

RECEIVED

Dec 03 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas
Brian Gibbons, Circuit Court Judge

Civil Action No. 2024-CP-29-00993

Appellate Case No. 2024-001696

Graham Underwood and Felicia Underwood, Appellants,
v.
Heartland Realty, Respondent

MOTION TO SUBSTITUTE PARTIES

Donovan M Steltzner, Esq.
STELTZNER LAW PC
454 Anderson Road S, Suite 302
Rock Hill SC 29730
(803) 329-3777
donovan@steltznerlaw.com

ATTORNEY FOR INTERVENOR CLAYTON LAMAR HALL

TABLE OF AUTHORITIES

STATUTES

SC Code of Laws (1986) § 27-40-450(b) 3
SC Code of Laws (1986, as amended), § 27-40-710(C)..... 3

RULES

SCRPC Rule 17(a) 4
SCRPC Rule 24..... 4
SCRPC Rule. 25..... 4

Clayton Lamar Hall, by and through his attorney, Donovan M Steltzner, brings the following motion before this Court:

INTRODUCTION

At the time of the initial notice of eviction in this case, Respondent Heartland Realty (“Heartland”) was acting as property manager for the leased premises on behalf of Clayton Lamar Hall (“Hall”), the owner of record for the real property and improvements located on 1722 Baskins Hill Road, Heath Springs, SC 29058. *See* Exhibit 1. On or about October 16, 2024, and upon belief that his interests would not be defended further than at the Circuit Court level, Hall terminated Heartland in writing. *See* Exhibit 2. As there is no current agency between Hall and Heartland, Hall now wishes to intervene by right and be substituted for Heartland. This Motion is made pursuant to Rule 240 of the South Carolina Appellate Court Rules and is supported by the embedded Memorandum.

APPLICABLE LAW AND ANALYSIS

Although “[a] real estate broker-in-charge licensed in this State [...], in the conduct of his licensed business may, either in person or through one or more regular employees, complete a form writ of eviction and present facts to judicial officers on behalf of his landlord/principal in support of an action for eviction and/or distress and/or abandonment...” SC Code of Laws (1986, as amended), § 27-40-710(C), any ability to act on behalf of the landlord ends upon termination of its agency agreement by the landlord. In the event of this termination, the agent’s responsibility is terminated. SC Code of Laws (1986) § 27-40-450(b).

The SC Rules of Civil Procedure, Rule 24, states, in part:

“(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action:

...(2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties....” SCRCF Rule 24.

Further, SC Rules of Civil Procedure, Rule 25, states, in part:


“(c) Transfer of Interest. In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.” SCRCF Rule. 25.

On July 1, 2024, Respondent Heartland filed suit demanding a Writ of Ejectment of the residential premises occupied by the Appellant; the writ of Ejectment was granted on July 19, 2024, and stayed on appeal to the Circuit Court. The Circuit Court dismissed the appeal on October 8, 2024, and the Writ of Ejectment was re-issued on even date. While Heartland is equipped to handle the magistrate court and civil court actions, they are not equipped to assist Hall in a Court of Appeals action and would need legal counsel.

Upon knowledge and belief that Heartland would not represent Hall further, the agency was terminated in writing. Upon termination of that relationship, Hall, as owner of the leased property in question, has willingly transferred upon himself the Respondent’s role and responsibility as agent entirely and has sought counsel to that end. As such, Hall is the natural intervenor, and as such the suit will proceed “as if the action had been commenced by [him].” SCRCF Rule 17(a).

WHEREFORE for the foregoing reasons, Hall respectfully requests that this Motion be granted and that the Court enter an order: (i) substituting Clayton Lamar Hall, as the real party in interest in the place of Heartland Realty; and (ii) directing the Clerk to amend the docket to reflect the substitution.

