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Aug 25 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Teasa K. Weaver, Master-in-Equity

C.A. No.: 2020-CP-46-00549
Appellate Case No. 2022-001650

LB PARK, LLCRespondent,

v.

San Juan Holdings, Bret 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 250056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, 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 theAppellant.

RETURN TO MOTION TO REINSTATE AND AMENDED MOTION TO REINSTATE

LB PARK, LLC (“LB Park” or “Respondent”) submits this brief return opposing the Appellant Ryan Powell’s Motion to Reinstate and Amended Motion to Reinstate. The Court dismissed this appeal by order dated July 25, 2023 for failure “to serve a copy of the record on appeal.”

The Court issued a letter on July 25, 2023 directing Powell to serve a copy of the record on appeal on the Respondent within ten days.¹ By his own admission, Powell has not done so. (Amended Motion at 9, stating “Rule 210(a) SCACR placed no obligation whatsoever on Ryan to serve a copy of his ROA on the Respondent, so he did not do so[.]”). Powell had notice and an opportunity to correct the situation, but he willingly failed to do so. The Court then dismissed the appeal.

Rule 260(a), SCACR provides for dismissal of an appeal if a party has not complied with the requirements of the South Carolina Appellate Court Rules.² Following such a dismissal “the case will not be reinstated except by leave of the appellate court with good cause shown and after notice to all the parties.” Jean H. Toal *et al.*, *Appellate Practice in South Carolina* 373 (3d ed. 2016). In this case, Powell has not shown good cause, instead he seeks to continue to defy the Court’s directives.

¹ Respondent’s initial brief and designation of matter were filed on May 22, 2023. For a history on the timing of that filing, LB Park directs the Court’s attention to its Return to Motion to Strike Respondent’s Initial Brief and Designation of Matter filed on May 23, 2023 and attached as Exhibit A. Powell’s Motion to Strike was denied by order dated June 28, 2023.

² Rule 260, SCACR does not require dismissal for all instances of non-compliance. The Court retains discretion as to whether dismissal is appropriate and may provide parties with an opportunity to correct deficiencies. *Henning v. Kaye*, 307 S.C. 436, 437–38, 415 S.E.2d 794, 794 (1992). In this case, as in *Henning*, Powell was given a chance to address the Court’s concerns prior to the order dismissing this appeal.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/ Sarah P. Spruill

Sarah P. Spruill, SC Bar # 68337

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Attorneys for Respondent

LB PARK, LLC

August 25, 2023

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May 23 2023

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of whom Ryan Powell is theAppellant.

**RETURN TO MOTION TO STRIKE RESPONDENT’S INITIAL BRIEF AND
DESIGNATION OF MATTER**

LB PARK, LLC (“LB Park” or “Respondent”) submits this brief return in response to the Motion to Strike Respondent’s Initial Brief and Designation of Matter submitted by Ryan Powell on May 15, 2023. Respondent has at all times complied with the Court’s direction as to deadlines.

On March 21, 2023, counsel for Respondent received an email from the Court attaching an order extending the timelines for its initial brief and designation as well as a letter stating “the

timelines for perfecting the appeal will be held in abeyance pending a ruling on the motion [to consolidate].” (Email and attachments attached as Exhibit 1). As of that time, C-Track showed the case as “Held in Abeyance.” As the deadline under the March 21 order approached, 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.

Immediately following the ruling on the motion to consolidate, counsel for the Respondent emailed the clerk’s office to inquire as to the deadlines. (Email attached as Exhibit 2). After that inquiry, the Court sent a letter directing Respondent to file its initial brief and designation within 10 days of May 4, 2023 (attached as Exhibit 3). Respondent filed its initial brief and designation on May 12, 2023.

Respondent explained as follows in its cover letter (attached as Exhibit 4) filing its initial brief and designation:

Respondent is happy to comply with the deadline set in the Court’s letter of May 4, 2023. Just by way of explanation, this matter was held in abeyance pending a ruling on a motion to consolidate until May 2, 2023. While the motion was pending, the clerk’s office assured me that the matter was in fact held in abeyance and no filings were due. For that reason, Respondent did not believe the time for filing its initial brief and designation had expired.

