

COURT OF APPEALS OF VIRGINIA

Neil Wallace v. MJM Golf, LLC, et al.

Wallace · No. 1075-24-1 · Decided January 27, 2026

SUMMARY

The Court of Appeals of Virginia affirms dismissal of Neil Wallace’s action against MJM Golf, LLC and other defendants as barred by the statute of limitations. The court holds that Code § 8.01-229(E) (3), rather than subdivision (E)(1), governs tolling after a voluntary nonsuit and that Wallace’s subsequent federal filing did not toll the limitations period because it was a legal nullity. The court resolves the appeal solely on statute-of-limitations grounds without reaching Wallace’s additional res judicata and assignability arguments.

CASE DETAILS

COURT	Court of Appeals of Virginia
WRITING FOR THE COURT	Judge Vernida R. Chaney; Judge Athey; Judge Causey; Judge Chaney
JURISDICTION	Court of Appeals of Virginia
DECIDED	January 27, 2026
DOCKET	1075-24-1
DISPOSITION	affirmed
PROCEDURAL POSTURE	Neil Wallace appealed the Circuit Court of the City of Chesapeake's order sustaining the Appellees' plea in bar and dismissing his complaint with prejudice as time-barred.
STANDARD OF REVIEW	A statute-of-limitations defense presents a mixed question of law and fact, but statutory interpretation is reviewed de novo. The applicability of a statute of limitations is a legal question of statutory construction.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Neil Wallace v. MJM Golf, LLC, Virginia Electric & Power Company d/b/a Dominion Energy Virginia, 3G Real Estate Holdings, LLC

TOPICS

- statute of limitations
- statutory interpretation
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Code § 8.01-229(E)(3), rather than Code § 8.01-229(E)(1), governs tolling after a voluntary nonsuit and prevents stacking the two tolling provisions.
2. Whether the federal action filed by Tee Feral Golf, LLC constituted a legal nullity that could not toll the applicable statutes of limitations.
3. Whether Tee Feral Golf, LLC was the same plaintiff as CPM Virginia, LLC or a recognized representative entitled to recommence CPM's nonsuited claims under Code § 8.01-229(E)(3).
4. Whether the remaining claims were time-barred.

HOLDINGS

1. Code § 8.01-229(E)(3) governs an action recommenced after a voluntary nonsuit; a litigant may not invoke Code § 8.01-229(E)(1) to stack an additional tolling period onto the specific nonsuit tolling and grace period provided by subdivision (E)(3).
2. The federal filing did not toll the statutes of limitations because it was a legal nullity, void from inception, after the federal courts determined that the filing manufactured jurisdiction in violation of 28 U.S.C. § 1359.
3. TFG was not the same plaintiff as CPM, or a recognized representative of CPM, for purposes of Code § 8.01-229(E)(3); therefore, TFG's federal filing could not toll the limitations period.
4. The remaining claims were time-barred because the federal filing did not toll the limitations periods, and Wallace filed the present action after both the applicable original limitations periods and the six-month nonsuit grace period had expired.

KEY QUOTATIONS

“The opening clause of (E)(1)—“[e]xcept as provided in subdivision 3”—reflects the General Assembly’s decision to treat nonsuits separately and to prevent litigants from stacking the subdivisions to obtain multiple extensions for the same action.” (at 11)

“Under these circumstances, the federal filing was a legal nullity—void from inception—and thus incapable of tolling the statute of limitations under Code § 8.01-229(E)(1) or (E)(3) in any manner that could preserve Wallace’s later-filed state-court action.” (at 12)

“The federal district court’s express rejection of Wallace’s merger theory and its finding that the filing was unlawful renders it a legal nullity that did not toll the statute of limitations.” (at 17)

FACTUAL BACKGROUND

The dispute arose from the sale and development of the Battlefield Golf Course in Chesapeake, Virginia. CPM Virginia, LLC, Wallace's predecessor-in-interest, alleged that MJM Golf, LLC and other defendants breached contractual and related rights concerning the property and later voluntarily nonsuited the claims. After CPM

merged into or assigned claims to Tee Feral Golf, LLC, TFG filed a federal action based on purported diversity jurisdiction, but the federal court found the entity and jurisdictional arrangement collusive and dismissed for lack of subject-matter jurisdiction. Wallace subsequently filed the present state-court action outside the original limitations periods and the six-month nonsuit-recommencement period.

PROCEDURAL HISTORY

Wallace's predecessor, CPM Virginia, LLC, litigated claims arising from the sale and development of a golf course, voluntarily nonsuiting claims on June 8, 2020. A successor entity, Tee Feral Golf, LLC, refiled the claims in federal court, but the federal action was dismissed for lack of subject-matter jurisdiction because the court found that jurisdiction had been manufactured in violation of 28 U.S.C. § 1359; the Fourth Circuit affirmed. Wallace later filed the present Virginia action on July 24, 2023. The circuit court dismissed several claims under res judicata and Rule 1:6 and dismissed the remaining claims as time-barred; the Court of Appeals affirmed solely on statute-of-limitations grounds.

DISPOSITION

affirmed

CASES CITED

- City of Virginia Beach v. Mathias, 85 Va. App. 94 (2025)
- Fuentes v. Clarke, 290 Va. 432 (2015)
- Simon v. Forer, 265 Va. 483 (2003)
- Tee Feral Golf, LLC v. MJM Golf, LLC, 531 F. Supp. 3d 1108 (E.D. Va. Mar. 31, 2021)
- Tee Feral Golf, LLC v. MJM Golf, LLC, No. 21-1648, 2022 U.S. App. LEXIS 33928 (4th Cir. Dec. 9, 2022)
- Hood v. Commonwealth, 75 Va. App. 358 (2022)
- Nerri v. Adu-Gyamfi, 270 Va. 28 (2005)
- Wellmore Coal Corp. v. Harman Mining Corp., 264 Va. 279 (2002)
- Johnston Memorial Hospital v. Bazemore, 277 Va. 308 (2009)
- Clutteur v. Rosier, 79 Va. App. 55 (2023)
- Casey v. Merck & Co., 283 Va. 411 (2012)
- W.S. Carnes, Inc. v. Board of Supervisors, 252 Va. 377 (1996)
- Harmon v. Sadjadi, 273 Va. 184 (2007)
- Clark v. Clark, 11 Va. App. 286 (1990)
- City-to-City Auto Sales, LLC v. Harris, 78 Va. App. 334 (2023)
- McGinnis v. Commonwealth, 296 Va. 489 (2018)
- Alexandria Redevelopment & Housing Authority v. Walker, 290 Va. 150 (2015)
- McGhee v. Commonwealth, 280 Va. 620 (2010)
- Butcher v. Commonwealth, 298 Va. 392 (2020)
- Laws v. McIlroy, 283 Va. 594 (2012)

- Conyers v. Martial Arts World of Richmond, Inc., 273 Va. 96 (2007)
- Small v. Fannie Mae, 286 Va. 119 (2013)
- Sidar v. Doe, 80 Va. App. 579 (2024)
- Conger v. Barrett, 280 Va. 627 (2010)
- Rivera v. Witt, 257 Va. 280 (1999)
- Arrington v. Peoples Security Life Insurance Co., 250 Va. 52 (1995)
- Wilby v. Gostel, 265 Va. 437 (2003)
- Trayer v. Bristol Parking, Inc., 198 Va. 595 (1956)

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