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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Teasa K. Weaver, Master In Equity

Case No. 2020-CP-46-00549
Appellate Case # 2022-001650

LB PARK, LLC,. . . . . Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, ... Defendants,

of whom Ryan Powell is the.. . . . . Appellant.

FINAL BRIEF OF APPELLANT

Ryan Powell, Appellant
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

Sarah P. Spruill
P.O. Box 2048 (29602)
Greenville, SC 29601
Appellate Attorney for Respondent LB PARK, LLC

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STATEMENT OF THE CASE

Nature of the Case

LB PARK brought its case under S.C. Code of Laws § 12-61-10 to 60 requesting the court quiet a tax title that was granted to SB MUNI CUST % LBSC-11, LLC ("SB MUNI" hereinafter) [R. p. 41 #11]. SB MUNI is not a party to this case [R. p. 39 caption]. LB PARK claims to have a quitclaim deed that derives from SB MUNI's tax title. While quieting a tax title is an action in equity, the nature of LB PARK's [defective] equity case transformed into a law

title dispute case when Ryan answered LB PARK's Complaint and raised a defense of having a paramount title to that claimed by LB PARK.

When the pleadings are considered as a whole, as must be done to determine the true nature of any action, it is clear that this case is a law title dispute case as both parties are claiming to have a distinct and separate title to the same property. However, when Ryan demanded his Constitutionally protected right to a trial by jury, that demand was denied to him by an order entered by Judge Weaver without her having subject matter jurisdiction to make that order. Ryan's appeal of that void order was dismissed by this Court upon finding Ryan did not have a right to a trial by jury. Even though this case is a law title dispute case, it was erroneously heard and decided as an equity quiet tax title case.

Pertinent Facts

Over ten (10) years ago during December of 2012, Ryan was granted the land that is the subject-matter of this action ("Ryan's Private Property" hereinafter) [R. p. 83 #2-#4; R. p. 51 # 31-35; R. p. #2-#3; R. pp. 132-134; R. p. 41 #7]. The grantor of Ryan's Private Property was a private, business trust named San Juan Holdings, Brett Osborne, the trustee ("SJH" hereinafter) [R. pp. 83-84 #2-#4; R. p. 83 # 31-35; R. p. 126 #2-#3 & R. pp. 132-134; R. pp. 146-147]. After SJH granted its property to Ryan, SJH's sole purpose of protecting that property had been fulfilled so SJH ceased to exist as a legal entity [R. p. 84 #5; R. p. 72; R. p.146]. Not existing, and not owning Ryan's Private Property, SJH has not made any appearance in this action [R. p. 136; R. p. 29 #9, ; R. pp. 2-147].

Ryan choose to not record his deed because he wants to own his land privately and alone, and because the laws of this State recognize and support that natural right [R. p. 86 #6; R. p. 41 #7 first sentence]. Having not subjected his property to the jurisdiction of the State, Ryan has never

been assessed with owing any *ad valorem* property taxes [R. p. 84 #7; R. p. 61 #130; R. p. 130 #26-#27]. Ryan's Private Property was neither sold nor was his title taken from him; it was SJH's property that was sold and its title that was taken from it for its illegally assessed debt [R. pp. 137-141].

During November 2017, SJH's property was auctioned off by York County at its annual delinquent tax property auction. During that auction, Lambros Xethalis, pretending to be an agent of the non-existent entity SB MUNI [R. pp. 127-128 #11-#15; R. p. 11 para. 1] became the highest bidder on SJH's property. On December 26, 2018, the York County Delinquent Tax Collector issued a tax title conveying SJH's non-existent property rights to the non-existent entity SB MUNI [R. pp. 127-128 #11-#15; R. pp. 11para. 1]. On January 7, 2019, Joshua Schrager, pretending to be an agent of the non-existent entity SB MUNI conveyed its non-existent property rights to LB PARK on a quitclaim deed [R. pp. 127-128 #11-#15; R. p. 11 para. 1]

Course of Proceedings

On February 12, 2020, LB PARK filed this case [R. pp. 39-46 #1]. On March 1, 2020 LB PARK served its Summons and Complaint on Brett Osborne the former trustee of SJH. On March 27, 2020, Brett Osborne returned LB PARK's Summons and Complaint to the York County Clerk of Court with a letter stating he had no authority to represent SJH, that SJH did not own the property at issue, and that SJH did not exist [R. p. 136].

In LB PARK's Complaint it claimed that the basis for naming Ryan as a defendant is that Ryan "*claims to have an unrecorded interest in the property*" [R. p. 41 #7 first sentence]. LB PARK then proceeded to deny that Ryan has any connection to the property at issue by alleging that "*Plaintiff denies that Defendant Ryan Powell has any interest in the Property*" [R. p. 41 #7

second sentence]. LB PARK served "Powell, Ryan" on April 14, 2020 at a place in Wake County, North Carolina which is outside the limits of this State [R. p. 135].

On May 12, 2020 Ryan filed a pre-answer document titled "Several Motions to Dismiss Under Special Appearance" ("Motions to Dismiss" hereinafter) [R. pp. 73-85]. Ryan's Motions to Dismiss contained ten (10) motions to dismiss and one motion to drop the main defendants, SJH and its former trustee, Brett Osborne because they do not exist and do not have standing to be in the case. LB PARK failed to file any opposition to any of Ryan's Motions to Dismiss [R. pp. 2-147].

On June 23, 2020, LB PARK filed its Motion For Order Of Reference [R. pp. 86-87].

On July 22, 2020 Judge Daniel Hall ("Judge Hall) heard Ryan's Motions to Dismiss and LB PARK's Motion For Order Of Reference. On August 20, 2020, after considering those two motions for almost four weeks, Judge Hall entered a Form 4 order denying all of Ryan's Motions to Dismiss and granting LB PARK's Motion For Order Of Reference [R. pp. 2-4].

On October 1, 2020 Ryan timely answered LB PARK's Complaint [R. pp. 47-72]. In his Answer, Ryan raised, *inter alia*, a defense of having a paramount title to that claimed by LB PARK and having possession of the land at issue. Ryan also raised three (3) law counterclaims [R. p. 51 #31-#35; R. pp. 66-68 #168-#180; R. pp. 69-70 #189-#194; R. pp. 70-71 #195-#201].

On July 9, 2021 Ryan filed a Motion to Return Case to Circuit Court so that he could get his Constitutionally protected right to a trial by jury that he demanded in his Answer. On September 20, 2021 the York County Master-in-Equity, Teasa K. Weaver ("Judge Weaver"), denied Ryan's Motion to Return Case to Circuit Court. Ryan timely appealed that order denying his Constitutionally protected right to a trial by jury and this Court dismissed that appeal as

interlocutory by finding that Ryan did not have a right to a trial by jury. Ryan Petitioned the Supreme Court for a writ of certiorari and that Petition was denied.

On June 7, 2021, Ryan filed and served a motion to amend his initial Answer. Ryan's Amended Answer was based on meritorious allegations of fraud that two of LB PARK's managers had committed during their procurement of a tax title that they intentionally had granted to a non-existing entity (SB MUNI) in order to facilitate their commission of federal income tax evasion [R. pp. 127-128 #11-#15]. Upon filing that motion, Judge Weaver was handed a copy and she immediately read it. Judge Weaver then realized that she could no longer assist LB PARK to get a refund of SB MUNI's bid monies because of Ryan's meritorious allegations of fraud [R. pp. 128-129 #15-#21]. Judge Weaver also knew she was acting without subject matter jurisdiction and was unconformable moving the case forward knowing she was personally liable for all damages her actions caused Ryan. Accordingly, Judge Weaver refused to schedule Ryan's motion to amend his Answer for a hearing.

Ryan mailed a letter to the Chief Justice of the Supreme Court explaining to him that because Judge Weaver had not been given subject matter jurisdiction to do anything but "*receive evidence*" and because Ryan had been unlawfully denied his right to a trial by jury, the case had become stuck in the Equity Court with no way for it to move forward, be dismissed, or moved back to the Circuit Court [R. pp. 128-129 #17-#18]. Three business days after the Chief Justice received Ryan's letter, Ryan received an email from the manager of the Equity Court setting a final hearing date on September 27, 2022 [R. pp. 128-129 #17-#18]. Neither party had requested a final hearing be set.

On September 16, 2022, Ryan filed and served a Motion for Continuance [R. pp. 88-89] requesting a new final hearing date be set because the date Judge Weaver chose without

requesting either party's availability [R. p. 129 #19] interfered with Ryan's previous contractual obligations [R. pp. 88-89; R. p. 131 #29]. Judge Weaver refused to hear Ryan's Motion for Continuance in the ten (10) days that remained before the final hearing. Judge Weaver also refused to even schedule Ryan's Motion for Continuance to be heard at any time [R. pp. 2-147; R. p. 130 #25].

On September 27, 2022, Ryan could not appear at the final hearing because of his previous contractual obligations and also because he believed that Judge Weaver had no intention of doing anything during the final hearing but "*receive evidence*" [R. p. 130 #28]. It appears from the Final Order that Judge Weaver did hold a final hearing on September 27th and that she "*received evidence*" which terminated her limited jurisdiction. After her limited jurisdiction terminated, Judge Weaver proceeded to make findings of facts, conclusions of law, and entered her Final Order [R. pp. 5-35].

On November 3, 2022, Ryan timely filed and served a Motion for a New Trial in which he requested, *inter alia*, that his motion be heard on briefs submitted by the parties [R. p. 90, para. 2 last sentence]. On November 10th, Plaintiff's attorney sent an email to the manager of the Equity Court agreeing to brief Ryan's Motion for a New Trial. Three hours later on November 10th, Judge Weaver entered a Form 4 order denying Ryan's Motion for a New Trial without holding any hearing, without allowing any briefing, and without allowing LB PARK to reply to Ryan's Motion for a New Trial [R. pp. 36-38]. On November 17th, Ryan received written notice of entry of the Form 4 order denying his Motion for a New Trial. On November 28th, Ryan timely filed and served his Notice of Appeal.

STANDARD OF REVIEW

> "An action to quiet title is one in equity. In an action in equity, tried with reference to a master, this Court reviews the evidence and determines the facts according to its own

view of the preponderance of the evidence, though it is not required to disregard the findings of the master.", Fox v. Moultrie, 666 SE 2d 915 (SC Supreme Ct 2008).

"An abuse of discretion occurs when the conclusions of the circuit court are either controlled by an error of law or are based on unsupported factual conclusions.", Belle Hall Plantation v. Murray, 799 SE 2d 310 (2017).

"Determining the proper interpretation of a statute is a question of law, and this Court reviews questions of law de novo." Town of Summerville v. City of N. Charleston, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008).

ARGUMENT

I. Was It Error To Hear And Decide The Merits Of A Case Without First Determining If The Case Presents An Actual Case Or Controversy?

"Our courts will not address the merits of any case unless it presents a justiciable controversy. In *Byrd,* we stated, "Before any action can be maintained, there must exist a justiciable controversy," and, "This Court will not ... make an adjudication where there remains no actual controversy." *see also Peoples Fed. Sav. & Loan Ass'n v. Res. Planning Corp.,* 358 S.C. 460, 477, 596 S.E.2d 51, 60 (2004) ("A threshold inquiry for any court is a determination of justiciability, i.e., whether the litigation presents an active case or controversy."). "Justiciability encompasses ... ripeness ... and standing."", Jowers v. South Carolina Dept. of Health, 815 SE 2d 446 (SC Supreme Court 2018) [internal citations omitted].

As shown in Jowers v. South Carolina Dept. of Health supra, the issue of justicibiliy is a fundamental issue and must be addressed *sua sponte* if neither party raises the issue. Ryan raised this issue multiple times and in multiple courts. Notwithstanding, every single judge of every single court in this State has refused to rule on the issue or they entered orders making blanket denials of Ryan's motions raising those issues. Judge Weaver heard, decided, and entered the Final Order without even considering the issue of justicibility of LB PARK's claims, which constitutes reversible error.

A. Can A Plaintiff Have Standing To Bring A Clear A Tax Title Claim Under S.C. Code of Laws §§ 12-61-10 to 60 When It Admits It Does Not Hold A Tax Title?

