

THE STATE OF SOUTH CAROLINA

In the Supreme Court

RECEIVED

APPEAL FROM YORK COUNTY

APR 15 2015

Court of Common Pleas

SC Court of Appeals

Stonewall Jackson Kimball, Special Circuit Court Judge

Case No. 2014-CP-46-1425

Appellate Case No. 2014-002578

Ryan Powell, ... Appellant,

v.

Amy Boheler d/b/a York County Auditor,
Beth Latham d/b/a York County Treasurer, and,
Robert Kiser d/b/a York County Delinquent Tax Collector,
each in their individual and official capacities, ... Respondents.

RECORD ON APPEAL

Ryan Powell
c/o 25056 Timberlake Drive
Fort Mill, South Carolina
919-400-6339
Appellant

W, Keith Martens
HAMILTON, MARTENS, BALLOU &
CARROLL, LLC,
P.O. Box 10940,
Rock Hill, SC 29731
803-329-7672
Attorney for Respondents

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STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Ryan Powell,)

Case No. 2014-CP-46-1425

Plaintiff,)

v.)

**ORDER SUBSTITUTING DEFENDANT
AND ORDER OF DISMISSAL**

Amy Boheler d/b/a York County Auditor,)
Beth Latham d/b/a York County Treasurer,)
Robert Kiser d/b/a York County Delinquent)
Tax Collector,)

Defendants.)

FILED-RECEIVED
2014 JUN 25 AM 9:31
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

This matter came before me on June 19, 2014, upon Defendants' motion to substitute York County as Party Defendant, and to dismiss Plaintiff's complaint pursuant to Rules 12(b)(1) and 12(b)(6) S.C.R.P. Plaintiff appeared *pro se*, and Defendants were represented by W. Keith Martens. Based on the record presented, I find and conclude the following.

Summary of Plaintiff's Claims

Plaintiff brought this action against Amy Boheler "d/b/a York County Auditor," Beth Latham "d/b/a York County Treasurer" and Robert Kiser "d/b/a York County Delinquent Tax Collector." Plaintiff's causes of action include claims for (1) 'sham legal process,' (2) fraud, (3) trespass *quare clausum fregit*, (4) money had and received, (5) slander of title, (6) false light invasion of privacy/libel, (7) breach of contract, (8) negligence per se, (9) civil conspiracy, and (10) intentional infliction of emotional distress.

Plaintiff's complaint and legal memoranda read like a doctrinal manifesto. It is a rambling presentation of twisted, disconnected and inapplicable legal theories that contradicts all statutory and case law governing the issues presented. It challenges the right and authority of the County to assess and collect *ad valorem* property taxes on realty, as well as the owner's obligation to pay those taxes.

According to Plaintiff, no land owner is required to pay property taxes, unless the owner's deed has been recorded. Instead, property owners elect to pay property taxes when they choose to record their deeds. Plaintiff asserts that a property owner can avoid any liability for property taxes by simply choosing not to record his deed. Because Plaintiff chose not to record

mk
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his deed, Plaintiff contends that York County cannot assess taxes against his real property, which is a conclusion unrelated to any personal liability for the taxes. Applying such "logic", Plaintiff asserts that he is not liable for property taxes on a parcel that he owns in York County, and that the County lacks the authority to collect such taxes through the delinquent tax collection process.

The Complaint alleges that Plaintiff is the owner of a parcel of real property that was conveyed to him by deed in December, 2012, by a now-dissolved trust known as San Juan Holdings. Plaintiff alleges that he has intentionally not recorded his deed in the York County property records, because he did not want to become liable for taxes on the property. Plaintiff's transferor did, however, record a document captioned a "Notice of Sale, Transfer or Exchange" on December 20, 2012, which stated that the transferor had conveyed the property to an unidentified "unenfranchised living man" (presumably Plaintiff), and that the transferor trust "no longer owns the property." Nevertheless, the trust remains the record owner of the property.

According to Plaintiff, the York County Tax Assessor generated and sent a tax bill for 2012 taxes to the dissolved trust, which the trust did not pay. The York County Delinquent Tax Collector then came onto Plaintiff's property without Plaintiff's permission, posted a notice of levy on Plaintiff's property, and advertised the property for sale at the York County delinquent tax sale. When plaintiff became convinced that his property was going to be sold for unpaid taxes, he paid the taxes under protest.

Plaintiff contends that he can have no property tax liability to York County because he never recorded his deed. Plaintiff further contends that his property cannot be "seized" or sold by York County to satisfy the tax liability of Plaintiff's transferor.

Substitution of Party Defendant

As an initial matter, I find and conclude that York County, and not the individuals named by Plaintiff as defendants, is the proper defendant. Each of the defendants named in Plaintiff's suit is an employee of York County, and each of the defendants was sued for acts undertaken on behalf of the County. There is no issue of fact presented that any named Defendant was acting outside the scope of his or her official duties as employees of the County.

South Carolina's Tort Claims Act (S.C. Code Ann. § 15-78-10 *et seq.* (1976, as amended).) ("Tort Claims Act") provides "[i]n the event that [an] employee is individually named [as a defendant in a tort action], the agency or political subdivision for which the employee was acting must be substituted as the party defendant." S.C. Code Ann. § 15-78-70 (1976, as amended). Therefore, Defendants' motion to substitute York County as the proper



defendant must be granted, and Amy Boheler, Beth Latham and Robert Kiser shall be dismissed with prejudice as party defendants.

Rule 12(b)(1) S.C.R.P.

As already indicated, Plaintiff's Complaint is a rambling narrative, but to the extent it challenges the authority of York County to tax Plaintiff's real property or to collect those taxes from Plaintiff, this court lacks subject matter jurisdiction to adjudicate Plaintiff's claims. The South Carolina Revenue Procedures Act (S.C. Code Ann. § 12-10-60 *et seq.* (1976, as amended).) (hereinafter "RPA") expressly provides, with one limited exception not applicable here, that "... there is no remedy other than those provided in this chapter in any case involving the illegal or wrongful collection of taxes, or attempt to collect taxes." S.C. Code Ann. § 12-60-80(A)(1976, as amended). The RPA also prescribes a "contested case" procedure whereby a "... property taxpayer may object to a property tax assessment made by a county assessor . . .," and vests South Carolina's Administrative Law Court with the exclusive jurisdiction to decide contested cases. *Id.*, §§ 12-60-2520-2540. Therefore, to the extent Plaintiff's complaint challenges the taxing authority of York County as it relates to his property, the complaint must be dismissed pursuant to Rule 12(b)(1) S.C.R.P.

Rule 12(b)(6) S.C.R.P.

Plaintiff also alleges that York County's employees committed various torts in issuing a notice of levy against his real property, and in otherwise attempting to collect delinquent taxes assessed against the property. Accepting the factual allegations of the Complaint as true, Plaintiff fails to allege any facts that would entitle him to relief.

Plaintiff's tort claims are all barred by the doctrine of sovereign immunity, and the provisions of the Tort Claims Act. Section 15-78-20(b) provides: "The General Assembly in this chapter intends to grant the State, its political subdivisions, and employees, while acting within the scope of official duty, immunity from liability and suit from any tort except as waived by this chapter." Further, § 15-78-60 provides:

The governmental entity is not liable for a loss resulting from: . . . (3) execution, enforcement, or lawful implementation of any process; (4) adoption, enforcement, or compliance with any law . . . whether valid or invalid . . . ; (9) entry upon any property where the entry is expressly or impliedly authorized by law; . . . (11) assessment or collection of taxes or special assessments or enforcement of tax laws.

"Exceptions to the waiver of sovereign immunity under the Tort Claims Act must be construed liberally in favor of limiting the liability of the state and its political subdivisions."

Arthurs v. Aiken County, 338 S.C. 253, 270, 525 S.E.2d 542, 551 (Ct. App. 1999), *aff'd as modified sub nom. Arthurs ex rel. Estate of Munn v. Aiken County*, 346 S.C. 97, 551 S.E.2d 579 (2001), citing § 15-78-20(f); *see, also, Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).

Plaintiff has failed to allege that Defendants took any action not "... expressly or impliedly authorized by law ..." in their efforts to enforce the tax laws of the County and the State. (§ 15-78-60(9).) Further, every act that Plaintiff has alleged to be actionable clearly relates to the "... assessment or collection of taxes or special assessments or enforcement of tax laws." (§ 15-78-60(11).) In summary, I find and conclude that Plaintiff has alleged no facts to support any legitimate claim against York County, or against any of the individuals named, under any theory of liability.¹ I further find and conclude that Plaintiff's claims are entirely frivolous. Thus, all of Plaintiff's claims shall be dismissed with prejudice.

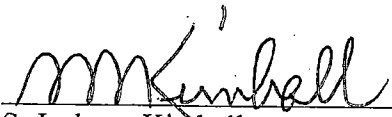
ORDER

For the reasons set forth herein, it is ordered as follows:

1. York County is substituted as the party defendant in this action, and Amy Boheler, Beth Latham and Robert Kiser are all dismissed as parties to this action, with prejudice.
2. Plaintiff's claims for monetary damages are all dismissed with prejudice.
3. To the extent Plaintiff challenges the authority of York County to assess and collect taxes against his real property, this court lacks subject matter jurisdiction to adjudicate such matters, and all such claims are dismissed.

AND IT IS SO ORDERED.

June 24, 2014


S. Jackson Kimball
Special Circuit Court Judge
York County

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¹ Plaintiff's breach of contract action appears to be an attempt by Plaintiff to circumvent the Tort Claims Act. However, Plaintiff has failed to allege any facts by which this court could conclude or infer that he entered into an enforceable contract with York County, or with any of the individuals named as defendants in Plaintiff's lawsuit. Thus, the cause of action must fail as a matter of law.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

Ryan Powell

FILED-RECEIVED

2014 OCT 23 PM 3:33

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP4601425

York County

DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ 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:

This matter came before me on October 16, 2014, upon Plaintiff's motion pursuant to Rule 59(e), SCRCP, asking the Court to alter or amend the Court's Order filed June 25, 2014. Representing the parties were: Plaintiff appearing *pro se*; and, W. Keith Martens for Defendant.

The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to "... reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992) (Citations omitted). A party cannot use a motion to reconsider, alter or amend a judgment to present an issue that could have been raised prior to the judgment, but was not. See *Poch v. Bayshore Concrete Products/South Carolina, Inc.*, 386 S.C. 13, 686 S.E.2d 689 (Ct. App. 2009); and, *Johnson v. Sonoco Products Co.*, 381 S.C. 172, 672 S.E.2d 567 (2009).

Upon reviewing the record presented, and considering the memoranda and arguments of counsel, I find no matter presented that was not addressed expressly or by clear implication in the prior order. I further find no basis for reconsideration or amendment of the court's ruling in the prior order. Therefore, it is ordered that Plaintiff's Motion pursuant to Rule 59(e), SCRCP, be denied.

AND IT IS SO ORDERED.

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

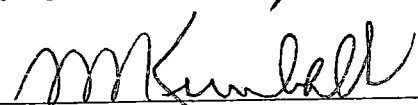
INFORMATION FOR THE JUDGMENT INDEX

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)
--	--	--

If applicable, describe the property, including tax map information and address, referenced in the order:

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.**


Special Circuit Court Judge

3063
Judge Code

10/17/2014
Date

For Clerk of Court Office Use Only

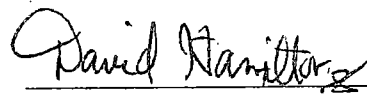
This judgment was entered on 10/23/14 and a copy mailed first class or placed in the appropriate attorney's box on 10/23/14 to attorneys of record or to parties (when appearing pro se) as follows:

Ryan Powell 25056 Timberlake Drive Fort Mill, SC 29715

ATTORNEY(S) FOR THE PLAINTIFF(S)

Walter Keith Martens 130 E. Main Street Rock Hill, SC 29731

ATTORNEY(S) FOR THE DEFENDANT(S)


David Hamilton - Clerk of Court

Court Reporter: Shirley Broome

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.

HZ

State of South Carolina

County of York

Ryan Powell, a private person of full capacity,
Plaintiff,

v.

AMY BOLHER d/b/a York County Auditor,
BETH LATHAM d/b/a York County Treasurer,
ROBERT KISER d/b/a York County Delinquent
Tax Collector,
Each in their personal and official capacities,
Defendants.

