

RECEIVED

Oct 17 2023

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SOUTH CAROLINA COURT OF APPEALS
AND FROM THE YORK COUNTY COURT OF COMMON PLEAS
Teasa K. Weaver, Master In Equity

Appeals Court Case # 2022-001650
Supreme Court Case # _____

LB PARK, LLC, Appellee-Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; 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-Petitioner.

APPENDIX
FOR PETITION FOR WRIT OF CERTIORARI
TO THE SOUTH CAROLINA COURT OF APPEALS

Appendix
Table Of Contents

Dismissal Order.	1
Order Making Dismissal Final.	3
Ryan's Recorded Deed.	5
Order Denying Dismissal of First Case	9
Respondent's Motion to Remand, pg 1.	11
Remand Order.	12
Second Page of Complaint.	14
Last Extension Order Granted to Respondent.	15
Certificate of Service for ROA.	17
Certificate of Service for Petitioner's Final Brief.	18
Kitchings May 4th Letter.	19
Respondent's Certificate of Service for its Brief and DOM	20
Kitchings' July 25th Letter.	23
June 28th Order Denying Motion to Strike.	24
March 21, 2023 Letter from Kitchings' Deputy Clerk Allen.	26
Petitioner's Motion to Reinstate without Exhibits (Exhibits that were attached to that Motion have been separated and listed above)	27
Respondent's Return to Petitioner's Motion to Reinstate	39
Petitioner's Reply to Respondent's Return.	57

The South Carolina Court of Appeals

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 643-10-01-023, 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 the Appellant.

Appellate Case No. 2022-001650

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

ORDER

Appellant has failed to serve a copy of the record on appeal as required by Rule 210 of the South Carolina Appellate Court Rules (SCACR) and this Court's letter dated July 25, 2023. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

A. Parker Barnes, III C. J.

Columbia, South Carolina

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

FILED
Aug 08 2023

The South Carolina Court of Appeals

LB PARK, LLC, Respondent,

v.

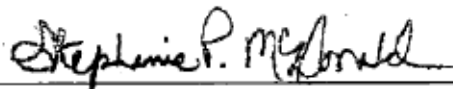
San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, 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 the Appellant.

Appellate Case No. 2022-001650


ORDER

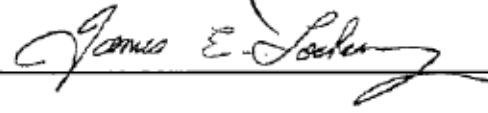
Appellant has filed a motion to reinstate, which we construe as a petition to rehear the dismissal of this appeal. After careful consideration of the petition, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition is denied.



J.

FILED
Sep 21 2023



J.


A. J.

Columbia, South Carolina

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

FILED
Sep 21 2023



2023004949

PRESENTED & RECORDED:
02-22-2023 02:17:08 PM

DEED
RECORDING FEES \$15.00
STATE TAX \$585.00
COUNTY TAX \$247.50

BK: RB 20628
PG: 278 - 281

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
BY: ABIGAYLE LANIER CLERK

Space above this line for recording information

STATE OF SOUTH CAROLINA)
 : TITLE TO PRIVATE PROPERTY
COUNTY OF YORK)

WHEREAS, SAN JUAN HOLDINGS, a private contractual trust (hereinafter Grantor) is the lawful owner of the private property hereinafter described; and

WHEREAS, Brett Osborn is trustee of SAN JUAN HOLDINGS with power to convey title to the property hereinafter described; said power recorded on June 28, 2000 in Vol 3173, page 344 in the Office of the Clerk of the Court for York County, South Carolina; and

WHEREAS, Ryan Whitney of the Powell family (hereinafter "Grantee") is a unmarried, living man, over eighteen years old, a free inhabitant, domiciled outside the territory owned by and subject to the exclusive legislative authority of the United States of America; and

WHEREAS, Grantee is an assignee of the hereinafter described land in an unbroken chain of title from one of the original land grants made by King George II, King of England, said English grants being issued prior to the creation of the United States of America, South Carolina, York County or any other North American municipal corporation. Grantee acknowledges and accepts the property rights as granted by the original English grant for the hereinafter described land; and

WHEREAS, it is the understanding of the parties that the hereinafter described land is not now nor has it every been owned by the UNITED STATES [federal] corporation or any of its sub [STATE OF, COUNTY OF, CITY OF] corporations; and

WHEREAS, Grantees' acceptance of this contract is evidenced by his seal on this instrument; and therefore

NOW KNOW ALL MEN BY THESE PRESENTS, that SAN JUAN HOLDINGS, by Brett Osborn trustee (Grantor) for and in consideration of the sum of Twenty-One Dollars and Zero Cents (\$21.00) tendered in the form of United States' silver Dollars minted and dated prior to 1964 and other good and valuable consideration in hand paid at and before the sealing of these presents by Ryan Whitney of the Powell family (Grantee) the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Grantee, his heirs, successors, and assigns forever:

All that certain piece or lot of land situated, lying or being in or near South Carolina, Camden district, York county, Fort Mill township, being commonly known and designated as Lot 56 of Tega Cay Section 25, all being without the United States, and more particularly described on plat recorded in the Office of the Clerk of Court for York County in Plat Book 131 at page 306, which is incorporated herein as fully and as completely as if set forth here verbatim.

DERIVATION: The above described property being a portion of the lands granted by King George II of England; a portion of those lands being conveyed to Tega Cay Associates by deed dated the 23rd day of December, 1975, recorded in Deed Book 524 at page 203, in the Office of the Clerk of Court for York County; and a portion of those lands and improvements being conveyed to SAN JUAN HOLDINGS by deed from PARAMOUNT PROPERTIES dated June 1, 2000 and

YORK COUNTY ASSESSOR
Tax Map:
643-10-01-023
Date: 02/23/2023

recorded in Deed Book 3173 at page 343, in the Office of the Clerk of Court for York County.

The property is conveyed free and clear of all security interests, liens, claims and encumbrances from any entity or person whatsoever.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, his heirs and assigns forever.


