

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
COURT OF COMMON PLEAS

Mikell R. Scarborough, Master-in-Equity

Appellate Case No.2012-212772

Lashanda Ravenel and Henry Lee Ravenel, II, ..... Appellants,

v.

Equivest Financial, LLC, ..... Respondent.

MOTION FOR LEAVE  
TO ARGUE AGAINST PRECEDENT

TO: THE HONORABLE CHIEF JUDGE AND ASSOCIATE JUDGES  
OF THE COURT OF APPEALS OF SOUTH CAROLINA:

Respondent moves under Rule 217, SCACR, for permission to argue against precedent. As grounds, respondent would respectfully show as follows:

1. Oral argument is set for November 12, 2013.
2. The appellant relies upon two cases — *Good v. Kennedy*, 291 S.C. 204, 352 S.E.2d 708 (Ct. App. 1987), and *Benton v. Logan*, 323 S.C. 338, 474 S.E.2d 446 (Ct. App. 1996) — for the proposition that the tax collector must use “due diligence” to find a better address for a delinquent taxpayer than the address found in the three sources identified by statute. A third case, *Reeping v. JEBBCO, LLC*, 402 S.C. 195, 740 S.E.2d 504 (Ct. App. 2013), decided after briefing concluded in the case at bar, is to the same effect.
3. Respondent believes that the “due diligence” discussion in the lead case, *Good v. Kennedy*, was dictum, the holding of the case being that the tax

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collector had actual knowledge of the taxpayer's correct address but used a wrong address instead.<sup>1</sup> In the later case of *Benton v. Logan*, the Court relied upon the "due diligence" discussion in the *Good* case. Unlike *Good*, however, it appears that the "due diligence" analysis was necessary to the holding in *Benton v. Logan*, so that the case is precedent. In the third and most-recent case in this line, *Reeping v. JEBBCO, LLC*, it appears that the "due diligence" discussion may have been dictum since the tax collector either had actual knowledge of the taxpayer's correct address or at least the essential part of the correct address.

4. Since at least one of the three cases in this line has held that the tax collector must exercise "due diligence" to find a delinquent taxpayer's correct address, and that this requires an undefined search outside the three places where the statute directs the tax collector to look, respondent respectfully moves the Court for permission to argue against this line of cases. Fastening such a duty upon tax collectors effectively rewrites the statute which prescribes — and *circumscribes* — the tax collector's duty in addressing notices to the delinquent taxpayer, who has failed to notify the taxing authority of his or her correct and current address. The great weight of authority from other jurisdictions, moreover, rejects the contention that the tax collector must search out a better address for the delinquent taxpayer, where the statute tells the tax collector where to look.

5. The undersigned overlooked the fact that Rule 217, SCACR, requires a motion of this nature to be made at least fifteen days before argument. Respondent asks the Court in this instance to excuse the failure to comply with this time limit. The issue has been briefed, and the appellants will suffer no prejudice if this motion is

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<sup>1</sup> Judge Stillwell explained the actual holding of the Court in *Good v. Kennedy* in this way: "In *Good [v. Kennedy]*, the tax collector used an address other than the one on the deed and a tax sale was set aside for that reason." *Johnson v. Arbabi*, 347 S.C. 132, 145, 553 S.E.2d 453, 461 (Ct. App. 2001) (Stillwell, J., dissenting).

granted.

Respectfully submitted,

S. R. Anderson  
Post Office Box 12188  
Columbia, SC 29211  
(803) 252-2828

-and-

James B. Richardson, Jr.  
1229 Lincoln Street  
Columbia, SC 29201  
(803) 799-9412

by James B. Richardson, Jr.  
Attorneys for Respondent.

November 6, 2013.

THE STATE OF SOUTH CAROLINA  
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COURT OF COMMON PLEAS

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Appellate Case No.2012-212772

Lashanda Ravenel and Henry Lee Ravenel, II, ..... Appellants,

v.

Equivest Financial, LLC, ..... Respondent.


CERTIFICATE OF SERVICE

I certify that I served a copy of respondent's motion for leave to argue against precedent upon appellants' attorneys by first class mail, postage prepaid, addressed to them at their respective addresses of record, namely:

Barry I. Baker, Esq.  
Attorney at Law  
One Carriage Lane, Bldg. H  
Charleston, SC 29407

Benjamin Goldberg, Esq.  
Attorney at Law  
One Carriage Lane, Bldg. H.  
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on November 6, 2013.

  
James B. Richardson, Jr.  
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November 6, 2013.

Attorney for Respondent.

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**Law Office of  
James B. Richardson, Jr.**

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November 6, 2013

Honorable Jenny A. Kitchings  
Clerk of the S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

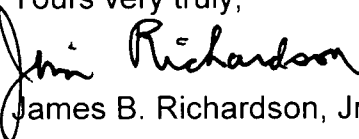
Re: Ravenel v. Equivest Financial, LLC  
Appellate Case No.2012-212772

Dear Ms. Kitchings:

Enclosed for filing is respondent's motion for leave to argue against precedent at the oral argument of this case, set for November 12, 2013.

Rule 217, SCACR, requires such a motion to be filed at least fifteen days before oral argument. I overlooked this provision. The motion includes a request that the Court excuse the lateness of this filing.

Thanking you, I remain

Yours very truly,  
  
James B. Richardson, Jr.

cc: Barry L. Baker, Esq.  
Benjamin Goldberg, Esq.  
S. R. Anderson, Esq.

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