

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2019-CP-07-617

LEGAL SERVICES FUNDING CORP.,)
)
Plaintiff,)

vs.)

AMENDED FINAL ORDER

KEVIN J. LANE, PATRICIA E. LANE,)
TIMOTHY J. LANE, AND)
MATTHEW W. LANE,)

Defendants,)

RECEIVED
Apr 25 2024
SC Court of Appeals

PATRICIA E. LANE, KEVIN J. LANE,)
TIMOTHY J. LANE, AND)
MATTHEW W. LANE,)

Third-Party Plaintiffs,)

vs.)

ROBERT M. LANE, RICHARD)
FRIEDMAN,)

Third-Party Defendants.)

The Court issued its Final Order in this matter on January 19, 2024 (“Original Order”). Thereafter, the Plaintiff filed a Motion for Reconsideration, dated January 26, 2024 and the Lane Defendants and Third- Party Plaintiffs filed a Motion for Reconsideration on January 29, 2024. This Court has decided not to grant either motion except as to remove the debit for the use of the Property for the two(2) months (July 29, 202 to September 30, 2020) the Property was not habitable due to mold and water damage. (D. Ex. 36(c) This Amended Order incorporates said single change to the Original Order.

1. This partition action came before me for a final hearing at the Beaufort County Courthouse on Wednesday, November 15, 2023. Appearing for the Plaintiff was William M.

EXHIBIT A

Bowen and appearing for the Defendants and Third-Party Plaintiffs was Russell P. Patterson. As noted below, the Third-Party Defendants Robert M. Lane and Richard Friedman are in default in this matter.

After consideration of the legal memorandum submitted by counsel both before and after trial, and the extensive testimony and documentary evidence admitted at trial, this Court makes the following Findings of Fact and Conclusions of Law in granting the partition request.

A. Procedural History

2. Legal Services Funding Corp. (“Legal Services”) originally filed a partition action as to Unit E-5 Sailmaster, a condominium located on Hilton Head Island (TMS R510-015-000-0202-D016 – “Property”) on October 27, 2016 (CA No: 2016-CP-07-2295 - “Original Partition Action”). The defendants in that action, the Estate of Patricia A. Lane, and the named Defendants in this action, on February 1, 2017, filed an Answer and Counterclaim seeking to enforce an option discussed below on Page 4. Thereafter, pursuant to a Form 4 Order, dated May 3, 2017, the Original Partition Action was dismissed by this Court due to the failure of Legal Services to pay the \$125 reference fee.

3. Some two (2) years thereafter, Legal Services filed the instant case, an almost identical Complaint on March 18, 2019, seeking a partition sale of the Property and a cause of action for unjust enrichment for the fair market value of the rents on the Property. At the time this action was filed, title was held one-half (1/2) by the Plaintiff Legal Services Funding Corp (D. Ex. 5) and one-half (1/2) by the Defendants, Patricia E. Lane, Kevin J. Lane, Mathew W. Lane, and Timothy J. Lane (D. Ex. 6). There are no mortgages on the Property. The Defendants on July 24, 2019 gave notice of their Notice of Exercise of Right of First Refusal, under § 15-61-25(A), to purchase the interest of Legal Services.

4. On April 15, 2021, the Defendant Patricia E. Lane filed an Amended Answer, Counterclaim and Third Party Complaint against Robert M. Lane and Richard Friedman (“Amended Answer, Counterclaim and Third Party Complaint”). The Third Party Defendants Robert M. Lane and Richard Friedman were duly served and failed to respond in a timely manner to said pleadings. They were found to be in default. (April 14, 2022 Order Denying Third-Party Plaintiffs’ Motion to Dismiss, p. 12). Legal Services did timely respond to the Amended Answer, Counterclaim and Third Party Complaint on April 29, 2021.

5. Thereafter, the Defendant Robert M. Lane filed a Motion to Dismiss Default, dated March 31, 2022. This Court, by Order dated March 8, 2023, denied said Motion and found Robert M. Lane in default. Under Rule 55 SCRPC the allegations of the Third Party Complaint are deemed admitted by Robert M. Lane and Richard Friedman.

6. The Causes of Action against Robert M. Lane and Richard Friedman, subject to the Order of Default and **therefore deemed admitted**, are as follows:

A. Fraudulent Conveyance (Conveyance of Ownership Interest in Legal Services from Robert M. Lane to Richard Friedman)

1. That at the time Robert M. Lane was aware of the debt due Patricia E. Lane, he transferred for no consideration his interest in Legal Services to Richard Friedman.
2. That Robert M. Lane did not retain sufficient assets to properly pay said debt, not merely at the time of the transfer of said corporate interest, but at any time thereafter.
3. Said transaction was intended to defraud lawful creditors of Robert M. Lane, namely Patricia E. Lane.