AND THE GRANTOR does hereby bind the Grantor, and the Grantors' heirs executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, his heirs and assigns, against the Grantor or the Grantors' heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

After filing for record mail to Grantee: Ryan Whitney
[not a residence address] c/o: 25056 Timberlake Drive
Tega Cay, South Carolina
Without the United States

WITNESS our Hand and Seal this the 20th day of December in the year of our Lord Two Thousand and Twelve and in the two-hundred and thirty-sixth year of the independence of the United States of America.

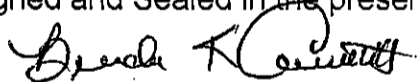
Grantor, SAN JUAN HOLDINGS:


By Brett Osborne Trustee (Seal)

Grantee:
With Reservation of All Rights


Ryan Whitney of the Powell family, a
free inhabitant, without the United
States


Signed and Sealed in the presence of:



Witness #1 Signature

Brenda K. Callicutt

Witness #1 Printed Name



Witness #2 Signature

D. Aaron Simms

Witness #2 Printed Name

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Personally appeared before me the undersigned witness and made oath that (s)he saw the within-name Grantor sign, seal and, as his act and deed, deliver the within written Deed to the within-name Grantee who then as his freewill act and deed did sign and seal the instrument and that (s)he, with the other witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this
20th day of December, 2012

Brenda K. Cant
Witness #1

Joy M. Uter

Notary Public for State of South Carolina
My Commission Expires: ~~12/30/12~~ April 27, 2017

Joy M. Uter
NOTARY PUBLIC
State of South Carolina
My Commission Expires
April 27, 2017.

STATE OF NORTH CAROLINA)
COUNTY OF Durham)

Affidavit For Taxable Transfers

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

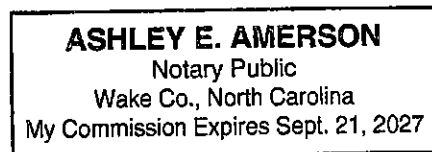
1. I have read the information on this affidavit and I understand such information.
2. The property transferred bears York County Tax Map Number 643-10-01-023 and was transferred by San Juan Holdings, Brett Osborne, trustee to Ryan Whitney Powell on December 20, 2012.
- 3, The deed is subject to the deed recording fee as a transfer for consideration paid in money or money's worth.
- 4, The fee should be computed on the consideration I paid in money or money's worth which at the time the transfer was made was \$225,000.00.
5. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as the Grantee.
6. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Ryan Powell
Ryan Powell

SWORN to and subscribed before me this
21 day of February, 2023

Ashley E. Amerson
Notary Public for North Carolina

My Commission Expires: 9-21-2027



The South Carolina Court of Appeals

Ex Parte, Ryan Powell, Appellant,

In re LB PARK, LLC, Respondent,

v,

San Juan Holdings, Bret Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; 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, Respondents.

Appellate Case No. 2019-000979

ORDER

After careful consideration, the motion to dismiss is denied. *See Ex parte Johnson*, 63 S.C. 205, 41 S.E. 308 (1902) (establishing an order refusing a petition to be made a party to an action is immediately). Furthermore, Appellant's motion requesting this court to strike Respondent's motion to dismiss, to substitute parties, and for sanctions is denied.


FOR THE COURT

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

FILED

July 31, 2009

90550

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Hall, Circuit Court Judge

Case No. 2019-CP-46-00310

RECEIVED

AUG 13 2019

SC Court of Appeals

Ex Parte, Ryan Powell Appellant,

In re LB PARK, LLC Respondent,

v.

San Juan Holdings, Brett Osborne trustee, et al. Respondents.

MOTION FOR REMAND

Pursuant to Rule 240, SCACR, LB PARK, LLC (“LB PARK”) hereby moves that this appeal be remanded to the lower court in order for LB PARK to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRCR. If the motion for remand is granted, LB PARK will dismiss the underlying action and refile a new action to include Ryan Powell as a named defendant. LB PARK is attaching its proposed stipulation of dismissal for the Court’s review, together with a draft of a new complaint.¹

As will be discussed below, this proposed procedure will allow Mr. Powell to present all of his defenses for adjudication by the trial court while preserving the procedure put in place by

¹ Attached as Exhibits A and B, respectively. LB PARK acknowledges that the proposed action on remand would render this appeal moot.

The South Carolina Court of Appeals

Ex Parte, Ryan Powell, Appellant,

In re LB PARK, LLC, Respondent,

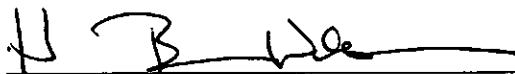
v,

San Juan Holdings, Bret Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; 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, Respondents.

Appellate Case No. 2019-000979

ORDER

LB PARK, LLC's motion to remand this case for the limited purpose of allowing LB PARK to file a motion to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRPC, is granted. This appeal shall be held in abeyance pending the lower court's consideration of the motion. LB PARK shall provide this court with status updates every thirty days.



FOR THE COURT

FILED

October 15, 2019

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

deed resulting from a tax sale conducted by York County pursuant to statute and a subsequent quitclaim deed from the tax sale purchaser.

The Property

2. The Property conveyed by the tax deed is more particularly described as follows:

All that certain piece or lot of land situated, lying or being in the County of York, State of South Carolina, being known and designated as Lot 56 of Tega Cay Section 25 as shown on plat recorded in the Office of the Clerk of Court for York County in Plat Book 85 at Page 129, and on plat recorded in Plat Book 73 at Pages 23-26, and being more recently shown and more particularly described in Plat Book 131 at Page 306, reference to which is hereby made for a more complete description.

Derivation: This being property conveyed to San Juan Holdings, Brett Osborne, the trustee, by Deed from Paramount Properties, Mark Muccl, the trustee, dated June 1, 2000 (probate says June 15, 2000), recorded June 27, 2000 in Book 3173, Page 343, Office of the Clerk of Court for York County, SC; being the same property conveyed to SB MUNI CUST % LBSC-11 LLC by Tax Title dated and recorded on December 26, 2018, in the Office of the Register of Deeds for York County in Deed Book 17337 at Page 73; and being the same property conveyed to LB Park, LLC by quitclaim deed dated January 7, 2019, and recorded in the York County Register of Deeds Office on January 10, 2019, in Book 17361, page 145.