LB PARK brought its quiet tax title case under - S.C. Code of Laws §§ 12-61-10 to 60 [R. pp. 39-40 #1]. Therefore for LB PARK to having standing, LB PARK must satisfy the

requirements of one who has the right to bring an action under that code chapter. S.C. Code of Laws § 12-61-10 is fittingly titled "*Persons who may institute action to clear tax title* ", and it clearly specifies who may bring an action under that chapter.

> "Any ... person ..., which has **purchased at or acquired through a tax sale and obtained title to any real** ... **property**, may bring an action in the court of common pleas of such county for the purpose of barring all other claims thereto.", S.C. Code of Laws § 12-61-10

However, LB PARK admits it did **NOT** "purchase at or acquired through a tax sale and obtained [tax] title to any real property". LB PARK admits that SB MUNI purchased the tax title that LB PARK is attempting to quiet [R. p. 41 #11-#12]. Clearly then LB PARK does not have standing to quiet a tax title issued to another entity that is not a party to this action.

> "Standing refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right.", Wilson v. Dallas, 743 SE 2d 746 (SC Supreme Court 2013), citing Michael P. v. Greenville County Dep't of Soc. Servs., 385 S.C. 407, 684 S.E.2d 211 (2009).

> "Statutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute confers standing is an exercise in statutory interpretation." Youngblood v. Dept. of Social Services, 741 SE 2d 515 (SC Supreme Court 2013)

> "stating the issue of statutory standing as "whether this plaintiff has a cause of action under the statute", Youngblood v. Dept. of Social Services, 741 SE 2d 515 (SC Supreme Court 2013) citing Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 97 n. 2, 118 S.Ct. 1003, 140 L.Ed.2d 210 (1998).

The requirement that the plaintiff in a quiet tax title action must be the holder of a tax title is not only found in S.C. Code of Laws § 12-61-10 but is also found in S.C. Code of Laws § 12-61-60 -

> "This chapter shall be liberally construed to the end that it shall afford a complete remedy to any plaintiff claiming property by **forfeiture unto him.**".

The property at issue in this case was forfeited unto SB MUNI and was never forfeited unto LB PARK [R. p. 41 #11 - #12].

S.C. Code of Laws § 12-61-10, and S.C. Code of Laws § 12-61-60 are absolutely clear as to who can bring an action under Chapter 61 of Title 12. There is not one single case in all the State Reporters wherein a plaintiff brought an action to quiet a tax title under S.C. Code of Laws §§ 12-61-10 to 60 and that plaintiff did not hold a tax title, not one single case!.

To determine if LB PARK has a right to sue under S.C. Code of Laws §§12-61-10 to 60, this Court will have to determine the intent of the legislature when they created that remedy. But the Supreme Court has already determined that intent and they determined it as follows -

> "In our view, the legislative intent supporting S.C. Code Ann. Chapter 61 (1976) is that **purchasers of property at tax sales** in South Carolina be provided an efficient, unencumbered method of clearing those titles. ", Rosenbaum v. SMS 32, 427 SE 2d 897 (SC Supreme Ct 1993) [emphasis mine].

Ascertaining the intent of the legislature is the main method used to construe a statute -

> "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature. The primary purpose in construing a statute is to ascertain legislative intent.", Eagle Container v. County of Newberry, 622 SE 2d 733 (2005).

Since LB PARK was not a purchaser of property at a tax sale and they do not hold a tax title, then they do not have standing to bring a quiet tax title case under that code chapter. Ryan raised this issue in his pre-answer "Several Motions to Dismiss" [R. pp. 78-79] which Judge Hall denied [R. pp. 2-4]. When this Court finds that LB PARK does not have standing to clear/quiet a tax title issued to a non-party, it must reverse Judge Halls order denying Ryan's Motions to Dismiss, reverse the Final Order, and dismiss with prejudice LB PARK's non-justicible claims.

B. Is A Quiet Title Action Ripe When The Plaintiff Admits That It Does Not Have Possession Of The Property At Issue?

The procedure that must be followed in a suit to clear/quiet a tax title is found in S.C. Code of Laws § 12-61-20 , which states in pertinent part -

> "such action shall be commenced, conducted and concluded by decree **as are similar actions** in such court", S.C. Code of Laws § 12-61-20 [emphasis mine].

A similar action to a clear/quiet tax title action is a regular quiet title action. All quiet title actions in this State can only be commenced by plaintiff's who are in possession of the property to which they want their titles quieted and clouds removed, according to the following-

> S.C. Code of Laws § 15-67-10 . "Persons who may bring action to determine adverse claim. **Any person in possession of real property**, by himself or his tenant, or any person having or claiming title to vacant or unoccupied real property may bring an action against any person who claims or who may or could claim an estate or interest therein or a lien thereon adverse to him for the purpose of determining such adverse claim and the rights of the parties, respectively." [emphasis mine].
>
> "This case was a suit brought for the purpose of setting aside a tax deed as a "cloud on the title of the plaintiffs." From a judgment in favor of the plaintiffs an appeal was prosecuted to this Court. In reversing the lower Court and finding for the defendant, this Court held that a suit to remove a cloud from the title **was premature for the reason that the plaintiffs were not in possession** of the property in question", Taylor v. Jennings, 233 S.C. 600, 106 SE 2d 391 (SC Supreme Ct 1958) speaking of Pollitzer v. Beinkempen, 76 S.C. 517, 57 S.E. 475, 476 [emphasis mine]
>
> "As we stated in the beginning, this is a case to remove a cloud on and quiet title to the land in question. Such an action **could not be maintained by the respondent if he were not in possession** of the land at the time of the institution of the action. If the respondent were not in possession, his remedy would be to bring an action on the law side of the Court to recover possession and thus test the title to the land.", Mullis v. Winchester, 118 SE 2d 61 (SC Supreme Court 1961) [internal citations omitted, emphasis mine].
>
> "Regarding the complaint, ..., as one to remove cloud on title, it follows that appellants, who the undisputed facts show **are not in possession, cannot maintain this action**.", Priester v. Brabham, 95 SE 2d 167 (SC Supreme Ct 1956) [emphasis mine].

Further, this Court is required to determine if LB PARK's claims are ripe before even hearing this appeal -

> "Likewise, "before addressing merits of any appeal, [the court] must be convinced that the claim in question is ripe for review, even if neither party has raised the issue."", Eagle Container v. County of Newberry, 622 SE 2d 733, 634 (2005) [bracketed text in original].

LB PARK is undisputedly NOT in possession of Ryan's Private Property [R. p. 43 #16; R. p. 45 #1; R. p. 51 #31-#35; R. pp. 31-32 para. 11 subpara. a to c]. LB PARK's claims are not ripe and therefore not justicible so the Final Order must be reversed and LB PARK's unripe claims dismissed with prejudice.

II. Was It Error To Find Facts, Make Conclusions Of Law, And Enter An Order When The Order Of Reference Only Gave The Master Subject Matter Jurisdiction To Receive Evidence?

The Order of Reference entered in this case states "*After careful consideration, Plaintiff's Motion for Order of Reference to the Master in Equity is GRANTED*" [R. pp. 2-4]. Since that Form 4 order does not state what specific relief was granted, when LB PARK's Motion for Order of Reference was granted, one must look to the relief requested in the motion being granted to determine exactly what relief was granted. LB PARK's Motion for Order of Reference requests the Court "*issue an Order of Reference, referring this equitable proceeding to the Honorable Teasa Kay Weaver, Master in Equity for York County, for the purpose of receiving evidence and with all appeals to be made directly to the South Carolina Court of Appeals.*" [underlining mine], [R. pp. 86-87].

A reference order made *for the purpose of receiving evidence* was often utilized in this State before the 1999 amendment to Rule 53(b) SCRCP[1]. However, that purpose is no longer viable because a master can no longer receive evidence in order to make a report back to the circuit court[2]. So after 1999, there is no longer any reason for a reference being made just for the purpose of receiving evidence. See 76 C.J.S. *References* § 2 at 187 (1952):

[1] Rule 53 SCRCP Notes, 1999 - "This amendment substantially revises this rule. It eliminates the practice of referring a matter for the purpose of making a report to the circuit court.".

[2] Rule 53(b) SCRCP "A case shall not be referred to a master or special referee for the purpose of making a report to the circuit court."

> "A reference is a sending of a pending cause, or some question therein, by the court in which it is pending, to a private person to hear and determine it provisionally **or** to take evidence and report to the court." [emphasis mine].

It appears that LB PARK's lazy and incompetent attorneys just cut and pasted verbiage from an old motions/forms book when they prepared LB PARK's Motion for Order of Reference. Nevertheless, LB PARK filed what it filed and received only what it requested in its Motion for Order of Reference which gave Judge Weaver ONLY the jurisdiction to *receive evidence* and no other authority as proven by the following *stare decisis* holdings-

> "The master has no power or authority except that which is given to him by the order of reference. *See* Rule 53(c), SCRCP ("[T]he order of reference to the master may specify or limit his powers and **may direct him ... to do or perform a particular act**...."); ", Smith v. Ocean Lakes Family Campground, 315 S.C. 379, 433 S.E.2d 909 (1993) [emphasis mine].

> "Rule 53(e) SCRCP states that the master shall direct entry of judgment in the action without further order of court **if the order of reference so provides**.", Bonney v. Granger, 356 SE 2d 138 (1987) [emphasis mine].

> "A master who acts after the reference terminates does so without subject matter jurisdiction, and the resulting orders are void.", Bunkum v. Manor Properties, 321 S.C. 95, 99, 467 S.E.2d 758, 761 (1996).

According to Smith v. Ocean Lakes Family Campground supra, since the Order of Reference in this case was specifically and only for the *purpose of receiving evidence*, and since the Order of Reference did NOT provide Judge Weaver authority to make findings of facts, conclusions of law, or enter ANY order, then the Master did not have subject matter jurisdiction to make or enter the Final Order [R. pp. 5-35].

> "**jurisdiction is the power to declare law**, and when it ceases to exist, the only function remaining to a court is that of announcing the fact and dismissing the cause.", Limehouse v. Hulsey, 744 SE 2d 566 (SC Supreme Ct 2013).

Therefore, the Final Order is void, *ab initio* and this Court must vacate that order and remand the case to the Circuit Court so that Ryan's counterclaims can be heard and decided by a jury.

III. Was It Error To Exercise Subject Matter Jurisdiction Over Private Property Which Has Never Been Subjected To The Jurisdiction Of The State By Its Owner?

Even though Ryan raised this issue in his Motions to Dismiss, which Judge Hall denied [R. pp. 2-4], subject matter jurisdiction can never be waived and may be raised at any time including for the first time on appeal-

> "Even though the appellants did not raise the question of jurisdiction in the lower court, objection to the jurisdiction of the subject-matter may be made at any time during the progress of the action, and such jurisdiction cannot be waived or conferred by consent. Want of jurisdiction of the subject-matter may be taken advantage of at any stage of the proceeding.", Bramlett et al. v. Young et al., 93 SE 2d 873 (SC Supreme Ct 1956).

The subject matter of this case is the land that has been identified as "25056 Timberlake Drive, York County, South Carolina". But that land belongs to Ryan absolutely and privately, i.e., Ryan's Private Property [R. pp. 83-84; R. p. 51 #31-#35; R. p. 41 #7 first sentence; R. pp. 126-127 #2-#7; R. pp. 132-134].

> The term subject-matter is defined to mean: "The subject, or matter presented for consideration; **the thing in dispute**; the right which one party claims as against the other", Black's Law Dictionary, 6th ed. pg 1425.

Therefore, in order for any court of this State to have jurisdiction over **the thing in dispute**, i.e., Ryan's Private Property, it must have the power to declare law as it pertains to his private property.

Since the essential purpose of LB PARK's action is to quiet its quitclaim deed and the tax title from which it derives, then this action is "*in rem*". In other words, this action is "*in rem*" because the order quieting those two titles will be effective against the whole world and not just against the parties to the case.

> "*In rem* proceedings encompass any action brought against a person in which essential purpose of suit is to determine title to or to affect interests in specific property located within territory over which court has jurisdiction. ... Actions in which **the court is required to have control of the thing** or object and in which an

adjudication is made as to the object which binds the whole world and not simply the interests of the parties to the proceedings.", Black's Law Dictionary, 6th ed. pg 793.

According to the definition of "*in rem*" proceeding, the Court is **required to have control of the thing in dispute** i.e., Ryan's Private Property.

