

RECEIVED
May 12 2023
SC Court of Appeals

RECEIVED

Nov 21 2023

S.C. SUPREME COURT

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, 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 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.

INITIAL BRIEF OF RESPONDENT

HAYNSWORTH SINKLER BOYD, P.A.
Sarah P. Spruill (SC Bar No. 68337)
P.O. Box 2048
Greenville, SC 29602
(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

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUES ON APPEAL	1
STATEMENT OF THE CASE & FACTS	2
I. LITIGATION HISTORY PREDATING THE TAX SALE.....	3
II. THE 2017 TAX SALE	5
III. LB PARK’S EFFORTS TO QUIET ITS TAX TITLE	6
A. The 2019 Case.....	6
B. The 2020 Case.....	6
1. The Parties	6
2. Procedural History	7
ARGUMENT	11
I. POWELL’S ARGUMENTS ARE NOT PRESERVED BECAUSE HE DID NOT APPEAR AT THE MERITS HEARING TO PRESENT ANY EVIDENCE, TO OBJECT TO THE TESTIMONY PRESENTED, OR TO MAKE ANY ARGUMENTS TO THE MASTER.....	11
II. THE MASTER HAD JURISDICTION OVER POWELL AND THE PROPERTY.....	12
A. This action was properly referred to the Master.	12
B. LB Park had standing to bring this action, which presents a ripe case or controversy.	13
C. The master had jurisdiction over the Property and Powell.	14
D. The record clearly establishes that Powell was afforded due process and equal protection under the laws.	16
1. As reflected in the evidence presented at trial, York County complied with the tax sale statutes and provided notice to all required parties.	17
2. The master acted within her discretion in denying the request for a continuance....	20
III. THE MASTER CORRECTLY DENIED THE MOTION FOR A NEW TRIAL OR TO ALTER OR AMEND.....	21
A. LB Park is the owner of the Property.....	21
B. The master correctly dismissed Powell’s counterclaims for each of the independent reasons given in the final order.	21
CONCLUSION.....	23

TABLE OF AUTHORITIES

Cases

<i>Beall v. Doe</i> , 281 S.C. 363, 315 S.E.2d 186 (Ct. App. 1984).....	22
<i>Bodman v. State</i> , 403 S.C. 60, 742 S.E.2d 363 (2013)	16
<i>Bryan v. Freeman</i> , 253 S.C. 50, 168 S.E.2d 793 (1969)	12
<i>Cathcart v. Jennings</i> , 137 S.C. 450, 135 S.E. 558 (1926)	12
<i>Com. Credit Loans, Inc. v. Riddle</i> , 334 S.C. 176, 512 S.E.2d 123 (Ct. App. 1999).....	11
<i>Crout v. S.C. Nat. Bank</i> , 278 S.C. 120, 293 S.E.2d 422 (1982)	20
<i>Ex parte Gregory</i> , 378 S.C. 430, 663 S.E.2d 46 (2008)	20
<i>Floyd v. Floyd</i> , 112 S.C. 106, 98 S.E. 850 (1919)	14
<i>Futch v. McAllister Towing of Georgetown, Inc.</i> , 335 S.C. 598, 518 S.E.2d 591 (1999)	21
<i>Godfrey v. Webb</i> , 277 S.C. 246, 285 S.E.2d 883 (1982)	12
<i>Grant v. S.C. Coastal Council</i> , 319 S.C. 348, 461 S.E.2d 388 (1995)	16
<i>In re Treatment & Care of Luckabaugh</i> , 351 S.C. 122, 568 S.E.2d 338 (2002)	16
<i>Johnson v. Arbabi</i> , 355 S.C. 64, 584 S.E.2d 113 (2003)	12
<i>Jones v. Lott</i> , 387 S.C. 339, 692 S.E.2d 900 (2010)	21
<i>Kurschner v. City of Camden Plan. Comm’n</i> , 376 S.C. 165, 656 S.E.2d 346 (2008)	16
<i>MailSource, LLC v. M.A. Bailey & Assocs., Inc.</i> , 356 S.C. 370, 588 S.E.2d 639 (Ct. App. 2003).....	11
<i>ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche</i> , 327 S.C. 238, 489 S.E.2d 470 (1997)	21
<i>Parker v. Shecut</i> , 340 S.C. 460, 531 S.E.2d 546 (Ct. App. 2000).....	17
<i>Richardson Const. Co. v. Meek Eng’g & Const., Inc.</i> , 274 S.C. 307, 262 S.E.2d 913 (1980)	15
<i>Rosenbaum v. S-M-S 32</i> , 311 S.C. 140, 427 S.E.2d 897 (1993)	12
<i>Sloan v. Bd. of Physical Therapy Exam’rs</i> , 370 S.C. 452, 636 S.E.2d 598 (2006)	16

<i>Sunset Cay, LLC v. City of Folly Beach</i> , 357 S.C. 414, 593 S.E.2d 462 (2004)	16
<i>Wilder Corp. v. Wilke</i> , 330 S.C. 71, 497 S.E.2d 731 (1998)	11

Statutes

S.C. Code Ann. § 12-37-210.....	14
S.C. Code Ann. § 12-37-220.....	15
S.C. Code Ann. § 12-51-40.....	17, 18, 20
S.C. Code Ann. § 12-51-90.....	2, 3, 10
S.C. Code Ann. § 12-51-120.....	18
S.C. Code Ann. § 12-51-130.....	13
S.C. Code Ann. § 12-51-160.....	13
S.C. Code Ann. § 12-61-10.....	14
S.C. Code Ann. § 12-61-20.....	15
S.C. Code Ann. § 12-61-60.....	14
S.C. Code Ann. § 18-9-170.....	13
S.C. Code Ann. § 30-7-10.....	10, 22
S.C. Code Ann. § 36-2-803.....	15
S.C. Code Ann. § 40-5-310.....	9
S.C. Const. art. I, § 3.....	16

Rules

Rule 12, SCRCP.....	6
Rule 41, SCRCP.....	6
Rule 53, SCRCP.....	12, 13
Rule 59, SCRCP.....	11, 12
Rule 62, SCRCP.....	13
Rule 201, SCRE.....	19
Rule 208, SCACR.....	2
Rule 220, SCACR.....	4, 12
Rule 241, SCACR.....	13

STATEMENT OF ISSUES ON APPEAL

1. Are Ryan Powell's arguments relating to the master in equity's determinations on the merits in this action preserved given his failure to appear at trial?
2. Given the order of reference which referred this action without limitation, did the master correctly issue orders fully resolving this action on its merits?
3. Did the master have jurisdiction over the Property, which is located in York County, and Powell, who claimed an interest in the Property, in this action to quiet tax title?
4. Did the master correctly determine that LB Park, LLC ("LB Park") was the owner of the Property based on the testimony of the tax collector and the evidence presented at trial and was the relief awarded to LB Park consistent with the pleadings and the evidence?
5. Did the master correctly dismiss Powell's counterclaims?
6. Was the master within her discretion in denying Powell's motion for a continuance?

STATEMENT OF THE CASE & FACTS¹

LB Park brought this action on February 12, 2020 to quiet its tax title to 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023 (the “Property”) and to reform the tax deed to correct an erroneous plat reference. (Complaint, R. at ____). LB Park requested the following relief:

1. With respect to Plaintiff’s First Cause of Action, Plaintiff prays that judgment be entered in its favor against the defendants with a finding by the Court that any right, title, claim, interest, or lien in or to the Property arising from the interests of any of the defendants in the Property that they now claim or may claim in the future, be found to be junior or subsequent to Plaintiff’s title, and that Plaintiff be provided a final and complete adjudication of the nature and extent of its title to the Property so that it may own, possess, and transfer clear title to the Property; and that judgment be entered in Plaintiff’s favor against the defendants and any other tenants or parties in possession of the Property with a finding by the Court that Plaintiff is entitled to immediate possession of the Property and ordering the York County Sheriff to evict and remove any tenants or parties in possession of the Property from the Property within a reasonable time as determined by the Court.
2. With respect to Plaintiff’s First Alternative Cause of Action, and only in the event that the tax sale of the Property is set aside or declared void, Plaintiff prays that judgment be entered in its favor against the party challenging the tax sale with a finding by the Court that Plaintiff is entitled to a refund of the tax sale bid, all Property taxes paid, all costs justly chargeable against the Property, and legal interest on the tax sale bid at the rate of 12% from the date of the tax sale on November 6, 2017, until paid, as provided in S.C. Code Ann. §§ 12-51-90, -100, together with pre-judgment interest, and that the Court order the party challenging the tax sale of the Property to refund these amounts to Plaintiff.
3. With respect to Plaintiff’s Second Cause of Action, Plaintiff prays that judgment be entered declaring and reforming the Tax Deed, the quitclaim deed to Plaintiff, and all previous deeds in the chain of title to reflect the correct recording information for the Plat, which is Plat Book 73 at Pages 23-26.
4. Plaintiff also prays that the Court award it such other and further relief as the Court may deem just and proper.

¹ Powell has also appealed two orders in an earlier action, C/A No. 2019-CP-46-00310, Appellate Case No. 2019-000979 (“2019 Case”). Pursuant to Rule 208, SCACR, LB Park adopts by reference its brief in that related action.

(*Id.*, R. at ____).

Powell claims to have an interest in the Property by virtue of an unrecorded “Title to Private Property” dated December 29, 2012.² (Answer at ¶¶ 7, 31-35, R. at ____). He has been litigating the issues of ownership and whether he must pay property taxes on the Property in various actions dating back to 2013.

I. Litigation History Predating the Tax Sale

Shortly after his purported purchase of the Property, Powell petitioned the South Carolina Supreme Court to exercise its original jurisdiction and issue a writ of mandamus ordering the York County Auditor, the York County Treasurer, and the York County Delinquent Tax Collector to update their records to reflect Powell as the owner of the Property, void the tax liens on the Property, void the tax execution on the Property, void the levy and attempted sale of the Property, and return \$5,118 Powell had paid in property taxes. The petition was denied by order dated February 20, 2014. (Tr. Ex. A, R. at ____).

On May 1, 2014, Powell filed an action in the York County Court of Common Pleas against Amy Boheler d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert

² Powell admitted he did not have a recorded interest in the Property at either the time of the tax sale or the filing of this action. (Answer at ¶ 46, R. at ____). In addition, Powell failed to produce his purported deed until after the trial of this matter. (Motion for a New Trial, or to Alter or Amend, R. at ____).

Only after this appeal was filed did Powell attempt to record the deed (*See* Exhibit to Reply to LB Park, LLC’s “Return to Supersedeas Surety (Bond)” filed February 27, 2023); however, that filing is a nullity by operation of the tax sale statute and the Final Order in this matter. Moreover, Powell and his mother filed another lawsuit regarding the Property on February 24, 2023, in the York County Court of Common Pleas (C/A No. 2023-CP-46-00607) and asserted various claims to recover the Property and for damages. In dismissing that case, Judge William A. McKinnon ruled that Powell’s recorded deed “is declared void and the [ROD] is instructed to strike [Powell’s deed] from its records and to record a copy of this Order to confirm that [Powell’s deed] is void and that Ryan Powell has no interest in the Property.” (Order filed on April 10, 2023, ¶ 3 at 17).

Kiser d/b/a York County Delinquent Tax Collector, seeking a writ of mandamus and asserting numerous causes of action. Judge Jackson Kimball dismissed this action with prejudice for lack of subject matter jurisdiction “to the extent Plaintiff’s complaint challenges the taxing authority of York County,” finding “that [Powell’s] claims are entirely frivolous” and dismissed all claims with prejudice. (Tr. Ex. B at 5-6, R. at ____). Judge Kimball summarized Powell’s arguments as follows:

[Powell’s] complaint and legal memoranda read like a doctrinal manifesto. It is a rambling presentation of twisted, disconnected and inapplicable legal theories that contradicts all statutory and case law governing the issues presented. It challenges the right and authority of the County to assess and collect *ad valorem* property taxes on realty, as well as the owner’s obligation to pay those taxes.

According to [Powell], no land owner is required to pay property taxes, unless the owner’s deed has been recorded. Instead, property owners elect to pay property taxes when they choose to record their deeds. [Powell] asserts that a property owner can avoid any liability for property taxes by simply choosing not to record his deed. Because [Powell] chose not to record his deed, [Powell] contends that York County cannot assess taxes against his real property, which is a conclusion unrelated to any personal liability for taxes. Applying such “logic”, [Powell] asserts that he is not liable for property taxes on a parcel that he owns in York County, and that the County lacks the authority to collect such taxes through the delinquent tax collection process Nevertheless, [San Juan Holdings] remains the record owner of the property.

(Tr. Ex. B at 3-4, R. at ____). Powell then appealed to this Court, which affirmed in a Rule 220, SCACR opinion. (Tr. Ex. C, R. at ____).

In 2017, Powell filed another action against the York County Assessor in the South Carolina Administrative Law Court. This action was dismissed on November 28, 2017 as being moot because Powell redeemed the Property after a tax sale: “[Powell’s] latest redemption of the Property is thus consistent with his pattern of delaying the payment of his property taxes, yet ultimately claiming his ownership and assuming the obligation to pay the property taxes.” (Tr. Ex. D at 3, R. at ____). A footnote to this sentence further states:

I use the term ‘ownership’ above only for the sake of argument because I find that [Powell] failed to established [sic] standing as the owner of the property to contest the payment of taxes. Though he argues through his averments that he established ownership of the property, he has not presented a deed or court order establishing that fact. In fact, the deed he submitted does not identify him as the owner but an “unenfranchised living man” which is inconsistent with [Powell’s] claim to be a “free man.” Further, simply stating that you own property without a legal document to support ownership does not establish a legal right to the property. It appears under the facts of this case that the only way for Petitioner to establish ownership would be a quiet title action.

(*Id.* at 3 n.6, R. at ____).

II. The 2017 Tax Sale

Thereafter, the taxes assessed on the Property were not paid, and the York County Delinquent Tax Collector (the “Tax Collector”) sold the Property on November 6, 2017 at the York County tax sale (the “Tax Sale”). (Tr. Ex. E, Tr. at 22:1-6, R. at ____). SB MUNI CUST % LBSC-11 LLC (“SB MUNI”) purchased the Property at the Tax Sale with a bid of \$171,000.00. (Tr. Ex. E, R. at ____). After the expiration of the one-year redemption period, the Tax Collector conveyed title to SB MUNI by tax deed dated and recorded on December 26, 2018 (the “tax deed”). (Tr. Ex. E, Tr. at 34:20-36:14, R. at ____). SB MUNI subsequently conveyed the Property to LB Park by quitclaim deed dated January 7, 2019, and recorded on January 10, 2019 (the “quitclaim deed”). (Tr. Ex. F, R. at ____).

The grantee designation in the tax deed of “SB MUNI CUST % LBSC-11 LLC” is an abbreviation for SB Municipal, LLC as custodian for LBSC-11, LLC. (Tr. at 36:13-37:8, R. at ____). The reason for this abbreviation is that the York County software system has a character limitation for the name of the bidder, so bidder names are frequently required to be abbreviated. (*Id.*). The use of abbreviated names and the designation of “custodian” is common when the Tax

Collector's office issues tax deeds, which are prepared and reviewed by the York County Attorney's Office prior to recording. (Tr. at 35:5-37:8, R. at ____).

III. LB Park's Efforts to Quiet its Tax Title

A. The 2019 Case

The history in this action has been set forth in full in the briefing in the 2019 Case, which is incorporated herein by reference. In short, LB Park filed a complaint to quiet its tax title and reform the tax deed on January 25, 2019. Powell was not named as a party because he did not have a record interest in the Property.

On April 8, 2019, Powell filed a Special Appearance Motion to Dismiss or Intervene and sought to dismiss the action under Rules 12(b)(1) and 12(b)(2), SCRCPP, and alternatively sought to intervene. LB Park filed a motion for an order of reference on May 2, 2019. After a hearing, Judge Daniel Hall denied Powell's motions. Powell appealed.

On motion of LB Park seeking a remand to the circuit court "to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRCPP" and stating "[i]f 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," this Court remanded the 2019 Case. LB Park filed a Notice of Dismissal on February 12, 2020.

B. The 2020 Case

1. The Parties

Consistent with its motion for remand in the 2019 Case, LB Park filed this action on February 12, 2020. (Complaint, R. at ____). LB Park named as a defendant Brett Osborne as Trustee of San Juan Holdings ("San Juan") as the owner of record according to last deed recorded for the Property (Tr. Ex. G, R. at ____) and the only party to a "Notice of Sale, Transfer or Exchange"

recorded on December 26, 2012 (the “Osborne Notice”) (Tr. Ex. H, R. at ____). The Osborne Notice does not identify a specific grantee, does not meet the requirements for a deed, and did not convey an interest in the Property. (Tr. Ex. H, R. at ____). As to Powell, LB Park alleged:

Plaintiff is informed and believes that Defendant Ryan Powell has claimed to possess an unrecorded ownership interest in the Property. While Plaintiff denies that Defendant Ryan Powell has any interest in the Property, Plaintiff has named Defendant Ryan Powell as a party to provide him with notice of this proceeding and the opportunity to protect any interest he claims to have in the Property.

(Complaint at ¶ 7, R. at ____).

LB Park served San Juan and Osborne on March 1, 2020. (Affidavits of Service, R. at ____). In response, Osborne filed a letter on April 1, 2020, advising that he was not the trustee of San Juan, that San Juan is dissolved, that he has no interest in the Property, and no duty to defend the Property. (Letter, R. at ____). There has been no further filing from Osborne in this matter and he is not a party to this appeal. LB Park served Powell on April 14, 2020. (Affidavit of Service, R. at ____).

2. Procedural History

Powell filed Several Motions to Dismiss under Special Appearance on May 14, 2020. (Motion, R. at ____). Thereafter, LB Park filed a motion for order of reference on June 23, 2020 (Motion, R. at ____), and Powell filed a demand for a jury trial on July 14, 2020 (Demand, R. at ____). The circuit court heard these motions on July 22, 2020. In a Form 4 order, the circuit court referred this matter to the master in equity for York County and denied Powell’s motions.³ (Order, R. at ____).

³ Powell appealed this order and filed a notice of appeal on September 8, 2020. (Appellate Case No. 2020-001228). This Court dismissed the appeal “[b]ecause the underlying orders are not immediately appealable” and the remittitur was issued on October 9, 2020.

On October 6, 2020, Powell filed his Answer, Defenses, and Counterclaims and demanded a jury trial. (Answer, R. at ____). Powell generally denied Plaintiff's allegations, asserted 23 defenses, and alleged counterclaims for (1) Sanctions for Frivolous Complaint, (2) Intentional Infliction of Emotional Distress, (3) Declare Void and Set Aside Tax Deed, (4) Intentional Interference with Contract, and (5) Slander of Title (collectively, the "counterclaims"). (*Id.*). LB Park filed and served its reply on October 29, 2020, generally denying Powell's allegations and asserting seventeen defenses. (Reply, R. at ____).

On April 30, 2021, LB Park filed a motion to strike Powell's jury demand. (Motion, R. at ____). Powell filed a Motion to Return Case to Circuit Court on July 13, 2021. (Motion, R. at ____). The master denied Powell's motion by order dated September 20, 2021. (Order, R. at ____). LB Park then scheduled the merits hearing for October 21, 2021, and filed a notice of hearing on September 28, 2022. (Notice, R. at ____).

Powell filed a notice of appeal on October 12, 2021. (Appellate Case Nos. 2021-001192, 2022-000275). Once again, the appeal was dismissed, and the remittitur was issued on May 23, 2022.

Following the remittitur of his second interlocutory appeal, Powell filed a series of motions designed to further delay a merits hearing in this matter: (1) Motion for Leave to Amend Answer to Make a Third-Party Complaint filed on June 8, 2022 (the "motion to amend," R. at ____); (2) Rule 60(b)(4) Motion to Vacate Judgment Denying Owner's Motion to Return Case to Circuit Court filed on September 6, 2022 (the "motion to vacate," R. at ____); and (3) Motion for Continuance filed on September 16, 2022 ("motion for continuance," R. at ____). By e-mail sent on August 24, 2022, the master notified the parties that it would hear the motion to amend immediately prior to trial. (Email, R. at ____). The master also notified the parties that if the

motion to amend was denied, the trial would proceed. The trial date was set for September 27, 2022. By letter and e-mail dated September 9, 2022, Powell withdrew the motion to amend and the motion to vacate. (Email, R. at ____).

On September 27, 2022, the master called this case for hearing. (Tr., R. at ____). Powell did not attend. (Tr. at 5:12-14, R. at ____). The master first considered Powell's sole remaining motion, the motion for continuance. (Tr. at 6:1-4, R. at ____). As set forth in the written order,

The Court denies Powell's Motion for Continuance. This case has been pending since February 12, 2020, and the Court notified the parties of the hearing date of September 27, 2022, by e-mail sent on August 24, 2022, which was over a month before hearing date. Powell did not seek a continuance until September 16, 2022. The Court finds that the Motion for Continuance does not demonstrate good cause and that Powell had ample time to make preparations to attend.

As to Powell's request for his mother to present his case stated in the Motion for Continuance, the Court finds that any participation by Powell's mother would constitute the unauthorized practice of law, which is prohibited by S.C. Code Ann. § 40-5-310 and South Carolina case law.

(Order at 2, R. at ____). The master further noted, "In fact, Powell asked if he could remotely view the hearing without appearing by e-mail on September 26, 2022." (*Id.*).

The master then heard the case on the merits, including testimony from Tracy Mattevi, the Tax Collector, who detailed the processes involved in the underlying tax sale and authenticated the documents admitted into evidence from her file. (Tr. 6:12-53:9, R. at ____). The Tax Collector further testified that all notices of delinquent taxes, the execution, levy, posting, advertisements, tax sale, and notices of the approaching end of redemption period sent to the interested parties entitled to notice were performed in accordance with the usual procedures of her office and were in strict conformity with all statutory requirements. (Tr. at 13:8-37:5, R. at ____).

After considering the evidence, the master entered a detailed final order setting forth findings of fact and conclusions of law on October 24, 2022. (Order, R. at ____). In the order,

the master found that the Tax Sale was valid and that LB Park was the owner of the Property and that LB Park's title "is incontestable on procedural or other grounds and all claims against or challenges to the Tax Sale of the Property are barred by the two-year statute of limitations set forth in S.C. Code Ann. §§ 12-51-90(c) and 160, because more than two [years] have passed since the date of the Tax Sale." (Order, R. at ____). The master further found that the tax deed should be reformed to correct an erroneous plat reference. (Order, R. at ____).

In addition, the master dismissed all of Powell's counterclaims for the following independent reasons: (1) "Powell bases the Counterclaims on the allegations that the Property is not subject to taxes because he, as the alleged owner, has not recorded his alleged deed. The Court finds that these are the same arguments that Powell has previously litigated and that have previously been dismissed;" (2) "Powell did not appear at the final hearing and thus abandoned and failed to prosecute the Counterclaims, which is sufficient alone to dismiss the Counterclaims with prejudice;" (3) "Powell lacks standing to assert any counterclaim concerning the Property because he has never produced a deed for the Property, he admittedly has no interest of record in the Property, and the South Carolina Administrative Law Court has previously found that Powell failed to establish he was the owner of the Property. Additionally, the doctrines of *res judicata* and collateral estoppel bar Powell from re-litigating whether he has any interest in the Property;" and (4) the Recording Act, S.C. Code Ann. § 30-7-10, bars all of Powell's claims because "in order for a deed to be valid as to subsequent purchasers without notice, the deed must be recorded and that priority between a subsequent purchaser of real estate without notice 'is determined by the time of filing for record.'" The master then found that each of the counterclaims failed on its merits. (Order, R. at ____).

Powell moved for a new trial or to alter or amend by motion filed on November 4, 2022. (Motion, R. at ____). The motion was denied by order dated November 10, 2022. (Order, R. at ____). This appeal followed.

ARGUMENT

The Property was not seized or taken. Property taxes were not paid, and the Property was sold by York County consistent with the tax sale statutory scheme and with notice to the required parties. By virtue of its quitclaim deed from the tax deed holder and as expressly authorized by statute, LB Park sought to clear its tax title and to take possession of the Property. After delaying this relief for years through a series of frivolous filings and interlocutory appeals, Powell did not appear at the trial and, therefore, presented no evidence or argument to support any of his defenses or counterclaims. As discussed below, Powell's arguments are either unpreserved or meritless, and the master's orders should be affirmed in full.

I. Powell's arguments are not preserved because he did not appear at the merits hearing to present any evidence, to object to the testimony presented, or to make any arguments to the master.

Powell's failure to appear at the hearing on his motion for continuance and at trial renders all of his arguments, with the exception of those implicating subject matter jurisdiction, unpreserved. To be preserved for appellate review, an argument must have been raised to and ruled on by the trial court. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 734 (1998). A post-trial motion will not correct the failure to raise an issue at trial. *See MailSource, LLC v. M.A. Bailey & Assocs., Inc.*, 356 S.C. 370, 374, 588 S.E.2d 639, 641 (Ct. App. 2003) ("[a] party cannot raise an issue for the first time in a Rule 59(e), SCRC motion"); *Com. Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 186, 512 S.E.2d 123, 129 (Ct. App. 1999) (holding issue not preserved

for appellate review where it was raised for the first time in a Rule 59(e), SCRCF motion). As such, the master's orders should be affirmed without argument pursuant to Rule 220, SCACR.

II. The master had jurisdiction over Powell and the Property.

A. This action was properly referred to the Master.

In dismissing each of Powell's interlocutory appeals relating to the reference of this action to the master, this Court and the South Carolina Supreme Court have found there was not a right to a jury trial in this matter. This result is consistent with the applicable case law. In actions to quiet tax title, there is no right to a jury trial, even if the defendant asserts a counterclaim stating a cause of action at law. *Rosenbaum v. S-M-S* 32, 311 S.C. 140, 427 S.E.2d 897 (1993). As stated there:

Considering the unique circumstances existing in a tax forfeiture acquisition, and the prevailing statutory provisions governing suits to clear tax titles, we conclude that the appellant may not evade the intent of the legislature and obtain the right to a jury trial by interposing a counterclaim designed to thwart the reasonable and practical implication of Chapter 61.

Id.

Similarly, an action concerning the validity of a tax sale is an action in equity. *Johnson v. Arbabi*, 355 S.C. 64, 69, 584 S.E.2d 113, 115 (2003) (citing *Bryan v. Freeman*, 253 S.C. 50, 52, 168 S.E.2d 793, 793–94 (1969) (“An action to remove a cloud on and quiet title to land is one in equity.”)); *see also Godfrey v. Webb*, 277 S.C. 246, 247, 285 S.E.2d 883, 884 (1982) (holding that an action to set aside a tax deed and an action to confirm the same tax sale were both actions in equity); *Cathcart v. Jennings*, 137 S.C. 450, 463, 135 S.E. 558, 562 (1926) (“[a] court of equity has jurisdiction to remove a cloud upon title.”) (internal citations omitted). As such, this case was properly referred to the master upon LB Park's motion. Rule 53, SCRCF.

Once this action was referred, the master had full authority to hear and decide this case in full. Rule 53(c), SCRCP provides, “[o]nce referred, the master or special referee shall exercise all power and authority which a circuit judge sitting without a jury would have in a similar matter.” The Note to the 1986 Amendment of Rule 53 states, “Rule 53(c) is amended to make clear that the master has the same powers as a court sitting without a jury unless the order of reference limits his authority.” In this case, the order of reference simply provides “[a]fter careful consideration, Plaintiff’s Motion for Order of Reference to the Master in Equity is GRANTED.” (Order, R. at ____). This plain language does not place any limitations on the reference to the master, and, therefore, the master correctly handled this case through its final disposition, which included granting LB Park possession of the Property as demanded in the complaint and providing for a bond in the event of an appeal.⁴ See Rule 62, SCRCP; Rule 241, SCACR; see S.C. Code Ann. § 18-9-170.

B. LB Park had standing to bring this action, which presents a ripe case or controversy.

“Delivery of the tax title to the . . . register of deeds is considered ‘putting the purchaser, or assignee in possession.’” S.C. Code Ann. § 12-51-130. As a result, SB MUNI acquired legal possession of the Property when the tax deed was delivered to the York County Register of Deeds on December 26, 2018. (Tr. Ex. E, R. at ____). SB MUNI’s tax deed is “prima facie evidence of a good title in the holder” and any action for recovery of land sold in a tax sale must be “brought within two years from the date of sale.” S.C. Code Ann. § 12-51-160. Neither Powell nor anyone

⁴ Powell petitioned this Court multiple times for relief from the stay and bond provisions of the order and was rejected each time.

else brought an action or asserted any claim to recover the Property within that two-year window, which closed on November 7, 2019.

LB Park received the Property via quitclaim deed from the tax sale purchaser. (Tr. Ex. F, R. at ____). Therefore, LB Park has all the rights in the Property that belonged to the tax sale purchaser. *Floyd v. Floyd*, 112 S.C. 106, 107, 98 S.E. 850, 850 (1919) (noting that a grantee stands in the shoes of the grantor). Moreover, “any person or the executors, administrators, successors, assigns or grantees thereof, which has purchased at or acquired through a tax sale and obtained title to any real or personal property” may bring an action “for the purpose of barring all other claims” to the property. S.C. Code Ann. § 12-61-10 (emphasis added). The statute does not impose any requirement that the plaintiff must have physical possession of the property prior to filing, and any such requirement would cause an absurd result. Nor is there any requirement that a defendant in an action to clear tax title consent to the relief requested. In fact, the code sections relating to actions to clear tax title must be construed to allow tax sale purchasers (and their successors and assigns) to “obtain a final and complete adjudication of the nature and extent of the title[.]” S.C. Code Ann. § 12-61-60.

Thus, LB Park had standing to bring this action, which presented a ripe case or controversy as set forth in S.C. Code Ann. § 12-61-10. The proceedings were consistent with the applicable provisions of the South Carolina Code of Laws, and there has been not confiscation or seizure of private property.

C. The master had jurisdiction over the Property and Powell.

Without question and as stated in the legal description of the tax deed, the Property is located within the boundaries of South Carolina. All real property in this state is subject to taxation. S.C. Code Ann. § 12-37-210. Although there are some general exemptions, none apply

here. S.C. Code Ann. § 12-37-220. The code further provides for tax sales in the event property taxes are not paid (Title 12, Chapter 51) and for actions to clear tax title (Title 12, Chapter 61). Powell's refusal to record his deed does not change anything about the Property's location within this state or the fact that the Property is subject to taxation.

In addition, the record shows that Powell was served (a fact he does not deny). (Affidavit of Service, R. at ____). "An affidavit of service is Prima facie evidence of service which may be impeached by extrinsic evidence." *Richardson Const. Co. v. Meek Eng'g & Const., Inc.*, 274 S.C. 307, 311, 262 S.E.2d 913, 915–16 (1980). Here, Powell did not present extrinsic evidence showing he was not served. He appears to contend there was some defect in terms of the application of the long arm statute, S.C. Code Ann. § 36-2-803. However, that statute provides for jurisdiction arising from a person's "having an interest in, using, or possessing real property in this State[.]" *Id.* at § (A)(6). LB Park alleged that Powell claimed an interest in the Property, which Powell admitted. (Complaint ¶ 6, Answer ¶ 7, R. at ____). Thus, the long arm statute applies and confers jurisdiction over Powell with respect to this action.

Moreover, S.C. Code Ann. § 12-61-20 permits the following parties to be made defendants in suit to clear tax title,

[T]here may be made defendants to the action the former owner of such property, his heirs, executors, administrators, successors or assigns and *any other person or legal entity who has or claims any right, title, claim, interest or lien in or to such property*, to the end that such rights, titles, interests, claims or liens may be adjudicated in such action and forever barred by the judgment and decree of the court if such are found to be junior or subsequent to the title of the county or any person purchasing at or acquiring title to property through a tax sale.

(Emphasis added). This provision would be nonsensical if there was not personal jurisdiction over persons that claimed an interest in the property (regardless of the merits of that claim). Quite

simply, there is personal jurisdiction over all persons claiming an interest in South Carolina real property.

D. The record clearly establishes that Powell was afforded due process and equal protection under the laws.

The standards that apply to due process arguments in South Carolina are well established.

Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution. The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. Due process does not require a trial-type hearing in every conceivable case of government impairment of a private interest. Rather, due process is flexible and calls for such procedural protections as the particular situation demands.

Kurschner v. City of Camden Plan. Comm’n, 376 S.C. 165, 171–72, 656 S.E.2d 346, 350 (2008) (citations omitted). “In order to prove a denial of substantive due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law.” *Sunset Cay, LLC v. City of Folly Beach*, 357 S.C. 414, 430, 593 S.E.2d 462, 470 (2004).

With respect to equal protection,

The South Carolina Constitution provides that no “person shall be denied the equal protection of the laws.” S.C. Const. art. I, § 3. “The *sine qua non* of an equal protection claim is a showing that similarly situated persons received disparate treatment.” *Grant v. S.C. Coastal Council*, 319 S.C. 348, 354, 461 S.E.2d 388, 391 (1995); *see also Sloan v. Bd. of Physical Therapy Exam’rs*, 370 S.C. 452, 481, 636 S.E.2d 598, 613 (2006) (“A crucial step in the analysis of any equal protection issue is the identification of the pertinent class . . .”). Not all classifications are unconstitutional, however, for “[t]he equal protection clause only forbids irrational and unjustified classifications.” [*In re Treatment & Care of Luckabaugh*, 351 S.C. 122, 147, 568 S.E.2d 338, 351 (2002)].

Bodman v. State, 403 S.C. 60, 69, 742 S.E.2d 363, 367 (2013). Here, Powell was given notice and opportunities to be heard, and the Tax Collector treated all properties in the same manner for

purposes of the tax sale process.⁵ Therefore, there has not been any due process or equal protection violation.

1. As reflected in the evidence presented at trial, York County complied with the tax sale statutes and provided notice to all required parties.

The master's final order contains a thorough summary of the Tax Collector's testimony regarding the tax sale process for the Property (Tr. at 13:8-37:13, R. at ____), as follows:

Tracy Mattevi, the Tax Collector, testified that all notices of delinquent taxes, the execution, levy, posting, advertisements, tax sale, and notices of the approaching end of redemption period sent to the interested parties entitled to notice were performed in accordance with the usual procedures of her office and were in strict conformity with all statutory requirements.

Specifically, the Tax Collector testified that based upon the records of the York County Assessor's Office and the ROD, San Juan was the defaulting taxpayer and was the last record owner of the Property prior to the Tax Sale. On or about April 1, 2017, the Tax Collector's office mailed the execution notice described in S.C. Code Ann. § 12-51-40(a) to San Juan Holdings, Brett Osborne Trustee, at 9127 Dalmeny House Lane, Charlotte, NC 28215 (the "Charlotte Address"). A certified copy this Tax Sale notice was entered into evidence as Exhibit J. The Tax Collector testified that the York County Assessor's Office provided the Charlotte Address and that it is the same address provided for San Juan on the Osborne Notice. (*See* Exhibit H.) This execution notice was mailed by regular mail, and the Tax Collector testified that the United States Postal Service did not return this notice to her office.

With respect to the notice described in S.C. Code Ann. § 12-51-40(b), the Tax Collector testified that her office mailed this notice to San Juan Holdings, Brett Osborne Trustee, at the Charlotte Address by certified mail, return receipt requested-restricted delivery on July 24, 2017. The Tax Collector testified that the United States Postal Service returned this notice marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." A certified copy this Tax Sale notice and the returned envelope were entered into evidence as Exhibit K. Accordingly, the Tax Collector's office took exclusive possession of the Property by posting the Property with notice of the Tax Sale, as provided in S.C. Code Ann. § 12-51-40(c), which posting occurred on September 7, 2017. Certified copies of

⁵ To the extent Powell argues the master in some way acted impartially or unfairly, those arguments are unpreserved as Powell never sought recusal. *Parker v. Shecut*, 340 S.C. 460, 496, 531 S.E.2d 546, 566 (Ct. App. 2000), *rev'd on other grounds*, 349 S.C. 226, 562 S.E.2d 620 (2002).

the field report and the notice posted on the Property were entered into evidence as Exhibits L-1 and L-2.

As required by S.C. Code Ann. § 12-51-40(d), the Tax Collector testified that her office advertised the Property for sale at public auction in The Herald on October 16, October 23, and October 30, 2017. The Tax Collector also testified that The Herald is a newspaper of general circulation within York County and that the records of her office reflected that the Property was advertised for sale at public auction for three consecutive weeks prior to the date of the Tax Sale. Certified copies of the newspaper advertisements were entered into evidence as Exhibits M-1, M-2, and M-3.

The Tax Collector testified that the Tax Sale occurred on November 6, 2017, and that SB MUNI purchased the Property for \$171,000.00. The Tax Collector also testified that her office sent a courtesy notice of the Tax Sale on November 13, 2017, to the Charlotte Address by regular mail, and that the United States Postal Service did not return this notice to her office.

After the Tax Sale, the next statutorily required notice was the notice of approaching end of redemption period described in S.C. Code Ann. § 12-51-120 (the “Redemption Notice”). In preparing to send the Redemption Notice, the Tax Collector testified that her office obtained a title search to identify any grantees, mortgagees, or lessees of record of the Property. Based on the title search her office received, San Juan was the only party with an interest of record in the Property, no mortgages encumbered the Property, and Powell had no interest in the Property.

The Tax Collector testified that her office sent the Redemption Notice to five separate addresses. The Tax Collector’s office sent a Redemption Notice to San Juan Holdings, Brett Osborne Trustee, at the Charlotte Address by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that the United States Postal Service returned this notice marked, “Return to Sender, Not Deliverable as Addressed, Unable to Forward.” Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-3.

The Tax Collector’s office sent a Redemption Notice to San Juan Holdings, Brett Osborne Trustee, addressed to 112 Highway 218 West, Monroe, NC 28110, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that her office obtained this address from additional research and the deed conveying the Property to San Juan. (See Exhibit G.) The Tax Collector also testified that her office sent this Redemption Notice as an additional attempt to provide notice of the approaching end of the redemption period. The Tax Collector testified that the United States Postal Service returned this notice marked, “Return to Sender, Attempted – Not Known, Unable to Forward.” Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, N-3.

The Tax Collector's office sent a Redemption Notice to San Juan Holdings/Ryan Powell addressed to 25056 Timberlake Drive, Tega Cay, SC 29708, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The address used is the Property address. The Tax Collector testified that her office sent a Redemption Notice to Powell, even though he did not have an interest of record in the Property, because her office was aware that he claimed an interest in the Property, so her office provided this Redemption Notice as an additional attempt to provide as much notice as possible regarding the approaching end of the redemption period. The Tax Collector testified that the United States Postal Service returned this notice marked, "Return to Sender, Unclaimed, Unable to Forward." Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-4.

The Tax Collector's office sent a Redemption Notice to San Juan Holdings/Ryan Powell addressed to 25056 Timberlake Drive, Fort Mill, SC 29715, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that her office obtained this address from additional research, and pursuant to Rule 201, SCRE, the Court takes judicial notice that this is the same address Powell provided as his address in several filings in this case. The Tax Collector testified that her office sent this Redemption Notice to Powell, even though he did not have an interest of record in the Property, because her office was aware that he claimed an interest in the Property, so her office provided this Redemption Notice as an additional attempt to provide as much notice as possible regarding the approaching end of the redemption period. The Tax Collector testified that the United States Postal Service returned this notice marked, "Return to Sender, Unclaimed, Unable to Forward." Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-4.

The Tax Collector's office sent a Redemption Notice to San Juan Holdings/Ryan Powell addressed to 3459 Mill Run, Raleigh, NC 27612, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that her office obtained this address from additional research. The Tax Collector also testified that her office sent this Redemption Notice to Powell, even though he did not have an interest of record in the Property, because her office was aware that he claimed an interest in the Property, so her office provided this Redemption Notice as an additional attempt to provide as much notice as possible regarding the approaching end of the redemption period. The Tax Collector further testified that the United States Postal Service returned this notice marked, "Return to Sender, Unclaimed, Unable to Forward." Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-5.

After sending the foregoing five Redemption Notices, the Tax Collector testified that no party redeemed the Property before the redemption period expired on November 7, 2018.

(Order at 14-18, R. at ____ (emphasis added and footnote omitted)). This testimony shows compliance with the applicable notice requirements for tax sales, S.C. Code Ann. §§ 12-51-40 to -120. It further shows that the Tax Collector went above and beyond those requirements in an effort to provide notice to Powell.⁶ In addition, this testimony shows that the sale was handled in the same manner as all tax sales in York County.

2. The master acted within her discretion in denying the request for a continuance.

“[A] motion for a continuance is addressed to the sound discretion of the trial judge, whose judgment will be reversed only on showing an abuse of discretion.” *Crout v. S.C. Nat. Bank*, 278 S.C. 120, 123, 293 S.E.2d 422, 423 (1982). “An abuse of discretion occurs where the decision is controlled by an error of law or is based on unsupported factual conclusions.” *Ex parte Gregory*, 378 S.C. 430, 437, 663 S.E.2d 46, 50 (2008)

Here, the master’s ruling is supported by the chronology set forth in the Final Order: this case had been pending for well over a year, Powell had notice of the hearing more than a month in advance, Powell did not move for a continuance until eleven days before the hearing and provided only a vague reason why he sought to further delay a final order in this matter. (Order at 2, R. at ____). Given these facts, the master did not find good cause why the matter should be continued and denied the motion. This ruling is supported by the evidence and must be affirmed.

⁶ Powell concedes in Argument I of his brief that “the property tax notice statutes do not require notice be given to an owner whose deed is not recorded[.]”

III. The master correctly denied the motion for a new trial or to alter or amend.

A. LB Park is the owner of the Property.

As discussed above, LB Park is the owner of the Property following a valid tax sale as reflected in the evidence presented at trial without contest or objection. Powell's arguments in the post-trial phase were too little, too late.

B. The master correctly dismissed Powell's counterclaims for each of the independent reasons given in the final order.

As an initial matter and in addition to the preservation argument raised above, Powell concedes that his counterclaims were abandoned in Argument 9D of his brief ("The ruling that Ryan abandoned his counterclaims when he failed to show up for the hearing is the correct ruling.").⁷ As such, the master's order dismissing the counterclaims should be affirmed without further discussion. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (providing that an appellate court need not address remaining issues when resolution of a prior issue is dispositive); *Jones v. Lott*, 387 S.C. 339, 346, 692 S.E.2d 900, 903 (2010) ("Under the two issue rule, where a decision is based on more than one ground, the appellate court will affirm unless the appellant appeals all grounds because the unappealed ground will become the law of the case.").

In addition, Powell did not present any deed, much less a recorded one, prior to filing his post-trial motion. Therefore, there was no evidence showing he held an ownership interest in the

⁷ In addition, Powell did not appeal the rulings on the merits as to four of his counterclaims (Sanctions for Frivolous Complaint, Intentional Infliction of Emotional Distress on Plaintiff, Intentional Interference with Contract, and Slander of Title) as set forth in pages 20-23 of the final order. (R. at ____). As such, these rulings are the law of the case and require affirmance. *ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche*, 327 S.C. 238, 241, 489 S.E.2d 470, 472 (1997) (holding unappealed ruling is law of the case). LB Park will not reargue these points, but submits the master's rulings are also correct on the merits and should be affirmed for the reasons given in the final order.

Property, and the master correctly found that he lacked standing to assert any counterclaims relating to the Property.

Further, the South Carolina Administrative Law Court previously found that Powell failed to establish he was the owner of the Property. Therefore, the master correctly found that he was barred from relitigating this issue. *See Beall v. Doe*, 281 S.C. 363, 370–71, 315 S.E.2d 186, 190–91 (Ct. App. 1984) (finding that collateral estoppel prevents a party from relitigating issues actually determined in an earlier action if that party had a full and fair opportunity to litigate the issue in the first action and there are no circumstances justifying allowing that party to retry the issue.).

Even if Powell could establish standing, the Recording Act bars all of this claims. In relevant part, this statute provides:

All deeds of conveyance of lands . . . either in fee simple or for life . . . and generally all instruments in writing conveying an interest in real estate required by law to be recorded in the office of the register of deeds . . . are valid so as to affect the rights of subsequent creditors (whether lien creditors or simple contract creditors), or purchasers for valuable consideration without notice, only from the day and hour when they are recorded in the office of the register of deeds . . . of the county in which the real property affected is situated. In the case of a subsequent purchaser of real estate . . . the instrument evidencing the subsequent conveyance . . . must be filed for record in order for its holder to claim under this section as a subsequent . . . purchaser for value without notice, and the priority is determined by the time of filing for record.

S.C. Code Ann. § 30-7-10. As set forth there, a deed must be recorded in order for a deed to be valid as to subsequent purchasers without notice. In addition, priority between a subsequent purchaser of real estate without notice “is determined by the time of filing for record.” Here, it is undisputed that Powell did not have an interest of record at the time the tax deed was recorded or at the time LB Park’s deed was recorded.

CONCLUSION

For all of these reasons and those set forth in the orders themselves, the orders on appeal should be affirmed. Powell's pattern of delay and obstruction must stop here, and LB Park must be afforded the all rights inherent in property ownership, including the right to possession, without any further frivolous and costly interruptions.

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

South Carolina Appellate Case Management System

CLERK'S OFFICE
SUPREME COURT
COURT OF APPEALS

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

EXHIBIT 2

Cases

Case Search

Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2022-001650

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	LB Park, LLC v. San Juan Holdings (2)	Case Status:	Rehearing Denied
	View Full Title		

Consolidated:

Filed Date:	11/28/2022	Oral Argument Date:	
Disposition Date:	08/08/2023	Disposition Type:	Order
Remittitur Date:			
Lower Court or Tribunal:	York (2020CP4600549)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Ryan Powell	N	Self Represented
Respondent	LB Park, LLC	N	A. Parker Barnes, III Sarah P. Spruill

Views

Display: Descending ▼

[Go!](#)

Event Information

Filed Date	Event Information	Doc
10/19/2023	Correspondence - Incoming (Supreme Court's Initial Letter)	
10/17/2023	Correspondence - Incoming (Appellant's Petition for Writ of Certiorari)	
09/21/2023	Rehearing - Denied	
08/30/2023	Appellant's Motion - Reply	
08/25/2023	Motion - Return	
08/21/2023	Amended Motion - Reinstate	
08/17/2023	Correspondence - Incoming (Filing Fee for Motion - Reinstate)	
08/15/2023	Motion - Reinstate	
08/08/2023	Dispositional Decision - Order of Dismissal	
07/26/2023	Correspondence - Incoming (Appellant's Response to Correspondence - Outgoing (To Provide Counsel with Record on Appeal and Withdrawal of Reply Brief))	
07/25/2023	Correspondence - Outgoing (To Provide Counsel with Record on Appeal and Withdrawal of Reply Brief)	
07/19/2023	Correspondence - Incoming (Appellant's Response to Court's Correspondence - Outgoing (To Provide Bound Copy))	
07/19/2023	Correspondence - Outgoing (To Provide Bound Copy)	
06/28/2023	Non-Dispositional Decision - Order Denying Appellant's Motion - Strike	
06/05/2023	Correspondence - Incoming (Appellant's Response to Correspondence - Outgoing (Bound Copy Letter))	
05/30/2023	Appellant's Motion - Reply to Respondent's Return to Motion to Strike Respondent's Initial Brief and Designation of Matter	
05/26/2023	Correspondence - Incoming (Address Change and Appellant's Response to May 23, 2023 Bound Copy Letter)	
05/23/2023	Correspondence - Outgoing (Bound Copy Letter)	
05/23/2023	Respondent's Motion - Return to Motion to Strike Respondent's Initial Brief and Designation of Matter	
05/22/2023	Designation of Matter - Designation of Matter Filed	

05/22/2023	Initial Brief - Reply	
05/18/2023	Correspondence - Incoming (Appellant's Request to Hold in Abeyance)	
05/15/2023	Correspondence - Outgoing (Court's Response to (Letter from Appellant Regarding May 4, 2023 Letter))	
05/15/2023	Appellant's Motion - Strike	
05/12/2023	Designation of Matter - Designation of Matter Filed	
05/12/2023	Initial Brief - Respondent	
05/05/2023	Correspondence - Incoming (Letter from Appellant Regarding May 4, 2023 Letter)	
05/04/2023	Correspondence - Outgoing (To Provide Initial Brief of Respondent)	
05/02/2023	Final Brief - Appellant	
05/02/2023	Non-Dispositional Decision - Order Denying Motion to Consolidate	
04/28/2023	Record - Record on Appeal Filed	
04/28/2023	Record - Proof of Service of Record on Appeal	
03/23/2023	Correspondence - Incoming (Filing Fee for Motion - Extension of Time (1st) Respondent's Initial Brief)	
03/21/2023	Correspondence - Outgoing (Court Declining to Rule on Order and To Hold in Abeyance)	
03/21/2023	Non-Dispositional Decision - Extension Granted	
03/20/2023	Motion - Extension of Time (1st) Respondent's Initial Brief	
03/16/2023	Motion - Return- to Motion to Consolidate	
03/15/2023	Motion - Consolidate	
03/09/2023	Motion - Return (Expedited Motion to Reduce or Eliminate Appeal Bond)	
03/07/2023	Motion - Expedited Motion to Reduce or Eliminate Appeal Bond	
03/07/2023	Non-Dispositional Decision - Withdrawn or Ended	
03/03/2023	Motion - Expedited Full Court Review of Single Judge's Denial of Supersedeas	
03/02/2023	Non-Dispositional Decision - Order Denying Rehearing (Supersedeas)	
02/27/2023	Rehearing - Reply (Supersedeas)	
02/24/2023	Rehearing- Return (Supersedeas)	
02/24/2023	Correspondence - Incoming (Rehearing/Supersedeas Filing Fee Submitted)	
02/21/2023	Deficiency - Deficiency Letter Sent for Supersedeas	
02/21/2023	Initial Brief - Appellant (AMENDED)	
02/17/2023	Rehearing - Petition for Rehearing (of Supersedeas)	
02/16/2023	Non-Dispositional Decision - Order Denying Motion to Exceed Page Limits.	
02/13/2023	Correspondence - Outgoing (Letter Regarding Record and Final Brief)	
02/09/2023	Non-Dispositional Decision - Order Denying Supersedeas	
02/09/2023	Motion - Return (Supersedeas)	
02/09/2023	Correspondence - Incoming (Premature Final Brief)	
02/08/2023	Record - Record on Appeal Filed	
02/08/2023	Record - Proof of Service of Record on Appeal	
02/08/2023	Deficiency - Correction for Supersedeas	
02/07/2023	Deficiency - Deficiency Letter Sent for Supersedeas	
02/06/2023	Motion - Stay / Supersedeas (including lifting of automatic stay)	
01/26/2023	Correspondence - Incoming (Letter Regarding Case Status)	
01/23/2023	Correspondence - Outgoing (Letter Addressing Transcript Correspondence and Case Status)	
01/18/2023	Transcript Documents - Transcript Delivered - Direct Appeal	
01/10/2023	Correspondence - Outgoing (Letter Requesting Proof of Transcript Order)	
01/09/2023	Correspondence - Incoming (Response to Letter Regarding Transcript Request)	
12/30/2022	Correspondence - Outgoing (Request for Clarification Regarding Transcript)	
12/28/2022	Designation of Matter - Designation of Matter Filed by Appellant	
12/28/2022	Initial Brief - Appellant	
12/28/2022	Correspondence - Incoming (Premature Initial Brief of Appellant and Designation of Matter)	

12/28/2022	Correspondence - Incoming (Filing Fee Submitted- Motion for Extension and to Exceed Page Limits)	
12/28/2022	Motion - Exceed Page Limit	
12/28/2022	Non-Dispositional Decision - Withdrawn Motion - Extension of Time	
12/28/2022	Motion - Extension of Time (1st) for Appellant's Initial Brief and Designation of Matter	
12/15/2022	Non-Dispositional Decision - Order Denying Motion for Injunction	
12/09/2022	Motion - Reply	
12/08/2022	Correspondence - Incoming (Other) Notice of Appearance of Sarah Spruill for Respondent	
12/08/2022	Motion - Return to Motion for Injunction	
11/30/2022	Deficiency - Correction for Motion for Injunction	
11/30/2022	Deficiency - Deficiency Letter Sent (AMENDED)	
11/30/2022	Correspondence - Outgoing (Amended Notice of Appeal Initial Letter) (AMENDED)	
11/30/2022	Correspondence - Incoming (Filing Fee Submitted for Notice of Appeal and Emergency Motion for Injunction)	
11/30/2022	Correspondence - Incoming (Exhibits to Motion for Injunction)	
11/29/2022	Deficiency - Deficiency Letter Sent for Motion for Injunction	
11/29/2022	Correspondence - Outgoing (Notice of Appeal Initial Letter)	
11/28/2022	Motion - Other Motion for Injunction	
11/28/2022	Notice of Appeal (Civil) - Initial	



York County Sixteenth Judicial Circuit Public Index



[York County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

Lb Park Llc VS San Juan Holdings , defendant, et al

Case Number:	2020CP4600549	Court Agency:	York County Common Pleas	Filed Date:	02/12/2020
Case Type:	Common Pleas	Case Sub Type:	Real Prop/Other 499	File Type:	Non-Jury
Status:	Appeal	Assigned Judge:	Weaver, Teasa Kay		
Disposition:	Judgment	Disposition Date:	10/24/2022	Disposition Judge:	Weaver, Teasa Kay
Original Source Doc:		Original Case #:			
Judgment Number:	2020CP4600549	Court Roster:			

[Case Parties](#) [Judgments](#) [Tax Map Information](#) [Associated Cases](#) [Actions](#) [Financials](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Lb Park Llc	NEF(02-27-2023 09:29:18 AM) Service/Affidavit Of Service	Filing		02/27/2023-09:38		
Lb Park Llc	Service/Affidavit Of Service on Ryan Powell	Filing		02/27/2023-09:29		
Powell, Ryan	Notice of Appeal to Court of Appeals/Certificate of Service	Filing		12/02/2022-10:18		
Lb Park Llc	NEF(11-10-2022 11:44:31 AM) Order/Electronic Form 4	Filing		11/10/2022-11:44		
Lb Park Llc	Form 4 Order/Motion For New Trial Or Alter Or Amend Denied	Order		11/10/2022-11:44		
Powell, Ryan	Motion/New Trial, Alter, Or Amend	Motion		11/04/2022-11:13	10/24/2022-15:00	
Lb Park Llc	NEF(10-24-2022 01:26:17 PM) Service/Certificate Of Servi...	Filing		10/24/2022-13:56	10/24/2022-13:56	
Lb Park Llc	Certificate Of Service	Filing		10/24/2022-13:26	10/24/2022-13:26	
Lb Park Llc	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Brett Osborne Trustee	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Lb Park Llc	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Powell, Ryan	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Lb Park Llc	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Doe, John	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Roe, Mary	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Lb Park Llc	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Lb Park Llc	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
San Juan Holdings	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Lb Park Llc	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Osborne, Brett	Judgment/Quiet Title	Judgment		10/24/2022-11:40	10/24/2022-11:40	
Lb Park Llc	NEF(10-24-2022 09:27:51 AM) Master/Order/Quiet Title and...	Filing		10/24/2022-09:28	10/24/2022-09:28	
Lb Park Llc	Master/Order/Quiet Title and Form 4	Order		10/24/2022-09:27	10/24/2022-09:27	
Lb Park Llc	NEF(10-18-2022 01:14:05 PM) Proposed Master/Order/Quiet ...	Filing		10/18/2022-13:46	10/24/2022-13:46	