TMS# 643-10-01-023.

Parties

3. Defendant San Juan Holdings, Brett Osborne, the trustee (“San Juan”) obtained title to the Property by deed dated June 1, 2000, and recorded on June 27, 2000, in the York County Register of Deeds Office (the “ROD”) in Book 3173, page 343.

4. By virtue of the foregoing deed, Plaintiff is informed and believes that San Juan owned 100% of fee simple title to the Property prior to the tax sale. Accordingly, Plaintiff has named San Juan as a party to extinguish and eliminate any and all interests that San Juan has or may claim to have in, to, or upon the Property.

5. Plaintiff named Defendant Brett Osborne as Trustee of San Juan Holdings (“Osborne”) as a party due to the Notice of Sale, Transfer or Exchange dated December 20, 2012, and recorded on December 26, 2012, in the ROD in Book 13103, page 241 (the “Osborne Notice”).

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

ORDER

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 Hamrick, deputy

CLERK

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

FILED
Mar 21 2023

RECEIVED

Apr 28 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 Record on Appeal

I certify that I served No Respondents with a copy of the Record on Appeal because no Respondents filed an initial brief. According to Rule 210(a) SCACR no Respondent needs to be served a copy of the record on appeal if they fail to file a brief.

04/28/2023
Date

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

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 Appellant's Final Brief

I certify that I have served on Respondent Appellant's Final Brief and Rule 211 (b) SCACR Certification of Final Brief by and through their attorney of record by First Class Mail with proper postage affixed on the date below shown and addressed as follows:

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

May 2, 2023

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



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".

CLERK

cc: Ryan Powell

RECEIVED

May 12 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

C.A. No.: 2020-CP-46-00549

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 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 theAppellant.

RESPONDENT’S DESIGNATION OF MATTER

Respondent LB Park, LLC proposes the following matter to be included in the Record on Appeal:

1. Complaint and Exhibits
2. Affidavits of Service on San Juan Holdings, Brett Osborne, and Ryan Powell
3. Osborne Letter filed April 1, 2020
4. Several Motions to Dismiss under Special Appearance

5. Motion for Order of Reference
6. Order filed October 4, 2022
7. Answer
8. Reply to Counterclaims
9. Motion to Strike Jury Demand
10. Motion to Return Case to Circuit Court
11. Order filed September 20, 2021
12. Notice of Hearing filed September 28, 2022
13. Motion for Leave to Amend Answer to Make a Third-Party Complaint
14. Rule 60(b)(4) Motion to Vacate Judgment Denying Owner's Motion to Return Case to Circuit Court
15. Motion for Continuance
16. Email from Robin Krecek in Judge Weaver's office to Ryan Powell dated August 24, 2022 at 4:30 (should include full message)
17. Email from Ryan Powell to Robin Krecek dated September 9, 2022 at 1:38 (should include full message) with attached letter
18. Trial Transcript and Trial Exhibits A through N-5
19. Final Order
20. Motion for a New Trial, or to Alter or Amend
21. Order filed November 20, 2022

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/ Sarah P. Spruill

Sarah P. Spruill (SC Bar No. 68337)

P.O. Box 2048 (29602)

Greenville, SC 29601

(864) 240-3200

sspruill@hsblawfirm.com

A. Parker Barnes III (SC Bar No. 68359)

P.O. Box 11889

Columbia, South Carolina 29211-1889

(803) 779-3080

pbarnes@hsblawfirm.com

Attorneys for Respondent LB PARK, LLC

May 12, 2023



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

July 25, 2023

Ryan Powell
287 East Hawfields
Pittsboro NC 27312

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

Dear Mr. Powell:

Pursuant to the Court's order dated June 28, 2023 and Rule 210 of the South Carolina Appellate Court Rules (SCACR) you must serve and file the April 28, 2023 record on appeal upon respondent within ten (10) days of the date of this letter or your appeal will be dismissed.

In addition, the Court received your letter dated July 19, 2023. We construe your filing as a request to withdraw your initial reply brief. Accordingly, we will proceed with our review of this appeal without consideration of your reply brief.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings".

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, 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 643-10-01-023, 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 the Appellant.

Appellate Case No. 2022-001650

ORDER

Appellant's motion to strike Respondent's initial brief and designation of matter is denied.



FOR THE COURT

Columbia, South Carolina

FILED
Jun 28 2023

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

FILED
Jun 28 2023



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

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 blue ink that reads "V. Claire Allen".

CLERK

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

RECEIVED

Aug 21 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.

Amended Motion to Reinstate

Comes now Appellant, Ryan Powell ("Ryan"), who pursuant to Rule 240 SCACR, Rule 260(a) SCACR, and Rule 60(b)(4) SCRCR makes this Amended Motion to Reinstate that replaces his Motion to Reinstate filed on August 15, 2023. Ryan moves this Court to vacate or reverse its order that erroneously dismissed this appeal ("Dismissal Order") and reinstate the appeal. A copy of the Dismissal Order is attached as Exhibit A and is fully incorporated herein by reference. This motion is based on the following five (5) grounds: 1) this Court is obligated to hear this appeal in order to cut the Gordian Knot Williams tied; 2) the Dismissal Order is void for violating many of Ryan's due process rights; 3) this Court's June 28th order had no effect on this appeal and did not obligate Ryan to re-file and re-serve his Record on Appeal; 4) despite frivolous allegations to the contrary, Ryan fully complied with all requirements of Rule 210

SCACR; and 5) had Ryan complied with Clerk's demands to re-file and re-serve his Record on Appeal, he would have had to violate Rule 210 SCACR.

Mandatory Judicial Notice

This Court is to take mandatory judicial notice under 201(d) SCRE of the following adjudicative fact: Ryan paid the following to **buy** his property "*Twenty-One Dollars and Zero Cents (\$21.00) tendered in the form of United States' silver Dollars minted and dated prior to 1964*". This fact is evidenced in Ryan's deed, a copy of which is attached as Exhibit B and is fully incorporated herein by reference.