Case No. 2014 CP46-1425

In the Circuit Court,
Court of Common Pleas

In the Common Law

Verified
Complaint for Damages and
for Writ of Mandamus

Jury Trial Demanded

FILED-RECEIVED
2014 MAY -1 PM 3:51
DAVID HAMILTON
C.C. & GS
YORK COUNTY, SC

Plaintiff complaining of the Defendants herein sues for money damages arising from Defendants attempts to fraudulently, illegally, and unlawfully take Plaintiff's land and for the issuance of a writ of mandamus to compel Defendants to correct their records so that they cease their on-going attempts to fraudulently, illegally, and unlawfully take Plaintiff's land. Plaintiff alleges the following in support of this action:

Jurisdictional Allegations

1. Plaintiff is one of the people of South Carolina, also known as a "private person" in the common law. Plaintiff is the absolute owner of land that is physically located on York county, South Carolina (hereinafter "**Plaintiff's allodial land**") which has the street location of 25056 Timberlake Drive.
2. Defendant Amy Boheler d/b/a York County Auditor (hereinafter "**Auditor**"), Beth Latham d/b/a York County Treasurer (hereinafter "**Treasurer**"), and Robert Kiser d/b/a York County Delinquent Tax Collector (hereinafter "**Tax Collector**") are all public officers.
3. Defendants act in their official capacity as taxing and collection agents for the private company named "County of York" which that also does business as "York County Register of Deeds" (hereinafter "**a private company**").

4. Defendants' primary business address is: 18 West Liberty St., York, SC 29745.
5. The allegations made herein all took place in York county.
6. The amount in controversy exceeds \$7,500.
7. This Circuit Court was created by S.C. Const. art. V § 1 as a judicial court of record and it has jurisdiction over the parties and of this action.

Law of the Case

8. The parties have consented to this action being brought in the common law and under the mandatory provisions of the Constitution of the State of South Carolina¹. "*Consent makes the law: the terms of a contract, lawful in its purpose, constitute the law as between the parties*" - common law maxim².
9. According to Supreme Court³ and the parties' contract, Defendants are precluded from any further breaches of their contract by relying on any legislation [statutes] or [court] rules that abrogate any of Plaintiff's inherent rights protected to him by the Constitution of the State of South Carolina or of the United States. Should Defendants [individually or through their attorney] further breach their contract and cause any additional damages during this litigation, Plaintiff reserves his right to amend this complaint to join any additional defendant(s) or add any additional damages resulting therefrom.
10. Since Defendants cannot convey title to anyone unless they own Plaintiff's **allodial land**⁴, Defendants are required to produce evidence of such ownership. Absent the production of such evidence, Defendants must be held personally liable for the damages that they have caused Plaintiff in this matter⁵.

¹ See Count Seven – Breach of Contract pgs 11-12.

² "Maxim: An established principle or proposition. A principle of law universally admitted, as being just and consonant with reason", Bouvier's Law Dictionary, (1856)

³ "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them", Miranda v. Arizona, 384 U.S. 436, 491 (1966).

⁴ "a seller cannot convey title to that which he does not own" Sackett v. Wilson, 373 SE 2d 10 (Ga Supreme Court 1988) quoting Smith v Hooker/Barnes, Inc., 253 Ga 514, 322 SE2d 268.

⁵ "Government officers and agents are required to affirmatively prove whatever authority they claim. In the absence of proof, they may be held personally accountable for loss, injury and damages". Ryder v. United States, 115 S.Ct. 2031, 132 L.Ed.2d 136, 515 U.S. 177

Allegations as to Matters in Issue

11. On December 20, 2012 San Juan Holdings, a private, unregistered trust (hereinafter "**SJH**"), sold and assigned all rights, title, and interest in their land to Plaintiff.
12. On December 20, 2012 the trustee for **SJH** executed and recorded his Notice of Sale and Transfer (hereinafter "**the Notice**") into the records of a **private company** showing that **SJH**' land had been sold and transferred to a private man. **The Notice** also evidences that after December 20, 2012 it was impossible for **SJH** to receive any notice, pay any debt, or defend in any court action because **SJH** no longer existed in fact or in law. **Exhibit A** is a certified copy of **the Notice** and is attached and incorporated fully herein by reference.
13. There is no evidence that can show that any person other than Plaintiff holds any rights, title, or interest in **Plaintiff's allodial land** or that any person has ever been given permission by Plaintiff to, *inter alia*, seize, possess, sell, or trespass on his land.
14. Any person aggrieved by any misconduct of any public officer can sue on the bonds of such public officer.

Writ of Mandamus

Each of the above allegations is incorporated into this claim for relief by reference.

15. This is not a cause of action but a claim for needed relief.
16. Defendant **Auditor** received **the Notice** on or about December 21, 2012.
17. Defendants' statutes give them the legal authority to lien, levy, seize, and sell **ONLY** land that is at the time of Defendants' action owned by a person who has recorded their deed with a **private company** (hereinafter "**a person liable**").
18. There is no evidence that could show that Plaintiff has ever recorded a deed to his land with a **private company**.
19. There is no evidence that could show **SJH** has owned any property in York county since December 20, 2012.

20. Defendants' internet access to their records shows **Plaintiff's allodial land** is still listed as being owned by **SJH** even though over fifteen (15) months have elapsed since Defendants received **the Notice** showing **SJH** no longer owns **Plaintiff's allodial land**.
21. There is no evidence that could show that Defendant **Auditor** has any discretion to refuse to correct her duplicate list to remove **Plaintiff's allodial land** especially when such refusal leads to the unlawful and illegal taking of land that is not owned by **a person liable**.
22. On or about May 1, 2013 Defendant **Tax Collector** did create a levy against **Plaintiff's allodial land** in the name of **SJH** authorizing its seizure.
23. On November 18, 2013 Defendants did attempt to sell **Plaintiff's allodial land** in the name of **SJH** at a public auction held by Defendant **Tax Collector**.
24. There is no evidence that could show that Defendants ever provided Plaintiff with any due process of law before or after they took (seized) and attempted to sell **Plaintiff's allodial land** on November 18, 2013.
25. Through telephone conversations with Defendants shortly after November 18, 2013 to discuss their outright refusal to keep their records honest and accurate Defendant **Treasurer** told Plaintiff that Defendants have a duty to continue to tax, seize, and sell **Plaintiff's allodial land** in the name of SJH until Plaintiff records his deed. During that conversation Defendant **Treasurer** acknowledged that she was aware of **the Notice**.
26. Plaintiff has suffered money damages as the direct and proximate result of Defendants actions and will continue to suffer additional money damages, or possibly irreparable harm, until this Court compels Defendants to cease their attempts to illegally and unlawfully take **Plaintiff's allodial land** made possible by their outright refusal to correct their false and fraudulent records.

WHEREFORE Plaintiff demands this Court issue a writ of mandamus ordering the following: compelling Defendants to return to the Plaintiff his \$5,118.00 dollars extorted from him plus interest at the rate of 1% per month from November 18, 2013 until paid; Defendants update their records to remove all references to **Plaintiff's allodial land** as it is no longer owned by **a person liable** for any taxes or assessments

that Defendants are authorized to collect; Defendants void all collection attempts against **Plaintiff's allodial land** because as of December 20, 2012 that land was no longer owned by a **person liable**; compel Defendants to seek the collection of any debt **SJH** may owe them from any other asset **SJH** owns; and with such other and further relief as the Court may deem reasonable and just under the circumstances.

Count One - Sham Legal Processes

Each of the above allegations is incorporated into this cause of action by reference.

27. Defendants created a "lien" against **SJH** on or about December 31, 2012 for the tax year 2013 approximately ten (10) days after Defendants received **the Notice** showing **SJH** no longer owned any property in the county and no longer existed in fact or in law.
28. Defendant **Treasurer** did create and sign a "tax execution" against **SJH** on or about March 17, 2013 for the tax year 2012 but it listed property that she knew or should have known was no longer owned by **SJH** and was at that time not owned by a **person liable**.
29. Defendant **Tax Collector** did create and sign a "levy" on or about May 1, 2013 for the tax year 2012 that authorized the seizure of **Plaintiff's allodial land** but it listed property that he knew or should have known was no longer owned by **SJH** and was at that time not owned by a **person liable**.
30. Defendant **Tax Collector** was personally informed of **the Notice** on or about May 14, 2013 via a letter he received from the former protector of **SJH**.
31. Defendant **Tax Collector** did create and sign a "Notice of Levy" on or about September 17, 2013 for the tax year 2012 but it listed property that he knew was no longer owned by **SJH** and was at that time not owned by a **person liable**.
32. Defendants created another "lien" against **SJH** on or about December 31, 2013 for the tax year 2014 approximately 12 months after they received **the Notice** showing **SJH** no longer owned any property in the county and no longer existed in fact or in law.

33. Defendant **Treasurer** did create and sign a "tax execution" against **SJH** on or about March 17, 2014 for the tax year 2013 but it listed property that she knew was no longer owned by **SJH** and was at that time not owned by **a person liable**.

34. Plaintiff suffered money damages as the direct and proximate result of Defendants' creation of six "*sham legal processes*" in this matter.

WHEREFORE Plaintiff demands this Court enter an order adjudging the Defendants liable to the Plaintiff in the amount of \$85,000.00 dollars for the actual and punitive damages caused by the six "*sham legal processes*" that Defendants knowingly issued in this matter together with costs and reasonable attorney fees.

Count Two – Fraud

Each of the above allegations is incorporated into this cause of action by reference.

35. Fraud vitiates everything it touches.

36. Plaintiff did originally file his action against the Defendants on or about December 31, 2013 into the original jurisdiction of the Supreme Court of South Carolina; the Supreme Court of South Carolina refused to hear Plaintiff's action.

37. Defendants' legal authority to update their database with the name of a new "grantee of record" is limited to only a person who has recorded his deed.

38. Defendants discovered Plaintiff's name as the owner of his private land, not from any deed recorded with **a private company** but from his SC Supreme Court action, and then they inserted Plaintiff's name into their database as **a person liable** for taxes and assessments on **Plaintiff's allodial land**.

39. Defendants did fabricate an address different from the one on Plaintiff's filings and then they inserted that address into their database associated with Plaintiff.

40. On information Plaintiff believes Defendants did knowingly and intentionally falsify their records so that they could claim that Plaintiff received notice of their actions and so Defendants could accomplish all their future illegal and unlawful actions against **Plaintiff's allodial land** in Plaintiff's name as the "*true owner*".

41. On information Plaintiff believes since Defendants have resorted to committing fraud this brazen they have effectively admitted that their previous actions in this matter were done illegally and unlawfully and they are now actively engaged in a

cover-up of those crimes and torts and attempting to make their future crimes and torts appear to be legal and lawful - at least on the face of the record.

42. Plaintiff suffered money damages as the direct and proximate result of Defendants' fraud.

WHEREFORE Plaintiff demands this Court enter an order adjudging the Defendants liable to the Plaintiff in the amount of \$200,000.00 dollars for the actual and punitive damages caused by their fraud.

Count Three - Trespass *quare clausum fregit*

Each of the above allegations is incorporated into this cause of action by reference.

43. From December 20, 2012 to September 17, 2013 Plaintiff was in peaceable exclusive possession of private land that he legally and lawfully owns.

44. There is no evidence that could show that Plaintiff has ever given Defendants a *license to break his close.*

45. On September 18, 2013 Defendant **Tax Collector** with force and arms broke and entered the close of **Plaintiff's allodial land** (or caused his delegate to do so) to post his illegal "Notice of Levy" onto Plaintiff's house.

46. Defendant **Tax Collectors'** "Notice of Levy" states on it, *inter alia*, that Defendants have "*seized and taken exclusive possession*" of **Plaintiff's allodial land.**

47. Defendant **Tax Collector's** unlawful and illegal possession of **Plaintiff's allodial land** ceased on or about November 18, 2013 when Plaintiff paid the taxes, under threat, duress, coercion, and protest, that the previous owner allegedly owed.

48. Plaintiff suffered money damages as the direct and proximate result of Defendants' trespass on **Plaintiff's allodial land.**

WHEREFORE Plaintiff demands this Court enter an order adjudging the Defendants actions caused Plaintiff nominal damages in the amount of \$50,000.00 dollars for Defendants' Trespass *qcf.*

Count Four - Money Had and Received

Each of the above allegations is incorporated into this cause of action by reference.