Lb Park Llc	Certificate Of Service	Filing		10/18/2022-13:14	10/24/2022-13:14	
Lb Park Llc	Order/Order Cover Sheet \$25.00	Filing		10/18/2022-13:14	10/24/2022-13:14	
Lb Park Llc	NEF(09-20-2022 11:46:44 AM) Filing/Other	Filing		09/20/2022-11:57	10/24/2022-11:57	
Lb Park Llc	Exhibit A	Filing		09/20/2022-11:46	10/24/2022-11:46	
Lb Park Llc	NEF(09-20-2022 10:23:54 AM) Response	Filing		09/20/2022-10:50	10/24/2022-10:50	
Lb Park Llc	Response To Reply To Memo In Opposition	Filing		09/20/2022-10:23	10/24/2022-10:23	
Lb Park Llc	Certificate Of Service	Filing		09/20/2022-10:23	10/24/2022-10:23	
Powell, Ryan	Reply To Memo in Opposition To Powell Motion For Continuance	Filing		09/19/2022-13:43	10/24/2022-13:50	
Lb Park Llc	NEF(09-16-2022 04:18:19 PM) Memo in Opposition	Filing		09/16/2022-16:44	10/24/2022-16:44	
Lb Park Llc	Memo in Opposition	Filing		09/16/2022-16:18	10/24/2022-16:18	   
Lb Park Llc	Service/Certificate Of Service	Filing		09/16/2022-16:18	10/24/2022-16:18	
Powell, Ryan	Motion/Continuance and Proof of Service	Motion		09/16/2022-08:46	10/24/2022-08:51	
Powell, Ryan	Service/Proof Of Letter to Robin Krecek/Letter	Filing		09/13/2022-10:05	10/24/2022-10:16	
Powell, Ryan	Motion/Vacate Judgment Denying Owners Motion to Return Case	Motion		09/06/2022-12:26	10/24/2022-12:28	
Lb Park Llc	NEF(08-25-2022 02:22:38 PM) Notice/Notice of Hearing and...	Filing		08/25/2022-14:28	10/24/2022-14:28	
Lb Park Llc	Notice of Hearing and Certificate Of Service	Filing		08/25/2022-14:22	10/24/2022-14:22	
Lb Park Llc	Notice of Appearance	Filing		08/25/2022-14:22	10/24/2022-14:22	
Lb Park Llc	Motion For Leave To Amend Answer To Make ThirdParty Complain	Motion		06/08/2022-11:18	10/24/2022-11:21	
	Remittitur From Court Of Appeals	Filing		05/23/2022-09:20	10/24/2022-09:27	
Powell, Ryan	Appeal/Notice of Appeal to Court of Appeals/Cert of Service	Filing		10/12/2021-11:00	10/24/2022-11:24	
Lb Park Llc	NEF(09-28-2021 09:49:02 AM) Notice/Notice of Hearing and...	Filing		09/28/2021-09:53	10/24/2022-09:53	
Lb Park Llc	Notice/Notice of Hearing and Service	Filing		09/28/2021-09:49	10/24/2022-09:49	
Lb Park Llc	NEF(09-20-2021 09:30:18 AM) Order/Electronic Form 4	Filing		09/20/2021-09:30	10/24/2022-09:30	
Lb Park Llc	Order/Electronic Form 4/Motion Denied	Order		09/20/2021-09:30	10/24/2022-09:30	
Lb Park Llc	NEF(07-26-2021 12:44:28 PM) Memo in Opposition	Filing		07/26/2021-12:52	10/24/2022-12:52	
Lb Park Llc	Memo in Opposition	Filing		07/26/2021-12:44	10/24/2022-12:44	     
Lb Park Llc	NEF(07-26-2021 11:44:44 AM) Memo in Opposition	Filing		07/26/2021-12:10	10/24/2022-12:10	
Lb Park Llc	Service/Certificate Of Service	Filing		07/26/2021-11:44	10/24/2022-11:44	
Powell, Ryan	Motion To Return Case To Circuit Court	Motion		07/13/2021-14:03	10/24/2022-14:05	
Powell, Ryan	Proof of Service	Filing		07/13/2021-14:03	10/24/2022-14:06	
Powell, Ryan	Letter	Filing		07/13/2021-14:03	10/24/2022-14:07	
Lb Park Llc	NEF(06-08-2021 04:39:00 PM) Order/Relieve Counsel	Filing		06/08/2021-16:39	10/24/2022-16:39	
Lb Park Llc	Order Relieving Counsel	Order		06/08/2021-16:39	10/24/2022-16:39	
Powell, Ryan	NEF(06-03-2021 07:57:00 AM) Motion/Relieve As Counsel	Filing		06/03/2021-08:16	10/24/2022-08:16	
Powell, Ryan	Motion/Relieve As Counsel	Motion		06/03/2021-07:57	10/24/2022-07:57	
Powell, Ryan	NEF(05-13-2021 01:19:24 PM) Notice/Notice of Appearance	Filing		05/13/2021-13:19	10/24/2022-13:19	

Powell, Ryan	Notice/Notice of Appearance	Filing		05/13/2021-13:19	10/24/2022-13:19	
Lb Park Llc	NEF(05-04-2021 11:33:24 AM) Letter	Filing		05/04/2021-11:52	10/24/2022-11:52	
Lb Park Llc	Letter	Filing		05/04/2021-11:33	10/24/2022-11:33	 
Lb Park Llc	NEF(04-30-2021 11:18:27 AM) Motion/Strike	Filing		04/30/2021-11:35	10/24/2022-11:35	
Lb Park Llc	Motion/Strike	Motion		04/30/2021-11:18	10/24/2022-11:18	 
Lb Park Llc	Service/Certificate Of Service	Filing		04/30/2021-11:18	10/24/2022-11:18	
Lb Park Llc	NEF(03-31-2021 09:59:33 AM) Order/Electronic Form 4	Filing		03/31/2021-09:59	10/24/2022-09:59	
Lb Park Llc	Form 4 Order Denying Motions	Order		03/31/2021-09:59	10/24/2022-09:59	
Lb Park Llc	NEF(03-30-2021 11:47:31 AM) Filing/Other	Filing		03/30/2021-11:47	10/24/2022-11:47	
Lb Park Llc	Return Envelope/Not Deliverable/Unable to Forward	Filing		03/30/2021-11:47	10/24/2022-11:47	
Lb Park Llc	NEF(03-30-2021 11:45:47 AM) ADR/Proof of ADR	Filing		03/30/2021-11:45	10/24/2022-11:45	
Lb Park Llc	ADR/Proof of ADR (Impasse)	Action		03/30/2021-11:45	10/24/2022-11:45	
Powell, Ryan	NEF(03-18-2021 05:09:06 PM) Notice/Notice of Hearing	Filing		03/18/2021-17:09	10/24/2022-17:09	
Powell, Ryan	Notice/Notice of Hearing	Filing		03/18/2021-17:09	10/24/2022-17:09	
San Juan Holdings	NEF(03-18-2021 05:01:00 PM) Notice/Notice of Hearing	Filing		03/18/2021-17:01	10/24/2022-17:01	
San Juan Holdings	Notice of Hearing	Filing		03/18/2021-17:01	10/24/2022-17:01	
Rawl, Andrew Marshall	3/30/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		03/16/2021-15:13	10/24/2022-15:13	
Barnes, A. Parker III	3/30/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		03/16/2021-15:13	10/24/2022-15:13	
Powell, Ryan	3/30/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		03/16/2021-15:13	10/24/2022-15:13	
Lb Park Llc	ADR/Notice of ADR (2nd) Could Not Get Sched w/ 1st Mediators	Action		03/01/2021-11:36	03/30/2021-11:36	
Powell, Ryan	Motion For Judgment/Proof Of Service	Motion		02/08/2021-16:43	03/30/2021-16:45	
Powell, Ryan	NEF(01-27-2021 03:13:32 PM) Order/Electronic Form 4	Filing		01/27/2021-15:13	10/24/2022-15:13	
Powell, Ryan	Order/Electronic Form 4/Motion Denied	Order		01/27/2021-15:13	10/24/2022-15:13	
Powell, Ryan	NEF(01-08-2021 01:48:41 PM) Notice/Notice of Hearing	Filing		01/08/2021-13:48	10/24/2022-13:48	
Powell, Ryan	Notice/Notice of Hearing (Regarding Virtual Hearings)	Filing		01/08/2021-13:48	10/24/2022-13:48	
Rawl, Andrew Marshall	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		01/08/2021-11:49	10/24/2022-11:49	
Powell, Ryan	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		01/08/2021-11:49	10/24/2022-11:49	
Barnes, A. Parker III	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		01/08/2021-11:49	10/24/2022-11:49	
Powell, Ryan	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		01/08/2021-11:48	10/24/2022-11:48	
Barnes, A. Parker III	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		01/08/2021-11:48	10/24/2022-11:48	
Rawl, Andrew Marshall	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		01/08/2021-11:48	10/24/2022-11:48	
San Juan Holdings	NEF(12-29-2020 09:36:04 AM) Letter	Filing		12/29/2020-09:36	10/24/2022-09:36	
San Juan Holdings	Returned Letter Regarding Notice of Hearing	Filing		12/29/2020-09:36	10/24/2022-09:36	
Lb Park Llc	ADR/Notice of ADR	Action		12/27/2020-08:27	03/30/2021-08:27	
San Juan Holdings	NEF(12-15-2020 01:47:03 PM) Notice/Notice of Hearing	Filing		12/15/2020-13:47	10/24/2022-13:47	
San Juan Holdings	Notice/Notice of Hearing	Filing		12/15/2020-13:47	10/24/2022-13:47	

Powell, Ryan	NEF(12-15-2020 01:46:41 PM) Notice/Notice of Hearing	Filing		12/15/2020-13:46	10/24/2022-13:46	
Powell, Ryan	Notice/Notice of Hearing	Filing		12/15/2020-13:46	10/24/2022-13:46	
Rawl, Andrew Marshall	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		12/15/2020-13:21	10/24/2022-13:21	
Barnes, A. Parker III	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		12/15/2020-13:21	10/24/2022-13:21	
Powell, Ryan	1/19/2021_NOJURY_Roster/Notice of Motions Roster Publication	Action		12/15/2020-13:21	10/24/2022-13:21	
Powell, Ryan	Motion/Strike Plaintiffs Reply to Counterclaim	Motion		12/04/2020-11:57	01/19/2021-12:21	
Lb Park Llc	NEF(12-01-2020 11:36:50 AM) ADR/Notice of ADR	Filing		12/01/2020-11:36	10/24/2022-11:36	
Lb Park Llc	NEF(10-29-2020 07:42:32 AM) Reply/Reply to Counterclaim	Filing		10/29/2020-08:31	10/24/2022-08:31	
Lb Park Llc	Reply/Reply to Counterclaim	Filing		10/29/2020-07:42	10/24/2022-07:42	
Lb Park Llc	Service/Certificate Of Service	Filing		10/29/2020-07:42	10/24/2022-07:42	
Lb Park Llc	Remittitur From Court Of Appeals	Filing		10/14/2020-11:20	10/24/2022-11:22	
Powell, Ryan	Answer Defenses and Counterclaims Exhibit of Ryan Powell	Filing		10/06/2020-11:19	10/24/2022-13:11	
Powell, Ryan	Service/Proof Of	Filing		10/06/2020-11:19	10/24/2022-13:13	
Lb Park Llc	NEF(09-28-2020 08:27:11 AM) ADR/Notice of ADR	Filing		09/28/2020-08:27	10/24/2022-08:27	
Lb Park Llc	ADR/Alternative Dispute Resolution (Workflow)	Action		09/09/2020-16:04	12/27/2020-16:04	
Powell, Ryan	Service/Certificate Of Service	Filing		09/08/2020-10:55	10/24/2022-10:59	
Powell, Ryan	Notice/Appeal to SC Court of Appeals	Filing		09/08/2020-10:46	10/24/2022-10:57	
	Letter From COC	Filing		08/31/2020-16:25	10/24/2022-16:25	
Lb Park Llc	NEF(08-20-2020 10:10:41 AM) Order/Referred to Master or ...	Filing		08/20/2020-10:10	10/24/2022-10:10	
Lb Park Llc	Form 4 Order/Referred to Master or Special Referee	Order		08/20/2020-10:10	10/24/2022-10:10	
Powell, Ryan	Proof Of Service	Filing		07/14/2020-11:44	10/24/2022-11:49	
Powell, Ryan	Demand For Jury Trial	Filing		07/14/2020-11:44	10/24/2022-11:48	
Powell, Ryan	Opposition To Motion For Order Of Reference	Filing		07/14/2020-11:43	10/24/2022-11:49	
San Juan Holdings	NEF(07-07-2020 12:45:49 PM) Filing/Other	Filing		07/07/2020-12:45	10/24/2022-12:45	
San Juan Holdings	Returned Mail re: Notice of 7/22/20 Motion Hearing	Filing		07/07/2020-12:45	10/24/2022-12:45	
Lb Park Llc	NEF(06-29-2020 12:33:43 PM) Notice/Notice of Hearing and...	Filing		06/29/2020-13:03	10/24/2022-13:03	
Lb Park Llc	Notice/Notice of Hearing and Service	Filing		06/29/2020-12:33	10/24/2022-12:33	
San Juan Holdings	NEF(06-26-2020 02:31:30 PM) Notice/Notice of Hearing	Filing		06/26/2020-14:31	10/24/2022-14:31	
San Juan Holdings	Notice/Notice of Hearing	Filing		06/26/2020-14:31	10/24/2022-14:31	
Powell, Ryan	NEF(06-26-2020 02:30:00 PM) Notice/Notice of Hearing	Filing		06/26/2020-14:30	10/24/2022-14:30	
Powell, Ryan	Notice/Notice of Hearing	Filing		06/26/2020-14:30	10/24/2022-14:30	
Rawl, Andrew Marshall	7/22/2020_NOJURY_Roster/Notice of Motions Roster Publication	Action		06/26/2020-14:26	10/24/2022-14:26	
Powell, Ryan	7/22/2020_NOJURY_Roster/Notice of Motions Roster Publication	Action		06/26/2020-14:26	10/24/2022-14:26	
Barnes, A. Parker III	7/22/2020_NOJURY_Roster/Notice of Motions Roster Publication	Action		06/26/2020-14:26	10/24/2022-14:26	
Barnes, A. Parker III	7/22/2020_NOJURY_Roster/Notice of Motions Roster Publication	Action		06/26/2020-14:26	10/24/2022-14:26	
Powell, Ryan	7/22/2020_NOJURY_Roster/Notice	Action		06/26/2020-	10/24/2022-	

	of Motions Roster Publication			14:26	14:26	
Rawl, Andrew Marshall	7/22/2020_NOJURY_Roster/Notice of Motions Roster Publication	Action		06/26/2020-14:26	10/24/2022-14:26	
Lb Park Llc	NEF(06-23-2020 07:33:36 AM) Motion/Refer to Master or Sp...	Filing		06/23/2020-08:12	10/24/2022-08:12	
Lb Park Llc	Motion/Refer to Master or Special Referee	Motion		06/23/2020-07:33	07/22/2020-07:33	
Lb Park Llc	Service/Certificate Of Service	Filing		06/23/2020-07:33	10/24/2022-07:33	
Powell, Ryan	Motions to Dismiss Under Specail Appearance	Motion		05/14/2020-11:14	07/22/2020-09:25	
Lb Park Llc	NEF(04-20-2020 01:16:33 PM) Service/Affidavit Of Service	Filing		04/20/2020-13:28	10/24/2022-13:28	
Lb Park Llc	Affidavit Of Service on Ryan Powell	Filing		04/20/2020-13:16	10/24/2022-13:16	
Osborne, Brett	Letter/S&C Retd/Not Trustee	Filing		04/01/2020-14:44	10/24/2022-14:56	
Lb Park Llc	NEF(03-09-2020 09:48:54 AM) Service/Affidavit Of Service	Filing		03/09/2020-10:20	10/24/2022-10:20	
Lb Park Llc	Service/Affidavit Of Service on Brett Osborne	Filing		03/09/2020-09:48	10/24/2022-09:48	
Lb Park Llc	Service/Affidavit Of Service on San Juan Holdings	Filing		03/09/2020-09:48	10/24/2022-09:48	
Lb Park Llc	NEF(02-12-2020 04:26:39 PM) Notice/Notice of Appearance	Filing		02/12/2020-16:27	10/24/2022-16:27	
Lb Park Llc	Notice/Notice of Appearance	Filing		02/12/2020-16:26	10/24/2022-16:26	
Lb Park Llc	Summons & Complaint	Filing		02/12/2020-16:04	10/24/2022-16:04	 
Lb Park Llc	Lis Pendens Filed	Filing		02/12/2020-16:04	10/24/2022-16:04	

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

Case No. 2020-CP-_____

LB PARK, LLC,

Plaintiff,

vs.

**SUMMONS
(Non-Jury)**

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.

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the Complaint on the subscriber at his office, Haynsworth Sinkler Boyd, P.A., 1201 Main Street, 22nd Floor (29201), Post Office Box 11889, Columbia, South Carolina (29211-1889), within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in this Complaint.

s/ Andrew M. Rawl
A. Parker Barnes III, SC Bar No. 68359
Andrew M. Rawl, SC Bar No. 102807

Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, South Carolina 29211-1889
(803) 779-3080

February 12, 2020

Attorneys for Plaintiff

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

Case No. 2020-CP-_____

LB PARK, LLC,

Plaintiff,

vs.

**COMPLAINT
(Non-Jury)**

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.

Plaintiff LB PARK, LLC (“Plaintiff”), complaining of the defendants herein, would respectfully allege and show unto this Court as follows:

1. Pursuant to S.C. Code Ann. §§ 12-61-10 to -60, Plaintiff asserts its Complaint against the defendants for the purpose of clearing title to real property known as 25056 Timberlake Drive, York County, South Carolina, tax map number 643-10-01-023 (the “Property”), which is herein below more specifically described and identified. Plaintiff’s title to the Property derives from a tax

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").

6. Plaintiff is informed and believes that the Osborne Notice did not convey title or any other interest in the Property and that, after the Osborne Notice was recorded, title to the Property remained vested in San Juan. However, Plaintiff has named Osborne as a party to extinguish and eliminate the Osborne Notice as a cloud, impediment, or encumbrance upon the title to the Property.

7. Plaintiff is informed and believes that Defendant Ryan Powell has claimed to possess an unrecorded ownership interest in the Property. While Plaintiff denies that Defendant Ryan Powell has any interest in the Property, Plaintiff has named Defendant Ryan Powell as a party to provide him with notice of this proceeding and the opportunity to protect any interest he claims to have in the Property.

8. Defendants John Doe and Defendant Mary Roe and the other unknown defendants (collectively the “Unknown Defendants”) represent and include all unknown persons or entities having or claiming any right, title, or interest in or to, or lien upon, the Property.

9. The parties hereto, and the subject matter hereof, are within the jurisdiction of this Court.

FIRST CAUSE OF ACTION
(Action to Quiet Tax Title)

10. Plaintiff re-alleges and incorporates herein by reference all of the above allegations.

11. SB MUNI CUST % LBSC-11 LLC (“SB MUNI”) purchased the Property at the York County tax sale held on November 6, 2017, with a bid of \$171,000.00. York County conveyed tax title to SB MUNI by tax deed dated and recorded on December 26, 2018, in the ROD in Book 17337, page 73 (the “Tax Deed”).

12. SB MUNI subsequently conveyed the Property to Plaintiff by quitclaim deed dated January 7, 2019, and recorded in the ROD on January 10, 2019, in Book 17361, page 145.

13. This Complaint is made for the purpose of clearing title to the Property against any and all claims, if any, as have been or may be raised by any of the defendants adverse to the title and ownership interests of Plaintiff acquired by the referenced tax sale proceedings, Tax Deed, and quitclaim deed.

14. In support of the status of Plaintiff's title and in support of this action to clear title by determination of Plaintiff's interests superior to other interests, specifically including any and all interests of the defendants, Plaintiff alleges as follows:

a. On or about November 6, 2017, the Property was sold to SB MUNI at a tax sale conducted by the taxing authorities for York County for unpaid ad valorem taxes.

b. Upon information and belief, the tax sale conducted by the taxing authorities for York County was prosecuted pursuant to the controlling tax sale statutes, S.C. Code Ann. §§ 12-51-40 to -170, including all requisite notices to the owner of record and any other parties in interest to the Property.

c. SB MUNI was the successful purchaser of the Property at the referenced tax sale, and the tax sale bid was paid in full pursuant to the notice of tax sale and was otherwise in accordance with the statutory proceedings.

d. None of the defendants or any other person or entity took any action in response to the notices or otherwise to redeem the Property, and the Property was conveyed by York County to SB MUNI through the Tax Deed.

e. SB MUNI subsequently conveyed the Property to Plaintiff by quitclaim deed dated January 7, 2019, and recorded in the ROD on January 10, 2019, in Book 17361, page 145.

15. Plaintiff is informed and believes that by reason of the Tax Deed conveyed to SB MUNI by York County in strict compliance with the controlling tax sale statutes and the subsequent

quitclaim deed to Plaintiff, Plaintiff is the owner of marketable fee simple title to the Property without regard to any outstanding or adverse claims of interest of any of the defendants, and that Plaintiff is entitled to an order of this Court declaring and confirming that its title is free and clear of such adverse lien interests and encumbrances or other claims to the Property, if any, as are or may be claimed or asserted by any of the defendants.

16. Plaintiff is further informed and believes that upon the Court's issuance of its order declaring and confirming that Plaintiff's title is free and clear of such adverse interests and encumbrances or other claims to the Property, if any, as are or may be claimed or asserted by any of the defendants, Plaintiff is entitled to immediate possession of the Property, and that any tenants or parties in possession of the Property, must be evicted from and vacate the Property within a reasonable time to be determined by this Court.

**FIRST ALTERNATIVE CAUSE OF ACTION
(Action to Recover Amounts Due)**

17. Plaintiff re-alleges and incorporates herein by reference all prior paragraphs of its Complaint.

18. Only in the event that the tax sale of the Property is set aside or declared void, Plaintiff seeks to recover the amounts that the controlling authority requires be refunded and tendered to the Plaintiff, which includes a refund of the tax sale bid, a refund of all Property taxes paid, a refund of all costs justly chargeable against the Property, and interest at the statutory rate of 12% on the tax sale bid from the date of the tax sale until paid, as provided in S.C. Code Ann. §§ 12-51-90, -100, together with pre-judgment interest.

19. South Carolina law provides that, when a tax sale is set aside through litigation, the courts must treat it as the ultimate redemption and that the provisions of S.C. Code Ann. § 12-51-100 apply.

20. Pursuant to S.C. Code Ann. § 12-51-100, Plaintiff is statutorily entitled to a refund of the tax sale bid and the interest required by S.C. Code Ann. § 12-51-90. As the redemption period expired on November 6, 2018, Plaintiff is entitled to interest on the tax sale bid at the statutory rate of 12% from the date of tax sale as provided in S.C. Code Ann. § 12-51-90.

21. Plaintiff is also entitled to a refund of all property taxes that it has paid and all costs that they have paid that are justly chargeable against the Property.

22. As the amount of the tax sale bid, paid property taxes, costs justly chargeable against the Property, and legal interest are sums that are certain or are capable of being reduced to certainty, Plaintiff is further entitled to receive and seeks to recover pre-judgment interest.

23. Therefore, if the Court sets aside the tax sale of the Property, Plaintiff seeks judgment against the party challenging the tax sale of the Property for the amount of the tax sale bid, paid property taxes, costs justly chargeable against the Property, and legal interest at the rate of 12% on the tax sale bid from the date of the tax sale until paid, together with pre-judgment interest.

SECOND CAUSE OF ACTION (Reformation of Tax Deed)

24. Plaintiff reincorporates and re-alleges each of the foregoing allegations as fully as if repeated herein verbatim.

25. In relevant part, the legal description in the Tax Deed refers to a “. . . plat recorded in the Office of the Clerk of Court for York County in Plat Book 85 at Page 129, and on Plat Book 73 at Pages 22-26 . . . ” (the “Plat”). (Emphasis added.)

26. According to the applicable records for the Property maintained in the ROD, the Plat was actually recorded in the ROD in Plat Book 73 at Pages 23-26, not Pages 22-26. (Emphasis added.) A copy of the Plat is attached as Exhibit A.

27. Throughout the chain of title for the Property, the Plat is incorrectly referenced as being recorded in Plat Book 73 at Pages 22-26.

28. Therefore, Plaintiff seeks an Order of the Court reforming the Tax Deed, the quitclaim deed to Plaintiff, and all previous deeds in the chain of title to reflect the correct recording information for the Plat, which was actually recorded in Plat Book 73 at Pages 23-26.

WHEREFORE, for the reasons set forth above, Plaintiff prays for the following relief:

1. With respect to Plaintiff's First Cause of Action, Plaintiff prays that judgment be entered in its favor against the defendants with a finding by the Court that any right, title, claim, interest, or lien in or to the Property arising from the interests of any of the defendants in the Property that they now claim or may claim in the future, be found to be junior or subsequent to Plaintiff's title, and that Plaintiff be provided a final and complete adjudication of the nature and extent of its title to the Property so that it may own, possess, and transfer clear title to the Property; and that judgment be entered in Plaintiff's favor against the defendants and any other tenants or parties in possession of the Property with a finding by the Court that Plaintiff is entitled to immediate possession of the Property and ordering the York County Sheriff to evict and remove any tenants or parties in possession of the Property from the Property within a reasonable time as determined by the Court.

2. With respect to Plaintiff's First Alternative Cause of Action, and only in the event that the tax sale of the Property is set aside or declared void, Plaintiff prays that judgment be entered in its favor against the party challenging the tax sale with a finding by the Court that Plaintiff is entitled to a refund of the tax sale bid, all Property taxes paid, all costs justly chargeable against the Property, and legal interest on the tax sale bid at the rate of 12% from the date of the tax sale on November 6, 2017, until paid, as provided in S.C. Code Ann. §§ 12-51-90, -100,

together with pre-judgment interest, and that the Court order the party challenging the tax sale of the Property to refund these amounts to Plaintiff.

3. With respect to Plaintiff's Second Cause of Action, Plaintiff prays that judgment be entered declaring and reforming the Tax Deed, the quitclaim deed to Plaintiff, and all previous deeds in the chain of title to reflect the correct recording information for the Plat, which is Plat Book 73 at Pages 23-26.

4. Plaintiff also prays that the Court award it such other and further relief as the Court may deem just and proper.

s/ Andrew M. Rawl
A. Parker Barnes III, SC Bar No. 68359
Andrew M. Rawl, SC Bar No. 102807

Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, South Carolina 29211-1889
(803) 779-3080

February 12, 2020

Attorneys for Plaintiff

FILED-RECEIVED

STATE OF SOUTH CAROLINA

COUNTY OF YORK

LB PARK, LLC

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.

2020 OCT -6, AM 11:19
 DAVID HAMILTON
 C.C.P. & GS
 YORK COUNTY, SC

IN THE COURT OF COMMON PLEAS

Case # 2020-CP-46-00549

Answer, Defenses, and
 Counterclaims of
 Ryan Powell

JURY TRIAL DEMANDED

Defendant Ryan Powell, the absolute owner ("Owner" hereinafter) of the private property that is the subject matter of this case ("Owner's Land" hereinafter) is making this answer out of necessity with no intention of waiving his defense of lack of personal jurisdiction. Attached as **Exhibit A** is a copy of the notice ("SJH Notice" hereinafter) that defendant San Juan Holdings, Brett Osborne, the trustee ("SJH" hereinafter) recorded in the public records and is incorporated herein by reference. The SJH Notice is the same document that is referred to in plaintiff's complaint as the "Osborne Notice".

ANSWER**FOR A FIRST DEFENSE**

Owner answers plaintiff LB PARK LLC's ("LB PARK" hereinafter) complaint ("Complaint" hereinafter) as follows:

As is more fully set forth in his responses below, Owner denies each and every allegation of the Complaint not hereinafter specifically admitted.

1. Denies that plaintiff can bring an action to clear a tax title under SC Code of Laws 12-61-10 to 60 when plaintiff admits it does not have a tax title. Denies all remaining allegations in paragraph #1.
2. Denies that the property description and derivation paragraph shown in paragraph #2 describes Owner's Land as found on Owner's deed.
3. Denies that "*San Juan Holdings, Brett Osborne the trustee*" can be named as a defendant when the Complaint admits that SJH ceased to exist and ceased owning the property at issue over seven years prior to the time this case was initiated (Complaint #5, #6, & **Exhibit A**). Admits the allegations in paragraph #3.
4. Denies that SJH "*owned 100% of fee simple title to the Property prior to the tax sale*". Qualifies that denial by stating that while SJH did own Owner's Land prior to the tax sale, SJH ownership ended five (5) years prior to the tax sale and Owner was the owner of Owner's Land prior to and at the time of the tax sale. Denies that SJH has, or can claim to have, any interest in Owner's Land.
5. Denies that "*Brett Osborne as trustee of San Juan Holdings*" is a separate and distinct person from "*San Juan Holdings, Brett Osborne, the trustee*". No one can create a new person simply by changing the order of the words in the name of another person which is all that plaintiff had done. Nonetheless, "*Brett Osborne as trustee of San Juan Holdings*" cannot be named as a defendant when the Complaint admits Brett Osborne ceased being the trustee of SJH over seven years prior to the time this case was initiated (Complaint #5, #6, & **Exhibit A**). Admits that SJH did execute and record the SJH Notice.
6. Admits that the SJH Notice (**Exhibit A**) did not convey title to, or any other interest in, Owner's Land. Denies that title to Owner's Land remained vested in SJH after the SJH Notice was recorded. Admits that the SJH Notice creates a *cloud* on plaintiff's quitclaim deed because the SJH Notice proves plaintiff's deed is void on its face.
7. Admits that Owner has claimed to possess an unrecorded ownership interest in Owner's Land. Denies that plaintiff has any information upon which it can form a credible belief that Owner is not the owner of Owner's Land. Denies that plaintiff can name Owner as a defendant just to give Owner notice of this case.
8. Paragraph #8 is not an allegation of fact that can be admitted or denied.

9. Denies this Court has personal jurisdiction over any of the defendants named or unnamed. Denies this Court has jurisdiction over Owner's Land which is the subject-matter of this case.
10. Paragraph #10 is not an allegation of fact that can be admitted or denied.
11. Denies that SB MUNI CUST % LBSC-11 LLC ("SB MUNI" hereinafter) purchased Owner's Land at any tax sale. Qualifies that denial by stating that SB MUNI only purchased SJH's interest in Owner's Land, said interest being nil.
12. Denies that SB MUNI could convey to plaintiff an interest in Owner's Land when it held no interest in Owner's Land.
13. Denies that plaintiff holds any rights, title, or interest in Owner's Land.
14. Denies that plaintiff holds any rights, title, or interests in Owner's Land. Denies that plaintiff's quitclaim deed issued to it in January of 2019 is superior to Owner's warranty deed granted to him by the owner of the land in December of 2012.
- 14.a Denies that Owner's Land was sold to SB MUNI and qualifies that denial by stating that SB MUNI purchased only SJH's interest in Owner's Land at the tax sale, said interest being nil. Denies that SJH owed York County any *ad valorem* taxes at the time of the tax sale.
- 14.b Denies all allegations in paragraph #14.b.
- 14.c Denies all allegations in paragraph 14.c for lack of knowledge.
- 14.d Denies that Owner ever received any notice from York County informing Owner that he had a right or duty to redeem his property. Denies, on information and belief that York County ever gave SJH any notice of the tax sale or its right to redeem. Admits that Owner did not redeem his property after the tax sale as Owner had no obligation to do so. Denies any remaining allegations.
- 14.e Denies that SB MUNI had any interest in Owner's Land that it could convey to plaintiff.
15. Denies all allegations in paragraph #15.
16. Denies all allegations in paragraph #16.
17. There are no allegations of fact that can be admitted or denied.

18. Denies that plaintiff is entitled to recover any monies from any defendant especially those monies it admits in its Complaint that SB MUNI paid to York County. Denies that S.C. Code Ann. §§ 12-51-90 to 100 has any application whatsoever to this case.
19. Admits allegations in paragraph #19 but qualifies that admission by stating that an "ultimate redemption" under S.C. Code Ann. §§ 12-51-100 can only happen when the property is returned to the *delinquent taxpayer*. In this case that cannot happen since the property does not belong to the *delinquent taxpayer*, SJH, it belongs to Owner who had no obligation to redeem his property.
20. Denies all allegations in paragraph #20.
21. Denies that any taxes, costs, or interest has been "*justly chargeable*" to Owner's Land at any time after December 20, 2012. Denies all remaining allegations.
22. Denies all allegations in paragraph #22.
23. Denies all allegations in paragraph #23. Plaintiff can not make a claim for a refund to be paid by any defendant named in this case. Only a tax title purchaser (i.e., SB MUNI) can bring an action against York County to seek a refund of monies it paid to York County. Denies all remaining allegations.
24. Paragraph #24 is not an allegation of fact that can be admitted or denied.
25. Denies all allegations in paragraph #25 for lack of knowledge.
26. Denies all allegations in paragraph #26 for lack of knowledge.
27. Denies all allegations in paragraph #27 for lack of knowledge.
28. Denies that anyone but SB MUNI has the right to seek reformation of SB MUNI's written instrument that it made with York County. Denies that any plaintiff can seek a reformation of the entire chain of title for a minor and meaningless Scribner's error. Denies all remaining allegations in #28.
29. With respect to plaintiff's WHEREFORE clauses and subclauses, denies that plaintiff is entitled to any relief it seeks or to any relief whatsoever.

**FOR A SECOND DEFENSE
(Rights To Be Respected and Upheld)**

30. Owner demands that all his natural, unalienable, god given rights, and rights protected to him by the State and federal Constitutions, which Owner has not contracted away, be respected and upheld by this Court.

FOR A THIRD DEFENSE

(Owner has Paramount Title to and Possession of the Land at Issue)

31. Brett Osborne, acting in the capacity of SJH trustee authorized by SJH to convey SJH property, signed and executed a general warranty deed on December 20, 2012 granting to Owner SJH property in fee simple. Owner has had possession of his executed deed since December 20, 2012.
32. Owner has been seized and possessed of Owner's Land since December 20, 2012. Possession of land carries with it the presumption of ownership and title.
33. Owner's title was issued to him by the legal and lawful owner of the land seven years prior to plaintiff's quitclaim deed that derives from an uncleared tax title issued by York County that had no ownership interest in, or trusteeship over, Owner's title or Owner's Land.
34. Under the settled laws of this State when a defendant raises the issue of having a paramount title to the same land as the plaintiff is claiming, an equity case transforms into a law case as equity cannot try competing titles to the same land.
35. On information Owner believes that since he is in possession of the land at issue, this case now transforms into a *trespass to try title* law case with plaintiff carrying the burden to prove it has complete/perfect title to the property.

FOR A FOURTH DEFENSE

(Want of Subject Matter Jurisdiction)

36. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
37. Owner has never recorded his deed to Owner's Land so Owner holds all rights, title, and interests in Owner's Land. Absolute ownership carries with it the absolute right to determine when, how, to whom, or if Owner's Land will be transferred.
38. Recording of a deed is what gives this Court jurisdiction over real property.
39. In 2014 Owner brought an action in the Circuit Court against three employees of York County (case #2014-CP-46-1425) in an attempt to prevent those employees from illegally selling Owner's Land. Owner's case was dismissed for want of subject matter jurisdiction. An appeal was taken by Owner of that decision all the way to the Supreme Court of South Carolina. The lower court's decision was upheld by the appellate courts. The subject-matter of that case was Owner's Land.

40. In 2017 Owner brought an action in the Administrative Law Court against three employees of York County (Docket # 17-ALJ-30-0358-II) in an attempt to prevent those three employees from illegal taking and selling Owner's Land. That case was dismissed for lack of subject matter jurisdiction. The subject-matter of that case was Owner's Land.

41. At least four judges in four different courts of this State have made the judicial determination that this Court does not have subject matter jurisdiction over Owner's Land.

42. Although the Appeals Court in Owner's appeal (Appellate Case No. 2014-002578) of Owner's lower court case (case #2014-CP-46-1425) issued an unpublished opinion (2016-UP-199) that opinion operates as a binding precedent case for this case because the subject-matter of that case is the same subject-matter as this case, i.e., Owner's Land.

43. This Court lacks subject-matter jurisdiction to make any order that pertains to the subject-matter of this case, i.e., Owner's Land.

44. This case must be dismissed with prejudice for lack of subject-matter jurisdiction.

**FOR A FIFTH DEFENSE
(Want of Territorial Jurisdiction)**

45. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.

46. Owner has never recorded his deed to Owner's Land. As such the situs of Owner's Land is not "*in this State*" which is why Owner has never been assessed with owing any *ad valorem* taxes on Owner's Land. Recording of a deed is what puts the situs of the recorded property into the territory over which this Court has authority to make any decisions pertaining to that land.

47. The Property conveyed to Owner on December 20, 2012 is more particularly described on Owner's title as follows:

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.

48. As shown by the property description above (#47) there exists no evidence that could ever show that the situs of Owner's Land is in the territory of County of York or State of South Carolina.
49. This Court lacks the territorial jurisdiction needed to declare anything pertaining to Owner's Land which is outside of this Court's territorial jurisdiction.
50. This case must be dismissed with prejudice for lack of territorial jurisdiction.

FOR A SIXTH DEFENSE
(Want of Personal Jurisdiction Over Two Defendants)

51. No one can create a new person/entity by simply changing the order of the words of the name of another person but that is what plaintiff did when it changed the words "*San Juan Holdings, Brett Osborne, the trustee*" into an allegedly new person "*Brett Osborne as Trustee of San Juan Holdings*".
52. Nonetheless, the record shows that a man named Brett Osborne was served with plaintiff's Summons and Complaint for the defendant named *San Juan Holdings, Brett Osborne, the Trustee* and for the created defendant named *Brett Osborne as Trustee of San Juan Holdings* at the address of 190 Aviation Rd. Gold Hill, NC. Gold Hill, NC is outside the boundaries of this State.
53. There are no allegations that *San Juan Holdings, Brett Osborne as the Trustee* or *Brett Osborne as Trustee of San Juan Holdings* had any interest in, used, or possessed any real property in this State at the time of the initiation of this case.
54. Neither of those two defendants has made any appearance in this case.
55. This Court does not have personal jurisdiction over those two defendants.
56. This case must be dismissed with prejudice for lack of personal jurisdiction over those two defendants named in this case.

FOR A SEVENTH DEFENSE
(Want of Personal Jurisdiction Over Owner)

57. The record shows that Owner was served with plaintiff's Summons and Complaint at the address of 3459 Mill Run, Raleigh, NC. Raleigh NC is outside the boundaries of this State.
58. Plaintiff has specifically denied that Owner has *any interest in, used, or possessed any real property in this State* (Complaint #7). Without such an allegation this Court cannot obtain personal jurisdiction over Owner, a non-resident.

59. This case must be dismissed with prejudice for lack of personal jurisdiction over Owner since it is his property that is the subject matter of this case.

**FOR A EIGHTH DEFENSE
(Two Defendants Do Not Exist)**

60. Owner re-alleges and incorporates herein by reference allegation #51 above.

61. Upon SJH transferring its property to Owner, SJH terminated as a legal entity as shown in the SJH Notice (**Exhibit A**). Plaintiff admitted having received notice of this fact in its Complaint (Complaint, #5 & #6).

62. As alleged in #51 above, plaintiff cannot create a new defendant simply but reordering the words of another person/entity but that is exactly what plaintiff is attempting to do.

63. The only allegations made in the Complaint pertaining to the existence of the defendants named *San Juan Holdings*, *Brett Osborne the trustee* and *Brett Osborne as trustee of San Juan Holdings* allege they existed twenty years ago when the property at issue was conveyed to SJH and its deed was recorded. Those are insufficient allegations to show the existence of those two legal entities at the time this case was initiated as legal entities are born and die every day.

64. Unless and until Plaintiff alleges and can ultimately produce evidence showing the existence of these two defendants it has named, they must be dismissed as defendants.

**FOR A NINETH DEFENSE
(Ineffective Service on Two Defendants)**

65. Owner re-alleges and incorporates herein by reference allegation #51 above.

66. A man named Brett Osborne was served for the two defendants named *San Juan Holdings*, *Brett Osborne the trustee* and *Brett Osborne as trustee of San Juan Holdings*. The Complaint alleges that Brett Osborne is no longer the trustee for San Juan Holdings (Complaint #5 & #6, **Exhibit A**) which allegation was confirmed by the response filed by Brett Osborne on April 1, 2020. Notwithstanding, LB PARK fraudulently pretended to serve those two defendants it named while alleging those two defendants do not exist and that Brett Osborne is not its trustee.

67. Plaintiff has failed to name and serve the trustee of SJH.

68. This case must be dismissed for ineffective service.

FOR A TENTH DEFENSE

(Two Defendants Do Not Have Standing)

- 69. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
- 70. Owner re-alleges and incorporates herein by reference allegation #51 above.
- 71. As **Exhibit A** demonstrates, San Juan Holdings has no title, rights, interest, possession, nor is SJH using the property that is the subject matter of this case.
- 72. Neither *San Juan Holdings*, *Brett Osborne, the trustee*, nor *Brett Osborne as trustee of San Juan Holdings* has any material, real, or actual interest in Owner's Land.
- 73. Both *San Juan Holdings*, *Brett Osborne, the trustee*, and *Brett Osborne as trustee of San Juan Holdings* must be dismissed as those defendants lack standing.

**FOR A ELEVENTH DEFENSE
(Failure to State a Claim Against Owner)**

- 74. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
- 75. The main function of any court is to settle actual existing disputes between the parties.
- 76. Plaintiff has denied that Owner owns the property that is the subject matter of this case (Complaint #7, second sentence) and further alleged that it named Owner as a defendant simply to give Owner notice of its action (Complaint #7, second sentence) which means that the plaintiff has admitted that it has no dispute with Owner.
- 77. A plaintiff must allege at least one cognizable cause of action against any person it names as a defendant in order to force that person to expend their time, energy, and financial resources in defending that case.
- 78. Plaintiff has failed to show the existence of an actual, justiciable case or controversy between it and Owner.
- 79. This case must be dismissed for failure to make a claim against Owner who owns the property at issue so the case cannot continue without him.

**FOR A TWELFTH DEFENSE
(Plaintiff Does Not Have Standing)**

- 80. Plaintiff has failed to show that any legally cognizable injury it believes it has suffered are the results of any of Owner's actions or inactions (see For a Eleventh Defense - Failure to State a Claim Against Owner).
- 81. It is impossible for the two alleged entities named *San Juan Holdings*, *Brett Osborne, the trustee* and *Brett Osborne as trustee for San Juan Holdings* to have caused

plaintiff any injury when the plaintiff's own allegations state those two persons ceased to exist many years prior to the time of any of the allegations in the Complaint are alleged to have taken place.

- 82. A plaintiff seeking to establish standing must show not only that he has suffered a legally cognizable injury, but also that those injuries were caused by the defendant's actions or inactions.
- 83. It is impossible for any defendant named in this case to have caused plaintiff any injury so plaintiff does not have any standing to bring its case.
- 84. This case must be dismissed with prejudice as the plaintiff lacks standing.

**FOR A THIRTEENTH DEFENSE
(Statutory Compliance)**

- 85. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
- 86. SC Code of Laws 12-24-10(A) shows, *inter alia*, that the recording of a deed is a privilege. A privilege is typically defined as being a benefit granted to or enjoyed by some person or persons. Any benefit provider (e.g., County of York, State of South Carolina) has the authority to demand payment from those to whom it provides benefits. That is why only those property owners who request the benefit of recording their deeds are ever made liable for any *ad valorem* taxes.
- 87. Owner was and is exercising his natural, god given rights to own property privately and alone by not recording his deed which right is recognized by this State in their statutes and codes.
- 88. Plaintiffs claims do not constitute a basis for the relief sought as Owner can not be held liable for Plaintiff's loss, damages, or claims for simply complying with the codes and statutes of this State.

**FOR A FOURTEENTH DEFENSE
(Illegality)**

- 89. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
- 90. The gravamen of plaintiff's Complaint involves illegality.
- 91. President Lincoln declare martial law in 1863 in General Order 100 (a.k.a. the Lieber Codes). That order declared martial law which has been in continuous effect since 1863.

92. When the United States is under martial law, the international laws of war are applicable. The international laws of war can be found in the document named "Laws of War" which has been published by the Department of Defense and can be found at the URL: http://ogc.osd.mil/images/law_war_manual_december_16.pdf. Under the laws of war it is prohibited for the State to confiscate, seize, or take private property from its owner even temporarily. Plaintiff's claims are prohibited and illegal under the Laws of War.
93. No court of this State has the subject matter jurisdiction needed to make any determination pertaining to Owner's Land so any decision any Court of this State makes that clears the tax title that plaintiff's quitclaim deed derives from or allows plaintiff to take possession of Owner's Land will be void *ab initio*. Should plaintiff enter onto Owner's Land, especially with the assistance of a sheriff who will have to use force and arms to remove the people living on Owner's Land, such entry based on a void order will constitute criminal trespass under SC Code of Laws 16-11-520(A) [and will also be actionable under SC Code of Laws 15-67-410 to 470].
94. In Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) plaintiff has requested that Owner be ordered to pay plaintiff monies that it is not legally entitled to receive and that Owner can ever be legally required to pay. Plaintiff's written requests amount to extortion and blackmail both of which are illegal.
95. On information Owner believes that SB MUNI passed off its uncleared tax title to plaintiff in order to lauder money, evade taxes, and/or to shelter SB MUNI's assets.
96. Plaintiff's claims do not constitute a basis for the relief sought as no Court has any authority to assist a plaintiff who is involved in, and attempting to further its actions, that are illegal, unlawful, and prohibited.

FOR A FIFTEENTH DEFENSE
(Plaintiff has no interest in Owner's Land)

97. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
98. Plaintiff alleges that SB MUNI was the winning bidder at the tax sale of SJH property and was given a tax title to SJH property by York County on or about December 26, 2018 (Complaint #11).

99. According to the well settled laws of this State the only interest that passes in a tax title is the interest that the *delinquent taxpayer* (SJH) held at the time of the tax sale.
100. SJH had no interest in Owner's Land at the time of the tax sale.
101. The tax title issue to SB MUNI passed no interest in Owner's Land. Having no interest in Owner's Land, SB MUNI could not quitclaim its non-existent interest to the plaintiff.
102. Plaintiff has no entitlement to invoke the aid of this Court to preserve and further its attempts to take ownership and possession of land to which it has no interest.

FOR A SIXTEENTH DEFENSE

(Failure to State a Claim - Plaintiff Not Entitled to Use 12-61-10 to 60)

103. Plaintiff alleges it is the grantee on a quitclaim deed granted by SB MUNI (Complaint #11 & #12). Plaintiff has requested this court quiet someone else's deed (i.e., SB MUNI's tax title). A person cannot make a request to quiet a deed to which it was not a party and no person can quiet the previous owner's title without barring its own title.
104. SC Code of Laws 12-61-10 to 60 was created by the legislature of this State as a statute of creation which cannot be extended beyond the clear intent of the legislature. This remedy was clearly created for only the use of purchasers of tax titles. To use SC Code of Laws 12-61-10 to 60 a plaintiff must be a grantee on a tax title.
105. Plaintiff has failed to allege the facts required in order to use the special remedy found in SC Code of Laws 12-61-10 to 60.
106. This action must be dismissed for failure to state a claim upon which relief can be granted.

FOR A SEVENTEENTH DEFENSE

(Failure to State a Claim - Plaintiff Only Entitled to Request Half Costs)

107. Plaintiff paid SB MUNI \$5.00 for its quitclaim deed.
108. According to SC Code of Laws 12-61-50 - "*Whenever an action shall be brought under the provisions of this chapter relating to property for which the plaintiff paid less than the sum of one thousand dollars, all costs due shall be only one half of those ordinarily allowed.*"

109. The \$5.00 plaintiff paid for its quitclaim deed is less than \$1,000.00 so according to SC Code of Laws 12-61-50 plaintiff is only permitted to make a claim for one half the costs ordinarily allowed.
110. Plaintiff has made a claim for the full costs allowed in an action brought under SC Code of Laws 12-61-10 to 60.
111. This action must be dismissed for failure to state a claim upon which relief can be granted.

FOR A EIGHTEENTH DEFENSE
(Failure to State a Claim - Refund of Bid Monies)

112. Unlike the erroneous theory put forward by plaintiff in its First Alternative Cause of Action (Action to Recover Amounts Due), an "*ultimate redemption*" happens when a court finds a tax deed void, sets it aside, and returns the property to the *delinquent taxpayer*. That court order can then be used by the tax title purchaser to bring a court action against the County to seek a return of the bid monies that the tax title purchaser paid to that County. The property in this case can never be returned to the *delinquent taxpayer* (SJH) because the property did not belong to the *delinquent taxpayer* (SJH) when it was taken and sold. Owner was never made liable to pay any *ad valorem* taxes nor was Owner ever made liable to redeem his property so no action this Court takes in this case could ever be considered a redemption of any kind.
113. There is no statute, code, rule, regulation, public policy, legal principle, or case holding that allows a Plaintiff to seek a refund of monies it never paid or to seek a refund to be paid by any person other than the person who received and is in possession of those monies being requested to be refunded which would be York County.
114. Plaintiff alleges that SC Code of Laws 12-51-90 to 100 allows this claim to be brought against "*any person challenging the tax title*". But SC Code of Laws 12-51-90 to 100 has no application whatsoever to the facts and parties named in this case.
115. Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) must be dismissed for failure to state a claim upon which relief can be granted.

FOR A NINETEENTH DEFENSE
(Claim Not Ripe for Adjudication - Recovery of Amounts Owed)

116. Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) can only be brought in a new action after a court enters and order declaring void and setting aside a tax deed, and then returns the property to the delinquent taxpayer.
117. After a final judgment is issued, and any appeals are taken, a judgment that makes those finding and conclusions discussed above in #116, can then be used by SB MUNI to bring a new action and request a refund of monies it paid to York County.
118. Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) must be dismissed as it is not yet ripe for adjudication.

**FOR A TWENTIETH DEFENSE
(Failure to State a Claim - Reformation of Deeds)**

119. Plaintiff alleges it is the grantee on a quitclaim deed granted by SB MUNI (Complaint #11 & #12). Plaintiff wants to reform, not its own deed but someone else's deed (i.e., SB MUNI's tax deed). A person cannot make a request to reform a written instrument to which it was not a party.
120. A reformation of a written instrument action must include all persons that were parties to the written instrument. On a written deed instrument both the grantor and the grantee have to be parties to the reformation action so that their intentions, agreement and understanding can be adjudicated.
121. Plaintiff has failed to name and serve both of the parties to the written instrument that it wants reformed, i.e., the tax deed issued by York County to SB MUNI.
122. The error in the property description of SB MUNI's tax deed has existed in the recorded chain of titles for decades and has survived many different owners.
123. Plaintiff has failed to allege that it has or will suffer any harm from the minor and meaningless Scribner's error.
124. Equity does not have jurisdiction to reform a written instrument to correct an error that is without any legal or equitable effect, i.e., the error doesn't matter.
125. Plaintiff's Second Cause of Action (Reformation of Tax Deed) must be dismissed for failure to state a claim upon which relief can be granted.

**FOR A TWENTY- FIRST DEFENSE
(Tax Title is Void and Unenforceable)**

126. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.

127. The tax title that was issued to SB MUNI is void for having been made in violation of the strict requirements that all tax sales/tax titles must comply.
128. It is well settled law in this State that any tax sale and tax title must have both been executed and made in the name of the true owner of the property. The tax deed issued to SB MUNI was made in the name of SJH who was not the true owner of the property at issue at the time of the tax sale or at the time the tax deed was issued.
129. According to SC Code of Laws 12-49-10, York County can only take and sell land that actually belongs to a delinquent taxpayer (i.e., SJH) and then only if the assessment was legally made. The assessment that York County made against SJH on or about January 1, 2017 was illegally made because SJH was not the owner of that land on the date they were assessed with a debt. The tax sale and the tax deed were conducted and made in violation of SC Code of Laws 12-49-10.
130. According to SC Code 27-1-10 land becomes chargeable only for the debts of the land's owner. Owner has never been assessed with owing any debts of any kind to any governmental entity so Owner's Land has never been made chargeable with any debts, duties or demands, of whatever nature or kind. The tax sale and the tax deed were conducted and issued against land that was never made chargeable with any debts, duties or demands, of whatever nature or kind and was made in violation of SC Code 27-1-10.
131. Owner has a right protected by the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article 1, Section 13(a) to never have his private property taken without his consent. Owner has never given his consent to have his private property taken. Any Taking of property in violation of a right protected by the Constitution voids the Taking.
132. York County never sent any notice of the tax sale of Owner's Land to Owner. York County never sent any notice of Owner's right or duty to redeem Owner's Land. According to the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article 1, Section 3 and the Bill of Rights, Article 5 (part of the Constitution of the United States) a person can never be deprived of property without due process of law FIRST being provided to that person. The tax sale and the tax deed were conducted and issued in violation of Owner's right to receive due process of law before his

property was taken. That due process violation can never be cured by any court AFTER the Taking.

133. The tax sale and tax deed were conducted and issued in violation of the taxing codes and Owner's rights protected by the Constitutions and are therefore void *ab initio* and unenforceable by any court.

134. Plaintiff's quitclaim deed derives from a void and unenforceable tax title so its deed is also void and unenforceable.

135. Plaintiff has no entitlement to invoke the aid of this Court to enforce an absolutely void and unenforceable deed.

**FOR A TWENTY- SECOND DEFENSE
(Failure to Join Necessary and Indispensable Parties)**

136. Plaintiff has requested this Court clear SB MUNI's tax title, order a refund of monies that plaintiff alleges SB MUNI paid to York County, and reform SB MUNI's tax title issued by York County.

137. Plaintiff has failed to name and serve SB MUNI as a co-plaintiff and York County as a defendant. These two parties are necessary and indispensable to all of plaintiff's causes of action.

138. These two parties must be added or this case must be dismissed.

**FOR A TWENTY- THIRD DEFENSE
(Misjoinder)**

139. Plaintiff has requested this Court clear SB MUNI's tax title, order a refund of monies that plaintiff alleges SB MUNI paid to York County, and reform SB MUNI's tax title issued by York County.

140. Plaintiff has failed to name and serve SB MUNI as a co-plaintiff and York County as a defendant. However, SB MUNI cannot be made a co-plaintiff since it quit its claims to the property at issue when it granted its property to plaintiff on a quitclaim deed so it no longer has any real, material interest in the subject matter of this case so SB MUNI does not have standing to be named a co-plaintiff in this case.

141. This case must be dismissed with prejudice for misjoinder.

**FOR A TWENTY- FOURTH DEFENSE
(Right to Additional Defenses Reserved)**

142. Owner hereby gives notice that he may rely on other defenses if and when such defenses become known during the course of discovery and litigation, and hereby reserves the right to amend his answer to assert any other defenses or counterclaims as they become known or available.

COUNTERCLAIMS

143. Brett Osborne, acting in the capacity as the trustee authorized by SJH to convey SJH property signed and executed a general warranty deed on December 20, 2012 granting to Owner SJH property in fee simple. Owner has had possession of his executed deed since December 20, 2012.

144. Owner has been seized and possessed of Owner's Land since December 20, 2012. Possession of land carries with it the presumption of ownership and title.

145. Owner choose to claim his rights to own his property privately and alone so Owner did not record his deed as that is the only method a man can use to claim those rights.

146. The world was given actual notice on December 26, 2012 (**Exhibit A**) seven (7) years prior to plaintiff purchasing its quitclaim deed that SJH was not the owner of the property at issue at the time of the tax sale. Plaintiff admitted that it was aware of the SJH Notice (Complaint #5 & #6) before it brought this case so plaintiff has admitted it is aware of this fact.

First Cause of Action **(Sanctions for Frivolous Complaint)**

147. Owner re-alleges and incorporates herein by reference all of the above allegations.

148. The jurisdiction for this cause of action is the South Carolina Frivolous Civil Proceedings Sanctions Act in SC Code of Laws 15-36-10 to 100.

149. All bidders at tax sales in York County are given notice that the tax titles they are bidding on may have any number of defects and come with no warranty whatsoever. Plaintiff was not a bidder on Owner's Land, however, on information Owner believes that plaintiff's manager, Joshua W. Schrager, is the same person as SB MUNI's manager so Mr. Schrager must have received a copy of the bidder's notice.

150. Plaintiff admitted during a hearing held in plaintiff's first case (case# 2019-CP-46-00310) that it was aware of the extended litigation Owner pursued for over five (5)

years during Owner's failed attempts to prevent York County from taking and selling Owner's Land. Owner's court actions all failed because at least four judges of this State determined that this State does not have jurisdiction over Owner's Land.