Respectfully submitted,



Donovan M. Steltzner, SC Bar #71991
STELTZNER LAW PC
454 Anderson Road S., Suite 302
BTC Box 519
Rock Hill SC 29730
(803) 329-3777
(803) 329-7788
donovan@steltznerlaw.com
ATTORNEY FOR INTERVENOR
CLAYTON LAMAR HALL

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)
)
IN THE MATTER OF:)
BONNIE BAILEY JONES AKA BONNIE CAROL)
JONES AKA BONNIE B. JONES)
(Decedent))

IN THE PROBATE COURT
DEED OF DISTRIBUTION
(Real Property Only)
NOT A WARRANTY

STATE TAX \$0.00
COUNTY TAX \$0.00
PRESENTED & RECORDED
01-16-2024 09:36:39 AM
BRITTANY GRANT

CASE NUMBER: 2023ES2900324
LANCASTER COUNTY, SC REGISTER OF DEEDS
2024000463 DEED OF DISTRIBUTION LANCASTER, COUNTY SC
RECORDING FEES \$15.00 BY: STEPHANIE KNIGHT
BK:DEED 1748 PG:188-190

The undersigned states as follows:

Decedent died on APRIL 27, 2023; and probate of the Estate is being administered in the Probate Court for LANCASTER County, South Carolina, in File #2023ES2900324.

I/We was/were appointed Personal Representative (s) on MAY 08, 2023.

LANCASTER COUNTY ASSESSOR
Tax Map: RECORDED THIS 19th DAY
0067F OF 006 00 OF JANUARY, 2024
0100 00 096 00 IN BOOK 00 PAGE 00

Decedent owned real property described as follows:

Tax Map Number: 0067F-0F-006.00 & 0100-00-096.00

Stephanie Knight
Auditor, Lancaster County, SC

Street/Property Address: 1118 HAWTHORNE ROAD LANCASTER, SC 29720 & 1722 BASKINS HILL RD LANCASTER, SC 29720

Legal Description: ALL THAT PIECE, PARCEL OR LOT OF LAND LYING, BEING AND SITUATE IN LANCASTER COUNTY, SOUTH CAROLINA, IN THE WESTERN SUBURBS OF THE CITY OF LANCASTER, DESIGNATED AS LOT NO. E-7 (SEVEN) AS SHOWN ON PLAT OF FOREST HILLS SUBDIVISION PROPERTY OF E.E. WYLIE ESTATE, MADE BY JAMES B. BAKER, SURVEYOR, AS REVISED MARCH 11, 1965, AND RECORDED IN THE REGISTER OF DEEDS OFFICE FOR LANCASTER COUNTY, SOUTH CAROLINA, IN PLAT BOOK 15 AT PAGE 15 FOR WHICH REFERENCE IS HEREBY MADE FOR A MORE MINUTE DESCRIPTION. SAID LOT FRONTING 164 FEET ON HAWTHORNE ROAD.

LESS & EXCEPT HOWEVER, THAT CERTAIN STRIP OF LAND SHOWN AS A PORTION OF LOT E-7 ON PLAT PREPARED BY JACK SMITH, RLS, DATED OCTOBER 30, 1992 AND RECORDED IN THE REGISTER OF DEEDS OFFICE FOR LANCASTER COUNTY, SOUTH CAROLINA AS PLAT NO. 12067 HAVING BEEN CONVEYED UNTO JOHN HOUSTON HILL, II AND LAURA C. HILL BY DEED DATED AND RECORDED NOVEMBER 26, 1991 IN DEED BOOK H-10 PAGE 29.

BEING THE SAME PROPERTY CONVEYED TO BONNIE B. JONES BY DEED RECORDED JANUARY 28, 2014 IN DEED BOOK 778 AT PAGE 300 IN THE OFFICE OF THE REGISTER OF DEEDS FOR LANCASTER COUNTY, SOUTH CAROLINA.