49. Defendant **Tax Collector's** "Notice of Levy" stated on it that anyone who removed his Notice from **Plaintiff's allodial land** before the previous owners' taxes were paid would be prosecuted.
50. On November 18, 2013 Plaintiff did attend Defendant **Tax Collector's** delinquent tax property auction and saw evidence that Defendant **Tax Collector** was indeed going to auction off **Plaintiff's allodial land** in the name of the previous owner.
51. During Defendant **Tax Collector's** auction Plaintiff did witness many bidders bidding in excess of \$130,000.00 for valuable properties.
52. **Plaintiff's allodial land** is valuable with a market value over \$225,000.00.
53. Plaintiff determined during Defendant **Tax Collector's** auction that should this Court fail to give Plaintiff his remedy during **SJH'** one year redemption period, Plaintiff would have to pay in excess of \$25,000.00 to keep his land from being illegally and unlawfully stolen by Defendants; Plaintiff could not take that risk.
54. On information Plaintiff believes that his position in this matter is 100% legally correct and should be so upheld by any court of law but Plaintiff fears that he will be tricked, deceived, or forced into a civil law or admiralty jurisdiction and then he will be subjected to "*equity*", "*public policy*", and/or "*judicial discretion*" where an executive administrator [i.e., judge] has the authority to "*make the law*". Plaintiff could not afford to risk losing his valuable private land because he is denied his right to a court of common law.
55. Under duress and direct extortion on November 18, 2013 Plaintiff did pay to Defendant **Tax Collector**, through one of his delegates, the debt allegedly owed by the previous owner.
56. The teller accepting Plaintiff's payment on November 18, 2013 was instructed by Plaintiff to put into her records a note that stated that the "*taxes were paid by Ryan Powell, the true owner of the property under protest because he never received any notice of any debt he owed*". The teller did indeed put similar words into the record associated with Plaintiff's payment. The teller also told Plaintiff at that time that "*no one has ever paid someone else's tax bill before*".
57. Plaintiff suffered money damages as the direct and proximate result of Defendants threats and duress used to extort monies from Plaintiff that he did not owe.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendant actions caused Plaintiff actual damages of \$5,118.00 dollars plus punitive damages to be determined and interest at the rate of 1% per month from the date it was paid by Plaintiff until it is returned to him by Defendants.

Count Five - Slander of Title

Each of the above allegations is incorporated into this cause of action by reference.

58. Defendant **Tax Collector's** "Notice of Levy" that he caused to be attached to Plaintiff's house, was neon colored and highly visible from the public right of way. It caused Plaintiff embarrassment and loss of reputation among his neighbors, friends, and potential business associates, as well as causing Plaintiff intense mental and emotional stress.
59. Plaintiff did attempt to hire a roofing contractor during the fall of 2013 and could not find a contractor who would willingly involve themselves in a contract where the house that needed their services was under a levy for failure to pay taxes.
60. Plaintiff's house needed a new roof and he had to wait until the spring of 2014 to have the work done which cost him more money to get the work done than it would have cost at that time.
61. Plaintiff's house has also suffered water damage from leaks that appeared after September 18, 2013 but before he could get the unlawful levy released and then the roofing work done.
62. Plaintiff suffered money damages as the direct and proximate result of Defendants' slander of his title.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendant actions caused Plaintiff actual and punitive damages of \$20,000.00 dollars for Defendant's slander of Plaintiff's title.

Count Six -- False Light Invasion of Privacy/ Libel

Each of the above allegations is incorporated into this cause of action by reference.

63. Plaintiff has an inherent right "*to be let alone*".
64. Before November 18, 2013 Defendant **Tax Collector** with express, reckless, and wanton disregard of Plaintiff's inherent right to privacy did cause **Plaintiff's**

allodial land to be advertised to the general public as being up for auction for the previous owner's debt at least three times in a public newspaper. That said publicity has unreasonably placed Plaintiff in a false light in the public's eye.

65. Although the newspaper advertisement stated that **Plaintiff's allodial land** was owned by **SJH**, that advertisement listed a tax/parcel number that specifically pointed to **Plaintiff's allodial land** by including its street location.

66. Plaintiff did personally witness many people looking at his house, into his windows, walking on his land, and taking pictures and video recordings of his land during the few weeks prior to Defendant **Tax Collector's** auction.

67. Plaintiff, as any reasonable person, finds it highly offensive that anyone would accuse him of owing an unpaid debt to anyone.

68. Plaintiff suffered loss of reputation and embarrassment among his community, friends, and neighbors.

69. Even though the SC Supreme Court has not yet ruled on the availability of the common law tort of false light invasion of privacy in the state, this common law tort is recognized and available in many other common law states therefore such tort is available to Plaintiff.

70. Plaintiff suffered money damages as the direct and proximate result of Defendants' invading Plaintiff's privacy and putting Plaintiff in a false light.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendants libel caused actual and punitive damages to Plaintiff in the amount of \$200,000 dollars.

Count Seven - Breach of Contract

Each of the above allegations is incorporated into this cause of action by reference.

71. Each Defendant signed an oath of office agreeing to uphold both the Constitutions of the State of South Carolina and of the United States before legally entering into public office.

72. Each Defendant receives wages, benefits, and pensions as quid pro quo for the privilege of being a public officer.

73. Each Defendant posted a bond before legally entering into public office.

74. On or about September 25, 2013 Defendants each received a written communication from Plaintiff, which *inter alia* accepted their oaths of office thereby contractually binding each of them to their contract offers. See **Exhibit B** pgs 1 & 6 of that communication attached hereto and incorporated fully herein by reference.
75. A contract is considered valid and enforceable when there is an offer, consideration, and acceptance. In this matter all three requirements have been met.
76. Defendants never denied or attempted to terminate their contract with Plaintiff after he accepted their contract offers on or about September 24, 2013 and the common law doctrine of "*estoppel, by acquiescence*" prevents Defendants from doing so now.
77. Defendants did knowingly and intentionally breach their contractual duties to Plaintiff by violating the following rights they each agreed to support and uphold:
- a) Plaintiff's right to due process of law before his property is taken;
 - b) Plaintiff's right to not be subject to an unreasonable seizure of his house; and
 - c) Plaintiff's right to not have his property taken for private use without his consent or for public use without just compensation being first paid.
78. The Defendants acted with recklessness, callous indifference to, or disregard for, the rights of Plaintiffs which they contractually agreed to support and uphold.
79. Plaintiff suffered money damages as the direct and proximate result of Defendants' breaching their contract with Plaintiff.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendants actions caused Plaintiff actual and punitive damages in the amount of \$150,000.00 dollars for their breach of contract.

Count Eight – Negligence per se

Each of the above allegations is incorporated into this cause of action by reference.

80. Defendants are public officers and as such owe a duty of care to the public at large.

81. On or about October 11, 2013 Defendants each received a second written communication from Plaintiff. Plaintiff included in that communication a certified copy of **the Notice**.
82. On or about October 31, 2013 Defendants each received a third written communication from Plaintiff asserting the multiple crimes and torts that Defendants appeared to be committing in this matter.
83. The essential purpose of S.C. Code Ann. § 12-39-250 (A) is to give Defendant **Auditor** the means and authority necessary to prevent or mitigate actual damage that Defendants actions may cause to those who are NOT **a person liable** during Defendants attempts to collect taxes from those who are **a person liable**.
84. After having received three written communications from Plaintiff, Defendant **Auditor** knew she had a "*special duty of care*" owed to Plaintiff as he belongs to the class of people who have not recorded their deeds with **a private company**, for whom S.C. Code Ann. § 12-39-250 (A) is clearly designed to protect.
85. Defendants acted with total indifference to the consequences on Plaintiff of their conduct so as to not give the slightest care or concern for what they were doing or how their actions were affecting Plaintiff.
86. Plaintiff suffered money damages as the direct and proximate result of Defendants' negligence per se.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendants actions caused Plaintiff actual and punitive damage of \$175,000.00 dollars for Defendant Negligence per se.

Count Nine – Civil Conspiracy

Each of the above allegations is incorporated into this cause of action by reference.

87. Defendants each played an essential roll in the unlawful actions that culminated in the attempt to illegally and unlawfully take **Plaintiff's allodial land** for the previous owner's debt.
88. Defendant **Tax Collector** during a phone conversation on or about December 2, 2013 with Plaintiff stated "*you are not exempt from property taxes, everyone has to pay them*".

89. Defendants benefited from their conspiratorial acts because every dollar they collect goes toward paying their wages, benefits, and their pensions. Their acts in this matter also help them to alleviate the suffering they were experiencing from "*cognitive dissonance*" arising from the new information Plaintiff was presenting to them, i.e., only owners who record their deeds with a **private company** have to pay property taxes. Defendants' fraudulent acts to insert Plaintiff's name into their records giving the appearance that Plaintiff is a **person liable** also gives all three Defendants "legal cover" for their future crimes and torts in this matter.
90. Plaintiff suffered money damages as the direct and proximate result of Defendants' conspiracy to illegally and unlawfully take Plaintiff's land.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendant actions caused Plaintiff actual and punitive damage of \$150,000.00 dollars for Defendant's conspiracy.

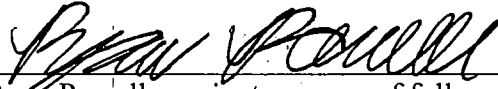
Count Ten - Intentional Infliction of Emotional Distress

Each of the above allegations is incorporated into this cause of action by reference.

91. Defendants knew or should have known their acts would foreseeable cause Plaintiff severe emotional distress when they threaten that he would be prosecuted for removing their unlawful "*Notice of Levy*" from his private property and from their on-going attempts to illegally and unlawfully take **Plaintiff's allodial land**.
92. This entire situation has been enormously demoralizing, mentally abusive and has taken a psychological toll on Plaintiff leaving him with difficulty sleeping at night and concentrating during the day. It has shattered his sense of security which he had enjoyed previous to Defendant's actions in this matter.
93. Defendants' actions in this matter have been atrocious, uncivilized, and intolerable especially considering it happened within a society that expects public officers to act within the rule of law.
94. Plaintiff suffered money damages as the direct and proximate result of Defendants' actions to intentionally inflict emotional distress onto Plaintiff.

WHEREFORE Plaintiff demands this Court enter an order adjudging Defendant actions caused Plaintiff actual and punitive damages of \$85,000.00 dollars for their intentional infliction of emotional distress.

Respectfully submitted,



Ryan Powell, a private person of full capacity
c/o 25056 Timberlake Drive
Fort Mill, South Carolina [Non-domestic]

April 30 2014

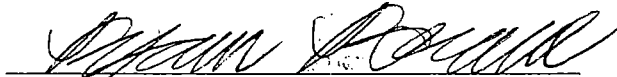
919-400-6339

VERIFICATION

I, Ryan Powell, the Plaintiff in this action, being competent to testify, at least 21 years of age, and with first hand knowledge, do hereby verify, under penalty of perjury, that the above stated allegations are true and correct to the best of my knowledge and belief.

4/30/2014

Date



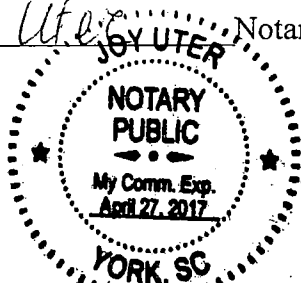
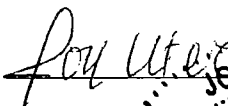
Ryan Powell, private person of full capacity

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Before me, the undersigned, a Notary Public in and for said County and State on the 30th day of April, 2014, personally appeared Ryan Powell to me known to be the private person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free will act and deed.

Given under my hand and seal the day and year last above written.



Notary Public

My commission expires April 27, 2017

Joy M. Uter
NOTARY PUBLIC
State of South Carolina
My Commission Expires
April 27, 2017.

14 of 14 Complaint

201200198786
Filed for Record in
YORK COUNTY, SC
DAVID HAMILTON, CLERK OF COURTS
12-26-2012 At 02:40 pm.
NOTICE 10.00
DR Vol 13103 Page 241 - 242

BN 1 31 03 P8024

September 24, 2013

To: Amy Boheler, York County Auditor,
Beth Latham, York County Treasurer, and
Robert Kiser, York County Tax Collector

Re: Unlawful actions taken to steal my private property, your alleged tax map# 643-10-01-023

CONTRACT and LEGAL NOTICE- ignore this document at your own peril!

I Accept Your Oaths of Office

Since you are required by your private corporations' rules to swear an oath to your Constitutions prior to assuming your office [See **SECTION 8-3-10**. Oath and commission prerequisite to assumption of duties.], I now voluntarily enter into a contract with all three of you personally by accepting your offers to contract - oaths of office (see page 6 for more details).

I Require Copies of Your Bonds

Pursuant to the duties of your office and now our contract I require that each of you provide me a copy of your bonds by October 4, 2013. [See **SECTION 8-3-210**. State officers and employees shall advise interested persons as to bonds and furnish copies thereof.]

The Unlawful Actions You Have Taken IN THIS MATTER

I will now enumerate the results of your unlawful actions that you three, your delegates, and/or your co-conspirators are responsible for:

I returned home on September 18, 2013 to find that someone under Robert Kiser's control or delegation had trespassed on my private property in an attempt to defraud me of my private property for your private company's¹ gain to supposedly satisfy the debt of the previous owner² by posting on my private property a NOTICE OF LEVY listing my property as being in the name of SAN JUAN HOLDINGS, which you knew does not own said property and all the while having never given to me the actual owner any notice, or any demand for payment at any time to provide me with any due process of law before taking my private property or giving me an opportunity to prevent you from *slandering my title*.