The question now becomes - does any court have the authority to conduct an *in rem* proceeding to quiet any title to land held privately and alone? The simple answer is **NO** according to the following authorities:

> "Property in a thing consists not merely in its ownership or possession, but in the **unrestricted** right of use, enjoyment and disposal.", SC Dept. Hwys. & Pub. Trans. v. Balcome, 345 SE 2d 762 (1986) [emphasis mine].
>
> Ownership **-** "The **exclusive right** of possession, enjoyment, and disposal. Ownership of property is either absolute or qualified. The ownership of property is absolute when a single person has **absolute dominion over it**, and may use it or dispose of it according to his pleasure [i.e. unrecorded private property]. The ownership is qualified when it is shared with one or more persons, when the time of enjoyment is deferred or limited or when the use is restricted. [i.e., recorded real estate where the ownership rights are shared with the clerk of court or recorder of deeds]", Black's Law Dictionary, 6th ed., pg. 1106 [emphasis mine].
>
> Private Property - "As protected from being taken for public uses, is such property as belongs absolutely to an individual, and of which he has the **exclusive right of disposition**. *Scranton v. Wheeler*, 179 U.S. 141, 21 S.Ct. 48, 45 L.Ed. 126.", Black's Law Dictionary, 6th ed., pg. 1217 [emphasis mine].
>
> Exclusive - "Appertaining to the subject alone, not including, admitting, or pertaining to any others. Sole, Shutting out; debarring from interference or participation; vested in one person alone.". Black's Law Dictionary, 6th edition, pg 506.

According to the above legal authorities, since Ryan's Private Property is owned by him "absolutely" then his ownership is without condition, his private property is even "protected from being taken for public uses" (i.e., eminent domain) because he has the "exclusive right of disposition" where exclusive means only Ryan alone can dispose of his private property. That means that only Ryan has the authority to chose if, when, or to whom he will dispose of his

private property. Therefore, no court, and no judge, has the authority to interfere with private property as such property is beyond the control of anyone but its sole, absolute owner.

The below cited legal principles show unequivocally that every person who owns property must first take some action to subject his property to the jurisdiction of the state before that person's property becomes taxable.

> "*Generally speaking, every person* ***who subjects*** *himself* or ***his property to the jurisdiction of the state*** *comes within its taxing power*" ... "*Tax liability will not be implied against persons who do not fall within the description of those subjected to tax by statutory provisions imposing it. Although the state may tax its citizens personally, provided it violates no constitutional restrictions, an individual, unlike a corporation, is not subject to tax for the mere privilege of existing, and owning property, which are natural rights.*", Corpus Juris Secundum § 84 TAXATION, § 59 Persons Liable (a).

For any property to be taxable, it must be within the State's jurisdiction. This has been held in many US Supreme Court cases including the following:

> While restricted to taxation of property having a taxable situs within the territorial jurisdiction of the state, the legislature may extend taxation to all persons and to all property real or personal **within its jurisdiction**. Frick v Pennsylvania, 268 US 473, 69 L Ed 1058, 45 S Ct 603, 42 ALR 316; Thompson v Kentucky, 209 US 340, 52 L Ed 822, 28 S Ct 533; M'Culloch v Maryland, 4 Wheat (US) 316, 4 L Ed 579.
>
> Situs - "Situation; location; ... Site; position; the place where a thing is considered, for example, with reference to jurisdiction over it, or the right or power to tax it.", Black's Law Dictionary, 6th ed., pg 1387.

The record shows that Ryan's Private Property has never been taxed [R. p. 52 #46; R. p. 61 #129-#130; R, p. 64 #155; R. p. 84 #7; R. p. 130 #26-#27]. Had it ever been taxed, the tax sale and tax title of SJH's property would have been conducted in Ryan's name. Therefore, it follows that Ryan's Private Property is not within the State's jurisdiction, for if it was within the State's jurisdiction then the State would have undoubtedly taxed Ryan's Private Property.

The voluntary nature of taxation of property is also clearly articulated in the Constitution of the State of South Carolina which declares that no private property can ever be taken for private

use, as in this case, without the consent of its owner[3]. Once an owner records their deed they give their consent for their property to be taken from them if they breach their contractual duty.

The voluntary nature of taxation of property is also shown in several codes of this State. See for example S.C. Code of Laws § 12-24-10(A)[4] which declares that the owner's recording his deed is a privilege. A privilege can never be mandatory as no person can be required to apply for or receive a privilege. Since the State provides those privileges, then the State has every right to charge a fee (i.e., "tax") to those persons who have requested those privileges.

Unless and until each and every owner of land voluntarily records their deed, the State wants all jurisdiction to take any action over that owner's private property including taxing it, taking it, seizing it, confiscating it, regulating it, or quieting any title pertaining to it. The fact that Ryan's Private Property has never been taxed, nor was it taken from Ryan (it was taken from SJH) proves that Ryan has never subjected his land to the jurisdiction of this State.

The Final Order is void for want of subject matter jurisdiction and must be vacated, LB PARK's claims dismissed with prejudice, and the case remanded to the Circuit Court.

IV. Was It Error To Exercise Territorial Jurisdiction Over Private Property That Does Not Have A Situs Within This State?

> "Thus, the general rule is that no state or nation can, by its laws, directly affect, bind, or operate upon property or persons beyond its territorial jurisdiction.", Ex parte First Pa. Banking & Trust Co., 148 SE 2d 373 (SC Supreme Court 1966).
>
> "In rem proceedings encompass any action brought against a person in which essential purpose of suit is to determine title to or to affect interests in specific property **located within territory over which court has jurisdiction**.", Black's Law Dictionary, 6th ed., pg. 793 [emphasis mine].
>
> "Although territorial jurisdiction is not a component of subject matter jurisdiction, we hold that it is a fundamental issue that may be raised by a party or by a court at **any**

[3] Constitution of the State of South Carolina Article. I, Section 13(A) _- "private property shall not be taken for private use without the consent of the owner".

[4] S.C. Code of Laws § 12-24-10(A) "... a recording fee is imposed for the privilege of recording a deed in which land and improvements on the land, tenements, or other realty is transferred to another person.".

> **point in the proceeding**. ... The exercise of extraterritorial jurisdiction implicates the state's sovereignty, a question so elemental that we hold it cannot be waived by conduct or by consent.", State v. Dudley, 614 SE 2d 623 (SC Supreme Court 2005) [emphasis mine].

S.C. Code of Laws § 12-37-210 reads in pertinent part - "*All real ... property in this State ... shall be subject to taxation.*". Ryan has never been assessed with any *ad valorem* tax on his private property so it follows that Ryan's land is not *subject to taxation*, which must lead to the only conclusion that Ryan's land is not "*in this State*". That conclusion must be correct because, as shown above, it is the act of an owner recording his deed which gives *this State* an ownership interest in the recorded land and that ownership interest is what puts the real property listed on the recorded deed "*in this State".*

That conclusion is also entirely consistent with S.C. Code of Laws § 1-1-10 which reads - "*the sovereignty and* [territorial] *jurisdiction of this State extends to all place**s** within its bounds...*". In that code section, the use of the word place**s**, i.e., the plural of place, is key for if that declaration was meant to mean "*all land and water", or "all area*" or even "*everyplace*" it would have had to declare that but it did NOT because some area/land/places have clearly been excluded by the legislature from being within the sovereignty and [territorial] jurisdiction of *this State*. So the question that must be answered is .... exactly which ***places*** does the *sovereignty and* [territorial] *jurisdiction of this State* extend?

There can be only one answer and that one answer must be .... *this State* **only** has sovereignty and [territorial] jurisdiction over those places that it owns or has an ownership interest in (i.e., recorded properties). This must be true for at least the following three reasons: 1) as was conclusively shown above the owner of private property is the only one who has the authority to declare the law as it pertains to his private property; 2) land owned absolutely (unrecorded) cannot be taxed, regulated, seized, confiscated, or taken so *this State* cannot claim sovereignty

over land that it cannot control; and 3) *this State* is a corporate fiction and a corporate fiction never has sovereignty over that which does not a exists by its authority or was not introduced by its permission within its boundaries (e.g., land) according to the U.S. Supreme Court in Frick v. Pennsylvania, 268 US 473, 69 L Ed 1058; Thompson v. Kentucky, 209 US 340, 52 L Ed 822; and M'Culloch v. Maryland, 4 US 316, 4 L Ed 579.

Therefore, clearly it is only those ***places*** that are owned by *this State* or in which *this State* has an ownership interest (i.e., recorded properties) that are within the sovereignty and territorial jurisdiction of this State.

Since Ryan owns his land absolutely and alone, *this State* does not own or have any ownership interest in Ryan's Private Property so his land is outside the sovereignty and [territorial] jurisdiction this State. Therefore and accordingly, the Final Order must be vacated and LB PARK's claims dismissed for this State wants territorial jurisdiction over Ryan's Private Property.

V. Was It Error To Assert Personal Jurisdiction Over A Non-Resident Defendant Served Outside The Limits Of The State Without The Plaintiff Making A *Prima Facia* Case Showing Personal Jurisdiction And Without The Plaintiff Entering Any Evidence To Support Personal Jurisdiction?

> "There is a two-step approach to determining whether our courts may exercise personal jurisdiction over a nonresident. The first step is whether the nonresident's conduct meets the requirements of South Carolina's long-arm statute; and second whether, under the particular circumstances, a finding of minimum contacts comports with "traditional notions of fair play and substantial justice."", Hammond v. Butler, Means, Evins & Brown, 388 SE 2d 796 (SC Supreme Court 1990).

"Powell, Ryan" was served LB PARK's Summons and Complaint in Wake County, North Carolina, which is outside the territorial limits of the State [R. p. 135]. "Powell, Ryan" is not the owner of the property at issue, and is not the named defendant. "Ryan Powell" is the named defendant and Ryan Powell was never served any process. However, Ryan was forced to

"volunteer" to be the person served because he is the owner of the property that LB PARK is attempting to steal.

Ryan raised the issue of the Court not being able to take personal jurisdiction in Ryan's Several Motions to Dismiss Under Special Appearance, which was denied by Judge Hall [R. pp. 2-4]. Ryan raised the issue again in his Answer [R. pp. 53-54 #57-#59]. Ryan has never waived the issue of personal jurisdiction over him.

Service of a summons is not effective to give the court personal jurisdiction **if** a defendant is served outside the territorial limits of the State **unless** there is a statute allowing such service, see Hammond v. Butler, Means, Evins & Brown supra, and also Rule 4(f) SCRCP -

> SCRCP 4(f) SCRCP - "Territorial Limits of Effective Service. All process other than a subpoena may be served anywhere within the territorial limits of the State, and, when a statute so provides, beyond the territorial limits of the State."

For the trial court to be able to assert personal jurisdiction over Ryan, LB PARK was required to allege a statute that allows personal jurisdiction over Ryan. Then LB PARK also needed to allege the facts that fulfill whatever factual basis that statute required in order to show personal jurisdiction could be asserted over Ryan, a non-resident defendant. That showing would have had to come from LB PARK's Complaint or from an affidavit.

> "At the pretrial stage, the burden of proving personal jurisdiction over a nonresident is met by a prima facie showing of jurisdiction either in the complaint or in affidavits", Moosally v. WW Norton & Co., Inc., 594 SE 2d 878 (2004).

But LB PARK failed to allege in its Complaint [R. pp. 39-46], and failed to enter any affidavit [R. pp. 2-147] that could have made a *prima facia* case showing personal jurisdiction over Ryan. The only long-arm statute that LB PARK could have alleged for a case involving quieting title to "real property in this State" is S.C. Code of Laws § 36-2-803 A(5) -

> S.C. Code of Laws Laws § 36-2-803 "(A) A court may exercise personal jurisdiction over a person who acts directly or by an agent as to a cause of action arising from the person's: (5) having an interest in, using, or possessing real property in this State;".

Presuming, for the sake of argument, that S.C. Code of Laws § 36-2-803 A(5) is the correct statute that could have been alleged by LB PARK for the court to be able to assert personal jurisdiction over Ryan, LB PARK would have then had to allege those facts needed to demonstrate that Ryan has an interest in, is using, or is possessing real property in this State. LB PARK not only failed to allege those required facts but LB PARK **specifically denied them**!

