

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON ) FOR THE NINTH JUDICIAL CIRCUIT

**R&R LANDSCAPE AND DESIGN ) CASE NO.: 2010-CP-10-09857  
LLC F/K/A R&R LANDSCAPING )  
INC. AND MARK GONZALEZ, )**

Plaintiff, ) **SUPPLEMENTAL PROCEEDINGS  
ORDER – FINDING DEFENDANTS IN  
CIVIL CONTEMPT OF COURT**

vs. )

**THE BROADBAND COMPANIES )  
LLC AND FRED ANTHONY, )**

Defendants. )

**RECEIVED**  
**Jan 11 2024**  
**SC Court of Appeals**

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A HEARING was held in the above-captioned case on **November 6, 2023 at 11:30 A.M.** pursuant to Plaintiff’s Rule to Show Cause and Citation for Contempt of Court filed on October 26, 2023. Present at the hearing were Plaintiffs’ counsel, Jesse Sanchez, Esq.; Defendant Fred Anthony, individually, and on behalf of the Broadband Companies, LLC; Defendants’ counsel Dwayne Green, Esq.; the court-appointed Receiver, Joseph Qualey, Esq.; and the Receiver’s associates, Zac Smith, Esq. and William C. Kennedy, Esq. This Court also heard arguments pursuant to Plaintiffs’ Motion to Lift Stay and Motion for Sanctions, filed October 25, 2023, which are addressed by way of a separate order.

Plaintiffs sought to hold Mr. Anthony in Contempt for his repeated failure to produce financial documents and information, which Plaintiffs have been requesting since December of 2022, and which this Court has on numerous occasions ordered him to produce. As set forth below, Mr. Anthony has a long, documented history of violating and evading this Court’s orders, and has, until now, been spared a finding of contempt.

## PROCEDURAL HISTORY

Pursuant to an Order dated December 12, 2022, Defendants The Broadband Companies LLC and Fred Anthony, were ordered to appear before this Court on January 13, 2023, to answer questions under oath concerning their respective assets, to produce certain documents, and to show cause why their property should not be applied toward satisfaction of the Judgment set out in the Plaintiffs' Petition for an examination of Defendants. Defendants were duly served with a copy of the Order to appear but failed to personally appear and to comply with the Order.

Pursuant to an Order dated February 1, 2023, Defendants were then ordered to appear before me on March 10, 2023, to answer questions under oath and to produce the documents set forth in the December 12, 2022 Order. Defendant Fred Anthony appeared along with his Counsel and for that reason was not held in contempt. However, Defendants did not produce any of the court-ordered documents.

Pursuant to an Order filed March 23, 2023, Defendants were again ordered to provide to the McCarty Law Firm the documents set forth in the December 12, 2022 Order. Defendants were duly served with a copy of the March 23, 2023 Order.

On April 27, counsel for Plaintiffs and Defendants corresponded with this Court with regards to scheduling Supplemental Proceedings in this matter. The Court offered a hearing date of June 9, 2023, which counsel for Plaintiffs accepted, but counsel for Defendants objected to because it conflicted with his daughter's summer vacation. As a result, on that same date, April 27, 2023, the Court offered a hearing date of July 14, 2023, which Counsel for Plaintiffs and Counsel for Defendants both agreed to via email to the Court. Consequently, a hearing for Supplemental Proceedings was scheduled for July 14, 2023.

On May 5, 2023, Counsel for Plaintiffs filed an Affidavit in Support of Rule to Show Cause on the grounds that Defendants had failed to comply with this Court's December 16, 2022, February 2, 2023, and March 23, 2023 Orders having failed to produce all of the documents commanded to be produced therein. As a result, an Order was issued by this Court on May 16, 2023 commanding that Defendants appear before it on July 14, 2023—the same date that Supplemental Proceedings had already been scheduled and agreed to by the parties.