151. Owner attempted to intervene into plaintiffs first case because of his claim of ownership of the property that was the subject matter of that case.
152. No person would expend over six (6) years of their life, time, effort, and financial resources defending property that they did not own.
153. Despite plaintiff's awareness of Owner's extended litigation, Owner's attempt to intervene into plaintiff's first case, and plaintiff taking a voluntary dismissal of its first case for the alleged purpose of naming Owner as a defendant, plaintiff denied that Owner is the owner of the property at issue in this case (Complaint #7).
154. It is well settled law in this State that in order for any tax sale to be upheld, the tax sale and tax deed must have both been conducted and made in the name of the true owner of the land. The tax sale and the resultant tax title issued to SB MUNI was made in the name of SJH and not in Owner's name.
155. York County violated almost every taxing code that they are required to strictly follow when selling a property for delinquent taxes. The following four allegations are included as examples of York County's many violations of their authority when they sold the property at issue in this case and issued a tax title to SB MUNI:
 - a) York County violated SC Code of Laws 12-37-610 by creating an assessment against SJH five years after SJH disposed of their property upon which they were assess a tax debt.
 - b) York County violated SC Code of Laws 12-49-10 by selling Owner's Land to satisfy an accessed debt against SJH.
 - c) York County violated SC Code of Laws 27-1-10 by making Owner's Land liable for debts accessed against a person not the land's owner.
 - d) York County violated SC Code of Laws 27-1-10 (b) by using Owner's Land as an asset for the satisfaction of debts that Owner has never been charged with.
156. It is well settled law in this State that due process of law requires some sort of notice to a landowner before he can be deprived of his property. When notice is not given that failure is a fundamental defect rendering the proceedings absolutely void

and unenforceable. The tax title issued to SB MUNI shows that York County addressed all of its notices to SJH and no notice was ever addressed to Owner.

157. It is well settled law of this State that if the notice of sale and right to redeem are not correctly given to the actual and true owner of the land, the tax deed issued is absolutely void and unenforceable.

158. According to the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article I, Section 3 and Amendment V of the United States Bill of Rights, no person can ever be deprived of their property without due process of law being first provided to that person. The tax sale and the tax deed were conducted and issued in violation of Owner's right to receive due process of law before his property was taken, i.e., before a tax title was issued.

159. According to the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article I, Section 13(a) "*private property shall not be taken for private use without the consent of the owner*". There is neither allegations nor evidence that could ever show that Owner has given his consent to have his private property taken from him.

160. Any Taking in violation of rights protected by the Constitution is void and unenforceable.

161. On information Owner believes that Plaintiff is managed by Joshua W. Schrager who buys tax deeds, clears those tax deeds through litigation, sells the properties taken under those tax deeds, and manages multiple limited liability companies whose assets are measured in the millions of federal reserve notes.

162. On information Owner believes that there is no possibility that any person with Joshua W. Schrager's experience could ever form a credible belief that a trustee of a trust, who was contractually obligated to protect the trust's property, used a notice to transfer ownership of its property as alleged in plaintiff's Complaint #6.

163. On information Owner believes that Joshua W. Schrager and plaintiff's attorneys intentionally made the allegation in plaintiff's Complaint #6 knowing it to be false but did so because they could not determine any other way for plaintiff to both acknowledge the existence of the SJH Notice, to get it quieted, and at the same time ignore the contents of the SJH Notice so that they could pretend that SJH was still the owner of the property at issue and still existed as a legal entity.

164. Plaintiff failed to conduct any discovery during the litigation of its first case and again during the litigation of this case to determine the truth and veracity of SJH's claims made in the SJH Notice and the claims of ownership made by Owner. On information Owner believes that plaintiff failed to do any discovery because plaintiff would have been unable to continue its pretence that Owner does not have a deed to his property once plaintiff actually saw Owner's deed and discovery would certainly prove that plaintiff has no meritorious claims.
165. Plaintiff has filed this same case twice with the only change being naming Owner as a defendant to allegedly give Owner notice of this action. A person cannot be named as a defendant just to give that person notice of the case. There was no need to bring a new action just to give Owner notice of something he obviously already knew about because he was attempting to intervene in plaintiff's first case. Plaintiff then failed to make any allegations of any cause of action against Owner.
166. All of Owner's Affirmative Defenses listed and alleged above are incorporated herein by reference as if they were copied verbatim. Owner's Affirmative Defenses show that plaintiff's complaint is entirely defective and could never survive any honest analysis for having any merit.
167. Owner seeks sanctions under 15-36-10(B)(2) against plaintiff and its two attorneys for filing plaintiff's frivolous Complaint and *lis pendens*. The sanctions which Owner seeks includes both monetary reimbursement for owner's costs and time having to defend in this frivolous action as well as having the Complaint and *lis pendens* stricken.

Second Cause of Action
(Intentional Infliction of Emotional Distress)

168. Owner re-alleges and incorporates herein by reference all of the above allegations.
169. On information Owner believes that Joshua W. Schrager spoke with Brett Osborne shortly after the tax sale was held inquiring about SJH ownership of the property at issue. Brett Osborne told Joshua W. Schrager that he had not had anything to do with the property since he had sold that property many years earlier.
170. On information Owner believes Plaintiff failed to make any attempt to determine who the owner of the property was before filing its first case even though plaintiff

had been given actual notice that SJH was not the owner of the property at issue and that Joshua W. Schrager had spoken with SJH former trustee.

171. Plaintiff failed to publish its summons for its first case (case# 2019-CP-46-00310). Service by publication is required in all cases where there might be unknown and unnamed defendants.
172. After plaintiff served SJH in its first case up until the time that Owner served his notice of appeal in that case, Owner feared that plaintiff would seek a default judgment since SJH had not answered and would not answer for property they did not own. Any default judgment entered would have resulted in Owner, his family, and their personal property being thrown out onto the street by Sheriffs using force and arms. Those thoughts and mental images caused Owner many months of extreme and severe fear, anxiety, stress, and loss of sleep.
173. Plaintiff blocked Owner from intervening into its first case. Owner took an immediate appeal of the order denying him intervention. Plaintiff then attempted to get Owner's appeal dismissed which had such succeeded would have left Owner completely unable to defend his property from being illegally stolen. During the months that plaintiff's motion to dismiss Owner's appeal waited for a ruling, Owner suffered extreme and severe fear, mental anguish, and loss of sleep.
174. Plaintiff then got Owner's appeal remanded which made it moot and put into abeyance. Had plaintiff allowed Owner's appeal to be perfected and heard, plaintiff's first case would have been dismissed with prejudice for want of subject matter jurisdiction which would have ended plaintiff's attempts to steal Owner's Land or steal Owner's personal property (i.e., his currency).
175. Plaintiff is attempting to extort and blackmail Owner, under color of right, to pay plaintiff bid monies and other monies that Owner can never be legally held liable to pay. On information Owner believes that plaintiff alleged its First Alternative Cause of Action (Action to Recover Amounts Due) because SB MUNI lost its ability to get its money back from York County through its foolish decision to quit its claims to the property at issue before clearing it so plaintiff is unlawfully attempting to get SB MUNI's money back from Owner. No man should have to endure years of anguish,

fear, and emotional distress that the crimes of extortion and blackmail cause to their victims.

176. If plaintiff's main cause of action were to succeed, Owner will lose the entire market value of his property since Owner can never make a claim for the bid monies that SB MUNI paid York County for its tax title. Owner will lose many hundreds of thousands of federal reserve notes that he has invested in his property and many hundreds of hours of his labor that he has invested in the maintenance, upkeep, and updates Owner has made to his property. The thoughts of taking such a devastating financial loss has caused Owner severe and continuing distress, fear, and anxiety.

177. If plaintiff's First Alternative Cause of Action were to succeed, Owner will be held liable to pay plaintiff a couple hundred thousand federal reserve notes that Owner can never be legally held liable to pay. The thoughts of taking such a devastating financial loss has caused Owner severe and continuing distress, fear, and anxiety.

178. No man should ever have to suffer two years of severe fear, anxiety, distress, and loss of sleep knowing that he, his family, and their personal belongings may likely be throw out on the street by Sheriffs using force and arms when Owner's private property is illegally stolen from him or when he is unlawfully ordered to pay plaintiff a refund that Owner can never be legally held liable to pay.

179. As clearly shown above in Owner's First Cause of Action (Sanctions for Frivolous Complaint) plaintiff's case is entirely frivolous so plaintiff does not have any valid defense for its actions in this case.

180. Owner seeks a determination of the all damages allowed by law that should be awarded to Owner and against plaintiff for its intentional, continuing, and knowing infliction of emotional distress.

Third Cause of Action
(Declare Void and Set Aside Tax Deed)

181. Owner re-alleges and incorporates herein by reference all of the above allegations.

182. The jurisdiction for this cause of action is the South Carolina Declaratory Judgment Act in SC Code of Laws 15-53-10 to 140.

183. Owner will be pursuing this cause of action only if his defense of paramount title is, with finality, stricken or denied to Owner.
184. Owner's deed, having not been recorded, affects his status, rights, and legal relations with York County, State of South Carolina, and with plaintiff so Owner has a right to a declaratory judgment as described in SC Code of Laws 15-53-30.
185. As alleged above in Owner's First Cause of Action (Sanctions for Frivolous Complaint), SB MUNT's tax title was made in violation of many of the taxing codes with which York County must strictly comply when creating and issuing a tax title.
186. The taking of Owner's private property violated multiple of Owner's rights protect to him by both the State and federal Constitutions.
187. SB MUNI obtained the same interest in Owner's Land that SJH had in Owner's Land at the time of the tax sale. SJH had no interest in Owner's Land at time of the tax sale. SB MUNI received no interest in Owner's Land. It is well settled law in this State that no grantee can ever grant more interest in a property than it has in the property therefore LB PARK received no interest in Owner's Land.
188. Owner seeks a declaratory judgment declaring void and setting aside SB MUNT's tax title and plaintiff's quitclaim deed and declaring that these actions do not constitute a redemption since the property is not being returned to the *delinquent taxpayer* which will terminate the litigation between plaintiff and Owner. Owner also seeks a declaration that Owner is a non-taxpayer so his property must be removed from the York County tax rolls.

Fourth Cause of Action
(Intentional Interference with Contract)

189. Owner re-alleges and incorporates herein by reference all of the above allegations.
190. Owner accepted his deed making his deed a bilateral contract.
191. Plaintiff moved to remand Owner's appeal in plaintiff's first case so that plaintiff could take a voluntary dismissal of that case. Plaintiff stated his reason for taking a voluntary dismissal was to bring a new case with the only change being the naming of Owner as a defendant. Plaintiff then denied that Owner owns the property at issue and denies that Owner has a deed to the property (complaint #6 & #7). On information Owner believes that plaintiff's actions speak louder than its words. Logic

and reason dictate that no plaintiff would have gone through the trouble and expense of dismissing its action so that it could file a new action and serve all the parties again just to give Owner notice of its action. Plaintiff's actions are especially illogical since Owner already knew about and was attempting to intervene into plaintiff's first case.

192. Plaintiff has breached Owner's deed contract by executing its quitclaim deed and attempting to further breach Owner's contract by attempting to illegally and unlawfully take ownership and possession of Owner Land that Owner's deed contract granted to Owner.
193. Plaintiff's entire action is wholly frivolous as shown above in Owner's First Cause of Action so plaintiff is not justified in its breach of Owner's deed contract with SJH.
194. Owner seeks a determination of the damages that should be awarded to Owner and against plaintiff for its knowing and intentional breach of Owner's deed contract.

Fifth Cause of Action
(Slander of Title)

195. Owner re-alleges and incorporates herein by reference all of the above allegations.
196. Plaintiff's quitclaim deed is clearly void and unenforceable as shown above in Owner's First Cause of Action (Sanctions for Frivolous Complaint).
197. Neither *lis pendens* that plaintiff filed in its two cases are authorized by law as they are based on frivolous claims and outright lies and deception. The *lis pendens* both falsely state that they were filed "*to quiet tax title to the following described real property*". It is a violation of the laws of this State to request the clearing of a tax title by a person who does not have a tax title.
198. As demonstrated above, plaintiff knew or should have known that its quitclaim deed was not legally made nor is it enforceable by any court of this State.
199. Plaintiff filed its quitclaim deed and two *lis pendens* into the records of this Court intending to harm the interests of Owner and to call into question, disparage and slander the title of Owner.
200. As a direct and proximate consequence of the plaintiff's actions, Owner's title to his property was disparaged or diminished, his property was rendered unmarketable, and three clouds were unlawfully placed on Owner's title.

201. Accordingly, Owner is entitled to recover all of his actual damages to be proven at trial, for his special damages, including the costs and attorneys' fees that Owner will have to pay during the litigation of this case, along with punitive damages.

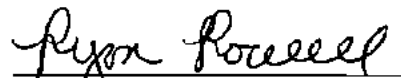
Demand for Relief

WHEREFORE, for the reasons set forth above, Ryan Powell demands that this Court enter judgment:

1. Ordering that the Complaint and the *lis pendens* be dismissed with prejudice and dismissing the *lis pendens* plaintiff filed against Owner's Land in plaintiff's first action but failed to dismiss when it dismissed its first case;
2. Finding Ryan Powell's title to be paramount to LB PARK's title. In the event that Ryan Powell's defense of paramount title is denied to him then declaring SB MUNI's tax deed and LB PARK's quitclaim deed void and unenforceable, declaring that this action is not a redemption since the property is not being returned to SJH, and also declaring that Owner is a non-taxpayer so his property should not be listed on York County's tax rolls;
3. Ordering the York County Clerk of Court to expunge both LB PARK's quitclaim deed and SB MUNI's tax deed from the public land records or to mark those deeds "cancelled of record";
4. Ordering the York County Assessor to remove Ryan Powell's land from the York County tax rolls;
5. Ordering costs be awarded to Ryan Powell for having to defend this suit;
6. In favor of Ryan Powell on all counterclaims he has asserted herein;
7. Awarding Ryan Powell actual, consequential, special, direct, and punitive damages as allowed by law;
8. Awarding Ryan Powell such other and further relief as the Court may deem just, proper, and equitable.

Respectively presented, with all rights reserved, without prejudice,

Dated: 10/1/2020



Ryan Powell, a private person
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

201200178786
Filed for Record in
YORK COUNTY, SC
DAVID HAMILTON, CLERK OF COURTS
12-26-2012 At 02:40 pm.
NOTICE 10.00
DR Vol 13103 Page 241 - 242

Notice of Sale, Transfer or Exchange

1

BR 131 03P0024 1

STATE OF SOUTH CAROLINA

COUNTY OF YORKLB PARK, LLC

Plaintiff,

vs.

San Juan Holdings, Brett Osborne, trustee;
 Brett Osborne as trustee of San Juan Holdings;
 Ryan Powell, 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

Defendant.

 IN THE COURT OF COMMON PLEAS
16th JUDICIAL CIRCUIT
CASE NO.: 2020 -CP-46-00549
**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

 FILED-RECEIVED
 2022 NOV -4 AM 11:13
 DAVID HAMILTON
 C.C.P. & GS
 YORK COUNTY, SC

Plaintiff's Attorney: <u>A. Parker Barnes III, Bar No. 68359</u> Address: <u>P.O. 11889, Columbia, SC 29211-1889</u> Phone: <u>803-779-3080</u> Fax _____ E-mail: _____ Other: _____		Defendant's Attorney: <u>NONE, Bar No. _____</u> Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: <u>Motion for New Trial or to Alter or Amend</u> Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
<u>Ryan Powell</u> Signature of Attorney for ☐ Plaintiff / ☒ Defendant		<u>11/3/22</u> Date submitted	
SECTION III: Motion Fee			
☒ PAID - AMOUNT: \$ <u>25.00</u> ☐ EXEMPT: (check reason)			
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____	

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED – AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

Case # 2020-CP-46-00549

LB PARK, LLC, Plaintiff

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.

Motion for New Trial, or
to Alter or Amend

DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

FILED-RECEIVED
2022 NOV -4 AM 11:13

Ryan Powell, the owner of the private property at issue ("Owner" hereinafter), moves this Court under Rule 59(a) SCRPC to set a new trial to take additional testimony, amend its findings of fact and conclusions of law or make new findings and conclusions and direct entry of a new judgment, and under Rule 59(e) SCRPC to alter and amend the Final Order entered on October 25, 2022. Owner received written notice of entry of the Final Order on October 27, 2022.

Owner made an affidavit in support of this motion title "Affidavit in Support of Motion for New Trial or to Alter or Amend", which has been filed along with this motion. Owner's affidavit and his deed attached to it are fully incorporated herein by reference. Pursuant to Rule 59(f) SCRPC, Owner requests this Motion be heard and decided on the party's submitted affidavits and briefs.

This motion is based on the following grounds: numerous significant errors of law, the judgment is not supported by the facts found, many facts found are not based on evidence entered into the record, irregularities in the court proceeding, in the interest of fairness and justice, and fraud on the court committed by Judge Weaver.

1. This Court Acted In Contravention To Well Settled Law And Legal Procedure By Unlawfully Executing Its Final Order Within The Final Order

Judge Weaver knew she lacked subject matter jurisdiction to enter a final order which is why she refused to hear Owner's Motion to Amend his answer for many months after it was filed. But then she changed her mind three business days after the Chief Justice of the Supreme Court received a letter from Owner evidencing the collusion and conspiracy going on between Judge Weaver and judge(s) on the Court of Appeals. So instead of putting an end to that collusion and conspiracy taking place under his charge, the Chief Justice appears to have decided to retaliate against Owner for exercising his Constitutionally protected right to own private property. The Chief Justice appears to be the mastermind/instigator behind the premeditated, nefarious, and malicious scheme that will be disclosed in this section.

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

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

A motion seeking a Writ of Assistance must include a Rule to Show Cause which must be personally served on the party unlawfully remaining in possession of the real property. The Rule to Show Cause gives the party in possession an opportunity to "show cause" why a writ should not issue. After a show cause hearing, if the Writ of Assistance is granted but subsequently appealed, then the appellant can be ordered to post a supersedes bond under SC Code of Laws 18-9-170 because that is when a dispossession has legally been ordered to take place.

However, in total disregard of the above described well-settled laws and legal procedures that must be followed, dispossession was ordered without any motion, without any Rule to Show Cause, without any notice, and without any hearing which constitutes an appalling violation of

the due process rights of Owner, his mother who holds an enforceable lien against the land, and the occupants of Owner's property, making the Final Order void on its face. At a show cause hearing, had one actually been held, Owner would have had the opportunity to put his deed into evidence which would have stopped any further attempts to dispossess him from his property.

Judge Weaver quiets titles as a full time endeavor so she is extremely familiar with the proper court procedures that must be followed. Judge Weaver also knows and understands the difference between making a quiet title order and executing a quiet title order. Judge Weaver executing her quiet title order within the quiet title order was clearly a premeditated plan to ensure that her void on its face order could be illegally executed. Judge Weaver did this knowing, without any doubt, that she lacked subject matter jurisdiction to even enter a final order! Further, the Plaintiff and its attorneys are very familiar with the proper court procedure that must be followed in a quiet title action as they have litigated many such actions including in York County in recent years. See LB PARK, LLC v. David Chevez, et al., 2017-CP-46-00574.

To add insult to injury, the amount of the bond set in the Final Order is ridiculously high and is not based on any evidence entered as Plaintiff's only witness, the Tax Collector, could not have testified to the appropriate rental value of Owner's property or to how long an appeal takes to be heard, which is NOT 5 years. Nonetheless, the bond "finding" was clearly an intentional, premeditated, and malicious act undertaken by Judge Weaver to intimidate and illegally threaten [extortion] Owner with hopes that it would achieve the results that Owner would "voluntarily" "decide" to not exercise his due process right to take an appeal. Judge Weaver's illegal extortion and intimidation has not succeeded in intimidating Owner from seeking review and has only displaced the resulting liabilities of her actions onto the judges and justices of the appellate courts!

The unlawful ordering of a bond to cover the unlawfully ordered rent along with the illegal ordering of dispossession makes clear why Judge Weaver refused to hear and decide any of Owner's three motions that he filed and tried to get scheduled to be decided before the final hearing. The premeditated, nefarious, and malicious plan could never have achieved the desired result, i.e., getting Owner to "decided" to not take an appeal, if Judge Weaver entered any other order that was not part of the Final Order. If there had been any other order entered prior to the Final Order, Owner could have appealed just that order without having to post a bond. Had Owner been able to appeal just the order denying him a continuance, that appeal would have

concluded with a finding that Judge Weaver's continuance order was void for lack of subject matter jurisdiction which would have been proof that all her other orders were void and unenforceable. A brilliant scheme had it not been so illegal, unlawful, nefarious, and intentionally malicious.

The Final Order demonstrates the elements of multiple crimes having been committed by Judge Weaver. Those crimes include, but are not limited to, extortion¹, taking property on a false pretense², obstruction of justice, deprivation of rights under color of law, abuse of power, conspiracy against rights, elder abuse of Owner's mother, not to mention the many actionable torts Judge Weaver has committed against Owner and his mother.

The Final Order must be opened and modified to remove the bond "finding" [order, pg 23, Appellate Bond Section] and to remove the unlawful dispossession relief ordered [order, pg 27-28, #11 (a),(b), & (c)]. Because of these intentional, malicious, and illegal acts, and the fraud upon the court committed by Judge Weaver (discussed below) a new trial must be held and adjudicated by a different judge in conformity with the Canons of Judicial Conduct.

2. This Court Wanted Subject Matter Jurisdiction To Enter The Final Order

"The master has no power or authority except that which is given to him by the order of reference. See Rule 53(c), SCRCP ("[T]he order of reference to the master may specify or limit his powers and may direct him ... to do or perform a particular act....");", Smith v. Ocean Lakes Family Campground, 315 S.C. 379, 381, 433 S.E.2d 909, 910 (1993) [emphasis mine].

"When a case is referred to a master under the rule, the master is given the power to conduct hearings in the same manner as the circuit court unless the order of reference specifies or limits the master's powers.", [emphasis mine] FIRST CITIZENS BANK AND TRUST COMPANY v. Taylor, 847 SE 2d 249, 431 SC 149 (2020).

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

¹ Many of these crimes listed have already been committed, are evidenced in the Final Order, and do not depend on Owner actually losing possession of his property. For example, the illegal order shows an extortion by a public official who is using threats, intimidation, and coercion to achieve a wrongful intent. Extortion is a federal crime when it involves interstate commerce, like in this case. Federal extortion law carries a 20 yr prison sentence.

² The false pretense being that this Court had the legal authority to even make its illegal Final Order when Judge Weaver knows, without any doubt, that she did not have jurisdiction to make any order.

The Final Order reads in pertinent part - "Further, this matter is within the subject matter jurisdiction of this Court, pursuant to Rule 53, SCRCF, with any appeal to the Court of Appeals of South Carolina." [order, pg 24, #2]. That conclusion is an error of law. As shown in Smith v. Ocean Lakes Family Campground supra, this Court gets its authority by, and only by, an order of reference NOT by Rule 53 SCRCF.

The reference made for this case was *"for the purpose of receiving evidence"*. The Final Order makes a finding/conclusion that the statement *"for the purpose of receiving evidence"* is not a limitation on this Court's jurisdiction [order, pg 13, 1st para, and pg 24, #2]. That is an absurd and unsupportable finding/conclusion. Not only does the English language support the fact that "for the purpose of ..." specifies a "particular purpose", but binding precedent case law that interprets Rule 53 SCRCF, as shown above, clearly, continuously, and even recently (in 2020) has held that there can be limitations, specifications, and particular purposes for a reference and when there are, the Master can only execute those limitations, specifications, or particular purposes. Those cases were intentionally ignored by Judge Weaver when she concluded "Therefore, this Court has full jurisdiction over the parties to and all subjects of this case." [order pg 13, 1st para., pg 24, #2].

Once Judge Weaver "received evidence" during the final hearing held on September 27th, her jurisdiction terminated and according to Bunkum v. Manor Properties supra anything she did on the case after her jurisdiction terminated was done without subject matter jurisdiction. Since Judge Weaver made and entered the Final Order after her jurisdiction terminated, the Final Order is void on its face and must be vacated.

3. No Court Has Subject Matter Jurisdiction Over Owner's Private Property

As evidenced by Owner's sworn under penalty of perjury and certified as true and correct copy of his unrecorded deed [Affidavit, Exhibit A], Owner is the true and only owner of the property at issue in this case.

Corpus Juris Secundum (C.J.S.) declares the legal basis for liability under all tax laws in the United States - 84 C.J.S. TAXATION, § 59 Persons Liable, at:

"Generally speaking, every person who subjects himself or his property to the jurisdiction of the state comes within its taxing power... Tax liability will not be implied against persons who do not fall within the description of those subjected to tax by statutory provisions imposing it... an individual, unlike a corporation, is not subject to tax for the mere privilege of existing, and owning property, which are natural rights."

According to the above stated law that applied to all taxation, each owner of property has to specifically take some positive action to "subject" "his property to the jurisdiction of the state" before his property becomes taxable and liable to be taken if that owner's contractual obligation is breached. If this were not true, then every man or woman who owned any land would be under involuntary servitude to the corporate state which is prohibited by Amendment 13 to the Constitution of the United States. Since Owner was clearly not assessed with any taxes, or the property at issue would have been liened, levied, and sold in his name and not the previous owner's name, then it follows that Owner's unrecorded private property is not under the jurisdiction of this State.

Accordingly, no court of this State has jurisdiction over Owner's unrecorded private property which is the subject matter of this case. Since Judge Weaver now has evidence that Owner is the true owner of the property at issue in this case, she can not longer rely on "ignorance" as a defense when she is held personally liable for the actionable damages her actions have already caused Owner and his Mother.

The Final Order is void and must be vacated.

4. Lack of Personal Jurisdiction Over Owner

The Final Order erroneously concludes this Court has personal jurisdiction over all defendants [order pg 24, #2]. Owner raised the issue of personal jurisdiction in his pre-answer motion to dismiss and also in an affirmative defense raised in his Answer [Answer, Sixth Defense, pg 7] so this issue was not waived.

There are no allegations in the Complaint that could show the Court can assert personal jurisdiction over Owner. Owner was served with the Summons and Complaint outside the boundaries of the State [Affidavit of Service on Ryan Powell, filed 4/20/2020]. In order to assert long-arm personal jurisdiction over a non-resident defendant that is served outside the boundaries of the State for a cause of action that arises from that defendant's "having an interest in, using, or possessing real property in this State", the Plaintiff must allege and then prove that the defendant has such connections to the State. See SC Code Ann 36-2-803(5).

The Complaint not only fails to allege that Owner has any interest in, is using, or possessing real property in this State, but specifically and intentionally denies that Owner has any interest in, is using, or possessing real property in this State [Complaint #7]. Plaintiff failed to make a

prima facie case showing of personal jurisdiction over Owner in its Complaint. Plaintiff also failed to enter any evidence during the final hearing that could support a finding that this Court can assert personal jurisdiction over Owner. Then this Court failed to make any findings of facts supporting its conclusion that it has personal jurisdiction over all parties [order, pg 13, para. 1, order pg 24, #2].

Judge Weaver now has evidence that the property at issue in this case is owned by Owner and has been since December 20, 2012 so the Court knows that it must have personal jurisdiction over Owner to affect him personally or to affect his property.

The Final Order is void on its face for want of personal jurisdiction over Owner and must be vacated. Or a new trial set so that Plaintiff can enter evidence proving that Owner has an interest in, possesses, or is using real property in this State so that the conclusion made in the Final Order is supported by appropriate findings of fact based on admitted evidence.

5. Failure to Provide Due Process Before Taking Owner's Property Violates Mandatory State Constitutional Protections

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

First, as shown above in error section "1. This Court Acted In Contravention To Well Settled Law And Legal Procedure By Executing Its Final Order Within The Final Order", the actions taken by Judge Weaver to set an extremely high bond and order dispossession of Owner without any notice or opportunity to defend against a dispossession, denied Owner his due process right to get notice of a pending dispossession proceeding and deprived him of his due process right to have an opportunity to challenge the Rule to Show Cause that was never issued. This violation of Owner's due process rights is not only appalling but was clearly premeditated and done intentionally, maliciously, and without legal authority with the intention to deprive Owner of his private property by violating his due process right to seek review.

Second, despite the conclusion of law stating " Tax Collector provided all required notices to all interested parties entitled to notice" [order, pg 24, #5, #6], the Tax Collector never gave an testimony and the Plaintiff never entered any evidence showing that Owner was ever given any notice informing him he owed York County any debt, that his property was going to be sold, advertising his property up for auction, or that he had a right to redeem his property. No due

process was ever given to Owner before a tax title was issued that affected Owner's title and property. The United State Supreme Court has continuously held that NO person can ever have their property affected by a tax sale without FIRST being given notice. See Mennonite Bd. of Missions v. Adams, 462 U.S. 791 (1983). Notice is required and must be given to all land owners, even those who have not recorded their deeds, prior to any interests in their property being affected.

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

"It is a well-established principle that due process of law requires some sort of notice to a landowner before he is deprived of his property.", Dibble v. Bryant, 265 SE 2d 673 (SC Supreme Court 1980) [emphasis mine].

The Supreme Court of the United States held the following in a unanimous decision for a property tax case-

"Prior to an action that will affect an interest in life, liberty, or property protected by the Due Process Clause, a State must provide "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.", Mennonite Bd. of Missions v. Adams, 462 U.S. 791 (1983) [emphasis mine].

Third, Owner made repeated requests to have his Motion to Amend his answer heard "as soon as possible" after it was filed on June 8th. But Judge Weaver refused to schedule Owner's Motion to Amend his answer for months. Then, when the final hearing was unexpectedly scheduled, Judge Weaver decided to schedule Owner's Motion to Amend to be heard "immediately prior" to the final hearing [order, pg 13, 3rd para, 2nd sentence]. That decision ensured that Owner's motion would have to be denied as "immediately prior" to the final hearing the Plaintiff would be prejudiced. The scheduling decision Judge Weaver made pertaining to Owner's meritorious Motion to Amend deprived him of his due process right to: 1) have an opportunity to raise and enter evidence for his meritorious defenses and claims against the two managers of the Plaintiff who committed fraud in their procurement of false, fraudulent, forged deeds; 2) deprived Owner of the ability to make a claim for the overages paid for his property should he legally lose his property; and 3) deprived Owner of the ability to protect the legally enforceable lien his mother has against his land. Further as shown above in error section "1. This Court Acted In Contravention To Well Settled Law And Legal Procedure By Unlawfully

Executing Its Final Order Within The Final Order" Judge Weaver intentionally and deliberately refused to hear and decide Owner's Motion to Amend prior to the final hearing so that she could carry out her premeditated, nefarious, malicious scheme to execute the Final Order within the Final Order.

Forth, in Owner's Motion for Continuance he informed Judge Weaver that he would not be able to attend on the date she chose because he had a previous contractual obligation that conflicted with that date [Affidavit, pg 6, #29]. Judge Weaver had 11 days to hear and decide Owner's motion but refused to do so. Judge Weaver also refused to even schedule Owner's motion for a hearing so Owner was never given any notice that this Court was going to hear his Motion for Continuance immediately prior, to the final hearing. Scheduling the final hearing without first requesting either party's availability, refusing to hear and decide a meritorious Motion for Continence when Judge Weaver had ample time to do so, and then failing to give either party notice that it was going to hear Owner's motion *immediately prior* to the final hearing, all deprived Owner of his due process right to have an opportunity to be heard.

Fifth, the State is required to give notice of what the State commands be done or forbids a person to do so that all persons can know what is expected of them. This State never gave Owner any notice that he could lose his property for not recording his deed. In fact, this State, by and through SC Code of Laws 12-24-10(A), gave notice that it is a privilege for any owner of property to record their deed. Privileges are always voluntary as no person can be required to apply for or receive a benefit or privilege. Therefore, the State cannot take Owner's property without having first given Owner notice that it commands that all men and woman must record their deeds or lose their property if they do not do so:

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

Sixth, "It is axiomatic that the expectation of a fair and impartial tribunal is a basic tenet of all cherished notions of due process embodied in the United States Constitution.", Mallett v. Mallett, 473 SE 2d 804 (1996). This Motion demonstrates that Judge Weaver was not a fair or impartial tribunal which deprived Owner of his due process rights to have such judge decide this case.

The Final Order is void for failure to provide due process and must be vacated.

6. Plaintiff's Claims Do Not Present An Active Case Or Controversy

"A threshold inquiry for any court is a determination of justiciability, *i.e.*, whether the litigation presents an active case or controversy. "No justiciable controversy is presented unless the plaintiff has standing to maintain the action." ... " South Carolina courts, like the federal courts, require a justiciable case or controversy before any decision on the merits can be reached." ... "The concept of justiciability encompasses the doctrines of ripeness, mootness, and standing", Lennon v. South Carolina Coastal Council, 498 SE 2d 906 (1998) [emphasis mine].

"Standing is ... that concept of justiciability that is concerned with whether a particular person may raise legal arguments or claims.", Powell ex rel. Kelley v. Bank of Am., 665 SE 2d 237 (2008).

"Statutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute confers standing is an exercise in statutory interpretation.", Preservation Society of Charleston v. SCDHEC, 845 SE 2d 481, 430 SC 200.

"[A]ny legislation which is in derogation of common law must be strictly construed and not extended in application beyond the clear legislative intent.", Smalls v. Weed, 293 S.C. 364, 360 S.E. (2d) 531 (1987).

"This case was a suit brought for the purpose of setting aside a tax deed as a "cloud on the title of the plaintiffs.". From a judgment in favor of the plaintiffs an appeal was prosecuted to this Court. In reversing the lower Court and finding for the defendant, this Court held that a suit to remove a cloud from the title was premature for the reason that the plaintiffs were not in possession of the property in question", Taylor v. Jennings, 106 SE 2d 391 (SC Supreme Court 1958).

As Lennon *supra* demonstrates, this Court was required to make an inquiry into whether or not the Plaintiff's claims present an active case or controversy before the merits of this case could be reached. Lennon also demonstrates that this Court was required to make such an inquiry *sua sponte* if neither party raised it as an issue. This Court failed or refused its duty.

Since the Plaintiff brought its case under a specific statute, *i.e.*, SC Code of Laws 12-61-10 to 60, the allegations in its Complaint must show that the Plaintiff is one of the persons who has the right to bring its claims under that statute in order to have statutory standing. The Plaintiff does not have statutory standing under SC Code of Laws 12-61-10 to 60 because its allegations in its Complaint fail to show that it "purchased at or acquired through a tax sale and obtained title to any real ... property". See SC Code of Laws 12-61-10 titled "Persons who may institute action to clear tax title."

"Any ... person ... which has purchased at or acquired through a tax sale and obtained title to any real or personal property, may bring an action in the court of common pleas of such county for the purpose of barring all other claims thereto."

SC Code of Laws 12-61-10 to 60 clearly gives the right to use the special benefit provided in that Chapter only to Plaintiffs who have "purchased at or acquired through a tax sale and obtained title". The clause "and obtained title" means to have obtained a tax title from or through a tax sale, not to have obtained a quitclaim deed from some other title holder. Plaintiff does not have standing to use SC Code of Laws 12-61-10 to 60 so its case is non-justiciable.

Plaintiff's claims also do not present an actual case or controversy because the Plaintiff claims are **NOT RIPE** for adjudication since it does not have possession of the property at issue. The fact that the Plaintiff does not have possession was admitted in its Complaint and was also found and ordered in the Final Order by way of the unlawful dispossession orders to the Sheriff [order, pg 27-28, #11(a),(b), & (c)]. Every quiet title action, including one brought under SC Code of Laws 12-61-10 to 60, **requires** the Plaintiff have possession of the property before initiating the action. See Taylor v. Jennings supra. See also SC Code of Laws 12-61-20 - "Such action shall be commenced, conducted and concluded by decree **as are similar actions** in such court". Similar actions include regular quiet title actions like those described in SC Code of Laws 15-67-10:

"SECTION 15-67-10. Persons who may bring action to determine adverse claim. **Any person in possession of real property**, by himself or his tenant, or any person having or claiming title to vacant or unoccupied real property may bring an action against any person who claims or who may or could claim an estate or interest therein or a lien thereon adverse to him for the purpose of determining such adverse claim and the rights of the parties, respectively."

Owner can not find in any South Carolina Reporter a single case that was upheld by either appellate court where a plaintiff brought a quiet title action, including those brought under SC Code of Laws 12-61-10 to 60, and that plaintiff did NOT have physical possession of the property at issue. Taylor v. Jennings supra is one example of a case that was dismissed for being unripe because the plaintiff did not have possession. There are many cases that show the tax title purchaser had to bring an eviction action against the delinquent taxpayer because they refused to vacate their property. For one example see, Manji v. Blackwell, 473 SE 2d 837 (1996):

"The trial court granted respondents summary judgment, declared a tax sale of Jimmy Blackwell's property null and void, and set aside the resulting tax deed to appellant, Zulfikar Manji. We affirm." ... " Blackwell, however, refused to vacate the property. As a result, Manji brought this eviction action against Blackwell."

It was an error of law for Judge Weaver to have reached the merits of this "case" without first making a *sua sponte* inquiry into the justiciability of Plaintiff's claims. The Final Order must be modified to dismiss Plaintiff's claims for being non-justiciable.

7. Constitutionally Mandated Equal Protection Under The Laws Was Violated

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

Legal Protections Provided To All Delinquent Taxpayers After A Tax Sale Of Their Property	Legal Protections Provided To Owner After A Tax Sale Of The Previous Owner's Property
They must have a legally assessed debt payable to the county that is due and owing.	Owner had no debt due and owing to York County.
They must receive notice that their property is going to be sold for their debt due the county.	No notice was ever given to Owner informing him that his property was going to be sold to pay any debt to York County.
They must receive notice that their property was going to be auctioned via a newspaper ad.	No newspaper ad was ever placed by York County showing Owner's property was going to be auctioned off.
They must receive notice that they have a right to redeem their property after the tax sale but before the issuance of a tax title.	No notice of redemption was ever given to Owner informing him he had a right to redeem the sale of his property.
They have a right to challenge the tax sale.	Owner's right to challenge the tax sale has been denied to him.
They have a right to have the tax sale declared void and set aside if they did not get proper notice.	Owner's right to challenge the tax sale for any reason was denied to him and his right to have the tax sale declared void for his not receiving any notice was denied to him.
They have a right to have the tax sale declared void and set aside if it was not made in their name.	Owner's right to challenge the tax sale for any reason was denied to him and his right to have the tax sale declared void for having been conducted in the name of one not the owner was denied to him.

They have a right to not have to defend their property while they are in possession of their property.	Owner was required to defend his property while he was in possession of his property.
They have the right to go to the county and collect the overages that were paid for the sale of their property.	Owner cannot go to the county and collect the overages without a court order because he was not the delinquent taxpayer and the overages are only payable to the delinquent taxpayer. Owner's right to make a claim for the overages was denied to him when Judge Weaver refused to allow Owner the opportunity to amend his answer to make that claim.
They will never lose more than the difference between the market value of their property minus their tax debt owed and the overages paid for their property.	Owner has lost the full market value of his property (\$440,000) to satisfy a \$5,000 debt assessed against another entity and has now been ordered to pay another \$180,000 for rent just to take an appeal.
They are not required to post any bond if they decide to take an appeal of the final judgment entered in a case challenging the tax sale.	Owner has been unlawfully made liable to post an extremely high bond in order to take an appeal of the illegal and unlawful order stealing his property.

The Final Order demonstrates that all of the laws that must be equally applied to any defendant named in clear tax sale case were not equally applied to Owner thus violating the mandatory Constitutional requirement of equal protection under the laws.

A new trial must be set so that the laws that must be equally applied can be equally applied to Owner.

8. It Was An Error Of Law To Refuse To Hear Owner's Motion For Continuance Before The Final Hearing

The Final Order denied Owner's Motion for Continuance [order, pg 24, #2, order pg 26, #1]. But unlike most motions for a continuance, this denial does not constitute an "abuse of discretion" because to have discretion the court must first have subject matter jurisdiction, which Judge Weaver did not have.

The grounds given by Owner for not being able to attend the final hearing on the date chosen by Judge Weaver, without first considering either party's availability, was that he had a previous contractual obligation that prevented his attendance ON THAT DATE. The Final Order states "The Court finds that the Motion for Continuance does not demonstrate good cause and that Powell had ample time to make preparations to attend." [order pg 2, para 2]. That finding was

based on the 33 days notice given to the parties. However, the problem for Owner was not that 33 days notice was insufficient time to "make preparations", it was that he could not attend on the date chosen so there was no preparations that he could have made that would have changed his previous contractual obligation. See Affidavit, pg 6, #29.

The Final Order states "This case has been pending since February 12, 2020". The time that this case has needed to get to a final hearing is irrelevant to the issue of the date chosen or whether Owner has a right to have an opportunity to be heard. The fact that Owner was requesting a mere 35 days continuance should have been the only consideration especially since Owner has NEVER requested a continuance in this case.

The Final Order states "Powell did not seek a continuance until September 16, 2022". That should not have precluded a pre-trial hearing of his Motion for Continuance since September 16, 2022 still left 10 days before the hearing. Ten days was plenty of time to hear and decide a simple 1.5 page Motion for Continuance.

However, as shown above in error section "1. This Court Acted In Contravention To Well Settled Law And Legal Procedure By Unlawfully Executing Its Final Order Within The Final Order", the Final Order proves that this Court had no intention whatsoever of hearing and deciding any motion before the final hearing because doing so would have made it impossible to execute the premeditated, nefarious, malicious plan to illegally enforce the void Final Order within the Final Order.

A new trial must be set to give Owner an opportunity to be heard and because of these intentional malicious acts, and fraud upon the court committed by Judge Weaver, the new trial must be adjudicated by a different judge in conformity with the Canons of Judicial Conduct.

9. The Grantee On The Tax Title Does Not Designate An Existing Legal Entity

Despite the erroneous conclusion of law found in the Final Order "The Court finds that the use of the abbreviated name of "SB MUNI CUST % LBSC-11, LLC" for the bidder in the Tax Deed was proper and was required by York County's software system. The Court further finds that the Tax Deed is valid in all respects and that the Tax Deed conveyed title to the Property to SB Municipal, LLC as custodian for LBSC-11, LLC.", [order, pgs 24-25, #7], no conveyance can transfer ownership of property to a legal entity unless that legal entity exists on the date that the conveyance is executed -

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

There is no evidence in the record that supports a finding that " SB Municipal, LLC as custodian for LBSC-11, LLC" was the tax title purchaser or that it existed as a legal entity on the date that the tax deed was conveyed. This finding also constitutes an error of law as shown below.

The name of any legal entity placed on any conveyance is of utmost importance because the name of the entity is what distinguished it from any other legal entity. This is why York County places a large font, all caps, bolded statement on the top of their bidder's information sheet warning all bidders registering for a tax sale that legal documents are going to be produced from their supplied information so they must carefully print the correct legal name(s) because they will be placed on the tax deeds or refund checks [Affidavit, pg 2, #11].

Judge Weaver found that the name of the tax title purchaser - "SB MUNI CUST % LBSC-11, LLC" designates a valid legal entity because those acronyms and symbols are just a short-hand version of the name "SB Municipal, LLC is the custodian of LBSC-11, LLC" [order pg 7, 3rd para to pg 8, 1st para]. Judge Weaver then concluded that *"The use of an abbreviation for SB Municipal, LLC was required³, and the Court finds that the use of this abbreviation is proper, that the Tax Deed is valid, and that the abbreviation of the grantee name does not render the Tax Deed invalid"* [order pg 8, 1st para]. In other words, Judge Weaver determined that the tax title purchaser was doing business in a made-up, highly cryptic name but it is a valid conveyance because that name designates an existing Florida LLC named "SB Municipal, LLC". This finding/conclusion is stated as being based solely on testimony from Tracey Mattevi who testified that York County has an antiquated limitation in their clunky computer software that could not accommodate the correct legal name of the tax title purchaser, that being "SB Municipal, LLC is the custodian of LBSC-11, LLC".

First, it is impossible for Tracey Mattevi to have testified that SB MUNI CUST % LBSC-11, LLC designates the presumed legal entity named "SB Municipal, LLC is the custodian of LBSC-11, LLC" which designates the Florida LLC named "SB Municipal, LLC" because she could not possibly have known those facts. Therefore, these findings/conclusion must be based on arguments of Plaintiff's attorney. But attorneys arguments are not evidence and cannot be used

³ Why would an abbreviation be needed for "SB Municipal, LLC"? Is this Court saying York County's antiquated clunky software cannot handle a name longer than 17 characters?

to support any factual findings. Further, since Plaintiff's attorney is an officer of the Court, any argument he made that mislead the Court into finding/concluding that "SB MUNI CUST % LBSC-11, LLC" means "SB Municipal, LLC is the custodian of LBSC-11, LLC" which designates the existing Florida LLC named "SB Municipal, LLC", constitute fraud on the court. Fraud vitiates everything it touches, see United States v. Throckmorton. 98 U.S. 61 (1878).

Second, Plaintiff intentionally refused to put its manager on the stand to enter evidence that could support this finding/conclusion because both the manager and the Plaintiff's attorney knew that if he testified to this fraudulent information he could be found to have either perjured himself or committed fraud. Either way, this finding is unsupported by any evidence entered into the record and also constitutes an error of law because if the grantee on the tax deed, i.e., "SB MUNI CUST % LBSC-11, LLC", actually designates the existing LLC named "SB Municipal, LLC", then SB Municipal, LLC was required to either file a "DBA" (a.k.a. "doing business as") or use its legal name on the tax deed.

Third, and most importantly, IF the grantee on the tax title actually designates the existing LLC named SB Municipal, LLC, then the federal tax ID that must have been given to York County for that tax title purchaser would have been SB Municipal's federal tax id which is 27-0727790. In contrast, Lambros Xethalis gave York County the unassigned number 45-3362419 pretending it was a valid federal tax ID for the bidder [Affidavit in support of this motion, pg 2, #12]. Also, the mailing address for the tax title purchaser would have been SB Municipal, LLC's Florida address and not a temporary mail drop in Baltimore MD which is the address given to York County by Lambros Xethalis [Affidavit in support of this motion, pg 3, #13].

It was an error of law to reject Owner's arguments [order pg 8, 1st para] and conclude that the tax title purchaser existed [order, pgs 24-25, #7] by determining that a legal entity allegedly created by the State of Florida, named SB Municipal, LLC, was the actual tax title purchaser and that it can use any made-up nonsensical name it wants to use and be granted a valid conveyance without filing a DBA.

The actions of the two manager's of the Plaintiff in procuring a fraudulent tax deed constitutes extrinsic fraud. The Plaintiff's attorney's fraud on the court, and the Plaintiff's managers extrinsic fraud tainted the final hearing making the entire proceeding void mandating a new trial where this issue can be properly heard and decided.

10. The Mandatory Constitutional Protection Of Needing Owner's Consent Before His Property Can Be Taken For Private Use Was Violated

Owner alleged in his defense found in his Answer [Answer, Twenty-first defense, # 131] that he has never given his consent to have his private property taken from him. Since Owner can never prove a negative, i.e., that he never gave his consent, then the Plaintiff carried the burden to prove that Owner has given his consent to have his private property taken for private use. However, there are no findings of facts or conclusions of law in the Final Order that show Owner has ever given his consent to have his private property taken from him. Therefore, Owner's property has been taken from him in violation of his Constitutionally protected right, found in Article 1, Section 13(a).

Either this Court must make appropriate findings and conclusion showing that Owner gave his consent to have his private property taken from him, or a new trial must be had so that Plaintiff can enter evidence that supports such a finding/conclusion.

11. The Two Year Statute Of Limitations Neither Applies To This Case Nor Bars Any Of Owner's Defenses Or Claims

The Final Order reads in pertinent part "all of Powell's claims and challenges concerning the Tax Sale of the Property or Plaintiff's title to the Property are barred by the two-year statute of limitations set forth in S.C. Code Ann. §§ 12-51-90(c) and 12-51-160." [order, pg 18, last sentence of last whole para., order pg 26, #13]. This finding/conclusion is an error of law.

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

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

"Furthermore, assuming the statute of limitations applied in the present case, we do not believe it would prevent McMillan from challenging Johnson's deed. Although Johnson filed an eviction action, Hallman continued to live in the Residence as McMillan's tenant, and the magistrate never issued an eviction order. Because Johnson did not oust McMillan of possession, Johnson could not be said to have "withheld possession" from McMillan so as to trigger the statute of limitations. Accordingly, we reverse the circuit

court's holding that the two-year statute of limitations barred McMillan's action to set aside Johnson's tax deed for the Residence.", FORFEITED LAND COM'N OF BAMBERG v. Beard, 817 SE 2d 801 (2018).

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

"On the one hand, we find case law that says when notice to the homeowner is not in strict compliance with the statute, such a defect is "jurisdictional," and the statute of limitations does not run at all. *See Donohue v. Ward*, 298 S.C. 75, 82, 378 S.E.2d 261, 265 (1989) (holding where a defect in notice is jurisdictional, such a defect "invalidates the tax proceeding and prevents the running of the limitations statute");", King v. James, 388 S.C. 16, 694 S.E.2d 35 (2010).

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

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

The Final Order must be modified to remove this finding/conclusion from anywhere in the order that makes reference to one or both of these inapplicable statutes of limitations.

12. Tax Collector Is Not A Necessary Party And If She Is Then It Was Error For The Court To Not Add Her As A Necessary Party

The Final Order reads in pertinent part "while Powell asserted a counterclaim to "Declare Void and Set Aside Tax Deed," Powell failed to name the Tax Collector as a party. The taxing authority is a necessary party when a tax sale is challenged because the desired result is a finding that the taxing authority failed to adhere to the tax sale statutes and an order vacating the resulting tax deed.", [order, pg 18, last para]. The Final Order then concludes " Powell did not name the Tax Collector as a defendant, the Tax Collector is not subject to jurisdiction in this action, and thus, the relief Powell seeks could not be awarded, even assuming that grounds existed for challenging the Tax Sale, which they do not." [order pg 19, first para].

First, the statement "even assuming that grounds existed for challenging the Tax Sale, which they do not." [order pg 19, first para] is an error. Owner alleged plenty of meritorious grounds for having the tax sale and tax deed declared void in his defenses and in his counterclaims so there exists many grounds for challenging the tax sale. However, the finding/conclusion could mean that Owner's allegations were not proven, which would be true since he was denied an opportunity to be heard.

Second, there are hundreds of precedent cases in the State Reporters within which a tax deed was declared void and set aside and neither the county nor any county tax employee was made a party to those cases. So this finding/conclusion is an error of law.

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

Fourth, Owner raised the issue that York County was a necessary party in his Answer in defenses twenty-second and twenty-third. So if Plaintiff did not add the necessary party York County, Plaintiff's claims should have been dismissed.

Fifth, even if Owner had attempted to bring a third party defendant tax collector into the case, it would have been futile as this Court refused to hear and decide any motion Owner made because that would have precluded the execution of the premeditated, nefarious, and malicious plan fully discussed in error section "1. This Court Acted In Contravention To Well Settled Law And Legal Procedure By Unlawfully Executing Its Final Order Within The Final Order.

Sixth, the Final Order reads in pertinent part "The taxing authority is a necessary party". Therefore, it was mandatory that the taxing authority be brought into the case as a necessary party according to Slatton v. Slatton, 345 SE 2d 248 (SC Supreme Court 1986) which held in pertinent part:

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

And, since it was "mandatory" to bring the taxing authority into the case that the Court determined was a necessary party, it was the Court's responsibility to ensure that happened even if neither party had requested it. See Rule 21 SCRPC which reads in pertinent part - "Parties may be dropped or added by order of the court on motion of any party or of its own initiative at

any stage of the action and on such terms as are just." [emphasis mine]. This Court failed to enter any orders adding any necessary parties.

A new trial must be held so that all necessary parties are properly brought into the case.

13. Karen Powell Holds An Enforceable Lien Against The Land At Issue And Is A Necessary Party So It Was Error For The Court To Not Add Her As A Necessary Party

Judge Weaver was made aware that Owner's mother, Karen Powell, holds an enforceable lien against the land at issue in this case in both Owner's Motion to Amend his answer and in his Motion for Continuance. A lien holder is a necessary party since all liens against the property are extinguished in a quiet title action. Accordingly, it was mandatory that Karen Powell be brought into the case as a necessary party according to Slatton v. Slatton, 345 SE 2d 248 (SC Supreme Court 1986) which held in pertinent part:

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

And, since it was "mandatory" to bring Karen Powell into the case, it was the Court's responsibility to ensure that happened even if neither party had requested it. See Rule 21 SCRCF which reads in pertinent part - "Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just." [emphasis mine]. This Court failed to enter any orders adding any parties.

A new trial must be held so that all the necessary parties can be properly brought into the case and their claims and defenses can be properly heard before Plaintiff's quitclaim deed can be quieted.

14. Erroneous Findings of Facts Used to Dismiss All of Owner's Counterclaims

The Final Order reads in pertinent part "Powell bases the Counterclaims on the allegations that the Property is not subject to taxes because he, as the alleged owner, has not recorded his alleged deed. The Court finds that these are the same arguments that Powell has previously litigated and that have previously been dismissed." [order pg 19, 1st para under dismissal of counterclaims].

First, not a single counterclaim is based on any allegation that Owner's property is not subject to taxes. The fact that Owner's property was sold in the previous owner's name for the previous owner's debt is fairly convincing evidence that Owner has never been assessed with any tax debt. So it can be concluded that Owner's property is not subject to any taxes or he would have been assessed with a tax debt. Therefore, had Owner actually based his counterclaims on such allegations, those allegations would have been proven.

Second, the cases that this Court relied upon to make that unconscionable finding, did not involve the parties to this case, except for Owner, did not involve any of the same claims as this case, and were never heard on the merits. So it was an error of law to rely on language found in any of those orders or opinions.

Third, Owner has a legal opinion letter from a tax attorney who works for the Board of Equalization. That legal opinion letter states that every person has a right to not record their deed and if they chose to not record their deed they can have their private, untaxable property taken off the county's tax rolls. So if Owner's position on property taxes being voluntary is so crazy and frivolous as pretended by this Court, then that tax attorney's position is also crazy and frivolous. Unfortunately for Owner, he did not find that legal opinion letter that explains how to get property with an unrecorded deed taken off the county's tax rolls until after his property had been illegally sold.

Forth, Owner demands that this Court take mandatory judicial notice of that opinion letter under Rule 201(d) SCRE. The document can be found on the Tax Equalization Board's official government website⁴, so it comes from a reputable source and is freely available to anyone with internet access.

The Final Order must be opened and the above finding must be removed.

15. Owner Has Standing

The Final Order reads in pertinent part "The Court also finds that Powell lacks standing to assert any counterclaim concerning the Property because he has never produced a deed for the Property, he admittedly has no interest of record in the Property, and the South Carolina Administrative Law Court has previously found that Powell failed to establish he was the owner

⁴ https://www.boe.ca.gov/proptaxes/pdf/220_0867.pdf

of the Property." [order, pg 19, 3rd para]. Those findings are full of errors of law as shown by the following.

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

Second, Owner had no legal or procedural obligation to enter his deed into evidence in this case until a merits hearing which was scheduled so that Owner could not attend. Had Owner been able to attend, he would have certainly entered his deed into evidence. Nonetheless, since Owner was unable to attend he has attached a certified true and correct copy of his unrecorded deed to his affidavit that was filed in support of this motion. Now that Judge Weaver is aware that Owner is the true Owner of the property, she now knows that she can no longer claim to have jurisdiction over the subject matter of Plaintiff's claims.

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

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

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

Owner failed to establish he was the owner. That statement was clearly nonsensical given that at a pre-answer motion to dismiss hearing Owner had no duty to prove any of his allegations, and the obvious fact that no one would be so stupid as to petition a court to defend their property if they did not own that property. That is why the CALJ also put that nonsensical statement about Owner presenting the NOTICE of Sale as his deed. The CALJ just fabricated that nonsense out of thin air, kind of like all the fabricated findings in this Court's Final Order that are not based on any evidence! Owner has never presented that NOTICE as his deed. The CALJ wrote all that nonsense in his order because he was both trying to gaslight Owner and was trying to cover-up his true ruling which was that he was dismissing Owner's case after determining that Owner was not a taxpayer. The CALJ decided it was not a good idea to put into a publicly available order a finding that one can be a non-taxpayer by not recording their deed! Owner did not appeal that order because it did not violate any of his rights and Owner agreed with the CALJ's finding that he is a non-taxpayer so there was nothing of consequence that could have been disputed.