This Court Is Obligated To Hear This Appeal In Order To Cut The Gordian Knot Williams Tied

In 1933 President Roosevelt issued an executive order stating that the United States was having a banking emergency. That executive order took the money (gold) away from the people and in its place gave them private debt instruments (e.g., federal reserve notes). Since no one can pay a debt using another debt, the people living within the United States were left unable to pay their debts. The United States congress quickly enacted statutes that gave the people the ability to discharge their debts instead of paying them. Thereafter, the people could no longer own property as one cannot own property by discharging a debt as the debt always remains, it is only forgiven. Since law is based on ownership of property, and no one had access to gold any longer, no one could own any property of value. Therefore, after 1933 there was no longer any law being used within the United States. However, the law still exists as the legislature has no authority to take it away. Then in 1934, equity and law were merged in civil procedure in order to hide the fact that the people had lost access to the law when the bankers stole their money.

In 1938 the United States Supreme Court decided the Erie Railroad Co. v. Tompkins, 304 U.S. 64 case. The Erie Court decided that any contracts or debts issued or settled in private commercial debt instruments (federal reserve notes) would fall under a private colorable law-merchant in colorable admiralty-maritime jurisdiction. In other words, there would be a new "special common law" under the Uniform Commercial Code. Cases would thereafter be decided in general equity (conscience of the court), and not special equity (explicit terms of the contract). "Conscience of the court" is equivalent to the Satanic creed "Do what thou wilt". By the United States adopting private commercial debt instruments as "money" an "at law" mixture of public, maritime, bankruptcy, equity, etc., could be exercised in the same court at the same time.

However, even within those mixed jurisdictions there is still a legal **requirement** that every court hearing any case must have subject matter jurisdiction to do so. This requirement is so important that not having subject matter jurisdiction is the only basis upon which judicial immunity can be denied to a defendant judge.

In this case, Ryan did not have any contract/agreement/debt with Respondent, York County, this State, or any other person/entity that could have brought him into Respondent's equity case. Also Ryan bought his property using real money (i.e., United States minted silver coins) which guarantees to Ryan a law action because Ryan actually owns his property. Not only does Ryan have the highest and only **legal claim** to his property, but his deed (Exhibit B) proves that no court of this State has jurisdiction to decide Ryan's **legal claim** to his property because no court in this State has the ability to hear a law case which also makes the Dismissal Order void.

The circuit court judge in Respondent's first case ("First Case"), judge Daniel Hall, correctly ruled that Ryan could not intervene into that case because Ryan did not have any contract, agreement, or debt with any party in that case so there was nothing that could have bound him to that case. When Ryan appealed judge Hall's order denying him intervention, this Court should have affirmed the lower court's decision and it should have also dismissed that First Case because it is non-justiciable. That appeal would have put a **final end to Respondent's attempts to steal Ryan's property.**

But Respondent did not want to lose its defective case, so after losing a motion to dismiss that appeal, it moved to remand that appeal so that it could dismiss its First Case and bring a new case wherein it "promised" to name Ryan as a defendant. A copy of the first page of Respondent's Motion to Remand is attached as Exhibit C and incorporated herein by reference.

In October of 2019, Chief Judge H. Bruce Williams ("Williams") signed an order granting Respondent's Motion to Remand ("Remand Order") knowing full well that the Court did not have subject matter jurisdiction to grant Respondent the relief it had requested. This Court does not have the authority to give a respondent the ability to dismiss the case upon which an appeal is taken because doing so denies the appellant all effective relief for his appeal. In other words, Williams' Remand Order in effect dismissed Ryan's appeal without any grounds thereby also making the Remand Order void for violating his due process rights. Without any doubt, Williams knew that by giving Respondent the **ability** to bring a new case naming Ryan as a defendant, he would end up losing his property because equity can not hear claims from a

trespasser on the case who was not involved in any contract/agreement/debt that created the equity case! A copy of Williams' Remand Order is attached as Exhibit D and incorporated herein by reference.

Williams then hid the fact that he acted without subject matter jurisdiction when he made his Remand Order. Williams accomplished that by omitting language from his Remand Order that would have disclosed the actual reason he was granting a remand and he also omitted the requirement for Respondent to make monthly status reports, which he *sua sponte* added five months later. Why was Williams so interested in this case that he would need to know its progress every single month, especially since this case was not under this Court's jurisdiction?

This also explains why this Court denied consolidating the appeal of the First Case with this appeal. The two appeals needed to stay separate so that after this appeal was **dismissed**, using whatever means necessary, the appeal of the First Case could then be dismissed for being moot! That is the reason why the clerk of court, Jenny A. Kitchings ("Kitchings") had to create whatever nonsensical ground(s) she could scheme up to dismiss this appeal. The following four (4) sections below clearly demonstrate that Kitchings' schemed up grounds for dismissing this appeal are nonsensical, frivolous, and unlawful. Williams clearly does not want this Court to have to decide the appeal of the First Case because he knows that the order on appeal therein will be affirmed which will **prove** that Ryan could not be made a party to that case, or to this case! Oh what a tangled web we weave when we first practice to deceive!

Williams tied this Gordian Knot by granting Respondent's Motion to Remand without jurisdiction to do so which made the theft of Ryan's property possible. In other words, Williams is 100% responsible for the theft of Ryan's property. Williams' plan could have only succeeded if Ryan did not know and understand what Williams had done to him. But it is too late for that. Now, this Court will need to decide if it should abandon Williams' plan to illegally dismiss this appeal **or** if this Court should proceed forward with Williams' plan and assist him to complete the theft of Ryan's property.

**The Dismissal Order Is Void For Violating
Many Of Ryan's Due Process Rights**

This Court has no authority to enter any order unless and until there is a motion made by a moving party. This is not only basic legal procedure but is required to ensure that all parties receive their due process rights which includes notice and opportunity to be heard. Yet Williams

entered his Dismissal Order without any motion, any notice of a motion, or any opportunity to be heard before this appeal was dismissed violating Ryan's due process rights and making the Dismissal Order void -

"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.", Blanton v. Stathos, 351 S.C. 534, 542, 570 S.E.2d 565, 569 (2002).