On July 14, 2023, Counsel for Plaintiffs appeared for the previously-scheduled and agreed to hearing for Supplemental Proceedings, and the hearing on the Rule to Show Cause. Neither Defendants nor Defendants' Counsel appeared at the hearing. Instead, this Court received an email from the Defendant Fred Anthony, which did not copy Plaintiffs, stating that he was unable to attend the hearing due to an undisclosed medical condition affecting his ability to drive and because Mr. Green was under an Order of Protection, which was obtained *after* agreeing to attend the July 14, 2023 hearing. The Court did not hold Defendants in contempt at that time, but rather continued the hearings until August 11, 2023 at 10:00AM.

Pursuant to a Rule to Show Cause entered on July 26, 2023, this Court, again, ordered that Defendant Fred Anthony, individually and on behalf of the Broadband Companies, LLC, appear before this Court on August 11, 2023 to show cause as to why he should not be held in contempt of court for repeatedly failing to produce financial documents and provide relevant financial information, which Plaintiffs have been requesting since December of 2022, and which this Court has on numerous occasions ordered him to produce.

Mr. Anthony appeared with his Counsel, Mr. Dwayne Green, at the August 11, 2023 hearing after failing to appear at the earlier, court-ordered hearing on July 14, 2023. Plaintiffs'

counsel argued that Defendants had not produced all requisite financial documents, which Defendants' counsel conceded.

THE COURT: The question is whether or not it's been produced. And it has not yet been produced, correct?

MR. GREEN: It has not yet produced.

(August 11, 2023 H'rng Tr., p. 12:5-8).

Defendant, through his counsel, then assured the Court that he would cooperate in producing copies of cancelled checks and other financial documents requested by Plaintiffs' counsel.

MR GREEN: [...] But what I've been trying to do is, with the Anthonys' cooperation, get what they need. And it's my belief, and I can represent that to the Court, that between going to the bookkeeper who did the checks, who had knowledge of all the accounts, that that is the place where opposing counsel could find the documentation.

THE COURT: Well, my concern is that should have been disclosed before now. I don't know when that came out. But here we are ten months into this process. I don't know when you got into it, Mr. Green. But if that's where the answers lie then that's who should be referred to rather than hanging around out there. Because it's pretty apparent what's going on here, you know. I don't think there's any question about that.

MR. GREEN: What I can do, Your Honor, even though I wasn't working with Shawn French at the time, I can apologize on behalf of the defendant in that I can tell you as I've told opposing counsel anything that we have that will help get the information that they need, there's no attempt to delay. There's no attempt to stop them from getting that information.

THE COURT: I would tend to disagree with that statement.

(August 11, 2023 H'rng Tr., pp. 20:6 -21:7).

This Court also heard argument relating to Mr. Anthony's uncooperative behavior and evasive answers at a court-ordered deposition, held earlier that week on August 9, 2023. Mr. Anthony appeared at the deposition, but then claimed he could not remember basic facts concerning himself and the Broadband Companies. For example, after initially refusing to identify friends and family he had borrowed money from, Mr. Anthony stated he could not remember their last names or contact information. (Depo Tr. pp. 20-26). Mr. Anthony also testified that he could not remember which banks he and Broadband Companies dealt with. For example:

Q. Okay. Other than the two banks you identified do you have any bank deposits anywhere at other lending institutions?

A. Well, that information was provided to you guys months ago which you do have in your possession. So I'm not understanding the question.

Q. Do you have or do you do business with any other banks in the area besides the two you've already identified?

A. I don't remember.

Q. You don't know?

A. I don't know and I don't remember. Okay. What I know is you were provided with the last three years of banks statements and documentation from the previous attorney as well as the current attorney.

Q. I understand that you provided documents, but you're here to give your oral testimony today. Now, we can do it today like this or we can wait and do it in front of the judge and he'll instruct you to answer. I'm easy either way if you want to do it that way—

A. Your choice.

Q. -- but in this case here I think -- I think if you want to take some time to confer with your attorney about this I think this would be the best way to handle it.