The Final Order must be modified to remove any finding or conclusion, stating that Owner does not have standing or which is based on that order of dismissal.

16. Res Judicata and Collateral Estoppel Do Not Bar Owner From Litigating His Ownership Claims In This Case

On the immediately above discussed findings, the Final Order then concludes "Additionally, the doctrines of res judicata and collateral estoppel bar Powell from re-litigating whether he has any interest in the Property." [order, pg 19, 3rd para]. That conclusion is an error of law as show by the following.

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

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

None of those essential elements were alleged, proven, or found creating a error of law. Further, none of those three elements exist so they could not have been "lawfully" found to exist. The parties are entirely different, except Owner, the Administrative Law Court ("ALC") case was

dismissed at the pre-answer stage for lack of standing so it was not heard on the merits, and the matter between the two cases are entirely different.

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

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

None of those essential elements were alleged, proven, or found creating a error of law. Further, none of those elements exist so they could not have been "lawfully" found to exist. The parties are entirely different, except Owner, LB PARK is not in privy with any of the York County tax employee defendants in Owner's ALC case, the ALC case was dismiss at the pre-answer stage for lack of standing so it was not heard on the merits, and there was no final judgment entered just an order of dismissal.

The Final Order must be modified to remove these findings/conclusions.

17. The Recording Act Has No Applicability To This Case. To Owner's Deed. Or To Owner's Counterclaims

The Final Order reads in pertinent part "Even if Powell could establish standing, the Recording Act bars all of this claims." [Order, pg 19, last para]. Then concludes "This statute makes clear that in order for a deed to be valid as to subsequent purchasers without notice, the deed must be recorded and that priority between a subsequent purchaser of real estate without notice "is determined by the time of filing for record." Thus, section 30-7-10 bars all of Powell's Counterclaims." [order, pg 20, 1st para]. Those conclusions are erroneous as a matter of law.

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

"A purchaser may assert a plea in equity of a bona fide purchaser for value, without notice of defect in his title, by showing (1) he has actually paid in full the purchase money (giving security for the payment is not sufficient, nor is past indebtedness a

sufficient consideration); (2) he purchased and acquired the legal title, or the best right to it; and (3) he purchased bona fide, i.e., in good faith and with integrity of dealing, without notice of a lien or defect. The bona fide purchaser must show all three conditions — actual payment, acquiring of legal title, and bona fide purchase — occurred before he had notice of a title defect or other adverse claim, lien, or interest in the property." ... *Belk*, 266 S.C. at 544, 225 S.E.2d at 179 (claim of bona fide purchaser for value will be defeated when "sufficient record notice is available to charge the purchaser with a duty to inquire which, if pursued with due diligence would have supplied him with knowledge of the rights of other parties");", Spence v. Spence, 628 SE 2d 869 (SC Supreme Court 2006).

Plaintiff's Complaint fails to allege any of those facts and the Final Order fails to contain any findings of fact that could fulfill any of the aforementioned elements and it failed to contain those findings for the following reasons.

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

Second, both the bidder on San Juan Holdings' property and the Plaintiff had a duty to due their due diligence before purchasing any property. Had either of the Plaintiff's two manager done their due diligence they would have received NOTICE from the public land records that show there was an unnamed "living man" who had a claim to the property and that the owner of record, San Juan Holdings, no longer owned the property and no longer existed. See Plaintiff's Exhibit H entered into evidence which evidences that Notice.

Third, to be able to rely on the Recording Act, the Plaintiff and/or the tax title purchaser would have had to purchase their property from San Juan Holdings because to be a "subsequent purchaser" one has to purchase property from the same owner as the person who is holding an unrecorded deed, i.e., Owner. Neither the alleged tax title purchaser nor the Plaintiff alleged or proved that they purchased their property from San Juan Holdings.

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

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

The Final Order must be modified to remove this erroneous finding/conclusion.

18. Owner's Counterclaim of Frivolous Suit Has Merit

The Final Order reads in pertinent part - "As to Powell's first counterclaim for Sanctions for Frivolous Complaint, this counterclaim lacks any merit. Plaintiff is following the statutory procedure set forth in S.C. Code Ann. § 12-61-10 to -60 and asserts valid causes of action." [order pg 20, 2nd para., order pg 25, #10, order pg 27, #6]. That is an error of law as shown by the following.

First, Plaintiff Complaint does contain the required allegations that could fulfill the requirements of one who has the right (standing) to bring an action under Chapter 61. There is no evidence or findings that could support that the Plaintiff purchased a tax title "at or through" a tax sale and no findings or evidence that the Plaintiff "obtained title to any real property" from a tax sale. In fact, the Court found that Plaintiff holds a quitclaim deed which is NOT a tax deed.

Second, the Final Order states "Plaintiff is merely trying to confirm its tax title to the Property" [order pg 21, 1st sentence] [emphasis mine]. Plaintiff does NOT have a tax title and this Court failed to find Plaintiff holds a tax title, so this statement is blatantly false.

Third, the order states "no basis in law or in fact to find Plaintiff's claims as being frivolous" [order pg 21, para 1]. The above two paragraphs, among many others, show the Plaintiff's claims are absolutely frivolous so this is an error of law.

A new trial must be set so that Owner can enter evidence proving his claims that were denied to him by the Court's failure to provide Owner an opportunity to be heard.

19. Owner's Counterclaim of Intentional Infliction of Emotional Distress Has Merit

The Final Order reads in pertinent part - "Powell bases his second counterclaim for Intentional Infliction of Emotional Distress on Plaintiff following the statutory procedure for quieting tax title." [order pg 21, 2nd para., order pg 25, #10, order pg 27, #6] and then The Final Order recites the required elements of that tort. The finding/conclusion that Plaintiff was just following the statutory procedures for quieting a tax title is a patently false and not supported by allegations, or evidence entered into the record. The Plaintiff was not following the statutory procedures for quieting a tax title that it did not hold as shown above in error section "6, Plaintiff's Claims Do Not Present An Active Case Or Controversy". Further the allegations in Owner's Answer fulfill all the required elements of that claim.

The Final Order reads in pertinent part "Plaintiff is simply seeking to avail itself of the legal process created by the legislature to quiet tax title to the Property, pursuant to S.C. Code Ann. §§ 12-61-10 to -60." [order, pg 21, para 2]. That is an error of law as shown in error section "18. Owner's Counterclaim of Frivolous Suit Has Merit". Plaintiff does not have standing to bring a clear tax title action when it did not purchase "at or through a tax sale" and it did not "obtain title" from a tax sale and it did not have any property "forfeited unto it" as required by SC Code of Laws 12-61-60. Plaintiff has a quitclaim deed so it may have been seeking to avail itself of a legal process, but it did not have a legal right (standing) to use that legal process.

A new trial must be set so that Owner can enter evidence proving his claims that were denied to him by the Court's failure to provide Owner an opportunity to be heard.

20. It Was An Error Of Law To Dismiss Owner's Counterclaim of Declare Void And Set Aside Tax Sale

The Final Order reads in pertinent part - "Powell's third counterclaim to Declare Void and Set Aside Tax Deed must also be dismissed with prejudice. This counterclaim is superfluous and unnecessary, as the Tax Deed would necessarily be rendered void if Plaintiff was not able to demonstrate its case in chief. Moreover, Powell has not established any interest in the Property, and even if Powell possessed a valid deed to the Property, Powell admitted he never recorded it, so Powell would not be entitled to any Tax Sale notice. Finally, this counterclaim is barred by the two year statute of limitations set forth in S.C. Code Ann. §§ 12-51-160 and 12-51-90(C). Therefore, Powell's third counterclaim to Declare Void and Set Aside Tax Deed is dismissed with prejudice." [order, pg 21, last para to pg 22, order pg 25, #10, order pg 27, #6]. That entire paragraph constitutes multiple errors of law as shown by the following.

First, the statement from the above paragraph says "the Tax Deed would necessarily be rendered void if Plaintiff was not able to demonstrate its case in chief". That is an absurd statement and an error of law. If the Plaintiff was a tax title holder, as it has continually tried to fraudulently pretend it is, all it was required to do was to "throw down" its tax deed since a tax deed held by a tax title holder is *prima facie* a good title. So why did the Plaintiff even call the Tax Collector as a witness since it had no obligation to prove "its" tax title was correctly made? Nonetheless, Owner has a right to dispute the validity of the tax title whether or not the Plaintiff had any burden of proof.

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

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

The Supreme Court of the United States held in a unanimous decision - "Prior to an action that will affect an interest in life, liberty, or property protected by the Due Process Clause, a State must provide "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.", Mennonite Bd. of Missions v. Adams, 462 U.S. 791 (1983) [emphasis mine].

Admittedly the property tax notice statutes do not require notice be given to an owner whose deed is not recorded, as concluded in the Final Order [order, pg 24, #6]. But the absence of a notice requirement statute is not because Owner did not have to be given notice, but because Owner's private property and title are outside the county's and State's jurisdiction to affect in any way under any circumstance!

Third, "Finally, this counterclaim is barred by the two year statute of limitations set forth in S.C. Code Ann. §§ 12-51-160 and 12-51-90(C)". That is an absurd statement and an error of law. See the above error section "11. The Two Year Statute Of Limitations Neither Applies To This Case Nor Bars Any Of Owner's Defenses Or Claims" for a full discussion of how those statutes of limitation do not apply to this case or to Owner's claims.

A new trial must be set so that Owner can enter evidence proving his claims that were denied to him by the Court's failure to provide Owner an opportunity to be heard.

21. It Was An Error Of Law To Dismiss Owner's Counterclaim of Intentional Interference with Business Contract

The Final Order reads in pertinent part - "Powell asserted a fourth counterclaim for Intentional Interference with Contract, which the Court presumes is for tortious interference with a contract." ... The contract that Powell asserts as the basis of this proposed third-party claim is the deed he received when he allegedly purchased the Property in 2012. A deed is an instrument

of conveyance, not a contract, and is itself insufficient to support this claim. However, Powell admittedly refused to record his alleged deed, which he has never produced. Plaintiff was unaware of the Osborne Notice until after it acquired title and was not aware of Powell's claims to the Property until he moved to intervene in the 2019 action. Additionally, Plaintiff could not have procured any breach of the "contract" since the contract was allegedly completed in December 2012. Thus, there is no basis in law or in fact to support this counterclaim, and Powell's fourth counterclaim for Intentional Interference with Contract is dismissed with prejudice." [order, pg 22, 1st para, order pg 25, #10, order pg 27, #6]. That entire paragraph constitutes multiple errors of law as shown by the following.

First, the Final Order found and concluded "A deed is an instrument of conveyance, not a contract, and is itself insufficient to support this claim". That is an error of law. A deed is a special kind of a contract but it is a contract nonetheless.

Second, the Final Order found and concluded "Plaintiff was unaware of the Osborne Notice until after it acquired title and was not aware of Powell's claims to the Property until he moved to intervene in the 2019 action.". That finding is entirely unsupported by any evidence entered into the record and therefore must be based entirely on argument of the Plaintiff's attorney since the Plaintiff did not put any witness on the stand other than the tax collector. Further, the Notice of Sale, Transfer, or Exchange is a publicly recorded notice to the world. If the Plaintiff failed to do its due diligence before purchasing an uncleared tax title, for the whopping amount of \$5.00, then that is the Plaintiff's own fault and it cannot claim it didn't know something it was given noticed of. Further, before it brought this frivolous action it could have decided to take a different approach that would not have damaged Owner. It brought this action knowing it was damaging Owner, so it is liable for its damages.

Third, the Final Order reads in pertinent part "Additionally, Plaintiff could not have procured any breach of the "contract" since the contract was allegedly completed in December 2012. Thus, there is no basis in law or in fact to support this counterclaim, and Powell's fourth counterclaim for Intentional Interference with Contract is dismissed with prejudice.". That is an error of law. A deed contract is not complete on the date of its execution, that is when the contract starts. This is especially true for a warranty deed, like Owner's. All deed contracts continues in force for the entirety of the ownership by the grantee on the contract.

A new trial must be set so that Owner can enter evidence proving his claims that were denied to him by the Court's failure to provide Owner an opportunity to be heard.

22. It Was An Error Of Law To Dismiss Owner's Counterclaim of Slander of Title

The Final Order reads in pertinent part - "Powell has not established that he possesses an estate or interest in the Property and has admitted he never recorded his alleged deed. The Court also notes that the South Carolina Administrative Law Court previously found that Powell failed to establish standing as the owner of the Property". [order pg 22 last para to pg 23 first para, order pg 25, #10, order pg 27, #6]. This finding/conclusion is an error of law.

While it is true that Owner did not establish his ownership during the pre-answer motion to dismiss hearing in the ALC, it was because he had no obligation to do so and because he was prevented from doing so. Owner has never had any obligation to establish that he has an "estate or interest in the Property". Owner owns the property, not his estate, so Owner could never establish he "possesses an estate". Owner does not have an "interest" in the property either because he is the absolute owner, i.e., he is the sole and only owner of it. Even if Owner had failed to enter evidence of his ownership in the action that he brought in the ALC for different claims brought against different parties is entirely irrelevant to whether or not Owner is allowed to enter evidence of his ownership in this case.

The Final Order then reads in pertinent part - "Moreover, the filing of a lis pendens is absolutely privileged under South Carolina law and cannot give rise to claim for slander of title.". Owner was informed of that law in Plaintiff's Reply to Owner's Answer but he was denied an opportunity to amend his Answer to correct that issue. Nonetheless, Owner made other allegations that DO support the elements of slander of title, and those other allegations were ignored in the Final Order.

A new trial must be set so that Owner can enter evidence proving his claims that were denied to him by the Court's failure to provide Owner an opportunity to be heard.

23. It Was An Error Of Law To Find Owner's Mother Is Engaged In The Unauthorized Practice Of Law

The Final Order reads in pertinent part "As to Powell's request for his mother to present his case stated in the Motion for Continuance, the Court finds that any participation by Powell's mother would constitute the unauthorized practice of law, which is prohibited by S.C. Code Ann. § 40-5-310", [order, pg 2, 3rd para]. That finding/conclusion is an error of law.

The South Carolina Supreme Court is the only court that has the jurisdiction to make such a finding.

"Only our supreme court has the constitutional duty to determine what acts constitute the unauthorized practice of law"... "We find the circuit court lacked jurisdiction to determine whether Ditech engaged in the unauthorized practice of the law"., Hambrick v. GMAC Mortg. Corp., 634 SE 2d 5 (2006).

Judge Weaver did not have jurisdiction to determine that Owner's Mother presenting Owner's case constitutes the unauthorized practice of law. Hambrick v. GMAC Corp supra clearly holds that ONLY the South Carolina Supreme Court has the authority to make any such finding/conclusion.

The Final Order must be modified to remove this void finding/conclusion.

24. It Was An Error Of Law To Conclude The Tax Title Is Valid And Quiet The Title

The Final Order reads in pertinent part "I find that all requirements of the South Carolina Code of Laws with regard to the Tax Sale of the Property were properly followed and were in strict compliance therewith." [order pg 25, #11, #12, order pg 26, #2, order pg 27, #7, #8, #9]. That conclusion and order are errors of law.

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

Second, there is no evidence in the record that could show that Owner received any notice that his property was going to be affected by the tax sale as required by a unanimous opinion of the United States Supreme Court in Menonite Bd. of Missions v. Adams, 462 U.S. 791 (1983). That Court held that any person whose property could be affected in any way by any tax sale MUST be given notice. As shown above in error section "20 It Was An Error Of Law To Dismiss Owner's Counterclaim of Declare Void And Set Aside Tax Sale", the taxing statutes do not require notice be given to a holder of an unrecorded deed. But that is not because such an owner can lose their property without being given notice, it is because the county and state have no authority over unrecorded property, making the tax title void.

Third, the tax title was made in the name of San Juan Holdings NOT in the true owner's name which is Ryan Powell. There is evidence in the record (Plaintiff's Exhibit H) showing that San Juan Holdings both did not exist and did not own the property at issue at the time of the tax

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

"A tax execution is not issued against the property, it is issued against the defaulting taxpayer. This Court specifically held in *Vallentine v. Robinson*, 188 S.C. 194, 200, 198 S.E. 197, 200 (1938), "the statute is explicit that lands shall be listed and assessed and levied on and sold in the name of the true owner.", *Aldridge v. Rutledge*, 269 S.C. 475, 238 S.E.2d 165 (1977).

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

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

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

The Final Order must be opened and modified to find that the tax title is void, or a new trial must be set so that the required evidence needed to find the tax title is valid can be entered.

25. It Was An Error Of Law To Conclude Plaintiff's Quitclaim Deed Is Valid And Quiet The Title

The Final Order reads in pertinent part - "The Court finds that after the issuance of the Tax Deed, SB MUNI conveyed its tax title to Plaintiff through the Quitclaim Deed, which the Court finds is also valid in all respects and conveyed title to the Property to Plaintiff." [order pg 25, #11, #12, order pg 26, #2, order pg 27, #7, #8, #9]. That conclusion and order are errors of law for the same reasons set out immediately above in error section "24. It Was An Error Of Law To Conclude The Tax Title Is Valid And Quiet The Title". Since the tax title purchaser received no

interest in Owner's property, then according to FC Enterprises, Inc. v. Dibble supra it had no interest it could convey to the Plaintiff.

The Final Order must be opened and modified to find that the tax title is void and Plaintiff's title is also void, or a new trial must be set so that the required evidence needed to find the tax title is valid can be entered.

26. Forfeitures Are Not Favored In Law Or Equity

" Forfeitures are not favored in law or equity. Moreover, forfeitures will be allowed only when intent is clear and no other reasonable construction is possible. Courts will seize upon even slight evidence to prevent a forfeiture.", Litchfield Co. of SC, Inc. v. Kiriakides, 349 SE 2d 344 (1986) [emphasis mine].

Not only did Judge Weaver NOT seize on even the slight evidence to prevent Owner's property from being forfeited, but she went out of her way to knowingly, intentionally, and maliciously take Owner's private property and then extort Owner in an attempt to keep him from taking an appeal of the Final Order. There is much evidence in the record that could have prevented a forfeiture, had this Court had any intention of dispensing "equity". The evidence in the record that could have and should have been considered include the following.

First, the Final Order concluded that "Despite being timely and properly served, San Juan and Osborne failed to answer and, thus, defaulted to the Complaint and are in default" [order, pg 25, #9]. The Court failed to consider that the former trustee of San Juan Holdings, Brett Osborne, returned the Summons and Complaint with a letter to the clerk of court stating that San Juan Holdings had no interest in the property and in fact no longer even existed.

Second, Plaintiff's Exhibit H shows that San Juan Holdings sold their property to an unnamed "living man" (i.e., not a person's estate) and that the trust then terminated. A terminated trust that didn't own the property at issue on the date of the tax sale, should have been considered.

Third, Owner attached an affidavit to his pre-answer motions to dismiss showing he was the owner of the property and that he had a deed from San Juan Holdings dated December 20, 2012, which should have been considered.

Fourth, Plaintiff entered into the record copies of many cases that Owner brought against three employees of York County in his failed attempts to find his remedy to get his private property taken off the York County tax rolls. Those cases should have provided evidence that

Owner had a significant interest in the property that he was attempting to protect as no one would ever endure years of litigating in these commercial courts if they did not own the property.

Fifth, Owner tried to intervene in Plaintiff's 2019 case using an affidavit to evidence his claims of ownership. That evidence should have been considered.

Justice, equity, and fairness demand that a new trial be held so that Owner's private property is not forfeited for the illegally assessed debt against someone not the property's owner.

27. Equity, Justice, And Fairness Require Owner Be Granted The Overages Paid For The Property

Since Owner was not the delinquent taxpayer when York County illegally sold his land, Owner does not have any ability to collect the overages paid on the property. Further, Judge Weaver did not order that York County had to pay a claim to Owner for those overages. Therefore, since Owner cannot collect those funds, Owner has taken a complete and total loss of the entire market value of his property which exceeds \$440,000 dollars to satisfy a \$5,000 debt owed by another person. By failing to at least order York County to pay those funds to Owner, Judge Weaver has unjustly enriched her employer, York County, in the amount of \$161,000.00 to Owner's detriment! That is inequitable, unfair, unjust, and illegal.

Brett Osborne, the former trustee of San Juan Holdings was just served a copy of the Final Order saying that he lost the trust's property. Accordingly, Brett Osborne has a legal right to now go to York County and collect those overages paid for Owner's property.

Those funds being held by York County will escheat to the governing body within a couple weeks of the filing of this motion, i.e., during November 2022. Therefore, if this Court does not rectify this inequity immediately, those funds may not even be available to Owner or to the Plaintiff once the void order is vacate or reversed.

The Final Order must be modified to direct York County to hold those funds in trust pending the outcome of this case or some other equitable solution must be ordered.

28. Judge Weaver's Commission Of Fraud On The Court Demands A New Trial

A judge is not the court so a judge most definitely can commit fraud upon the court. Given all the evidence submitted in Owner's Affidavit filed in support of this motion, all the meritorious allegations and evidence of fraud, collusion, conspiracy, criminal activity, etc. committed by Judge Weaver that is documented in the void Final Order, such activities and evidence show a clear and indisputable fraud being committed on the Court by Judge Weaver.

A new trial must be set to be heard and decided by a new judge.

29. Owner's Reserved Rights Were Disregarded in the Final Order

When Owner signed his Answer, he reserved all his rights without prejudice under the Uniform Commercial Code [Answer, signature page, Affidavit, pg 2, #8]. The Uniform Commercial Code is applicable to all commercial courts, which includes this Court. Commercial courts only hear commercial cases and do not necessarily have any obligation to protect the common law rights or constitutionally protected rights of any litigant UNLESS that litigant reserves his rights. The rights that Owner reserved include his right to have the common law upheld for his claims and defenses and all of his Constitutionally protected rights including those mentioned herein. When a party reserves their rights, the Court is prevented, by law, from violating any of those rights reserved. The Final Order evidence many, many violations of Owner's reserved rights.

A new trial must be set so that a new order can be entered that respects all of the rights that were reserved by Owner when signing his Answer.

Conclusion

This Court now has evidence that Owner is the actual owner of the property at issue and that his deed was executed six years prior to the tax title, so there can be no dispute that the Final Order is void and unenforceable. Especially since the Final Order was made unlawfully self-executing. The taking of a delinquent taxpayer's property is a drastic and serious matter so how much more drastic and serious a matter should it be to take a non-taxpayer's property for a debt he did not even owe? There is no valid or lawful excuse to not grant this motion and vacate the Final Order or at least set a new trial so that justice, fairness, and equity can be done and a lawful order can be entered, presuming the Master has subject matter jurisdiction. Owner will suffer even more irreparable harm than he already has if this Motion is not granted.

Owner hereby reserves all of his rights, without prejudice.

11/3/22
Date

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

Case # 2020-CP-46-00549

LB PARK, LLC, Plaintiff

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.

PROOF OF SERVICE

FILED-RECEIVED
2022 NOV -4 AM 11:13
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

I, Ryan Powell, hereby certify that I have served the above listed parties with my
Motion for New Trial or to Alter or Amend and Affidavit in Support of Motion for New
Trial on the below date by depositing it in the United States mail, with sufficient postage
affixed, and addressed as follows:

Alexander G. Mende
P.O. Box 11889,
Columbia, SC 29211-1889

San Juan Holdings, Brett Osborne, trustee; and
Brett Osborne as trustee of San Juan Holdings;
190 Aviation Lane
Gold Hill NC 28071

Pursuant to Rule 59(g) SCRCF, I also certify that I made arrangements to have a copy
of my Motion for New Trial or to Alter or Amend and Affidavit in Support of Motion for
New Trial given to Judge Weaver via hand delivery.

This the 3 day of November 2022.


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

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

Case # 2020-CP-46-00549

LB PARK, LLC, Plaintiff

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.

**Affidavit in Support of
Motion for New Trial or
to Alter or Amend**

FILED-RECEIVED
2022 NOV -4 AM 11:13
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

I, Ryan Powell, ("I", "me", "Me", "my", "My) appearing before the undersigned notary and being duly sworn state, under penalty of perjury, that the following facts are true, correct, complete, and not misleading:

1. I am over the age of 18, I am competent to make this affidavit, and I am making this affidavit of my own free will and on my first hand knowledge.
2. On December 19, 2012 I signed a consensual lien agreement with my mother, Karen Powell so that I could buy my property, the property at issue in this case. That lien is against the land at issue in this case.
3. I closed on the transfer of the property at issue in this case on December 20, 2012. I witnessed a man whom identified himself to me to be Brett Osborne the trustee of San Juan Holdings, sign and seal the deed granting San Juan Holdings' property to me. I saw two witnesses sign the deed. I saw a woman sign the deed and put her notary stamp on the deed. Her notary stamp reads "Joy M. Uter NOTARY PUBLIC State of South Carolina My Commission Expires April 27, 2017.". I was handed the deed after Ms. Uter signed and stamped it. I have had that deed in my possession since December 20, 2012. I have possessed the property at issue since that day.

4. During a hearing of Plaintiff's earlier filed 2019 case, Judge Daniel Hall stated on the court record that if my deed was "put into evidence, it would get recorded". Because of that threat I have been extremely reluctant to ever put my deed into evidence.
5. Before answering the Plaintiff's complaint, I filed a pre-answer motion to dismiss. I attached an affidavit to that motion supporting my claims of being the owner of the property at issue.
6. As acknowledge in the final order, I have been litigating issues involving my property for the past decade. I had to do that because I could not figure out how to get York County to properly update their records. After my property was sold, I finally figured out how to properly get my property off York County's tax roll. Unfortunately for me, it was then too late to get my property off the tax rolls. No man would ever spend a decade fighting to keep his property from being taken if the property he was fighting for was not his property.
7. Under duress, threat, and coercion, I have attached to this affidavit as Exhibit A, a true, exact, complete, and unaltered photocopy of my original three (3) page unrecorded deed excepting the red watermark that reads "EVIDENCE - DO NOT RECORD". I added that watermark so that any person who contemplated recording my deed would receive notice of my intent to not have my deed recorded. As the owner and holder of my original unrecorded deed, I am the only person who can certify a copy of it.
8. I signed my Answer, that I filed into this case on or about October 1, 2020, "*Respectively presented, with all rights reserved, without prejudice*". The rights that I reserved by that statement include, but are not limited to, my common law rights and my Constitutionally protected right to not have my private property taken from me for private use without my consent.
9. Since I cannot prove a negative, that is, I cannot prove that I did not ever give consent to have my private property taken from me, the Plaintiff was required to prove that I did give my consent. There is no findings of facts or conclusions of law in the final order that shows that I ever gave my consent to have my private property taken from me.
10. After being denied discovery for my request pertaining to the legal status of the tax title purchaser, I undertook an extensive internet search to locate the needed information. My search returned no results showing the existence of any legal entity having been registered in any state of the United States with the name "SB MUNI CUST % LBSC-11, LLC".
11. The bidder's information sheet issued by York County to all registered bidders states at the top of the page, in all caps, bolded, and underlined "**THIS FORM IS USED TO PREPARE LEGAL DOCUMENTS PLEASE PRINT CLEARLY**". Under the field for "Name(s) to Appear on Deed or Refund Check" is typed "SBMUNI CUST % LBSC-11, LLC". Then there is an asterisk under that field which states "***If two names are to appear on deed, **AND** is required not 'or'***".
12. I also attempted to find out if the federal taxpayer ID that was given to York County by Lambros Xethalis on the bidder's information sheet for the tax title purchaser was a valid

federal taxpayer ID. After locating a publicly available tool, I found that the number given to York County by Lambros Xethalis, 45-3362419 came back as "No Results Found". I then did a search for the taxpayer IDs of LB PARK, LLC, its manager SB MUNICIPAL, LLC, and for LBSC-11, LLC. A search using that tool for those three LLC's federal taxpayer IDs returned valid information pertaining to them.

13. I then found, filled out, and mailed an inquiry form to the Baltimore Maryland US Post Office where the P.O. Box that Lambros Xethalis gave to York County on the bidder's information sheet was said to be located. I requested information on the status of the P.O. Box, who opened it, any forwarding address given, etc. A couple months later a return to my request came back to me by mail. On the form I had filled out was what appeared to be an official Post Office stamp in red ink, and the results of my inquiry which stated that the P.O. Box had been closed and that there was no forwarding address given by the former box holder.
14. My demand for a trial by jury was denied by both the Master and the Court of Appeals in contravention of the protections provided to me by the South Carolina Constitution which right I had reserved above my autograph on my Answer filed into the case.
15. Immediately after the remittance of my appeal of the denial of my demand for a trial by jury, I filed a Motion to Amend my answer and I attached to it a proposed amended answer. Those documents were filed on June 8, 2022. Within a couple days of those papers being filed, I emailed Robin Krecek the manager of the York County Equity Court and requested the Master schedule my Motion to Amend to be heard without a hearing and that it be heard as soon as possible. Robin Krecek then emailed both parties stating she would inform Judge Weaver of my request and then asked if the Plaintiff would be filing any response to my motion. The Plaintiff answered that it wanted the motion heard *immediately prior* to the final hearing. There was no final hearing set at that time. I immediately emailed Ms. Krecek back stating I objected to hearing my Motion to Amend my answer *immediately prior* to the final hearing stating that hearing it at the time would ensure my motion be denied because the Plaintiff would be prejudiced. There were no more emails on the subject of the scheduling or hearing of my Motion to Amend.
16. On June 9th, the day after I filed my Motion to Amend my answer, the Court of Appeals released my appeal of the Plaintiff's first case (2019 case) that was being held in abeyance until a final order was entered in this case. The results of that action by the Court of Appeals switched the party that was responsible for making monthly status reports on this case from the Plaintiff to me and the order also stated that my appeal of the Plaintiff's 2019 case would be dismissed if I failed to make a monthly status report.
17. On August 15th I wrote a 5 page letter to Chief Justice Donald Beatty detailing the facts of the actions of the Court of Appeals had taken to switch the party responsible for the monthly status reports. The tracking information I used to mail that letter to Chief Justice Beatty showed it was received by his office on August 19th.

18. In my letter to the Chief Justice I evidenced many facts that showed a high probability that the Master had been conspiring with judges on the Court of Appeals pertaining to this case. I demonstrated that the Court of Appeals had switched the party required to make monthly status report from the Plaintiff to me so that my appeal could be dismissed if/when I failed to make a monthly status report. I showed that this was done after the Master contacted a judge on the Court of Appeals informing him that she was not going to be entering a final order because she did not have jurisdiction to do so. That evidence was strong enough to convince the Chief Justice that something unlawful was going on in this case as the following actions happened within three business days from his receipt of my letter: The Court of Appeals posted my first status report to the online case tracker that had been electronically filed 5 business days earlier but had not been posted to the case; Andrew Rawl, the attorney for the Plaintiff who made an error in his Motion for Order of Reference suddenly left his law firm without having a new job anywhere else as an attorney; and the Master changed her mind about not entering a final order and had her manager, Robin Krecek, send out an email to the parties setting a final hearing to take place on September 27th and scheduling my Motion to Amend my answer to be heard *immediately prior* to that final hearing.
19. Neither party had requested a final hearing be set, neither party was consulted for their availability on the date selected, and neither party was asked the amount of time they needed to present evidence for their claims and defenses.
20. Robert Hartman, the attorney I retained during the Summer of 2021 to handle my case while I was getting married, informed me that Judge Weaver had not been given subject matter jurisdiction to do anything but "receive evidence" which he explained to me meant that she could not enter any final order. I had no reason to not believe Mr Hartman.
21. I also did extensive research in the case law and all the cases I found held that the Master in Equity is a court of limited jurisdiction and that the Master can only exercise the jurisdiction given in the Order of Reference. Further, those cases held that if the Order of Reference specifies or limits the Master's jurisdiction, then the Master only has jurisdiction to exercise that specific or limited purpose. Since the Order of Reference made in this case states the reference was made "for the purpose of receiving evidence", the reference was made for that limited and specific purpose.
22. After the Plaintiff's attorney, Alexander Mende filed his notice of appearance in the case I looked him up on Haynsworth Sinkler Boyd's website. While I was on their website, I also looked up the other three attorneys for the Plaintiff including Andrew Rawl. I found that Andrew Rawl was not listed as a attorney in the law firm of Haynsworth Sinkler Boyd. I then looked at the South Carolina BAR association's directory of attorneys and found Andrew Rawl. His home address was given as his address and his personal gmail address was given as his email address. I then search the archived pages of the internet and found that Andrew Rawl had been deleted from the Haynsworth Sinkler Boyd law firm's website on or about the same day that I received an email from Robin Krecek setting a date for the final trial. In my letter to the Chief Justice of the Supreme Court I alleged *"Because of the incompetent and careless work of the Plaintiff's attorney, Andrew Rawl, who signed an*

ineffective motion for an order of reference, the order of reference entered into the case limits the Master's authority to only being able to "receive evidence".

23. I filed a motion to vacate under Rule 60(b)(4) SCRPC the Master's order denying my motion to return the case to the circuit court on the grounds that the Order of Reference was made *"for the purpose of receiving evidence"*.
24. Shortly after filing my motion to vacate, I withdrew the hearing of my Motion to Vacate and my Motion to Amend my answer stating my reason was that I believed that the Master did not have the jurisdiction needed to hear and decide those two motions and also because the scheduling of those two motions to be heard *"immediate prior"* to the final hearing ensured that they would both be denied.
25. Eleven (11) days before the final hearing, I filed a Motion for Continuance stating, among other grounds, that I could not attend the final hearing on September 27th because I had a previous contractual obligation that conflicted with that date. I requested Judge Weaver hear and decide my Motion for Continuance without a hearing and do as soon as possible. I never received any answer to any of my requests for a hearing. It appears from the final order entered, that the Master did hear my Motion for Continuance *immediately prior* to the final trial. However, I never received any notice, and none exists in the record, that could show that my Motion for Continuance was ever going to be heard.
26. I have never been assessed with any debt, assessment, tax, penalty, interest, or any other financial obligation payable to York County or to the State of South Carolina. Having never been assessed with any debt, and having never had any demand made for me to pay any debt, the taking of my property could not be based on any breach of my duty to pay any legal obligation that I have.
27. I never received any notice from York County stating that I owed them a debt, that my property was going to be sold, or that I had a right to redeem my property after it was sold. According to the codes of this State an owner of unrecorded property does not have to be given notice. However, there are many binding precedent cases decided in this State that hold the "true owner" must be given notice which in cases like this one, means that even though my deed is not recorded, I still must have been given notice of the tax sale and of my right to redeem my property, if I had that right.
28. Although I did receive notice that the Plaintiff intended to call Tracey Mattevi as a witness, I never received any notice that the Plaintiff had issued a subpoena to Tracey Mattevi requiring her to attend the final hearing or requiring her to produce any documents at the final hearing. I believed that since the Master knew she did not have jurisdiction to enter a final order and since the Plaintiff had not subpoena any witnesses, that the Master was planning to only "receive evidence" and was not planning to actually enter a final order. That belief is also evidenced by my October status report which I electronically filed with the Court of Appeals one hour prior to the entry of the final order.

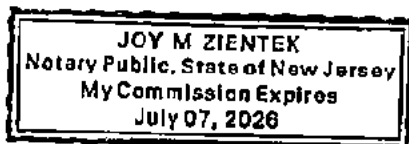
29. The reason for my inability to attend the final hearing set without any concern for my availability is the following: I am a professional drummer for a rock band that started up two years ago. Our band is fairly new but we are gaining exposure and name recognition in the music scene. However, after we won an award for the "Rock Band of the Year" this summer, our band was contacted by a bigger name band to join them on their cross country tour. The contract to have our band make that tour was scheduled prior to the August 24th email setting a final hearing date. The band engagements started the last week of September and continued through to the last week of October. I am presently on the last venue of our tour which is in New York. This tour will give our band national exposure. My band professionally recorded our first EP (i.e., album) in a studio in Los Angeles, California last fall. Our band has also recorded two professionally produced music videos in a studio in Atlanta, Georgia this year. Each band member has invested a substantial amount of their personal resources to get the band off the ground. I could not have my band miss any shows where tickets had already been sold and contractual engagements had already been made, for a hearing that could have easily been rescheduled 30 days out. There is no other drummer on earth who knows the band's music or the shows who could have substituted for me during the engagement which I would have had to miss to make the final hearing. My band would have lost money, reputation, and status had I missed any engagement. I could not do that to my band members or to my music career.

State of New Jersey

County of Hudson

The foregoing instrument was sworn to and subscribed before me this the 25th day of October, 2022 by the undersigned affiant.

Ryan Powell
Ryan Powell (Seal)



(Official Seal)

Joy Marie Zientek
Signature of Notary Public

Joy Marie Zientek
Printed Name of Notary Public

My Commission Expires: 07/07/2026

Space above this line for recording information

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

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 ever been owned by the UNITED STATES [federal] corporation or any of its sub [STATE OF, COUNTY OF, CITY OF] corporations; and

WHEREAS, Grantee's 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 308, which is incorporated herein as fully and as completely as if set forth here verbatim.

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.

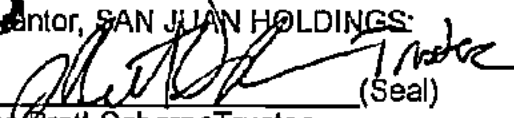
AND THE GRANTOR does hereby bind the Grantor, and the Grantors' heirs executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, his heirs and assigns, against the Grantor or the Grantors' heirs and against every person whomsoever lawfully claiming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

After filing for record mail to Grantee:
[not a residence address]

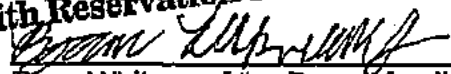
Ryan Whitney
c/o: 25056 Timberlake Drive
Tega Cay, South Carolina
Without the United States

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:


(Seal)
By Brett Osborne Trustee

Grantee:
With Reservation of All Rights


(Seal)
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

A. Aaron Smith

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. Cantel
Witness #1

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

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

EVIDENCE - DO NOT RECORD

RECEIVED

Feb 27 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Teasa K. Weaver, Master In Equity

Case # 2020-CP-46-00549
Appellate Case # 2022-001650

LB PARK, LLC, ... Respondent,

v.

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

of whom Ryan Powell is the Appellant.

**REPLY TO LB PARK LLC'S
"RETURN TO "SUPERSEDEAS SURETY(BOND)""**

Appellant Ryan Powell ("Ryan") makes this Reply to LB PARK LLC's Return to Supersedeas Surety Bond under Rule 240(f) SCACR. Ryan's submission to the Clerk for her approval of his executed "Supersedeas Surety (Bond)" was not a motion and therefore no return was authorized by the Rules. Nonetheless, if LB PARK has the right to make a return to Ryan's "writing", then Ryan has the right to make a reply to LB PARK, LLC's return. Ryan's Supersedeas Surety (Bond) needs to be approved by the Clerk of Court, expeditiously as Ryan and the occupants of his property are about to be illegally dispossessed on March 30, 2023 which

will not only irreparable harm Ryan and the occupants of his property but will make this appeal moot. This Court has a duty to ensure this appeal does not become moot.

Background Facts

This appeal involves a case brought in the lower court where, *inter alia*, Respondent LB PARK, LLC's ("LB PARK") claims are non-justicible, LB PARK does not have a legal claim to the property at issue, and the Master in Equity ("Judge Weaver"), did not have subject matter jurisdiction to enter her facially void final quiet title order ("Void Order"). Nonetheless, Judge Weaver gave the property at issue to LB PARK and ordered the dispossession of the occupants of the property in her Void Order. That Void Order was made and entered simply, and only, because Ryan had not recorded his deed which is needed to put his property under the jurisdiction of this State. However, recently someone with knowledge and understanding finally explained to Ryan that his property was stolen from him because he could not use the courts of the State to protect his private property even though he had been named and joined to LB PARK's non-justicible case.

Everything Has Now Changed

To rectify that problem, Ryan immediately registered his deed in the ROD on February 22, 2023 in Book 20628, page 278 ("Registered Deed"). That act of registering Ryan's deed subjected Ryan's property to the jurisdiction of this State. Now, Ryan has the right to use the courts of this State to protect his property. Accordingly, Ryan can now bring an action, *inter alia*, to sue Judge Weaver, and LB PARK, for the damages the Void Order, made without subject matter jurisdiction, does to him if he is illegally dispossessed from his property. And, most importantly, this Court must now hear this appeal and ensure this appeal does not become moot. A copy of Ryan's Registered Deed is attached as Exhibit A and is fully incorporated herein by reference. Ryan's Registered Deed can also be found on the York County Register of Deeds on-line records¹ ("ROD").

The Clerk/Court is directed to take **mandatory judicial notice**, under Rule 201(d) SCRE of the following adjudicative fact. This fact satisfies the requirement of Rule 201(b)(2) as it is "*capable of accurate and ready determination by resort to sources whose accuracy cannot*

¹ The following link will take you directly to the book and page for Ryan's Registered Deed.
https://search.yorkdeeds.com/view_image.php?file=L2ltZy9zYy95b3JrLzlwMjMvMDIyMi8yMDIzMDA0OTQ5LnRpZg==&type=pdf

reasonably be questioned.". The source of the adjudicative fact is the York County Register of Deeds online deed records. The ROD's accuracy cannot reasonable be questioned.

This Court now has the duty to hear Ryan's appeal. This Court's duty also includes ensuring that the Void Order, entered without Judge Weaver having subject matter jurisdiction, does not damage Ryan because Ryan can now use the State, County, and Federal courts to hold her and LB PARK liable for any damages he suffers as a result of the facially void final quiet title order. Thus, this Court/Clerk must approve the Supersedeas Surety (Bond) that Ryan submitted for approval as that "writing" is exactly the language and intent that Chief Judge Williams placed in his order denying a Supersedeas. A copy of Judge Williams' denial order is attached as Exhibit B and is fully incorporated herein by reference. Ryan's status and the status of his now registered property has changed and this Court/Clerk must do its/her duty to issue a supersedeas so that this appeal does not become moot.

With reservation of all rights, without prejudice,

February 27, 2023

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



2023004949

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

Space above this line for recording information

PRESENTED & RECORDED:
02-22-2023 02:17:08 PMBK: RB 20628
PG: 278 - 281DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
BY: ABIGAYLE LANIER CLERK

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.

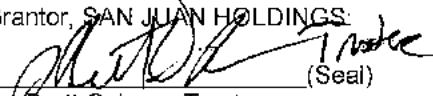
TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, his heirs and assigns forever.

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.

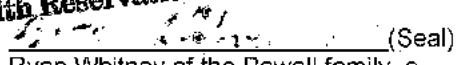
After filing for record mail to Grantee: Ryan Whitney
[not a residence address] c/o: 25056 Timberlake Drive
Tega Cay, South Carolina
Without the United States

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.

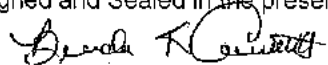
Grantor, SAN JUAN HOLDINGS:


(Seal)
By: Brett Osborne, Trustee

Grantee:

With Reservation of All Rights

(Seal)
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

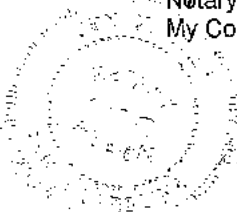
STATE OF SOUTH CAROLINA
COUNTY OF YORK

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. Cantrell
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:

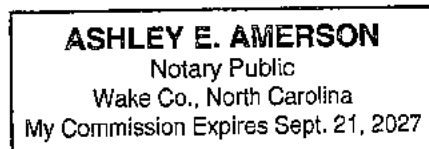
1. I have read the information on this affidavit and I understand such information.
2. The property transferred bears York County Tax Map Number 643-10-01-023 and was transferred by San Juan Holdings, Brett Osborne, trustee to Ryan Whitney Powell on December 20, 2012.
3. The deed is subject to the deed 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

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

ORDER

Appellants' petition for supersedeas is denied. *See* Rule 241(b)(4), SCACR (providing "[j]udgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170" are not automatically stayed on appeal); S.C. Code Ann. § 18-9-170 (providing "[i]f the judgment appealed from direct[s] the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless" the appellant executes a writing, with two sureties, guaranteeing the property will not be wasted while the appeal is pending).

_____

FOR THE COURT

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

FILED
Feb 09 2023

RECEIVED

Feb 27 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Teasa K. Weaver, Master-in Equity

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

LB PARK, LLC, ... Respondent,

v.

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

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

Certificate of Service For
Reply to LB PARK, LLC's Return to Supersedeas Surety (Bond)

I certify that I served all Respondents with a copy of the Reply to LB PARK, LLC's Return to Supersedeas Surety (Bond) by and through their attorney of record by First Class Mail with proper postage affixed on the below date addressed as follows:

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

02/27/2023
Date

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

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Ryan Powell and Karen Powell,

Plaintiffs,

v.

SB Municipal is the Custodian of LBSC-11, LLC; SB MUNI Cust % LBSC, LLC; LB Park, LLC, Joshua Schrager; and Lambros Xethalis,

Defendants.

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-46-00607

ORDER

This matter came before me on March 27, 2023, upon the (i) Motion to Dismiss Plaintiffs' Complaint pursuant to Rules 12(b)(1) and 12 (b)(6), SCRCF, (ii) Opposition to Plaintiffs' Expedited Motion for Injunction and (iii) Motion for Sanctions pursuant to Rule 11, SCRCF and S.C. Code Ann. § 15-36-10 of Defendants SB Municipal, LLC ("SB MUNI"), LB Park, LLC ("LB Park"), Joshua Schrager ("Schrager") and Lambros Xethalis ("Xethalis") (collectively, "Defendants"), as well as the Expedited Motion for Injunction of Plaintiffs Ryan Powell ("Ryan" or "Powell") and his mother Karen Powell ("Karen") (collectively, "Plaintiffs"), and Plaintiffs' Rule 11 Motion for Sanctions and to Strike Defendants' Motion to Dismiss (collectively, "Plaintiffs' Motions"). Plaintiffs appeared *pro se*, and Defendants were represented by Daniel J. Ballou. Based on the papers and documents filed herein, the arguments of counsel for Defendants and the arguments and testimony of the Plaintiffs, I find and conclude as follows:

BACKGROUND

This case involves various claims by Plaintiffs to, among other things, quiet title to certain real property identified as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023 (the "Property"). Plaintiffs have made the Property the subject of litigation since 2014, as

recounted in detail in the Final Order issued by the York County Master in Equity on October 24, 2022 (“Judgment”) in the matter *LB Park, LLC v. San Juan Holdings, et al*, Case No, 2020-CP-46-00549 (the “Litigation”). Ryan appealed the Judgment on December 2, 2022 (Appellate Case No. 2022-001650), and the appeal is still pending. Defendants contend that the facts and legal claims asserted in this case are the same as those raised and litigated in the Litigation and which form the basis for the Judgment, and that upon the filing of the Notice of Appeal of the Judgment, the Court of Appeals has exclusive jurisdiction for such claims under Rule 205, SCACR.

Plaintiffs specifically referenced the Judgment and other previous Circuit Court filings in their Complaint and Expedited Motion for Injunction. For purposes of the respective motions before me and pursuant to Rule 201, SCRE, I take judicial notice of the Judgment, including all findings of fact and conclusions of law, as well as the relevant filings in the numerous related actions and appeals and the deed records of the York County Clerk of Court. *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009) (providing that when considering a Rule 12(b)(6) motion, a court may consider documents referenced in or attached to the complaint). For the reasons stated herein, I grant Defendants’ Motion to Dismiss, deny Plaintiffs’ Motions, and partially grant Defendants’ Motion for Sanctions.

FINDINGS OF FACT

This case represents only the latest attempt by Plaintiffs to frustrate the proper collection of ad valorem property taxes by York County on the Property. A review of Plaintiffs’ litigious history is instructive in reaching the findings of fact and conclusions of law herein.

1. The Property was conveyed to Ryan by deed dated December 20, 2012 (the “SJH Deed”) by a now-dissolved trust known as San Juan Holdings (“SJH”). Ryan purposefully did not record the SJH Deed in the York County property records because he believed that by not recording it,

he did not consent to the levy of property taxes by York County. Plaintiffs contend that York County only has the power to collect property taxes under the South Carolina Alternate Procedure for Collection of Property Taxes Act, S.C. Code 12-51-40, et seq. (the “Tax Sale Act”), on property owned by a person having a recorded deed. Ryan asserts that since he did not record the SJH Deed, York County could not tax his Property.

2. Ryan filed his first lawsuit in the original jurisdiction of the South Carolina Supreme Court (Appellate Case No. 2014-000005), seeking a writ of *mandamus* ordering the York County Auditor, the York County Treasurer, and the York County Delinquent Tax Collector to update their records to reflect that Ryan is the owner of the Property, void the tax liens on the Property, void the tax execution on the Property, void the levy and attempted sale of the Property, and return the \$5,118 Powell paid to the respondents. The Supreme Court denied Ryan’s petition on February 20, 2014.

3. On May 1, 2014, Ryan filed a second action in the York County Court of Common Pleas, and he again sought a writ of *mandamus* and asserted 10 causes of action, all based upon his erroneous theory to avoid paying property taxes. Judge S. Jackson Kimball dismissed this second action on June 25, 2014, finding:

[Powell’s] complaint and legal memoranda read like a doctrinal manifesto. It is a rambling presentation of twisted, disconnected and inapplicable legal theories that contradicts all statutory and case law governing the issues presented. It challenges the right and authority of the County to assess and collect ad valorem property taxes on realty, as well as the owner’s obligation to pay those taxes. *See*, Order Substituting Defendant and Order of Dismissal, *Powell v. Boheler, et al.*, Case No. 2014-CP-46-01425, June 25, 2014.

Ryan then appealed Judge Kimball’s Order to the South Carolina Court of Appeals, which summarily affirmed the trial court’s decision. Ryan subsequently filed a petition for a writ of *certiorari* to the South Carolina Supreme Court, which was likewise denied.

4. Next, Ryan sued the York County Assessor in the South Carolina Administrative Law Court (“Case 3”), again asserting the same theories rejected previously that York County had no power to collect property taxes under the Tax Sale Act. The Administrative Law Court dismissed this third action as being moot because Ryan redeemed the Property after a tax sale, noting that:

“[Powell’s] latest redemption of the Property is thus consistent with his pattern of delaying the payment of his property taxes, yet ultimately claiming his ownership and assuming the obligation to pay the property taxes.”

Judge Ralph King Anderson, III elaborated:

I use the term ‘ownership’ above only for the sake of argument because I find that [Powell] failed to established [sic] standing as the owner of the property to contest the payment of taxes. Though he argues through his averments that he established ownership of the property, he has not presented a deed or court order establishing that fact. In fact, the deed he submitted does not identify him as the owner but an “unenfranchised living man” which is inconsistent with [Powell’s] claim to be a “free man.” Further, simply stating that you own property without a legal document to support ownership does not establish a legal right to the property. It appears under the facts of this case that the only way for Petitioner to establish ownership would be a quiet title action.

(Order of Dismissal, *Powell v. York County Assessor*, Docket No. 17-ALJ-30-0358-IJ, November 28, 2017, at p. 3 n.6.)

5. Undaunted by defeat at each step of this litigious journey, Ryan again failed to pay property taxes on the Property. Predictably, the York County Tax Collector sold the Property at the York County tax sale held November 6, 2017 (the “Tax Sale”). SB Municipal, LLC, as custodian for LBSC-11, LLC (“SB MUNI”), purchased the Property at the Tax Sale with a bid of \$171,000.00. After the statutory one-year redemption period had expired, the Tax Collector conveyed title to SB MUNI by tax deed recorded on December 26, 2018, in the York County Register of Deeds Office in Book 17337, page 73 (the “Tax Deed”). SB MUNI subsequently conveyed the Property to LB Park by quitclaim deed dated January 7, 2019, and recorded on January 10, 2019, in Book 17361, page 145 (the “Quitclaim Deed”).

6. On January 25, 2019, LB Park brought an action to quiet tax title (Case No. 2019-CP-46-00310). In response, Karen filed a Special Appearance Motion to Dismiss on March 11, 2019, claiming to hold an unrecorded lien on the Property, and arguing that the Property is not subject to taxation. Judge Daniel Hall rejected these contentions by order dated April 3, 2019. On April 8, 2019, Ryan filed a similar Special Appearance Motion to Dismiss or Intervene. On May 31, 2019, Judge Hall denied Ryan's motion to dismiss and ordered the case referred to York County Master in Equity.

7. Ryan appealed both the order denying his motion to dismiss and the order of reference on June 11, 2019. On October 15, 2019, the South Carolina Court of Appeals granted LB Park's motion to remand for the limited purpose of allowing it to file a motion to dismiss the underlying action without prejudice. The Notice of Dismissal Without Prejudice was filed on February 12, 2020, and LB Park filed a second action to quiet tax title naming Ryan as a defendant the same day.

8. Ryan generally denied Plaintiff's allegations, asserted 23 defenses, and alleged counterclaims for (1) sanctions for frivolous complaint, (2) intentional infliction of emotional distress, (3) to declare void and set aside tax deed, (4) intentional interference with contract, and (5) slander of title (collectively, the "Counterclaims"). LB Park filed a Motion for Order of Reference on June 23, 2020, and Powell demanded a jury trial under Rule 38(b), SCRCF, on July 14, 2020. On August 20, 2020, Judge Hall denied Ryan's motions and granted LB Park's motion for an order of reference. Ryan appealed this order on September 8, 2020.

9. On September 15, 2020, the South Carolina Court of Appeals dismissed Ryan's appeal as involving matters not immediately appealable. Ryan then filed a series of unfounded procedural

and dispositive motions, each of which was denied by Judge Hall, who again referred the case to be heard by the York County Master in Equity.

10. The merits hearing was scheduled for October 21, 2021, but nine days before the hearing, Ryan appealed the Judge Hall's order of reference. The Court of Appeals denied this appeal on May 23, 2022. Ryan then filed a Motion to Amend on June 8, 2022, and after the merits hearing was set for September 27, 2022, Ryan filed a Motion to Vacate on September 6, 2022. Ryan withdrew both his Motion to Amend and Motion to Vacate but then filed a Motion for Continuance on September 16, 2022, which was denied.

11. Following a merits' hearing on September 27, 2022, which neither Ryan nor Karen attended, the Judgment issued by Judge Weaver confirmed LB Park's fee simple title to the Property and denied each of Ryan's counterclaims. Ryan appealed the Judgment to the Court of Appeals on November 28, 2022 (Appellate Case No. 2022-001650).

12. As provided in the Judgment and pursuant to Rule 261, SCACR, there is no automatic stay of the Judgment during any appeal of it and LB Park was entitled to possession of the Property. In order for Ryan to remain in possession during any appeal, he was required to post a bond of \$180,000. Ryan made several attempts in the South Carolina Court of Appeals to enjoin and otherwise prevent LB Park from gaining possession of the Property and to avoid posting the bond or reducing the bond amount, all of which attempts failed.

13. After Ryan's tactics failed in the South Carolina Court of Appeals, Plaintiffs filed the instant action on February 24, 2023, alleging claims for (1) quiet title, (2) adverse possession, (3) declaratory judgment as to the order of reference to the Master in Equity in the Litigation, (4) declaratory judgment as the identity of the high bidder at the Tax Sale as noted in the Judgment, (5) slander of title, (6) intentional infliction of emotional distress, (7) intentional interference with

contract, (8) piercing the corporate veil as to the individual defendants, (9) violation of S.C. Code Ann. § 15-67-410 for “illegal desseizure,” (10) collection of lien and (11) violation of S.C. Code Ann. § 15-75-60 for alleged sham legal process.

14. Ryan recorded the SJH Deed from 2012 on February 22, 2023, York County Clerk of Court’s Office in Book 20628, page 278. See, Complaint at para. 6. Recording occurred two days before Plaintiffs filed this action and six years after the Tax Sale. Plaintiffs contend that the recording of the SJH Deed allows them to bring this action as a “collateral attack” on the Judgment.

CONCLUSIONS OF LAW

Dismissal of this Case is Proper Under Rules 12(b)(1) and (6), SCRPC.

1. Plaintiffs base each cause of action on the same nucleus of operative facts that were raised in the Litigation, were decided in the Judgment and are within the exclusive jurisdiction of the Court of Appeals under Rule 205, SCACR.