"The definition of "void" under the rule [*Rule 60(b)(4) SCRCPP*] only encompasses **judgments from courts which failed to provide proper due process**", Linda Mc Co., Inc. v. Shore, 703 SE 2d 499 (SC Supreme Court 2010).

Williams entered his Dismissal Order on the 14th day after Kitchings wrote a letter to the parties dated July 25, 2023 that threatened to unlawfully dismiss this appeal if Ryan did not succumb to her fraudulent demands to violate the Rules and to do so within 10 days of her letter. A copy of Kitchings' July 25, 2023 letter is attached as Exhibit E and is fully incorporated herein by reference.

If Ryan violated Rule 210 SCACR, as both the Dismissal Order (Exhibit A) and Kitchings' July 25th letter (Exhibit E) allege, then it is the clerk who is required to enter the order of dismissal. Rule 260(a) SCACR clearly specifies this authority -

"Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, **the clerk shall issue an order of dismissal**".

The clerk's authority is ministerial because the Rules of this Court are precise, certain, and are based entirely on the fixed facts that are found in the documents filed, or not filed, into the record made for each and every appeal -

"The duty is ministerial when it is absolute, certain, and imperative, involving merely the execution of a specific duty arising from fixed and designated facts. It is ministerial if it is defined by law with such precision as to leave nothing to the exercise of discretion.", Wilson v. Preston, (SC Supreme Court 2008).

The clear language of Rule 260(a) SCACR proves the clerk's authority to dismiss an appeal when the appellant fails to comply with the Rules is ministerial since no motion is required for her to enter a dismissal order. Kitchings had Williams sign her dismissal order because Ryan had accused her of RICO/mail fraud. Kitchings obviously did not want to put her signature on the order dismissing this appeal because she knows Ryan's accusations are correct. Nonetheless,

Williams entered the Dismissal Order instead of the clerk and did so without any legal authority because there is no Rule, statute, code, or law that allows this Court to dismiss an appeal without a motion to dismiss being made providing Ryan an opportunity to be heard.

Assuming arguendo that this Court has the authority to usurp the ministerial authority given **only** to the clerk by Rule 260(a) SCACR, Williams still would have had to comply with the requirements of Rule 260(a) SCACR. Rule 260(a) SCACR allows a clerk to dismiss an appeal, but only on the **single** ground that the appellant has failed to comply with the Rules -

"Whenever it appears that an appellant or a petitioner **has failed to comply with the requirements of these Rules**, the clerk shall issue an order of dismissal",.

However, the Dismissal Order states that it is grounded on **both** Ryan's unspecified failure to comply with Rule 210 SCACR **and** on Ryan's unspecified failure to comply with Kitchings' July 25th letter (Exhibit E). That means the Dismissal Order could not have been a ministerially decided order made pursuant to Rule 260(a) as such a dismissal can **only** be grounded on an appellant's failure to comply with the Rules. So, for the dismissal of this appeal to be grounded in any way on Kitchings' July 25th letter, a finding/conclusion would have needed to be judicially made that determined that letter placed some legal obligation on Ryan upon which he failed to comply. Accordingly, the Dismissal Order was made by Williams without the **required** due process requirements of a motion, notice, and an opportunity to be heard making it void.

Furthermore, if Ryan actually failed to comply with Rule 210 SCACR, what specific section, paragraph, sentence, or language in that Rule did Ryan fail to comply with? Kitchings' July 25th letter does not state (Exhibit E). If this Court's June 28th order created some requirement on Ryan to re-file and re-serve his already timely filed and served ROA, then what language in that court order states that requirement? That order is silent on any obligation being placed on Ryan to do anything (see Exhibit G). Due process of law mandates that every party to an appeal be given notice by and through the orders of the Court and the Rules so that they can comply and have their appeals heard. This is not only the law but is common sense. Imagine the mass chaos and confusion that would ensue if appeal procedure was a game of guessing.

In this case, Ryan still has no idea what specific requirement of Rule 210 SCACR he supposedly failed to comply with and what language of the June 28th order he supposedly failed to comply with. Not only could Ryan not comply with Kitchings' alleged but unstated requirements, but he also cannot properly argue those issues to this Court in this motion -

"Procedural due process **mandates** that a litigant be placed on notice of the issues which the court is to consider.", Blanton v. Stathos, 570 SE 2d 565 (2002).

Further, if any Rule is so vague as to not be understood by even a pro se appellant, then it is void for vagueness -

"The concept of vagueness or indefiniteness rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication." Consequently, a statute may be unconstitutionally vague where "(1) it does not provide fair notice of the conduct proscribed," or "(2) it confers on the trier of fact unstructured and unlimited discretion to determine whether an offense has been committed[.]", DEPT. OF SOCIAL SERVICES v. Michelle G., 757 SE 2d 388 (SC Supreme Court 2014).

While the concept of a Rule being void for vagueness, instead of a statute being void for vagueness, may be a novel issue in this State how can a rule also not be void for vagueness when both rules and statutes proscribe conduct that must be complied with and they both use the same rules for construction and interpretation -

"In interpreting the language of a court rule, we apply the same rules of construction used in interpreting statutes.", Green v. Lewis Truck Lines, Inc., 443 SE 2d 906 (SC Supreme Court 1994).

Ryan was never given any notice from the language of Rule 210 SCACR that he had any obligation to re-file and re-serve his previously filed and served ROA after Respondent failed to make its filing/service deadline. That makes Rule 210 SCACR void for vagueness, if there is such a requirement.

Finally, no judge or clerk has yet to give Ryan a fair or unbiased hearing or fair treatment because of the conspiracy against Ryan that has been ongoing since at least October of 2019 when Williams made his void Remand Order. That conspiracy involves at least Williams, Teasa k. Weaver, Kitchings, her deputy clerk ("Allen"), and Respondent's attorney. As was shown above, there has been a plan in place to dismiss this appeal even before this appeal was filed. That plan included using fraud and intimidation to induce Ryan into making a procedural error so that his appeal could then be "legally" dismissed. Once that plan failed, and it did when this appeal was perfected on May 2, 2023, the backup plan was to just dismiss this appeal by scheming up some make-believe grounds, as was obviously done and this motion proves that.