The only facts alleged in LB PARK's Complaint that pertain to Ryan are found in paragraph #7 under the heading of "PARTIES" [R. p. 41 #7]. In that paragraph, LB PARK alleged NOT that Ryan has an interest in the property at issue, but that Ryan "*claims to have an unrecorded interest in the property*" [R. p. #7 first sentence]. Then LB PARK proceeds to negate its previous allegation by stating "*Plaintiff denies that Defendant Ryan Powell has any interest in the Property*" [R. p. 41 #7 second sentence]. A plaintiff cannot deny its own allegations in its complaint, especially if that allegation is the allegation that forms the factual basis for the court asserting personal jurisdiction over a defendant. It should be obvious to anyone with eyes to see that LB PARK was attempting to avoid having to admit that Ryan has any connection to the property at issue while at the same time making Ryan a defendant so that it could steal Ryan's Private Property!

Bottom line, paragraph #7 of the Complaint, and the record in its entirely [R. pp. 2-147] fail to make a showing that the trial court had the authority to assert personal jurisdiction over Ryan which is mandatory in order to affect either Ryan's Private Property or Ryan. Further, Judge Weaver failed to make any findings of fact to support her conclusion of law that she had personal jurisdiction over all parties [R. p. 17 para.1; ; R. p. 28, #2].

The Final Order is void for want of personal jurisdiction over Ryan and must be vacated, LB PARK's claims dismissed with prejudice, and the case remanded to the Circuit Court.

VI. Was It Error To Confiscate And Seize Private Property?

The United States has been under martial law since the days of the civil war when the *de jure* Congress adjourned *sine die* (i.e., "without day") never to reconvene again. The civil, Constitutionally created government having been abandoned, President Lincoln created a new military national government. Lincoln then declared martial law which was to continue in effect, according to Section I, Article 2 of General Order 100 (a.k.a., the Lieber Codes), until a proclamation is made by the Commander In Chief, (i.e., the President) or until terminated in a peace treaty signed by the two sides in the civil war. No Commander in Chief has ever made such a proclamation and no peace treaty has ever been signed. Therefore, the United States is still under martial law to this day. See below selected important Lieber Codes (i.e., the first Executive Order ever signed by a President under the new military government).

Lieber Codes, Section I

> Article 1. A place, district, or country occupied by an enemy stands, in consequence of the occupation, under the Martial Law of the invading or occupying army, whether any proclamation declaring Martial Law, or any public warning to the inhabitants, has been issued or not**. Martial Law is the immediate and direct effect and consequence of occupation or conquest. The presence of a hostile army proclaims its Martial Law.**
>
> Article 2. Martial Law does not cease during the hostile occupation, except by special proclamation, ordered by the commander in chief**;** or by special mention in the treaty of peace concluding the war, when the occupation of a place or territory continues beyond the conclusion of peace as one of the conditions of the same.
>
> Article 4. **Martial Law is simply military authority exercised in accordance with the laws and usages of war.** Military oppression is not Martial Law: it is the abuse of the power which that law confers. As Martial Law is executed by military force, it is incumbent upon those who administer it to be strictly guided by the principles of justice, honor, and humanity - virtues adorning a soldier even more than other men, for the very reason that he possesses the power of his arms against the unarmed.

> Article 6. **All civil and penal law shall continue to take its usual course in the enemy's places and territories under Martial Law,** unless interrupted or stopped by order of the occupying military power; but all the functions of the hostile government - legislative executive, or administrative - whether of a general, provincial, or local character, cease under Martial Law, or continue only with the sanction, or, if deemed necessary, the participation of the occupier or invader**.**

As Ryan can never prove a negative, i.e., that no peace treaty has ever been signed or that no Commander in Chief has ever terminated the declaration of martial law, should LB PARK want to dispute Ryan's claims, it carries the burden of proof. Nonetheless, there is evidence that shows that the United States is still under martial law. That evidence being that all Presidents since Lincoln have been issuing executive orders, which are not permitted under the Constitutionally created government, and the United States flag that is flying behind the bench of **this Court** has a gold fringe around its outside edge which is a military flag of the occupying army showing their occupation and authority (i.e., martial law) over the court.

It is a violation of the Laws of War to seize or confiscate private property -

> "Private property may not be confiscated. **The prohibition against confiscation of private property** extends not only to outright taking in violation of the law of war, but also to any acts that, through the use of **threats, intimidation, or pressure, or by actual exploitation** of the power of the Occupying Power, permanently or temporarily deprive the owner of the use of such property without the owner's consent, or without authority under international law.", Law of War, 11.18.6.1 *Prohibition on Confiscation of Private Property in Occupied Territory*.
>
> "**Private real (immovable) property may under no circumstances be seized."**, Law of War, 11.18.6.3 *Private Real (Immovable) Property*.

The above quotes are from the "Law of War"[5] manual. Those citations show that even in times of martial law, as we presently find ourselves, no occupying power has the authority to seize or confiscate private property. Further, section 11.18.6.1 specifically prohibits the use of "threats", "intimidation", "pressure" or "exploitation" being used to deprive the owner of the use of his private property. In violation of those laws of war, Judge Weaver ordered the seizure and

[5] http://ogc.osd.mil/images/law_war_manual_december_16.pdf.

confiscation of Ryan's Private Property in her Final Order and used threats, intimidation, and pressure to blackmail Ryan into paying a $180,000.00 bond in order to stay the illegal dispossession of him and the occupants of his private property during this appeal.

The Final Order must be vacated and LB PARK's claims dismissed with prejudice and the case remanded to the Circuit Court.

VII. Was It Error To Take Private Property For Private Use Without The Owner First Giving His Consent?

Ryan alleged in his Twenty-First affirmative defense [R. p. 61 # 131] that he has never given his consent to have his private property taken from him for private use. Since Ryan can never prove a negative, i.e., that he never gave his consent, then LB PARK carries the burden to prove that Ryan did give his consent to have his private property taken for private use.

> "Except as otherwise provided in this Constitution, private property shall not be taken for private use without the consent of the owner, ...". Constitution of the State of South Carolina Article I, Section 13(A).

The "otherwise provide" clause shown above is for [recorded] properties under the jurisdiction of the State which can be taxed and taken for private use when an owner fails to pay their agreed to tax debts.

There are no findings of facts or conclusions of law in the Final Order that show Ryan ever gave his consent to have his private property taken from him. Therefore, Ryan's property has been taken from him in violation of his Constitutionally protected right, found in Article 1, Section 13(A). The Final Order must be vacated or reversed.

VIII. Do The Multiple Serious Violations Of Appellant's Due Process Rights Deprive The Court Of Jurisdiction?

Any one of the below argued denials of due process makes void the Final Order but all of them considered together show intentional, malicious, inexcusable disregard of Ryan's due process rights that are mandatory in any situation where a person can lose their property.

> "It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in court, or opportunity to be heard, and that without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights.", Brown v. Malloy, 546 SE 2d 195 (2001).

If only one of the following arguments proves that Ryan was denied due process of law, that makes the Final Order void which mandates this Court to vacate it.

A. Was It A Deprivation Of Appellant's Due Process Rights To Deny His Several Motions to Dismiss That Raised The Issue Of Lack Of Personal Jurisdiction Over Him?

> "At the pretrial stage, the burden of proving personal jurisdiction over a nonresident is met by a prima facie showing of jurisdiction either in the complaint or in affidavits. Specific jurisdiction over a cause of action arising from a defendant's contacts with the state is granted pursuant to the long arm statute. S.C. Code Ann. § 36-2-803 (2003)." ... "Because South Carolina treats its long-arm statute as coextensive with the due process clause, the sole question becomes whether the exercise of personal jurisdiction would violate due process", Cockrell v. Hillerich & Bradsby Co., 611 SE 2d 505 (SC Supreme Court 2005).

> "South Carolina case law has established what constitutes an interlocutory appeal. If there is some further act which must be done by the court prior to a determination of the rights of the parties, then the order is interlocutory. If a judgment determines the applicable law while leaving open questions of fact, it is not a final judgment. **The prima facie showing of personal jurisdiction at the pretrial stage is all that is required to continue the civil action**.", Mid-State Distributors, Inc. v. Century Importers, Inc., 426 SE 2d 777 (SC Supreme Court 1993) [emphasis mine].

The issue of want of personal jurisdiction over Ryan was fully briefed above in argument section **V.** That argument is fully included in this section by reference.

Ryan raised the issue of the Court not being able to take personal jurisdiction over him in his Motions to Dismiss [R. pp. 75-77] which was denied by Judge Hall [R. pp. 2-4]. Ryan again raised the issue in his Answer [R. pp. 53-54 #57-#59].

Ryan took two separate appeals of Judge Hall's order denying his Motions to Dismiss which, *inter alia*, proved that the Court lacked personal jurisdiction over him. Those two appeals were dismissed by this Court as being interlocutory. However, Mid-State Distributors, Inc. v. Century Importers, supra shows that an order is NOT interlocutory and can be appealed if the plaintiff fails to make a *prima facia* case showing personal jurisdiction. In this case, LB PARK failed to make a *prima facia* case showing personal jurisdiction over Ryan which is required, see Cockrell v. Hillerich & Bradsby Co. supra.

Ryan's due process rights were violated by Judge Hall denying his Several Motions to Dismiss [R. pp. 2-4], by this Court's refusal to hear Ryan's appeal of that denial order, and by Judge Weaver in her Final Order that found the court has personal jurisdiction over all parties [R. p. 17 para. 1; R. p. pg 28 #2].

B. Was It A Deprivation Of Appellant's Due Process Rights To Order His Dispossession From His Private Property In A Quiet Title Order?

All quiet title orders are automatically stayed under Rule 241 SCACR so there is never any requirement for the appellant to have to post a bond in order to stay the relief ordered during an appeal. It is only AFTER all available appeals have been exhausted that a quiet title order becomes final so that the party not in possession can move to execute the quiet title order to take possession of the property. Then, and only then, can possession be taken via a proper application for, and ordering of, a Writ of Assistance.

> **Writ of Assistance** - "Writs of Assistance exist to enforce judgment of court directing specific act. An equitable remedy normally used to transfer real property, the title of which has been previously adjudicated, as a means of enforcing the court's own decree. It is essentially a mandatory injunction, the effect of which is to bring about a change in the possession of realty; it dispossesses the occupant and gives possession to one adjudged entitled thereto by the court.", [internal citations removed], Blacks Law Dictionary, 6th ed., page 1609.

For any party to be granted a writ of assistance, that party must first make a motion for a writ of assistance which motion must include a rule to show cause order. The rule to show cause order must be personally served on the party unlawfully remaining in possession of the real property. The hearing of the rule to show cause order gives the party in possession an opportunity to "show cause" why a writ should not issue -

> " Antrum having refused to relinquish the property to the purchaser, and an affidavit to that effect having been submitted to the court. Judge Lewis issued, on December 30, 1949, an order requiring him to show cause on January 7, 1950, why a writ of assistance should not be issued directing the sheriff of Darlington County to remove him from the premises and to put the purchaser into possession.", Antrum v. Hartsville Prod. Credit Ass'n et al., 89 SE 2d 376 (SC Supreme Court 1955).

After a show cause hearing, if a writ of assistance is granted but then subsequently appealed, the appellant can **then** seek a writ of supersedes to stay the enforcement of that writ of assistance. If a supersedes is granted, the appellant can be ordered to post a supersedes bond under S.C. Code of Laws § 18-9-170.

However, in total disregard of the above described well-settled laws and legal procedures that must be followed, dispossession was ordered without any affidavit from LB PARK testifying that the occupants refused to leave the property, without any motion for a writ of assistance, without any rule to show cause order ever being issued, without any notice of a show cause hearing, and without any hearing of the show cause order. These failures constitute an **appalling violation of the due process rights of Ryan**, his mother who holds an enforceable lien against the land at issue, and the occupants of Ryan's private property, making the Final Order void on its face.

C. Was It A Deprivation Of Appellant's Due Process Rights To Refuse To Hear And Decide Appellant's Motion For Continuance Before The Final Hearing?

Judge Weaver scheduling the final hearing without first requesting either party's availability [R. p. 129 #18-#19], refusing to hear and decide a meritorious Motion for Continence when Judge Weaver had ample time to do so [R. p. 89, date; R. p. 5 para. 2 first sentence], and then failing to give either party notice that she had any plans whatsoever to hear Ryan's Motion for Continence at anytime [R. p. 130 #25; R. pp. 2-147] all deprived Ryan of his due process right to have an opportunity to be heard at the final hearing so that he could defend his private property from being stolen.

