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**In The Court of Appeals**

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

**Marvin H. Dukes III, Master in Equity & Special Circuit Court Judge**

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**Appeal Case No. 2021-000434**
**Circuit Court Case No. 2019CP0702178**

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**Bluffton Park Community Owners' Association, Inc., Respondent,**

**v.**

**Joseph Chakying Sun, as Trustee of The 2009 Sun's Family Trust in South Carolina, USA; Joseph Chakying Sun, Individually; Liling Sun n/k/a Liling Walsh; Oleysa Matyushevsky; Christine Varg; and Citizens Opposed to Domestic Abuse, Defendants,**
**of whom Joseph Chakying Sun, as Trustee of The 2009 Sun's Family Trust in South Carolina, USA and Joseph Chakying Sun, Individually, Appellants.**

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## REPLY TO RESPONDENT'S RETURN TO APPELLANT'S MOTION TO IMPOSE SANCTION

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In Appellant's motion to impose sanction filed on September 6, 2022, Appellant already clearly stated that "Appellants herein cite and rely on their aforesaid filed response (to Respondent's Certificate of Counsel) in support of their motion." For unknown reason, Appellants' aforesaid response to respondent's certificate of counsel was filed as a letter in the case on August 18, 2022.

Respondent in its return to Appellant's aforesaid motion for sanction "requests that Appellant provide with more specificity all examples to which he cites in subparagraph 1 for a more complete response." Respondent shows that it has already read Appellants' subparagraph 1

of the aforesaid response as he could identify the details but desires explanation. Appellant hereby attaches and cites his aforesaid response as an attachment, Exhibit A, following this reply.

In its final brief, respondent made several false and fabricated allegations as it did throughout the case, Some examples as requested are stated in Exhibit A, page 2,

> "(1) (1) On Page 5 of Respondent's Final Brief, lines 4-6, "In this motion, Appellants again admitted notice of the action in March 2020. (Mot. to Open and Set Aside Default, ¶(6))(R.pp. 114-115, ¶(6))." But according to the transcript, R.p.114, line 26 (Record on Appeal), Appellant clearly says "He had no knowledge of the within action until some time early March 2020 when his daughter in Bluffton S.C. read him a letter from a Scott Wild about the publication."
>
> Based on this fraudulent contortion of facts, respondent counsel prepared the proposed Master's Decree of Foreclosure, Sale, and Judgment ($21,115.47) (R.pp. 9-24) and the Master in Equity adopted the fraudulent contortion of facts (R.p.23, lines 9-18) and stated in his order that,
>
> "Regardless, I deny the motion on the grounds that Mr. Sun, in his and the Sun Family Trust's Answer (footnote 1), in the instant motion (¶6), and at the July 17, 2020 trial of this matter, admitted to have at least constructive notice of this action in March 2020; further, service by publication appears from the record to have been properly conducted; further still, the facts or statements of law about the running of published summons or the illegality of service of process during the COVID-19 lockdown do not excuse Defendants' failure to timely answer, are unfounded and do not constitute a legal justification for the Sun Defendant's failure to answer. Therefore, the motion is denied." (R.p.23, lines 9-18.)

Further in the same order, the Master in Equity denied the other Motion for Permanent Injunction and/or Temporary Restraining Order based on respondent's same fraudulent contorted facts:

> "b. . . . . . . . . . This motion was filed after the two hearings. No irreparable harm exists. A party cannot create their own harm or prejudice through delay. As admitted by Mr. Sun, he was on notice of this lawsuit no later than March 2020. Therefore, the motion is denied." (R.p.23, lines 20-23)

Appellant has explained that Respondent's false fabrication does not give it any merit on the lack of due process of personal service pursuant to Rule 4 required on the service of the process on the Appellants. Its unnecessary and illegal service by publication still stands.

Respectfully submitted,

This 12th day of September, 2022.

J. C. Sun

JOSEPH C. SUN

(**EXHIBIT A,** already filed at the Court of Appeals on August 19, 2022.)

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**of whom Joseph Chakying Sun, as Trustee of The 2009 Sun's Family Trust in South Carolina, USA and Joseph Chakying Sun, Individually, Appellants.**

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**RESPONSE TO RESPONDENTS' CERTIFICATE OF COUNSEL**

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RESPONDENT BLUFFTON PARK COMMUNITY OWNERS' ASSOCIATION filed its belated certificate of counsel separately on July 25, 2022 after it filed its Final Brief on July 18, 2022. Pursuant to Rule 211(b), SCACR Respondent was required to certify when its Final Brief was filed that it complied with Rule 211. But as of this date, respondent's certificate of counsel has not been served on the Appellant who had to discover it on the court's website (C-Track) for public access. There was no certificate of service on respondent's belated certificate of counsel.

Rule 211, SCACR provides,

"(a) . . . . . . . . . . . . . . . . . The party must also file with the clerk proof that the final brief(s) has been served, and a certificate that his final brief(s) complies with

Rule 211(b) . . . . . . . . . . .”

