

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2002-CA-001267-MR

FRANCIS UTLEY AND  
CHARLOTTE UTLEY

APPELLANTS

v. APPEAL FROM HARDIN CIRCUIT COURT  
HONORABLE KELLY MARK EASTON, JUDGE  
ACTION NO. 01-CI-01696

FIRST CITIZENS BANK OF  
HARDIN COUNTY

APPELLEE

OPINION

AFFIRMING

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BEFORE: DYCHE, JOHNSON, AND SCHRODER, JUDGES.

DYCHE, JUDGE: Francis and Charlotte Utley appeal from a summary judgment (CR 56) of the Hardin Circuit Court dismissing their complaint against First Citizens Bank of Hardin County. We affirm.

The facts of this case are convoluted, and concern a course of dealing between the Utleys and the Bank concerning

certain commercial loans over a period of years. The Utleys' complaint sought monetary damages for slander of title, and for a violation of KRS 382.365, which deals with the timely release of liens on real property following the payment of the underlying obligation. The complaint also sought further money damages and equitable relief in the form of release of the liens in question, but the resolution of the first two claims renders moot the other two.

The liens of which the Utleys complain were filed of record on October 21, 1993, and September 5, 1995. The complaint herein was filed on November 8, 2001. KRS 413.140(d) sets the period of limitations for filing a slander action, including slander of title, at one year. *Montgomery v. Milam*, Ky., 910 S.W.2d 237 (1995). Appellants' "new" argument (appellee maintains that this was not argued below) that the statute was not triggered until they had actual knowledge of the liens flies in the face of common sense and the entire purpose of filing a lien in the county clerk's office: to provide notice to the world that a lien is asserted on certain real estate. KRS 382.440.

The limitations period applicable to a claim under KRS 382.365 is five years. KRS 413.120. According to KRS 382.365, the cause of action accrues thirty days after demand for release is made. Such demand was made by counsel for the Utleys on

January 27, 1995; the statute began to run on February 27, 1995. This complaint was filed outside the limitations period, and is therefore time-barred.

The judgment of the Hardin Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANTS:

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BRIEF FOR APPELLEE:

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