At all times, Respondent has made a good faith effort to comply with the Court’s instructions and the Rules of Appellate Procedure. Respondent has not moved at any point to dismiss this appeal, nor has it unduly delayed the process. For these reasons, Respondent asks that this motion be denied and that the appeal be considered by the Court on an expedited basis.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/ Sarah P. Spruill

Sarah P. Spruill, SC Bar # 68337

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pbarnes@hsblawfirm.com

Attorneys for Respondent

LB PARK, LLC

May 23, 2023

Spruill, Sarah

From: Staley, Denesha <dstaley@sccourts.org>
Sent: Tuesday, March 21, 2023 3:02 PM
To: Barnes, Parker; Spruill, Sarah
Cc: EFile_PBarnes; EFile_SSpruill
Subject: LB Park, LLC v. San Juan Holdings (2) 2022-001650
Attachments: DS LB Park v. San Juan- Letter 03.21.pdf; DS LB Park v. San Juan- Order 1st 03.21.pdf

Good afternoon,

Attached please find correspondence from the South Carolina Court of Appeals. **Please do not respond to this email.** Send all correspondence to ctappfilings@sccourts.org. Any parties not included in this email will receive the attached correspondence via US Mail.

Denesha M. Staley
Appeals Specialist
SC Court of Appeals
1220 Senate Street
Columbia, SC 29201
(803)-734-1079

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## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF 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](http://www.sccourts.org)

March 21, 2023

Ryan Powell  
c/o 25056 Timberlake Drive  
Fort Mill SC 29708

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

Dear Mr. Powell:

The Court has received your expedited motion to reduce or eliminate appeal bond. Upon review, the Court has declined to rule upon your motion pursuant to Rule 240(i), South Carolina Appellate Court Rules (SCACR). Furthermore, the Court has received a motion to consolidate and the timelines for perfecting the appeal will be held in abeyance pending a ruling on the motion.

Very truly yours,

A handwritten signature in black ink that reads "V. Claire Allen". The signature is written in a cursive style.

CLERK

cc: A. Parker Barnes, III, Esquire  
Sarah P. Spruill, Esquire

# The South Carolina Court of Appeals

LB PARK, LLC, Respondent,

v.

San Juan Holdings, Bret 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 250056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the abovenamed 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.

Appellate Case No. 2022-001650

The Honorable Teasa Kay Weaver  
York County  
Trial Court Case No. 2020CP4600549

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ORDER

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The time for serving and filing the initial brief of respondent and designation of matter is hereby extended until April 24, 2023.

FOR THE COURT

BY

*Catherine Hamison, Deputy*

CLERK

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

**FILED**  
**Mar 21 2023**

**From:** [Staley, Denesha](#)  
**To:** [Court Of Appeals Filings](#)  
**Subject:** FW: Ex Parte Ryan Powell (LB Park, LLC v. San Juan Holdings) 2019-000979  
**Date:** Tuesday, May 2, 2023 10:17:29 AM

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**From:** Spruill, Sarah <[sspruill@hsblawfirm.com](mailto:sspruill@hsblawfirm.com)>  
**Sent:** Tuesday, May 2, 2023 10:17 AM  
**To:** Staley, Denesha <[dstaley@sccourts.org](mailto:dstaley@sccourts.org)>  
**Subject:** RE: Ex Parte Ryan Powell (LB Park, LLC v. San Juan Holdings) 2019-000979

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

Ok—so my 30 days on Powell II starts today?

Will calendar for June 1.