As just one of numerous examples of the evil outcome produced by this on-going conspiracy, Ryan's motion to reduce the amount of the appeal bond, so that he could prevent being illegally

thrown off his property, was either not submitted to this Court for its decision or, more likely than not, was submitted to this Court and this Court refused to rule on it. See copy of March 21, 2023 letter from Kitchings' deputy clerk Allen attached as Exhibit F and fully incorporated herein by reference. In that letter Allen declares the judgment of this Court pertaining to Ryan's motion to reduce the appeal bond amount instead of the Court declaring its own judgment in an order as is required of every decision made by every court. That action alone proves this Court's involvement in the conspiracy to steal Ryan's property and thereby its bias and prejudice -

"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. *In re Murchison*, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955).", Mallett v. Mallett, 473 SE 2d 804 (1996).

When the judges on a court are all conspiring against one party and are intentionally blocking that party from having access to their court, that party can never get a "fair and impartial" hearing.

The Dismissal Order is void for violating many of Ryan's rights to due process. Accordingly, this Court must vacate the Dismissal Order and reinstate this appeal.

This Court's June 28th Order Had No Effect On This Appeal And Did Not Obligate Ryan To Re-file And Re-Serve His Record On Appeal

Assuming arguendo that a ministerial dismissal under Rule 260(a) SCACR can be based on a letter from a clerk, the only thing in Kitchings' July 25th letter that allegedly places any obligation on Ryan to re-file and re-serve his previously filed and served ROA, other than supposedly Rule 210 SCACR, was this Court's June 28, 2023 order. A copy of this Court's June 28, 2023 order is attached as Exhibit G and fully incorporated herein by reference.

But how could that order place ANY requirement on anyone to do anything when it only denies Ryan's motion to strike Respondent's initial brief ("Brief") and designation of matter ("DOM")? The only effect produced by a court denying a motion is to leave the state of the case unchanged. In this case, the state of this appeal was that Respondent's two documents were filed/served after their deadline had expired and the appeal had been perfected and was ready for consideration. Therefore, denying Ryan's motion to strike did not change that state of this appeal and clearly did not grant Respondent leave to file their documents late. If that order granted Respondent leave to file their documents late it would have had to specifically state that relief was being granted. The June 28th order could not, and did not change the status or state of

this appeal and did not create any obligation on Ryan to do anything including re-filing and re-serving his already timely filed and served ROA.

Further, how could the June 28th order have had ANY effect on perfecting the appeal when this appeal had already been perfected on May 2, 2023 especially when there was no stay or abeyance order in effect? The mere insinuation that Ryan had to re-file and re-serve his ROA to accommodate Respondent's untimely filed documents because Ryan's unnecessary¹ motion to strike was denied, is blatantly preposterous.

The Dismissal Order constitutes an error of law and must be reversed and this appeal reinstated.

**Despite Frivolous Allegations To The Contrary,
Ryan Fully Complied With All Requirements Of Rule 210 SCACR**

The Appellate Court Rules are written very precise and need little or no interpretation because all parties, including pro se appellants, need to be able to understand and comply with those Rules so that their due process right to have their appeals heard is not violated. Rule 210(a) SCACR clearly states that an appellant is required to serve their Record on Appeal within 30 days of the date the last brief is due to be filed -

Rule 210(a) SCACR - "**Within thirty (30) days after service of the last brief**, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief."

With an extension of time to file Respondent's Brief and DOM granted, its filing/service deadline was April 24, 2023. In indisputable compliance with Rule 210 SCACR, Ryan properly and timely filed/served his ROA on April 28, 2023. A copy of Ryan's certificate of service for his ROA is attached as Exhibit H and fully incorporated herein by reference. Since Respondent missed its April 24th filing/service deadline for its Brief and DOM, 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 (see Exhibit H) -

Rule 210(a) SCACR - "Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal **on each party who has served a brief**."

On May 2, 2023, Ryan timely filed and served his Final Brief. Since at that time Respondent had failed to file its Brief and DOM, this appeal became perfected and the clerk should have

¹ Ryan realized after his motion to strike was denied that his motion was not required since striking a untimely filed document from the clerk's record is unnecessary because the clerk has no authority to include any untimely filed documents in the record that she submits to the Court for the hearing and decision of the appeal.

marked the appeal's status as "ready for consideration". A copy of the certificate of service for Ryan's Final Brief is attached as Exhibit I and fully incorporated herein by reference.

However, on May 4th two days after this appeal was perfected, Kitchings wrote a letter to the parties **admitting** that Respondent's deadline for filing their Brief and DOM had **expired**. A copy of Kitchings' May 4th letter is attached as Exhibit J and fully incorporated herein by reference. Kitchings' May 4th letter **proves** that Ryan complied with Rule 210 SCACR because on May 4th had Ryan not timely and properly filed/served his ROA, Kitchings would have dismissed this appeal.

However, instead of dismissing the appeal Kitchings pretended to give Respondent 10 days to file and serve their Brief and DOM after this appeal had already been perfected (see Exhibit J). Kitchings was clearly acting without any legal authority when she pretended to give Respondent permission to file/serve their Brief and DOM late as the Rules do not allow any late filing of any brief and a clerk of court has no authority to **modify** the Rules especially without the agreement of all of the parties and the permission of the Court (see Rule 261(c) SCACR). If Respondent wanted to file its Brief and DOM after its deadline had expired, it was required to make a motion to the Court for an order granting it leave to do so. But Respondent never made any such motion. Accordingly, on May 12th when Respondent finally filed/served its Brief and DOM, those two documents were late and could not be made part of the record that should have already been submitted to the Court for its decision on this appeal.

