

RECEIVED

May 30 2023

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 # 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.

**Reply to Respondent's Return to
Motion to Strike Respondent's Initial Brief
and Designation of Matter**

Comes now appellant, Ryan Powell ("Ryan"), who pursuant to Rule 240(f) SCACR makes this Reply to oppose Respondent's Return to Motion to Strike Respondent's Initial Brief and Designation of Matter. Respondent's Return is absolutely frivolous and Respondent and its attorney should be sanctioned for filing it.

Respondent's appeal attorney, Sarah P. Spruill ("Spruill") gave the following frivolous excuse for why she missed Respondent's deadline for serving/filing its Initial Brief and Designation of Matter: "*counsel for Respondent contacted the clerk's office about the status of the appeal and was assured more than once that the matter was held*

*in abeyance and that Respondent did not need to request an additional extension or to file its initial brief and designation"*¹. Spruill has over 22 years experience practicing law and she specializes in handling appeals to the State appellate courts. Further, Spruill admits on her bio page that she "*spent two years as a law clerk to the Hon. Kaye G. Hearn, then chief judge for the South Carolina Court of Appeals.*"². Therefore, there can be no doubt that Spruill knows **exactly** how to determine her client's filing/service deadlines without having to consult with the court clerks. There is no court order in the record holding this appeal in abeyance that was in effect on April 24th when Respondent's initial brief and designation of matter was due. Spruill failed to evidence that there was such an order in effect in her frivolous Return. Spruill is just **pretending** to be an incompetent attorney.

If an experienced attorney is required to consult with the clerk's office in order to determine her client's filing/service deadlines, then the appellate courts of this State would be in utter and constant chaos! How could the clerk's office keep up with consultations needed to inform the hundreds of litigants of their filing/service deadlines? How would the clerk's office be able to determine each litigant's filing/service deadlines if the clerks are the only ones having that knowledge? Would the clerks have to consult their Ouija boards to determine each litigant's filing/service deadlines or would they just read the tea leaves? No matter how incompetent Spruill **pretends** to be, she unquestionably **knows** this Court works according to the Rules and according to any court orders that are in effect at any given time.

In her May 4th letter, Jenny A. Kitchings ("Clerk"), admitted that Respondent's time for filing/service of its Initial Brief and Designation of Matter had expired. Spruill even attached Clerk's May 4th letter to her Return as Exhibit 3. Clerk's letter reads in pertinent part - "*According to our records, the time to file the initial brief of respondent and the designation of matter **has expired***". That letter is also attached to this Reply as Exhibit A and fully incorporated herein by reference. Both Clerk and Spruill knew that a clerk of this Court cannot write a letter that extends a litigant's deadlines AFTER the deadline has expired. Even if an extension could happen after a deadline is missed, it could only be

¹ See Respondent's Return, pg 2, last sentence of para. 1.

² <https://hsblawfirm.com/Attorneys/Sarah-P-Spruill>

accomplished by order of the court that would have to be entered upon a motion being made.

As demonstrated, and not rebutted, in Ryan's Motion to Strike, Spruill and the clerks of this Court have been executing a fraud on Ryan in an attempt to get him to "believe" that this appeal was being held in abeyance in the hopes that he would miss one of his filing/service deadlines. Had Ryan fallen for their fraud, this appeal would have been immediately dismissed and this Court would not have re-instated it³. Spruill knowingly and intentionally missed Respondent's filing/service deadline as part of the fraud she and a couple clerks has been perpetrating on Ryan. Therefore, Spruill and her client must now pay the price for her making that conscientious CHOICE.

Conclusion

For the reasons stated herein and also for all the reasons stated in Ryan's Motion to Strike Respondent's Initial Brief and Designation of Matter, that motion must be granted and this perfected appeal be marked as "ready for consideration".

May 30, 2023

/s Ryan Powell
Ryan Powell, Appellant
287 East Hawfields
Pittsboro, NC 27312

³ Although fraud does vitiate everything it touches, this Court would have probably determined that Ryan should have "known better" than to take legal advice from the clerk's office in the form of a letter.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 4, 2023

A. Parker Barnes, III, Esquire
P.O. Box 11889
Columbia, SC 29211

Sarah P. Spruill, Esquire
P.O. Box 2048
Greenville, SC 29602

Re: LB Park, LLC v. San Juan Holdings (2)
Appellate Case No. 2022-001650

Dear Counsel:

According to our records, the time to file the initial brief of respondent and designation of matter has expired. Within ten (10) days of the date of this letter you must serve and file the initial brief of respondent and designation of matter or the Court will proceed with its consideration of this appeal.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings". The signature is fluid and cursive.

CLERK

cc: Ryan Powell

RECEIVED

May 30 2023

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.

Certificate of Service For
Reply to Respondent's Return to Motion to Strike
Respondent's Initial Brief and Designation of Matter

I certify that I served all Respondents with a copy of my Reply to Respondent's Return to Motion to Strike Respondent's Initial Brief and Designation of Matter by and through their attorney of record by First Class Mail with proper postage affixed on the below date addressed as follows:

Sarah P. Spruill
P.O. Box 2048 (29602)
Greenville, SC 29601

05/30/2023
Date

/s Ryan Powell
Ryan Powell, Appellant
287 East Hawfields
Pittsboro, NC 27312