying the proper scope and application of the main purpose doctrine, *Floyd* effectively abandons a power invalidated in the federal system in 1959. Once a jury trial is demanded, the right to a jury determination of all legal issues cannot be usurped by a court of equity acting under the equitable clean-up doctrine.

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30. See, e.g., *Collins Music Co. v. Ingram*, 285 S.C. 108, 328 S.E.2d 477 (1985); *Johnson v. South Carolina Nat'l Bank*, 285 S.C. 80, 328 S.E.2d 75 (1985); *Insurance Fin. Servs., Inc. v. South Carolina Ins. Co.*, 271 S.C. 289, 247 S.E.2d 315 (1978). Although *Floyd* implies that these three holdings misapply the main purpose rule, each of these cases actually involves the equitable clean-up doctrine.

31. 359 U.S. 500 (1959).

32. *Id.* at 510 (quoting *Scott v. Neely*, 140 U.S. 106, 110 (1891)).

33. *But cf.* *Pelfrey v. Bank of Greer*, 270 S.C. 691, 693, 244 S.E.2d 315, 316 (1978) (relying on S.C. CONST. art. I, § 14 in finding that the “right of jury trial shall be preserved only in those cases in which the parties were entitled to it under the law or practice existing at the time of the adoption of the constitution”).