Thanks,

---

## HAYNSWORTH SINKLER BOYD

**Sarah P. Spruill** | Attorney  
Direct 864.240.3220 | [sspruill@hsblawfirm.com](mailto:sspruill@hsblawfirm.com)

Haynsworth Sinkler Boyd, P.A.  
ONE North Main, 2nd Floor | Greenville, SC 29601  
Main 864.240.3200 | Fax 864.240.3300

[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [Linked In](#) | [Blog](#)

---

**From:** Staley, Denesha <[dstaley@sccourts.org](mailto:dstaley@sccourts.org)>  
**Sent:** Tuesday, May 2, 2023 10:13 AM  
**To:** [RyanPowell@comporium.net](mailto:RyanPowell@comporium.net); Barnes, Parker <[pbarnes@hsblawfirm.com](mailto:pbarnes@hsblawfirm.com)>; Spruill, Sarah <[sspruill@hsblawfirm.com](mailto:sspruill@hsblawfirm.com)>  
**Cc:** EFile\_PBarnes <[efile\\_pbarnes@hsblawfirm.com](mailto:efile_pbarnes@hsblawfirm.com)>; EFile\_SSpruill <[efile\\_sspruill@hsblawfirm.com](mailto:efile_sspruill@hsblawfirm.com)>  
**Subject:** Ex Parte Ryan Powell (LB Park, LLC v. San Juan Holdings) 2019-000979

Good morning,

Attached please find correspondence from the South Carolina Court of Appeals. **Please do not**

**respond to this email.** Send all correspondence to ctappfilings@sccourts.org. Any parties not included in this email will receive the attached correspondence via US Mail.

Denesha M. Staley  
Appeals Specialist  
SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
(803)-734-1079

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CONFIDENTIALITY NOTICE: *This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.*



The South Carolina Court of Appeals

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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 black ink that reads "Jenny A. Kitchings". The signature is written in a cursive, flowing style.

CLERK

cc: Ryan Powell

**HAYNSWORTH
SINKLER BOYD**

HAYNSWORTH SINKLER BOYD, P.A.
ONE NORTH MAIN STREET, 2ND FLOOR
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SARAH P. SPRUILL
DIRECT 864.240.3220
sspruill@hsblawfirm.com

May 12, 2023

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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

Dear Ms. Kitchings:

This firm represents the Respondent LB Park, LLC in the above matter. Enclosed for filing, please find *Respondent's Initial Brief and Designation of Matter to be Included in the Record on Appeal* together with our Proof of Service for the same.

Respondent is happy to comply with the deadline set in the Court's letter of May 4, 2023. Just by way of explanation, this matter was held in abeyance pending a ruling on a motion to consolidate until May 2, 2023. While the motion was pending, the clerk's office assured me that the matter was in fact held in abeyance and no filings were due. For that reason, Respondent did not believe the time for filing its initial brief and designation had expired.

Please note service on counsel of record by copy of this letter. If you have any questions, please give me a call. Thank you for your assistance in this matter.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/sac
Enclosures

cc: Ryan Powell
A. Parker Barnes, III (pbarnes@hsblawfirm.com)

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of whom Ryan Powell is theAppellant.

PROOF OF SERVICE

I certify that I have served *Return to Motion to Strike Respondent's Initial Brief and Designation of Matter* on all parties of record by depositing a copy of the same in the United States

Mail, postage prepaid, on May 23, 2023, addressed to:

Ryan Powell
287 East Hawfields
Pittsboro, NC 27312


Stacey Carberry, Legal Assistant
HAYNSWORTH SINKLER BOYD, P.A.
864.240.3223

May 23 2023

SC Court of Appeals

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SARAH P. SPRUILL
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sspruill@hsblawfirm.com

May 11, 2023

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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

Dear Ms. Kitchings:

This firm represents the Respondent LB Park, LLC in the above matter. Enclosed for filing, please find *Return to Motion to Strike Respondent's Initial Brief and Designation of Matter* together with our Proof of Service for the same.

Thank you for your assistance in this matter.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

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Enclosures

cc: Ryan Powell
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of whom Ryan Powell is theAppellant.

PROOF OF SERVICE

I certify that I have served the *Return to Motion to Reinstate and Amended Motion to Reinstate* on all parties of record by depositing a copy of the same in the United States Mail, postage prepaid, on August 25, 2023, addressed to:

Ryan Powell
287 East Hawfields
Pittsboro, NC 27312


Stacey Carberry, Legal Assistant
HAYNSWORTH SINKLER BOYD, P.A.
864.240.3223

**HAYNSWORTH
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Thank you for your assistance in this matter.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/sac
Enclosures

cc: Ryan Powell
A. Parker Barnes, III (pbarnes@hsblawfirm.com)