2. The only new fact identified by Plaintiffs that was not before the Master in Equity is the recording of the SJH Deed. Plaintiffs contend that such recording now creates new circumstances under which they can contest the Tax Sale, the Tax Deed and the Judgment. However, it is undisputed that the recording of the SJH Deed occurred long after any interest Ryan or SJH may have had in the Property was divested and forfeited to York County under the Tax Sale Act, and after the confirmation of LB Park’s title to the Property through the Judgment. At best, Ryan was an unrecorded deed holder, and based upon the clear statutory language of the Recording Act, S.C. Code Ann. § 30-7-10, LB Park has priority over Ryan because, among other reasons, LB Park’s deed was recorded more than four years before Ryan recorded the SJH Deed. Accordingly, I find and conclude that the recently recorded SJH Deed is a nullity and of no legal significance.

3. Plaintiffs assert that this case is brought properly under Rule 60(b), SCRCP, although no Rule 60(b) motion was ever filed. Moreover, it is undisputed that leave to file such a motion or to file this case was not obtained from the Court of Appeals, as required by that rule. Nevertheless, the claims asserted in this case are a rehash of the same allegations decided and ruled upon in the Judgment.

4. Plaintiffs' First Cause of Action seeks to quiet title in the SJH Deed, which was not recorded until February 22, 2023. This claim repeats the allegations contained in Ryan's First Amended Answer and Counterclaim in the Litigation regarding the existence of SB MUNI that were rejected in the Judgment. In her Final Order, Judge Weaver detailed the corporate status of the high bidder at the Tax Sale and the process by which LB Park came to hold title. Since this claim seeks to relitigate the findings and conclusions of the Judgment, as well as the final orders in the previous cases cited above, such matters are barred by the doctrine of collateral estoppel and cannot be relitigated here. *Kunst v. Loree*, 404 S.C. 649, 746 S.E.2d 360 (Ct App. 2013); *Carman v. S.C. Alcoholic Beverage Control Comm'n.* 317 S.C. 1, 6, 451 S.E.2d 383, 386 (1994)(holding, "[u]nder the doctrine of collateral estoppel, when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.")

5. Moreover, to the extent that Plaintiffs claim a defect in the Tax Sale process, such matters likewise fail for several reasons. One reason is that Ryan admittedly failed to record the SJH Deed during the relevant tax sale proceedings and Karen never recorded her alleged lien. Because they had no interest of record in the Property, the Tax Sale Act did not require any notice to Plaintiffs, although the Judgment demonstrates that several redemption notices were mailed to Ryan.

Another reason is that the statute of limitations to recover the Property expired two years from November 6, 2017, the date of the tax sale. S.C. Code Ann. §§ 12-51-90(c) and 12-51-160. Even if Plaintiffs' claims were not subsumed within the Judgment and in the exclusive jurisdiction of the Court of Appeals, they are barred by the Tax Sale Act, the two-year statute of limitations, laches and the doctrine of collateral estoppel.

6. Plaintiffs' First Alternative Cause of Action for adverse possession also fails as a matter of law. By Plaintiffs' account, Ryan owned the Property from 2012 until it was lost at the Tax Sale. Ryan could not have held title adversely to any one until York County took title pursuant to the Tax Sales Act in November of 2017. LB Park did not obtain title to the Property until the Tax Deed was issued in December of 2018, so any period of possession adverse to LB Park would have begun then. While Ryan may have been hostile to York County's efforts to collect property taxes, neither JSH nor anyone else contested Plaintiffs' occupation of the Property until after the Tax Deed was issued. Consequently, Plaintiffs fail to state any facts that would bring them within the legal requirements of adverse possession. See, *Davis v. Monteith*, 289 S.C. 176, 345 S.E.2d 724 (1986).

7. Plaintiffs' Second Cause of Action for declaratory judgment rehashes Ryan's arguments regarding the jurisdiction of the Master in Equity and is inextricably intertwined within the issues on appeal and within the exclusive jurisdiction of the Court of Appeals. Accordingly, this claim is also dismissed.

8. Plaintiffs' Third Cause of Action for declaratory judgment likewise seeks to relitigate the identity and existence of SB MUNI as the successful bidder at the Tax Sale, raising the exact arguments that the Master in Equity specifically rejected, and which are currently on appeal.

Consequently, this cause of action raises no legitimate basis for any collateral attack on the Judgment and is dismissed.

9. Plaintiffs' Fourth Cause of Action characterizes the recording of the Tax Deed and the Quitclaim Deed as a slander of title. While Plaintiffs assert this claim against Defendants Xethalis and Schrager individually, the claim duplicates the allegations of Ryan's Fifth Counterclaim dismissed by the Master in Equity, and I therefore dismiss this cause of action as well because there is no legitimate basis for any collateral attack on the Judgment.

10. Plaintiffs' Fifth and Sixth Causes of Action for Intentional Infliction of Emotional Distress and Intentional Interference with Contract mirror the Second and Fourth Counterclaims in the Litigation. Even if they were not barred as an improper attempt to relitigate matters on appeal, they relate to LB Park's effort to avail itself of the statutory process of quieting a tax title and are dismissed for the same reasons detailed by Judge Weaver in the Judgment.

11. Plaintiffs' Seventh Cause of Action seeks to impose individual liability upon Xethalis and Schrager for the same frivolous and unfounded claims that the Master in Equity dismissed and are likewise dismissed herein. I further find and conclude that the Complaint fails to allege sufficient facts to constitute any claim for veil piercing under South Carolina law, and that even if it did, such facts are within the scope of the Judgment on appeal and within the exclusive jurisdiction of the Court of Appeals.

12. Plaintiff's Eighth, Ninth and Tenth Causes of Action allege acts by York County and Judge Weaver, who are not parties to this action. However, these claims are so specious and unfounded that they fail to state any cause of action under South Carolina law against anyone. Because these causes of action ostensibly seek to relitigate the matters resolved in the Judgment, Plaintiffs may not relegate them here under the guise of a collateral attack, and these claims are dismissed.

13. Plaintiffs' entire Complaint is premised upon an abusive and erroneous interpretation of the property tax laws and tax system of this State. All of Plaintiffs' claims derive from the fact that Ryan refused to pay property taxes. None of the issues asserted in this action overcomes Plaintiffs' burden of showing any prejudicial error or harm. *McCall v. Finley*, 294 S.C. 1, 362 S.E.2d 26 (S.C. App. 1987)(noting that "whatever doesn't make any difference, doesn't matter"). Consequently, Plaintiffs' entire Complaint fails as a matter of law and is dismissed with prejudice.

Plaintiffs' Notice of *Lis Pendens* is Cancelled.

14. In light of the findings of fact and conclusions of law above, pursuant to S.C. Code Ann. §15-11-40, and the inherent authority of the Court, the Court hereby cancels, terminates, nullifies, and declares void and of no legal effect the *Lis Pendens* filed by Plaintiffs on February 24, 2023 (*Lis Pendens* No. 2023LP4600078 and Case No. 2023-CP-46-00607).

The SJH Deed is Declared Void.

15. The Court hereby nullifies and declares void and of no legal effect the SJH deed of "Brett Osborne trustee of SAN JUAN HOLDINGS" to "Ryan Whitney of the Powell family" executed on December 20, 2012, and recorded on February 22, 2023, in the York County Register of Deeds Office in Book 20628, page 278. The York County Register of Deeds is instructed to strike the SJH Deed from its records and to record a copy of this Order to confirm that the SJH Deed is void and that Ryan Powell has no interest in the Property.

Plaintiffs' Motion for Injunction Is Denied.

16. Plaintiffs' Motion for Injunction seeking to prevent LB Park from evicting them from the Property is also denied. The purpose of a preliminary injunction is to preserve the status quo until a matter has been adjudicated, avoiding the possibility of irreparable injury to the aggrieved party until a full hearing on the merits can be had. *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 51, 674

S.E.2d 505, 509 (Ct. App. 2009). To prevail on a claim for preliminary injunction, a party must demonstrate (1) irreparable harm, (2) likelihood of success on the merits, and (3) no adequate remedy at law. *Scratch Golf Co. v. Dunes West Residential Golf Prop., Inc.*, 603 S.E.2d 905 (S.C. 2004). An injunction is a drastic remedy issued by the court in its discretion to prevent irreparable harm suffered by the plaintiff. *Id.* At a minimum, a plaintiff's complaint must allege facts sufficient to constitute a cause of action for injunction and demonstrate it is reasonably necessary to protect the legal rights of the plaintiff pending in the action. *Peek v. Spartanburg Reg'l Healthcare Sys.*, 367 S.C. 450, 454, 626 S.E.2d 34, 36 (Ct.App.2005). A motion for injunction requires the court to balance the equities of the case by looking at the particular facts of each case and the equities of each party and determine which side, if any, is more entitled to equitable relief. 674 S.E.2d at 508.

17. Here, Plaintiffs contend that without an injunction, they will “suffer life threatening stress, insult, degradation, and loss of personhood from being thrown out of their home on the street with all their personal property.” Expedited Motion for Injunction at 2. These purported harms are of the Plaintiffs’ own making, the result of the years-long scheme to avoid paying property taxes rightfully owed to York County, and the willful failure or refusal to post the bond set forth in the Judgment. In light of my decision to dismiss the Complaint with prejudice, Plaintiffs do not prevail and cannot establish any basis for injunctive relief. Moreover, Plaintiffs have an adequate remedy at law, and have exercised that remedy by appealing the Judgment. *Strategic Resources v. BCS Life Ins. Co.*, 367 S.C. 540, 627 S.E.2d 687 (2006)(noting that “the right to appeal provides ... an adequate remedy at law.”). Plaintiffs have failed to establish any grounds for injunction and their Motion is therefore denied.

Defendants' Motion for Sanctions is Granted in Part.

18. Defendants seek an order for sanctions against Plaintiffs pursuant to Rule 11, SCRCP, and S.C. Code Ann. § 15-36-10 for instituting frivolous proceedings and filing frivolous documents in this action. Specifically, Defendants seek (1) an award of attorney's fees in the amount of \$12,500.00 incurred in defending this action, and (2) a prefiling injunction order prohibiting the Plaintiffs from filing any action or court filing arising out of or related to the Property or the Tax Sale, possession of the Property, the eviction of Ryan and any other occupants from the Property, and any other matters concerning the Property.

19. Under the South Carolina Frivolous Civil Proceedings Act ("SCFCPA"), S.C. Code Ann. § 15-36-10, et seq. a pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the pro se litigant failed to comply with one of the following conditions:

- (a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
- (b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or
- (c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based. Id.

20. Similarly, Rule 11 of the South Carolina Rules of Civil Procedure states that the written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

21. Section 15-36-10(E) of the SCFCPA sets forth the elements a Court should consider when determining whether a party has violated the provisions of the Act, stating the Court shall take into account the following:

- (1) the number of parties;
- (2) the complexity of the claims and defenses;
- (3) the length of time available to the attorney, party, or *pro se* litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);
- (4) information disclosed or undisclosed to the attorney, party, or *pro se* litigant through discovery and adequate investigation;
- (5) previous violations of the provisions of this section;
- (6) the response, if any, of the attorney, party, or *pro se* litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

22. In this case, Plaintiffs have repeated the previously asserted specious and frivolous claims based upon an interpretation of the South Carolina property tax and related laws that has been repeatedly rejected by all courts of this state. The Plaintiffs have filed and made frivolous allegations, assertions, and claims against York County, the County Tax Assessor, the Circuit Court Judges, the Master in Equity, the successful bidder at the Tax Sale, the Defendants and their counsel. Plaintiffs' claims continue a pattern of a "rambling presentation of twisted, disconnected and inapplicable legal theories that contradicts all statutory and case law governing the issues presented." Moreover, Plaintiffs have threatened "2 to 5 years or more" of continued appeals and collateral attacks if they are not restrained.

23. This Court has the inherent authority to enter pre-filing injunctions — also referred to as gatekeeper orders — restricting individuals from filing new lawsuits or other papers without court approval, when necessary to prevent abuse of the judicial process and protect other parties. See *Rutland v. Holler, Dennis, Corbett, Ormond & Garner*. 371 S.C. 91, 98, 637 S.E.2d 316, 320 (Ct. App. 2006)(noting that “the primary purpose for which the proceedings were initiated ‘was not that of securing the proper ... adjudication of the civil proceedings.’”). Section 15-36-10(G) of SCFCPA sets forth allowable sanctions, including (1) reasonable costs and attorneys’ fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

24. Having reviewed and considered the storied litigation history, current posture, all materials submitted, and oral arguments, I find that the Plaintiffs have engaged in a deliberate pattern of litigation abuse and willfully filed frivolous pleadings, motions, and appeals for purposes of delay, harassment and imposition of legal expense to LB Park and others in connection with the lawful collection of property taxes against the Property.

25. I incorporate by reference the Plaintiffs’ history of litigation cited hereinabove and in the Judgment as the factual basis for the relief sought by Defendants. I further note that at the hearing on Defendants’ Motion to Dismiss, Karen admitted in open court that the filings in the prior actions were frivolous. While Plaintiffs contend that the present case is somehow meritorious or made less frivolous because Ryan recorded the SJH Deed, I find such contention meritless and groundless in law and in fact.

26. I find and conclude that the Plaintiffs’ claims in this case, like the claims and defenses filed and asserted in the various litigation dating back to 2014 that have preceded it, are not warranted under existing law and that a good faith or reasonable argument did not exist for the extension,

modification, or reversal of existing law, that they are intended merely to harass or injure the opposing party, are not reasonably founded in fact, but are interposed merely for delay, or merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based. Although I find that the facts and circumstances of this case warrant the award of attorney's fees against the Plaintiffs, I decline to make such an award, in part, because I do not believe that such an award will deter the Plaintiffs from continuing to file frivolous claims or motions.

27. However, under the facts of this case, sanctions are in fact necessary and proper. I therefore order that Plaintiffs are, individually and collectively, prohibited from filing any pro se complaint, action, paper, pleading or any other court filing, in any state or federal court, of any type arising out of, related to, concerning, referencing, implicating or mentioning the taxes assessed or owed upon the Property, the Tax Sale, the Property, the Tax Sale of the Property, any action to quiet tax title to the Property including Case No. 2020-CP-46-00549, possession of the Property, the eviction of Plaintiffs or any other occupants from the Property, and any other matters concerning the Property (collectively, the "Filings") without prior leave of court. Any Filings on behalf of Plaintiffs must be (1) signed by a duly licensed South Carolina attorney subject to Rule 11 of the South Carolina Rules of Civil Procedure, or (2) certified by a South Carolina Circuit Court Judge as being compliant with Rule 11, which certification must be filed with any Filings.

28. Any party or person aggrieved by a violation or a potential violation of this Order shall be entitled to file a Petition for a Rule to Show Cause against Plaintiffs, requiring them to appear and to show cause as to why they have not violated this Order and why they are not in contempt of court. If the Plaintiffs are found to be in contempt, the aggrieved party shall be entitled to recover his, her, its, or their reasonable attorney's fees and costs from Plaintiffs, as well as additional relief.

Plaintiffs' Motion for Sanctions and to Strike is Denied.

29. Finally, for the reasons set forth above, I also deny Plaintiffs' Motion for Sanctions and to Strike Defendants' Motion to Dismiss. Plaintiffs' claim that counsel for Defendants "is perpetrating a fraud on this Court" is unfounded, meritless and false, and is based upon the same specious assertions made as to the legal existence of SB MUNI that was expressly addressed by the Master in Equity in the Judgment. The assertions contained in Plaintiffs' Motion further substantiate the good cause necessary to award sanctions as set forth above.

NOW THEREFORE, IT IS ORDERED that:

1. Plaintiffs' Complaint is dismissed with prejudice;
2. Plaintiffs' Lis Pendens is dissolved and cancelled;
3. The SJH Deed to Ryan Powell is declared void and the York County Register of Deeds/Clerk of Court is instructed to strike the SJH Deed from its records and to record a copy of this Order to confirm that the SJH Deed is void and that Ryan Powell has no interest in the Property;
4. Plaintiffs' Motion for Injunction is denied;
5. Plaintiffs are individually and collectively prohibited from filing any pro se complaint, action, paper, pleading or any other court filing, in any state or federal court, of any type arising out of, related to, concerning, referencing, implicating or mentioning the taxes assessed or owed upon the Property, the Tax Sale, the Property, the Tax Sale of the Property, any action to quiet tax title to the Property including Case No. 2020-CP-46-00549, possession of the Property, the eviction of Plaintiffs or any other occupants from the Property, and any other matters concerning the Property without prior leave of court. Any Filings on behalf of Plaintiffs must be (1) signed by a duly licensed South Carolina

attorney subject to Rule 11 of the South Carolina Rules of Civil Procedure, or (2) certified by a South Carolina Circuit Court Judge as being compliant with Rule 11, which certification must be filed with any Filings; and

6. Plaintiffs' Motion for Sanctions and to Strike Defendants' Motion to Dismiss is denied.

This the _____ day of _____.

Hon. William A. McKinnon
Chief Administrative Judge
Sixteenth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2023 CP-46-00607

Ryan Powell

SB Municipal is the Custodian of LBSC-11, LLC;
SB MUNI Cust % LBSC, LLC; LB Park, LLC,
Joshua Schrager;

Karen Powell

and Lambros Xethalis,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Daniel J. Ballou

Attorney for : ☐ Plaintiff X ☒ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



York Common Pleas

Case Caption: Ryan Powell , plaintiff, et al VS Sb Municipal Custodian , defendant,
et al
Case Number: 2023CP4600607
Type: Order/Form 4

So Ordered

/s William A. McKinnon, #2761, Resident Circuit
Judge and Chief Admin. Judge for CP, 16th Cir.

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

Daniel Hall, Circuit Court Judge

Case No. 2019-CP-46-00310
Appellate Case No. 2019-000979

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.

BRIEF OF RESPONDENT

RECEIVED

MAY 16 2023

SC Court of Appeals

HAYNSWORTH SINKLER BOYD, P.A.
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

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUES ON APPEAL	1
STATEMENT OF THE CASE & FACTS	2
ARGUMENT.....	4
I. THIS APPEAL IS MOOT.	4
II. THE ONLY IMMEDIATELY APPEALABLE ISSUE IN THE ORDERS ON APPEAL WAS WHETHER POWELL SHOULD HAVE BEEN PERMITTED TO INTERVENE. THE COURT SHOULD DECLINE TO CONSIDER ANY OTHER ISSUES.	5
CONCLUSION.....	7

TABLE OF AUTHORITIES

Cases

<i>Booth v. Grissom</i> , 265 S.C. 190, 217 S.E.2d 223 (1975)	4
<i>Breland v. Love Chevrolet Olds, Inc.</i> , 339 S.C. 89, 529 S.E.2d 11 (2000)	5
<i>Bryan v. Freeman</i> , 253 S.C. 50, 168 S.E.2d 793 (1969)	6
<i>Cathcart v. Jennings</i> , 137 S.C. 450, 135 S.E. 558 (1926)	6
<i>Ex parte Johnson</i> , 63 S.C. 205, 41 S.E. 308 (1902)	3
<i>Flagstar Corp. v. Royal Surplus Lines</i> , 341 S.C. 68, 533 S.E.2d 331 (2000)	5
<i>Godfrey v. Webb</i> , 277 S.C. 246, 285 S.E.2d 883 (1982)	6
<i>Huntley v. Young</i> , 319 S.C. 559, 462 S.E.2d 860 (1995)	5
<i>In Int. of Kaundra C.</i> , 318 S.C. 484, 458 S.E.2d 443 (Ct. App. 1995).....	4
<i>Johnson v. Arbabi</i> , 355 S.C. 64, 584 S.E.2d 113 (2003)	6
<i>Lennon v. S.C. Coastal Council</i> , 330 S.C. 414, 498 S.E.2d 906 (Ct. App. 1998).....	4
<i>Leventis v. S.C. Dep't of Health & Env't Control</i> , 340 S.C. 118, 530 S.E.2d 643 (Ct. App. 2000).....	4
<i>Mathis v. S.C. State Highway Dep't</i> , 260 S.C. 344, 195 S.E.2d 713 (1973)	4
<i>McLendon v. S.C. Dep't of Highways & Pub. Transp.</i> , 313 S.C. 525, 443 S.E.2d 539 (1994)	5
<i>Moyd v. Johnson</i> , 289 S.C. 482, 347 S.E.2d 97 (1986)	5
<i>N.C. Fed. Sav. & Loan Ass'n v. Twin States Dev. Corp.</i> , 289 S.C. 480, 347 S.E.2d 97 (1986)	5
<i>Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Plan. Corp.</i> , 358 S.C. 460, 596 S.E.2d 51 (2004)	4
<i>Rosenbaum v. S-M-S 32</i> , 311 S.C. 140, 427 S.E.2d 897 (1993)	2, 6
<i>Senter v. Piggly Wiggly Carolina Co.</i> , 341 S.C. 74, 533 S.E.2d 575 (2000)	5
<i>Wallace v. City of York</i> , 276 S.C. 693, 281 S.E.2d 487 (1981)	4
<i>Williford v. Downs</i> , 265 S.C. 319, 218 S.E.2d 242 (1975)	6

Statutes

S.C. Code Ann. §§ 12-61-10 to -60	2
S.C. Code Ann. § 14-3-330.....	5

Rules

Rule 41(a), SCRCP	3
Rule 208, SCACR.....	4

STATEMENT OF ISSUES ON APPEAL

1. Was this appeal from the denial of a motion to intervene in an action to quiet tax title made moot when this Court granted LB PARK's motion to remand this case to the circuit court for dismissal without prejudice and refile as a new action naming Ryan Powell as a defendant?

STATEMENT OF THE CASE & FACTS

On January 25, 2019, LB PARK, LLC (“LB Park”) filed this action pursuant to S.C. Code Ann. §§ 12-61-10 to -60 for the purpose of quieting tax title to real property known as 25056 Timberlake Drive, York County, South Carolina, tax map number 643-10-01-023 (the “Property”). (R. at 8-31). On April 8, 2019, Appellant Ryan Powell (“Powell”), a non-party to this action, filed a motion to dismiss or intervene. (R. at 42-49). On May 1, 2019, LB Park filed a motion for an order of reference. (Supp. R. at 1-2). Both motions were heard on May 30, 2019.

The circuit court denied the motion to dismiss and granted the motion for order of reference in separate orders filed May 31, 2019. (R. at 2-4, 5-7). These are the orders referenced in Powell’s Notice of Appeal. (6/8/2019 Notice of Appeal).

LB Park filed a motion to dismiss the appeal on the grounds that denial of a motion to dismiss is not appealable and that the order of reference did not deprive Powell of a mode of trial to which he was entitled because there is no right to a jury trial in actions to quiet tax title, even if the defendant asserts a counterclaim stating a cause of action at law as set forth in *Rosenbaum v. S-M-S* 32, 311 S.C. 140, 427 S.E.2d 897 (1993). (6/17/2019 Motion to Dismiss). Powell responded in part that the appeal should not be dismissed unless and until he was made a party to this action. (8/22/2019 Return to Motion to Dismiss at 7 (“Relief requested: The named defendants must be dropped and Appellant must be added as a party and this appeal **THEN and ONLY THEN** can be dismissed and the case remanded back to the trial court under the just terms decided by this Court.”)).

This Court denied the motion to dismiss as follows:

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.

(7/31/2019 Order). Upon receipt of this order, LB Park moved for a remand to the circuit court “to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRCP. 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.” (8/13/2019 Motion for Remand). LB Park attached its proposed stipulation of dismissal and proposed new complaint to the motion for remand. (*Id.*).

This Court granted the motion for remand by order dated October 15, 2019. (10/15/2019 Order). Pursuant to that order, this appeal was “held in abeyance pending the lower court’s consideration of the motion.” Powell filed a petition for rehearing (10/25/2019 Petition), which this Court declined to consider (2/10/2019 Order).

LB Park filed its dismissal on February 12, 2020 (R. at 60-61). It then filed a new action naming Powell as a defendant, C/A # 2020-CP-46-549 (“2020 Case”). Each of these filings was in substantially the same form as those proposed in the attachments to the motion for remand.

Powell filed a motion to revive the appeal on April 20, 2020. (4/20/2020 Motion to Revive Appeal). This Court denied the motion and ordered that this appeal be held in abeyance pending the issuance of a final order in the 2020 Case. (5/20/2020 Order). By letter dated December 13, 2022, this Court advised that this matter would no longer be held in abeyance. (12/13/2022 Letter).

ARGUMENT¹

I. This appeal is moot.

The underlying action was dismissed before any ruling on the merits of any claim or defense. As a result, there is nothing left to resolve with respect to Powell's request to intervene.

Courts are not in the business of issuing advisory opinions. *In Int. of Kaundra C.*, 318 S.C. 484, 486, 458 S.E.2d 443, 444 (Ct. App. 1995); *Booth v. Grissom*, 265 S.C. 190, 192, 217 S.E.2d 223, 224 (1975). "South Carolina courts, like the federal courts, require a justiciable case or controversy before any decision on the merits can be reached." *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 417–18, 498 S.E.2d 906, 908 (Ct. App. 1998). "A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute." *Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Plan. Corp.*, 358 S.C. 460, 477, 596 S.E.2d 51, 60 (2004) (internal citations omitted); see *Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981) (holding the function of a court is "to decide actual controversies injuriously affecting the rights of some party to the litigation.").

"A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy." *Leventis v. S.C. Dep't of Health & Env't Control*, 340 S.C. 118, 137–38, 530 S.E.2d 643, 654 (Ct. App. 2000) (quoting *Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)). Here, the dismissal of the underlying action means that there

¹ Concurrent with this brief, LB Park filed a motion to consolidate this appeal with the appeal pending in the 2020 Case (Appellate Case No. 2022-001650). Pursuant to Rule 208, SCACR, LB Park adopts by reference its brief in that action.

is no existing controversy for purposes of this appeal, and a ruling on the motion to intervene would have no effect.²

Moreover, as a practical matter, Powell received the relief he sought with respect to the motion to intervene—he was made a party to LB Park’s action to quiet tax title. Therefore, this appeal should be dismissed.

II. The only immediately appealable issue in the orders on appeal was whether Powell should have been permitted to intervene. The Court should decline to consider any other issues.

“The right of appeal arises from and is controlled by statutory law,” *N.C. Fed. Sav. & Loan Ass’n v. Twin States Dev. Corp.*, 289 S.C. 480, 481, 347 S.E.2d 97, 97 (1986). Appealability is generally governed by S.C. Code Ann. § 14-3-330, and interlocutory orders are otherwise not immediately appealable. *See, e.g., Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 533 S.E.2d 331 (2000); *Senter v. Piggly Wiggly Carolina Co.*, 341 S.C. 74, 533 S.E.2d 575 (2000); *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 529 S.E.2d 11 (2000). In this case, the only issue that the Court found to be immediately appealable was that of intervention. (7/31/2019 Order).

The order of reference and the denial of the motion to dismiss are not appealable rulings under any of the categories provided in S.C. Code Ann. § 14-3-330. (R. at 2-4, 5-7). Generally, the denial of a motion to dismiss under Rule 12(b)(6) is not immediately appealable. *Huntley v. Young*, 319 S.C. 559, 462 S.E.2d 860 (1995); *McLendon v. S.C. Dep’t of Highways & Pub. Transp.*, 313 S.C. 525, 443 S.E.2d 539 (1994); *Moyd v. Johnson*, 289 S.C. 482, 347 S.E.2d 97 (1986). Nothing about the denial here should trigger any exception to this rule.

² All of Powell’s arguments on appeal were rendered moot by the dismissal. The dismissal without prejudice prior to any adjudication on the merits did not result in any prejudice to any party. As shown in Powell’s brief in the appeal of the 2020 Case, Powell continues to assert arguments relating to jurisdiction over the Property, referral to the Master, and LB Park’s title.

With respect to the order of reference, the order does not deprive Powell of any mode of trial to which he might otherwise be entitled. “Ordinarily the granting or refusal of an order of reference is not appealable unless the granting of the reference deprives a party of a mode of trial to which he is entitled by law, or the trial judge in refusing a reference did so upon the erroneous belief that the cause of action was a legal one.” *Williford v. Downs*, 265 S.C. 319, 321, 218 S.E.2d 242, 243 (1975). “Hence, the issue before the Court is whether the appellant is entitled to a jury trial as a matter of right. If [h]e is not, the appeal should be dismissed.” *Id.*

In actions to quiet tax title, the South Carolina Supreme Court has made it clear that there is no right to a jury trial, even if the defendant asserts a counterclaim stating a cause of action at law. *Rosenbaum v. S-M-S* 32, 311 S.C. 140, 427 S.E.2d 897 (1993). As stated there:

Considering the unique circumstances existing in a tax forfeiture acquisition, and the prevailing statutory provisions governing suits to clear tax titles, we conclude that the appellant may not evade the intent of the legislature and obtain the right to a jury trial by interposing a counterclaim designed to thwart the reasonable and practical implication of Chapter 61.

Id. Additionally, an action concerning the validity of a tax sale is an action in equity. *Johnson v. Arbabi*, 355 S.C. 64, 69, 584 S.E.2d 113, 115 (2003) (citing *Bryan v. Freeman*, 253 S.C. 50, 52, 168 S.E.2d 793, 793–94 (1969) (“An action to remove a cloud on and quiet title to land is one in equity.”)); *see also Godfrey v. Webb*, 277 S.C. 246, 247, 285 S.E.2d 883, 884 (1982) (holding that an action to set aside a tax deed and an action to confirm the same tax sale were both actions in equity); *Cathcart v. Jennings*, 137 S.C. 450, 135 S.E. 558, 562 (1926) (“[A] court of equity has jurisdiction to remove a cloud upon title.”) (internal citations omitted). As such, the order granting the motion for reference is not immediately appealable.

CONCLUSION

For these reasons, this appeal should be dismissed at this time and the Court should decline to consider any of Powell's arguments on the merits. To the extent the Court is inclined to reach any issue on the merits, LB Park rests on its briefing in the 2020 Case.

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

RECEIVED
MAY 16 2023
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

May 12 2023

SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Hall, Circuit Court Judge

Case No. 2019-CP-46-00310
Appellate Case No. 2019-000979

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.

CERTIFICATE OF COUNSEL

I certify that the Brief of Respondent in this matter complies with Rule 211(b), SCACR.

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
Case No. 2020-CP-46-00549

LB PARK, LLC,

Plaintiff,

vs.

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.

/

Hearing before the Honorable Teasa Kay Weaver
York County Master in Equity
held at
The York County Courthouse
2 South Congress Street, 2nd Floor
York, South Carolina

9:34 a.m.
September 27, 2022

Reported By:
Taura J. Vulcano, CSR, RPR

APPEARANCES

For the Plaintiff:

ALEXANDER G. MENDE, ESQ.
A. PARKER BARNES III, ESQ.
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, South Carolina 29211-1889
803.779.3080
amende@hsblawfirm.com
pbarnes@hsblawfirm.com

I N D E X

	PAGE
TRACY MATTEVI	
EXAMINATION BY A. PARKER BARNES, ESQ.:	13

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exh. A	SC Supreme Court Order re: Powell v. Bolher [sic], et al.	7
Exh. B	Court of Common Pleas Judgment re: Powell v. Boheler	7
Exh. C	Court of Appeals of SC Unpublished re: Powell v. Boheler Opinion	7
Exh. D	SC Administrative Law Court Order of Dismissal re: Powell v. York County Assessor	7
Exh. E	12/26/18 recorded tax deed to SB Muni	8
Exh. F	1/10/19 recorded quitclaim deed	8
Exh. G	Warranty Deed to San Juan	9
Exh. H	Notice of Sale, Transfer Or Exchange	10
Exh. I	Plat - Book 73 at page 2326	12
Exh. J	4/1/17 Execution Notice	18
Exh. K	Final Property Tax Bill	19
Exh. L-1	Field Report showing location of levy notice	20
Exh. L-2	Copy of levy notice	20
Exh. M-1	10/16/17 Delinquent newspaper ad	21

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exh. M-2	10/23/17 Delinquent newspaper ad	21
Exh. M-3	10/30/17 Delinquent newspaper ad	21
Exh. N-1	Copy of redemption notice sent to five different addresses	34
Exh. N-2	List of the five addresses notice was sent to	34
Exh. N-3	Copy of certified return receipt restricted delivery to Dalmeny House Lane and Highway 218 West addresses	34
Exh. N-4	Copy of certified return receipt restricted delivery to Timberlake Drive, Tega Cay and Timberlake Drive, Fort Mill addresses	34
Exh. N-5	Copy of certified return receipt restricted delivery to Mill Run address	34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: Give me just one moment.

This is case number 2020-CP-46-00549, LB Park,
LLC versus San Juan Holdings and others. Present
on behalf of plaintiff is Mr. Parker Barnes and
Mr. Alexander --

MR. MENDE: Mende.

THE COURT: Mende?

MR. MENDE: Yes.

THE COURT: Okay.

MR. MENDE: Thank you, Your Honor.

THE COURT: No defendant is present nor
is any attorney appearing on behalf of any
defendant. There were some pretrial motions or
motions filed before this trial today of this
case. One filed by Defendant Ryan Powell that
was filed on June 8, 2022, Motion For Leave to
Amend Answer to Make a Third-Party Complaint.
Mr. Powell withdrew that motion by e-mail to the
Court on September 9, 2022.

Mr. Powell also filed a motion on
September 6, 2022, Rule 60(b)(4) Motion to Vacate
Judgment, Denying Owner's Motion to Return Case
to Circuit Court. Mr. Powell, by e-mail to the
Court on September 9, 2022, withdrew that motion.

1 Finally, Mr. Powell filed a motion for
2 continuance on September 16, 2022, which the
3 Court has reviewed, reviewed plaintiff's response
4 and that motion is denied.

5 Any other matters that need to be taken
6 up, Mr. Barnes, before we go forward?

7 MR. BARNES: No, ma'am.

8 THE COURT: Okay. What about,
9 Mr. Mende?

10 MR. MENDE: One of the two.

11 THE COURT: Well, you may proceed.

12 MR. MENDE: Thank you, Your Honor.
13 Just a quick introduction. Real quick to this
14 case, this case arises out of a tax sale of real
15 property located at 25056 Timber Lake Drive
16 located here in York County. For all intents and
17 purposes for the court record, when we say, "the
18 property," we'll refer to that property as 25056
19 Timber Lake Drive, if that is all right with Your
20 Honor.

21 Tax sale occurred on November 6, 2017.
22 And going all the way back to 2014, Mr. Powell
23 has litigated the issue of whether the property
24 is subject to any property taxes. And Mr. Powell
25 has previously litigated the issue of taxation of

1 the property in the original jurisdiction on the
2 South Carolina Supreme Court, York County Court
3 of Common Pleas, the South Carolina Court of
4 Appeals, and the South Carolina Administrative
5 Law Court.

6 All prior judicial forums have ruled
7 that the property is subject to taxes, and I have
8 certified copies of the relevant -- the relevant
9 orders and opinions in each of these actions, and
10 I move to admit them into evidence as Exhibits A
11 through D.

12 THE COURT: They are received as
13 Exhibits A through D.

14 (Exhibits A, B, C and D admitted into
15 evidence.)

16 MR. MENDE: Your Honor, after these
17 actions, essentially the taxes were not paid for
18 the property. So as mentioned previously, the
19 property was sold at the York County tax sale
20 held on November 6, 2017. It is Plaintiff's
21 position that all claims and challenges to the
22 tax sale are barred by the two-year statute of
23 limitations in the State of South Carolina as set
24 forth in SC Code 12-51-160 and SC Code
25 12-51-90 (C) .

1 After the one-year statutory redemption
2 period expired, York County conveyed the property
3 to SB Muni, custodian, LBSC-11 LLC by tax deed
4 recorded on December 26, 2018. I'd like to
5 introduce a copy of that tax deed, and it has
6 been previously marked as Exhibit E.

7 THE COURT: Received as Exhibit E.

8 (Exhibit E admitted into evidence.)

9 MR. MENDE: And, Your Honor, I do want
10 to clarify that is a certified copy of the tax
11 deed.

12 Thereafter, the property was conveyed
13 to the plaintiff through a quitclaim deed
14 recorded on January 10, 2019, and we have a
15 certified copy of that quitclaim deed for your
16 review as previously marked as Exhibit F.

17 THE COURT: You're asking to enter that
18 into evidence?

19 MR. MENDE: Yes.

20 THE COURT: Entered as Exhibit F.

21 (Exhibit F admitted into evidence.)

22 MR. MENDE: And the relevant chain of
23 title here is San Juan Holdings, Brett Osborne,
24 the trustee, who is also a defendant in this
25 action. He was named in this action because the

1 title search shows that he was the defaulting
2 taxpayer and the last record owner prior to the
3 tax sale. He obtained the title by deed on
4 June 27th in the year 2000. I would also like to
5 move into a evidence a certified copy of the
6 warranty deed to San Juan, which is now marked as
7 Exhibit G.

8 THE COURT: Received as Exhibit G.

9 (Exhibit G admitted into evidence.)

10 MR. MENDE: We named Brett Osborne as
11 the trustee of San Juan Holdings because the
12 title search showed that he signed it and
13 recorded a document titled Notice of Sale,
14 Transfer or Exchange on December 26, 2012. This
15 document did not identify any specific grantee
16 and, also, this document does not appear to have
17 conveyed any interest in the property because it
18 does not meet the requirements for a deed.

19 So plaintiff named Mr. Osborne to
20 provide him with notice of the hearing and to
21 eliminate this document as a cloud, impediment or
22 encumbrance upon the property. And I also have a
23 certified copy of that Notice of Sale, Transfer
24 or Exchange that has marked as Exhibit F, and I
25 would like to move it into evidence.

1 THE COURT: Exhibit?

2 MR. MENDE: I'm sorry. H, sorry.

3 THE COURT: H. Received as Exhibit H.

4 (Exhibit H admitted into evidence.)

5 MR. MENDE: And so we named Ryan Powell
6 because he claims he possesses an unrecorded
7 ownership interest in the property. As you
8 previously stated, Ryan Powell is the defendant
9 in this action and is not here today. In the
10 prior action he moved to intervene and that
11 motion was denied, and eventually the South
12 Carolina Appeal -- Appellate Court allowed the
13 filing of an amended complaint the plaintiff
14 filed naming him in the action.

15 So the status of the parties here. San
16 Juan Holdings is Brett Osborne, the trustee. No
17 response or appearance. We served him with the
18 pleadings on March 17, 2020, and it was
19 electronically filed on March 9, 2020. Brett
20 Osborne, as the trustee of San Juan Holdings, no
21 response or appearance. And we also served him
22 with the pleadings on March 1, 2020, and was
23 filed on March 9, 2020 as well.

24 As to Mr. Powell, we served him with
25 the pleadings on April 14, 2020, and it was filed

1 on April 20, 2020. He has appeared in this
2 action and filed an answer and counterclaim and
3 several other motions and documents evidenced by
4 the extensive record in this case that you may be
5 well aware of.

6 Essentially, this is an action to quiet
7 title tax and -- or to quiet tax title. The
8 Plaintiff has asserted a second cause of action
9 to reform the legal description in the tax deed
10 to correct the recording page that's referenced
11 to a plat. Essentially the legal description in
12 the tax deed refers to a plat recorded in the
13 office of the Clerk of Court for York County in
14 Plat Book 85 at page 129, and on Plat Book 73,
15 pages 22-26. The plat was actually recorded in
16 the Register of Deeds in Plat Book 73 at pages
17 23-26 not pages 22-26. And we do have a copy, a
18 certified copy of that plat, which we'll mark as
19 Exhibit F -- wait a minute, I'm sorry. Exhibit
20 I. Sorry, not F.

21 But, also, we do have a larger copy of
22 that. This is a smaller-down certified copy of
23 that just for the record sake.

24 THE COURT: Exhibit I entered into
25 evidence.

1 (Exhibit I admitted into evidence.)

2 MR. MENDE: Yes. And so throughout the
3 chain of title the plat is incorrectly referenced
4 as being recorded in Plat Book 73 at page 22-26,
5 and we'd just like to get that on record to
6 reflect those changes.

7 The notice of this hearing, it was
8 electronically filed and served on 8/25/2022.
9 And at this time, Your Honor, the Plaintiff would
10 like to call York County Tax Collector as a
11 witness in this matter.

12 THE COURT: Thank you.

13 MR. PARKER: Your Honor, if I may just
14 for the sake of clarifying the record, the
15 initial action, I believe it was dismissed
16 without prejudice. And I make reference to the
17 records of the Court of Appeals and the Circuit
18 Court here. But then a new action was filed
19 naming Mr. Powell as a defendant. It wasn't an
20 amended complaint of the original action. It was
21 a new action.

22 THE COURT: Thank you.

23 If you could please raise your right
24 hand?

25 Whereupon,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRACY MATTEVI,

having been first duly sworn was examined
and testified as follows:

MR. PARKER: Your Honor, may I approach
the witness?

THE COURT: Yes.

DIRECT EXAMINATION BY MR. PARKER

Q. For the record, could you please state your
full name?

A. Tracy Mattevi.

Q. Are you the tax collector for York County?

A. Yes, sir.

Q. Are you familiar with the tax sale process?

A. Yes, sir.

Q. Do you have knowledge of the tax sale
process in York County?

A. Yes, sir.

Q. Is your office responsible for seizing and
selling real property in satisfaction of delinquent
property taxes?

A. Yes, sir.

Q. Is your office responsible for issuing all
delinquent notices in connection with the tax sale of
a particular piece of real property?

A. Yes, sir.

1 Q. Did you bring copies of your office's
2 records for the tax sale of this property?

3 A. Yes, sir.

4 Q. And are those records made at or near the
5 time the originals are sent by a person with knowledge
6 of the correspondence?

7 A. Yes, sir.

8 Q. And are those records kept in the regular
9 course and business of your office?

10 A. Yes, sir.

11 Q. Is it the usual practice of your office to
12 make and keep these records?

13 A. Yes, sir.

14 Q. Do these records reflect the activity of
15 your office in regards to the tax sale of the
16 property?

17 A. Yes, sir.

18 Q. And do these records reflect your office's
19 duties in conducting the tax sale of the property?

20 A. Yes, sir.

21 MR. PARKER: And, Your Honor, I would
22 move to admit the tax sale exhibits as we go
23 through, but I would like to profer them as
24 satisfying -- or being admissible under Rule
25 803(6) and Rule 803(8) of the South Carolina

1 Rules of Evidence.

2 Q. (By Mr. Barnes) And who is the defaulting
3 taxpayer?

4 A. San Juan Holdings.

5 Q. And do the public records of York County
6 identify San Juan Holdings as the defaulting taxpayer?

7 A. Yes, sir.

8 Q. And what records were those based upon?

9 A. The last recorded deed with the register of
10 deeds and the records from the assessor's office.

11 Q. Okay. So the assessor -- records in the
12 assessor's office and register of deeds office
13 identified San Juan as the defaulting taxpayer?

14 A. That is correct.

15 Q. Okay. And what is the first delinquent tax
16 sale notice that your office issues?

17 A. We issue the execution notice.

18 Q. Okay. And you'll see there are some
19 documents in front of you; is that correct?

20 A. Yes, sir.

21 Q. And what are those documents?

22 A. These are documents from the tax sale file.

23 Q. And are those certified copies of those
24 documents?

25 A. Yes, sir, they are.

1 Q. The documents you're reviewing are
2 certificated copies of the tax sale records for the
3 subject property?

4 A. That's correct.

5 Q. Okay. And does your office normally
6 maintain a copy of execution notice?

7 A. Yes, sir.

8 Q. Okay. Can you review the document that's
9 been marked as Exhibit J. Can you identify Exhibit J?

10 A. Yes, sir. That's the execution notice that
11 was sent by our office.

12 Q. Is that a true and accurate copy of
13 execution notice?

14 A. Yes, it is.

15 Q. And when did your office mail that notice?

16 A. On or about April 1, 2018 -- 2017.

17 Q. So it was mailed on or about April 1, 2017?

18 A. That is correct.

19 Q. And to whom was it mailed?

20 A. San Juan Holdings.

21 Q. And to what address was it mailed?

22 A. 9127 Dalmeny House Lane, Charlotte,
23 North Carolina 28215.

24 Q. And how did your office obtain that address?

25 A. Through the assessor's records and the

1 recorded deed.

2 Q. The register of deed's office?

3 A. That's correct.

4 MR. PARKER: Your Honor, may I approach
5 and grab Exhibit H?

6 THE COURT: Yes.

7 MR. PARKER: Thank you, Your Honor.

8 Q. (By Mr. Barnes) I'm going to hand you what's
9 been previously entered into evidence and marked as
10 Exhibit H. Can you identify that document?

11 A. It's a notice of sale and transfer exchange
12 that was recorded in the register of deed's office.

13 Q. And what address is listed for San Juan
14 Holdings on that?

15 A. 9127 Dalmeny House Lane, Charlotte,
16 North Carolina.

17 Q. And is that the same address to which your
18 office mailed the execution notice?

19 A. Yes, sir.

20 Q. Thank you. Do you have any reason to
21 believe that your office did not mail the execution
22 notice?

23 A. No, sir.

24 Q. Did United States Postal Service ever return
25 the execution notice to your office?

1 A. No, sir.

2 MR. PARKER: Your Honor, I move to
3 admit Exhibit J into evidence.

4 THE COURT: Exhibit J received.

5 (Exhibit J admitted into evidence.)

6 Q. (By Mr. Barnes) And what's the next notice
7 that your office issues in conducting a tax sale?

8 A. The final property tax bill.

9 Q. And does your office normally maintain a
10 copy of that notice?

11 A. Yes, sir.

12 Q. And can you refer to what's been previously
13 marked as Exhibit K in the tax sale records?

14 A. It is the final property tax bill.

15 Q. And is that a true and accurate copy?

16 A. Yes, sir.

17 Q. And when did your office mail that notice?

18 A. It was mailed on July the 24th, 2017.

19 Q. And to whom?

20 A. San Juan Holdings.

21 Q. And to what address?

22 A. 9127 Dalmeny House Lane, Charlotte,
23 North Carolina 28215.

24 Q. So the same address as was used in the
25 execution notice?

1 A. That is correct.

2 Q. And how does your office mail that notice,
3 the notice of levy -- or final notice?

4 A. Certified return restricted delivery.

5 Q. And was that notice sent by certified mail
6 return receipt requested restricted delivery?

7 A. Yes, sir, it was.

8 Q. Was that notice received?

9 A. No. It was returned back as not deliverable
10 at this address by the post office.

11 MR. BARNES: All right. Your Honor, I
12 would move to admit Exhibit K into evidence.

13 THE COURT: Exhibit K received.

14 (Exhibit K admitted into evidence.)

15 Q. (By Mr. Barnes) And what is the next step
16 that your office took in the tax sale process?

17 A. We posted a notice of levy on the property.

18 Q. And does your office normally maintain a
19 copy of the notice?

20 A. Yes, sir.

21 Q. And can you refer to what's been marked as
22 Exhibits L-1 and L-2 in the certified copies of the
23 tax sale records. What is L-1?

24 A. L-1 is the field report showing where the
25 levy sign was placed on the property.

1 Q. And what is L-2?

2 A. L-2 is the actual levy sign.

3 Q. So the document marked as Exhibit L-1 a copy
4 of the field report that shows where the notice is
5 posted on the property. And Exhibit L-2 is a copy of
6 the actual notice that was posted on the property?

7 A. That is correct.

8 Q. And those are true and accurate copies?

9 A. Yes, sir.

10 Q. And when did your office post the property?

11 A. It was posted September the 7th, 2017.

12 MR. BARNES: And, Your Honor, I'd move
13 to admit Exhibits L-1 and L-2 into evidence.

14 THE COURT: They are received.

15 (Exhibits L-1 and L-2 admitted into
16 evidence.)

17 Q. (By Mr. Barnes) What is the next step that
18 your office took in the tax sale process?

19 A. We run a delinquent tax sale ad in the local
20 paper, which was the Herald.

21 Q. And is that newspaper a general circulation
22 within York County?

23 A. Yes, it is.

24 Q. And when were the newspaper advertisements
25 printed?

1 A. It was advertised on October the 16th,
2 October the 23rd, October the 30th of 2017.

3 Q. Okay. And can you refer to what's
4 previously been marked as Exhibits M-1, M-2 and M-3 as
5 certified copies of the tax sale records?

6 A. Uh-huh.

7 Q. Can you tell the Court what M-1 is, what M-2
8 is and what M-3 is?

9 A. M-1 the delinquent ad for October the 16th,
10 2017. M-2 is the delinquent ad for October 23, 2017.
11 M-3 is the delinquent ad for October the 30th, 2017.

12 Q. And do your records reflect that the
13 property was advertised for sale at public action once
14 a week for three consecutive weeks prior to the date
15 of the tax sale?

16 A. Yes, sir.

17 Q. And are Exhibits M-1, M-2 and M-3 true and
18 accurate copies of the records your office maintains
19 to evidence the publication of the property for sale?

20 A. Yes, sir.

21 MR. BARNES: Your Honor, I would move
22 to admit Exhibits M-1, M-2 and M-3 into evidence.

23 THE COURT: So received.

24 (Exhibits M-1, M-2 and M-3 admitted into
25 evidence.)

1 Q. (By Mr. Barnes) And when did the tax sale
2 occur?

3 A. November the 6th, 2017.

4 Q. And what was the tax amount of the tax sale
5 bid?

6 A. 171,000.

7 Q. And after the actual tax sale, what is the
8 next notice that your office issues?

9 A. We send out a notice of sale and redemption
10 letter, which is a courtesy letter sent to the
11 defaulting taxpayer.

12 Q. And when was that sent?

13 A. That was sent September the 24th.

14 Q. Of what year?

15 A. I'm sorry. That was sent November the 13th,
16 2017.

17 Q. So a courtesy notice was sent roughly about
18 a week after the tax sale; is that correct?

19 A. That is correct, uh-huh.

20 Q. And to what address?

21 A. To 9127 Dalmeny House Lane, Charlotte,
22 North Carolina 28215.

23 Q. And did the United States Postal Service
24 return that notice?

25 A. No, sir.

1 Q. And what is the next notice that your office
2 issues?

3 A. The final redemption letter.

4 Q. And just going back to that courtesy notice,
5 that's a notice that's not required by the tax sale
6 statute?

7 A. That is correct.

8 Q. And the next notice that is required by the
9 tax sale statutes is the Notice of Approaching End of
10 Redemption Period; is that correct?

11 A. That is correct.

12 Q. And does your office have a title search
13 performed before sending the redemption notice?

14 A. Yes, sir.

15 Q. And what is the purpose of the title search?

16 A. To find out any -- the grantees, mortgagee,
17 lessees or to find out anyone who may be claiming an
18 interest in the property.

19 Q. Okay. And based on the third title search,
20 who had interest of record in the property?

21 A. San Juan Holdings.

22 Q. Did the title search locate any mortgages on
23 the property?

24 A. No, sir.

25 Q. Did the title search show that Mr. Powell or

1 anyone else had any recorded interest in the property?

2 A. No, sir.

3 Q. All right. And after getting the title
4 search back, what was the next step that your office
5 takes with respect to the tax sale process?

6 A. We mail out the final redemption letter.

7 Q. And that's also known as a redemption
8 notice; is that right?

9 A. That is correct.

10 Q. And how many redemption notices did your
11 office send in conducting the tax sale of this
12 property?

13 A. We sent five notices.

14 Q. And did your office send each of the five
15 notices to different addresses?

16 A. Yes, sir.

17 Q. And what research or steps did your office
18 undertake to get these five different addresses?

19 A. Through the title research.

20 Q. Okay. And does your office normally
21 maintain a copy of the redemption notice that it
22 sends?

23 A. Yes, it does.

24 Q. Okay. And I'll ask you to refer to what's
25 been marked as Exhibits N-1 through 5, the certified

1 copies of the tax sale records. Could you identify
2 what's been marked as Exhibit N-1?

3 A. It is the final redemption letter.

4 Q. So N-1 is a copy of the redemption notice
5 that was sent in this case; is that correct?

6 A. That's correct.

7 Q. And that redemption notice was sent to the
8 five different addresses; is that correct?

9 A. That is correct.

10 Q. Okay. What was the first address your
11 office sent the redemption notice to?

12 A. San Juan Holdings.

13 Q. And what address?

14 A. 9127 Dalmeny House Lane, Charlotte,
15 North Carolina 28215.

16 Q. And is Exhibit N-1 a true and accurate copy
17 of the redemption notice?

18 A. Yes, it is.

19 Q. And what record shows that your office
20 mailed the redemption notice to the address you just
21 mentioned?

22 A. That's the last known address that was
23 recorded.

24 Q. Okay. And is that address shown on what's
25 been marked as N-2?

1 A. Yes, it is.

2 Q. Okay. And when did your office mail that
3 redemption notice?

4 A. The redemption notice was mailed September
5 the 24th, 2018.

6 Q. And what did the redemption notice say,
7 referring back to Exhibit N-1?

8 A. Notice of final redemption for property sold
9 at delinquent tax. It gives the tax map number along
10 with the final redemption amount and the deadline date
11 to redeem.

12 Q. Okay. And your office mailed that notice on
13 September the 24, 2018; is that correct?

14 A. That's correct.

15 Q. And to whom?

16 A. San Juan Holdings.

17 Q. And that was the one mailed to 9127 Dalmeny
18 House Lane in Charlotte; is that correct?

19 A. That is correct.

20 Q. And that's the same address your office used
21 for the execution notice and the final tax notice; is
22 that correct?

23 A. That is correct.

24 Q. All right. And why did your off sent that
25 redemption notice to San Juan?

1 A. That was the last known address that we had.

2 Q. Okay. Was San Juan the last record owner of

3 the property?

4 A. Yes, sir.

5 Q. And how did your office mail that notice?

6 A. Certified return restricted -- certified

7 return receipt restricted delivery.

8 Q. Was that notice, redemption notice, sent

9 certified mail return receipt requested restricted

10 delivery?

11 A. That's correct.

12 Q. And was that notice received?

13 A. No, sir.

14 Q. And how was it marked when it was returned?

15 A. Not deliverable as addressed.

16 Q. And if you refer to Exhibit N-2, can you

17 tell me what that is?

18 A. That's the electronic log where we log the

19 addresses that the final notice was sent to, the final

20 redemption letter was sent to.

21 Q. And what was the second address used to send

22 the redemption notice?

23 A. San Juan Holdings, 112 Highway 218 West,

24 Monroe, North Carolina 28110.

25 Q. And when did your office mail that

1 redemption notice?

2 A. It was mailed September 24, 2018.

3 Q. And how did your office get that address?

4 A. Through title research we found an
5 additional address.

6 Q. Okay.

7 MR. BARNES: And, Your Honor, may I
8 approach and see Exhibit G?

9 THE COURT: Yes.

10 MR. BARNES: Thank you.

11 Q. (By Mr. Barnes) I'll hand you what's been
12 admitted into evidence as Exhibit G and ask you if you
13 can identify that document?

14 A. That's the recorded deed from Paramount
15 Properties recording it and putting it in the name of
16 San Juan Holdings, and that is the address that was
17 recorded on the deed.

18 Q. What address is listed on that deed?

19 A. 112 Highway 218 West, Monroe,
20 North Carolina.

21 Q. Thank you. Was that notice sent as an
22 additional attempt to provide notice of the
23 approaching end of redemption period to San Juan?

24 A. Yes, sir, it was.

25 Q. How did your office mail that notice?

1 A. Certified return receipt restricted
2 delivery.

3 Q. And was that notice sent certified mail
4 return receipt requested restricted delivery?

5 A. Yes, sir.

6 Q. And was that notice received?

7 A. No, sir.

8 Q. How was it marked when it was returned?

9 A. It was returned, "attempted, not known."

10 Q. And what was the third address used to which
11 your office sent a redemption notice?

12 A. San Juan Holdings, 25056 Timber Lake Drive,
13 Tega Cay, with attention to Ryan Powell.

14 Q. Okay. And is that also the property
15 address?

16 A. Yes, sir, it is.

17 Q. And where is that address shown?

18 A. That is -- that address is just upon
19 thorough research, we send it out to the actual
20 address, physical address, of the property.

21 Q. What exhibit is his address listed on?

22 A. It's going to be Exhibit N-4.

23 Q. All right.

24 A. Well, the return mail is on N-4. The N-2
25 shows the electronic log where it's logged.

1 Q. Okay. So Exhibit N-2 shows that your office
2 mailed that redemption notice to the address you just
3 mentioned, and N-4 shows a copy of that notice that
4 was returned; is that correct?