All Real Property Must be "in this State" to be Taxable

Pursuant to your private corporations' statutes [**SECTION 12-37-210**] *Property which is taxable... is All real and personal property in this State*³. Through logic we can deduce that property that is NOT "in this State"³ is NOT taxable. Knowing that "this State" is legally defined to mean the corporation named STATE OF SOUTH CAROLINA⁴ one could ask if that

¹ See exhibits A-E attached which are copies of pages from the Manta business listings for the following **private companies**- STATE OF SOUTH CAROLINA, COUNTY OF YORK, YORK COUNTY AUDITOR, YORK COUNTY TREASURER, and YORK COUNTY TAX COLLECTOR

² See Actual Notice recorded in the private company's books REGISTER OF DEEDS which gave you notice on or about December 21, 2012 and can be found at book 13103 pages 241-242

³ If you mistakenly believe "this State" mentioned in your statutes to be the landmass commonly known as South Carolina find such "legal" definition or the meets and bounds of any physical landmass defined anywhere in any of your statutes that would support that erroneous belief. It isn't there.

⁴ See exhibit A for evidence that your STATE OF SOUTH CAROLINA is a private company.

is true then how does "real property" get "in" a corporation? There is only one way that can happen and it happens when the owner of real land and buildings **voluntarily** files/ records/ registers his deed ("real property") with your private corporation thereby putting his title to his land "in" your corporation's ("this State") books and records. Once said property has been designated by its owner as commercial - as your corporation ONLY records commercial property and residential is a category of commercial property - and puts it into your corporation's books and records you have every legal right to regulate it, require permits for it, tax it, take it, etc. Bottom line - until the owner of land and buildings takes that voluntary action to put his/her/their title ("real property") into your corporation's books and records then the "real property" is not "in this State" and therefore not taxable, not regulate-able, and not levy-able! Just because you have never heard this before or don't believe it does not make it untrue.

Admiralty Jurisdiction is Reserved for Commercial Property

"Ad valorem" taxation is an Admiralty term and the process you use to "take full possession and seize" real property is an Admiralty procedure. Both these facts evidence that you are using the Admiralty jurisdiction with its attendant "law of necessity/ piracy/ conquest" to steal/ pirate my private property. However, as you know Admiralty jurisdiction is a voluntary jurisdiction that deals only with commerce further evidencing that you have no right to take private property that has not been **voluntarily designated by its owner as being involved in commerce** ["residential"]. Who other than the owner would know how the property was being used, i.e., whether it is or is not involved in commerce?

If your position is that "recording/ registering" private property is required of private parties by your private corporate rules then find such rule or statute. Your search will be unsuccessful which should then convince you that recording property is and must always be a totally voluntary act **by its owner** otherwise the taking of private property by your private corporation would amount to theft whether you understand that or not. Nevertheless, now that we are in a contract with you being bound to follow your Constitution you can only use your constitutionally authorized Admiralty jurisdiction against my private property if you can prove that you have seized a ship sitting on the water in a port of entry!

What Governments Really Are and What Are Their Lawful Limits

Since the United States government went bankrupt in the 1930s all "governments" - state, county, municipal, and federal where changed from real Constitutional governments under common law using real money of substance (gold and silver coins) into fictional private corporations⁵ under the laws of commerce, notes, and force (Maritime, Admiralty. Military) using fictional paper money without substance (Federal Reserve Notes and their equivalent). "Governments" **as they now exist can only control and regulate other fictional entities that they create** [e.g., "individual", "person"] and then only within the commercial relationships that those corporations have willingly agreed to [e.g., "driver", "taxpayer", "resident", "owner of record"].

Your fictitious corporation deals only in fictitious money of no substance - Federal Reserve Notes or their equivalent instead of real Constitutional money of substance gold and silver coin. This is more evidence that your STATE OF SOUTH CAROLINA Corporation (an employment agency⁶) a.k.a. "this State" is not the same entity as the Constitutional State named South

⁵ See exhibits A-E for evidence all "governments" are nothing more than private companies.

⁶ See exhibit A for business listing of the STATE OF SOUTH CAROLINA private business

Carolina as it would amount to **treason** for any of you to demand payment from anyone dominated in any Thing but gold or silver coin. See Article 1 section 10 of your Constitution that you took an oath to uphold - "No State shall ... make any Thing but gold and silver Coin a Tender in Payment of Debts". However, now that we are in a Constitutional – common law contract, **you are required by that contract** to denominate any Debt that I may legally owe your corporation in Constitutional monies only – gold and silver Coin.

The following facts cannot be altered or affected by any court, administrator, plaintiff, or defendant for they are well recognized natural law: the Created (governments) can never be greater in power or authority than their Creators (the people); corporations (always and only ever created by governments) CAN only exert authority over THEIR CREATIONS other corporations (e.g., "person", "individual"); and all corporations can act only within contracts or agreements made with other corporations or fictions. So it follows from these **indisputable facts** that you did not have any jurisdiction over the "taxpayer" SAN JUAN HOLDINGS in this matter as it was private (not created by any of your corporations) to have created your "execution" in the first instance. More importantly these **indisputable facts** prove that you can never have jurisdiction over private land that has not been volunteered into being "in this State" a corporation by its owner. Just because you don't understand or believe this does not make it untrue.

Amy Boheler's Errors, Crimes, and Torts in this Matter

On or about December 21, 2012 Amy Boheler received Actual Notice that the property you have illegally levied had been sold. Amy Boheler's office is tasked with the daily scrutiny of all documents filed with the "register of deeds" and thusly she got her notice of the sale. It was her job to "*keep a record of all sales or conveyances of real property made in the county*" [see **SECTION 12-39-260**]. Nowhere in the specification of any of her duties does it state that such "*record of all sales or conveyances*" MUST only be in the form of a deed or that it cannot be in the form of an Affidavit filed in your corporations' records. If it is her position that an Affidavit evidencing that the levied property was sold does NOT constitute sufficient evidence for her to update her records, then how could a deed that is signed only by the seller carry any higher evidential weight in law? It does not and can never for the reasons cited above in this notice.

Amy Boheler now has actual notice again for the third time of the sale of the levied property, so with this Actual Notice and her common law contract with me she is required to amend her errors and stop her damage to me.

Beth Latham's Errors, Crimes, and Torts in this Matter

Beth Latham's duties include those described in [**SECTION 12-51-40**]. "After the county treasurer issues his execution against a defaulting taxpayer in his jurisdiction...mail a notice ...to the defaulting taxpayer and to a grantee of record.... In the case of real property, exclusive possession is taken by mailing a notice to ...and any grantee of record of the property ..."

Beth Latham disregarded all of her duties required of her in [**SECTION 12-51-40**] to legally take possession of any property to be levied and sold. Even though it appears SAN JUAN HOLDINGS had volunteered their property into your jurisdiction, it appears, from the evidence⁷ that you did not have jurisdiction over that private entity required for you to do a lawful

⁷ REGISTER OF DEEDS book 13103 pages 241-242

execution in this matter "*execution against a defaulting taxpayer in his jurisdiction*". The fact that you were required to ALSO send a notice to the grantee of record since you knew the property had been sold and there was no grantee of record should have clued you in that you had no authority to proceed to take possession of the real property in this matter.

Beth Latham was informed multiple times when sending notices to SAN JUAN HOLDINGS that they were no longer the owner of the property and that they no longer existed. So how is it that you, Beth Latham, believe that you can create a legal execution against a fictional entity that you KNOW no longer owns the property without a "grantee of record" to provide the **necessary due process before the taking of any property** under any legal theory?

Evidence of Beth Latham's **knowing and intentional fraud** is that she sent certified mail – **restricted delivery** - to SAN JUAN HOLDINGS which method is reserved in her statutes [12-51-40] for giving notice to "*individuals*" but not to "*entities*". She knew she couldn't send certified mail to that "entity" as she knew that "entity" no longer existed! Nonetheless, you may have been able to get away with all your fraud, conspiracy, failure of due process, extortion, mail fraud, and theft under the Admiralty "law of necessity/ piracy" jurisdiction, but now that we have a Constitutional common law contract – your crimes and torts are punishable!

Beth Latham now has actual notice again for at least the second time of the sale of the levied property to a private party, so with this Actual Notice and her common law contract with me she is required to amend her errors and stop her damage to me.

Robert Kiser's Errors, Crimes, and Torts in this Matter

I was recently informed that on or about May 13, 2013 Robert (Neal) Kiser received a letter from SAN JUAN HOLDINGS' former protector informing him that SAN JUAN HOLDINGS no longer owned that property that Robert Kiser has levied in their name. Therefore Robert Kiser knows the "delinquent taxpayer" had already sold and transferred its rights, title and interests to the levied property and he knows, or should know, that there is no "grantee of record" for that property. Without a known "grantee of record" how could Robert Kiser have the ability to issue a legal or binding tax deed to the "successful bidder" at his auction? It is impossible. See [SECTION 12-51-130]. Execution and delivery of tax title. "*The tax title must include, among other things, the name of the defaulting taxpayer, the name of any grantee of record of the property*". The ONLY way that Robert Kiser can issue a legal tax deed is for him to **PRETEND** that the owner of the property his is quitting the claim of is an entity that he knows does not own the property! That is **FRAUD**, knowing, intentional, and premeditated **FRAUD**!

Robert Kiser's preparation and placement of a brightly colored and fraudulent NOTICE OF LEVY prominently on the front of my private home by **trespassing** also amounts to the tort **slander of title**. Even though his NOTICE OF LEVY is illegal I will not remove it from my private home only because the **ongoing damage** it is inflicting on me, hourly, is accruing in my favor! Should he unwisely proceed to advertising my property for sale he will exasperate his damages and be personally held liable for those damages to me for his continuing **slander of my title**. Please take NOTICE that any further trespass on my private property by any of you, your subordinates, or delegates will not be tolerated by me and the trespassers will be prosecuted to the fullest extent of the common law!

Nonetheless, now that we are in a contract with you being bound to follow your Constitution you must prove you gave me substantial due process before you take any of my property for any reason. Your unlawful levy must therefore be released as there was no due process provided to me before you unlawfully levied [took] my private property. Further I highly recommend Robert Kiser seriously contemplate how the eventual "tax deed" is going to be written to skirt (jump over, ignore, pretend) my ownership of this land! Just because you ignored the legal and lawful private sale of the property to me doesn't make that fact any less true.

Does a Title have to be Recorded To Be Valid?

Even though this is not a Torrens registration state, if your position is that my title is not valid, legal, or lawful because it has not been recorded with your private corporation, then you believe that your private corporation has the ability to interfere with the voluntary private contracts of consenting private parties anywhere in the world. Such a position is the antitheses of the basis that gives ALL governments their only authority to do anything to anyone as ALL LAW IS CONTRACT, CONTRACT IS THE LAW. Further my signed, sealed, witnessed, and delivered title to my private property is **allodial**. I, the owner of this private property, am an assignee of the original land grant with a clear chain of title back to that land grant which gives me my unalienable property rights in my land. My title from SAN JUAN HOLDINGS is dated late December of 2012 before you did your unlawful execution, levy, and before you produce your *colorable title* that PRETENDS that SAN JUAN HOLDINGS still owns that property! Never in a million years in any court in any land would your *color of title* quitting the claim of the previous owner SAN JUAN HOLDINGS trump my superior title that predates yours and is an actual assignment FROM SAN JUAN HOLDINGS!

I can Show your Means, Motive, and Opportunity to Commit Your Crimes in this Matter

Actually you have set up quite the diabolical plan to steal my private property - nice house, nice neighborhood, no encumbrances - bring you top dollar! By your actions you have made it an easy target since you are going after property pretending the owner is SAN JUAN HOLDINGS that you know doesn't exist so it can't defend itself against your attacks! You think that with assistance of each of you listed above (conspiracy), all working in the same building, you can use the resources and power of your private company (opportunity) to levy and sell this valuable property (means). All you had to do is ignore the evidence of the sale and **pretend** this property belongs to an owner that can't defend its' interests making this property easy pickings for you. Your company really could use the money to help fund your pension plans (motive). All three elements necessary to have you convicted of your crimes against me and my property!

You are Now Required To Create and Send Me a "Release of Levy"

You have been assuming that since there is no "grantee of record" that you could just ignore those requirements. But in reality such facts prove that you didn't have the authority to do what you did, are doing, and may continue to do. Further, there is no evidence that my private property can be taken for SAN JUAN HOLDINGS' supposed debt. Therefore, you have no other alternative then to prepare and send me your **"Release of Levy"** on my private property.

If you fail to do your corporate duties, fail to uphold your contractual obligations to me, and fail to cease this unlawful Admiralty process against my private non-commercial property I will have no other choice but to take all available legal actions against each of you personally, your bonds, and your private employers. Such legal action may include any or all of the following: suit for the torts of *Slander of Title, Breach of Contract, Conspiracy to Deprive Rights Under Color of Law*, etc., and charge you each with the criminal felony charges of Theft,

Trespassing, issuing fraudulent process, Treason, Sedition, Mail Fraud, Extortion, and Conspiracy. Should your future actions/inactions in this matter force me to bring an action against you please take notice I will bring that action in the only common law court in this country which happens to be located in Washington DC. In that court you won't have a legal leg to stand on nor will your SOUTH CAROLINA ATTORNEY GENERAL be allowed to defend you; you will be left to your own resources to defend yourselves.