Moreover, if Rule 210 SCACR did create any obligation on Ryan to do anything, including re-filing and re-serving his ROA, that obligation would have been immediately communicated to Ryan by Kitchings on or shortly after May 12, 2023. Or, more likely than not, Kitchings would have just dismissed the appeal for Ryan's supposed failure to comply with Rule 210 SCACR. But, Kitchings did not dismiss the appeal or make any demand that Ryan re-file and re-serve his April 28th ROA until **almost three months later and three month after the appeal had been perfected** in her July 25th letter (Exhibit E). Why did Kitchings pass up such a golden opportunity to dismiss this appeal that she has been zealously working so hard to dismiss since the time the notice of appeal was filed? Obviously because Rule 210 SCACR does not create any obligation on any appellant to re-file and re-serve their already filed and served Record on Appeal. And if it did create such an obligation, can a respondent file/serve their initial brief and designation of matter 30, 60, 90, or 180 days late? Or can a respondent wait to file and serve

their initial brief and designation of matter after an appeal has already been perfected? Oh right that is exactly what happened!

Had Ryan Complied With Clerk's Demands To Re-file And Re-serve His Record on Appeal, He Would Have Had To Violate Rule 210 SCACR

If the Rules actually allow respondents to file/serve their initial brief and designation of matter at anytime they want to, or at anytime the clerk allows, then according to Rule 210 SCACR all appellants would have to re-file and re-serve their ROA within **30 days** of date respondent finally gets around to filing/serving their initial brief and designation of matter. However, in this case because Respondent filed their Brief and DOM on May 12th, Ryan would have had to re-file and re-serve his ROA by June 11th -

Rule 210(a) SCACR - "**Within thirty (30) days after service of the last brief**, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief."

But it wasn't until July 25th that Kitchings made her unlawful demand (see Exhibit E) for Ryan to re-file and re-serve his April 28th ROA which was one and a half (1.5) months **after** June 11th when the Rule 210(a) SCACR 30 day service window would have closed. Kitchings demands, made after the 30 day window expired, violates Rule 210(a) SCACR so this appeal cannot be dismissed for Ryan's refusal to comply with her unlawful demand.

If the Rules actually allow respondents to file their initial brief and designation of matter at anytime they want to, or at anytime the clerk allows, then according to Rule 210(c) SCACR all appellants would have to first recreate their Record on Appeal before they re-file and re-serve it so that all the matter that the respondent designates gets included in the record -

Rule 210(c) SCACR - "The Record on Appeal shall include **all matter designated to be included by any party** under Rule 209 and ...".

But Kitchings never demanded in her July 25th letter (see Exhibit E), or elsewhere, that Ryan had to recreate his April 28th ROA to incorporate Respondent's DOM before re-serving it which violates Rule 210(c) SCACR.

This appeal was dismissed because Ryan refused to violate Rule 210 (a) & (c) SCACR after Kitchings made her unlawful demands. No appeal can be **legally**, lawfully, justly, or rightly dismissed because an appellant refuses to violate the Court Rules. The dismissal of this appeal constitutes an error of law so it must be reversed and this appeal reinstated.

CONCLUSION

Ryan is under no delusion that this Court is ever going to grant this motion because Ryan has been **forced** by Williams unlawful and illegally actions taken without him having subject matter jurisdiction into being a trespasser on this case so this Court cannot hear any of Ryan's claims! Nonetheless, this Court can still use its "conscience" to grant the motion and save Kitchings and Williams from being held liable for their crimes and torts, which include but are not limited to: RICO/mail fraud (18 U.S.C. 1961-68); conspiracy to deprive Ryan of his rights (18 U.S.C. 241); deprivation of Ryan's rights under color of law (18 U.S.C. 242); criminal conspiracy (18 U.S.C. 371); and possibly bribery.

Furthermore, dismissing this appeal **will not** accomplish the goals of the conspirators because of the following: it will not repudiate any of the multiple crimes having been and still being committed; it will not make Respondent's void deed valid; it will not relieve any person of their liability for the damages they have intentionally wrought against Ryan and his family; it will not make the void order on appeal valid or capable of supporting *res judicata*; and, **it will not extinguish Ryan's rights to his property**²!

On the other hand dismissing this appeal **will** accomplish the following: it will increase the amount of damages that Williams and Kitchings will be held liable to pay; it will provide irrefutable proof that the judge(s) who sign the order denying this motion are part of the conspiracy to help Respondent steal Ryan's property; and the victim that Respondent sells Ryan's property to, and/or their title insurance company, will be able to sue Respondent and its two managers for their losses since Ryan's rights to his property have never been extinguished (see footnote #2).

Be that as it may, reverse or vacate the Dismissal Order and reinstate this appeal.

August 21, 2023

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

² "The order of April 22nd, not appealed from, was clearly void, and of no effect whatever and **no appeal therefrom was necessary to protect the rights of the father.**", *Webster v. Clanton*, 192 SE 2d 214 (SC Supreme Court 1972).

RECEIVED

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

ONE North Main, 2nd Floor

P.O. Box 2048 (29602)

Greenville, SC 29601-2772

T: 864.240.3200

sspruill@hsblawfirm.com

A. Parker Barnes, III SC Bar # 68359

1201 Main Street, Suite 2200

Post Office Box 11889 (29211-1889)

Columbia, South Carolina 29201

T: 803.779.3080

pbarnes@hsblawfirm.com

Attorneys for Respondent

LB PARK, LLC

August 25, 2023

RECEIVED

May 23 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 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 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

ONE North Main, 2nd Floor

P.O. Box 2048 (29602)

Greenville, SC 29601-2772

T: 864.240.3200

sspruill@hsblawfirm.com

A. Parker Barnes, III SC Bar # 68359

1201 Main Street, Suite 2200

Post Office Box 11889 (29211-1889)

Columbia, South Carolina 29201

T: 803.779.3080

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

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



## 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".

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

---

ORDER

---

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

---

**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

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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

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 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
P.O. BOX 2048 (29602)
GREENVILLE, SOUTH CAROLINA 29601
MAIN 864.240.3200
FAX 864.240.3300
www.hsblawfirm.com

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)

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 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 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