5 A. That is correct.

6 Q. And when did your office mail that
7 redemption notice?

8 A. September 24, 2018.

9 Q. And how -- was why was that notice sent to
10 the attention of Mr. Powell?

11 A. To be thorough, the County sends it to
12 anyone who may be claiming interest even though
13 there's no recorded interest. So his name -- he has
14 been -- claimed interest in the property; although,
15 there is nothing been recorded.

16 Q. Okay. So was that notice send as an
17 additional -- initial attempt to provide notice of the
18 approaching end of redemption period to any party that
19 that claim an interest in the property?

20 A. That's correct.

21 Q. And how does your office mail that notice?

22 A. We mailed that notice certified return
23 receipt restricted delivery.

24 Q. And was this notice sent certified mail
25 return receipt requested restricted delivery?

1 A. Yes, sir, it was.

2 Q. And was that notice received?

3 A. No, sir. It was not.

4 Q. How was it marked when it was returned?

5 A. Unclaimed.

6 Q. Okay. What does that mean, unclaimed?

7 A. That the -- the post office made attempt to
8 deliver it and they didn't accept it, so it came back
9 as unclaimed.

10 Q. Okay. When you say, "they didn't accept
11 it," that would be the addressee?

12 A. Yes, that's correct.

13 Q. And what was the next address that your
14 office mailed the redemption notice to?

15 A. San Juan Holdings in care of Ryan Powell
16 2506 Timber Lake Drive, Fort Mill, South Carolina
17 29715.

18 Q. And is that address shown on Exhibit N-2?

19 A. Yes, sir, it is.

20 Q. And is that address shown anywhere else in
21 Exhibit N?

22 A. No, sir, it's not.

23 Q. Okay. When did your office mail that
24 redemption notice to that address?

25 A. September 24, 2018.

1 Q. How did your office get that address?

2 A. Through thorough research, the Timber Lake
3 Drive comes up as Tega Cay/Fort Mill -- Tega Cay and
4 Fort Mill, South Carolina, so we use both addresses.

5 Q. So your office sent a redemption notice to
6 each of those addresses?

7 A. That's correct.

8 Q. And how does your office mail the redemption
9 notice?

10 A. Certified return receipt restricted
11 delivery.

12 Q. And was that the notice sent certified mail
13 return receipt requested restricted delivery?

14 A. Yes, sir, it was.

15 Q. And was that notice received?

16 A. No, sir.

17 Q. How was it marked when it was returned?

18 A. Unclaimed.

19 MR. BARNES: And, Your Honor, I would
20 also ask the Court to take judicial notice
21 pursuant to Rule 201 South Carolina Rules of
22 Evidence that that's the same address that's been
23 used for Mr. Powell in several of the motions and
24 pleadings filed in this case.

25 THE COURT: I take judicial notice.

1 Q. (By Mr. Barnes) And what was the fifth and
2 final address to which your office sent a redemption
3 notice?

4 A. San Juan Holdings, care of Ryan Powell 3459
5 Mill Run, Raleigh, North Carolina 27612.

6 Q. And what exhibit shows that address?

7 A. N-2.

8 Q. And does that address appear at any other
9 page of Exhibit N?

10 A. No, sir.

11 Q. And when did your office mail that
12 redemption notice?

13 A. September 24, 2018.

14 Q. And how did your office get that address?

15 A. Upon researching Ryan Powell, that was the
16 address that came up for him.

17 Q. So with respect to the redemption notices
18 sent to Mr. Powell, why did your office send a
19 redemption notice to Mr. Powell?

20 A. To be thorough. He has claimed interest in
21 the property; although, there's been no recorded
22 interest. So we want to be thorough and make sure we
23 send it to everyone.

24 Q. Okay. How does your office mail the
25 redemption notice?

1 A. Certified return receipt restricted
2 delivery.

3 Q. And was that redemption notice sent
4 certified mail return receipt requested restricted
5 delivery?

6 A. Yes, sir, it was.

7 Q. And how was that -- or was that notice
8 received?

9 A. It was not.

10 Q. And how was it marked when it was received?

11 A. Unclaimed.

12 MR. BARNES: And, Your Honor, at this
13 time I move to admit Exhibits N-1 through N-5
14 into evidence, all pages of Exhibit N into
15 evidence.

16 THE COURT: N-1 through N-5 received
17 into evidence.

18 (Exhibits N-1, N-2, N-3, N-4 and N- 5
19 admitted into evidence.)

20 Q. (By Mr. Barnes) What was the final date to
21 redeem the property?

22 A. November 7, 2018.

23 Q. Did anybody redeem the property?

24 A. No, sir.

25 Q. So the redemption period expired with no

1 party redeeming the property?

2 A. That is correct.

3 MR. BARNES: Your Honor, may I approach
4 and see Exhibit E, please?

5 Q. (By Mr. Barnes) And I'm going to hand you
6 what's been previously introduced into evidence as
7 Exhibit E and ask you to identify that document.

8 A. This is the tax sale recorded deed.

9 Q. That is a copy of the tax deed issued from
10 the subject tax sale?

11 A. Yes, sir.

12 Q. That's a true and accurate copy?

13 A. Yes, sir.

14 Q. And can you explain the process for how the
15 tax deed is prepared and issued after the redemption
16 period expires?

17 A. Once the redemption period has expired, we
18 prepare the deed through the information of the
19 defaulting taxpayer and record it into the name of the
20 winning bidder.

21 Q. Okay. And who actually prepares the deed?

22 A. The deed is actually prepared through our
23 county attorney's office.

24 Q. Okay. So the York County Attorney's Office
25 prepared and reviewed the deed before it was recorded;

1 is that correct?

2 A. That is correct.

3 Q. And when is the tax deed dated?

4 A. It is dated -- it was recorded on
5 12/26/2018.

6 Q. Okay. And who is listed as the defaulting
7 taxpayer?

8 A. San Juan Holdings.

9 Q. And, again, that was based on the records of
10 the assessor's office and the register of deed's
11 office here in York County?

12 A. That is correct.

13 Q. And who is the grantee in tax deed?

14 A. SD Muni, custodian in care of LBSC-11 LLC.

15 Q. Is it unusual for tax sale bidders to
16 abbreviate their names?

17 A. No, sir.

18 Q. And why is that?

19 A. Our software system only allows so many
20 characters, so that's not unusual.

21 Q. Okay. And so there is a limitation on the
22 amount of characters that can be entered?

23 A. That is correct.

24 Q. So if a bidder has a long name, it would be
25 impossible to enter the complete name; is that

1 correct?

2 A. That is correct.

3 Q. And is it common practice for your office to
4 issue tax deeds with abbreviated names?

5 A. Yes, sir.

6 Q. Is it also common practice for your office
7 to issue tax deeds with a designation as custodian?

8 A. Yes, sir.

9 Q. And based on your experience of conducting
10 tax sales as part of your official duties, is it your
11 opinion the tax sale of this property complied with
12 the statutory requirements?

13 A. Yes, sir.

14 MR. BARNES: Your Honor, I don't have
15 any further questions at this time.

16 THE COURT: Thank you, Ms. Mattevi.

17 I just want to make clear, I don't know
18 that I made clear that Exhibits J through N were
19 received into evidence. I want to make that
20 clear.

21 MR. BARNES: Sure. It's Exhibits, I
22 believe, J through N-5.

23 THE COURT: N-1 and N-5 I stated
24 earlier. I don't know that I got J through N.

25 MR. MENDE: Thank you, Your Honor. I'm

1 just going to briefly address the arguments
2 against the counterclaims that Mr. Powell has
3 asserted against our client on this one.

4 As we noticed before the hearing,
5 Mr. Powell is not here to prosecute his
6 counterclaims and, thus, they should be dismissed
7 based on his failure to prosecute. However, we
8 do want to state for the record our reasoning
9 behind dismissal for the counterclaims and our
10 arguments against them.

11 Your Honor, just to reiterate again.
12 This is a straightforward action to quiet title
13 tax prescribed in SC Code 12-61-10 through 60.
14 All of Mr. Powell's counterclaims arise out of
15 Plaintiff's efforts to quiet title to property,
16 which efforts Mr. Powell has gone through great
17 lengths to frustrate, original to going back to
18 2018.

19 Mr. Powell claims a holded, unrecorded
20 deed to the property, but he has never provided
21 any proof or indicia of ownership of this
22 property. And his first counterclaim is for lack
23 of standing. As an initial matter, Mr. Powell
24 lacks standing to assert any counterclaim
25 regarding the property. The South Carolina

1 Administrative Law Court has already determined
2 that he failed to establish that he was the owner
3 of the property.

4 And Exhibit D that we introduced
5 earlier into evidence is a copy of the order of
6 dismissal for this South Carolina Administrative
7 Law Court case in 2017. In that case Mr. Powell
8 sued the York County Tax Assessor and South
9 Carolina Administrative Law Clerk -- Law Court.

10 Mr. Powell argued that because the
11 property tax is assessed based upon the deed
12 recorded with the county register of deeds
13 pursuant to SC Code 12-37-610 and he was not
14 required to nor did record the deed as the owner
15 of the property, then neither the property nor he
16 as owner of the property is subject to taxation.

17 Judge Ralph King Anderson III thought
18 he would explain why Mr. Powell was required to
19 pay taxes. And though I can't do a bolstered
20 impression of Mr. -- of Judge Anderson, he did
21 state in the 2017 Administrative Law Court Order
22 in a footnote stating, "I use the term
23 'ownership' above only for the sake of argument
24 because I find that Petitioner failed to
25 establish standing as the owner of the property

1 to contest the payment of taxes."

2 Then it's found -- on page 3 it states,
3 Judge Anderson further concluded that simply
4 stating that you own the property without a legal
5 document to support ownership does not establish
6 a legal right to the property.

7 The doctrines of res judicata and
8 collateral estoppel bar Mr. Powell from
9 relitigating the issue of whether he has any
10 interest in the property. In over three years of
11 litigation, Mr. Powell has not put forth even the
12 most basic sliver of evidence of his purported
13 claim against the property, a deed. Because
14 Mr. Powell admittedly has no interest of record
15 in the property and Mr. Powell has previously
16 found to have failed to establish standing as the
17 owner of the property to contest the payment of
18 taxes, Mr. Powell lacks standing to challenge the
19 tax sale and lacks standing to assert any
20 counterclaims regarding the property.

21 As to his violation of the Recording
22 Act counterclaim, even if Mr. Powell did have
23 standing, South Carolina law bars Powell's
24 proposed claims. Specifically the Recording Act
25 located at SC Annotated 37-10 titled Validity of

1 conveyances, liens, and other transactions as to
2 subsequent purchasers and creditors provides in
3 equal part: All deeds of conveyance of lands,
4 tenements or hereditaments, either in fee simple
5 or for life, all mortgages or instruments in
6 writing in the nature of a mortgage of any real
7 property, generally all instruments in writing
8 conveying an interest in real estate required by
9 law to be recorded in the office of register of
10 deed or clerk of court in those counties where
11 the office of register of deeds has been
12 abolished or the office of Secretary of State
13 delivered or excluded after July 31, 1934, except
14 as otherwise provided by the statute are valid so
15 as to effect the rights of subsequent creditors
16 (whether lien creditors or simple contract
17 creditors), or purchases for valuable
18 consideration without notice, only from the day
19 and hour which they were recorded in the office
20 of the register of deed or clerk of court in the
21 county in which the real property affected is
22 situated.

23 In the case of a subsequent purchaser
24 of real estate, the instrument evidencing the
25 subsequent conveyance or subsequent lien must be

1 filed for record in order for its holder to claim
2 under this section as a subsequent creditor or
3 purchaser for value without notice, and the
4 priority is determined by the time of filing for
5 record.

6 The statute makes clear that in order
7 for a deed to be valid as to its subsequent
8 purchasers without notice, the deed must be
9 recorded. The section further makes clear that
10 the priority between the subsequent purchaser of
11 real estate without notice is determined by the
12 time of filing of the record.

13 Mr. Powell's alleged deed has never
14 been recorded so much -- so even if a deed --
15 such deed exists, Mr. Powell is, at best, an
16 unrecorded deed holder. Based on the clear
17 statutory language, which is set in SC Code
18 Annotated 37-10, Plaintiff has priority over
19 Mr. Powell given its recorded interest in the
20 property.

21 And also in his counterclaims, he has
22 asserted five counterclaims: Sanctions for a
23 frivolous complaint, intentional inflection of
24 emotional distress, declare and void and set
25 aside the tax sale, and intentional interference

1 with contract, slander of title.

2 So not only do the recording act and
3 the doctrine of standing bar Mr. Powell's
4 counterclaims, but all five of these
5 counterclaims fail as a matter of law in fact.

6 Sanctions for a frivolous complaint.
7 This counterclaim lacks any merit and in itself
8 is frivolous. The Plaintiff is merely following
9 the statutory procedures set forth in SC Code
10 Annotated 12-61-10 to 60. Section 12-61-10 is
11 titled Persons Who May Institute Action to Clear
12 Tax Title, and provides and in relevant part:
13 Any person or the executors, administrators,
14 successors, assigns or grantees, thereof, which
15 has purchased at or acquired through a tax sale
16 and obtained title to any real or personal
17 property, may bring an action in court of common
18 pleas in such county for the purpose of baring
19 all other claims thereto.

20 Under Section 12-61-60, shall -- in
21 relevant in part wrote: Shall be liberally
22 construed to the end that it shall forward a
23 complete remedy to any Plaintiff claiming
24 property by forfeiture unto him for nonpayment of
25 taxes or by acquisition at or through a tax sale

1 so that he can, under this chapter, obtain a
2 final and complete adjudication of the nature and
3 extent of the title thereto and, in any event,
4 procure a valid sale of the property from the
5 proceeds from which the unpaid taxes shall be
6 paid.

7 Essentially the Plaintiff is merely
8 trying to conform its tax title to the property.
9 And there is no basis in law or in fact to find
10 Plaintiff's claims as being frivolous. Moreover,
11 Mr. Powell's previous attempts to have
12 Plaintiff's case dismissed have been denied as
13 referenced by Exhibits A through D.

14 The intentional infliction of emotional
15 distress claim is based on the claim that
16 Plaintiff has followed the statutory procedure
17 for quieting title -- tax title. The elements
18 for a claim of intentional inflection of
19 emotional distress are the tort fees are
20 intentionally -- intentionally or recklessly
21 inflicted severe emotional distress or is
22 certain -- or substantially certain that such
23 distress would result from his contact [sic].

24 The conduct is so extreme and
25 outrageous as to exceed all possible bounds of

1 decency and must be regarded as atrocious and
2 utterly intolerable in a civilized in community.
3 The actions of the Defendant caused the
4 Plaintiff's emotional distress and the emotional
5 distress suffered by the Plaintiff was severe so
6 that, quote, no reasonable man could be expected
7 to endure it. That is quoting Ford v. Hudson 276
8 S.C. 157 to 162, 276 S.E.2d 776 as a 1981 Supreme
9 Court Case.

10 Within the confines of Rule 11, South
11 Carolina Rule of Procedure -- Civil Procedure,
12 Powell cannot allege the existence of any of
13 these of these elements. Plaintiff is simply
14 seeking to avail itself in the legal process
15 created by the legislature to quiet title of the
16 property it paid for at the tax sale originally
17 under Chapter 61, Title 12 of the SC Code of
18 Laws.

19 The third counterclaim is to declare
20 void and set aside the tax sale. It's
21 superfluous and unnecessarily as the tax deed
22 would necessarily be rendered void if Plaintiff
23 is not able to demonstrate its case in chief.

24 Moreover, Mr. Powell has no standing to
25 assert such claim because, one, he has not

1 established any interest in the property; and
2 two, even if he possessed a deed to the property,
3 Mr. Powell has admitted he never recorded it.
4 Thus Mr. Powell would not be entitled to any
5 notice of a tax sale.

6 Finally, this claim -- as I mentioned
7 earlier, this claim is time barred by the
8 two-year statute of limitation set forth in SC
9 Code Annotated 12-51-160 and 12-51-90(C). The
10 tax sale occurred on November 6, 2017, but
11 Mr. Powell did not file his counterclaim until
12 October 6, 2020, almost three years later. Thus,
13 this counterclaim is barred by the statute of
14 limitations.

15 Intentional interference with contract.
16 Presumably this claim is for tortious
17 interference with the contract, but it is titled
18 Intentional Interference with Contract. The
19 other elements of tortious interference with
20 contract are a valid contract exists, the
21 Defendant has knowledge of the contract, the
22 Defendant intentionally procures its breach, the
23 Defendant acted without justification, and,
24 lastly, the Plaintiff suffers prejudice. And
25 that's citing Broach v. Carter, 399 S.C. 434 732

1 S.E.2d 185, and also that case is citing Vortex
2 Sports Entertainment, Inc.

3 The contract that Mr. Powell asserts as
4 the basis of his proposed third-party claim is
5 the deed he received when he allegedly purchased
6 the property in 2012. A deed is an instrument of
7 conveyance not contract, in itself insufficient
8 to support this claim. However, Mr. Powell
9 admittedly refused to record his alleged deed,
10 which has not been produced ever in any of these
11 actions.

12 And Plaintiff was unaware of the
13 Osborne notice until after it received title --
14 or after it acquired title. It was not aware of
15 Mr. Powell's claims to the property until he
16 moved to intervene in the 2019 action.

17 Consequently, Plaintiff did not have
18 knowledge of the alleged deed. Moreover,
19 Plaintiff could not have procured a beach of
20 contract since the contract was allegedly
21 completed in December of 2012; thus, there is no
22 basis for this counterclaim.

23 The fifth counterclaim is for slander --
24 slander of title. Elements of this cause of
25 action for slander of title are publication with

malice of a false statement that is derogatory to plaintiff's title and causes special damages as a result of the diminished value of the property in the eyes of third parties, citing Pond Place Partners, Inc. v. Poole 351 SC 1, 567 SE2d. 881. Generally an action of slander of title may only be maintained by one who possesses an estate or interest in the affected property, citing the same case.

Mr. Powell has not established that he possesses an estate or interest in the property. Mr. Powell admittedly has not recorded his alleged deed. Again, Judge Anderson previously found that Powell failed to establish standing as the owner of the property to contest the payment of taxes because, "Simply stating that you own property without a legal document to support ownership does not entitle a legal right to the property."

The filing of a lis pendens is absolutely privileged under the South Carolina law and cannot give rise to claim for slander of title. All pleadings including the filing of the lis pendens are absolutely privileged and cannot form for the basis of an action for slander of

1 title. That's also cited in Pond Place Partners
2 v. Poole, 351 SC 1.

3 An absolute privilege exists to any
4 utterance arising out of the judicial proceeding
5 and having any reasonable relation to it,
6 including preliminary steps leading to judicial
7 action of any official nature provided those
8 steps bear reasonable relationship to it, citing
9 the same case. The acts of recording deeds in
10 preparation of a quiet title action are protected
11 and the counterclaim is also baseless.

12 Your Honor, if you do rule in favor of
13 us, as this case has gone on for years and years
14 and years, we do feel that he -- that Mr. Powell
15 will eventually appeal, and at this time we will
16 ask for a request for bond in this case. And we
17 ask the order include a date that Powell must
18 vacate and raise the issue of rent/bond. And
19 there is no automatic stay in this case. The
20 Court does have a good bit of discretion here as
21 annotated under Rule 20 -- 261 South Carolina
22 Appellate Civil Rules and South Carolina SC Code
23 18-9-170 also states in relevant part: The
24 judgment appeal from the direct sale or delivery
25 of possession of real property. The execution of

1 the judgment shall not be stayed unless a written
2 undertaking be executed on part of the appellant
3 with two sureties, to the effect that during the
4 possession of such property by the appellant, he
5 will not commit or suffer to be committed any
6 waste thereon, and that if the judgment be
7 affirmed, he will pay the value of the use and
8 occupation of the property from the time of the
9 execution of the undertaking until the delivery
10 of possession thereof pursuant to the judgment,
11 not exceeding a sum to be fixed by a judge of the
12 court by which judgment was rendered and which
13 shall be specified in the undertaking.

14 In discussing with our client today,
15 Your Honor, the issue of bond, we would say it
16 would equate to \$3,000 in monthly rent.

17 Your Honor, also, if the Court rules in
18 our favor, we'd also like to file a motion under
19 SC Code 15-36-100 (C) (1), as a violation of South
20 Carolina Frivolous Civil Proceedings Act --
21 Sanctions Act and under Rule 11 of South Carolina
22 Rules of Civil Procedure. Specifically we are
23 seeking sanctions for all costs and fees to
24 prosecute these actions, including all attorneys
25 fees. In doing so, we will submit an affidavit

1 from our client outlining all costs and fees it
2 has incurred in prosecuting these actions.

3 Your Honor, if you have no questions
4 for us, we will rest our case.

5 THE COURT: Thank you, Mr. Mende.

6 Based upon what's been presented to the
7 Court today, I find judgment in favor of the
8 Plaintiff. All right. Title in favor of the
9 Plaintiff and confirm that Plaintiff is now the
10 record title owner of the property.

11 Pursuant to Rule 41 all counterclaims
12 asserted by Mr. Powell are dismissed. He has not
13 appeared. There's been nothing presented to the
14 Court to substantiate any of those claims and,
15 therefore, they are dismissed.

16 As far as a bond for any appeal that
17 may result from the judgment in this case, I
18 grant Plaintiff's request for entry of a bond.
19 Does Plaintiff have a time period? I know you
20 said \$3,000 a month. Would a year be sufficient
21 as far as an appeal?

22 MR. MENDE: Yeah, Your Honor, the
23 length of the appeal is probably going to be
24 around two to four years on this one. So we do
25 request \$3,000 a month based on the rental.

1 THE COURT: Just \$3,000 a month for the
2 entire length of the appeal? Would that be
3 sufficient? I just want to make sure I don't
4 have to put a time limit on it.

5 (Attorneys conferring with client.)

6 MR. MENDE: He said it's two to five
7 years. \$3,000 a month for that time.

8 THE COURT: 3,000 a month during the
9 length of the appeal period?

10 MR. MENDE: Yeah, during the length of
11 the entire appeal.

12 THE COURT: Yes, that is correct.

13 MR. MENDE: Okay, awesome.

14 THE COURT: That way I don't have to
15 put a two- or five-year time limit on it. We'll
16 just say during the appeal.

17 MR. MENDE: And also, Your Honor, I do
18 want to clarify that the counterclaims are being
19 dismissed with prejudice.

20 THE COURT: With prejudice.

21 MR. MENDE: Thank you.

22 THE COURT: Anything further?

23 MR. MENDE: No, Your Honor.

24 THE COURT: And if you e-file it -- I
25 prefer that it's e-filed. If when you do, you

1 can request the clerk waive the order filing fee
2 because I've requested it be e-filed.

3 MR. MENDE: Thank you, Your Honor.

4 THE COURT: If you have an issue with
5 that you can e-mail instead.

6 MR. MENDE: Thank you, Your Honor.

7 THE COURT: This trial is concluded.

8 (Whereupon, at 10:21 a.m., the foregoing
9 hearing was concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

CERTIFICATE OF REPORTER

I, TAURA J. VULCANO, CSR, RPR, Notary Public, do hereby certify that the witness whose testimony appears in the foregoing transcript was duly sworn or affirmed; that said proceedings were taken by me to the best of my ability and transcribed under my supervision and direction; that the parties were present as stated; and that I am not of counsel for, related to, in the employment of any of the parties to this action, nor am I financially or otherwise interested in the outcome of this action.

I do further certify that the foregoing pages constitute a true and accurate transcript of the proceedings.

This the 12th day of October 2022.



TAURA J. VULCANO, CSR, RPR
My Commission Expires 9/25/24

The Supreme Court of South Carolina

Ryan Powell, Petitioner,

v.

Amy Bolher d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert Kiser d/b/a York County Delinquent Tax Collector, each in their individual and official capacities, Respondents.

Appellate Case No. 2014-000005

ORDER

Petitioner asks this Court to entertain this matter in its original jurisdiction and issue a writ of mandamus ordering respondents update their records to reflect petitioner as the owner of his property, void the tax liens on his property, void the tax execution on his property, void the levy and attempted sale of his property, and return the \$5,118 petitioner tendered to respondents. Respondents have filed a return opposing the petition. The petition for original jurisdiction is denied. Rule 245(a), SCACR.



J.

FOR THE COURT

Toal, C.J., not participating

Columbia, South Carolina

February 20, 2014

cc:

EXHIBIT

A

Michael Kurt Kendree, Sr., Esquire
Ryan Powell
Amy Bolher
Beth Lantham
Robert Kiser

#2
PAA

The Supreme Court of South Carolina

Ryan Powell, Petitioner,

v.

Amy Bolher d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert Kiser d/b/a York County Delinquent Tax Collector, each in their individual and official capacities, Respondents.

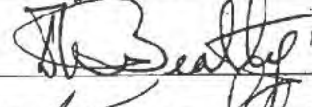
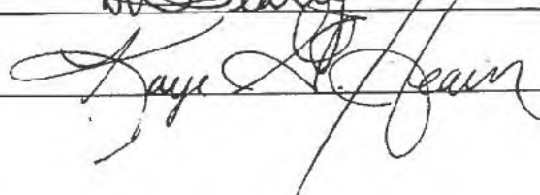
Appellate Case No. 2014-000005

ORDER

The following matter was dismissed by order dated February 20, 2014:

Ryan Powell v. Amy Bolher d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert Kiser d/b/a York County Delinquent Tax Collector, each in their individual and official capacities. Petition for Original Jurisdiction dated December 27, 2013. Appellate Case No. 2014-000005.

Petitioner has now submitted a petition for rehearing. Because petitioner has shown no reason for this Court to reconsider its earlier decision in this matter, the petition is denied.

	J.
	J.
	J.

3
PA#

Toal, C.J., and Kittredge, J., not participating.

Columbia, South Carolina

March 19, 2014

cc:

Michael Kurt Kendree, Sr., Esquire

Ryan Powell

Amy Bolher

Beth Lantham

Robert Kiser

CERTIFIED TRUE COPY:

Patricia A. Howard

Clerk, S. C. Supreme Court

#4
PAH

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-46-1425

Ryan Powell

2022 SEP 15 AM 9:44
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Amy Boheler d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, Robert Kiser d/b/a York County Delinquent Tax Collector

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Court

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☒ **ACTION DISMISSED (CHECK REASON):** ☒ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Spec. Circuit Court Judge

SCRCP Form 4C (03/2013)

3063

EXHIBIT

B

Date

Page 1

FILED-RECEIVED
2014 JUN 25 AM 9:31
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

For Clerk of Court Office Use Only

This judgment was entered on the 25th day of June, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 25th day of June, 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Ryan Powell, Pro Se
25056 Timberlake Drive
Fort Mill, SC 29708
ATTORNEY(S) FOR THE PLAINTIFF(S)

W. Keith Martens
P. O. Box 10940
Rock Hill, SC 29731
ATTORNEY(S) FOR THE DEFENDANT(S)
David Hamlet
CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Ryan Powell,

Plaintiff,

v.

Amy Boheler d/b/a York County Auditor,
Beth Latham d/b/a York County Treasurer,
Robert Kiser d/b/a York County Delinquent
Tax Collector,

Defendants.

2022 SEP 15 AM 9:44
David Hamilton/us
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-46-1425

ORDER SUBSTITUTING DEFENDANT
AND ORDER OF DISMISSAL

FILED-RECEIVED
2014 JUN 25 AM 9:31
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

This matter came before me on June 19, 2014, upon Defendants' motion to substitute York County as Party Defendant, and to dismiss Plaintiff's complaint pursuant to Rules 12(b)(1) and 12(b)(6) S.C.R.P. Plaintiff appeared *pro se*, and Defendants were represented by W. Keith Martens. Based on the record presented, I find and conclude the following.

Summary of Plaintiff's Claims

Plaintiff brought this action against Amy Boheler "d/b/a York County Auditor," Beth Latham "d/b/a York County Treasurer" and Robert Kiser "d/b/a York County Delinquent Tax Collector." Plaintiff's causes of action include claims for (1) 'sham legal process,' (2) fraud, (3) trespass *quare clausum fregit*, (4) money had and received, (5) slander of title, (6) false light invasion of privacy/libel, (7) breach of contract, (8) negligence per se, (9) civil conspiracy, and (10) intentional infliction of emotional distress.

Plaintiff's complaint and legal memoranda read like a doctrinal manifesto. It is a rambling presentation of twisted, disconnected and inapplicable legal theories that contradicts all statutory and case law governing the issues presented. It challenges the right and authority of the County to assess and collect *ad valorem* property taxes on realty, as well as the owner's obligation to pay those taxes.

According to Plaintiff, no land owner is required to pay property taxes, unless the owner's deed has been recorded. Instead, property owners elect to pay property taxes when they choose to record their deeds. Plaintiff asserts that a property owner can avoid any liability for property taxes by simply choosing not to record his deed. Because Plaintiff chose not to record

mk
#1

his deed, Plaintiff contends that York County cannot assess taxes against his real property, which is a conclusion unrelated to any personal liability for the taxes. Applying such "logic", Plaintiff asserts that he is not liable for property taxes on a parcel that he owns in York County, and that the County lacks the authority to collect such taxes through the delinquent tax collection process.

The Complaint alleges that Plaintiff is the owner of a parcel of real property that was conveyed to him by deed in December, 2012, by a now-dissolved trust known as San Juan Holdings. Plaintiff alleges that he has intentionally not recorded his deed in the York County property records, because he did not want to become liable for taxes on the property. Plaintiff's transferor did, however, record a document captioned a "Notice of Sale, Transfer or Exchange" on December 20, 2012, which stated that the transferor had conveyed the property to an unidentified "unenfranchised living man" (presumably Plaintiff), and that the transferor trust "no longer owns the property." Nevertheless, the trust remains the record owner of the property.

According to Plaintiff, the York County Tax Assessor generated and sent a tax bill for 2012 taxes to the dissolved trust, which the trust did not pay. The York County Delinquent Tax Collector then came onto Plaintiff's property without Plaintiff's permission, posted a notice of levy on Plaintiff's property, and advertised the property for sale at the York County delinquent tax sale. When plaintiff became convinced that his property was going to be sold for unpaid taxes, he paid the taxes under protest.

Plaintiff contends that he can have no property tax liability to York County because he never recorded his deed. Plaintiff further contends that his property cannot be "seized" or sold by York County to satisfy the tax liability of Plaintiff's transferor.

Substitution of Party Defendant

As an initial matter, I find and conclude that York County, and not the individuals named by Plaintiff as defendants, is the proper defendant. Each of the defendants named in Plaintiff's suit is an employee of York County, and each of the defendants was sued for acts undertaken on behalf of the County. There is no issue of fact presented that any named Defendant was acting outside the scope of his or her official duties as employees of the County.

South Carolina's Tort Claims Act (S.C. Code Ann. § 15-78-10 *et seq.* (1976, as amended).) ("Tort Claims Act") provides "[i]n the event that [an] employee is individually named [as a defendant in a tort action], the agency or political subdivision for which the employee was acting must be substituted as the party defendant." S.C. Code Ann. § 15-78-70 (1976, as amended). Therefore, Defendants' motion to substitute York County as the proper

MZ

defendant must be granted, and Amy Boheler, Beth Latham and Robert Kiser shall be dismissed with prejudice as party defendants.

Rule 12(b)(1) S.C.R.P.

As already indicated, Plaintiff's Complaint is a rambling narrative, but to the extent it challenges the authority of York County to tax Plaintiff's real property or to collect those taxes from Plaintiff, this court lacks subject matter jurisdiction to adjudicate Plaintiff's claims. The South Carolina Revenue Procedures Act (S.C. Code Ann. § 12-10-60 *et seq.* (1976, as amended).) (hereinafter "RPA") expressly provides, with one limited exception not applicable here, that "... there is no remedy other than those provided in this chapter in any case involving the illegal or wrongful collection of taxes, or attempt to collect taxes." S.C. Code Ann. § 12-60-80(A)(1976, as amended). The RPA also prescribes a "contested case" procedure whereby a "... property taxpayer may object to a property tax assessment made by a county assessor . . .," and vests South Carolina's Administrative Law Court with the exclusive jurisdiction to decide contested cases. *Id.*, §§ 12-60-2520-2540. Therefore, to the extent Plaintiff's complaint challenges the taxing authority of York County as it relates to his property, the complaint must be dismissed pursuant to Rule 12(b)(1) S.C.R.P.

Rule 12(b)(6) S.C.R.P.

Plaintiff also alleges that York County's employees committed various torts in issuing a notice of levy against his real property, and in otherwise attempting to collect delinquent taxes assessed against the property. Accepting the factual allegations of the Complaint as true, Plaintiff fails to allege any facts that would entitle him to relief.

Plaintiff's tort claims are all barred by the doctrine of sovereign immunity, and the provisions of the Tort Claims Act. Section 15-78-20(b) provides: "The General Assembly in this chapter intends to grant the State, its political subdivisions, and employees, while acting within the scope of official duty, immunity from liability and suit from any tort except as waived by this chapter." Further, § 15-78-60 provides:

The governmental entity is not liable for a loss resulting from: . . . (3) execution, enforcement, or lawful implementation of any process; (4) adoption, enforcement, or compliance with any law . . . whether valid or invalid . . . ; (9) entry upon any property where the entry is expressly or impliedly authorized by law; . . . (11) assessment or collection of taxes or special assessments or enforcement of tax laws.

"Exceptions to the waiver of sovereign immunity under the Tort Claims Act must be construed liberally in favor of limiting the liability of the state and its political subdivisions."


B3

Arthurs v. Aiken County, 338 S.C. 253, 270, 525 S.E.2d 542, 551 (Ct. App. 1999), *aff'd as modified sub nom. Arthurs ex rel. Estate of Munn v. Aiken County*, 346 S.C. 97, 551 S.E.2d 579 (2001), citing § 15-78-20(f); *see, also, Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).

Plaintiff has failed to allege that Defendants took any action not "... expressly or impliedly authorized by law ..." in their efforts to enforce the tax laws of the County and the State. (§ 15-78-60(9).) Further, every act that Plaintiff has alleged to be actionable clearly relates to the "... assessment or collection of taxes or special assessments or enforcement of tax laws." (§ 15-78-60(11).) In summary, I find and conclude that Plaintiff has alleged no facts to support any legitimate claim against York County, or against any of the individuals named, under any theory of liability.¹ I further find and conclude that Plaintiff's claims are entirely frivolous. Thus, all of Plaintiff's claims shall be dismissed with prejudice.

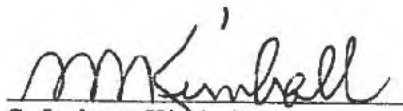
ORDER

For the reasons set forth herein, it is ordered as follows:

1. York County is substituted as the party defendant in this action, and Amy Boheler, Beth Latham and Robert Kiser are all dismissed as parties to this action, with prejudice.
2. Plaintiff's claims for monetary damages are all dismissed with prejudice.
3. To the extent Plaintiff challenges the authority of York County to assess and collect taxes against his real property, this court lacks subject matter jurisdiction to adjudicate such matters, and all such claims are dismissed.

AND IT IS SO ORDERED.

June 24, 2014


S. Jackson Kimball
Special Circuit Court Judge
York County

44

¹ Plaintiff's breach of contract action appears to be an attempt by Plaintiff to circumvent the Tort Claims Act. However, Plaintiff has failed to allege any facts by which this court could conclude or infer that he entered into an enforceable contract with York County, or with any of the individuals named as defendants in Plaintiff's lawsuit. Thus, the cause of action must fail as a matter of law.

2016 WL 2757344
Only the Westlaw citation is currently
available.

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

Court of Appeals of South Carolina.

Ryan POWELL, Appellant,
v.

Amy BOHELER d/b/a York County
Auditor, Beth Latham d/b/a York
County Treasurer, and Robert Kiser
d/b/a York County Delinquent Tax
Collector, each in their individual
and official capacities, Respondents.

Appellate Case No. 2014-002578.

No. 2016-UP-199.

Submitted Feb. 1, 2016.

Decided May 11, 2016.

Appeal from York County, S. Jackson Kimball, III,
Special Circuit Court Judge.

Attorneys and Law Firms

Ryan Powell, of Fort Mill, pro se.

Walter Keith Martens, of Hamilton Martens, LLC,
of Rock Hill, for Respondents.

Opinion

PER CURIAM.

*1 Ryan Powell argues the trial court erred in (1) dismissing his claim for lack of subject matter jurisdiction, (2) dismissing his tort claims as barred by the South Carolina Tort Claims Act, (3) dismissing his breach of contract claim, and (4) prohibiting his mother from representing him and speaking on his behalf. We affirm¹ pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in dismissing Ryan Powell's claim for lack of subject matter jurisdiction: *Simmons v. Simmons*, 370 S.C. 109, 113, 634 S.E.2d 1, 3 (Ct.App.2006) ("Subject matter jurisdiction refers to the court's 'power to hear and determine cases of the general class to which the proceedings in question belong.' " (quoting *Watson v. Watson*, 319 S.C. 92, 93, 460 S.E.2d 394, 395 (1995))); S.C.Code Ann. § 12-60-80(A)-(B) (2014) (providing that except for a declaratory judgment action on the constitutionality of a statute, "there is no remedy other than those provided in this chapter in any case involving the illegal or wrongful collection of taxes, or attempt to collect taxes"); S.C.Code Ann. § 12-60-3390 (2014) (stating the circuit court shall dismiss without prejudice an action covered by this chapter); S.C.Code Ann. § 12-60-30(22) (2014) (defining "property taxpayer" as "a person who is liable for, or whose property or interest in property, is subject to, or liable for, a property tax").

2. As to whether the trial court erred in dismissing his tort claims as barred by the South Carolina Tort Claims Act: *Ryde v. Morris*, 381 S.C. 643, 646, 675 S.E.2d 431, 433 (2009) ("On appeal from the dismissal of a case pursuant to Rule 12(b)(6), [SCRCP,] an appellate court applies the same standard of review as the trial court."); *id.* ("That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the 'facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case.' " (quoting *Williams v. Condon*, 347 S.C. 227, 233, 553 S.E.2d 496, 499 (Ct.App.2001))); S.C.Code Ann. § 15-78-20(b) (2005) (stating the South Carolina Tort Claims Act "grants the State, its political subdivisions, and employees, while acting within the scope of official duty, immunity from liability and suit for any tort except as waived"); S.C.Code Ann. § 15-78-60(11) (2005) ("The governmental entity is not liable for a loss resulting from ... assessment or collection of taxes or special assessments or enforcement of the tax laws...."); S.C.Code Ann. § 15-78-30(d) (2005) (defining "governmental entity" to mean "the State and its political subdivisions"); S.C.Code Ann. § 15-

78–30(c) (Supp.2015) (defining employee as “any officer, employee, agent, or court appointed representative of the State or its political subdivisions”).

3. As to whether the trial court erred in dismissing Powell’s breach of contract claim: *Rydde*, 381 S.C. at 646, 675 S.E.2d at 433 (“On appeal from the dismissal of a case pursuant to Rule 12(b)(6), [SCRCP,] an appellate court applies the same standard of review as the trial court.”), *id.* (“That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the ‘facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case.’” (quoting *Williams*, 347 S.C. at 233, 553 S.E.2d at 499)).

*2 4. As to Powell’s arguments that the trial court erred in prohibiting Powell’s mother from arguing on his behalf and that the supreme court lacks the authority to require a person to obtain a license to

practice law: *S.C.Code Ann. § 40–5–310* (2011) (stating a person is prohibited from practicing law or soliciting the legal cause of another person unless he or she is a member of the South Carolina Bar); *S.C. Dep’t of Transp. v. First Carolina Corp. of S.C.*, 372 S.C. 295, 301, 641 S.E.2d 903, 907 (2007) (stating an issue cannot be raised for the first time on appeal but must be raised to and ruled upon by the trial court to be preserved).

AFFIRMED.

WILLIAMS, LOCKEMY, and MCDONALD, JJ.,
concur.

All Citations

Not Reported in S.E.2d, 2016 WL 2757344

Footnotes

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ryan Powell,

Petitioner,

v.

York County Assessor,

Respondent.

Docket No. 17-ALJ-30-0358-II

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to Respondent York County Assessor's (York) Motion to Dismiss filed on October 17, 2017. This Motion was filed in response to Petitioner Ryan Powell's (Petitioner) request for a contested case with this Court pursuant to Rule 11 of the Rules of Procedure for the Administrative Law Court (SCALC Rules). The Court held a hearing on this Motion on November 15, 2017 at the offices of the ALC in Columbia, South Carolina.

Based on Petitioner's allegations, "San Juan Holdings" (SJH) delivered a deed documenting the transfer of a parcel of property, tax map number 643-10-01-023 (Property), to an unidentified man who Petitioner claims to be and then filed a "Notice of Sale/Transfer, Transfer or Exchange" with the York County Register of Deeds on December 20, 2012. Again, this Notice did not identify the transferee, but instead referred to him as "an unenfranchised living man."¹ The Notice also stated that SJH was "terminated and longer exists." Petitioner explained in his Petition that SJH "dissolved as a legal entity shortly after the sale of [its] property to Petitioner" In his filings and at the hearing, Petitioner again claimed to be this transferee and thus the owner of the Property. However, Petitioner never filed the deed with the York County Register of Deeds. Petitioner did not file the deed, in part, because he was seeking to avoid paying taxes, and he believes international and State laws relieve him of that obligation. Petitioner contends that

¹ The term "unenfranchised" is not statutorily defined, so the Court looks to the ordinary dictionary meaning for its definition. According to Merriam-Webster Dictionary, "unenfranchised" means "not free; *specifically*: not granted or not allowed to exercise political rights (as suffrage)." <https://www.merriam-webster.com/dictionary/unenfranchised> (last visited on November 20, 2017). It is curious that an "unenfranchised living man," would seek to assert rights in this Court.

EXHIBIT

0

1 of 7 qjs

FILED

November 28, 2017

SC ADMIN. LAW COURT

because property tax is assessed based upon the deed recorded with the County Register of Deeds pursuant to S.C. Code Ann. § 12-37-610 (2014), and he was not required to, nor did, record the deed as owner of the property, neither the property nor he, as the owner of the property, was subject to taxation.² Therefore, Petitioner has repeatedly refused to pay the assessed property taxes.

After Petitioner did not respond to multiple notices of the unpaid taxes to the address of the property owner listed in the Register of Deeds' records – SJH, York auctioned the Property at a tax sale on November 18, 2013 for the tax year 2012, after which Petitioner paid the back taxes owed on the Property to redeem it. However, the taxes for the Property again went unpaid for tax year 2013, after which York again auctioned off the Property, at which point Petitioner again redeemed the Property. This cycle continued until the most recent tax auction on November 6, 2017, after which Petitioner again paid the delinquent taxes to redeem the Property.³

On September 28, 2017, prior to the latest tax sale, Petitioner filed several documents with the ALC, including a Request for a Contested Case Hearing.⁴ On October 17, 2017, York filed a Motion to Dismiss.⁵

DISCUSSION

York moves to dismiss Petitioner's case pursuant to Rule 12(B)(1), (6) of the Rules of Civil Procedure and S.C. Code Ann. §§ 12-2-40, 12-37-210, 12-37-610, and 12-54-127. However, the Court need not consider these grounds for dismissal, as the Court finds this matter moot.

Before any action can be maintained, a justiciable controversy must exist. *Byrd v. Irmo High Sch.*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). "A justiciable controversy is a real and

² In light of the Court's disposition of this case, the Court will not go into detail regarding Petitioner's philosophy underlying his reasons for not paying taxes, such as his belief that he has "a human right not to pay taxes" and that he cannot be compelled to enter a contract by paying a fee to the York County Register of Deeds (which he views as a private party) to record the deed to his property.

³ Though Petitioner appears to be abusing South Carolina's tax system, the ALC does not have the jurisdiction to address that issue. Also, in light of the disposition of this case, the Court need not address whether Petitioner entered into the agreement to transfer the deed with the intent to evade taxes or defraud or deceive York in violation of S.C. Code Ann. §§ 12-2-40 (2014) and 27-23-20 (2007).

⁴ One of the documents that Petitioner included with his Request for a Contested Case was a Motion [for] Expedited Case Hearing [o]r Issue TRO." However, because the Property has already been sold at auction and redeemed by Petitioner, this Motion is denied.

⁵ Included in this Motion was a request for leave to file it because Rule 19(A) of the Rules of Procedure for the Administrative Law Court requires all pre-hearing motions to be filed at least thirty (30) days of advance of the hearing but there were less than thirty days remaining until the hearing in this case, which was scheduled for November 15, 2017. The Court granted this leave to file and allowed York to argue this Motion on the hearing date in lieu of a hearing on the merits, since the Motion could be dispositive.

substantial controversy appropriate for judicial determination, as opposed to a dispute or difference of a contingent, hypothetical or abstract character.” *Sloan v. Greenville Cty.*, 356 S.C. 531, 546, 590 S.E.2d 338, 346 (Ct.App.2003) (*Sloan I*). The Court will not consider moot questions. *Sloan v. Dep’t of Transp.*, 379 S.C. 160, 167, 666 S.E.2d 236, 240 (2008) (*Sloan II*). “A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy.” *Sloan v. Greenville Cty.*, 380 S.C. 528, 535, 670 S.E.2d 663, 667 (Ct.App.2009) (*Sloan III*). “Mootness also arises when some event occurs making it impossible for the reviewing court to grant effectual relief.” *Id.*

In this case, the Property has already been sold at auction and redeemed by Petitioner. Therefore, the authority to pursue this action was lost when the tax sale occurred. Furthermore, even if Petitioner claims that his payment of the taxes reinstates his authority to protest his payment, such an assertion is undermined by the fact that in each of the last five years, Petitioner has waited to pay the taxes on the Property until after the Property was put up for auction at a tax sale and took no further action until after the Property last came up for auction. Petitioner’s latest redemption of the Property is thus consistent with his pattern of delaying the payment of his property taxes, yet ultimately claiming his ownership and assuming the obligation to pay the property taxes.⁶

But even if the Court had found that this matter was not moot, the Court would still have granted York’s Motion to Dismiss because Petitioner provided no argument based on a reasonable interpretation of the law to support his position.

First, Petitioner admitted at the hearing that one of the reasons he refused to record the deed to the Property was that he was trying to avoid paying taxes. Specifically, he has not recorded a deed to this property in order to avoid tax, which he does not believe he is required to pay, and to be free from governmental “interference.” The Court agrees that Petitioner is not required to record the deed in order to own the Property. *See Spence v. Spence*, 368 S.C. 106, 119, 628 S.E.2d 869, 876 (2006) (citations omitted) (“The proper execution and delivery of a deed is effective to

⁶ I use the term “ownership” above only for the sake of argument because I find that Petitioner failed to establish standing as the owner of the property to contest the payment of taxes. Though he argues through his averments that he established ownership of the property, he has not presented a deed or court order establishing that fact. In fact, the deed he submitted does not identify him as the owner but an “unenfranchised living man” which is inconsistent with Petitioner’s claim to be a “free man.” Further, simply stating that you own property without a legal document to support ownership does not establish a legal right to the property. It appears under the facts of this case that the only way for Petitioner to establish ownership would be a quiet title action.

convey real property from grantor to grantee. As between grantor and grantee, a properly drawn deed is valid and dispositive of their respective ownership and rights in the property regardless of whether the deed is publicly recorded.”). However, Petitioner’s defense to Respondent’s motion – that the failure to record a deed excuses him as the owner of the property from paying the taxes owed – is not supported by law.

S.C. Code Ann. § 12-37-210 (2014) provides in pertinent part: “All real . . . property in this State . . . of persons resident in this State shall be subject to taxation.” S.C. Code Ann. § 12-37-610 (2014) provides in pertinent part:

Each person is liable to pay taxes and assessments on the real property that, as of December thirty-first of the year preceding the tax year, he owns in fee, for life, or as trustee, as recorded in the public records for deeds of the county in which the property is located

S.C. Code Ann. § 12-49-10 (Supp. 2017) further provides in pertinent part:

All taxes, assessments and penalties legally assessed shall be considered and held as a debt payable to the county by the person against whom they shall be charged and such taxes, assessments and penalties shall be a first lien in all cases whatsoever upon the property taxed, the lien to attach at the beginning of the fiscal year during which the tax is levied. . . The county treasurer may enforce such lien by execution against such property or, if it cannot be levied on, he may proceed by action at law against **the person holding such property**.

(Emphasis added). S.C. Code Ann. § 12-54-127 (2014) further provides in pertinent part:

When title to [real] property . . . is transferred and the payment or collection of any tax is defeated because of the transfer, then the transferor, the spouse of the transferor, a fiduciary holding title to the property and a person for whose benefit the property is held, the officers and stockholders of a corporation transferring the property, **and the transferee of the property, are personally liable for tax in an amount equal to the interest in the property transferred**

(Emphasis added).

In this case, though he has sought to circumvent his identity as owner by not recording the deed, Petitioner concedes that he is the owner of the Property and has indicated that ownership by redeeming the Property after multiple tax sales. He also agreed that the Property has been assigned a unique tax number.⁷ Moreover, since Petitioner did not identify himself on the deed for the Property or record that deed, the transfer from SJH to Petitioner defeated the collection of taxes for the Property for tax year 2016, resulting in another delinquency. And based on Petitioner’s

⁷ When asked at the hearing how York could notify him of the taxes owed if he owned the Property, Petitioner responded that they could send the notice to his address at 25052 Timberlake Drive, Tega Cay, SC 29708.

assertion that he was the transferee of the Property in that transaction, he thus became liable for the taxes therefor pursuant to Section 12-54-127.

Petitioner nevertheless argues that he was not obligated to pay taxes on the Property because assessments of property tax can only be made on property for which the deed has been recorded. To support his argument, Petitioner relies on Section 12-37-610, which states that the owner of property is liable for taxes and assessments "as recorded in the public records for deeds of the county in which the property is located." Petitioner focuses narrowly on the phrase "as recorded in the public records." Petitioner also focuses narrowly on the phrase "subject to" in Section 12-37-210, which provides in pertinent part that all real property in the State owned by residents thereof is "subject to taxation." He argues that because the phrase is not defined by statute, the ordinary definition in the dictionary applies, and that definition is the following: "it needs something to happen before it takes place." Petitioner contends that the "something" that needed to take place before he could be taxed was the recording of a deed because the recording of a deed is how assessment of property taxes is determined, pursuant to Section 12-37-610.

However, Petitioner errs in singling out a few phrases and reading them in isolation. Rather, statutes dealing with the same subject matter must be read in harmony. *See CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) ("[A] statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect. We therefore should not concentrate on isolated phrases within the statute. Instead, we read the statute as a whole and in a manner consonant and in harmony with its purpose.") (citation omitted and quotation marks omitted). Clearly, Section 12-37-210 sets forth that "the property" is "subject to" taxation. Petitioner decision not to file a deed does not cause the property to cease to exist. Moreover, reading Section 12-37-610 in harmony with the laws setting forth the taxation of real property, the reference to "as recorded in the public records for deeds of the county" establishes a means by which to identify the owner but not an exception to taxation. Indeed, "the language of a tax exemption statute must be given its plain, ordinary meaning and must be construed strictly against the claimed exemption." *Owen Indus. Prod., Inc. v. Sharpe*, 274 S.C. 193, 195, 262 S.E.2d 33, 34 (1980). Petitioner has failed to overcome this Court's strict scrutiny of his alleged exemption.

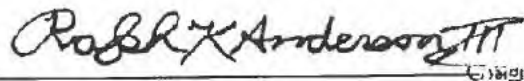
Moreover, Petitioner's contention is not supported by a reasonable reading of the law but would also lead an absurd result. *See Duke Energy Corp. v. S.C. Dep't of Revenue*, 415 S.C. 351,

355, 782 S.E.2d 590, 592 (2016) (stating that courts must reject an interpretation of a statute that “would lead to a result so plainly absurd that it could not have been intended by the General Assembly.”). If the General Assembly had intended Sections 12-37-210 and -610 to mean what Petitioner is arguing, then all real property taxpayers, including individuals and businesses, would be able to avoid paying real property taxes by simply declining to record deeds, and Sections 12-37-210, -610, and every other tax statute requiring the payment of real property taxes would be rendered ineffective and meaningless.⁸ Because Petitioner was the transferee of real property in this State that has been assigned a unique tax number, and he is a resident of South Carolina who was admittedly the owner of the Property as of December 31, 2016, and because the transfer of that Property defeated the collection of taxes by York, Petitioner is liable for the taxes owed for that Property.

ORDER

IT IS THEREFORE ORDERED that Respondent’s Motion to Dismiss is **GRANTED**
ON ALTERNATIVE GROUNDS.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

November 28, 2017
Columbia, South Carolina

⁸ Though in an unpublished opinion addressing a different issue, the reasoning in the Court of Appeals’ opinion in *Groce v. Horry Cty.*, 2011 WL 11733611 *10 (March 24, 2011) is similar to the reasoning the Court applies in this case in rejecting Petitioner’s arguments. That Court concluded that “to accept such an interpretation would allow one to avoid paying delinquent taxes on property subject to a tax lien by purchasing the property but concealing his ownership of the property and thereafter challenging any delinquent tax sale on the basis that he was not named in the tax sale.” Similarly, if this Court were to accept Petitioner’s interpretation, one could avoid delinquent real property taxes by simply concealing his ownership of real property by declining to record the deed for that property.