Ignorance of the Law Is No Excuse

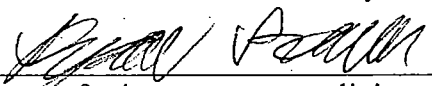
If any of the concepts I have written about herein are unknown to you or you do not understand them, I would highly recommend you hire a good Admiralty Attorney who might be able to explain to you how your actions IN THIS MATTER have been outside your authority and therefore make each of you and your bonds liable to legal attack. I would also highly recommend you hire a good Constitutional Attorney who may be able to guide you forward in your contractual duties to me and my private property.

Warning - Your Bonds Will Be Liquidated

If your bonds have never been legally attacked before you may not know that your bonds are just insurance policies that can be liquidated by a bona fide claimant [me] without any court action. I know this from first hand experience. Without your bonds and your ability to get a bond in the future you will be out of a government career!

Our Constitutional, common law Contract

You three made the **offer to contract** by your voluntary written act of swearing your oaths to uphold the Constitutions under the common law, **fully intending to enter into a legally binding contract**, and posting your bonds as **consideration** for your contract offers. I now **accept** your offers: "I accept the offers to contract with Amy Boheler, Beth Latham, and Robert Kiser as well as all of their supervisors, subordinates, and delegates and bind them to their oaths. I remind you of your legal/contractual duty to me and also remind you that should any of you breach your duty to me, you, your personal and real property, and your bonds will be held liable by me"

 (Seal)
owner of private property, a living child of God

9/14/2013 Date Of Contract

Mail a copy of your bonds with your Release of Levy by October 4, 2013 to:

Private Property Owner
c/o 25056 Timberlake Drive
Tega Cay, South Carolina
[Non-residential, without the United States]*

*As part of our contract I require that any mail sent to me by you is to be addressed exactly as above. Under our common law contract you cannot intentionally do any more damage me.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Ryan Powell, a private person of full
capacity,

Plaintiff,

v.

Amy Bohler d/b/a York County Auditor,
Beth Latham d/b/a York County Treasurer,
Robert Kiser d/b/a York County Delinquent
Tax Collector, Each in their personal and
official capacities,

Defendants.

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C/A No. 2014-CP-46-1425

MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION

MOTION TO SUBSTITUTE DEFENDANT
AND TO DISMISS IN WHOLE OR IN PART

Motion to Dismiss - Rule 12(b)(1)

Defendants first move to dismiss this action for lack of subject matter jurisdiction, pursuant to Rule 12(b)(1) S.C. R. Civ. P. In support of this motion, Defendants would allege and show unto the court:

1. This action arises from the defendants' alleged "illegal or wrongful collection of taxes, or attempt to collect taxes" from Plaintiff.

2. Pursuant to the provisions of South Carolina's Revenue Procedures Act (the Act), "there is no remedy other than those provided in this chapter in any case involving the alleged illegal or wrongful collection of taxes, or attempt to collect taxes." S.C. Code Ann. § 12-60-80 (Law. Co-op. 2014).

3. The Act allows only “a declaratory judgment whether a statute is unconstitutional”¹ to be brought in the circuit court. Id. Otherwise, the Act provides a specific administrative procedure that must be followed by a person alleging the “illegal or wrongful collection of taxes, or attempt to collect taxes.” The Act also provides a “contested case” hearing procedure, and gives the Administrative Law Court exclusive jurisdiction over such proceedings. S.C. Code Ann. § 12-60-2130 (Law. Co-op. 2014).

4. The Administrative Law Court “is an agency of the executive branch of the government of this State,”² while the circuit court is part of the judicial department. *See* S.C. Const., Art. V § 1.

5. The circuit court does not have subject matter jurisdiction to decide this case.

Motion to Dismiss - Rule 12(b)(6) & S.C. Code Ann. § 15-78-70(c)

In the event this court determines that it has subject matter jurisdiction over this action, Defendants move to substitute York County as the proper defendant in this action, pursuant to the provisions of S.C. Code Ann. §15-78-70(c)(Law. Co-op. 1986), and to dismiss Plaintiff’s complaint, in whole or in part, pursuant to Rule 12(b)(6) S.C. R. Civ. P. In support of this motion, Defendants would show unto the court as follows:

1. Plaintiff’s entire complaint is barred by the doctrine of sovereign immunity and one or more of the exceptions to the waiver of immunity under South Carolina’s Tort Claims Act. S.C. Code Ann. § 15-78-60 (Law. Co-op. 1986).

2. Plaintiff’s entire complaint is barred by the public duty doctrine. Arthurs v. Aiken County, 338 S.C. 253, 264, 525 S.E.2d 542, 548 (Ct. App. 1999).

¹ Plaintiff’s complaint does not include any claim for declaratory judgment as to the constitutionality of a statute.

² S.C. Code Ann. § 1-23-500 (Law. Co-op. 2005).

3. Plaintiff's entire complaint is barred by the exclusive remedy provisions of S.C. Code Ann. § 12-60-80 (Law. Co-op. 2014) and by Plaintiff's failure to avail himself of those remedies.

4. Plaintiff's claims for "sham legal processes," and "false light invasion of privacy" are not valid civil causes of action under South Carolina law. S.C. Code Ann. § 16-17-735 (person engaged in sham legal process "is guilty of misdemeanor"); Brown v. Pearson, 326 S.C. 409, 422, 483 S.E.2d 477, 484 (Ct. App. 1997) ("As to Appellants' claim of 'false light,' no South Carolina case has recognized this tort.").

5. Plaintiff has failed to allege sufficient facts to state a cause of action for money had and received.

6. Plaintiff has failed to allege sufficient facts to state a cause of action for breach of contract.

7. Plaintiff has failed to allege the essential elements of a cause of action for fraud under South Carolina law, and Plaintiff could not establish fraud based upon the factual allegations of his complaint.

8. Plaintiff has failed to allege the essential elements of a cause of action for conspiracy under South Carolina law, and has also failed to allege that he suffered special damages. Furthermore, Because York County is the proper defendant³ in any action to be maintained by Plaintiff, Plaintiff's cause of action for conspiracy fails as a matter of law. It is well settled that an entity cannot conspire with itself. *See, e.g., McClain v. Pactiv Corp.*, 360 S.C. 480, 486, 602 S.E.2d 87, 90 (Ct. App. 2004).

9. Plaintiff has failed to allege facts supporting a cause of action for trespass.

³ S.C. Code Ann. § 15-78-70 (Law. Co-op. 1986).

10. Plaintiff's entire complaint is premised upon his erroneous interpretation of the laws of this state. Plaintiff contends that he is the owner of "allodial property" which is allegedly free of York County's and South Carolina's taxing authority. However, South Carolina does not recognize Plaintiff's theory of "allodial property," free of taxation. Instead, South Carolina law expressly provides that "*all* real and personal property in [South Carolina] . . . shall be subject to taxation." S.C. Code Ann. § 12-37-210 (Law. Co-op. 2014). Consequently, Plaintiff's entire complaint fails as a matter of law and must be dismissed.

11. Even if Plaintiff had stated any valid cause of action, he is not entitled to recover punitive damages or prejudgment interest. S.C. Code Ann. § 15-78-120(b) (Law. Co-op. 1986).

These motions will be based upon the South Carolina Rules of Civil Procedure, the South Carolina Constitution, the pleadings of record and the appropriate statutory and case law. Counsel certifies, pursuant to Rule 11 S.C. R. Civ. P., that he had no obligation to consult with Plaintiff prior to filing this motion.

May 20, 2014.



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ATTORNEYS FOR DEFENDANTS

State of South Carolina

County of York

Ryan Powell, a private person of full capacity,
Plaintiff,

v.

AMY BOLHER d/b/a York County Auditor,
BETH LATHAM d/b/a York County Treasurer,
ROBERT KISER d/b/a York County Delinquent
Tax Collector,
Each in their individual and official capacities,
Defendants.

FILED-RECEIVED

2014 JUN -6 AM 11:49

DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

Case No. 2014-CP-46-1425

In the Circuit Court,
Court of Common Pleas

In the Common Law

Response to Defendants'
Motions to Dismiss and to
Substitute Defendants

Plaintiff submits this response to Defendants two pending motions to dismiss Plaintiff's complaint pursuant to Rules 12(b)(1) and 12(b)(6) and motion to substitute Defendant under S.C. Code Ann. § 15-78-70(c). This response is based on the verified allegations made in Plaintiff's Complaint and in his verified motion for a writ of mandamus which are both incorporated herein by reference.

QUESTIONS PRESENTED

1. Should Defendants' commission of fraud on this court be considered evidence of their "unclean hands" and used to dismiss Defendants motions?
2. Does the South Carolina Revenue Procedures Act divest this court of subject matter jurisdiction in this action?
3. Are "Sham Legal Processes" and "False Light Invasion of Privacy" valid causes of action?
4. Are Defendants five (5) motions to dismiss for failure to state sufficient facts properly demonstrated to give notice to Plaintiff of the alleged deficiencies?
5. Assuming Defendants are not required to give Plaintiff any notice of the alleged deficiencies in his complaint does justice require this court to allow Plaintiff to amend his complaint as is his right under SCRCRCP Rule 15(a)?

6. Is it premature at the pre-answer stage of litigation to hear and decide five of Defendants motions to dismiss?
7. Assuming it is not premature to hear a motion to dismiss under the SC Tort Claims Act is that Act even applicable in this action?
8. Assuming it is not premature to hear a motion to Substitute "York County" for the named Defendants, is "York County" the proper party defendant?
9. Assuming it is not premature to hear a motion to dismiss based on sovereign immunity, is such immunity available to the named defendants in their individual capacity?
10. Assuming it is not premature to hear a motion to dismiss based on the Public Duty Doctrine, is that doctrine applicable in this case?
11. Assuming it is not premature to hear a motion to dismiss based on Plaintiffs alleged "*erroneous interpretation of the laws*" does Defendants' alternative interpretation of the laws raise serious legal and constitutional issues?

SHORT ANSWERS

1. Yes. Fraud on the court is by definition a deception perpetrated to gain an unfair advantage and is the essence of "unclean hands". One who looks for equity is required to bring equity with him.
2. No. The South Carolina Revenue Procedures Act is not applicable to this action and therefore it cannot divest this court of subject matter jurisdiction.
3. Yes. "Sham Legal Process" is a valid civil cause of action as specified in S.C. Code Ann. § 15-75-60 and "False Light Invasion of Privacy" is a valid common law tort recognized in many other common law states. The issue of whether it is available in South Carolina has yet to be ruled on by the SC Supreme Court. So since they have NOT ruled that it is NOT available, this cause of action can not be dismissed at the pre-answer stage especially unless and until Defendants prove that Plaintiffs allegations do not raise a claim under any theory of law like for instance, libel or invasion of privacy.
4. No. Defendants made five (5) conclusions of law not supported by any allegations of missing facts, or showing any essential elements that are required to be alleged

but are missing for those five causes of action. Plaintiff's right to notice requires that Defendants do more than just conclude that five (5) of his cause of action are insufficiently plead.

5. Yes. At the pre-answer stage of litigation all 12(b) motions are to be based strictly on the allegations made in the complaint as the record is devoid of any evidence. Therefore, only those defenses articulated in 12(b) are allowed to be raised and decided at this early stage. The only issues that Defendants have raised that are valid at this state of litigation are dismissal for lack of subject matter jurisdiction, and their five (5) motions to dismiss for failure to state a cause of action. All the other various and sundry motions are not recognized as valid 12(b) motions that can be decided pre-answer.
6. Yes. Justice requires that this court allow Plaintiff to amend his complaint under Rule 15(a) if it is found that he has failed to state sufficient facts to constitute any particular cause of action. Dismissing a cause of action is a drastic step and should never be used when there are better more effective alternatives. The rules of civil procedure were written to give substantial justice to both parties not to punish a party, especially one not represented by an attorney, for his alleged lack of pleading skills.
7. No. The SC Tort Claims Act is not applicable in this action because Plaintiff did not bring his action under that Act, nor did he bring it against any person who has immunity. Plaintiff brought his action against the named Defendants in their individual capacities for their acts done outside of their "official duties".
8. No. Since this motion at this stage of litigation must be based on the complaint and the complaint alleges that the named Defendants work as agents for the "County of York" if any person is to be substituted for the named Defendants in their individual capacities (which cannot be done) "County of York" and not "York County" would be the proper party defendant.
9. No. The defense of sovereign immunity is an affirmative one which must be plead in the answer and proved at trial in front of the fact finder which is in this case a jury. Defendants must prove at trial that they were executing their "official duties" which Plaintiff has alleged they were not doing, so an issue of material fact will be

raised by pleading this affirmative defense. Any issue of material fact must be put to the jury for a determination of the truth of the matter.