The Final Order denied Ryan's Motion for Continuance [R. p. 28 #2; R. p. 30 #1]. But unlike most motions for a continuance, that denial does not constitute an "abuse of discretion" because to have discretion the court must first have jurisdiction, which Judge Weaver did not have.

> As stated by the United States Supreme Court in *Piper v. Pearson*, 2 Gray 120, cited in *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872), '[w]here there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction.'

In Ryan's Motion for Continuance he informed Judge Weaver that he would not be able to attend the final hearing on the date she chose because he had a previous contractual obligation that conflicted with that date [R. pp. 88-89; R. p. 131 #29]. The concept of receiving one's due process right to have an "opportunity to be heard" is predicated on the definition of "opportunity" which is defined in the Cambridge Dictionary as

> "an occasion or situation that makes it possible to do something that you want to do or have to do, or the possibility of doing something:"

The date chosen by Judge Weaver without considering either party's availability and then refusing to hear Ryan's Motion for Continuance before the final hearing denied Ryan an "opportunity", i.e. "an occasion that makes it possible to do something" for him to attend the final hearing.

The Final Order states "Powell did not seek a continuance until September 16, 2022". The timing of Ryan's Motion for Continuance should not have precluded a pre-trial hearing of his motion since September 16, 2022 left 10 days before the final hearing scheduled for September 27th. Ten (10) days was plenty of time to hear and decide a simple 1.5 page Motion for Continuance. Judge Weaver also refused to even schedule Ryan's motion for a hearing so neither party was ever given notice that Judge Weaver was even going to hear his Motion for Continuance [R. pp. 2-147].

The Final Order proves that Judge Weaver had no intention whatsoever of entering any order **before** the Final Order because to do so would have made it impossible to manipulate Ryan into paying $180,000.00 bond. Judge Weaver illegally ordered a dispossession of Ryan from his private property within her final quiet title order hoping Ryan would "believe" he had to pay that bond in order to take an appeal. Had Ryan fallen for that ruse, LB PARK would have gotten a refund of the $171,000.00 that SB MUNI paid for the rights to Ryan's Private Property from Ryan! In other words, Judge Weaver maliciously refused to hear and decide Ryan's Motion for Continuance before the final hearing so that she could blackmail and intimidate Ryan into paying LB PARK the bid monies that were lost from LB PARK's manager's fraud committed to facilitate their federal income tax evasion and from the incompetence of LB PARK's attorneys!

Threats, intimidation and blackmail are not proper reasons for a judge to refuse to hear a motion. Therefore, **if** Judge Weaver had discretion, then she abused her discretion when she refused to hear Ryan's Motion for Continuance during the 10 days before the final hearing.

D. Was It A Deprivation Of Appellant's Due Process Rights To Find Appellant Was Not Entitled To Be Given Any Notice By York County That His Property Was Going To Be Affected By Their Tax Sale?

The Final Order makes the following conclusion of law - "Tax Collector provided all required notices to all interested parties **entitled to notice**" (emphasis mine) [Final Order, pg 24, #5, #6]. That conclusion of law presumes that Ryan, the true owner of the property at issue, was not "entitled" to be given any notice that his property was going to be affected by the tax sale of SJH's property. That presumption is somewhat correct because the notice statutes do not require the county to give notice to an owner who has not recorded his deed, the reason for that is not because those owners of unrecorded property are not "entitled" to notice, but because the county has no authority whatsoever to affect unrecorded property, which is outside their jurisdiction.

Nonetheless, the State Supreme Court has steadfastly held that the notice requirements have universal application, which means those notice requirements must apply to a case where the true owner has not recorded his deed -

> "we find the requirements of notice to the owner and possession by the executing officer to be of **universal application, notwithstanding the particular circumstances of a case**.", Dibble v. Bryant, 274 S.C. 481 (SC Supreme Ct 1980) [emphasis mine].

Likewise, the Supreme Court of the United States held, in a unanimous decision in a tax sale case, that prior to any person's property being affected, the State **must** provide notice to all interested parties, which in this case would include Ryan -

> "**Prior** to an action that will affect an interest in life, liberty, or property protected by the Due Process Clause, a State **must** provide "notice reasonably calculated, **under all the circumstances**, to apprise **interested parties** of the pendency of the action and afford them an opportunity to present their objections.", Mennonite Bd. of Missions v. Adams**,** 462 U.S. 791 [emphasis mine].

Since Ryan's property has been [illegally] affected by the illegal tax sale of SJH's property, York County was required to give Ryan notice. But in order to satisfy Ryan's due process rights, any notice issued or mailed to Ryan must have been made in his name, not in the name of the previous owner of his property, San Juan Holdings, according to the following:

> "The taxing statutes and a legion of cases interpreting these statutes make it clear that property shall be listed, assessed, levied upon, advertised, and sold in the name of the true owner. Because a tax execution is issued against the defaulting taxpayer, not the property, a sale of land under a tax execution issued on an assessment against one not the owner is void.", Donahue v. Ward, 298 S.C. *75*, 82, 378 S.E.2d 261, 265.

Failure of York County to give Ryan any notice, in his name, that his property was going to be affected by the illegal tax sale of SJH's property, which did not own Ryan's property when that tax sale was conducted, invalidated the tax sale and tax title making the Final Order void and requiring this Court vacate the Final Order.

E. Was It A Deprivation Of Appellant's Due Process Rights To Schedule His Motion To Amend His Answer To Take Place Immediately Prior To The Final Hearing?

Ryan made repeated requests to have his Motion to Amend his answer heard "as soon as possible" after it was filed on June 8th [R. pp. 128-129 #15-#18]. But Judge Weaver refused to schedule Ryan's Motion to Amend his answer for many months. Then, when the final hearing was unexpectedly scheduled, Judge Weaver decided to schedule Ryan's Motion to Amend to be heard "*immediately prior*" to the final hearing [R. p. 17 para 3 sentence 2]. That decision ensured that Ryan's motion would have to be denied as "*immediately prior*" to the final hearing LB PARK would be prejudiced.

The scheduling decision Judge Weaver made pertaining to Ryan's meritorious Motion to Amend deprived him of his due process right to: 1) have an opportunity to raise and enter evidence for his meritorious defenses and claims against the two managers of LB PARK who committed fraud in their procurement of false, fraudulent, forged deeds; 2) deprived Ryan of the ability to make a claim to be granted the overages paid for SJH' property should he legally lose his property; and 3) deprived Ryan of the ability to protect the legally enforceable lien his mother has against his land.

The record and the Final Order both prove that Judge Weaver maliciously refused to hear and decide any of Ryan's motion before the final hearing so that she could blackmail and intimidate Ryan into paying LB PARK the bid monies that were lost from LB PARK's manager's fraud committed to facilitate their federal income tax evasion and from the incompetence of LB PARK's attorneys!

F. Was It A Deprivation Of Appellant's Due Process Rights To Take Appellant's Private Property Without The State First Providing Appellant Notice That He Can Lose His Private Property If He Does Not Record His Deed?

The State is required to give notice of what the State commands be done or forbids a person to do so that all persons can know what is expected of them -

> "Due process requires that all "be informed as to what the State commands or forbids," Lanzetta v. New Jersey, 306 U. S. 451, 453 (1939)" Smith v. Goguen, 415 U. S. 566, 574, 94 S.Ct. 1242, 1248, 39 L.Ed.2d 605 (1974).

The State never gave Ryan any notice that he could lose his property for not recording his deed. In fact, the State, by and through it code section S.C. Code of Laws § 12-24-10(A) , gave Ryan notice that it is a privilege for a landowner to record their deed. Privileges are always voluntary as no person can be required to apply for or receive a benefit or privilege. No person can lose their property for deciding to not apply for a privilege.

Therefore, the State cannot take Ryan's private property without having first given him notice that it commands that all men and woman must record their deeds or lose their property if they fail to do so:

G. Was It A Deprivation Of Appellant's Due Process Rights For The Trial Judge To Act Partially And Unfairly?

> "It is axiomatic that the expectation of a fair and impartial tribunal is a basic tenet of all cherished notions of due process embodied in the United States Constitution.", Mallett v. Mallett, 473 SE 2d 804 (1996).

Ryan's affidavit filed with his Motion for New Trial [R. pp. 126-131] and the Final Order [R. pp. 5-35] both demonstrate that Judge Weaver was executing a premeditated agenda and was not a fair or impartial tribunal which deprived Ryan of his due process rights to have such judge decide this case.

H. Was It A Deprivation Of Appellant's Due Process Rights To Rule On Appellant's Motion For A New Trial Without Allowing A Hearing Or Briefing?

Ryan timely served his Motion for a New Trial on November 3rd and filed it and handed a copy of it to Judge Weaver on November 4th. In that motion, Ryan requested Judge Weaver decide it based on briefs submitted by the parties pursuant to Rule 59(f) SCRCP [R. p. 90, para 2 last sentence]. However, six (6) days after hading a copy of that motion to Judge Weaver, a mere three days after LB PARK received that motion in the mail, Judge Weaver entered a Form 4 order denying the motion [R. pp. 36-38]. Judge Weaver decided Ryan's motion without allowing any response to be filed by LB PARK, without any hearing, and without any briefing. Judge Weaver's summary decision deprived Ryan of his due process rights to have an opportunity to be heard on his motion.

IX. Was It Error To Deny Appellant's Motion For New Trial Or To Alter Or Amend?

This Court should not need to decide any of the following errors found in this argument section because any of the former errors should have resolved this appeal. Nonetheless, for the sake of thoroughness, these arguments are being included. If any one of the below errors argued in this section are found to be valid, then this Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified, altered, amended or a new trial set as each error raised and argued hereafter requires.

A. Was It An Error To Not Grant A New Trial After Receiving Evidence That Appellant Is The True Owner Of The Property?

> Rule 61 SCRCP "... no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, **unless refusal to take such action appears to the court inconsistent with substantial justice.** The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties."

Since Ryan was denied the opportunity to be heard during the final hearing, he was not able to enter his deed into evidence that proves he is the actual and true owner of the property at issue. So Ryan attached his deed to his Motion for a New Trial [R. pp. 132-134]. Once Judge Weaver saw that Ryan had a deed, and that his deed was executed ten (10) years ago, substantial justice required her to set a new trial. Further, once Judge Weaver saw Ryan's deed she knew, or should have known, that she did not have subject matter jurisdiction over the subject matter of the case, i.e., Ryan's Private Property, and she knew, or should have known, that she did not have jurisdiction to seize or confiscate Ryan's Private Property. For all these reasons, a new trial should have been set and it was prejudicial error to not do so.

B. Was It An Error Of Law To Not Provide Equal Protection Of The Law To Appellant?

Article 1, Section 3 of the Constitution of the State of South Carolina, Article 4, Section 2 of the United States Constitution, and the 5th Amendment of the United States Constitution, all mandate that equal protection under the laws must be provided to all persons who are similarly situated. In a quiet tax title case, the following laws must be applied equally to a delinquent taxpayer defendant as to any other defendant claiming to have an interest in the property at issue:

Protections Provided To All Delinquent Taxpayers After A Tax Sale Of Their Property	**Protections Provided To Appellant After A Tax Sale Of The Previous Owner's Property**
They must have a legally assessed debt payable to the county that is due and owing. See S.C. Code of Laws § 12-49-10 and Hiott v. Cochran, 213 S.C. 207.	Ryan had no debt due and owing to York County.