ALSO: ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND, WITH ANY AND ALL IMPROVEMENTS THEREON, LYING, BEING AND SITUATE IN THE STATE OF SOUTH CAROLINA, COUNTY OF LANCASTER, IN PLEASANT HILL TOWNSHIP, NEAR RICH HILL COMMUNITY, FRONTING NORTH ON SOUTH CAROLINA HIGHWAY S-29-47 AND BEING THE IDENTICAL PROPERTY SHOWN, DESCRIBED AND DESIGNATED ON PLAT OF SURVEY ENTITLED 'PHYSICAL SURVEY FOR JAMES M. BAILEY AUDREY H. BAILEY' PREPARED BY WM. CHARLES HENDLEY, JR. LAND SURVEYING, DATED APRIL 8, 1991 AND RECORDED IN THE REGISTER OF DEEDS OFFICE FOR LANCASTER COUNTY, SOUTH CAROLINA AS PLAT NUMBER 11568. FOR A MORE MINUTE DESCRIPTION, REFERENCE TO SAID PLAT IS CRAVED.

BEING THE SAME PROPERTY CONVEYED TO BONNIE B. JONES AND PERRY H. WATFORD BY DEED RECORDED JULY 17, 2013 IN DEED BOOK 742 AT PAGE 207 IN THE OFFICE OF THE REGISTER OF DEEDS FOR LANCASTER COUNTY, SOUTH CAROLINA. PERRY H. WATFORD PASSED ON JULY 05, 2018.

Additional sheet(s) for additional property(ies) is attached (check if applicable)

This transfer is made pursuant to:

- Decedent's Will
- Intestacy Statute: SCPC 62-2-103
- Private Family Agreement: SCPC 62-3-912
- Disclaimer by: _____
- Probate Court Order issued on _____
- Other: _____

In accordance with the laws of the State of South Carolina, the Personal Representative(s) does/do hereby release all of the Personal Representative's(s') right, title and interest, including statutory and/or testamentary powers, over the real property described to the beneficiaries named below:

Name: CLAYTON LAMAR HALL
Address: 1118 HAWTHORNE ROAD
LANCASTER, SC 29720

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Additional sheet(s) for names of additional beneficiaries is attached (check, if applicable)

IN WITNESS WHEREOF the undersigned, as Personal Representative(s) of the above Estate, has executed this Deed of Distribution, on this 16 day of January, 2024

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Witness: [Signature]
Print Name: JAMEE B. JOHNSON

Witness: [Signature]
Print Name: CHRISTEN SIMMONS

Estate of: BONNIE BAILEY JONES AKA BONNIE CAROL JONES AKA BONNIE B. JONES

Signature of Personal Representative: [Signature]

Print Name: CLAYTON HALL

If applicable,
Signature of Co-Personal Representative: _____

Print Name: _____

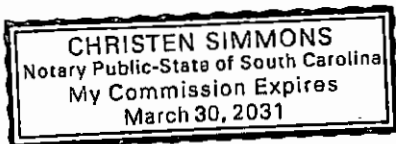
STATE OF SOUTH CAROLINA)
)
)

ACKNOWLEDGMENT

COUNTY OF LANCASTER

I, Christen Simmons, Notary Public, a notary for the State of South Carolina do hereby certify that CLAYTON HALL, as Personal Representative(s) of the Estate of BONNIE BAILEY JONES AKA BONNIE CAROL JONES AKA BONNIE B. JONES, personally appeared before me this day and acknowledged the due execution of the foregoing Deed of Distribution.

Witness my hand and seal this the 16 day of January, 2024



[Signature] (SEAL)
(Signature of Notary Public)

Christen Simmons
(Print name of Notary Public)

Notary Public for State of SOUTH CAROLINA
My Commission Expires: 3/30/31



RELEASE OF AGREEMENT/CONTRACT TO BUY AND SELL REAL ESTATE
 RESIDENTIAL OTHER Residential Management Agreement

This Release is entered into as of 10/24/2024 between the undersigned Buyer and Seller for that Contract covering the Property and becomes effective upon a Signee placing the final and required signatures and/or initials on this Release and Delivers Notice to cause this Release to be binding on all Signees.

