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**Jan 10 2024**

**SC Court of Appeals**

**FORM 13  
BRIEF OF APPELLANT\***

THE STATE OF SOUTH CAROLINA  
In The Court of  
Appeals[In The  
Supreme Court]

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APPEAL FROM CHARLESTON  
COUNTY  
Court of Common Pleas

Mikell R. Scarborough,

Circuit Court Judge

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Case No. 2023-001334

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Jason Aryeh,

Respondent,

v.

Olivia Aryeh,

Appellant.

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[INITIAL] BRIEF OF APPELLANT

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Olivia Aryeh  
30 Upland Drive  
Greenwich, CT  
06831  
Self-Represented Appellant

TABLE OF CONTENTS

Table of Authorities ..... ii

Statement of Issues on Appeal..... 1

Statement of the Case ..... 2

Arguments

1. Plaintiff needlessly incurred additional attorney’s fees to remove the lis pendens. Instead, Plaintiff incurred substantial attorney’s fees after the removal of the lis pendens in an effort to prosecute a speculative damages claim. ....3
2. The majority of the attorney’s fees in this case were created by the Plaintiff, not suffered. No attorney’s fees should be awarded in this case. If they are to be awarded, the fees should only encompass the amount of attorney’s fees accumulated from the date the lis pendens was filed to the date it was removed...3

Conclusion ..... 3

## STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN THE AMOUNT OF LEGAL FEES IT AWARDED TO THE PLAINTIFF?

## STATEMENT OF THE CASE

On May 5, 2021, the Defendant filed a lis pendens on the property at 1651 Atlantic Avenue, Sullivan's Island, South Carolina, owned by the Plaintiff because the Plaintiff illegally bought the aforementioned property funds derived from the sale of their marital home during the pendency of the divorce between Plaintiff and Defendant. The Plaintiff was held in contempt by Connecticut Family Court in the final divorce orders for committing the sale and ruled it was in violation of the Automatic Orders (Judge Adelman's August 22, 2023 Court Order). The lis pendens was removed by the Defendant on April 12, 2022.

In the Charleston Court of Common Pleas' June 1, 2022 order, Judge Scarborough ruled the filing of the lis pendens was not proper as no action was ever filed in South Carolina. After the Plaintiff on May 16, 2022 amended his complaint to allege abuse of process as a cause of action, a trial was held before Judge Mikell R. Scarborough on March 29, 2023.

The Defendant claimed up to \$45 million worth of damages as a result of the lis pendens, but Judge Scarborough ruled there were no damages and awarded the Plaintiff legal fees in the amount of \$120,391.73.

On April 21, 2022, the Defendant cancelled and released the lis pendens on 1651 Atlantic Avenue, South Carolina. Having been released, Plaintiff needlessly incurred additional attorney's fees to remove the lis pendens. Instead, Plaintiff incurred substantial attorney's fees after the removal of the lis pendens in an effort to prosecute a speculative damages claim. Defendant contends that attorney's fees after the release were unnecessary, and Plaintiff should not be awarded attorney's fees following April 21, 2022. Additionally, Defendant contends that Plaintiff's fees are excessive in light of Defendant's fees of less than \$60,000.

## ARGUMENTS

### I. DID THE TRIAL COURT ERR IN THE AMOUNT OF LEGAL FEES IT AWARDED TO THE PLAINTIFF?

In his Order for Attorney's Fees, Judge Scarborough awarded the Plaintiff attorney's fees "for the expense incurred in presenting this successful claim for the willful filing and maintenance of the lis pendens" (Scarborough, Aug 15, 2023 order).

The majority of the attorney's fees in this case were created by the Plaintiff, not suffered. No attorney's fees should be awarded in this case. If they are to be awarded, the fees should only encompass the amount of attorney's fees accumulated from the date the lis pendens was filed to the date it was removed. The Plaintiff in this case accrued the majority of his attorney's fees after the lis pendens was removed, while on a quest to prove damages that did not exist. The Defendant took the risk in paying extraordinary legal fees after the lis pendens was removed by adding speculative damages to his lawsuit. Citizens should not be encouraged to add additional claims to their lawsuits when only one initial claim was ruled in their favor (in this case, abuse of process) because they can abuse the legal system with false allegations and make the other side foot the bill for them. The only attorney's fees that should be granted were fees that were accrued by the Plaintiff between May 5, 2021 and April 12, 2022. The Plaintiff's total legal fees in this case were \$120,391.73 (Plaintiff's affidavit of attorney's fees), a stark contrast against the Plaintiff's legal fees, which totaled \$55,207.50 (Defendant's bill from Henderson & Henderson)..