They must receive notice that their property is going to be sold for their debt due the county. See S.C. Code of Laws 27-1-10 and S.C. Code of Laws § 12-51-40 (a-c).	No notice was ever given to Ryan informing him that his property was going to be sold to pay his debt due York County.
They must receive notice that their property is going to be auctioned via a newspaper ad. See S.C. Code of Laws § 12-51-40(d).	No newspaper ad was ever placed by York County showing Ryan's property was going to be auctioned off.
They must receive notice that they have a right to redeem their property after the tax sale but before the issuance of a tax title. See S.C. Code of Laws § 12-51-120.	No notice of redemption was ever given to Ryan informing him he had a right to redeem the sale of his property.
They have a right to challenge the tax sale. See Glymph v. Smith, 180 S.C. 382, 185 S.E. 911 (1936); and Leysath v. Leysath, 209 SC 342, 40 SE (2d) 233 (1946),	Ryan's right to challenge the tax sale was specifically and intentionally denied him.
They have a right to have the tax sale declared void and set aside if they did not get proper notice. See Good v. Kennedy, 291 S.C. 204, 352 S.E. 2d 708 (1987).' and Donohue v. Ward supra.	Ryan's right to have the tax sale declared void for his not receiving any notice was specifically and intentionally denied him.
They have a right to have the tax sale declared void and set aside if it was not made in their name. See Aldridge v. Rutledge, 269 S.C. 475, 238 S.E.2d 165 (1980); and Osborne et al v. Vallentine, 196 S.C. 90, 12 S.E. 2d 856 (1941)	Ryan's right to have the tax sale declared void for having been conducted in the name of one not the owner was specifically and intentionally denied him.
They have a right to not have to defend their property while they are in possession of their property. See S.C. Code of Laws §§ 12-61-10 to 60 and Taylor v. Jennings, 233 S.C. 600, 106 SE 2d 391 (SC Supreme Court 1958)	Ryan was required to defend his property while he was in possession of his property.
They have the right to go to the county and collect the overages that were paid for the sale of their property. See S.C. Code of Laws § 12-51-130.	Ryan cannot go to the county and collect the overages without a court order because he was not the delinquent taxpayer. Ryan's right to make a claim for the overages was denied him when Judge Weaver unlawfully refused to even hear Ryan's motion to amend his answer to make a claim to be granted the overages.
They can never lose more than the difference between the market value of their property minus their tax debt owed and the overages paid for their property according to basic math.	Ryan has lost the full market value of his property ($440,000) to satisfy a $5,000 debt illegally assessed against a non-owner of the property at issue and since Judge Weaver executed her Final Order within her Final Order Ryan has been blackmailed to pay a $180,000.00 bond to cover rent payments to a trespasser on his private property.
They are not required to post any bond to stay	Ryan has been blackmailed into having to post

the quiet title judgment entered in any case that challenges a tax sale. See Rule 241 SCACR.	a $180,000.00 bond to cover rent to a trespasser on his private property in order to not be dispossessed by a final quiet title order.

It is mandatory that all the above shown requirements must be strictly complied with by the county and if it is found that the county failed to do so, then this Court is required to vacate the tax title-

> "The sound view is that all requirements of the law leading up to tax sales which are intended for the protection of the taxpayer against surprise or the sacrifice of his property are to be regarded **mandatory**, and are to be **strictly enforced**.", Taylor v. Jennings, 233 S.C. 600, 106 SE 2d 391 (1958) .
>
> "The divestiture of a person's property due to outstanding tax obligations is a **drastic and serious measure**.", Johnson v. Arbabi, 347 S.C. 132 (2001).

Now imagine if you can, just how **drastic and serious a measure** it is to take an owner's private property without providing him a scintilla of due process of law, without his consent, without any legal or lawful authority, without any demand for any payment from him. without any notice that his private property was going to be sold, and then denying him an opportunity to even participate in the trial where the trial judge predetermined she was going steal his private property!

The Final Order demonstrates that all of the laws that must be equally applied to any defendant named in quiet tax title case were not equally applied to Ryan thus violating the mandatory Constitutional requirement of equal protection under the laws. It was an error of law to not provide Ryan the same protections the law provides to delinquent taxpayers. A new trial must be set so that the mandated equal protections of law can be equally applied to Ryan.

C. Was It An Error Of Law To Find And Conclude That The Tax Title Purchaser Was A Existing Legal Entity Based Entirely On Evidence Presented Showing That York County Has A Character Limit On Bidder Names?

> "[t]o be operative as a conveyance, a deed must designate as grantee [a living or] a legal person[ ]" on the date of conveyance", Gifford v. Linnell, 579 S.E.2d 440 (2003) [bracketed text in original].

Judge Weaver found that the name of the tax title purchaser - "SB MUNI CUST % LBSC-11, LLC" designates a valid legal entity because those acronyms and symbols are just a short-hand version of the name "SB Municipal, LLC is the custodian of LBSC-11, LLC" which actually designates the existing legal entity named "SB Municipal, LLC" [R. pp. 11-12 para. 3 to para. 1].

Judge Weaver then found and concluded that - "The Court finds that the use of the abbreviated name of "SB MUNI CUST % LBSC-11, LLC" for the bidder in the Tax Deed was proper and was required by York County's software system. The Court further finds that the Tax Deed is valid in all respects and that the Tax Deed conveyed title to the Property to SB Municipal, LLC as custodian for LBSC-11, LLC.", [R. pp. 28-29 #7].

In other words, Judge Weaver determined that the tax title purchaser, "SB Municipal, LLC is the custodian of LBSC-11, LLC" is a valid legal entity that existed on the date that the tax title was granted to it **based solely** on testimony of the York County Delinquent Tax Collector, Tracey Mattevi, who testified that York County has an antiquated limitation in their clunky computer software that could not accommodate the correct legal name of the tax title purchaser. That is an absurd line of reasoning, lacks any evidentiary support, and rises to the level of fraud on the court[6] committed by both LB PARK's attorney and Judge Weaver as shown by the following.

First, the name "SB Municipal, LLC is the custodian of LBSC-11, LLC" is clearly a description of some sort of relationship between two separate and distinct limited liability companies, those being "SB Municipal, LLC" and "LBSC-11, LLC". That name cannot

[6] Fraud vitiates everything it touches, see United States v. Throckmorton. 98 U.S. 61 (1878).

designate a single legal entity as no limited liability company can have the suffix "LLC" in its name TWICE.

Second, a business name must be unique so that it will not be confused with any other business name. "SB Municipal, LLC" and "LBSC-11, LLC" are not unique with "SB Municipal, LLC is the custodian of LBSC-11, LLC". Under S.C. Code of Laws § 33-44-105 § which pertains to naming limited liability companies, a name cannot use the name of another LLC unless it is (1) merged with the other company; (2) been formed by reorganization with the other company; or (3) acquired substantially all of the assets, including the name, of the other company. There is neither evidence nor any findings of facts that could show that any of these three (3) conditions exist for the tax title purchaser to have used the names of those other two LLCs in its name.

Third, a business name must not include abbreviations, punctuation, symbols, fonts, typefaces, etc. Since a "comma" is a punctuation then "SB Municipal, LLC is the custodian of LBSC-11, LLC", which contains two commas (punctuation), would not be allowed.

Fourth, it is impossible for Tracey Mattevi to have testified that SB MUNI CUST % LBSC-11, LLC designates the presumed legal entity named "SB Municipal, LLC is the custodian of LBSC-11, LLC" which designates the alleged LLC named "SB Municipal, LLC" because she could not possibly have be competent to testify to those facts. Therefore, these findings and conclusions must be based on arguments of LB PARK's attorney. But attorneys arguments are not evidence and cannot be used to support any factual findings. Further, since LB PARK's attorney is an officer of the Court, any argument he made that mislead the Court into finding and concluding that "SB MUNI CUST % LBSC-11, LLC" means "SB Municipal, LLC is the

custodian of LBSC-11, LLC" which designates the LLC named "SB Municipal, LLC", constitute fraud on the court.

Fifth, LB PARK intentionally refused to put its manager on the stand to enter evidence that could support these findings and conclusions because both the manager and the LB PARK's attorney knew that if he testified to this fraudulent information he could be found to have either perjured himself or committed fraud.

Sixth, **if** the grantee on the tax title actually designates the existing LLC named "SB Municipal, LLC" [R. p. 12 para. 1 second to last sentence], then why would its name need to be anything but its legal name - "SB Municipal, LLC"? If there was a valid reason for a different name to be used on the tax title then there must have been a DBA ("Doing Business As") filed with the State of South Carolina for the tax title purchaser to use any name other than its legal name.

Seventh, **if** the grantee on the tax title actually designates the existing LLC named "SB Municipal, LLC", then the federal tax ID that must have been given to York County for that tax title purchaser would have been "SB Municipal, LLC" federal tax ID which is 27-0727790. However, Lambros Xethalis gave York County the unassigned number 45-3362419 pretending it was a valid federal tax ID for the bidder [R. pp. 127-128 #12]. Also, the mailing address for the tax title purchaser would have been "SB Municipal, LLC" Florida address and not a temporary mail drop in Baltimore MD which is the address given to York County by Lambros Xethalis [R. p. 128 #13].

It was an error of law to even address Ryan's arguments made in a withdrawn motion, but also to reject Ryan's arguments that the tax title purchaser did not exist [E. p. 12 para. 1] and conclude that the tax title purchaser existed [R. pp. 28-29 #7] by determining that a legal entity

named "SB Municipal, LLC", was the actual tax title purchaser and that it can use any made-up nonsensical name it wants to use and be granted a valid conveyance without filing a DBA (i.e., "Doing Business As").

Ryan's Motion For New Trial must be reversed so that a new trial can be set so these issues can be properly heard and decided by a judge who has jurisdiction to hear and decide them.

D. Was It An Error Of Law To Hear And Decide Any Of Appellant's Counterclaims After Deciding That Appellant Had Abandoned Them Because He Did Not Appear At The Final Hearing

Judge Weaver ruled that all of Ryan's counterclaims were abandoned because he failed to prosecute them at the final hearing [R. p. 23 Dismissal of Counterclaims section, para 2, sentence 1]. But then Judge Weaver proceeded to rule on all of those abandoned counterclaims. Those ruling are inconsistent and erroneous.

The ruling that Ryan abandoned his counterclaims when he failed to show up for the hearing is the correct ruling. But Ryan's abandonment was not his fault as he could not attend and Judge Weaver refused to hear and decide Ryan's Motion for Continuance before the final hearing so that she could blackmail and intimidate Ryan into paying LB PARK the bid monies that were lost from LB PARK's manager's fraud committed to facilitate their federal income tax evasion and from the incompetence of LB PARK's attorneys!

Ryan believes that Judge Weaver rule on each of Ryan's counterclaims specifically after concluding they were abandoned was done to set Ryan up to be "*collaterally estopped"* from ever re-litigating any of his counterclaims again in the future if he was intimidated into not appealing her Final Order.

E. Was It An Error Of Law To Conclude That The Two Year Statute Of Limitation Applies To This Case Or To Appellant's Claims?

The Final Order reads in pertinent part "all of Powell's claims and challenges concerning the Tax Sale of the Property or Plaintiff's title to the Property are barred by the two-year statute of limitations set forth in S.C. Code Ann. §§ 12-51-90(c) and 12-51-160." [R. p. 22 last sentence of last whole para.; R. p. 30 #13]. This finding/conclusion is an error of law.

First, S.C. Code Ann. §§ 12-51-90(c) pertains to a redemption during the one year redemption period which has no applicability whatsoever to any claim or defense raised by Ryan so it is unclear why it was put into this finding/conclusion.

Second, the statute of limitation found in S.C. Code Ann. § 12-51-160 does not even begin to run until the "defaulting taxpayer" has been ousted from possession of his property. Since Ryan was **not** the defaulting taxpayer, that statute of limitations can never apply, and since Ryan has **never** been ousted from his property, that statute of limitations would **not** have even begin to run, assuming it was applicable to this case or to Ryan -

> "Furthermore, assuming the statute of limitations applied in the present case, we do not believe it would prevent McMillan from challenging Johnson's deed. Although Johnson filed an eviction action, Hallman continued to live in the Residence as McMillan's tenant, and the magistrate never issued an eviction order. Because Johnson did not oust McMillan of possession, Johnson could not be said to have "withheld possession" from McMillan so as to trigger the statute of limitations. Accordingly, we reverse the circuit court's holding that the two-year statute of limitations barred McMillan's action to set aside Johnson's tax deed for the Residence.", Forfeited Land Com'n of Bamberg v. Beard, 817 SE 2d 801 (2018).

Third, the tax title is clearly void for having been made in the name of one not the owner and also for failure to give Ryan ANY notice of the sale or his right to redeem, if he had that right. There is no statute of limitations associated with any tax title that is void because void means it was made without legal authority so no lapse of time could ever cure that which was not legally done in the first place.

> "On the one hand, we find case law that says when notice to the homeowner is not in strict compliance with the statute, such a defect is "jurisdictional," and the statute of

> limitations does not run at all. *See Donohue v. Ward, 298 S.C. 75*, 82, 378 S.E.2d 261, 265 (1989) (holding where a defect in notice is jurisdictional, such a defect "invalidates the tax proceeding and prevents the running of the limitations statute");", King v. James, 388 S.C. 16, 694 S.E.2d 35 (2010).