10. No. The defense of Public Duty Doctrine is negative one which must be plead in the answer and proved at trial in front of the fact finder which is in this case a jury. Plaintiff must prove at trial that Defendants have a "special duty of care" owed to him, so an issue of material fact will be raised by pleading this negative defense. Any issue of material fact must be put to the jury for a determination of the truth of the matter.
11. Yes. Defendants have refused to address or oppose the actual facts and law asserted by Plaintiff's verified complaint and verified motion for writ of mandamus and they have instead resorted to frivolous straw man arguments. Worse yet, Defendants made findings of facts without any allegations or evidence to support their findings and then they made conclusions of law from their unsupported findings of facts that are bizarre and violate long established principles of property law and multiple mandates in the Constitution of the State of South Carolina. Since the General Assembly would never be so ill-advised to intend such a law, Defendants' "interpretation of the laws" must be erroneous.

ARUGMENT

1. **Should Defendants' commission of fraud on this court be considered evidence of their "unclean hands" and be used to dismiss Defendants motions?**

In Defendants motion to dismiss ("DMTD" hereinafter) they state: *'1. This action arises from the Defendants' alleged "illegal or wrongful collection of taxes, or attempt to collect taxes" from Plaintiff'* [emphasis added]. This is a FALSE statement of the facts of this case because Plaintiff's verified Complaint never alleges that **Defendants have EVER attempted to collect any tax from Plaintiff**. No, the actual issue raised by Plaintiff is do the Defendants have the authority to seize and sell private land that belongs to someone who they have NEVER attempted to collect any taxes from.

Defendants have clearly **misrepresented the facts** in this case in order to get this court to dismiss this action and erroneously force Plaintiff into an administrative procedure that will eliminate all liability to Defendants. Under the South Carolina

Revenue Procedures Act¹ ("SCRPA" hereinafter) there could never be any damages assessed against Defendants as only persons who are liable can use the SCRPA procedure and if one is liable then one does not have any standing to claim damages. The SCRPA does not authorize any action other than disputing the amount of tax assessed as obviously one who is liable has no other valid issue to raise other than the amount that he owes. Any other argument within that administrative procedure by a person liable would truly be a "tax protester" argument.

It certainly appears that Defendants have committed intentional bad faith and fraud on this court and therefore come to this court with "unclean hands" seeking equity in order to eliminate being liable for damages sought by Plaintiff. Defendants have a huge motive to get Plaintiff's action dismissed or at the very least get it out of the circuit court and into the administrative procedure where the damages will no longer be an issue for them.

Fraud is defined in Blacks Law, 2nd ed pg 521:

"FRAUD. Fraud consists of **some deceitful practice**, willful device, resorted to **with intent to deprive another of his right, or in some manner to do him an injury**"

Bad Faith is defined in Blacks Law, 2nd ed pg 112:

Bad faith. The opposite of "good faith," generally implying or involving actual or constructive **fraud**, or a design to **mislead or deceive another...**

BLACK'S LAW DICTIONARY 268 (8th ed. 2004): "one cannot seek equitable relief ... if that party has violated an equitable principle, such as good faith."

"Any willful conduct that is iniquitous, unfair, dishonest, fraudulent, unconscionable, or performed in bad faith may constitute "unclean hands". See Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co., 324 U.S. 806, 815 (1945); N.Y. Football Giants, Inc. v. L.A. Chargers Football Club, Inc., 291 F.2d 471, 473 (5th Cir. 1961); DOBBS, LAW OF REMEDIES: DAMAGES, EQUITY, RESTITUTION 68 (2d ed. 1993) note 1, at 68; 27A AM.JUR.2D Equity § 100 (1996).

Therefore as it is clear Defendants are attempting to mislead this court to inappropriately dismiss this action by using deception and misrepresentation of the actual facts of the

¹ The issue about the applicability or availability of the SCRPA in this case will be more thoroughly discussed below in #2.

case, they are therefore coming to this court in bad faith and with "unclean hands"; their motions **must all be dismissed**.

2. **Does the South Carolina Revenue Procedures Act divest this court of subject matter jurisdiction in this action?**

Defendants have requested in **DMTD** that this Court dismiss this action for want of subject matter jurisdiction stating that Plaintiff's only remedy is found in the **SCRPA**. Then Defendants attempt to dismiss this action a second time in their second motion to dismiss based on the **SCRPA**. See Defendants Motion to Dismiss under Rule 12(b)(1) (**DMTD** pgs 1-2) and then again under 12(b)(6) (**DMTD** first para, pg 3).

However, both motions are wholly without any merit as the **SCRPA** is clearly not applicable to Plaintiff or to his action. As Defendants' attorney is well aware, the **SCRPA** is applicable **only** to a "property taxpayer" which is defined in the **SCRPA** as:

"Property taxpayer" means a person who is liable for, or whose property or interest in property, is subject to, or liable for, a property tax imposed by this title", S.C. Code Ann. § 12-60-30 (22).

As evidence that the **SCRPA** only provides a remedy to those persons liable for property tax (i.e., a "property taxpayer") see the following small sample of applicable statutes:

- I. S.C. Code Ann. § 12-60-1730: "A *property taxpayer* may appeal any property tax assessment ...";
- II. S.C. Code Ann. § 12-60-2130: "A *property taxpayer* or the local governing body who disagrees with the department determination may ..."
- III. S.C. Code Ann. § 12-60-2150(A): "a *property taxpayer* may seek a refund of property taxes paid and assessed by ..."

BUT DEFENDANTS HAVE NEVER ATTEMPTED TO COLLECT A TAX FROM PLAINTIFF! The record is totally devoid of any allegations or evidence that could show: that Defendants have ever issued a notice, bill, assessment, execution, levy, or notice of levy against Plaintiff; that Defendants have ever attempted to collect a tax

from Plaintiff; or that Plaintiff, his private land, or his rights to his land are liable for or subject to any tax to Defendants.

Until evidence showing Plaintiff or his land is liable for or subject to a tax this Court cannot make a finding that Plaintiff is a "*property taxpayer*" which would be required to grant Defendants motion to dismiss for want of subject matter jurisdiction or their motion to dismiss because of the "exclusive remedy" found in the SCRPA. Therefore, Defendants' motions to dismiss for want of subject matter jurisdiction and to dismiss for the "exclusive remedy" found in the SCRPA **must both be denied**.

3. **Are "Sham Legal Processes" and "False Light Invasion of Privacy" valid causes of action?**

Defendants attempt to further deceive this court when they state in their DMTD: "4. Plaintiff's claim for "*sham legal processes*" and "*false light invasion of privacy*" are not valid civil causes of action....", (DMTD second para, pg 3).

First, Defendants claim that "*sham legal processes*" is not a valid civil cause of action is a frivolous claim when clearly S.C. Code Ann. § 15-75-60 provides for civil remedies against those who have committed such crimes –

S.C. Code Ann. § 15-75-60 "*A person who is injured by a sham legal process involving a violation of Section 16-17-735 has the following civil remedies against the person who committed the violation or who caused the violation to be committed...*"

Second, although availability in South Carolina of the common law tort of "*false light invasion of privacy*" has not yet been ruled on by the SC Supreme Court, this common law tort is available in many other common law states. Further the SC Supreme Court has NOT determined that such tort is NOT available in the state so there can be no pre-answer bar on the theory that the SC Supreme Court may eventually determine that such tort is not available in South Carolina. Maybe this case will be the test case for the tort.

Further, to dismiss *false light invasion of privacy* cause of action Defendants would have to show that Plaintiff is not entitled to relief under any theory of law that can be drawn from those facts alleged. Plaintiff clearly stated sufficient facts and the

“alternative theories” of both *invasion of privacy* and *libel*, so unless Defendants can show that Plaintiff has not stated facts sufficient to support either of those alternative causes of action, that count cannot be dismissed -

See Nelson v. QHG of South Carolina Inc., 580 SE 2d 171 (2003) “A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to relief on any theory of the case.” [emphasis added]

Therefore Defendants motion to dismiss Plaintiffs Count One- Sham Legal Processes and Count Six- False Light Invasion of Privacy/Libel **must be denied**.

4. **Are Defendants five (5) motions to dismiss for failure to state sufficient facts demonstrated to give notice to Plaintiff of the alleged deficiencies?**

Defendants’ state in their **DMTD** in a bold conclusion of law without any supporting facts or law that five (5) of Plaintiff’s ten (10) causes of action must be dismissed because Plaintiff has “*failed to state facts sufficient to support...*” [those five counts]. However, Plaintiff’s due process rights to notice mandate that Defendants do more than just declare that legal conclusion. Defendants carry the burden to demonstrate how the allegations in Plaintiff’s Complaint fail, as a matter of law, to allege sufficient facts **under any theory of law** and they cannot simply rest on a conclusory statement to that effect:

See Nelson v. QHG of South Carolina Inc., 580 SE 2d 171 (2003) where the Appeals Court stated “the trial judge may dismiss the claim if the **defendant demonstrates** the plaintiff has failed “to state facts sufficient to constitute a cause of action” in the pleadings filed with the court”;

See Rule 7(b)(1) SCRCF which states: (1) An application to the court for an order shall be by motion which, ..., shall be made in writing, **shall state with particularity the grounds therefor**, and shall set forth the relief or order sought.

Further, Defendants state that “*These motions will be based upon the South Carolina Rules of Civil Procedure, the South Carolina Constitution, the pleadings of record and the appropriate statutory and case law.*” (**DMTD** pg 4, last para). Notwithstanding that the “*South Carolina Constitution*” has nothing to do with this action (although the Constitution of the State of South Carolina does apply to this action),

nowhere in that list do Defendants give any notice to Plaintiff that their motions are to be based on any "oral argument" made during the hearing scheduled to decide their motions. Even if Defendants noticed Plaintiff that their motions were to be based on "oral arguments" Plaintiff cannot be required to defend unspecified pleading defects in 5 counts on the spot during the short hearing of these motions without being given notice ahead of time of the particular grounds (alleged defects) for Defendants 12(b)(6) motions.

Accordingly, Defendants motion to dismiss five of Plaintiff's causes of action for failure to allege sufficient facts to state a cause of action must be denied.

5. **Assuming Defendants are not required to give Plaintiff any notice of the alleged deficiencies in his complaint, does justice require this court to allow Plaintiff to amend his complaint as is his right under SCRCP Rule 15(a)?**

See Rule 8 (f) SCRCP "All pleadings shall be so construed as to do substantial justice to all parties."

See Rule 15 (a) SCRCP "A party may amend his pleading once as a matter of course at any time before or within 30 days after a responsive pleading is served ..."

See Spence v. Spence, 628 SE 2d 869 (2006) –

"When a complaint is dismissed under Rule 12(b)(6) for failure to state facts sufficient to constitute a cause of action, the dismissal generally is without prejudice. **The plaintiff in most cases should be given an opportunity to file and serve an amended complaint.** See *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962) (**rules of civil procedure should be liberally construed to do substantial justice** and lower court erred in denying motion to amend complaint where amendment would have stated alternative theory of recovery); ... *Dockside Assn., Inc. v. Detyens, Simmons & Carlisle*, 297 S.C. 91, 374 S.E.2d 907 (Ct.App. 1988) (citing Rule 15(a), SCRCP, **that plaintiff generally is allowed to amend a complaint to correct deficiencies which resulted in dismissal under provisions of Rule 12(b)**); ... *Thacker v. Bartlett*, 785 N.E.2d 621, 624 (Ind.App. 2003) (dismissal for failure to state a claim is without prejudice because the complaining party may either file an amended complaint or stand upon complaint and appeal); James F. Flanagan, *South Carolina Civil Procedure* 95 (2d ed. 1996) (**party who loses a motion to dismiss normally is given the right to amend the complaint to cure the defect**)." [emphasis added]

As shown in Spence v. Spence *supra* and many other holdings of the higher courts a Rule 12(b)(6) motion is to be used for the purpose of limiting the factual issues of a

case so that the Defendant has notice of the factual issues involved and discovery can be limited to the actual facts alleged. A Rule 12(b)(6) is not to be used to punish a Plaintiff, especially one proceeding without an attorney, for his alleged lack of pleading skills nor is it to punish the Plaintiff if the court believes the Plaintiff will not succeed in his action. Additionally in this case at bar, the ultimate facts of the case are few and mostly irrefutable.

Therefore, and according to Spence v. Spence supra, should this Court refuse to deny Defendants' motions to dismiss 5 of Plaintiff's 10 causes of actions justice requires this court allow Plaintiff to exercise his RIGHT to amend his complaint since he has **that right under rule 15(a)** especially when Defendants have altogether failed to give notice to Plaintiff of the alleged "defects" in his complaint.