RECEIVED

May 23 2023

SC Court of Appeals

HAYNSWORTH
SINKLER BOYD

HAYNSWORTH SINKLER BOYD, P.A.
ONE NORTH MAIN STREET, 2ND FLOOR
P.O. BOX 2048 (29602)
GREENVILLE, SOUTH CAROLINA 29601
MAIN 864.240.3200
FAX 864.240.3300
www.hsblawfirm.com

SARAH P. SPRUILL
DIRECT 864.240.3220
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

SPS/sac
Enclosures

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

RECEIVED

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 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 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
SINKLER BOYD**

HAYNSWORTH SINKLER BOYD, P.A.
ONE NORTH MAIN STREET, 2ND FLOOR
P.O. BOX 2048 (29602)
GREENVILLE, SOUTH CAROLINA 29601
MAIN 864.240.3200
FAX 864.240.3300
www.hsblawfirm.com

SARAH P. SPRUILL
DIRECT 864.240.3220
sspruill@hsblawfirm.com

August 25, 2023

VIA EMAIL

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

RECEIVED
Aug 25 2023
SC Court of Appeals

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 *Return to Motion to Reinstate and Amended Motion to Reinstate* 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

SPS/sac
Enclosures

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

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 Return to Appellant's Amended Motion to Reinstate

Comes now Appellant, Ryan Powell ("Ryan"), who pursuant to Rule 240(f) SCACR makes this Reply to Respondent's Return to his amended motion to reinstate this appeal ("Return").

Respondent's fraudulent Return basically boils down to the following one objection -> this appeal was properly dismissed because "Powell" admits he did not serve a copy of the Record on Appeal on the Respondent and he was given notice and an opportunity to "correct the situation" but he "failed to do so". In other words, according to Respondent this appeal was properly dismissed because Ryan followed the requirements of Rule 210(a) SCACR! Respondent fraudulently failed to admit in its Return that at the time that Ryan filed/served his Record on Appeal ("ROA"), Respondent had failed to file their initial brief ("Brief") or designation of

matter ("DOM"), so according to Rule 210(a) SCACR Ryan was NOT required to serve a copy of his ROA on Respondent -

Rule 210(a) SCACR - "(a) Time for Service. Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal **on each party who has served a brief.**".

Respondent failed to object to any other issue raised by Ryan in his Amended Motion to Reinstate so Respondent has acquiesced by its silence to every issue raised by Ryan therein.

In the clerk of this court Jenny A. Kitchings' ("Kitchings"), May 23rd letter she requests that both parties file one printed bound version of their ROA and their final briefs. A copy of her May 23rd letter is attached as Exhibit A and is incorporated herein by reference. In order for her to have requested a printed bound copy of those documents the parties would have already had to have filed/served those documents. In other words, on May 23rd Kitchings letter (Exhibit A) proves that all appeal documents from BOTH parties had already been filed/served with the Court!

So what happened between the time of Kitchings' May 23rd letter (Exhibit A) and July 25th when she wrote another letter (Exhibit F) demanding that Ryan **SERVE** his ROA on Respondent who had already filed/served their final brief and had also filed a printed bound copy of their final brief? Kitchings ran out of ideas on how to dismiss Ryan's appeal so she schemed up a new idea to demand that Ryan violate the rules and do something that clearly was not needed, remember Respondent had already filed/served their final brief and had already filed a printed bound copy of it with the Court. When Ryan refused to violate the Rules, Kitchings dismissed his appeal. If Ryan had acceded to Kitchings' fraudulent demands she would have more than likely dismissed Ryan's appeal for violating the Rules. In other words, between May 23rd and July 25th Kitchings schemed up a new plan to dismiss Ryan's appeal no matter what he did or did not do!

Furthermore, and most importantly, Respondent **intentionally** missed its filing/service deadline for its initial brief ("Brief") and designation of matter ("DOM") because its attorney, Sarah P. Spruill ("Spruill") was conspiring with the Kitchings to commit mail fraud with the goal being to make Ryan believe that his appeal was being held in abeyance hoping that he would then miss a filing/service deadline so that his appeal could then be "legally" dismissed.

A copy of this Court's March 21st letter lying about the timelines for this appeal being held in abeyance is attached as Exhibit B and incorporated herein by reference. **There was no abeyance order in affect on March 21st!** A copy of Kitchings' order giving Respondent until April 24th to file/serve its Brief and DOM is attached as Exhibit C and incorporated herein by reference. A copy of Ryan's certificate of service for his final brief is attached as Exhibit D and incorporated herein by reference. A copy of Kitchings July 25th letter is attached as Exhibit E and incorporated herein by reference.

Kitchings and Spruill were pretending, on April 24th when Respondent's Brief and DOM were due to be filed/served (Exhibit C), that this appeal was being held in abeyance hoping that Ryan would miss his filing/service deadline for his final brief. However, Ryan timely filed/served his final brief on May 2nd (Exhibit D) which perfected this appeal. As part of their conspiracy to commit mail fraud, Spruill had to miss Respondent's Brief and DOM filing/service deadlines or else the conspirator's fraud would have been exposed. Spruill made her choice to commit mail fraud instead of complying with the Rules and timely filing/serving her client's Brief and DOM. It is Respondent that must pay for Spruill's decision to miss her deadlines **NOT RYAN** who has paid the price for her decision!

This appeal was dismissed as part of the conspiracy to commit mail fraud that had already been committed by Kitchings and Spruill well over the "at least two acts" required by the Racketeering Influenced and Corrupt Organizations Act (RICO) to constitute a felony crime. Further, this appeal was dismissed because of Chief Judge H. Bruce Williams' void remand order that made this case possible. If this Court does not **reverse** Kitching's and Spruill's fraudulent dismissal, and reinstate this appeal, this Court will become a part of their conspiracy to commit mail fraud under the RICO act since this Court's order will have to be served on Ryan via the US mail system pursuant to the Court Rules.

Reverse or vacate the order that fraudulently dismissed this appeal and reinstate it.

August 30, 2023

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

Pursuant to Rule 242(d)(1) SCACR, Petitioner certifies that the dismissal of his appeal was made final as evidenced by the two orders from the Court of Appeals that can be found in this Appendix on pages 1-4.

October 17, 2023

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