

**RECEIVED**

**Aug 15 2022**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

---

**APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas**

**Mikell Scarborough  
Master-in-Equity**

---

**Appellate Case No. 2019-000575  
Charleston County Case No. 2010-CP-10-7838**

---

**Ditech Financial, LLC ..... Respondent,**

**v.**

**Kevin G. Snyder, individually and  
As Personal Representative of the  
Estate of Mary Snyder ..... Appellant.**

---

**REPLY  
TO RESPONDENT’S RETURN TO  
APPELLANT’S PETITION FOR REHEARING  
AND REHEARING *EN BANC***

---

1. Ditech characterizes this petition as “yet another attempt to prolong this litigation”. (Ret. p. 1). Ditech is mistaken - this petition represents “yet another attempt” to address reversible error, and it is mandated by South Carolina’s appellate court rules. *See* Rule 242(c), SCACR (decision on petition for rehearing required to file petition with the Supreme Court for a writ of *certiorari*).

2. Ditech downplays the significance of the August 3, 2013, Affidavit of Default. (Ret. p. 17). The fact that Ditech withdrew<sup>1</sup> this affidavit does not make it any less false, and thus violating

---

<sup>1</sup> Despite repeated requests to Ditech’s predecessors to withdraw this affidavit, Ditech did not agree to strike it until Snyder’s counsel raised the issue at a March 18, 2019, motion hearing. (R 156, 168, 172-173, 587-588).

Ditech's requirement to act in good faith under the Admin Order. *See* S.C. Code § 36-1-201(20) ("good faith" is, among other things, "honesty in fact"). It also does not change the fact Ditech, through its predecessors, refused to address the affidavit for over five years. Snyder would note the Admin Order only requires a "failure of any party to act in good faith in complying with the terms of this order" to trigger sanctions. *In re Mortgage Foreclosure Actions*, 396 S.C. 209, 214, 720 S.E.2d 908 (2011). The violation itself is an injury to the dignity of the courts, which is an interpretation consistent with South Carolina courts' inherent power to preserve order in judicial proceedings. *See e.g. Miller v. Miller*, 375 S.C. 443, 453-455, 652 S.E.2d 754 (Ct. App. 2007).

3. Ditech now appears to dispute Snyder presented the *Oxbow Carbon*, *Crescom*, and *Curtis* arguments<sup>2</sup> at the December 10, 2018 status conference / motion hearing. (Ret. p. 19). Until now, Ditech has never disputed these arguments were presented to the Master-in-Equity (Resp. Brief p. 18). Ditech is estopped from taking this new position. *See Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 489 S.E.2d 472 (1997) (judicial estoppel precludes party from adopting position in conflict with one earlier taken in same or related litigation).

4. Ditech's repeated entreaties to affirm on alternative grounds (Ret. p. 14 n. 14, p. 18 n. 16) belie Ditech's concern with the reasoning of the Opinion and support rehearing of this matter. An argument that requires this much buttressing is an argument that demands further scrutiny. Similarly, Ditech's professed confusion regarding jurisdiction and this Court's affirmance of a void order (Ret. pp. 8-13) also argues in favor of further scrutiny of Part V of the Opinion.

---

<sup>2</sup> These arguments are matters of law, which are reviewed *de novo* by this Court. *E.g., State v. Adams*, 409 S.C. 641, 763 S.E.2d 341 (2014); *State v. Bash*, 412 S.C. 420, 772 S.E.2d 537 (Ct. App. 2015).

## CONCLUSION

The petition should be granted.

Dated: August 15, 2022

/s/ Jason Scott Luck  
Jason Scott Luck  
P.O. Box 47  
Bennettsville, SC 29512  
843.479.6863 (o)  
843.479.7222 (f)  
jason@luck.law  
**Attorney for Appellant**

**RECEIVED**

**Aug 15 2022**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

---

**APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas**

**Mikell Scarborough  
Master-in-Equity**

---

**Appellate Case No. 2019-000575**

---

**Ditech Financial, LLC ..... Respondent,**

**v.**

**Kevin G. Snyder, individually and  
as Personal Representative of the  
Estate of Mary Snyder .....Appellant.**

---

**CERTIFICATE OF SERVICE**

---

I certify I have served the Reply to Respondent’s Return to Petition for Rehearing and Rehearing *en banc* by emailing a copy of it to the following on the date below:

Jonathan E. Schulz  
Bradley Arant Boult Cummings, L.P.  
214 N. Tryon St., Ste. 3700  
Charlotte, NC 28202  
jschulz@bradley.com  
**Attorney for Respondent**

Dated: 08/15/2022

/s/ Jason Scott Luck  
Jason Scott Luck  
P.O. Box 47  
Bennettsville, SC 29512  
843.479.6863 (o)  
843.479.7222 (f)  
**Attorney for Appellant**

**Subject:** Ditech Financial, LLC v. Snyder (2019-000575)  
**Date:** Monday, August 15, 2022 at 11:57:16 AM Eastern Daylight Time  
**From:** Jason Luck  
**To:** Court Of Appeals Filings  
**CC:** Milam, Ben, Schulz, Jonathan  
**Attachments:** image001.jpg, Reply to response PFR.pdf

All:

Reply enclosed. The COS will be emailed under separate cover.

Jason Scott Luck  
Attorney at Law  
P.O. Box 47 (107 S. Parsonage St.)  
Bennettsville, SC 29512  
843.479.6863 (o)  
843.479.7222 (f)

---

**From:** Court Of Appeals Filings <ctappfilings@sccourts.org>  
**Date:** Friday, August 12, 2022 at 3:43 PM  
**To:** Schulz, Jonathan <jschulz@bradley.com>, Court Of Appeals Filings <ctappfilings@sccourts.org>  
**Cc:** Jason Luck <jason@luck.law>, Milam, Ben <bmilam@bradley.com>  
**Subject:** RE: Ditech Financial, LLC v. Snyder (2019-000575)

Dear Counsel:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

---

**From:** Schulz, Jonathan <jschulz@bradley.com>  
**Sent:** Friday, August 12, 2022 3:20 PM  
**To:** Court Of Appeals Filings <ctappfilings@sccourts.org>  
**Cc:** jason@luck.law; Milam, Ben <bmilam@bradley.com>  
**Subject:** Ditech Financial, LLC v. Snyder (2019-000575)

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

To Whom it May Concern:

Please see attached in connection with the above appeal.

Regards,  
Jonathan Schulz