B. Piercing the Corporate Veil (Robert M. Lane owner Legal Services)

1. Patricia E. Lane obtained a judgment against Robert M. Lane for \$129,891 in the U.S. District Court of Wyoming on January 9, 2018. That said judgment was domesticated in Beaufort County on May 31, 2019.
2. That at all times relevant, Legal Services was undercapitalized, failed to observe corporate formalities, and lacked corporate records. Further, Robert M. Lane siphoned off funds of Legal Services, and that Legal Services was a mere façade for the benefit of Robert M. Lane.

C. Execution on Judgment

1. That this Court find that the ownership interest in Legal Services is held by Robert M. Lane.
2. That since Patricia E. Lane holds a \$129,899 judgment (plus interest) against Robert M. Lane, any monies found to be due Robert M. Lane or Legal Services in this partition action be first applied to the judgment debt.

B. Legal Discussion

(1) Enforcement of Option

7. The Defendants seek the enforcement of a March 5, 1992 Option granted by ILMMB, through Robert M. Lane, as President, in favor of his parents, Patricia A. Lane and Robert F. Lane (“Parents”), for \$1.00 (D. Ex. 8). Said Option was conveyed to the Parents as a gift and there was no evidence it had ever been withdrawn, terminated or cancelled. Defendants assert said Option was exercised on two (2) separate occasions. On April 16, 2016, Patricia E. Lane, as attorney-in-fact under a recorded Power of Attorney from her mother, provided notice of

the exercise of the Option to Robert M. Lane and his company, ILMMB, the then record owner of the Property (D. Ex. 10). No response was made by said parties.

8. Thereafter, on February 9, 2021, after both Parents had passed away, Patricia E. Lane and Kevin J. Lane, in their capacities as heirs of their Parents, again provided notice to Robert M. Lane, ILMMB and Legal Services, the then owner of the Property, of the exercise of the Option (D. Ex. 11). Again, no response was made by said parties.

9. This Court finds that the Option is not enforceable since there was no initial consideration provided to support the formation of a binding contract.

2. Partition Accounting

10. As the Court has rejected the Defendants' claims seeking to enforce the Option, the remaining issue before the Court is an accounting typical of a customary partition action.

With certain modifications, the Court adopts Defendants' accounting admitted into evidence as D. Ex. 42. A discussion of each component of the accounting follows.

- a. Fair Market Value of Property ("FMV") – The Defendant put into evidence a current appraisal by Steve Lindsay, a licensed appraiser, showing a fair market value of the Property at \$575,000 (D. Ex. 40). The Court adopts said value. This equates to \$287,500 to each party ($\$575,000/2$).
- b. Regime Fees/Property Taxes/Insurance/Shipyard Fees – Defendant Patricia E. Lane, who has lived in the Property since 2008, has paid 100% of the regime fees (\$51,551.67), property taxes (\$22,702.62), Shipyard Property Owner Association fees (\$500), and HOG Insurance Assessment (\$4,809.09). These expenses total \$79,563.38.

- c. Mold Repairs – The Court finds that there was water intrusion and mold damage to the Property not covered by any insurance. While Defendants claim total damages of \$25,045.56 (D. Ex. 36), this Court is deducting hotel rooms (\$9,382.75) and meals (\$418.96) paid by the Defendants during repairs, when Patricia E. Lane was forced to vacate the Property, upon the basis it is not reasonable or appropriate for these expenses to be charged Plaintiff in this Partition action. Thus, the total allowed expenses for Mold Repairs is adjusted to \$15,243.85 (\$25,045.56 – (\$9,382.75 + \$418.96)).
- d. Total Property Expenses Paid by Defendant – Based on the above, the Defendants have paid from February 1, 2019 through the hearing date a total of \$94,807.23 in Property expenses (\$51,551.67 + \$22,702.62 + \$500 + \$4,809.09 + \$15,243.85). One-half (1/2) of these expenses, or \$47,403.61 (\$94,807.23/2) should be deducted from the Plaintiff's one-half share of the FMV of the Property.
- e. Fair Rental Rates – I find and conclude the fair rental rate or charge due the Plaintiff is as testified by the Defendant, Patricia E. Lane and as set forth in D. Ex. 50. The total fair market rents on the Property from February 1, 2019 through trial was \$153,600. I have deducted two(2) months' rent, or \$4800 (2 x \$2400: D. Ex. 50) due to the fact that the Property was not habitable due to the mold and water remediation that took place from on or about July 29, 2022 to September 30, 2020. With this deduction, the total fair market rental is \$148,800.(\$153,600- \$4,800). Plaintiff is entitled to a credit of one-half (1/2) of this total, or \$74,400 (\$148,800/2). This amount should be added to the monies due and owing to the

Plaintiff in the Partition accounting. I do not find the Plaintiff's representative Robert M. Lane's testimony on this issue as credible or persuasive.