A. I don't need that.

Q. Okay. All right. So your testimony is, you don't remember what banks, if any, that you have current relationships with in this area other than the two you've previously identified?

A. I gave you an answer to the two banks that I aggressively deal with. The other two I can't recall at this point.

Q. Okay. So there are at least two more?

A. I can't answer that. There could be three.

(Depo Tr., pp. 19:9 to 20:21).

After evading a series of questions from Plaintiffs' counsel, Mr. Anthony and his attorney, Mr. Green, informed the parties that Mr. Anthony was under the influence of a prescribed pain reliever and muscle relaxer, which could affect his memory and ability to answer questions. Despite having knowledge of his condition, neither Mr. Anthony nor his attorney informed Plaintiffs' counsel of this alleged incapacity prior to the convening of the deposition so as to afford them the opportunity to reschedule it for a time where such alleged incapacity would not be present. As a result, Plaintiffs' counsel expended time and expense which could have been avoided.

This Court notes that Mr. Anthony's repeated failures to follow this Court's orders evidence more than an alleged incapacity to answer questions at the time of the deposition, but also a demonstrated disregard for the judicial process, indicative of his wish to "run out the clock" in an attempt to prevent Plaintiffs' from collecting on their judgment.

At the August 11, 2023 hearing, this Court specifically advised Mr. Anthony of its intent to hold him in contempt of court for violations of prior court orders, but then offered him one last opportunity to cooperate with Plaintiffs. Specifically, the Court ruled that it was appointing Joe Qualey, Esq. as Receiver and made it abundantly clear that Defendants' cooperation with the Receiver was paramount:

THE COURT: All right. Well, let me just tell you. When I came in here this morning, it was my full intention to hold you in contempt for failure to comply and probably send you off to the jail. Okay? That was my thought process when I came in here this morning.

And as I read through the record, it told me more so to do that. Okay? But what I'm going to do is I'm going to order the appointment of a receiver. I'm going to name Mr. Joe Qualey to be your receiver. He moves fast and gets stuff done. You've got a limited amount of time to get these things done. What I will need is -- I will do a form order. What I need is y'all to set forth what documentation and evidence that you have so he knows where the bank is, what it is.

Y'all asked him for the records. I haven't gotten any kind of response from any bank as to whether or not they're going to comply. But I'm assuming they should be based upon what you've told me this morning. Then he's entitled to meet with the book keeper, Ms. Roche. I need y'all to provide her name and address so they can go over there and poke around in the records.

**And then, Mr. Anthony, he's going to be calling you and talking to you and he's going to be inquiring of the status of whatever is going on. I need you to cooperate with him because the receiver is an arm of the Court. If the receiver tells me Mr. Anthony is not cooperating with me, I'm going to issue a rule and/or order for arrest and get your attention however I can. Okay? That's what I'm going to do. I just wanted you to know that. I'm not going to do that today. But I need you to cooperate with him. Y'all need to communicate and go from there.**

(August 11, 2023 H'rg Tr., pp. 25:24-27:19). Emphasis added.

Defendant's counsel notably **made no objection** to Mr. Qualey's appointment as receiver at the hearing. On August 11, 2023, this Court entered a Supplemental Proceedings Order, formally appointing Mr. Joseph Qualey as receiver, and advising Mr. Anthony as follows: **"Mr. Anthony is to fully cooperate with the Receiver and is cautioned that he could be held in contempt for failure to do so which could result in monetary sanctions and/or incarceration."** Mr. Anthony did not seek reconsideration of this Order pursuant to Rule 59(e), SCRPC. Thereafter, on September 25, 2023, this Court entered a formal order setting forth Mr. Qualey's

authority as receiver. Defendants did not seek reconsideration of this Order either. Instead, Appellants filed a Notice of Appeal as to the two Orders without having raised even a single issue as to Mr. Qualey's appointment or authority as receiver to this Court.

