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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2009-2010

1070875

Henry Collins, as administrator of the estate of April
Collins, deceased

v.

Scenic Homes, Inc., et al.

1070975

Kevin Kilgore

v.

Scenic Homes, Inc., et al.

1070976

Michael Hopkins et al.

v.

Scenic Homes, Inc., et al.

Appeals from Madison Circuit Court
(CV-04-2677; CV-04-2678; and CV-05-718)

On Applications for Rehearing

STUART, Justice.

APPLICATIONS OVERRULED; NO OPINION.

Cobb, C.J., and Lyons, Woodall, Smith, Bolin, and Parker,
JJ., concur.

Murdock and Shaw, JJ., dissent.

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SHAW, Justice (dissenting).

On original submission, I concurred in Justice Murdock's special writing concurring in part and dissenting in part. Collins v. Scenic Homes, Inc., [Ms. 1070875, June 30, 2009] ___ So. 3d ___, ___ (Ala. 2009) (Murdock, J., concurring in part and dissenting in part). By doing so, I specifically disagreed with the analysis in the main opinion as to issue II in the "Issues and Analysis" portion of that opinion, which addressed the application of the 20-year common-law rule of repose. It remains difficult for me to reconcile the conflicted and confusing language in many of our cases dealing with the rule of repose. However, I am clear to the conclusion that there is a fundamental difference recognized in American jurisprudence between a statute of limitations and a statute or rule of repose. Therefore, I once again assert my agreement with the concerns expressed in Justice Murdock's special writing. Accordingly, I respectfully dissent from the overruling of the applications for rehearing.