The Defendant knew there was a good chance that South Carolina law would grant him legal fees for the abuse of process ruling, and added a claim of \$45 million in potential fictitious damages to the lawsuit after the lis pendens was removed, which sent his attorney's fees soaring. The majority of the attorney's fees accumulated by the Plaintiff were accrued trying to prove damages that did not exist. The Plaintiff faced no risk in adding fictitious claims of damages to this lawsuit when he knew that the South Carolina court would award him attorney's fees based on the abuse of process claim on which he was successful.

The lis pendens was filed on May 5, 2021, after the Defendant refused to comply with the Connecticut Supreme Court's Order that stated the Defendant must pay alimony and legal fees during the pendency of a divorce (Connecticut Supreme Court Order, 2020). The Plaintiff owed the Defendant \$409,000 in retroactive legal fees and alimony, and the Plaintiff argued he had no money with which to pay them. Thus, the Defendant filed a lis pendens on the South Carolina house bought with funds from the illegal sale of the former marital home to protect the asset (Judge Adelman Court Order March 2023). The Defendant removed the lis pendens from the South Carolina property on April 12, 2022, less than a year after it was filed, after the Connecticut Family Court brokered a deal between the parties mandating that the Defendant in this case remove the lis pendens and mandating that the Plaintiff in this case pay the Defendant the \$409,000 ordered by the Connecticut Supreme Court (Judge Moukawsher Court Order 2020). That same court order stated that the Plaintiff in this case was forbidden from accessing any funds

over the \$409,000 due to the Defendant from the financing of the South Carolina property.

In its updated orders on August 22, 2023, the Connecticut Family Court held the Plaintiff in this case in contempt of court for a third time in the divorce proceedings for obtaining financing for the property at 1651 Atlantic Avenue, Sullivans Island, South Carolina on which the lis pendens was placed (Judge Adelman, August 22, 2023 Court Order). The Charleston Court of Common Pleas could not have had this information at the time of trial in March 2023 but it is relevant in this appeal because it shows Plaintiff's lack of respect for court orders, establishes his pattern of lacking credibility, and highlights his ability to afford his own legal fees and recklessly increase them. The Plaintiff runs a multi million dollar hedge fund and owns multiple homes throughout the country. He recently sold his home at 6097 Murphy Way in Malibu, CA for more than \$12 million (public record) and leased another home he owns in West Hollywood, CA for \$50,000 per month (public record). During the first week of 2024, the Plaintiff bought his second residence in Greenwich, Connecticut for more than \$4 million (public record), where he now resides, in addition to his first residence in Greenwich and his home at 1651 Atlantic Avenue, Sullivan's Island, South Carolina (public record).

In contrast, the Defendant in this case is a school teacher who signed a restrictive post nuptial agreement to prove to the Plaintiff she wasn't with him for his money. The post nuptial agreement awards the Defendant alimony, which the Plaintiff in this case is again refusing to pay (motion filed in Connecticut Family Court). He currently owes the Defendant in this case approximately \$200,000 in retroactive alimony. The Plaintiff was already held in contempt of court in the divorce decree (Adelman, August 22, 2023 Court Order) for refusing to pay alimony during the pendency of the divorce, and is committing the same offense post divorce judgement. If the Plaintiff would have followed the court orders from the Connecticut Supreme Court, along with the three other orders for which he was held in contempt for violating in the August 22, 2023 divorce decree, the Defendant would not be here writing this appeal today.

Furthermore, the Defendant filed paperwork to represent herself in the March 2023 trial in the South Carolina Court of Common Pleas, after her attorney sought to drop her due to her inability to pay his fees. Judge Scarborough ruled that her attorney, Wesley Henderson (a wonderful, kind-hearted and brilliant attorney), must stay on the case against his will, regardless of whether he is getting paid. The plaintiff still owes Attorney Henderson in excess of \$50,000 in legal fees. The Plaintiff is representing herself in this appeal due to her inability to afford an attorney.

Unjustly awarding the Plaintiff \$120,391.73 in legal fees will force the Defendant into bankruptcy, severely affecting her ability to provide for her two children, ages 6 and 8, she shares with the Plaintiff, and preventing attorneys from collecting on the debt they are owed.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

January 10, 2024

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