- f. Federal Court Judgment (D. Ex. 51) – Defendant Patricia E. Lane testified at length as to a January 9, 2018 judgment in her favor against the Third-Party Defendant Robert M. Lane in the principal amount of \$129,899 filed in the U.S. District Court for the District of Wyoming (Civil No.: 15-CV-155-F) (D. Ex. 51 - “Judgment”). Said Judgment has been domesticated in South Carolina (Judgment Roll 2019CP071280) and remains unsatisfied. Under 28 U.S.C.A. 1961(a), the interest that has accrued on said Judgment is \$14,711.58 through December 20, 2023 (per diem \$6.70) (See attached Exhibit 1). Thus, the total due on said judgment is \$144,610.58 (\$129,788 + \$14,711,58). Based on the deemed admitted allegations of the Third-Party Plaintiff's Amended Answer, Counterclaim and Third-Party Complaint, I find and conclude that Legal Services is the alter ego of Robert M. Lane and this Court should pierce the corporate veil and set-off, or reduce any monies due Plaintiff as a result of this Partition action the Judgement Payoff. This finding is further supported by the findings and conclusions of Judge Cathleen D. Parker in her December 8, 2022 Order filed in the United States Bankruptcy Court, for the District of Wyoming (Adv. Pro. No. 20-02018) (D. Ex. 29), the testimony of Patricia E. Lane, and the testimony of Richard Friedman in the Robert M. Lane Bankruptcy Adversary Proceeding (D. Ex. 52).
- g. Defendant Attorney Fees and Costs – This Court has carefully considered the Affidavit of Attorney Fees submitted by Defendant's counsel requesting \$63,837.04 in attorney fees and costs (D. Ex. 41). This Court has taken into

consideration the very extensive amount of time and effort involved in this case over the four (4) years and eight (8) months it has been pending. The issues involving the Option, the accounting for a period of over four and one-half (4½) years, and the very extensive bankruptcy proceeding of the Third-Party Defendant Robert M. Lane, support the detailed billing records of the amount of time reasonably related to this matter. The hourly rates charged are comparable to counsel in our area with similar experience. Mr. Patterson has tried many cases before this Court and enjoys an excellent reputation. Under Section 15-61-110 of the SC Code of Laws, I find that the Plaintiff should be responsible for one-half (1/2) of these fees and costs, or **\$31,918.52** (\$63,837.04/2).

h. Final Accounting – Based upon the above, I find and conclude the Plaintiff is entitled to the sum of **\$140,367.39** for its one-half interest in the Property, as follows:

1. (1/2) Fair Market Value	\$287,500.00
2. <u>Less:</u> ½ Expenses Paid by Defendant	(47,403.61)
3. <u>Plus:</u> ½ Rents Due Plaintiff	74,400.00
4. <u>Less:</u> Judgement Payoff per Diem of \$6.70 from 12/20/23	(144,610.58)
5. <u>Less:</u> ½ Defendant’s Attorney Fees and Costs	<u>(31,918.52)</u>
6. <u>Total Due Plaintiff</u>	<u>\$ 137,967.29</u>

i. Payment by Defendant of Total Due Plaintiff – The Defendants shall have one (1) year from the date of this Order to pay the Plaintiff the Total Due Plaintiff of **137,967.29**, plus interest at the South Carolina judgment rate (currently 11.50% for 2023). Upon timely payment, the Plaintiff will convey by general warranty deed

to the Defendants, or their designee, good and marketable title to the Property. If Plaintiff refuses to sign said deed upon Defendant's tendering payment, the Court will execute a Master's Deed to Defendant for Plaintiff's interest.

- j. Payment of Total Due Plaintiff not Timely Made – If the Total Due Plaintiff (with interest) is not paid within the one (1) year period, this Court will, upon petition by any party, initiate the sales procedure for the Property at a judicial sale and disburse the resulting proceeds consistent with terms of this Order and South Carolina law.
- k. Continued Occupancy of Property – Until the deed is executed by Plaintiff upon receipt of the Total Due Plaintiff (with interest), or the judicial sale is complete, the Defendant, Patricia A. Lane, can continue to occupy the Property with no further obligation to the Plaintiff of any kind other than the accruing interest referenced above.

AND IT IS SO ORDERED.

Marvin H. Dukes
Beaufort County Master-In-Equity

Beaufort, South Carolina
_____, 2024

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NO. 2019- CP-07- 617**

Legal Services Funding Corp.

Kevin L. Lane et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Russell P. Patterson	Attorney for <input checked="" type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : Separate Order filed.

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)
Kevin J. Lane,	Legal Services Funding, Corp.	\$TBD

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Apr 25 2024

SC Court of Appeals

Patricia D. Lane, Timothy J. Lane , Mathew W. Lane	Legal Services Funding Corp.	\$TBD
		\$
If applicable, describe the property, including tax map information and address, referenced in the order: Unit 5-E Sailmaster, HHI Sc TMS R510-015-000-0202-0016		

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:

 Willima M. Bowen

 Russell P. Patterson

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

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.





Beaufort Common Pleas

Case Caption: Legal Services Funding Corp. VS Kevin J Lane , defendant, et al

Case Number: 2019CP0700617

Type: Master/Order/Partition and Form 4

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2024-03-11 11:00:26 page 13 of 13