Forth, even if the statute of limitations applied to Ryan or to this case, it is measured from the time the party could have made the claim until the time the party actually made the claim. In this case, the time Ryan made his claim was in his Answer filed and served in October 2020. That clearly was within two years time from when the tax title was executed on December 26, 2018.

Fifth, there are no findings in the order that show the required facts needed to support a conclusion that the statute of limitations apply to this case or to Ryan.

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified to remove this finding/conclusion from anywhere in the order that makes reference to one or both of these inapplicable statutes of limitations.

F. Was It An Error Of Law To Find/Conclude That Appellant's Counterclaim Is Barred Because He Did Not Bring In An Indispensable Party?

The Final Order reads in pertinent part "while Powell asserted a counterclaim to “Declare Void and Set Aside Tax Deed,” Powell failed to name the Tax Collector as a party. The taxing authority is a necessary party when a tax sale is challenged because the desired result is a finding that the taxing authority failed to adhere to the tax sale statutes and an order vacating the resulting tax deed.", [R. pp. 22-23 last para to first para.]. The Final Order then concludes "Powell did not name the Tax Collector as a defendant, the Tax Collector is not subject to jurisdiction in this action, and thus, the relief Powell seeks could not be awarded, even assuming that grounds existed for challenging the Tax Sale, which they do not." [order pg 19, first para].

First, the statement "even assuming that grounds existed for challenging the Tax Sale, which they do not." [R. p. 23 para 1] is an error. Ryan alleged plenty of meritorious grounds for having

the tax sale and tax deed declared void in his defenses and in his counterclaims so there exists many grounds for challenging the tax sale. However, the finding/conclusion could mean that Ryan's allegations were not proven, which would be correct since he was specifically and intentionally denied an opportunity to be heard.

Second, there are hundreds of precedent cases in the published State Reporters within which a tax deed was declared void and set aside and neither the county nor any county tax employee was made a party to those cases. For just a few examples, all heard and decided by the Supreme Court, see: Rosenbaum v. SMS 32, 427 SE 2d 897 (1993) ; Aldridge v. Rutledge, 238 SE 2d 165; Gregg et al. v. Moore, 85 SE 2d 279 (1954); Scott v. Boyle, 246 SE 2d 887 (1978); McCutchen v. Hinnant, 93 SE 2d 463 (1956); and Crown Land Corp. v. Lester Brothers, 199 SE 2d 69 (1973). So this finding/conclusion is undisputedly an error of law.

Third, Ryan had no method to name any taxing employee as a defendant since it is the plaintiff who gets to choose who it wants to name as defendants.

Fourth, Ryan raised the issue that York County was a necessary party in his Answer in defenses Twenty-Second and Twenty-Third [R. p. 62 #136-#141]. So if LB PARK did not add the necessary party York County, LB PARK's claims should have been dismissed.

Fifth, even if Ryan had attempted to bring a third party defendant tax collector into the case, it would have been futile as Judge Weaver refused to hear and decide any motion Ryan made so that she could blackmail and intimidate Ryan into paying LB PARK the bid monies that were lost from LB PARK's manager's fraud committed to facilitate their federal income tax evasion and from the incompetence of LB PARK's attorneys!

Sixth, the Final Order reads in pertinent part "The taxing authority is a necessary party" [R. p. 22 last para. sentence 2]. Therefore, it was mandatory that the taxing authority be brought into

the case as a necessary party according to Slatton v. Slatton, 345 SE 2d 248 (SC Supreme Court 1986) which held in pertinent part:

> "A necessary party is one whose rights must be ascertained and settled before the rights of the parties to the action can be determined. It is **mandatory** that a necessary party be brought into the action. S.C. Code Ann. § 15-5-200 (1976). Because the evidence indicates Grace Slatton has a property interest in the automobile, we find she is a necessary party to this action".

And, since it was "mandatory" to bring the taxing authority into the case that the Court determined was a necessary party, it was the Court's responsibility to ensure that happened even if neither party had requested it according to Rule 21 SCRCP -

> Rule 21 SCRCP "Parties may be dropped or added by order of the court on motion of any party **or of its own initiative at any stage of the action** and on such terms as are just." [emphasis mine].

Judge Weaver failed to do her duty to enter an order adding any party that she determined was a necessary party. This Court must reverse Judge Weaver's order denying Ryan's Motion For New Trial so that a new trial can be set where all necessary parties are properly brought into the case.

G. Was It An Error Of Law To Find/Conclude That Appellant Does Not Have Standing To Make Any Counterclaims?

The Final Order reads in pertinent part "The Court also finds that Powell lacks standing to assert any counterclaim concerning the Property because he has never produced a deed for the Property, he admittedly has no interest of record in the Property, and the South Carolina Administrative Law Court has previously found that Powell failed to establish he was the owner of the Property." [R. p. 23 para. 3]. Those findings are full of errors of law as shown by the following.

First, if Ryan does not have standing to "assert any counterclaim" then Ryan does not have standing to even be named and joined to the case. However, LB PARK's Complaint named and brought Ryan into this case as a defendant. Ryan cannot find a single precedent case, or legal

theory, that states that a defendant named in a case can be found to not have standing to assert any counterclaims after they were named and joined. Although there are some cases where defendants got themselves dropped from cases when they had been erroneously named or where a more appropriate person was substituted for claims against them. Ryan certainly would have had himself dropped from this case in an instance if he had no interest in the property. Does it make any sense that a man would endure years of suffering and torture in these corrupt commercial courts spending his precious and limited time and money to defend his property, if it was not his property? That is illogical and irrational.

Second, Ryan had no legal or procedural obligation to enter his deed into evidence in this case until a merits hearing which was scheduled to be heard by a Judge wanting subject matter jurisdiction and was heard by a Judge who intentionally and specifically refused to give Ryan an opportunity to attend the final hearing. Had Ryan had an opportunity to attend, he would have certainly entered his deed into evidence.

Third, the Petition that Ryan filed into the ALC was dismissed BEFORE an answer was made by any of the defendants. Therefore, that case was in the pleading stage so there was no requirement whatsoever for Ryan to prove his claims, including his claim of ownership -

> "Generally, at the pleadings stage, the factual allegations made by the plaintiff in regards to his claim are taken as true.", Tanner v. Florence County Treasurer, 521 SE 2d 153 (SC Supreme Court 1999).

Not only was there no requirement for Ryan to present any evidence at that stage of the case, but the Chief Administrative Law Judge ("CALJ") REFUSED to allow Ryan the ability to enter any evidence during that hearing. The CALJ dismissed that case because he found, *sua sponte*, that Ryan did not have standing to bring an action in the ALC because Ryan is not a property taxpayer! The CALJ covered-up that finding in his written order by falsely stating that Ryan

failed to establish he was the owner. That statement was clearly nonsensical given that at a pre-answer motion to dismiss hearing Ryan had no duty to prove any of his allegations, the obvious fact that no one would be so stupid as to petition a court to defend their property if they did not own that property, and the fact that the CALJ refused to allow Ryan to enter any evidence. That is why the CALJ also put that nonsensical statement about Ryan presenting the NOTICE of Sale as his deed. The CALJ just fabricated that nonsense out of thin air, kind of like all the fabricated findings in Judge Weaver's Final Order that are not based on any evidence! The CALJ wrote all that nonsense in his order because he was both trying to gaslight Ryan and was trying to cover-up his true ruling which was that he was dismissing Ryan's case after determining that Ryan was not a property taxpayer. Ryan did not appeal that order because it did not violate any of his rights and Ryan agreed with the CALJ's finding that he is not a property taxpayer so there was nothing of consequence that could have been disputed in an appeal.

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified to remove any finding or conclusion, stating that Ryan does not have standing or which are based on the ALC's order of dismissal.

H. Was It An Error Of Law To Find/Conclude That Appellant Is Barred From "Re-litigating" Whether He Has An Interest In The Property At Issue?

The Final Order concludes in pertinent part - "Additionally, the doctrines of res judicata and collateral estoppel bar Powell from re-litigating whether he has any interest in the Property." [R. p. 23 para. 3]. That conclusion is an error of law as show by the following.

First, to be able to use *res judicata* to bar Ryan from proving he is the owner of the property at issue in this case, the parties between the two cases have to be IDENTICAL, the former judgment has to have been made on the merits, and the former case has to involve matters properly included in the present case as shown by the following:

> "The essential elements of res judicata require: "(1) the judgment must be final, valid and on the merits; (2) the parties in the subsequent action must be identical to those in their first; and (3) the second action must involve matter properly included in the first action.", McEachern v. Black, 496 SE 2d 659 (1998).

LB PARK never alleged or proved the above required essential elements and Judge Weaver failed to find any of those essential elements, creating a error of law. Further, none of those three elements exist so they could not have been found to exist. The parties are entirely different, except Ryan, the Administrative Law Court ("ALC") case was dismissed at the pre-answer stage for lack of standing so it was not heard on the merits, and the matter between the two cases are entirely different.

Second, Judge Weaver's conclusion that collateral estoppel bars Ryan from "re-litigating" whether he has an interest in his property is not based on any allegations, evidence, or findings that could support that conclusion.

> "Under the doctrine of collateral estoppel, once a **final judgment** on the **merits** has been reached in a prior claim, the relitigation of those issues actually and necessarily litigated and determined in the first suit are **precluded as to the parties and their privies** in any subsequent action based upon a different claim. Clearly the respondent was not a party to the prior action between his daughter and appellant. The only way he could have been precluded from litigating the issue of punitive damages, therefore, would have been if he was in privity with his daughter in the previous action.", Richburg v. Baughman, 351 SE 2d 164 (SC Supreme Court 1986).

LB PARK never alleged or proved the above required essential elements and Judge Weaver failed to find any of those essential elements, creating a error of law. Further, none of those elements exist so they could not have been found to exist. The parties are entirely different, except Ryan, LB PARK is not in privity with any of the York County tax employee defendants in Ryan's ALC case, the ALC case was dismiss at the pre-answer stage for lack of standing so it was not heard on the merits, and there was no final judgment entered just an order of dismissal.

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified to remove any finding or conclusion, stating that Ryan's claims are barred by collateral estoppel or res judicata or are based on the ALC's order of dismissal.

I. Was It An Error Of Law To Find/Conclude That The Recording Act Applies To This Case Or To Appellant's Claims?

The Final Order reads in pertinent part "Even if Powell could establish standing, the Recording Act bars all of this claims." [R. pp. 23-24 last para to para. 1]. Then concludes "This statute makes clear that in order for a deed to be valid as to subsequent purchasers without notice, the deed must be recorded and that priority between a subsequent purchaser of real estate without notice "is determined by the time of filing for record." Thus, section 30-7-10 bars all of Powell's Counterclaims." [R. p. 24 para. 1]. Those conclusions are erroneous as a matter of law.

The Recording Act has nothing to do with this case and has nothing to do with Ryan's unrecorded deed. For the Recording Act to apply to any case the following elements must be alleged, proved, and found as facts:

> "A purchaser may assert a plea in equity of a bona fide purchaser for value, without notice of defect in his title, by showing (1) he has actually paid in full the purchase money (giving security for the payment is not sufficient, nor is past indebtedness a sufficient consideration); (2) he purchased and acquired the legal title, or the best right to it; and (3) he purchased bona fide, *i.e.,* in good faith and with integrity of dealing, without notice of a lien or defect. The bona fide purchaser must show all three conditions — actual payment, acquiring of legal title, and bona fide purchase — occurred before he had notice of a title defect or other adverse claim, lien, or interest in the property." ... "*Belk,* 266 S.C. at 544, 225 S.E.2d at 179 (claim of bona fide purchaser for value will be defeated when "sufficient record notice is available to charge the purchaser with a duty to inquire which, if pursued with due diligence would have supplied him with knowledge of the rights of other parties");", Spence v. Spence, 628 SE 2d 869 (SC Supreme Court 2006).

LB PARK never alleged or proved the above required essential elements and Judge Weaver failed to find any of those essential elements, creating a error of law. Judge Weaver failed to make any of those findings for the following reasons.

First, LB PARK purchased its quitclaim deed from the non-existent entity named "SB MUNI CUST % LBSC-11, LLC" which LB PARK's managers concocted out of thin air. LB PARK's quitclaim deed, which was put into evidence as "Plaintiff's Exhibit F" [R. pp. 142-145], shows that LB PARK purchased its quitclaim deed for the whopping amount of $5.00! No one could argue, with a straight face, that $5.00 is "value" when purchasing a $440,000 dollar property.