Appellant Sun will show herein that respondent’s Final Brief is in violation of Rule 211. Respondent filed it for the sole purpose of deception, trying to falsely claim that its numerous false claims are supported by evidence or transcript when in fact they are not. Respondent violated Rule 211(b)(1) which provides that “**References to the Record**. . . . . . . . . . . . . . . .The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).”

Therefore, all exact line-references are required when citing specific facts, without which all references cannot be verified. By omitting numerous line-references in its Final Brief, respondent counsel alleges numerous false or contorted facts in its Final Brief. Because there is no line references as required by rule, respondent’s fabrication and contorted facts are not noticeable. Appellant set forth herein some of respondent’s violations as follows:

(1) On Page 5 of Respondent’s Final Brief, lines 4-6, “In this motion, Appellants again admitted notice of the action in March 2020. (Mot. to Open and Set Aside Default, ¶(6))(R.pp. 114-115, ¶(6)).” But according to the transcript, R.p.114, line 26 (Record on Appeal), Appellant clearly says “He had no knowledge of the within action until some time early March 2020 when his daughter in Bluffton S.C. read him a letter from a Scott Wild about the publication.”

Based on this fraudulent contortion of facts, respondent counsel prepared the proposed Master’s Decree of Foreclosure, Sale, and Judgment ($21,115.47) (R.pp. 9-24) and the Master in Equity adopted the fraudulent contortion of facts (R.p.23, lines 9-18) and stated in his order that,

> “Regardless, I deny the motion on the grounds that Mr. Sun, in his and the Sun Family Trust’s Answer (footnote 1), in the instant motion (¶6), and at the July 17, 2020 trial of this matter, admitted to have at least constructive notice of this action in March 2020; further, service by publication appears from the record to have been properly conducted; further still, the facts or statements of law about the running of published summons or the illegality of service of process during the COVID-19 lockdown do not excuse Defendants’ failure to timely answer, are unfounded and do not constitute a legal justification for the Sun Defendant’s failure to answer.

Therefore, the motion is denied." (R.p.23, lines 9-18.)

Further in the same order, the Master in Equity denied the other Motion for Permanent Injunction and/or Temporary Restraining Order based on respondent's same fraudulent contorted facts:

> "b. . . . . . . . . . This motion was filed after the two hearings. No irreparable harm exists. A party cannot create their own harm or prejudice through delay. As admitted by Mr. Sun, he was on notice of this lawsuit no later than March 2020. Therefore, the motion is denied." (R.p.23, lines 20-23)

Respondent misunderstood the due process requirement of personal service of the process pursuant to Rule 4(d), South Carolina Rules of Civil Procedure which would give the court jurisdiction on the Appellants, but simple notice of the case would not. His fabrication by contortion assuming true that Appellant Sun had knowledge of the lawsuit in March 2020 still does not meet the due process requirement of personal service of the process.[1] Judge Duke overlooked the error and signed the Decree prepared by respondent counsel.

The aforesaid is only one of the many instances of respondent's fabrication and contortion throughout the entire case. The within case is a foreclosure action, an action in equity. *Hayne Fed. Credit Union v. Bailey, 327 S.C.242, 248, 489 S.E.2d 472,475 (1997).* See also, *U.S. Bank Trust National Association v. Bell, 385 S.C. 364, 684 S.E.2d 199 (2009)*. In an appeal from an action in equity, tried by a judge alone, the appellate court may find facts in accordance with its own view of the preponderance of the evidence. *Horry Cty. V. Ray, 382 S.C. 76, 674 S.E.2d 519, (Ct.App. 2009).* Equitable cases are afforded de novo review on issues of fact. *Townes Assocs., Ltd. v. City of Greeenville, 266 S.C. 81, 86, 221 S.E.2d 773, 775-76 (1976)*.

The foregoing is only some of the fabricated and contorted facts respondent has injected into the within case and throughout the lower court proceeding (see transcripts of the hearings where Appellant had repeatedly complained to the master in equity to no avail). Respondent should not be given any credit on

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[1] Knowledge of a lawsuit does not meet the due process requirement of personal service pursuant to Rule 4(d), SCRCP.

its deception, therefore the judgment of the master's decree and the several motion orders should all be reversed and vacated.

Respectfully submitted,

This 17th day of August 2022.

J. C. Sun

JOSEPH C. SUN
P. O. Box 2543
Bluffton, SC 29910
843-304-0314

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PROOF OF SERVICE

This is to certify that I have this date served the Respondent a copy of Appellant's Reply to Respondent's Return to Appellant's Motion to Impose Sanction, by sending a copy of same to:

Scott M. Wild, Esq. P. O. Box 6867, Hilton Head Island, SC 29938
and by email to: scott@wildlawfirm.com

This 12th day of September, 2022.

J. C. Sun

JOSEPH C. SUN