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

E. Harvin Belser Fair

E. Harvin Belser Fair
Judicial Law Clerk

November 28, 2017
Columbia, South Carolina

7 q-7 JFS

YORK COUNTY ASSESSOR

Tax Map:

643-10-01-023

Date: 12/27/2018

E H



2018054474

DEED

RECORDING FEES

\$11.00

STATE TAX

\$444.60

COUNTY TAX

\$188.10

PRESENTED & RECORDED:

12-26-2018 03:32:11 PM

BK: RB 17337

DAVID HAMILTON

CLERK OF COURT

YORK COUNTY, SC

ST. CHRISTY BENFIELD DEPUTY CLERK

PG: 73 - 77

CERTIFIED
TRUE COPY

OCT 21 2021

CLERK OF COURT
YORK COUNTY

PREPARED BY: YORK COUNTY ATTORNEYS OFFICE

DEED PREPARED ONLY: NO RESPONSIBILITY ASSUMED FOR
CERTIFICATION OF TITLE OR CLOSING TRANSACTION

STATE OF SOUTH CAROLINA

TAX TITLE

COUNTY OF YORK

TAX MAP #643-10-01-023

WHEREAS, the York County Treasurer issued his or her execution against **SAN JUAN HOLDINGS** (defaulting taxpayer), as provided in S.C. Code Ann., § 12-45-180 and § 12-51-40, signed by his or her agent in his or her official capacity, directed to the officer authorized to collect delinquent taxes, assessments, penalties and costs, requiring the York County Tax Collector to levy the execution by distress and sale of so much of the defaulting taxpayer's estate, real or personal, or both, as may be sufficient to satisfy the taxes, assessments, penalties and costs of such defaulting taxpayer, specifying therein the aggregate amount of all such taxes, assessments, penalties and costs; and

WHEREAS, under and by virtue of said warrant or execution, dated the 1st day of April, 2017, the undersigned Tax Collector was authorized and directed to seize and take exclusive possession of so much of the defaulting taxpayer's property as is necessary to satisfy the payment of the taxes, assessments, penalties and costs mentioned therein and the charges thereof; and

RB BK 17337 PG 73

EXHIBIT

E

WHEREAS, the undersigned took exclusive possession of the below-described property by mailing a notice of delinquent property taxes, assessments, penalties and costs to the defaulting taxpayer at the following address:

SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LANE
CHARLOTTE, NC 28215

the same being the address shown on the tax receipt or a more correct address known to the undersigned officer, by certified mail, return receipt requested deliver to addressee only; and

WHEREAS, the said delinquent tax notice specified that if the taxes, assessments, penalties and costs are not paid on or before a subsequent sale's day, the below-described property must be duly advertised and sold for delinquent property taxes, assessments, penalties and costs; and

WHEREAS, certified notices were mailed to the defaulting taxpayer or other party or parties of interest, addressed as follows:

Name of Party or Parties
In Interest

Mailed to

San Juan Holdings
Brett Osborne Trustee

9127 Dalmeny House Lane
Charlotte, NC 28215

Notice mailed 08/17/2017

(Status: returned "not deliverable as addressed")

Notice of Levy Posted 09/7/2017

(posted by: Palmetto Posting); and,

Final Redemption Letters mailed 9-24-2018 to the following:

Name of Party or Parties
In Interest

Mailed to

San Juan Holdings
Brett Osborne Trustee

9127 Dalmeny House Lane
Charlotte, NC 28215

San Juan Holdings
Brett Osborne Trustee

112 Hwy. 218 West
Monroe, NC 28110

San Juan Holdings
Ryan Powell

25056 Timberlake Drive
Tega Cay, SC 29708

San Juan Holdings
Ryan Powell

25056 Timberlake Drive
Fort Mill, SC 29715

San Juan Holdings
Ryan Powell

3459 Mill Run
Raleigh, NC 27612

WHEREAS, the York County Treasurer issued his or her warrant to the undersigned as the York County Tax Collector by authority of the statutes in such case made and provided against **SAN JUAN HOLDINGS, BRETT OSBORNE, TRUSTEE, 9127 DALMENY HOUSE LANE, CHARLOTTE, NC 28215**, a defaulting taxpayer of said county, strictly charging and commanding the undersigned as York County Tax Collector to levy by distress and sale of personal property, or if sufficient personal property cannot be found, then by distress and sale of real property of the said, **SAN JUAN HOLDINGS, BRETT OSBORNE, TRUSTEE, 9127 DALMENY HOUSE LANE, CHARLOTTE, NC 28215**, the defaulting taxpayer, the sum of \$ 5111.81, taxes, together with \$ 300.00, the charges thereof, and

WHEREAS, by virtue of said warrant or execution, I, the undersigned, Tracy Mattevi, Deputy Treasurer/Collections Supervisor for York County, South Carolina, did properly seize and take possession of the property hereinafter described and after due advertisement thereof, in The Herald, a newspaper of general circulation in York County, South Carolina, sell at public auction the below-described property during the usual hours of sale to **SB MINI CUST & LBSC-11 LLC, PO BOX 31191, TAMPA, FL 33631-3191**, the highest bidder at such sale for the sum of **ONE HUNDRED SEVENTY ONE THOUSAND AND 00/100 DOLLARS (\$171,000.00)** and

WHEREAS, more than twelve months have elapsed since the date of the said sale and the said **SAN JUAN HOLDINGS**, the defaulting taxpayer or other party or parties interested after due notice have failed to redeem the said property so sold for taxes;

NOW, THEREFORE, I, Tracy Mattevi, Deputy Treasurer/Collections Supervisor, in consideration of the premises and of the sum of **ONE HUNDRED SEVENTY ONE THOUSAND AND 00/100 DOLLARS (\$171,000.00)** bid by **SB MINI CUST % IBSC-11 LLC, PO BOX 31191, TAMPA, FL 33631-3191**, the said highest bidder, and pursuant to the powers and obligations expressed in S.C. Code Ann. § 12-51-40 et. seq., and § 12-59-10, et. seq., have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said **SB MINI CUST % IBSC-11 LLC, PO BOX 31191, TAMPA, FL 33631-3191**, its successors and assigns, the following described property:

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 22-26, 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.

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 hereby granted with the appurtenances aforesaid unto the said **SB MINI CUST %**

IBSC-11 LLC, PO BOX 31191, TAMPA, FL 33631-3191, its successors and assigns forever according to the form, force and effect of the laws and usages of the State of South Carolina in such case made and provided.

WITNESS MY HAND AND SEAL this 26th day of December, in the year of our Lord Two Thousand Eighteen and in the two hundred and forty ~~second~~ⁱⁿ year of the independence of the United States of America.

[Signature]

Harrison

Tracy Mattevi
(SEAL) Tracy Mattevi
Deputy Treasurer/Collections
Supervisor, York County, South
Carolina

STATE OF SOUTH CAROLINA

COUNTY OF YORK

PROBATE

Personally appeared before me the undersigned witness who made oath that he/she saw the within named Tracy Mattevi, Deputy Treasurer/Collections Supervisor, York County, South Carolina, sign, seal and as his/her act and deed deliver the within-written Tax Title therein mentioned, and that he/she with the other witness whose name is subscribed above witnessed the execution thereof.

[Signature]

SWORN, to before me this 26th

day of December, 2018.

Wanda K. Lane (SEAL)

Notary Public for S. C.

My Commission Expires: 11-20-2028

188.10
444.60
10



STATE OF SOUTH CAROLINA CLERK OF COURT
YORK COUNTY) QUITCLAIM
COUNTY OF YORK) DEED OF REAL PROPERTY

THIS QUITCLAIM DEED, executed as of the 7th day of January, 2019, by SB MUNI CUST % LBSC-11 LLC (hereinafter referred to as "Grantor") to LB PARK, LLC (hereinafter referred to as "Grantee"), whose mailing address is 200 S. Park Road, Suite 425, Hollywood, Florida 33021.

WITNESSETH:

IN CONSIDERATION of the sum of Five Dollars (\$5.00) the receipt and sufficiency of which is acknowledged by Grantor, Grantor has quitclaimed, granted, bargained, sold and released, and by this Deed quitclaims, grants, bargains, sells and releases, subject to the easements, restrictions, covenants, reservations and conditions referenced specifically or generally below, to Grantee, its successors and assigns, all right, title and interest, if any in the following real property:

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 22-26, 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; and 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.

TMS# 643-10-01-023.

TOGETHER with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto;

TO HAVE AND TO HOLD all and singular said property unto Grantee, its successors and assigns forever.



2019001145

YORK COUNTY ASSESSOR

Tax Map:

643-10-01-023

Date: 01/10/2019

E H

1

DEED QUIT CLAIM
RECORDING FEES \$10.00
STATE TAX \$444.60
COUNTY TAX \$188.10

PRESENTED & RECORDED:

01-10-2019 10:44:17 AM

BK: RB 17361

PG: 145 - 148

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

BY: REGINA PRUITT CLERK

RB BK 17361 PG 145

EXHIBIT

F

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be executed as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

Gilda Onate
Witness

William Kicking
Witness

SB MUNI CUST % LBSC-11 LLC

Signature: [Signature]
Name: Joshua W. Schrager
Title: Manager

[CORPORATE SEAL]

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

I, the undersigned Notary Public for the State of Florida, do hereby certify that Joshua W. Schrager the Manager of SB MUNI CUST % LBSC-11 LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 7th day of January, 2019.

Loretta J. Wise
Notary Public for the State of Florida
Notary Name Printed: Loretta J. Wise
My Commission Expires: 8/10/19

[NOTARY SEAL]



STATE OF FLORIDA)
COUNTY OF BROWARD)

AFFIDAVIT FOR TAXABLE OR EXEMPT 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 being transferred bears York County Tax Map Number 643-10-01-023 and was transferred by SB MUNI CUST % LBSC-11 LLC to LB PARK, LLC on January 7th, 2019, ~~2018~~. *JJR*

3. Check one of the following: The deed is

(a) xx subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____

(b) _____ The fee is computed on the fair market value of the realty which is _____

(c) xx The fee is computed on the fair market value of the realty as established for property tax purposes which is \$171,000.00.

5. Check Yes _____ or No xx to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: \$171,000.00
- (b) Place the amount listed in item 5 above here: \$ -0-
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: \$171,000.00.

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$632.70.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor

9. 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.

SB MUNI CUST % LBSC-11 LLC

SWORN to and subscribed before me this

7th day of January, 2019

Loretta J. Wise

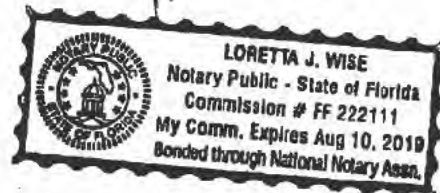
Notary Public for Florida

My Commission Expires: 8/10/19

Notary (printed name): Loretta J. Wise

By: [Signature]

Its: Joshua M. Schrager, Manager



CERTIFIED
TRUE COPY

CLERK OF COURT
YORK COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Warranty Deed

FILED-RECEIVED
BOOK
JUN 27 12 56 PM '00

Exempt # 1

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that PARAMOUNT PROPERTIES, Mark Mucci, the trustee, with power to convey title herein referred to as Grantor, for and in consideration of the sum of ten Dollars (\$10.00), and other consideration to me paid by San Juan Holdings, Brett Osborne, the trustee, with power to convey title, herein referred to as 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, their heirs, successors, and assigns forever:

All that certain place 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 22-25, 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 the identical property conveyed to Paramount Properties by deed from Carol Ann Hamelt dated March 15, 2000 and recorded March 23, 2000 in Deed Book 3060 at page 45, in the Office of the Clerk of Court for York County.

This conveyance is made subject to Easements, Restrictions, Covenants, and Conditions of record, including matters shown on recorded plats.

Grantee's Address: 112 Hwy 218 west, Monroe, NC 28110

Tax/Map No. 643-10-01-023

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, their heirs (or successors) 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, their 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.

WITNESS our Hand and Seal this 1st day of June in the year of our Lord Two Thousand.

Signed, Sealed and Delivered
In the Presence of:

Amie Griffin
Witness #1

Suzanne Kuczy
Witness #2

PARAMOUNT PROPERTIES, MARK MUCCI TRUSTEE
Paramount Properties, Mark Mucci Trustee

STATE OF NORTH CAROLINA, COUNTY OF UNION

Personally appeared before me the undersigned witness and made oath that he saw within-name Grantor sign, seal and, as their act and deed, deliver the within written Deed and that he, with the other witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this
1st day of June, 2000

David H. Watkins
Notary Public for State of North Carolina
My Commission Expires:

My Commission Expires 11-02-2003

Suzanne Kuczy
Witness #2

RECORDED
YORK COUNTY

TAX ASSESSOR'S OFFICE

DATE 6-28-00
TAX MAP NO. 643-10-1-23
INITIALS JS/AC

RECORDED
RECORD
VOL 3173 PAGE 243
YORK COUNTY S.C.

343

EXHIBIT

6

AFFIDAVIT OF TRUSTEE

STATE OF North Carolina
COUNTY OF Union

SS

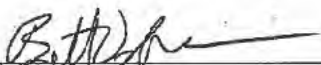
(reserved for recording data)

Brett Osborne being first duly sworn on oath, says that:

1. Affiant is a Trustee named in that certain Certificate of Trust (or Trust Instrument) dated September 28, 1999, regarding the Trust named San Juan Holdings which Certificate of Trust was executed by Affiant or another Trustee or the Grantor of the Trust described in the Certificate of Trust (or set forth in the Trust Instrument), and which relates to real property in York County State of South Carolina legally 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 55 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 22-26, and being more recently shown and more particularly described in Plat of Property of Carol Ann Hemelt, prepared by Allen Wallwork, dated November 1995, being recorded in Plat Book 131 at page 305, reference to which is hereby made for a more complete description.

2. The name and address of each Trustee empowered to act under the Trust Instrument at the time of the execution of this Affidavit is:
Brett Osborne - 112 Highway 218 West, Monroe, NC 28110
3. The Trustee(s) who have executed that certain instrument, relating to the real property described above, between Brett Osborne as Trustee(s) and Paramount Properties dated June 1, 2000:
 - (a) are empowered by the provisions of the Trust Instrument to sell, convey, pledge, mortgage, lease or transfer title to any interest in real property held in trust; and
 - (b) are the requisite number of Trustee(s) required by the provisions of the Trust Instrument to execute and deliver such and instrument.
4. The Trust has not terminated or been revoked.
5. There has been no amendment to the Trust Instrument which limits the power of Trustee(s) to execute and deliver the instrument described in Paragraph 3.
6. The Trust is not supervised by any Court.
7. Affiant does not have actual knowledge of any facts indicating that the Trust is invalid.
8. No other value and consideration other than what is described on the attached Deed has been exchanged.



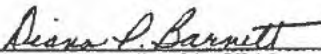
Brett Osborne

Subscribed and Sworn to before me this:

6-23-2000

(Date)

This instrument was drafted by:



Diana L. Barnett

Signature of Notary Public or Other Official

Notarial Stamp or Seal:

My Commission Expires May 13, 2004

STATE OF SOUTH CAROLINA)
) Notice of Sale, Transfer or Exchange
COUNTY OF YORK)

WHEREAS, SAN JUAN HOLDINGS is a private contractual trust
(hereinafter Trust); and

WHEREAS, Trust is the owner of record of the property recorded on June
28, 2000 in vol: 3173 page: 343 in the Office of the Clerk of the Court for York
County, South Carolina; and

WHEREAS, Brett Osborne is trustee of Trust with power to convey title to
the aforesaid property; 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, aforesaid recorded property of Trust has been assigned the
tax map number of 643-10-01-023 by the York County Tax Assessor; and

WHEREAS, On December 20, 2012 Trust, by and through Brett Osborne
trustee, in a private transaction did grant, bargain, sell, release, and convey the
aforesaid private property to an unenfranchised living man; and

WHEREAS, the proceeds of the aforesaid transaction have been
distributed as required by the law of the Trusts' indenture terminating the Trust;
and

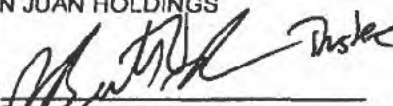
WHEREAS, giving this notice is the final duty of Brett Osborne trustee for
Trust;

THEREFORE, YOU ARE TO TAKE NOTICE THAT: SAN JUAN
HOLDINGS no longer owns the property in the records of the Office of the Clerk
of the Court for York County, South Carolina and those records should be
updated accordingly; that SAN JUAN HOLDINGS has been terminated and no
longer exists by the aforesaid actions according to the law of the trusts'
indenture; and that Brett Osborn has completed his duties as trustee for SAN
JUAN HOLDINGS.

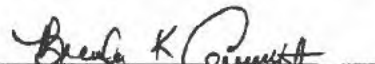
After Recording return this Notice to:
Brett Osborne
c/o 9127 Dalmeny House Lane
Charlotte, North Carolina

WITNESS our Hand and Seal this 20th day of December, 2012.

SAN JUAN HOLDINGS

By: 
Brett Osborne trustee

Signed and Sealed in the presence of:



CERTIFIED
TRUE COPY

OCT 21 2012

CLERK OF COURT
YORK COUNTY

EXHIBIT

11

Witness #1 Signature

Brenda K. Calliatt

Witness #1 Printed Name

D. Aaron Simms

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-named trustee as his act and deed, sign, and seal the within written Notice of Sale and that (s)he, with the other witnesses subscribed above, witnessed the execution thereof.

Brenda K. Calliatt

Witness #1

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

Joy M. Uter

Notary Public

My commission expires April 27, 2017

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

LAKE WYLIE

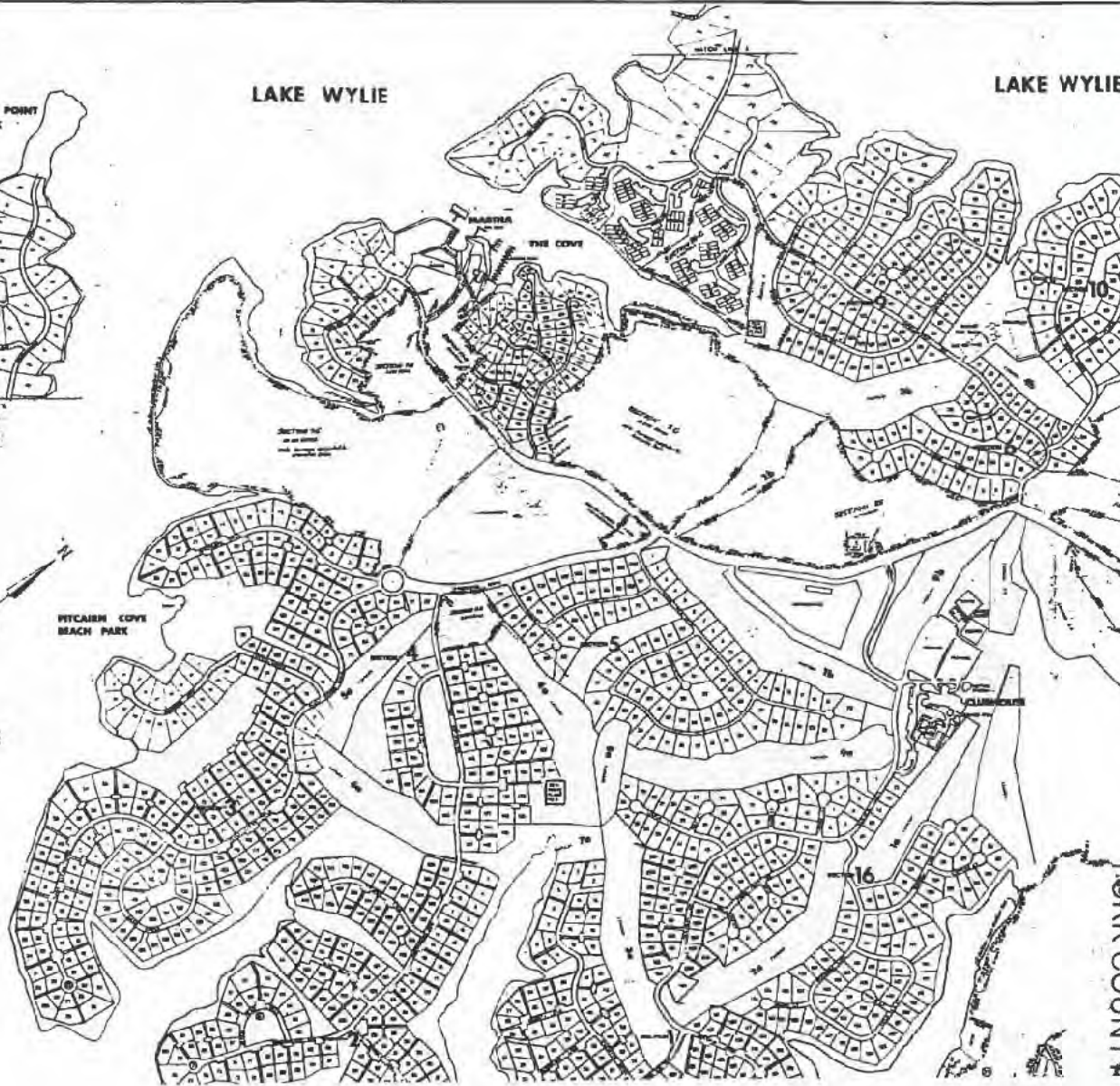
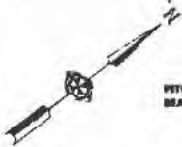
LAKE WYLIE

WINDHAMMER POINT
BEACH PARK



PITCAIRN COVE
BEACH PARK

LAKE WYLIE



CLERK OF COUNTY
YORK COUNTY

RUE

12

EXHIBIT

I

TAX BILL NO. 096889-16-3

EXECUTION NOTICE FOR DELINQUENT PROPERTY TAXES

TAX YEAR 2016

YORK COUNTY, SOUTH CAROLINA



APPRAISED VALUE				ASSES. %	ASSESSED VALUE	LEVY	GROSS TAXES
PERSONAL	LAND	BUILDING	TOTAL				
	45000	103500	148500	6	8910	481.2	**Includes Stormwater Fee** \$ 4,395.49
DISTRICT	CITY CODE	SCHOOL DISTRICT		CITY		PROPERTY DESCRIPTION	
4X	TC	FORT MILL		TEGA CAY		LOT 56 SEC 25 PHASE III	
MAP REFERENCE NUMBER			ACRES	LOTS	BUILDINGS		
643-10-01-023				1	1		
096889-16-3 T							

SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LN
CHARLOTTE NC 28215

KEVIN MADDEN, TREASURER FOR YORK COUNTY TO THE DELINQUENT TAX COLLECTOR OF YORK COUNTY OR HIS OR HER DEPUTY: WHEREAS, THE TAXPAYER WHOSE NAME APPEARS ABOVE HAS BEEN DULY ASSESSED THE SUM NOTED ABOVE FOR SCHOOL, COUNTY, AND SPECIAL TAXES FOR THE TAX YEAR LISTED ABOVE AND HAS FAILED TO PAY THE TAXES, THIS EXECUTION COMMANDS YOU IN THE NAME OF THE STATE TO LEVY BY DISTRESS AND SALE ON SO MUCH OF THE DELINQUENT TAXPAYER'S PROPERTY AS IS SUFFICIENT TO SATISFY THE DELINQUENT TAXES, ASSESSMENTS, PENALTIES AND COSTS. THIS EXECUTION IS SUFFICIENT WARRANT FOR A LEVY BY DISTRESS AND SALE.

(L.S.) YORK COUNTY TREASURER

TOTAL TAXES AFTER EXEMPTION
THE INFORMATION BELOW IS A BREAKDOWN OF HOW YOUR TAX DOLLARS ARE DISTRIBUTED.

\$	1812.29	SCHOOL OPERATIONS
\$	1033.56	SCHOOL DEBT SERVICE
\$	792.99	CITY OPERATIONS
\$	0.00	CITY SPECIAL ASSESSMENT
\$	467.77	COUNTY OPERATIONS
\$	83.75	COUNTY DEBT SERVICE
\$	40.99	LIBRARY
\$	23.17	CULTURAL AND HERITAGE
\$	32.97	YORK TECHNICAL COLLEGE
\$	0.00	UNINCORPORATED TEGA CAY
\$	0.00	SPECIAL FIRE DISTRICT
\$	108.00	STORMWATER FEE
\$	4,395.49	TAXES DUE

SCHOOL TAXES	CITY TAXES	COUNTY TAXES
\$ 2,845.85	\$ 792.99	648.65

GROSS TAXES \$ 4,395.49

LESS EXEMPTIONS:

STATE PROPERTY
TAX RELIEF

HOMESTEAD EXEMPTION

INDUSTRIAL ABATEMENT

NET TAXES \$ 4,395.49

PENALTY \$ 659.32

COSTS \$ 17.00

TOTAL TAXES DUE \$ 5,071.81

ADDITIONAL COST WILL APPLY IF PROPERTY IS POSTED FOR TAX SALE

York County
south carolina

TAXES MAY BE PAID ONLINE AT WWW.YORKCOUNTYGOV.COM

DETACH HERE

TAX BILL NO. 096889-16-3

EXHIBIT

J

T

SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LN

CHARLOTTE

NC 28215

MAIL THIS STUB WITH PAYMENT TO:

YORK COUNTY TREASURER
P.O. BOX 116
YORK, S.C. 29745

TAX YEAR 2016



NET TAXES \$ 4,395.49

PENALTY \$ 659.32

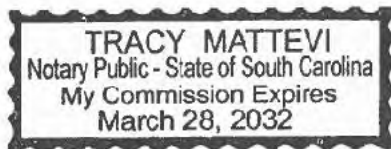
COSTS \$ 17.00

TOTAL TAXES DUE \$ 5,071.81

ADDITIONAL COST WILL APPLY IF PROPERTY IS POSTED FOR TAX SALE

IF YOUR ADDRESS HAS CHANGED, PLEASE INDICATE NEW ADDRESS BELOW

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



TAX BILL NO. 096889-16-3

FINAL PROPERTY TAX BILL YORK COUNTY, SOUTH CAROLINA

TAX YEAR 2016



APPRAISED VALUE						LEVY	GROSS TAXES
PERSONAL	LAND	BUILDING	TOTAL	ASSES %	ASSESSED VALUE		
	45000	103500	148500	6	8910	481.2	**Includes Stormwater Fee** \$ 4,395.49
DISTRICT	CITY CODE	SCHOOL DISTRICT		CITY		PROPERTY DESCRIPTION	
4X	TC	FORT MILL		TEGA CAY		LOT 56 SEC 25 PHASE III	
MAP REFERENCE NUMBER		ACRES	LOTS	BUILDINGS			
643-10-01-023			1	1			
096889-16-3 T 3122 - 2							
SAN JUAN HOLDINGS BRETT OSBORNE TRUSTEE 9127 DALMENY HOUSE LN CHARLOTTE NC 28215						NOTICE OF SEIZURE, LEVY, AND TAX SALE: ADDITIONAL COSTS OF ADVERTISING, POSTING AND OTHER COSTS OF SALE WILL BE ADDED AS NEEDED IF TAXES ARE NOT PAID PRIOR TO TAX SALE.	
						PAYMENT BY MAIL OR IN PERSON MUST BE MADE WITH CASH OR CERTIFIED FUNDS.	
						CREDIT CARD PAYMENTS CAN BE MADE ONLINE AT: WWW.YORKCOUNTYGOV.COM	
TOTAL TAXES AFTER EXEMPTION THE INFORMATION BELOW IS A BREAKDOWN OF HOW YOUR TAX DOLLARS ARE DISTRIBUTED.						GROSS TAXES \$ 4,395.49	
\$	1812.29	SCHOOL OPERATIONS				LESS EXEMPTIONS:	
\$	1033.56	SCHOOL DEBT SERVICE				STATE PROPERTY TAX RELIEF	
\$	792.99	CITY OPERATIONS				HOMESTEAD EXEMPTION	
\$	.00	CITY SPECIAL ASSESSMENT				INDUSTRIAL ABATEMENT	
\$	467.77	COUNTY OPERATIONS				NET TAXES \$ 4,395.49	
\$	83.75	COUNTY DEBT SERVICE				PENALTY \$ 659.32	
\$	40.99	LIBRARY				COSTS \$ 17.00	
\$	23.17	CULTURAL AND HERITAGE				TOTAL TAXES DUE \$ 5,071.81	
\$	32.97	YORK TECHNICAL COLLEGE					
\$	.00	UNINCORPORATED TEGA CAY					
\$	.00	SPECIAL FIRE DISTRICT					
\$	108.00	STORMWATER FEE					
\$	4,395.49	TAXES DUE				**Includes Stormwater Fee**	
SCHOOL TAXES		CITY TAXES		COUNTY TAXES			
\$ 2845.85		\$ 792.99		\$ 648.65		TAXES MAY BE PAID ONLINE AT WWW.YORKCOUNTYGOV.COM	

DETACH HERE

TAX BILL NO. 096889-16-3

MAIL THIS STUB WITH PAYMENT TO:

YORK COUNTY TREASURER
P.O. BOX 116
YORK, S.C. 29745

TAX YEAR 2016



EXHIBIT

T

SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LN

CHARLOTTE

NC 28215

PAYMENT BY MAIL OR IN PERSON MUST BE MADE WITH CASH OR CERTIFIED FUNDS.

CREDIT CARD PAYMENTS CAN BE MADE ONLINE AT:
WWW.YORKCOUNTYGOV.COM

IMPORTANT INFORMATION ON BACK

IF YOUR ADDRESS HAS CHANGED, PLEASE INDICATE NEW ADDRESS BELOW.

NET TAXES	\$ 4,395.49
PENALTY	\$ 659.32
COSTS	\$ 17.00
TOTAL TAXES DUE	\$ 5,071.81

Includes Stormwater Fee



YORK COUNTY TREASURER

Post Office Box 116, York, South Carolina 29745-0116

CERTIFIED MAIL™



7100 5868 2454 6163 1229

FIRST-CLASS
MAIL
U.S. POSTAGE
PAID
YORK, SC
PERMIT #15

RETURN SERVICE REQUESTED

RESTRICTED
DELIVERY

096889-16-3 T

3122 - 2

SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LN
CHARLOTTE NC 28215

NIXIE 282 FE 1 0008/01/17

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

UTF

BC: 29745011616 *0245-07607-24-42

297450116
282150116 ROSEPLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RE 3123 - 3
096889-16-3 643-10-01-023.SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LN
CHARLOTTE NC 28215

2. Article Number (Transfer from service label)

7100 5868 2454 6163 1229

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐
- Agent
-
- ☐
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from Item 1? ☐ Yes
If YES enter delivery address below: ☐ No

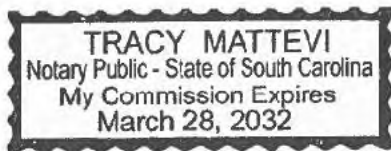
3. Service Type

☐ Adult Signature	☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☐ Certified Mail®	☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise
☐ Collect on Delivery	☐ Signature Confirmation™
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Insured Mail	
☐ Insured Mail Restricted Delivery (over \$500)	

REORDER FORM LCD-43R

EXHIBIT

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



Field Report - York, SC

643-10-01-023

PostingPro

11343

Property Data

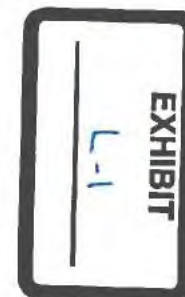
Property Number: 1501136
Posting Year: 2017
Parcel No. 643-10-01-023
County Item No. 11343
Property Type: Real Estate
Owner: SAN JUAN HOLDINGS

Location and Description

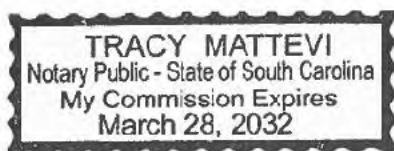
Address 1: 9127 DALMENY HOUSE LN
City: CHARLOTTE NC 28215
Zip: 28215
District: 4X
Acres: .00
Lot: 1
Description: LOT 56 SEC 25 PHASE III

Posting Confirmation

Geo URI: geo:35.03587,-81.03002
Completed: 9/7/2017 4:43:00 PM
Disposition: Complete



The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



NOTICE OF LEVY



1501136

STATE OF SOUTH CAROLINA COUNTY OF YORK



TO BE SOLD FOR DELINQUENT TAXES

NOTICE IS HEREBY GIVEN, that pursuant to tax execution issued to the York County Deputy Treasurer/Collections Supervisor, officially charged with the collection of delinquent taxes for the County of York, State of South Carolina, has seized and taken exclusive possession of the following described property to be sold for delinquent taxes in the name of

SAN JUAN HOLDINGS
9127 DALMENY HOUSE LN
CHARLOTTE NC 28215 28215

Recorded on county records as:

MAP # 643-10-01-023 LOT 56 SEC 25 PHASE III

A/C .00

LOT 1

IMP/BLDG 1

Unless all taxes, penalties and costs are paid in full to York County, the property above described will be sold after legal advertisement, to the highest bidder, at public auction, within the legal hours of sale at the York County Complex, Heckle Blvd., Rock Hill, SC on Monday, November 06, 2017, for the years through 2016 to satisfy said execution.

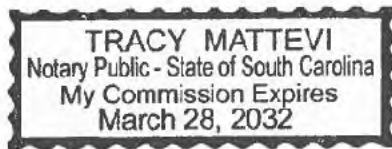
Payment Must Be Cash, Certified Check or Money Order

NO PERSONAL CHECKS ACCEPTED

Last date to pay before sale will be Friday, November 3, 2017 before 5pm.

**York County Deputy Treasurer/Collections Supervisor
803-684-8527 or 803-909-7272**

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



DELINQUENT TAX SALE

EXHIBIT
M-1

STATE OF SOUTH CAROLINA

COUNTY OF YORK

By virtue of certain tax executions issued to me, I, Tracy Mattevi, Collector of Delinquent Taxes for the County of York, SC, have levied upon and will sell to the highest bidder the property AS IS, for cash (max. \$10,000 per bidder), certified check or money order, with immediate compliance exacted. No personal checks accepted. The property described will be sold at the York County Complex Conference Room - Suite 104, beginning at 9:00 am on Monday, November 6th, 2017. If items remain to be sold at 5:00 pm on November 6th, 2017, the sale will resume at 9:00 am on Tuesday, November 7th, 2017. All bidders must register to bid. Registration for bidders will be from 8:00 am until 9:00 am on November 6th. Or, you may pre-register beginning October 16th, 2017 through November 3rd, 2017.

TO PRE-REGISTER, CALL 803-909-7272.

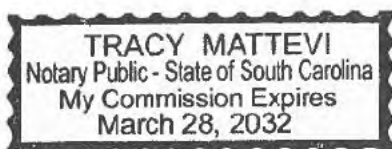
Note: This ad is not the list used during the actual sale. Defaulting taxpayers will have until 5pm Friday, November 3, 2017 to make payment to avoid potentially being in the tax sale.

This legal advertisement appears in compliance with the provisions of section 12-51-40 of the SC Code of Laws, as amended. York County will make every effort to remove the names of those properties for which taxes are paid within the limitations imposed by newspaper deadlines and the dates payments are received.

LIST OF PROPERTIES FOR DELINQUENT TAX SALE NOVEMBER 6TH, 2017

OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #
MOORE JAMES L	INC	307-01-00-001	PERILL PETER H	3K	600-09-02-016	RUFF DORRILL KEVIN SR	2LWIDE	566-00-30-055	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-000
MOORE BRUNNEN MARY J	4TH	609-06-00-141	PERILL PETER H	3K	626-01-02-008	RUFF DORRILL KEVIN SR	2LWIDE	566-00-30-056	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-004
MOORE CAROL ANN	2CL	387-00-00-023	PERRY JENNA L	3KWSGS	603-00-00-061	RUFF DORRILL KEVIN SR & AILANA C	2LWIDE	566-00-30-056	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-005
MOORE GORDON E	3BS	432-00-00-021	PERRY JENNA L &	1X	076-26-01-021	RUFF DORRILL KEVIN SR & AILANA C	1X	070-12-05-143	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-006
MOORE JAMES STUART	3K	600-2301-004	PERRY JOSE B &	2KWDRE	478-00-00-056	S & G FINANCIAL GROUP LLC	4TH	729-00-00-056	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-007
MOORE LOUIS F	5K	600-05-04-015	PERRY PAMELA	3K	601-03-05-020	SALAZAR FRANKLIN	2K	010-02-05-033	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-007
MOORE MIRA S ETAL	1X	070-12-02-020	PHILLIPS DORETHA & ESTATE OF	3K	605-01-04-017	SALAZAR LEONARDO & ALEJA	3K	511-04-01-040	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-008
MOORE PAUL T	1X	070-19-01-016	PHILLIPS LANNY SR	2KWDRE	571-00-00-003	SALAZAR LEONARDO & ALEJA	4K	643-10-01-023	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-009
MOORE PHILIP S ETAL	1X	070-12-02-031	PHILLIPS LANNY SR	1GS	406-00-00-047	SALAZAR LEONARDO & ALEJA	1NC	405-00-00-001	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-123
MOORE SHARV L	3LS	600-00-00-050	PIEDMONT HOMES INC	2S	010-05-00-032	SALAZAR LEONARDO & ALEJA	3K	626-10-05-012	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-124
MOORE CONLEY WARREN	3LS	609-00-00-012	PIEDMONT HOMES INC	1S	070-09-11-010	SALAZAR LEONARDO & ALEJA	3K	558-01-01-014	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-153
MOORE WILK JAVAN	3K	626-00-03-026	PIEDMONT HOMES INC	1S	070-09-11-011	SALAZAR LEONARDO & ALEJA	4TH	650-04-01-031	STANDARD PACIFIC OF CAROLINAS	4TH	162-01-01-154
MOORE ZACHARY MARK	3KWSGS	438-00-00-004	PIEDMONT HOMES INC	1S	070-09-11-012	SALAZAR LEONARDO & ALEJA	4K	620-05-01-032	STANDARD PACIFIC OF CAROLINAS	2CL	373-00-00-110

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



DELINQUENT TAX SALE

EXHIBIT
M-2

STATE OF SOUTH CAROLINA

COUNTY OF YORK

By virtue of certain tax executions issued to me, I, Tracy Mattevi, Collector of Delinquent Taxes for the County of York, SC, have levied upon and will sell to the highest bidder the property AS IS, for cash (max. \$10,000 per bidder), certified check or money order, with immediate compliance exacted. No personal checks accepted. The property described will be sold at the York County Complex Conference Room - Suite 104, beginning at 9:00 am on Monday, November 6th, 2017. If items remain to be sold at 5:00 pm on November 6th, 2017, the sale will resume at 9:00 am on Tuesday, November 7th, 2017. All bidders must register to bid. Registration for bidders will be from 8:00 am until 9:00 am on November 6th. Or, you may pre-register beginning October 16th, 2017 through November 3rd, 2017.

TO PRE-REGISTER, CALL 803-909-7272. (Limit one registration per person the day of the sale)

*****Note: This ad is not the list used during the actual sale. Defaulting taxpayers will have until 5pm Friday, November 3, 2017 to make payment to avoid potentially being in the tax sale.*****

This legal advertisement appears in compliance with the provisions of section 12-51-40 of the SC Code of Laws, as amended. York County will make every effort to remove the names of those properties for which taxes are paid within the limitations imposed by newspaper deadlines and the dates payments are received.

LIST OF PROPERTIES FOR DELINQUENT TAX SALE NOVEMBER 6TH, 2017

OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #
BURCH JOSEPH A DVM	1C2WS	439-00-003	PATTERSON FREDRICK W ET AL	3K	658-07-02-038	RODOLPH VENTURE GROUP LLC	3LS	505-01-00-016	STANDARD PACIFIC OF CAROLINAS	4H	652-01-01-163
PATTELL JERRY F	3S	639-00-00-135	PATTERSON FREDRICK W ET AL	3K	658-07-02-038	RUFF DORRILL KETH SR	2LW	568-00-00-025	STANDARD PACIFIC OF CAROLINAS	4H	652-01-01-164
MITCHELL KEVIN J & LORNA J	3K	657-04-01-025	PATTERSON FREDRICK W ET AL	3K	658-07-02-038	RUFF DORRILL KETH SR	2LW	568-00-00-025	STANDARD PACIFIC OF CAROLINAS	4H	652-01-01-165
MITCHELL LARRY	3K	624-02-01-051	PATTERSON FREDRICK W ET AL	3K	658-07-02-038	RUFF DORRILL KETH SR & LMA C	2LW	568-00-00-025	STANDARD PACIFIC OF CAROLINAS	4H	652-01-01-166
MOBLEY ANNIE MAE H	3K	598-01-04-006	PATTERSON JAC S	3B	435-00-00-006	RUFFIN CLES CALDWELL	1K	070-12-05-048	STANDARD PACIFIC OF CAROLINAS	4H	652-01-01-167
MOBLEY ANNIE MAE H	3K	598-01-04-006	PATTERSON JUDY H	2CL	382-00-00-182	SARLER FRANK M	2K	010-02-05-030	STAND THOMAS ALLEN	2CL	373-00-00-113
MOBLEY MARY	3K	600-01-04-010	PAWNE ADRIAN H	3LS	765-00-00-014	SALAZAR LEONARDO & ALEXA	2K	541-04-01-049	STANNEZ BESSIE	1W	296-00-00-008
MOBLEY PROCELYT	3K	316-00-00-042	PAWNE ADRIAN H	3K	600-12-00-010	SAN JUAN HOLDINGS	4K	643-10-01-022	STANNEZ TAMMY A	3LS	687-00-00-203
MOBLEY TONY ET AL	3K	300-10-02-018	PEASE MELESA	1K	073-10-00-012	SANZ CARLOS & ANGELO	1W	435-00-00-001	STARR TAMMY C	1CWS	483-00-00-032
MOFFATT LAURA	3K	598-18-01-051	PEASE MELESA	2K	600-10-01-032	SANDERS ORNELA	3K	630-14-05-012	STARR TAMMY C	3K	688-10-00-009
MOFFATT THEODORE EARL	2K	518-00-00-014	PERDILL KETER M	1K	073-12-00-028	SANDLER RICHARD C ETAL	3K	595-01-01-014	STEELE HEADINGS HOME OWNERS	4H	728-00-00-054
MOORE MACK R	3K	600-02-00-034	PERDILL KETER M	3K	600-19-02-016	SANDLER RICHARD C ETAL	4H	650-04-01-001	STEELE HEADINGS HOME OWNERS	4H	728-00-00-166
MOYTERREY JOHN D	3K	641-00-00-180	PERDILL KETER M	3K	600-19-02-016	SANDY PRINCE HOMEOWNERS ASSOC	4K	020-25-01-002	STEELE HEADINGS HOME OWNERS	4H	728-00-00-167
MOYTERREY JOHN D & VIRGINIA	1C	217-00-00-006	PERRY JOHANNANA A	1K	078-25-01-021	SANDY PRINCE HOMEOWNERS ASSOC	4K	020-25-01-002	STEELE HEADINGS HOME OWNERS	2C	232-00-00-064
MOYTERREY RUPOLD & YANIRA	2LW	880-00-00-158	PERRY JOHANNANA A	2LW	478-00-00-061				STEPHENS JOHNNY J	2C	232-00-00-064
MOORE LYN FARRON LLC	1W	372-00-00-093							STEPHENSON KATY J	2C	232-00-00-064

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



DELINQUENT TAX SALE

EXHIBIT
M-3

STATE OF SOUTH CAROLINA

COUNTY OF YORK

By virtue of certain tax executions issued to me, I, Tracy Mattevi, Collector of Delinquent Taxes for the County of York, SC, have levied upon and will sell to the highest bidder the property AS IS, for cash (max. \$10,000 per bidder), certified check or money order, with immediate compliance exacted. No personal checks accepted. The property described will be sold at the York County Complex Conference Room – Suite 104, beginning at 9:00 am on Monday, November 6th, 2017. If items remain to be sold at 5:00 pm on November 6th, 2017, the sale will resume at 9:00 am on Tuesday, November 7th, 2017. All bidders must register to bid. Registration for bidders will be from 8:00 am until 9:00 am on November 6th. Or, you may pre-register beginning October 16th, 2017 through November 3rd, 2017.

TO PRE-REGISTER, CALL 803-909-7272. (Limit one registration per person the day of the sale)

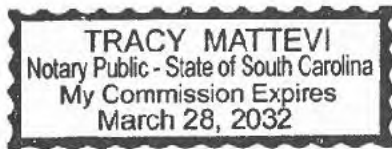
*****Note: This ad is not the list used during the actual sale. Defaulting taxpayers will have until 5pm Friday, November 3, 2017 to make payment to avoid potentially being in the tax sale.*****

This legal advertisement appears in compliance with the provisions of section 12-51-40 of the SC Code of Laws, as amended. York County will make every effort to remove the names of those properties for which taxes are paid within the limitations imposed by newspaper deadlines and the dates payments are received.

LIST OF PROPERTIES FOR DELINQUENT TAX SALE NOVEMBER 6TH, 2017

OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #	OWNER NAME	DIST.	MAP #
PAIKEN JOSEPHINE CASTLE	31	600-21-01-000	ROSENBERG WILLIE F ETL	3X	600-01-01-000	STANDARD PACIFIC OF CAROLINAS	4TH	602-01-01-150	WHITE DANA & MICHELLE	3X	500-21-02-000
PARKER MICHAEL A	11B	234-00-00-000	ROSENBERG WILLIE F ETL	3X	600-01-01-014	STANDARD PACIFIC OF CAROLINAS	4TH	602-01-01-154	WHITE JOE & CALLIE	20X	624-00-00-000
PARKER PATTY EAL	31	530-13-00-004	ROSENBERG EYON	3X	500-01-01-217	STANDARD PACIFIC OF CAROLINAS	4TH	602-01-01-155	WHITE JOHN K JR	3X	500-01-10-002
PARRISH WILLIAM STANLEY &	31	604-01-01-000	BUCKER SPIELM	3X	500-01-03-413	STARVES BESSIE	1YR	236-00-00-000	WHITE JOHN K JR	3X	500-01-10-007
PATTEN JYLE	31	600-07-00-000	RODOLF VENTURE CHEMICAL INC	3LS	600-00-00-437	STARVES RANDY A	3LS	607-00-00-200	WHITE JOHN K JR	3X	500-01-10-008
PATTERSON EDNA	31	601-02-01-001	RUFF DANIEL KEITH SR	2LXWEE	600-00-00-435	STARVES TANNY C	1FENISS	403-00-00-032	WHITE JOHN K JR	3X	500-01-10-009
PATTERSON FREDINE W ET AL	31	600-07-02-003	RUFF DANIEL KEITH SR	2LXWEE	600-00-00-430	STARVES ELISE M	3X	500-10-00-009	WHITE JOHN K JR	3X	500-01-10-000
PATTERSON FREDINE W ET AL	31	500-07-02-008	RUFF DANIEL KEITH SR & ALMA C	2LXWEE	600-00-00-456	STEELE REBECCAS HOME OWNERS	4TH	720-00-00-054	WHITE JOHN STEPHEN & HELEN F	11Y	455-00-00-042
PATTERSON FREDINE W ET AL	31	500-07-02-040	RUFF CLEO CALDWELL	1X	070-12-05-443	STEELE REBECCAS HOME OWNERS	4TH	720-00-00-150	WHITE MARIAM BETAL	3X	605-12-05-003
PATTERSON FREDINE W ET AL	31	600-00-01-021	SAULIER FRANK M	2X	010-02-05-630	STEELE REBECCAS HOME OWNERS	4TH	720-00-00-157	WHITE QUEEN & ETL	4X	020-04-35-000
PATTERSON JONES	30S	400-00-00-000	SALAZAR LEONARDO & ALBA	3X	644-04-01-440	STEVENSON KATHY J	3LS	607-00-00-065	WHITE SUSAN W	11B	100-00-00-004
PATTERSON JON N	20L	300-00-00-100	SAY JUAN HOLLINGS	4X	640-10-01-023	STEVENSON KATHY J	3LS	607-00-00-137	WHITLEY VALLES TOWNHOUSES LLC	4TH	600-01-01-000
PERDUE JOSEPH H	30S	700-00-00-014	SANCHEZ CARLOS & MARCELY	110C	400-00-00-001	STEVENSON ROY WILSON JR	3X	600-00-00-000	WHITLOCK JENNIFER ETL	3X	600-20-00-000
PSCH REO LLC	31	600-12-00-010	SANDERS APHELIA	3X	600-10-00-012	STERNHILL KELLY F	3X	601-02-01-002	WHITLOCK LULA DAVIS	3LS	600-00-00-015
									WHITLOCK MARY LOUISE	3X	600-00-00-010

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL





YORK COUNTY

Tax Collection

San Juan Holdings
Brett Osborne Trustee
9127 Dalmeny House Lane
Charlotte, NC 28215

FROM: Tracy Mattevi
Deputy Treasurer/Collections Supervisor

DATE: September 24, 2018

Notice of Final Redemption for Property Sold at Delinquent Tax Sale

The property described below was sold at public auction for delinquent taxes at the York County Complex, Rock Hill, SC on November 6, 2017. Pursuant to S.C. Code of Laws 12-51-90, as amended, the defaulting taxpayer, any grantee from the owner or any mortgage or judgment creditor may redeem the property within twelve (12) months from the date of the delinquent tax sale by paying to this office all delinquent taxes, penalties and costs together with the appropriate interest on the total bid price.

The last day to redeem this property is November 7, 2018 and the interest due through that date is twelve percent (12%). If you wish to redeem this property, the amount below in cash or certified funds must be **received in this office no later than 5:00 p.m. on November 7, 2018.** **No Credit Cards or on line payments can be accepted. Postmark dates are not accepted as a timely receipt.** If you fail to redeem this property by this date, a tax title will be issued to the successful bidder.

Tax Map Number: 643-10-01-023

Final Redemption Amount: \$15,324.25

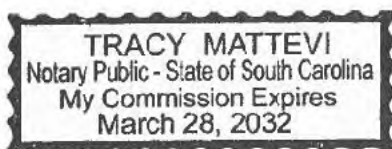
If you have questions, you may contact our office at the address or phone number shown above.

Cc: San Juan Holdings, Ryan Powell

EXHIBIT

N-1

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL





E-CERTIFIED LOG-FINAL REDEMPTION LETTERS
(CERTIFIED MAIL, RETURN RECEIPT REQUESTED-RESTRICTED DELIVERY)

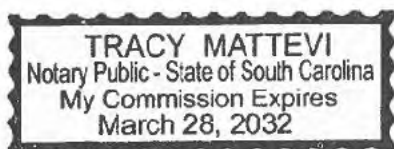
Department: TAX COLLECTION

Date: 9/24/18

Map #643-10-01-023

Name/Company	Address	Certified Label	SIGNED	RETURN
SAN JUAN HOLDINGS BRETT OSBORNE TRUSTEE	9127 DALMENY HOUSE LANE CHARLOTTE, NC 28215	91 7199 9991 7037 3404 8354		
		"not deliverable AS Addressed"		
SAN JUAN HOLDINGS BRETT OSBORNE TRUSTEE	112 HWY. 218 WEST MONROE, NC 28110	91 7199 9991 7037 3404 8361		
		"Attempted - not known"		
SAN JUAN HOLDINGS RYAN POWELL	25056 TIMBERLAKE DRIVE TEGA CAY, SC 29708	91 7199 9991 7037 3404 8378		
SAN JUAN HOLDINGS RYAN POWELL	25056 TIMBERLAKE DRIVE FORT MILL, S C 29715	91 7199 9991 7037 3404 8385		
		"unclaimed"		
SAN JUAN HOLDINGS RYAN POWELL	3459 MILL RUN RALEIGH, NC 27612	91 7199 9991 7037 3404 8392		
		"unclaimed"		

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



FR 643-10-01-023



YORK COUNTY

Tax Collection
1070 Heckle Boulevard, Box 14 - Suite 101, Rock Hill, SC 29732

RESTRICTED DELIVERY



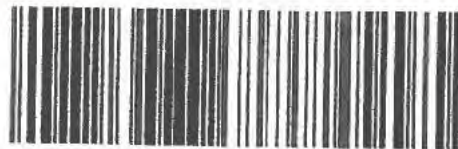
U.S. POSTAGE >> PITNEY BOWES



ZIP 29745 \$ 010.52⁰
02 4W
0000345885 SEP 25 2018

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



91 7199 9991 7037 3404 8354

SAN JUAN HOLDINGS
BRETT OSBORNE TRUSTEE
9127 DALMENY HOUSE LANE
CHARLOTTE NC 28215
NIXIE

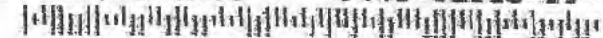
282 FE 1

0009/27/18

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

282153464VTRC
29732>2863

BC: 29732286326 *0448-01218-25-42



FR 643-10-01-023



YORK COUNTY

Tax Collection
1070 Heckle Boulevard, Box 14 - Suite 101, Rock Hill, SC 29732

RESTRICTED DELIVERY



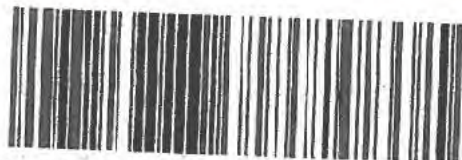
U.S. POSTAGE >> PITNEY BOWES



ZIP 29745 \$ 010.52⁰
02 4W
0000345885 SEP 25 2018

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



91 7199 9991 7037 3404 8361

SAN JUAN HOLINGS
BRETT OSBORNE, TRUSTEE
112 HWY. 218 WEST
MONROE, NC
NIXIE

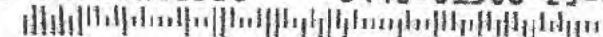
282 FE 1

0009/29/18

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

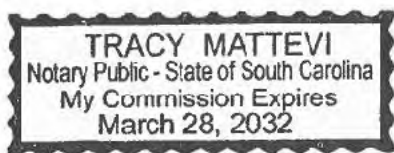
2811087067 ANK
29732>2863

BC: 29732286326 *0448-01300-25-42



ANK

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



FR 643-10-01-023



YORK COUNTY

Tax Collection

1070 Heckle Boulevard, Box 14 - Suite 101, Rock Hill, SC 29732

RESTRICTED DELIVERY



U.S. POSTAGE PITNEY BOWES



ZIP 29745 \$ 010.52⁰
02 4W
0000345885 SEP 25 2018

9-27-18

1st NOTICE

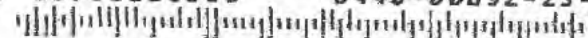
2nd NOTICE

RETURN DATE

NIXIE 282 DE 1 0011/09/18

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 29732286326 *0448-00892-25-42



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



91 7199 9991 7037 3404 8378

2970839365 PO

UNC

29732>2863

FR 643-10-01-023



YORK COUNTY

Tax Collection

1070 Heckle Boulevard, Box 14 - Suite 101, Rock Hill, SC 29732

RESTRICTED DELIVERY



U.S. POSTAGE PITNEY BOWES



ZIP 29745 \$ 010.52⁰
02 4W
0000345885 SEP 25 2018

9-27-18

10-26

11-6

1st NOTICE

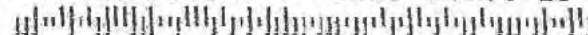
2nd NOTICE

RETURN DATE

NIXIE 282 DE 1 0011/09/18

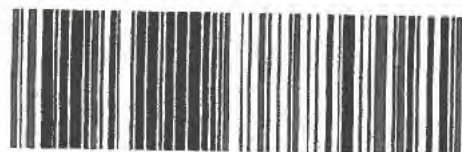
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 29732286326 *0448-00906-25-42



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



91 7199 9991 7037 3404 8385

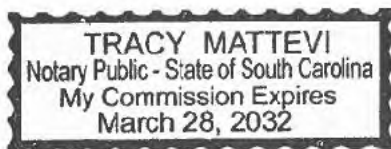
2970839365 PO

UNC

29732>2863



The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



FR 643-10-01-023



YORK COUNTY

Tax Collection

1070 Heckle Boulevard, Box 14 - Suite 101, Rock Hill, SC 29732



U.S. POSTAGE PITNEY BOWES

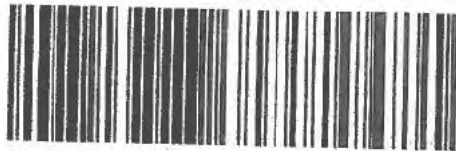


ZIP 29745 \$ 010.52⁰
02 4W
0000345885 SEP 25 2018

RESTRICTED DELIVERY

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



91 7199 9991 7037 3404 8392

SAN JUAN HOLDINGS
RYAN POWELL
3459 MILL RUN
RALEIGH, NIXIE

10/10/18

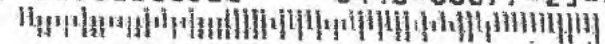
276 DE 1

0010/27/18

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

27612815
297322863

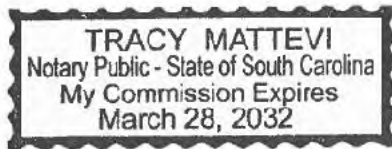
SC: 29732286326 *0448-00877-25-42



EXHIBIT

N-5

The attached documents are a certified true & exact copy of the original documents contained in the tax sale file for parcel 643-10-01-023.



- Tracy Mattevi

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

Case No. 2020-CP-46-00549

LB PARK, LLC,

Plaintiff,

vs.

FINAL ORDER

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.

THIS MATTER came before me for a merits hearing upon the action of Plaintiff LB PARK, LLC (“Plaintiff”) to quiet its tax title to real property. Plaintiff seeks an order of the Court confirming marketable, fee simple title and reformation.

The hearing occurred on September 27, 2022, and notice was provided to all parties. Plaintiff appeared through its counsel and a corporate representative. Tracy Mattevi, the York County Tax Collector (the “Tax Collector”), appeared as a witness and was represented by counsel. No other party attended the hearing personally, through counsel, or through any other representative.

PRE-TRIAL MOTIONS

Prior to the hearing on the merits, the Court addressed the following pre-trial motions filed by Defendant Ryan Powell (“Powell”): (1) Motion for Leave to Amend Answer to Make a Third-Party Complaint filed on June 8, 2022 (the “Motion to Amend”); (2) Rule 60(b)(4) Motion to Vacate Judgment Denying Owner’s Motion to Return Case to Circuit Court filed on September 6, 2022 (the “Motion to Vacate”); and (3) Motion for Continuance filed on September 16, 2022 (“Motion for Continuance”). By letter and e-mail dated September 9, 2022, Powell withdrew the Motion to Amend and the Motion to Vacate.

The Court denies Powell’s Motion for Continuance. This case has been pending since February 12, 2020, and the Court notified the parties of the hearing date of September 27, 2022, by e-mail sent on August 24, 2022, which was over a month before hearing date. Powell did not seek a continuance until September 16, 2022. The Court finds that the Motion for Continuance does not demonstrate good cause and that Powell had ample time to make preparations to attend.¹

As to Powell’s request for his mother to present his case stated in the Motion for Continuance, the Court finds that any participation by Powell’s mother would constitute the unauthorized practice of law, which is prohibited by S.C. Code Ann. § 40-5-310 and South Carolina case law. *See Doe v. McMaster*, 355 S.C. 306, 311, 585 S.E.2d 773, 775 (2003) (“The generally understood definition of the practice of law ‘embraces the preparation of pleadings, and other papers incident to actions and special proceedings, and the management of such actions and proceedings on behalf of clients before judges and courts.’”) (citing *State v. Despain*, 319 S.C. 317, 319, 460 S.E.2d 576, 577 (1995) (quoting *In re Duncan*, 83 S.C. 186, 189, 65 S.E. 210, 211

¹ In fact, Powell asked if he could remotely view the hearing without appearing by e-mail on September 26, 2022.