Second, both the bidder on San Juan Holdings' property and LB PARK had a duty to due their due diligence before purchasing any property. Had either of LB PARK's two manager done their due diligence they would have received NOTICE from the public land records that show there was an unnamed "living man" who had a claim to the property and that the owner of record, San Juan Holdings, no longer owned the property and no longer existed [R. pp. 146-147].

Third, to be able to rely on the Recording Act, LB PARK and/or the tax title purchaser SB MUNI would have had to purchase their property from San Juan Holdings because to be a "subsequent purchaser" one has to purchase property from the same owner as the person who is holding an unrecorded deed, i.e., Ryan. Neither the alleged tax title purchaser nor LB PARK alleged or proved that they purchased their property from San Juan Holdings and Judge Weaver did not make such a finding.

Forth, this Court has held that the Recording Act does not apply to cases of tax liens and tax sales.

> "Having determined that the recording act does not govern relationships arising out of a State tax lien and tax sale, we reverse the judgment of the circuit court and remand the case for entry of judgment consistent with the decision herein.", Von Elbrecht v. Jacobs, 332 SE 2d 568 (1985).

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified to remove any finding or conclusion, pertaining to the inapplicable Recording Act.

J. Was It An Error Of Law To Dismiss With Prejudice Appellant's Counterclaim Of Declare Void And Set Aside Tax Deed?

The Final Order reads in pertinent part - "Powell's third counterclaim to Declare Void and Set Aside Tax Deed must also be dismissed with prejudice. This counterclaim is superfluous and unnecessary, as the Tax Deed would necessarily be rendered void if Plaintiff was not able to demonstrate its case in chief. Moreover, Powell has not established any interest in the Property, and even if Powell possessed a valid deed to the Property, Powell admitted he never recorded it, so Powell would not be entitled to any Tax Sale notice. Finally, this counterclaim is barred by the two year statute of limitations set forth in S.C. Code Ann. §§ 12-51-160 and 12-51-90(C). Therefore, Powell's third counterclaim to Declare Void and Set Aside Tax Deed is dismissed with prejudice.". [R. pp. 25-26 last para.; R. p. 29 #10; R. p. 31 #6]. That entire paragraph constitutes multiple errors of law as shown by the following.

First, the statement from the above paragraph says "the Tax Deed would necessarily be rendered void if Plaintiff was not able to demonstrate its case in chief". That is an absurd statement and an error of law. A tax title is *prima facia* good title and the party attacking it carries the burden to prove that there is some deficiency with the title -

> "Under the statutes of this state a tax title is presumed to be good and the burden is upon the defendant to show the defect.", Gadsden v. West Shore Inv. Co., 99 S.C. 172, 82 S.E. 1052 (1914).

So why did LB PARK even call the Tax Collector as a witness since it had no obligation whatsoever to even show the tax title was correctly made? Obviously, LB PARK needed a

witness to present its "case" since its managers did not want to take on the liability to testifying! Nonetheless, Ryan had a right to dispute the validity of the tax title whether or not LB PARK carried any burden of proof.

Second, the statement from the above paragraph says "even if Powell possessed a valid deed to the Property, Powell admitted he never recorded it, so Powell would not be entitled to any Tax Sale notice.", That is an absurd finding/conclusion and an error of law. The United States Constitution and the South Carolina Constitution both REQUIRE due process be given to all owners of property before their property can be affected much less taken from them. This legal concept can be found in thousands of cases. The following two cases disprove that erroneous finding/conclusion.

> "we find the requirements of notice to the **owner** and possession by the executing officer to be of **universal application, notwithstanding the particular circumstances of a case.**", [emphasis mine] Dibble v. Bryant, 274 S.C. 481 (1980) .
>
> The Supreme Court of the United States held in a unanimous decision - "**Prior** to an action that will affect an interest in life, liberty, or property protected by the Due Process Clause, a State **must** provide "notice reasonably calculated, **under all the circumstances**, to apprise **interested parties** of the pendency of the action and afford them an opportunity to present their objections.", Mennonite Bd. of Missions v. Adams**,** 462 U.S. 791 [emphasis mine].

Admittedly the property tax notice statutes do not require notice be given to an owner whose deed is not recorded, as concluded in the Final Order [R. p. 28 #6]. But the absence of a notice requirement statute is not because Ryan did not have to be given notice, but because Ryan's private property and title are outside the county's and State's jurisdiction to affect in any way under any circumstance!

Third, "Finally, this counterclaim is barred by the two year statute of limitations set forth in S.C. Code Ann. §§ 12-51-160 and 12-51-90(C).". That is an absurd statement and an error of

law. See the above paragraph **E**. in this argument section **IX**. proving that the two year statute of limitations neither applies to this case nor bars any of Ryan's defenses or counterclaims

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that a new trial can be set.

K. Was It An Error Of Law To Find/Conclude That SB MUNI's Tax Title Is Valid And To Quiet It?

The Final Order reads in pertinent part "I find that all requirements of the South Carolina Code of Laws with regard to the Tax Sale of the Property were properly followed and were in strict compliance therewith." [R. pp. 29-30 #11 #12; R. p. 30 #2; R. p. 31 #7 #8 #9]. That conclusion and order are errors of law.

First, there is no evidence in the record that could show that the tax title purchaser existed on the date the tax title was executed, making the tax title void.

Second, there is no evidence in the record that could show that Ryan received any notice that his property was going to be affected by the tax sale as required by a unanimous opinion of the United States Supreme Court in Mennonite Bd. of Missions v. Adams**,** supra. That Court held that any person whose property could be affected in any way by any tax sale MUST be given notice. Admittedly the taxing statutes do not require notice be given to a holder of an unrecorded deed. But that is not because such an owner can lose their property without being given notice, it is because the county and state have no authority over unrecorded property, making the tax title void.

Third, the tax title was made in the name of San Juan Holdings NOT in the true owner's name which is Ryan Powell. There is evidence in the record [R. pp. 146-147] showing that San Juan Holdings both did not exist and did not own the property at issue at the time of the tax sale,

making the tax title void. This legal requirement is so well established that it does not even need to be cited. Nonetheless, see for example -

> "Tax sale under an execution issued against one who is not the owner of the land is void... Because a tax execution is issued against the defaulting taxpayer, not the property, a sale of land under a tax execution issued on an assessment against **one not the owner is void**. ... **this defect is jurisdictional**", Donohue v. Ward, 378 SE 2d 261 (1989) .

Fourth, there are also many *stare decisis* cases that hold that if the land is not liable for any tax at the time the tax sale is accomplished, the tax sale is void. S.C. Code of Laws § 27-1-10 shows that land becomes liable for a tax when the owner of the land is a "*person liable*". Since Ryan has never been assessed with any tax, debts, duties, or demands [R. p. 84 #7; R. p. 130 #26-#27] then he is not a *person liable*. Therefore, Ryan's Private Property was not liable to, or chargeable for, any debt at the time it was sold, also voiding the tax sale[7].

> "the law seems plain that a tax sale is **void** unless the property seized was liable for all of the taxes for which it was sold." ..."The decisions generally recognize the following fundamental rules: That a tax sale is invalid for every purpose unless the property was at the time liable for all the taxes for which it was sold", Taylor v. Jennings, 233 S.C. 600, 106 SE 2d 391 (1958).

The above cited *stare decisis* tax sale case is based on, or derived from, the taxing code S.C. Code of Laws § 12-49-10[8] which states that only property that actually belongs to the person charged with a debt can be taken to satisfy that person's debt and then only if the assessment was legally made. The assessment in this case was illegally made and the tax title issued for Ryan's Private Property was illegally issued because SJH was not the owner of Ryan's Private Property at the time that either the illegal assessment was made, or the illegal tax sale was conducted.

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[7] SC Code of Laws 27-1-10 "Houses, land and other hereditaments and real estate situated or being within this State, **belonging to any person indebted**, (a) shall be liable to and chargeable with all just debts, duties and demands, of whatever nature or kind whatsoever, owing by any such person, (b) shall and may be assets for the satisfaction thereof and (c) shall be subject to the like remedies, proceedings and process as personal estates.

[8] SC Code of Laws § 12-49-10 "All taxes, assessments and penalties **legally assessed** shall be considered and held as a debt payable to the county **by the person against whom they shall be charged**".

Fifth, the tax title could only convey what interest San Juan Holdings had in the property at the time of the tax sale, which was zip, zilch, nada according to Plaintiff's Exhibit H [R. pp. 146-147], so no interests were conveyed by the tax title, making the tax title void.

> "The courts of South Carolina have traditionally followed the property rule that a purchaser cannot purchase more than his grantor owns. See *Cummings v. Varn,* 307 S.C. 37, 413 S.E.2d 829 (1992) (no deed can convey an interest which the grantor does not have in the land described in the deed); *Griggs v. Griggs,* 199 S.C. 295, 19 S.E.2d 477 (1942) (no deed can operate so as to convey a greater estate or interest than grantor has);" ... "We therefore hold, as a matter of law, a purchaser at a tax sale acquires only that interest held by the owner of the property at the time of the tax sale.", FC Enterprises, Inc. v. Dibble, 516 SE 2d 459 (1999).

Sixth, there was no evidence entered into the record that could show that San Juan Holdings received notice of its right to redeem. Somehow the process server was able to find and serve Brett Osborne, the former trustee of San Juan Holdings, but the inept tax collector could not find him. Nonetheless, even LB PARK's fraudulent position that San Juan Holdings was the property owner at the time of the tax sale, they were entitled to receive notice. No notice was given to them, making the tax title void.

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified to find that the tax title is void, or a new trial must be set so that the required evidence needed to find the tax title is valid can be entered.

L. Was It An Error Of Law To Find/Conclude That Respondent's Quitclaim Deed Is Valid And To Quiet It?

The Final Order reads in pertinent part - "The Court finds that after the issuance of the Tax Deed, SB MUNI conveyed its tax title to Plaintiff through the Quitclaim Deed, which the Court finds is also valid in all respects and conveyed title to the Property to Plaintiff." [R. pp. 29-30 #11 #12; R. p. 30 #2; R. p. 31 #7 #8 #9]. That conclusion and order are errors of law for the same reasons set out immediately above in error paragraph **K**. of this argument section **IX.**, since

the non-existent tax title purchaser, SB MUNI, received no interest in Ryan's Private Property, then according to FC Enterprises, Inc. v. Dibble supra it had no interest it could convey to LB PARK.

This Court must reverse Judge Weaver's order denying Ryan's Motion For A New Trial so that the Final Order can be modified to find that LB PARK's quitclaim deed is void since it derives from a void tax title, or a new trial must be set so that the required evidence needed to find the quitclaim deed is valid can be entered.

RELIEF REQUESTED

1. When it is found that LB PARK does not have standing and/or its claims are not ripe then reverse Judge Weaver's Final Order and dismiss LB PARK's claims with prejudice;
2. When it is found that LB PARK did not make a *prima facia* case showing personal jurisdiction over Ryan then reverse Judge Hall's order denying Ryan's Motions to Dismiss, vacate Judge Weaver's Final Order, and dismiss LB PARK's claims with prejudice;
3. When it is found that the Final Order is void for lack of subject matter jurisdiction, lack of territorial jurisdiction, lack of personal jurisdiction over Ryan, and/or deprivation of Ryan's due process rights then vacate the Judge Weaver's Final Order and dismiss LB PARK's claims with prejudice;
4. When it is found that there are valid grounds for ordering a new trial then reverse Judge Weaver's Final Order, reverse her order denying Ryan's Motion for a New Trial, and remand the case so that a new trial can be conducted;
5. When it is found that the law prohibits the seizure of private property then vacate or reverse Judge Weaver's Final Order and dismiss LB PARK's claims with prejudice;
6. When it is found that it was a violation of Ryan's Constitutionally protected right to not have his private property taken without his consent then reverse Judge Weaver's Final Order and dismiss LB PARK's claims with prejudice;
7. Remand the case back to the Circuit Court so that Ryan's counterclaims can be heard and decided; and
8. Expunge Judge Weaver's Final Order from the county land records or have the Clerk of Court write "canceled" or "vacated" on that order.

With all rights reserved without prejudice,

February 9, 2023
Date

/s Ryan Powell
Ryan Powell
c/o 25056 Timberlake Drive
Fort Mill, South Carolina