Contrary to Defendants' contention at the present hearing, the September 25, 2023 order was not an *ex parte* order. Defendants and their attorney were in fact present at the August 11, 2023 hearing appointing Mr. Qualey as receiver. They raised no objection to his appointment at the hearing. This Court's August 11, 2023 order appointed Mr. Qualey as Receiver and specifically advised the parties: "Formal Order to Follow." That is precisely what the September 25, 2023 Order is: a formal order, which Appellants were specifically advised would be forthcoming. It is not under, any reasonable interpretation, an *ex parte* order.

On November 3, 2023, the court-appointed Receiver filed an affidavit setting forth his efforts to obtain financial information from Defendants and stating that his requests had been met with inadequate and/or incomplete answers, if not entirely ignored. Moreover, despite Mr. Anthony's claims of being "broke," Mr. Qualey discovered that Mr. Anthony had, in actuality, received salary in excess of \$200,000 from the Broadband Companies. This is in stark contrast to Mr. Anthony's deposition testimony, where he claimed to have received no salary at all. Mr. Anthony has failed to provide both the Receiver and the Plaintiffs with adequate financial information, including but not limited to, failing to account for approximately \$438,691.00 he personally received in income.

### **FINDINGS**

Defendant has appeared before this Court on several occasions over the past year in this supplemental proceedings matter. Each hearing has resulted in an order requiring Defendant to produce financial documents.

The Court finds there is clear and convincing evidence that the Defendant, Fred Anthony, has not been truthful or forthcoming about his salary, businesses, and bank accounts, and that he has repeatedly failed to provide Plaintiffs with adequate financial documents and information so as to allow them the opportunity to collect on their judgment.

The Court finds by clear and convincing evidence that the Defendant, Fred Anthony, is in direct contempt of court by his willful failure to comply with the prior orders of this court to furnish adequate financial records and information to Plaintiffs. *In Re: Combis*, 439 S.C. 485, 888 S.E. 2d 1 (Ct. App. 2023).

As a separate and distinct ground for contempt, the Court also finds by clear and convincing evidence that the Defendant, Fred Anthony, is in direct contempt of court by his willful failure to cooperate with the court-appointed Receiver. *Id.*

IT IS ORDERED, ADJUDGED AND DECREED that Defendant, Fred Anthony, is in civil contempt of court due to his actions and inactions. As such, Mr. Anthony shall be transported to the Charleston County Detention Center where he shall be held in confinement until December 23, 2023, or until such time as he purges himself from contempt upon (1) payment of attorney's fees to Plaintiffs' counsel as set forth in their filed affidavits, (2) payment to Plaintiff's counsel for costs they have incurred from services rendered by the Court-appointed Receiver, Joseph Qualey, Esquire **and** (3) upon providing Plaintiffs' counsel with copies of all checks (and wire transfers) paid to and received by Fred Anthony, the Broadband Companies, and any all companies of which Mr. Anthony holds an interest for the past four (4) years.

Specifically, Mr. Anthony shall pay The Law Office of Jesse Sanchez, LLC, \$12,663.23 in attorneys' fees and costs, and \$11,925.00, which Plaintiffs' counsel have incurred in billings from

the court-appointed receiver, and finally \$6,063.30 in attorneys' fees and costs incurred by Brian Knowles, P.C., for a total of \$30,651.53 in payments.

Counsel for Plaintiffs shall be required to file an affidavit with the Clerk of Court upon Mr. Anthony's satisfaction of the above requirements, so as to allow for his release.

IT IS SO ORDERED.

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Mikell R. Scarborough,  
Master in Equity, Charleston County

Charleston, South Carolina  
November \_\_, 2023



Charleston Common Pleas

**Case Caption:** Rr Landscape & Design L L C Etc , plaintiff, et al VS Broadband Companies Llc The Etc , defendant, et al

**Case Number:** 2010CP1009857

**Type:** Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062