Address 1722 Baskins Hill Rd Unit # _____
 City Heath Springs State of South Carolina
 Other _____ TMS 0100-00-096.00

WITNESSETH: That each of the Signees hereto in consideration of each of the Signees releasing all of the other Signees from the Contract, do hereby release each of the other Parties, Brokers, and Escrow Agent to the Contract from any and all claims, losses, costs, damages, expenses, actions, demands whatsoever which each of the Parties and Brokers hereto may have up to this date against any of the other Parties or Brokers hereto by reason on the Contract.

It is the intention of this Release that any responsibility or obligations or rights by virtue of the Contract are by this Release declared null and void and of no further force or effect.

~~The Escrow Agent holding any Earnest Money or other deposits under the Contract terms is hereby directed and instructed forthwith to disburse said Earnest Money or other deposits in the following manner:~~

~~PLEASE SELECT ONLY ONE OF THE FOLLOWING OPTIONS:~~

- OPTION 1: \$ _____ TO BUYER; OR
- OPTION 2: \$ _____ TO SELLER; OR
- OPTION 3: \$ _____ TO BUYER AND \$ _____ TO SELLER; OR
- OPTION 4: PARTIES AGREE TO TERMINATE THE CONTRACT BUT STILL DISPUTE THE RELEASE OF THE EARNEST MONEY. PARTIES REQUEST THAT ESCROW AGENT FILE THE APPROPRIATE ACTION WITH A COURT OF COMPETENT JURISDICTION TO RESOLVE THE DISPUTE. PARTIES MAY CONSULT WITH LEGAL COUNSEL ABOUT ALL LEGAL OPTIONS, CLAIMS, AND RISKS THEY MAY HAVE.

This legally binding Release is executed voluntarily and based solely on Contract representations. Signees solely responsible for obtaining any legal counsel prior to signing and acknowledge they have had ample time for counsel.

~~BUYER:~~ Clayton Hale Date: 10-28-24 Time: _____
~~BUYER:~~ Clayton Hale Date: _____ Time: _____
 BUYER: _____ Date: _____ Time: _____
 BUYER: _____ Date: _____ Time: _____
~~SELLER:~~ [Signature] Date: 10-24-24 Time: _____
~~SELLER:~~ Heartland Realty Date: _____ Time: _____
 SELLER: _____ Date: _____ Time: _____
 SELLER: _____ Date: _____ Time: _____

REALTOR® is the registered collective membership mark which may be used only by those real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its strict professional Code of Ethics. The South Carolina Association of REALTORS® (SCAR) owns copyright to the content of this form and expressly prohibits the display, distribution, duplication, transmission, alteration, or reproduction of any part of SCAR copyright content as well as the use of the name "South Carolina Association of REALTORS®" in connection with any written or electronic format without the prior written consent of SCAR.

© 2021 South Carolina Association of REALTORS®. 4/2021

OWNER BUYER BUYER SELLER SELLER HAVE READ THIS PAGE

RECEIVED

Dec 03 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY

Court of Common Pleas

Brian Gibbons, Circuit Court Judge

Civil Action No. 2024-CP-29-00993

Appellate Case No. 2024-001696

Graham Underwood and Felicia Underwood, Appellants,
v.
Heartland Realty, Respondent

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(2), and Rule 262(c)(1) SCACR, the undersigned hereby certifies that a true copy of the Motion for Substitution of Parties in the above-referenced case has been served upon Graham Underwood, Felicia Underwood, and Heartland Realty at their mailing address listed below, on this the 3 day of December, 2024.

Graham Underwood
Felicia Underwood
1722 Baskins Hill Road
Heath Springs, SC 29058

Heartland Realty
114 E. Hilton St
Kershaw SC 29067



Donovan M Steltzner, SC Bar #71991

STELTZNER LAW PC

454 Anderson Road S., Suite 302

BTC Box 519

Rock Hill SC 29730

(803) 329-3777

(803) 329-7788

donovan@steltznerlaw.com

ATTORNEY FOR INTERVENOR

CLAYTON LAMAR HALL