6. **Is it premature at the pre-answer stage of litigation to hear and decide five of Defendants motions to dismiss?**

SCRCP Rule 12(b) How Presented

"Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, **except that the following defenses may at the option of the pleader be made by motion:** (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state facts sufficient to constitute a cause of action, (7) failure to join a party under Rule 19, (8) another action is pending between the same parties for the same claim." [emphasis added]

See also Gentry v. Yonce, 522 SE 2d 137(1999) -

"Appellants contend the circuit court erred in considering any of the grounds for respondents' pre-answer motions that were based upon a defense not listed in Rule 12(b), SCRCP. **We agree.** In Glenn v. School Dist. No. Five, 294 S.C. 530, 366 S.E.2d 47 (Ct.App.1988), the Court of Appeals held the statute of limitations is not a defense listed under Rule 12(b) that may be raised by pre-answer motion. **Similarly, here, respondents cannot raise any defense or objection that is not permitted to be raised pre-answer in a Rule 12(b) motion, for example lack of standing.**" [emphasis added]

The Defendants have made seven motions to dismiss that are wholly premature to decide at the pre-answer stage of litigation because the record is devoid of any evidence

needed to determine any of those seven motions and the defenses they have raised are not available to them under Rule 12(b) so all of those pre-answer motions made by Defendants must be found to be premature and inapplicable under Rule 12(b) and **must be dismissed**. The following will discuss with particularity each of the inappropriate motions that are premature to decide pre-answer.

7. **Assuming it is not premature to hear a motion to dismiss under the SC Tort Claims Act is that act even applicable in this action?**

Defendants' attorney makes multiple knowingly false statements to this court in **DMTD** stating that Plaintiff's action is barred or limited by the South Carolina Tort Claims Act (**SCTCA** hereinafter). However, as Defendants' attorney is well aware, Plaintiff's action was not brought under that Act and Plaintiff's action was brought against Defendants in their individual capacity for their *ultra virus* and criminal actions that were NOT "*within the scope of the employee's official duty*". So the **SCTCA** is not applicable to this action nor is it binding on Plaintiff.

See S.C. Code Ann. § 15-78-200 "*Notwithstanding any provision of law, this chapter, the "South Carolina Tort Claims Act", is the exclusive and sole remedy for any tort committed by an employee of a governmental entity while acting within the scope of the employee's official duty*" [emphasis added].

Also since Plaintiff brought his action under the authority of the common law and the contract he has with Defendants the **SCTCA** is not applicable. See S.C. Code Ann. § 15-78-20 (d) "*Nothing in this chapter affects liability based on contract*".

Further determining if the **SCTCA** is applicable necessitates determining whether Defendants were or were not "*acting within the scope of [their] official duty*" which will require both full discovery and a trier of fact - a jury in this case to determine the truth of the matter.

See Wade v. Berkeley County, 529 SE 2d 743 (2000) "[B]ecause a genuine issue of material fact exists regarding whether Pierce was acting within the scope of his employment when the accident occurred, the law does not support the trial court's grant of summary judgment to County... We hold § 15-78-70(d) does not bar Wade's action against the County under the Tort Claims Act. ... **Wade's claim against Pierce was not under the Tort Claims Act. It was an action against Pierce as an individual facing personal liability** ..." [emphasis added]

Also Defendants requested that this court dismiss (strike?) the relief requested for punitive damages and prejudgment interest under the SC Tort Claims Act. See Defendants (DMTD second para, pg 4): "11. ...*he is not entitled to recover punitive damages or prejudgment interest* S.C. Code Ann. § 15-78-120(b)". As already shown the SCTCA does not apply to this action so there can be no restrictions placed on prejudgment interest or punitive damages based on the SCTCA which doesn't apply.

Therefore Defendants motion to dismiss based on the SCTCA must be denied and their request to dismiss (strike?) punitive damages and pre-judgment interest must also be denied.

8. Assuming it is not premature to hear a motion to substitute "York County" for the named Defendants, is "York County" the proper party defendant?

Defendants make a wholly unsupported motion to Substitute "York County" for the named Defendants in their individual capacity. Defendants never support their motion other than to state "*Defendants move to substitute York County as the proper defendant in this action, pursuant to the provisions of S.C. Code Ann. § 15-78-70(c)*", (DMTD fourth para pg 2).

Since Plaintiff did not bring his action under the SCTCA nor did he name as a party defendant any governmental entity, S.C. Code Ann. § 15-78-70 (c) is inapplicable.

See S.C. Code Ann. § 15-78-70 (c) "... *On or after January 1, 1989, a person, when bringing an action against a governmental entity under the provisions of this chapter....*" [emphasis added].

See also Wade v. Berkeley County, *supra* wherein the SC Appeals Court held that the SCTCA is not applicable when an action is brought against an employee in their individual capacity for their actions outside of their "*official duties*".

Further, assuming arguendo that Defendants are correct and S.C. Code Ann. § 15-78-70 (c) is applicable in this action, "York County" is not the proper party defendant to be substituted since Defendants in their official capacity act as agents for the "County of York" company and NOT "York County". See Plaintiff's Complaint #3 Pg 1 which clearly alleges that Defendants act as agents for "County of York". Defendants have not

denied that allegation nor have they provided any evidence that could support that they act as agents for "York County". Further, Plaintiff can find no evidence of the legal existence of any entity named "York County" in the public records.

Therefore and accordingly, if Defendants motion to substitute had any merit and could be made at the pre-answer stage of litigation, "County of York" would be the proper party defendant but since Defendants' motion is frivolous their motion to substitute must be denied.

9. **Assuming it is not premature to hear a motion to dismiss based on sovereign immunity, is such affirmative defense available to the named defendants in their individual capacity?**

Defendants attempt to further deceive this court when they state in their DMTD "1. Plaintiff's entire complaint is barred by the doctrine of sovereign immunity...", (DMTD fifth para pg 2) The sovereign immunity doctrine specified in the SCTCA that Defendants allege as controlling provides "exceptions" to such alleged immunity as follows:

See S.C. Code Ann. § 15-78-20 (b) "*The remedy provided by this chapter is the exclusive civil remedy available for any tort committed by a governmental entity, its employees, or its agents except as provided in Section 15-78-70(b);*

See S.C. Code Ann. § 15-78-70. (b) "*Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.*".

See S.C. Code Ann. § 15-78-20 (d) "*Nothing in this chapter affects liability based on contract*".

As the Complaint alleges, all actions that Defendants took in this matter were *ultra virus*, and most of their actions constitute "*actual fraud, actual malice, intent to harm, or a crime involving moral turpitude*". Plaintiffs action was brought against Defendants in their individual capacity, so it falls under the exception of S.C. Code Ann. § 15-78-70.

(b) and/or the exception by way of their contract with Plaintiff under S.C. Code Ann. § 15-78-20 (d).

Nonetheless, as Defendants' attorney is well aware, even if Defendants have immunity in this action such defense is an affirmative defense that Defendants are required to raise in their answer and then they are required to prove their alleged immunity at trial where the facts can be determined by the fact finder which in this case will be a jury. That means Defendants cannot have this action dismissed at the pre-answer phase based on "*sovereign immunity*".

See Frazier v. Badger, 603 SE 2d 587, "Immunity under the statute is an affirmative defense that **must be proved by the defendant at trial**. Tanner v. Florence City-County Bldg. Comm'n, 333 S.C. 549, 552, 511 S.E.2d 369, 371 (Ct.App.1999)." [emphasis added].

See also Wells v. City of Lynchburg, 501 SE 2d 746, "Immunity is an affirmative defense which must be pleaded and can be waived. **One who pleads immunity conditionally admits the plaintiffs case**, but asserts immunity as a bar to liability."

Therefore and accordingly, Defendants' motion to dismiss based on Defendants' alleged "*sovereign immunity*" **must be denied** and by Defendants' raising sovereign immunity as shown in Wells supra this Court must find that Defendants have admitted Plaintiff's case.

10. **Assuming it is not premature to hear a motion to dismiss based on the Public Duty Doctrine, is that doctrine applicable in this case?**

Defendants attempt to further deceive this court when they state in DMTD "2. *Plaintiff's entire complaint is barred by the public duty doctrine...*", (DMTD last para, pg 2). The public duty doctrine is a negative defense that Defendants are required to raise in their answer and Plaintiff is required to prove during the trial where the facts can be determined by the trier of fact, in this case a jury. For this reason, it is inappropriate to dismiss Plaintiff's entire complaint at the pre-answer stage.

Further, since Plaintiff alleged in his verified Complaint in "Count Eight - Negligence per se" that Defendants owed a "*special duty of care*" to Plaintiff which if found as fact by the jury during the trial will fulfill the exception to the "*public duty doctrine*".

See Wells v. City of Lynchburg, 501 SE 2d 746 “Thus, where the duty is owed to the public in general, the official is not liable to an individual ... An exception to the general rule of non-liability exists when the duty is owing to specific individuals rather than the public”.... An affirmative legal duty, however, may be created by statute, contract relationship, status, property interest, or some other special circumstance. **Many statutes impose a duty on public officials to perform certain acts.**” [emphasis added]

Therefore Defendants motion to dismiss based on Defendants’ alleged “*Public Duty Doctrine*” **must be denied**.

11. **Assuming it is not premature to hear a motion to dismiss based on Plaintiffs alleged “*erroneous interpretation of the laws*” does Defendants’ alternative interpretation of the laws raise serious legal and constitutional issues?**

Defendants attempt to further deceive this court when they state in DMTD: “10. *Plaintiff’s entire complaint is premised upon his erroneous interpretation of the laws of this state. ... Instead, South Carolina law expressly provides that “all real and personal property in [South Carolina]... shall be subject to taxation”, (DMTD first para, pg 4).* This is a baseless and frivolous argument as it does not in anyway dispute the actual facts or Plaintiff’s actual “interpretation of the laws” actually raised in his Complaint or his motion for writ of mandamus.

Defendants have purposely misstated the actual statute (fraud) to make it appear the Plaintiff’s land is “*subject to taxation*” by writing: “*All real and personal property in [South Carolina]...shall be subject to taxation*” which is NOT equivalent to what the actual statutes reads -“*All real and personal property in this State shall be subject to taxation*”. The two different legal terms and their respective jurisdictions would be legally equivalent ONLY if the term “*this State*” is legally defined to mean “*South Carolina*”, which is not the case. Defendants have not produced any statute that shows otherwise. Title 12 (where this statute is found) does not even define the legal meaning of the term “*this State*”, or “*State*” which is very odd since “*State*” is defined in many other titles and sometimes it even means the “*State of South Carolina*”. The **one exception** where the term “*State*” is defined to mean “*South Carolina*” is in Title 27 Chapter 16 dealing with the Catawba Indian Claim Settlement Act which concerns contracts that “*South Carolina*” entered into with that tribe of Indians back in 1763 before

the formation of the entity named "*State of South Carolina*". Nonetheless, no statute ever defines "*this State*" nor does any case ever interpret that term as used in any Title, much less Title 12. Maybe this is the case that will put this issue in front of the SC Supreme Court for its interpretation of the legal meaning of the term "*in this State*" as used in Title 12.

Nonetheless, Plaintiff's actual legal premise of his action is based on the incontrovertible FACT that he has never contracted with the private company named "York County Register of Deeds" by recording his deed with them which is REQUIRED for Defendants to have any power, right, or control over Plaintiff's deed to his private land. Defendants have failed to address the actual premise of Plaintiff's action and they have instead resorted to frivolous straw man arguments, distractions, and fraud on this court as a way to deal with their inability to meet the actual merits alleged and legal premise head on.

Most importantly, if Defendants alternative "interpretation of the laws" in this case is correct then Plaintiff's property is "*subject to taxation*" without Plaintiff or anyone else ever being made liable for the payment of such tax! As the only statute making anyone liable for any property tax is S.C. Code Ann. § 12-37-610 and that statute shows the owner who records their deed becomes liable. However, Defendants have failed to show any law that compels an owner to record their deed, so there must not be any such law. Defendants "interpretation" would give them the legal authority to violate long established principles of property law and the Constitution of the State of South Carolina in at least the following six ways:

- i. Because Defendants could not know the land owners name or address, without the landowner recording their deeds, Defendants could seize and sell private land from its owner without ever giving that owner any bill, assessment, notice, etc. in direct violation of the due process clause found in S.C. Const. art. I § 3;
- ii. Defendants could seize private homes without the owner even being made liable for payment of any tax amounting to an unreasonable seizure of the owners' private home in violation of S.C. Const. art. I § 10;
- iii. Defendants could seize and sell private land away from its owner without the owner's consent in violation of S.C. Const. art. I § 13(a);

- iv. Defendants could seize and sell private land away from its owner without giving the owner just compensation before such taking in violation of S.C. Const. art. I § 13(a);
- v. Defendants could seize, sell, and convey private land without holding any title to that land (legal or equitable) violating basic principles of property law that holds one cannot convey land unless one has a title to that land; and
- vi. Defendants could seize and sell private land at any geographic location they chose without any factual declaration from the owner of that land declaring his land to be "*in this State*" or "*in the County of X*".