(1909)); accord *State v. Buyers Serv. Co.*, 292 S.C. 426, 357 S.E.2d 15 (1987). The Court also takes judicial notice that in prior litigation commenced by Powell concerning the taxation of the Property, the trial court prohibited Powell's mother from arguing on his behalf, which ruling the South Carolina Court of Appeals affirmed in a Rule 220, SCACR opinion. See *Powell v. Boheler*, 2016 WL 2757344 at *2 (Ct. App. May 11, 2016) ("As to Powell's arguments that the trial court erred in prohibiting Powell's mother from arguing on his behalf and that the supreme court lacks the authority to require a person to obtain a license to practice law: S.C. Code Ann. § 40-5-310 (2011) (stating a person is prohibited from practicing law or soliciting the legal cause of another person unless he or she is a member of the South Carolina Bar); *S.C. Dep't of Transp. v. First Carolina Corp. of S.C.*, 372 S.C. 295, 301, 641 S.E.2d 903, 907 (2007) (stating an issue cannot be raised for the first time on appeal but must be raised to and ruled upon by the trial court to be preserved).").

FINDINGS OF FACT²

The real property that is the subject of this action is known as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023 (the "Property"), as is more fully described in Plaintiff's Notice of Lis Pendens and 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

² To the extent that any finding of fact in this Order would be more properly identified as a conclusion of law, it should be considered as such. To the extent that any conclusion of law in this Order would be more properly identified as a finding of fact, it should be considered as such.

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.

Prior Litigation Regarding the Property

Powell has litigated the issue of whether the Property is subject to taxes since 2014 in the original jurisdiction of the South Carolina Supreme Court, the York County Court of Common Pleas, the South Carolina Court of Appeals, and the Administrative Law Court.

Powell filed an action in the South Carolina Supreme Court against Amy Boheler d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert Kiser d/b/a York County Delinquent Tax Collector, each in their individual and official capacities (Appellate Case No. 2014-000005). In that proceeding, Powell petitioned the South Carolina Supreme Court to exercise its original jurisdiction and issue a writ of mandamus ordering the York County Auditor, the York County Treasurer, and the York County Delinquent Tax Collector to update their records to reflect that Powell is the owner of the Property, void the tax liens on the Property, void the tax execution on the Property, void the levy and attempted sale of the Property, and return the \$5,118 Powell paid to the respondents. By order dated February 20, 2014, the South Carolina Supreme Court denied Powell's petition. A certified copy this Order was entered into evidence as Exhibit A.

On May 1, 2014, Powell filed an action in the York County Court of Common Pleas against Amy Boheler d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert Kiser d/b/a York County Delinquent Tax Collector (Case No. 2014-CP-46-01425), and he sought a writ of mandamus and asserted 10 causes of action. Pursuant to an Order Substituting Defendant

and Order of Dismissal, a certified copy of which was entered into evidence as Exhibit B, Judge Jackson Kimball dismissed this action finding:

[Powell's] complaint and legal memoranda read like a doctrinal manifesto. It is a rambling presentation of twisted, disconnected and inapplicable legal theories that contradicts all statutory and case law governing the issues presented. It challenges the right and authority of the County to assess and collect *ad valorem* property taxes on realty, as well as the owner's obligation to pay those taxes.

According to [Powell], no land owner is required to pay property taxes, unless the owner's deed has been recorded. Instead, property owners elect to pay property taxes when they choose to record their deeds. [Powell] asserts that a property owner can avoid any liability for property taxes by simply choosing not to record his deed. Because [Powell] chose not to record his deed, [Powell] contends that York County cannot assess taxes against his real property, which is a conclusion unrelated to any personal liability for taxes. Applying such "logic", [Powell] asserts that he is not liable for property taxes on a parcel that he owns in York County, and that the County lacks the authority to collect such taxes through the delinquent tax collection process Nevertheless, [San Juan Holdings] remains the record owner of the property.

(Exhibit B at pp. 3-4.)

Based on the Revenue Procedures Act and the exclusive authority of the Administrative Law Court, the complaint was dismissed for lack of subject matter jurisdiction "to the extent Plaintiff's complaint challenges the taxing authority of York County" (*Id.* at p. 5.) The court further found and concluded "that [Powell's] claims are entirely frivolous" and dismissed all claims with prejudice. (*Id.* at p. 6.)

Next, Powell appealed to the South Carolina Court of Appeals. In a Rule 220, SCACR opinion, the Court of Appeals affirmed, noting that Powell asserted that "the trial court erred in (1) dismissing his claim for lack of subject matter jurisdiction, (2) dismissing his tort claims as barred by the South Carolina Tort Claims Act, (3) dismissing his breach of contract claim, and (4) prohibiting his mother from representing him and speaking on his behalf." *Powell v. Boheler*,

2016 WL 2757344 at *1 (Ct. of App. 2016) (a copy of which was entered into evidence as Exhibit C.)

In 2017, Powell filed an action against the York County Assessor in the South Carolina Administrative Law Court (Docket No. 17-ALJ-30-0358-IJ). This action was dismissed on November 28, 2017. A certified copy of the Order of Dismissal was entered into evidence as Exhibit D. In this administrative action, Powell contended:

[B]ecause property tax is assessed based upon the deed recorded with the County Register of Deeds pursuant to S.C. Code Ann. § 12-37-610 (2014), and he was not required to, nor did, record the deed as the owner of the property, neither the property nor he, as the owner of the property was subject to taxation. Therefore, [Powell] has repeatedly refused to pay the assessed property taxes.

(Exhibit D at p. 2.) The Administrative Law Court dismissed the action as being moot because Powell redeemed the Property after a tax sale: “[Powell’s] latest redemption of the Property is thus consistent with his pattern of delaying the payment of his property taxes, yet ultimately claiming his ownership and assuming the obligation to pay the property taxes.” (*Id.* at p. 3.) In the footnote to the foregoing sentence, Judge Ralph King Anderson, III ruled:

I use the term ‘ownership’ above only for the sake of argument because I find that [Powell] failed to established [sic] standing as the owner of the property to contest the payment of taxes. Though he argues through his averments that he established ownership of the property, he has not presented a deed or court order establishing that fact. In fact, the deed he submitted does not identify him as the owner but an “unenfranchised living man” which is inconsistent with [Powell’s] claim to be a “free man.” Further, simply stating that you own property without a legal document to support ownership does not establish a legal right to the property. It appears under the facts of this case that the only way for Petitioner to establish ownership would be a quiet title action.

(*Id.* at p. 3 n.6.) Judge Ralph King Anderson, III also noted:

Though [Powell] appears to be abusing South Carolina’s tax system, the ALC does not have the jurisdiction to address that issue. Also, in light of the disposition of this case, the Court need not address whether [Powell] entered into the agreement to transfer the deed with the intent to evade taxes or defraud or deceive York in violation of S.C. Code Ann. §§ 12-2-40 (2014) and 27-23-20 (2007).

(*Id.* at p. 2 n.3.)

The Tax Sale Proceedings

Thereafter, the taxes assessed on the Property were not paid, and the Tax Collector sold the Property at the York County tax sale held on November 6, 2017 (the “Tax Sale”). SB MUNI CUST % LBSC-11 LLC (“SB MUNI”) purchased the Property at the Tax Sale with a bid of \$171,000.00.

After the expiration of the one-year redemption period, the Tax Collector conveyed tax title to SB MUNI by tax deed dated and recorded on December 26, 2018, in the York County Register of Deeds Office (the “ROD”) in Book 17337, page 73 (the “Tax Deed”). A certified copy the Tax Deed was entered into evidence as Exhibit E. SB MUNI subsequently conveyed the Property to Plaintiff by quitclaim deed dated January 7, 2019, and recorded in the ROD on January 10, 2019, in Book 17361, page 145 (the “Quitclaim Deed”). A certified copy the Quitclaim Deed was entered into evidence as Exhibit F.

The grantee designation in the Tax Deed of “SB MUNI CUST % LBSC-11 LLC” is an abbreviation for SB Municipal, LLC as custodian for LBSC-11, LLC. As the Tax Collector testified, the reason for this abbreviation is that the York County software system has a character limitation for the name of the bidder, so bidder names are frequently required to be abbreviated. The Tax Collector further testified that the use of abbreviated names and the designation of “custodian” is common when her office issues tax deeds, which are prepared and reviewed by the York County Attorney’s Office prior to recording.

In this case, the bidder name exceeded the character limitation and the abbreviation of “SB MUNI CUST % LBSC-11 LLC” was necessary. The record in this case demonstrates that Powell has repeatedly asserted that the Tax Deed is invalid because “SB MUNI CUST % LBSC-11 LLC”

is a non-existent entity. However, and as Powell states in his proposed First Amended Answer, Defenses, Counterclaims and Third Party Complaint attached as Exhibit A to the Motion to Amend, SB Municipal, LLC is a Florida limited liability company. LBSC-11, LLC is a South Carolina limited liability company. The use of an abbreviation for SB Municipal, LLC was required, and the Court finds that the use of this abbreviation is proper, that the Tax Deed is valid, and that the abbreviation of the grantee name does not render the Tax Deed invalid. Accordingly, the Court rejects Powell's arguments concerning the designation of the grantee in the Tax Deed.

Procedural History and Relevant Title History

Prior Action to Quiet Tax Title

Based on the records in the York County Clerk of Court's Office, the Court recognizes that the saga of Plaintiff's claims to quiet tax title to the Property began in a prior action filed on January 25, 2019, captioned *LB PARK, LLC v. San Juan Holdings, Brett Osborne, the trustee, Brett Osborne as Trustee of San Juan Holdings, et al.* (Case No. 2019-CP-46-00310). Through a Special Appearance Motion to Dismiss filed on March 11, 2019, Karen Marie Powell ("Ms. Powell") claimed to hold an unrecorded lien on the Property, and Ms. Powell sought to dismiss the action on various grounds including Rules 12(b)(1), 12(b)(2), and 12(b)(7), SCRCp, and argued that the Property is not subject to taxation. After a hearing on this motion was held on April 1, 2019, Judge Daniel Hall denied the motion pursuant to a Form 4 order filed on April 3, 2019.

On April 8, 2019, Powell filed a Special Appearance Motion to Dismiss or Intervene and sought to dismiss the action under Rules 12(b)(1) and 12(b)(2), SCRCp, and alternatively sought to intervene. Plaintiff filed a motion for an order of reference on May 2, 2019. The hearing occurred on May 30, 2019. Through separate Form 4 orders filed on May 31, 2019, Judge Hall

denied Powell's motion to dismiss and granted Plaintiff's motion for an order of reference. Powell appealed both orders and filed his Notice of Appeal on June 11, 2019.

Pursuant to an Order filed in the South Carolina Court of Appeals on October 15, 2019, the South Carolina Court of Appeals granted Plaintiff's motion to remand for the limited purpose of allowing Plaintiff to file a motion to dismiss the underlying action without prejudice. This Order was filed with the York County Clerk of Court with a Notice of Order Granting Motion to Remand on February 12, 2020. The Notice of Dismissal Without Prejudice was also filed on February 12, 2020.

The Current Action to Quiet Tax Title

On February 12, 2020, Plaintiff commenced this action to quiet tax title and for reformation by filing its Summons, Complaint, and Notice of Lis Pendens (collectively, the "Pleadings").

By deed dated June 1, 2000, and recorded on June 27, 2000, in the ROD in Book 3173, page 343, Defendant San Juan Holdings, Brett Osborne, the trustee ("San Juan"), obtained title to the Property. A certified copy this deed was entered into evidence as Exhibit G. By virtue of this deed, San Juan was the defaulting taxpayer and last record owner of the Property prior to the Tax Sale. Through this action, Plaintiff has eliminated all interests that San Juan had or may claim to have in, to, or upon the Property.

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"). A certified copy the Osborne Notice was entered into evidence as Exhibit H. The Osborne Notice does not identify a specific grantee, does not meet the requirements for a deed, and did not convey an interest in the

Property. Through this action, Plaintiff has eliminated all interests that Osborne had or may claim to have in, to, or upon the Property.

As to Powell, Plaintiff alleged:

Plaintiff is informed and believes that Defendant Ryan Powell has claimed to possess an unrecorded ownership interest in the Property. While Plaintiff denies that Defendant Ryan Powell has any interest in the Property, Plaintiff has named Defendant Ryan Powell as a party to provide him with notice of this proceeding and the opportunity to protect any interest he claims to have in the Property.

(Complaint at ¶ 7.)

Plaintiff named John Doe and Mary Roe as fictitious defendants to represent the interests of any unknown persons or entities claiming any right, title, interest, estate in, or lien upon the Property, but Plaintiff elected not to proceed against the unknown defendants. Accordingly, the unknown defendants are dismissed as parties to this action without prejudice.

Reformation of Legal Description

In its Complaint, Plaintiff asserted a second cause of action for reformation. In relevant part, the legal description in the Tax Deed refers to a “. . . plat recorded in the Office of the Clerk of Court for York County in Plat Book 85 at Page 129, and on Plat Book 73 at Pages 22-26 . . . ” (the “Plat”). (Emphasis added.) A certified copy of the Plat was entered into evidence as Exhibit I. According to the applicable records for the Property maintained in the ROD, the Plat was actually recorded in the ROD in Plat Book 73 at Pages 23-26, not Pages 22-26. (Emphasis added.) Throughout the chain of title for the Property, the Plat is incorrectly referenced as being recorded in Plat Book 73 at Pages 22-26. Consequently, Plaintiff asserted a cause of action to reform the Tax Deed, the Quitclaim Deed, and all previous deeds in the chain of title to reflect the correct recording information for the Plat, which was actually recorded in Plat Book 73 at Pages 23-26.

Service of the Pleadings and Status of the Defendants

Plaintiff caused the Pleadings to be served upon San Juan and Osborne on March 1, 2020, as evidenced by the separate Affidavits of Service both filed on March 9, 2020. In response, Osborne filed a letter on April 1, 2020, advising that he was not the trustee of San Juan, that San Juan is dissolved, that he has no interest in the Property, and no duty to defend the Property.

Plaintiff caused the Pleadings to be served upon Powell on April 14, 2020, as evidenced by the Affidavit of Service filed on April 20, 2020. In response, Powell filed Several Motions to Dismiss under Special Appearance on May 14, 2020, which sought to dismiss this action on various grounds.

Additional Procedural and Appellate History³

Plaintiff filed a Motion for Order of Reference on June 23, 2020, and Powell filed a Demand for Jury Trial under Rule 38(b), SCRCF, on July 14, 2020. The hearing on the pending motions occurred on July 22, 2020, and pursuant to a Form 4 order filed on August 20, 2020, Judge Hall denied Powell's motions and granted Plaintiff's motion for an order of reference. Powell appealed this order and filed his Notice of Appeal on September 8, 2020.

By Order filed in the South Carolina Court of Appeals on September 15, 2020, which was attached to the Remittitur filed in the York Court Clerk of Court's Office on October 14, 2020, the South Carolina Court of Appeals dismissed Powell's appeal "[b]ecause the underlying orders are not immediately appealable"

On October 6, 2020, Powell filed his Answer, Defenses, and Counterclaims and demanded a jury trial. Powell generally denied Plaintiff's allegations, asserted 23 defenses, and alleged

³ For the sake of brevity, the various memoranda filed in support of or in opposition to the numerous motions referenced in this section are omitted.

counterclaims for (1) Sanctions for Frivolous Complaint, (2) Intentional Infliction of Emotional Distress, (3) Declare Void and Set Aside Tax Deed, (4) Intentional Interference with Contract, and (5) Slander of Title (collectively, the “Counterclaims”). Plaintiff timely filed and served its Reply on October 29, 2020, which generally denied Powell’s allegations and asserted 17 defenses.

Powell filed a Motion to Strike Plaintiff’s Reply to Counterclaim on December 4, 2020. The hearing occurred virtually on January 29, 2021, and through a Form 4 order filed on January 27, 2021, Judge Hall denied Powell’s motion to strike.

Powell next filed a Motion for Judgment on the Pleading, Motion to Determine Sufficiency of Admissions and Objections, and Motion to Compel Plaintiff to Answer Interrogatories on February 8, 2021. The hearing occurred on March 30, 2021, and through a Form 4 order filed on March 31, 2021, Judge Hall denied Powell’s motions.

On April 30, 2021, Plaintiff filed a Motion to Strike Powell’s Demand for a Jury Trial and to Maintain the Existing Order of Reference. Relying on *Rosenbaum v. S-M-S* 32, 311 S.C. 140, 427 S.E.2d 897 (1993), Plaintiff argued that Powell has no right to a jury trial and asserted additional grounds for striking Powell’s demand for a jury trial. Powell filed a Motion to Return Case to Circuit Court on July 13, 2021. Among other arguments, Powell asserted that this Court lacks jurisdiction because “Plaintiff’s Motion for an Order of Reference requests the Court ‘*issue an Order of Reference, referring this equitable proceeding to the Honorable Teasa Kay Weaver, Master in Equity for York County, for the purpose of receiving evidence and will all appeals to be made directly to the South Carolina Court of Appeals.*’” (See Motion to Return Case to Circuit Court at p. 7 (emphasis in original).) Powell requested that this Court decide this matter without a hearing, and by Form 4 order filed on September 20, 2021, this Court concluded that Powell is not entitled to a jury trial and denied his motion.

Rule 53(c), SCRCP, provides, “Once referred, the master or special referee shall exercise all power and authority which a circuit judge sitting without a jury would have in a similar matter.” The Note to the 1986 Amendment of Rule 53 states, “Rule 53(c) is amended to make clear that the master has the same powers as a court sitting without a jury unless the order of reference limits his authority.” In this case, there is no limitation on this Court’s authority so this Court “shall exercise all power and authority which a circuit judge sitting without a jury would have in a similar matter.” Rule 53(c), SCRCP. Therefore, this Court has full jurisdiction over the parties to and all subjects of this case.

After the denial of Powell’s motion, Plaintiff scheduled the merits hearing for October 21, 2021, and filed Notice of Hearing on September 28, 2022. Powell appealed the order denying his Motion to Return Case to Circuit Court and filed his Notice of Appeal on October 12, 2021. The remittitur from the South Carolina Court of Appeals was filed with the York County Clerk of Court on May 23, 2022.

Powell then filed the Motion to Amend on June 8, 2022. By e-mail sent on August 24, 2022, this Court notified the parties that it would hear the Motion to Amend immediately prior to trial. This Court also notified the parties that if the Motion to Amend was denied, the trial would proceed, but if the Motion to Amend was granted, the trial would be continued. The trial date was set for September 27, 2022. On August 25, 2022, Plaintiff filed and served Notice of Hearing on September 27, 2022. Powell then filed the Motion to Vacate on September 6, 2022. By e-mail and letter dated September 9, 2022, which was filed on September 13, 2022, Powell withdrew his request for a hearing on the Motion to Amend and the Motion to Vacate.

Powell next filed the Motion for Continuance on September 16, 2022, which motion this Court has denied.

Evidence Presented at the Hearing

Tracy Mattevi, the Tax Collector, testified that all notices of delinquent taxes, the execution, levy, posting, advertisements, tax sale, and notices of the approaching end of redemption period sent to the interested parties entitled to notice were performed in accordance with the usual procedures of her office and were in strict conformity with all statutory requirements.

Specifically, the Tax Collector testified that based upon the records of the York County Assessor's Office and the ROD, San Juan was the defaulting taxpayer and was the last record owner of the Property prior to the Tax Sale. On or about April 1, 2017, the Tax Collector's office mailed the execution notice described in S.C. Code Ann. § 12-51-40(a) to San Juan Holdings, Brett Osborne Trustee, at 9127 Dalmeny House Lane, Charlotte, NC 28215 (the "Charlotte Address"). A certified copy this Tax Sale notice was entered into evidence as Exhibit J. The Tax Collector testified that the York County Assessor's Office provided the Charlotte Address and that it is the same address provided for San Juan on the Osborne Notice. (*See* Exhibit H.) This execution notice was mailed by regular mail, and the Tax Collector testified that the United States Postal Service did not return this notice to her office.

With respect to the notice described in S.C. Code Ann. § 12-51-40(b), the Tax Collector testified that her office mailed this notice to San Juan Holdings, Brett Osborne Trustee, at the Charlotte Address by certified mail, return receipt requested-restricted delivery on July 24, 2017. The Tax Collector testified that the United States Postal Service returned this notice marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." A certified copy this Tax Sale notice and the returned envelope were entered into evidence as Exhibit K. Accordingly, the Tax Collector's office took exclusive possession of the Property by posting the Property with notice of the Tax Sale, as provided in S.C. Code Ann. § 12-51-40(c), which posting occurred on

September 7, 2017. Certified copies of the field report and the notice posted on the Property were entered into evidence as Exhibits L-1 and L-2.

As required by S.C. Code Ann. § 12-51-40(d), the Tax Collector testified that her office advertised the Property for sale at public auction in The Herald on October 16, October 23, and October 30, 2017. The Tax Collector also testified that The Herald is a newspaper of general circulation within York County and that the records of her office reflected that the Property was advertised for sale at public auction for three consecutive weeks prior to the date of the Tax Sale. Certified copies of the newspaper advertisements were entered into evidence as Exhibits M-1, M-2, and M-3.

The Tax Collector testified that the Tax Sale occurred on November 6, 2017, and that SB MUNI purchased the Property for \$171,000.00. The Tax Collector also testified that her office sent a courtesy notice of the Tax Sale on November 13, 2017, to the Charlotte Address by regular mail, and that the United States Postal Service did not return this notice to her office.

After the Tax Sale, the next statutorily required notice was the notice of approaching end of redemption period described in S.C. Code Ann. § 12-51-120 (the “Redemption Notice”). In preparing to send the Redemption Notice, the Tax Collector testified that her office obtained a title search to identify any grantees, mortgagees, or lessees of record of the Property. Based on the title search her office received, San Juan was the only party with an interest of record in the Property, no mortgages encumbered the Property, and Powell had no interest in the Property.

The Tax Collector testified that her office sent the Redemption Notice to five separate addresses. The Tax Collector’s office sent a Redemption Notice to San Juan Holdings, Brett Osborne Trustee, at the Charlotte Address by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that the United States Postal Service

returned this notice marked, “Return to Sender, Not Deliverable as Addressed, Unable to Forward.” Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-3.

The Tax Collector’s office sent a Redemption Notice to San Juan Holdings, Brett Osborne Trustee, addressed to 112 Highway 218 West, Monroe, NC 28110, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that her office obtained this address from additional research and the deed conveying the Property to San Juan. (See Exhibit G.) The Tax Collector also testified that her office sent this Redemption Notice as an additional attempt to provide notice of the approaching end of the redemption period. The Tax Collector testified that the United States Postal Service returned this notice marked, “Return to Sender, Attempted – Not Known, Unable to Forward.” Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, N-3.

The Tax Collector’s office sent a Redemption Notice to San Juan Holdings/Ryan Powell addressed to 25056 Timberlake Drive, Tega Cay, SC 29708, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The address used is the Property address. The Tax Collector testified that her office sent a Redemption Notice to Powell, even though he did not have an interest of record in the Property, because her office was aware that he claimed an interest in the Property, so her office provided this Redemption Notice as an additional attempt to provide as much notice as possible regarding the approaching end of the redemption period. The Tax Collector testified that the United States Postal Service returned this notice marked, “Return

to Sender, Unclaimed, Unable to Forward.”⁴ Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-4.

The Tax Collector’s office sent a Redemption Notice to San Juan Holdings/Ryan Powell addressed to 25056 Timberlake Drive, Fort Mill, SC 29715, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that her office obtained this address from additional research, and pursuant to Rule 201, SCRE, the Court takes judicial notice that this is the same address Powell provided as his address in several filings in this case. The Tax Collector testified that her office sent this Redemption Notice to Powell, even though he did not have an interest of record in the Property, because her office was aware that he claimed an interest in the Property, so her office provided this Redemption Notice as an additional attempt to provide as much notice as possible regarding the approaching end of the redemption period. The Tax Collector testified that the United States Postal Service returned this notice marked, “Return to Sender, Unclaimed, Unable to Forward.” Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-4.

The Tax Collector’s office sent a Redemption Notice to San Juan Holdings/Ryan Powell addressed to 3459 Mill Run, Raleigh, NC 27612, by certified mail, return receipt requested-restricted delivery on September 24, 2018. The Tax Collector testified that her office obtained this address from additional research. The Tax Collector also testified that her office sent this Redemption Notice to Powell, even though he did not have an interest of record in the Property,

⁴ While the Tax Collector obtained exclusive possession of the Property by posting, as provided in S.C. Code Ann. § 12-51-40(c), the Court notes that “[p]ursuant to [Chapter 51 of Title 12 of the South Carolina Code of Laws] the return of the certified mail ‘undelivered’ is not grounds for a tax title to be withheld or be found defective and ordered set aside or canceled of record.” S.C. Code Ann. § 12-51-120.

because her office was aware that he claimed an interest in the Property, so her office provided this Redemption Notice as an additional attempt to provide as much notice as possible regarding the approaching end of the redemption period. The Tax Collector further testified that the United States Postal Service returned this notice marked, "Return to Sender, Unclaimed, Unable to Forward." Certified copies of this Redemption Notice with the e-certified log and returned envelopes were entered into evidence as Exhibits N-1, N-2, and N-5.

After sending the foregoing five Redemption Notices, the Tax Collector testified that no party redeemed the Property before the redemption period expired on November 7, 2018. In reviewing the Tax Deed, the Tax Collector testified that the York County Attorney's Office prepares its tax deeds and reviews them before recording. As to the designation of the grantee in the Tax Deed as "SB MUNI CUST % LBSC-11, LLC," the Tax Collector testified that it is not unusual for the names of tax sale bidders to be abbreviated because of the limitation of characters in the York County software system. The Tax Collector also testified that it is common practice for her office to issue tax deeds with abbreviated names and with the designation as "custodian."

In sum, all of the testimony and evidence presented at the hearing demonstrates that the Tax Collector strictly complied with the tax sale statutes in all respects, and that the Tax Sale of the Property should be upheld. Additionally, all of Powell's claims and challenges concerning the Tax Sale of the Property or Plaintiff's title to the Property are barred by the two-year statute of limitations set forth in S.C. Code Ann. §§ 12-51-90(c) and 12-51-160.

It is also noted that while Powell asserted a counterclaim to "Declare Void and Set Aside Tax Deed," Powell failed to name the Tax Collector as a party. The taxing authority is a necessary party when a tax sale is challenged because the desired result is a finding that the taxing authority failed to adhere to the tax sale statutes and an order vacating the resulting tax deed. Because

Powell did not name the Tax Collector as a defendant, the Tax Collector is not subject to jurisdiction in this action, and thus, the relief Powell seeks could not be awarded, even assuming that grounds existed for challenging the Tax Sale, which they do not.

No other witnesses were called to testify by Plaintiff and none appeared on behalf of any other interested party, including Powell or any other defendant.

Dismissal of Counterclaims

Powell bases the Counterclaims on the allegations that the Property is not subject to taxes because he, as the alleged owner, has not recorded his alleged deed. The Court finds that these are the same arguments that Powell has previously litigated and that have previously been dismissed. The Court also finds that the Counterclaims lack merit and that neither Plaintiff, nor anyone acting on Plaintiff's behalf, has engaged in any actionable conduct.

As an initial matter, Powell did not appear at the final hearing and thus abandoned and failed to prosecute the Counterclaims, which is sufficient alone to dismiss the Counterclaims with prejudice. The Court also finds that Powell lacks standing to assert any counterclaim concerning the Property because he has never produced a deed for the Property, he admittedly has no interest of record in the Property, and the South Carolina Administrative Law Court has previously found that Powell failed to establish he was the owner of the Property. Additionally, the doctrines of *res judicata* and collateral estoppel bar Powell from re-litigating whether he has any interest in the Property.

Even if Powell could establish standing, the Recording Act bars all of this claims. In relevant part, this statute provides:

All deeds of conveyance of lands . . . either in fee simple or for life . . . and generally all instruments in writing conveying an interest in real estate required by law to be recorded in the office of the register of deeds . . . are valid so as to affect the rights of subsequent creditors (whether lien creditors or simple contract creditors), or

purchasers for valuable consideration without notice, only from the day and hour when they are recorded in the office of the register of deeds . . . of the county in which the real property affected is situated. In the case of a subsequent purchaser of real estate . . . the instrument evidencing the subsequent conveyance . . . must be filed for record in order for its holder to claim under this section as a subsequent . . . purchaser for value without notice, and the priority is determined by the time of filing for record.

S.C. Code Ann. § 30-7-10.

This statute makes clear that in order for a deed to be valid as to subsequent purchasers without notice, the deed must be recorded and that priority between a subsequent purchaser of real estate without notice “is determined by the time of filing for record.” Thus, section 30-7-10 bars all of Powell’s Counterclaims.

Each Counterclaim also fails on the merits. As to Powell’s first counterclaim for Sanctions for Frivolous Complaint, this counterclaim lacks any merit. Plaintiff is following the statutory procedure set forth in S.C. Code Ann. § 12-61-10 to -60 and asserts valid causes of action. Section 12-61-10 is titled, “Persons who may institute action to clear tax title” and provides, in relevant part:

[A]ny person or the executors, administrators, successors, assigns or grantees thereof, which has purchased at or acquired through a tax sale and obtained title to any real or personal property, may bring an action in the court of common pleas of such county for the purpose of barring all other claims thereto.

S.C. Code Ann. § 12-61-10. In addition,

[Chapter 61] shall be liberally construed to the end that it shall afford a complete remedy to any plaintiff claiming property by forfeiture unto him for nonpayment of taxes or by acquisition at or through a tax sale, so that he can under this chapter obtain a final and complete adjudication of the nature and extent of the title thereto and, in any event, procure a valid sale of the property from the proceeds of which the unpaid taxes shall be paid.

S.C. Code Ann. § 12-61-60.

Plaintiff is merely trying to confirm its tax title to the Property, and there is no basis in law or in fact to find Plaintiff's claims as being frivolous. Accordingly, Powell's first counterclaim for Sanctions for Frivolous Complaint is dismissed with prejudice.

Powell bases his second counterclaim for Intentional Infliction of Emotional Distress on Plaintiff following the statutory procedure for quieting tax title. The elements for a claim of intentional infliction of emotional distress are: (1) the tortfeasor intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized community; (3) the actions of the defendant caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was severe so that 'no reasonable man could be expected to endure it. *See Ford v. Hutson*, 276 S.C. 157, 162, 276 S.E.2d 776, 778 (1981). Within the confines of Rule 11, SCRCP, Powell cannot allege the existence of any of these elements. Plaintiff is simply seeking to avail itself of the legal process created by the legislature to quiet tax title to the Property, pursuant to S.C. Code Ann. §§ 12-61-10 to -60. Consequently, Powell's second counterclaim for Intentional Infliction of Emotional Distress is dismissed with prejudice.

Powell's third counterclaim to Declare Void and Set Aside Tax Deed must also be dismissed with prejudice. This counterclaim is superfluous and unnecessary, as the Tax Deed would necessarily be rendered void if Plaintiff was not able to demonstrate its case in chief. Moreover, Powell has not established any interest in the Property, and even if Powell possessed a valid deed to the Property, Powell admitted he never recorded it, so Powell would not be entitled to any Tax Sale notice. Finally, this counterclaim is barred by the two year statute of limitations

set forth in S.C. Code Ann. §§ 12-51-160 and 12-51-90(C). Therefore, Powell's third counterclaim to Declare Void and Set Aside Tax Deed is dismissed with prejudice.

Powell asserted a fourth counterclaim for Intentional Interference with Contract, which the Court presumes is for tortious interference with a contract. The elements of this claim are (1) the existence of a valid contract; (2) the defendant has knowledge of the contract; (3) the defendant intentionally procures its breach; (4) the defendant acted without justification; and (5) the plaintiff suffers prejudice. *See Broach v. Carter*, 399 S.C. 434, 441, 732 S.E.2d 185, 188 (Ct. App. 2012) (citing *Vortex Sports & Entm't, Inc. v. Ware*, 378 S.C. 197, 205, 662 S.E.2d 444, 449 (Ct. App. 2008)). The contract that Powell asserts as the basis of this proposed third-party claim is the deed he received when he allegedly purchased the Property in 2012. A deed is an instrument of conveyance, not a contract, and is itself insufficient to support this claim. However, Powell admittedly refused to record his alleged deed, which he has never produced. Plaintiff was unaware of the Osborne Notice until after it acquired title and was not aware of Powell's claims to the Property until he moved to intervene in the 2019 action. Additionally, Plaintiff could not have procured any breach of the "contract" since the contract was allegedly completed in December 2012. Thus, there is no basis in law or in fact to support this counterclaim, and Powell's fourth counterclaim for Intentional Interference with Contract is dismissed with prejudice.

Powell's fifth counterclaim is for Slander of Title. The elements of the cause of action for slander of title are the publication with malice of a false statement that is derogatory to plaintiff's title and causes special damages as a result of diminished value of the property in the eyes of third parties. *See Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 21–22, 567 S.E.2d 881, 892 (Ct. App. 2002). "Generally, an action under slander of title may only be maintained by one who possesses an estate or interest in the affected property." *Id.* at 18, 567 S.E.2d at 890. Powell has not

established that he possesses an estate or interest in the Property and has admitted he never recorded his alleged deed. The Court also notes that the South Carolina Administrative Law Court previously found that Powell failed to establish standing as the owner of the Property. (*See* Exhibit D at p. 3 n.6.)

Moreover, the filing of a lis pendens is absolutely privileged under South Carolina law and cannot give rise to claim for slander of title. *See Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 22-23, 567 S.E.2d 881, 892-93, 897 (Ct. App. 2002) (holding that all pleadings, including the filing of a lis pendens, are absolutely privileged and cannot form the basis of an action for slander of title.). Therefore, Powell's fifth counterclaim for slander of title is also baseless and is dismissed with prejudice.

Appellate Bond

In the event that Powell appeals any ruling in this Final Order and as requested by Plaintiff at the hearing, the Court finds that there is no automatic stay applicable and the Property must be delivered to the Plaintiff. *See generally* Rule 261, SCACR. The ordered relief will only be stayed if Powell provides the bond required by S.C. Code Ann. § 18-9-170, which provides in relevant part:

If the judgment appealed from direct the . . . delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking.

S.C. Code Ann. § 18-9-170.

The Court finds that a bond in the amount of \$180,000.00 is appropriate. This amount is based on a monthly rental value of \$3,000 per month for a period of five years.

CONCLUSIONS OF LAW

Based upon the pleadings, motions, and orders filed, the testimony and evidence presented, and the arguments of counsel at the merits hearing, I make the following conclusions of law:

1. Any finding of fact stated above that is also a conclusion of law is incorporated herein by reference.
2. This matter is properly before the Court. Notice of the Hearing was properly given to all defendants, and the Court has personal jurisdiction over all defendants. Further, this matter is within the subject matter jurisdiction of this Court, pursuant to Rule 53, SCRCP, with any appeal to the Court of Appeals of South Carolina.
3. The Court denies the Motion for Continuance.
4. Prior to the Tax Sale of the Property, San Juan was the defaulting taxpayer and was the last record owner of the Property, pursuant to the deed dated June 1, 2000, and recorded on June 27, 2000, in the ROD in Book 3173, page 343. (*See Exhibit G.*)
5. In strict accordance with all statutory requirements, the Tax Collector provided all required notices to all interested parties entitled to notice, properly executed and levied upon the Property, and thereafter properly advertised and sold the Property to SB MUNI at the Tax Sale.
6. After providing the statutorily required notice of the approaching end of the redemption period to all interested parties entitled to notice in strict compliance with S.C. Code Ann. § 12-51-120, the Tax Collector conveyed the Property to SB MUNI through the Tax Deed.
7. The Court finds that the use of the abbreviated name of “SB MUNI CUST % LBSC-11, LLC” for the bidder in the Tax Deed was proper and was required by York County’s software

system. The Court further finds that the Tax Deed is valid in all respects and that the Tax Deed conveyed title to the Property to SB Municipal, LLC as custodian for LBSC-11, LLC.

8. The Court finds that after the issuance of the Tax Deed, SB MUNI conveyed its tax title to Plaintiff through the Quitclaim Deed, which the Court finds is also valid in all respects and conveyed title to the Property to Plaintiff.

9. Plaintiff timely and properly served San Juan and Osborne, as evidenced by the affidavits of service filed herein. Despite being timely and properly served, San Juan and Osborne failed to answer and, thus, defaulted to the Complaint and are in default.

10. After being timely and properly served, Powell served and filed the various motions and pleadings above described. Neither Plaintiff, nor anyone acting on Plaintiff's behalf, has engaged in any actionable conduct, and for the reasons set forth above more particularly, which are incorporated herein by reference, and pursuant to Rule 41, SCRPC, all of the Counterclaims are dismissed with prejudice.

11. At all times concerned, the provisions of Chapter 51 of Title 12 of the South Carolina Code of Laws entitled, "Alternative Procedure for Collection of Property Taxes," controlled. At the hearing, no issues were raised concerning the actions of the Tax Collector, and based upon the testimony of Tracy Mattevi and the other evidenced received, I find that all requirements of the South Carolina Code of Laws with regard to the Tax Sale of the Property were properly followed and were in strict compliance therewith.

12. Because the Tax Sale of the Property was conducted in strict compliance with the statutory requirements pertaining to tax sales, all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any of the defendants in, to, or upon the Property were extinguished by the Tax Sale. Accordingly, all rights, titles, claims, interests,

estates, liens, mortgages, judgments, and any other creditors' claims that any of the defendants had or claim to have in, to, or upon the Property are hereby extinguished, and all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any person or entity claiming under, by, or through any of the defendants in, to, or upon the Property are hereby extinguished. Thus, all adverse claims to the Property are forever barred, and Plaintiff's marketable, fee simple title to the Property is certain and free from all reasonable doubt.

13. Additionally, Plaintiff's title is incontestable on procedural or other grounds and all claims against or challenges to the Tax Sale of the Property are barred by the two-year statute of limitations set forth in S.C. Code Ann. §§ 12-51-90(c) and 160, because more than two have passed since the date of the Tax Sale.

14. The Tax Deed, the Quitclaim Deed, and all prior deeds in the chain of title for the Property should be reformed, *nunc pro tunc*, to reflect the correct recording information for the Plat, which was actually recorded in the ROD in Plat Book 73 at Pages 23-26 (not Pages 22-26).

15. Any person occupying the Property must vacate the Property and remove all items of personal property as set forth below, and any person occupying the Property shall maintain the condition of the Property without causing any harm or damage to the Property.

NOW, THEREFORE, based upon the foregoing, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

1. The Motion for Continuance is denied.
2. All claims, rights, titles, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any of the defendants in, to, or upon the Property are forever barred, including, but not limited to, all ownership or other interests of any of the defendants.

3. All claims, rights, titles, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any other person or entity claiming under, by, or through any of the defendants in, to, or upon the Property are forever barred.

4. The Tax Sale extinguished all rights, titles, claims, interests, estates, liens, mortgages, judgments, and other creditors' claims in, to, or upon the Property, and all claims to the Property adverse to Plaintiff are forever barred.

5. The two-year statute of limitations of S.C. Code Ann. §§ 12-51-90(c) and 160 render Plaintiff's tax title incontestable and bar any and all post, present, and future claims concerning the Tax Sale of the Property.

6. Pursuant to Rule 41, SCRCP, Powell's Counterclaims are all dismissed with prejudice.

7. This Court hereby quiets and confirms marketable, fee simple title to the Property in Plaintiff, LB PARK, LLC, and the marketable, fee simple title of Plaintiff, LB PARK, LLC, to the Property is certain and free from all reasonable doubt.

8. The Tax Deed, the Quitclaim Deed, and all prior deeds in the chain of title for the Property are hereby reformed, *nunc pro tunc*, to reflect the correct recording information for the Plat, which was actually recorded in the ROD in Plat Book 73 at Pages 23-26.

9. The York County Register of Deeds shall record a copy of this Final Order.

10. The Court also notes that Andrew M. Rawl, Esq. is no longer employed by Haynsworth Sinkler Boyd, P.A. and is relieved as counsel for Plaintiff.

11. In the event that any person is occupying the Property, Plaintiff shall provide a copy of this Final Order to the York County Sheriff or his authorized deputies (collectively the

“Sheriff”), and upon receipt of a copy of this Final Order, the Sheriff is hereby ordered to perform as follows:

a. The Sheriff is hereby ordered, directed, and authorized to post a copy of this Final Order upon the Property and/or to serve a copy of this Final Order upon any person occupying the Property;

b. Not less than 15 days after said posting or service, the Sheriff shall be authorized to enter upon the Property, by force if necessary, and to seize the Property and to remove any and all persons occupying the Property from the Property, together with all of his/her/their personal property and possessions, and to put Plaintiff in full, peaceful and quiet possession of the Property without delay, and thereafter, within ten (10) days, make due Return to the Clerk of Court for York County, South Carolina, showing how this Final Order has been executed; and

c. The Sheriff shall have discretion to extend the date of seizure, but not more than 30 days from the date of said service or posting, absent a further Order.

AND IT IS SO ORDERED.

JUDGE’S SIGNATURE PAGE TO FOLLOW

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE**CASE NO.** 2020-CP-46-00549

LB PARK LLC

San Juan Holdings, et al.,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Alexander G. Mende, Esq.

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court: See attached Final Order.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : Action to Quiet Tax Title

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:
25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Presiding Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 2022 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 2022 to attorneys of record or to parties (when appearing pro se) as follows:

Alexander G. Mende, Esq.
A. Parker Barnes III, Esq.
PO Box 11889
Columbia, SC 29211-1889

San Juan Holdings, Brett Osborne, the trustee
190 Aviation Lane
Gold Hill, NC 28071

ATTORNEY(S) FOR THE PLAINTIFF(S)

Brett Osborne as Trustee of San Juan Holdings
190 Aviation Lane
Gold Hill, NC 28071

Ryan Powell
3459 Mill Run
Raleigh, NC 27612

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

**ATTORNEY(S) FOR THE
DEFENDANT(S)/DEFENDANTS****CLERK OF COURT****Court Reporter:**

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



York Common Pleas

Case Caption: Lb Park Llc VS San Juan Holdings , defendant, et al

Case Number: 2020CP4600549

Type: Master/Order/Quiet Title and Form 4

So Ordered

s/ Teasa K. Weaver 3084

STATE OF SOUTH CAROLINA
COUNTY OF York
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP4600549

Lb Park Llc
PLAINTIFF(S)

San Juan Holdings et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

On November 4, 2022, Defendant Ryan Powell filed a "Motion for New Trial, or to Alter or Amend". This motion is DENIED.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/10/2022 .

Brett Osborne Trustee
Brett Osborne
Ryan Powell for Ryan Powell
John Doe
Mary Roe
San Juan Holdings
Ryan Powell for Ryan Powell

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



York Common Pleas

Case Caption: Lb Park Llc VS San Juan Holdings , defendant, et al

Case Number: 2020CP4600549

Type: Order/Electronic Form 4

So Ordered

s/ Teasa K. Weaver 3084

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.

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

Comes now appellant, Ryan Powell ("Ryan"), who pursuant to Rule 240 SCACR and Rule 208(a)(2) SCACR moves this Court to Strike Respondent's Initial Brief and Designation of Matter that was filed and served after their filing deadline had expired.

Mandatory Judicial Notice

All judges on this Court are to take mandatory judicial notice under 201(d) SCRE of the following fact: Ryan has registered his deed on February 23, 2023 in the York County Register of Deeds office in book 20628, page 278 ("Registered Deed") thereby putting his property under the jurisdiction of this State and giving him the right to use the

courts of this State to protect and defend his property. A copy of Ryan's Registered Deed is attached as Exhibit A and is fully incorporated herein by reference.

**Conspiracy and Fraud On The Court Are The Reasons For
Respondent's Initial Brief Being Filed and Served Late**

Clerk of Court, Jenny Kitchings ("Clerk"), deputy clerk, V. Claire Allen ("Allen"), and Respondent's appeal attorney Sarah P. Spruill ("Spruill") have been colluding and conspiring ("The Conspirators") to manipulate both this appeal and Ryan's 2019 appeal case (#2019-000979) in order to get both appeals dismissed. The method The Conspirators have used to achieve that goal is to attempt to deceive Ryan into believing that the timelines for perfecting his two appeals are being held in abeyance so that he misses a filing deadline upon which Clerk, and her deputy clerks, would be authorized to dismiss Ryan's appeals.

One example of how this conspiracy has played out is evidenced by a letter Allen signed and mailed to the parties dated March 21st. A copy of Allen's March 21st letter is attached as Exhibit B and is fully incorporated herein by reference. Allen's letter states, *inter alia*, that the timelines for perfecting this appeal is being held in abeyance pending a ruling on Respondent's Motion to Consolidate. However, Respondent's Motion to Consolidate does not request such relief. See a copy of Respondent's Motion to Consolidate (without exhibits) attached as Exhibit C and fully incorporated herein by reference. Further, there is no order in the record granting any abeyance. See copy of on-line case docket showing no "Non-Dispositional Decision" granting an abeyance after Respondent's Motion to Consolidate was filed attached as Exhibit D and fully incorporated herein by reference.

The most recent example of how this conspiracy has played out happened on May 2, 2023, which is the day that Ryan filed and served his Final Brief. See copy of Ryan's Certificate of Service for his Final Brief attached as Exhibit E and fully incorporated herein by reference. That day, May 2nd, happened to be, **not coincidentally**, the same day that the order disposing of Respondent's Motion to Consolidate was filed. That order was probably sitting on Clerk's desk waiting to see if Ryan would fall for The Conspirator's fraud. When it became clear that Ryan was not falling for the fraud, Clerk filestamped and entered that order and then shortly thereafter signed and mailed a letter to the parties dated May 4, 2023. See copy of Clerk's May 4th letter attached as Exhibit F

and fully incorporated herein by reference. In that letter, Clerk gave Respondent ten (10) days to file their Initial Brief and Designation of Matter. It seems to have not mattered to Clerk that Ryan had timely served and filed his Final Brief just two days prior to her May 4th letter. However, to keep up the fraud, Clerk had to pretend that Ryan's Final Brief had not been served and filed even though it is clearly in the case record (See Exhibit D).

After Respondent filed its Initial Brief and Designation of Matter on May 12, 2023, if Ryan refuses to RE-create the Record on Appeal to include Respondent's untimely served and filed Designation of Matter, this appeal will be unlawfully dismissed. The goals of Clerk's May 4th letter appear to be the following: 1) create additional unnecessary delays of this appeal; 2) give Respondent an unauthorized advantage in this appeal; 3) give The Conspirator's more new opportunities to defraud Ryan so that they can dismiss this appeal; and 4) create additional costs and effort on Ryan for which he can never be compensated.

Time For Respondent To Serve And File Its Initial Brief Has Passed

According to Rule 208(a)(2) SCACR, Respondent's Initial Brief was due to be served within 30 days of Ryan's Initial Brief being served on Respondent. However, Respondent requested and was granted an extensions of time to file their Initial Brief and Designation of Matter. See copy of the last extension order which is attached as Exhibit G and fully incorporated herein by reference. According to Exhibit G, Respondent was required to serve its Initial Brief and Designation of Matter by April 24, 2023. There is no court order in the record extending the time for Respondent to serve its Initial Brief and Designation of Matter past April 24, 2023 (see docket, Exhibit D). See filestamped copy of Respondent's Certificate of Service for their Initial Brief and Designation of Matter attached as Exhibit H and fully incorporated herein by reference. Respondent's Initial Brief and Designation of Matter, served on May 12th, has been served after its filing deadline of April 24th expired and it must be stricken from the record.

Had Spruill timely served and filed Respondent's Initial Brief and Designation of Matter by the April 24th deadline, it would have been **impossible** to defraud Ryan into believing that the timelines for perfecting his appeal were being held in abeyance. In order to defraud Ryan, Spruill had no other choice but to miss Respondent's Initial Brief deadline.

Spruill signed a letter to Clerk on May 12, 2023 which she included with her filing of Respondent's Initial Brief and Designation of Matter that states in pertinent part - "*While the motion was pending, the clerk's office assured me that the matter was in fact held in abeyance¹ and no filings were due. For that reason, Respondent did not believe the time for filing its initial brief and designation had expired.*". An appeal attorney who has over 22 years of experience would NEVER need to consult with the clerk's office to determine her client's filing deadlines. If Spruill needed to do so then she is grossly incompetent and should be disbarred. But of course, Spruill is just pretending. The Conspirators have lied repeatedly about the timelines for perfecting this appeal being held in abeyance so they must continue to lie no matter how ludicrous their lies become. As the famous saying goes "*Oh, what a tangled web we weave...when first we practice to deceive.*". A copy of Spruill's filing letter is attached as Exhibit I and fully incorporated herein by reference.

Spruill cannot, and therefore will not, produce a copy of any court order showing that the timelines for perfecting this appeal were held in abeyance on April 24th when Respondent's Initial Brief and Designation of Matter were due. After Spruill fails to produce such a court order, this Court can not consider any of her false, specious, and frivolous arguments that she will be required to make in order to oppose this motion being granted.

Clerk's May 4th Letter Puts Ryan In A Catch-22 Situation

This appeal was perfected on May 2, 2023 when Ryan timely and correctly served and filed his Final Brief (see Exhibit E) after Respondent's initial brief and designation of matter service deadline expired (see Exhibit G). Nonetheless, Clerk and/or her deputy clerks will most likely dismiss this appeal if Ryan does not comply with their fraud on the court. In other words, if Ryan does not timely serve and file an amended Record on Appeal to include the matter that Respondent designated in its untimely served and filed Designation of Matter, Clerk and/or a deputy clerk will fraudulently dismiss this appeal which will tremendously damage Ryan. Since this motion will not be heard and decided before the "pretended" deadline for Ryan filing an unauthorized amended Record on

¹ The "clerk's office" should be renamed the "keeper of secret knowledge" as clearly The Conspirators are expecting this Court to believe that the "clerk's office" holds secret knowledge that only they can discern, probably by reading the tea leaves. This situation would be laughable if it wasn't so disgustingly corrupt.

Appeal, Ryan must request the timelines for perfecting **this already perfected appeal** be held in abeyance pending a decision on this motion so that his appeal is not fraudulently dismissed.

Conclusion

This Court must order the following relief:

1. Strike Respondent's Initial Brief and Designation of Matter from the case record;
2. Hold in abeyance all filing/service deadlines pending the Court's ruling on this motion; and
3. Any other relief this Court deems just and proper.

May 15, 2023

/s Ryan Powell

Ryan Powell, Appellant
287 East Hawfields
Pittsboro, NC 27312



2023004949

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

Space above this line for recording information

PRESENTED & RECORDED Exhibit A Page 1 of 4
02-22-2023 02:17:08 PM

BK: RB 20628

PG: 278 - 281

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

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.

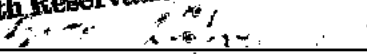
After filing for record mail to Grantee: Ryan Whitney
[not a residence address] c/o: 25056 Timberlake Drive
Tega Cay, South Carolina
Without the United States

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.

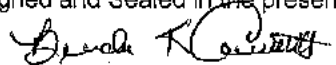
Grantor, SAN JUAN HOLDINGS


(Seal)
By: Brett Osborne, Trustee

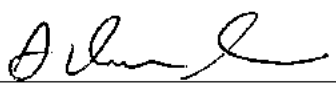
Grantee:

With Reservation of All Rights

(Seal)
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.

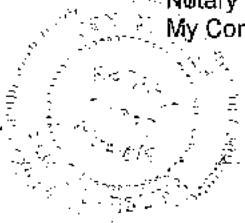
SWORN to before me this
20th day of December, 2012

Brenda K. Cantrell
 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:

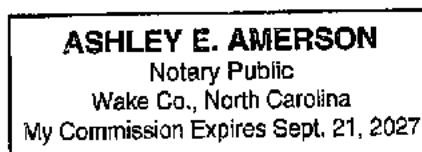
1. I have read the information on this affidavit and I understand such information.
2. The property transferred bears York County Tax Map Number 643-10-01-023 and was transferred by San Juan Holdings, Brett Osborne, trustee to Ryan Whitney Powell on December 20, 2012.
3. The deed is subject to the deed 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

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, reading "V. Claire Allen".

CLERK

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

RECEIVED

Mar 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Hall, Circuit Court Judge
Teasa K. Weaver, Master-in-Equity

Case No. 2019-CP-46-00310
Case No.: 2020-CP-46-00549

Ex Parte, Ryan Powell Appellant,

In re LB PARK, LLC Respondent,

v.

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

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.

MOTION TO CONSOLIDATE

Pursuant to Rule 214, SCACR, LB PARK, LLC (“LB Park”) moves to consolidate these appeals. These two appeals stem from two civil actions filed by LB Park to clear its tax title to a single parcel of property. The 2019 action was dismissed upon remand from this Court, and the appeal was held in abeyance pending a final order in the 2020 action. (10/15/2019 Order and 5/20/2020 Order attached as Exhibits 1 and 2). The final order in the 2020 action is now also on appeal. A comparison of the Statements of Issues on Appeal in the Appellant’s initial briefs in each of the above captioned appeals reveals that the same or similar questions are presented so as to warrant consolidation. (Statements of Issues attached as Exhibit 3). Given the above, judicial economy is served by consolidation.

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

March 15, 2023

Party Information			
Appellate Role	Party Name	Former	Attorney(s)
Appellant	Ryan Howell	N	Self Represented
Respondent	LS Perle, LLC	N	A. Parker James, III Sarah R. Sprull

Views			
Display:	Descending	Go!	

Event Information			
Held Date	Event Information		Doc
05/12/2023	Designation of Matter - Designation of Matter Filed		
05/12/2023	Initial Brief - Respondent		
05/05/2023	Correspondence - Incoming (Letter from Appellant Regarding May 4, 2023 Letter)		
05/04/2023	Correspondence - Outgoing (To Provide Initial Brief of Respondent)		
02/02/2023	Initial Brief - Appellant		
05/02/2023	Non-Dispositional Decision - Order Denying Motion to Consolidate		
04/20/2023	Record - Record on Appeal Filed		
04/26/2023	Record - Proof of Service of Record on Appeal		
03/23/2023	Correspondence - Incoming (Filing Fee for Motion - Extension of Time (1st) Respondent's Initial Brief)		
03/21/2023	Correspondence - Outgoing (Court Declining to Rule on Order and To Hold in Abeyance)		
03/21/2023	Non-Dispositional Decision - Extension Granted		
03/20/2023	Motion - Extension of Time (1st) Respondent's Initial Brief		
03/16/2023	Motion - Return To Motion to Consolidate		
03/15/2023	Motion - Consolidate		
03/09/2023	Motion - Return (Expedited Motion to Reduce or Eliminate Appeal Bond)		
03/07/2023	Motion - Expedited Motion to Reduce or Eliminate Appeal Bond		
03/07/2023	Non-Dispositional Decision - Withdrawn or Ended		
03/03/2023	Motion - Expedited Full Court Review of Single Judge's Denial of Supervised		
03/02/2023	Non-Dispositional Decision - Order Denying Rehearing (Supersedeas)		
02/17/2023	Rehearing - Reply (Supersedeas)		

RECEIVED

May 02 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 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, reading "Jenny A. Kitchings".

CLERK

cc: Ryan Powell

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 Hamisai, deputy
CLERK

Columbia, South Carolina

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

FILED
Mar 21 2023

RECEIVED

May 12 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, 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.

PROOF OF SERVICE

I certify that I have served *Respondent's Initial Brief and Designation of Matter to be Included in the Record on Appeal* on all parties of record by depositing a copy of the same in the United States Mail, postage prepaid, on May 12, 2023, addressed to:

Ryan Powell
25056 Timberlake Drive
Fort Mill, SC 29708


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



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

RECEIVED

May 12 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 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.

A handwritten signature in dark ink, appearing to read 'SPS', is written over a light gray rectangular background.

Sarah P. Spruill

SPS/sac
Enclosures

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