Clearly the General Assembly has no such authority to pass a law that violates long established principles of property law and the Constitution of the State of South Carolina and they are not that ill-advised to have done so to such a spectacular extent. No, defendants have obviously "misinterpreted" (i.e., misrepresented) the law in this case.

Further, and most importantly, the record is totally devoid of any allegations or evidence that could support a finding of any of the following facts: that Plaintiff's private land is in "*this State*"; that Plaintiff's private land is in the "*County of York*" that Plaintiff has recorded his deed; that Plaintiff has ever given his consent for Defendants to take his land; that Defendants have ever given Plaintiff just compensation before they took his private land; that Plaintiff is a "*property taxpayer*"; that Defendants have ever attempted to collect a tax from Plaintiff; or that Defendants hold title to Plaintiff's land. Even if this motion was a valid motion it cannot be made at the pre-answer stage of litigation so this motion to dismiss this action because of Plaintiff's "*erroneous interpretation of the laws*" **must be denied.**

RELEVANT FACTS

The pertinent ultimate and procedural facts pertaining to this reply are as follows:

Ryan Powell bought for valuable consideration from a private trust named San Juan Holdings all rights, title, and interests in land they owned having the commonly known street location of 25056 Timberlake Drive. In the legal description of the land on Ryan's deed it states that his land is on South Carolina (not in the "State of South Carolina").

On December 20, 2012, the trustee for San Juan Holdings as the grantor signed, sealed, and executed the deed that had been prepared to transfer their land to Ryan. Ryan signed, sealed, and executed the deed as the grantee. Then two other people, who are unrelated to Ryan or the trustee, witnessed the execution of the deed and then all signatures/seals were notarized. Ryan never recorded his deed because he did not want to give away any rights or title to his land to any other person and since his land is both private and non-commercial he had no indication whatsoever that he was required by any law or any contract to record his deed with the private company named "York County Register of Deeds".

On December 20, 2012 Ryan saw the trustee sign a prepared notice stating that the trustee had sold and transferred the trust's land, and then had taken all contractually necessary steps to dissolve and terminate the trust since it not longer held any property. A week or so later, Ryan received through the mail the original notice executed by the trustee showing that the notice had been recorded in the public land records of the "York County Register of Deeds".

Ryan has never received any mail from any person attempting to collect a property tax from Ryan.

Ryan has been in peaceful possession and living on private land that he owns without any issue whatsoever until September 18, 2013 when he returned to his home that day and found a brightly colored "Notice of Levy" taped with blue tape to the front of his house. The "Notice of Levy" is signed by defendant Robert Neal Kiser; it states on it that Mr. Kiser is authorized to act for the "County of York, State of South Carolina", and that he is seizing and taking "exclusive possession" of property belonging to "SAN JUAN HOLDINGS, BRETT OSBORNE, trustee" and then lists a Charlotte NC address for that person.

After finding the "Notice of Levy" taped to his house, Ryan prepared and sent three communications to the named defendants on September 24, 2013, October 10, 2013, and October 31, 2013 entering into a contract with them, alerting their superiors of the liability that the named defendants were creating for themselves and possibly for their employers and showing the torts and federal crimes that the named defendants were

possibly committing by seizing and taking exclusive possession of Ryan's private land for someone else's debt.

The named defendants did not stop their actions against Ryan's private land and instead published Ryan's land as being up for auction in a public newspaper and attempted to auction Ryan's land on November 18, 2013. On November 18, 2013 Ryan attended Mr. Kiser's auction and saw that Ryan's land was listed as being up for auction that day but it was listed as belonging to "SAN JUAN HOLDINGS". Fearing that his land was going to be irreparably taken from him, Ryan reluctantly and unwillingly paid the taxes that "SAN JUAN HOLDINGS" allegedly owed to stop Robert Kiser from selling Ryan's land.

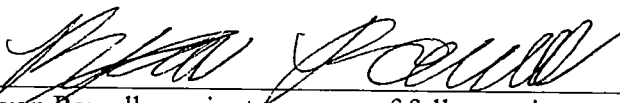
Ryan believes that S.C. Code Ann. § 12-39-250 (A) was created for Defendant Amy Bolher to give her the means and authority necessary to prevent or mitigate actual damage that the named defendants actions may cause to those who are NOT liable for a tax during defendants attempts to collect taxes from those who are liable. However, Amy Bolher did not attempt to stop or mitigate the damage being done to Ryan and she refused to stop or mitigate the damages that defendants continue to do to Ryan to this day.

Ryan did originally file his action against the Defendants on or about December 31, 2013 into the original jurisdiction of the Supreme Court of South Carolina; the Supreme Court of South Carolina refused to hear Ryan's action. A couple months after that time, Ryan found in his mailbox a correspondence addressed to "SAN JUAN HOLDINGS, C/O RYAN POWELL" and presumably sent by the Defendants. Ryan returned the unopened correspondence back to its sender "refusing it for fraud" because he has never contracted with the "York County Register of Deeds" to make himself liable for any taxes to Defendants nor has he ever contracted with SAN JUAN HOLDINGS to handle any of their business (assuming that entity still even existed). Ryan believes that the named defendants took his name off of his SC Supreme Court filing and put it into their database as **a person liable or somehow responsible for some tax to Defendants without his consent and without any contract with the company they work as agents for in order to cover up the crimes and torts they were and are continuing to commit against Ryan.**

CONCLUSION

For the reasons shown herein, this court is required to dismiss and/or deny Defendants' fraudulent and frivolous motions to dismiss and substitute defendants in this action. The South Carolina Revenue Procedures Act does not divest this court of subject matter jurisdiction because that act is not applicable in this case. Defendant's motions to dismiss for failure to state sufficient facts do not give Plaintiff proper notice of the alleged deficiencies and even if it did the just solution would be to allow Plaintiff to amend his complaint as is his right under Rule 15(a). All the other various and sundry motions are inappropriate at the pre-answer stage of litigation. Finally, this court should consider sanctioning Defendants' attorney for his blatant violation of SCRCRCP Rule 11.

Respectfully submitted,


Ryan Powell, a private person of full capacity
c/o 25056 Timberlake Drive
Fort Mill, South Carolina
[Non-domestic]

June 5 2014

919-400-6339

State of South Carolina

County of York

Ryan Powell, a private person of full capacity,
Plaintiff,

v.

AMY BOLHER d/b/a York County Auditor,
BETH LATHAM d/b/a York County Treasurer,
ROBERT KISER d/b/a York County Delinquent
Tax Collector,

Each in their individual and official capacities,
Defendants.

Case No. 2014-CP-46-1425

In the Circuit Court,
Court of Common Pleas

In the Common Law

Rule 59 SCRCP Motions
for Reconsideration of
a Judgment, and
Motion to Recuse

Judicial Notice of Disqualification

FILED-RECEIVED
2014 JUL -2 AM 11:40
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

To Judge Stonewall Jackson Kimball: you are hereby directed to take mandatory judicial notice of the following facts which you have first hand knowledge of:

- a) **NONE** of your statement of facts or findings of facts in the order dismissing this action are supported by the record - See Canon 3B (1) of the Code of Judicial Conduct, Rule 501, SCACR. "A judge's impartiality might reasonably be questioned when his factual findings are not supported by the record";
- b) Your salary, benefits, and staff are all paid for by the York County governing body (York County Council) which gets the majority of its' revenue from the collection of *ad valorem* taxes. Since this case involves the legal authority of the Defendants to seize and sell property belonging to a specific class of land owners, those who do not record their deeds, your pay, job, and staff could all be affected by the outcome of this case;
- c) You corrected the spelling and pronunciation of Defendant Amy Boheler's name on the record giving the appearance that you know her better than her own defense attorney;
- d) You usurped the Supreme Court of South Carolina's exclusive jurisdiction to determine, without any evidence in support, that Plaintiff's mother was engaged in the "unauthorized practice of law" and then removed her from being Plaintiff's legal counsel prejudicing Plaintiff during the hearing;

- e) You made disparaging remarks on the record about Plaintiff personally saying that since he is young (age discrimination) he "must have been misled" insinuating that Plaintiff is too obtuse to read the actual written laws and determine their meaning by himself;
- f) Defendants' attorney argued his motions for 20 minutes uninterrupted by you but when it was Plaintiff turn you interrupted Plaintiff multiple times and told him "I've heard enough" and "sit down and be quiet" every time he interfered with your agenda to dismiss by citing holdings of the SC Supreme Court showing his position is correct;
- g) You made many disparaging remarks during the hearing before you announced your decision showing your prejudgment of Plaintiff's challenging the authority of "York County to assess or collect a tax from him" (even though that is a misstatement of the actual facts of the case).
- h) Your order dismissing this action is littered with references to the effrontery of Plaintiff to dispute the authority of the county to collect a tax from him (again a misstatement of the facts of the case) insinuating that Plaintiff is depraved for expecting Defendants to obey the written laws of the State to which they have sworn an oath to uphold.

The above listed samples of your prejudice, partiality, and prejudgment clearly show you denied Plaintiff both his due process right to an impartial tribunal and his due process right to be heard. You prejudged this case without even considering the facts or law cited by Plaintiff. A judge's oath of office and his code of judicial conduct require him to not only rule impartially but he must also appear to rule impartially, neither has happened in this case. Therefore, you are obligated to void your order and disqualify yourself "*sua sponte*" from hearing anything associated with this case under Rule 501, Canon 3, subparagraph E(1)(a), (c), & (d)(iii) which states, *inter alia*, that a judge is obligated to disqualify himself if he knows that he has an economic interest in the subject matter of the action.

Rule 59(a) SCRCP Motions for a New Hearing and to Recuse

1. If Judge Kimball refuses to do his duty to void his order and disqualify himself, *sua sponte*, Plaintiff moves the court to recuse Judge Kimball from any further actions in this case based on the above stated facts and then to schedule the rehearing of defendants' motions to dismiss and Plaintiff's motion for mandamus to a circuit court judge whose salary, benefits, and staff are not dependant on the *ad valorem* taxes at issue in this action.

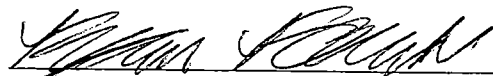
2. *Ad valorem* is an admiralty term and applies only to commercial activities where a contract is in force. Plaintiff's Complaint invoked the circuit court's fundamental in law jurisdiction but Judge Kimball erroneously decided defendants' motion to dismiss as if it was a suit in equity. That is a fatal jurisdictional error. Plaintiff moves the court under Rule 59(a) SCRPC to rehear Defendants' motions to dismiss under the correct jurisdiction of the action - in the common law. This will allow Defendants the opportunity to counterclaim and show that Plaintiff is subject to the Admiralty jurisdiction by producing a copy of the commercial contract that would subject him to that jurisdiction (i.e., Plaintiff's recorded deed).

Rule 59(e) SCRPC Motions to Alter or Amend

Should the court refuse to grant the above motions to rehear, Plaintiff makes the following motions to alter or amend the June 24, 2014 motion to dismiss Plaintiff's action.

3. Plaintiff objects to every single statement of fact and finding of fact in the court's June 24, 2014 order as none of them are based on the Complaint. Without any affidavits or testimony entered into the record the Complaint is the only thing the trial court can rely upon for making its factual findings. Further all facts alleged in the Complaint must be presumed to be true at this stage of the proceedings so the judge wants discretion to dispute the veracity of any of them. It's obvious the judge predetermined what conclusions and decrees he wanted to make and then manufactured the "facts" he needed to support those conclusions and decrees. Plaintiff moves the court to alter ALL of statements of facts and findings of facts to make them comport to the Complaint and then alter the conclusions of law and decrees of the court to agree with the actual facts of the case decided under the laws of the state.
4. Plaintiff raised a constitutional and legal challenge in his memo in opposition to Defendants motions to dismiss (pgs 15-17) to S.C. Code of Laws § 12-37-210 which Defendants cited as the statute that makes Plaintiff's land liable for *ad valorem* taxes. Plaintiff moves the court to make its ruling on that challenge and amend its order accordingly.
5. The trial court cannot both find that it does not have subject matter jurisdiction over the action AND THEN turn around and have jurisdiction to substitute the Defendants and to grant a Rule 12(b)(6) motions to dismiss as those are mutually exclusive options. Plaintiff moves the court to alter these conclusions and decrees by either removing the dismissal for

- lack of subject matter jurisdiction or removing the substituting of the defendants and the dismissal under Rule 12(b)(6) to make the decrees at least legally consistent with each other.
6. For the trial court to find that the action can be dismissed under the affirmative defenses of the Tort Claims Act or the Revenue Procedures Act the court must find that the "4 corners of the Complaint" shows those affirmative defenses are available for a Rule 12(b)(6) motion. Plaintiff moves the court to amend its order to show which allegations in the Complaint, if any, the court relied upon to find that those two affirmative defenses are even available to Defendants on a rule 12(b)(6) motion and then amend or adjust the conclusions of law and decision of the court accordingly.
 7. The caption of the case as created by the Complaint lists the capacities each party is either suing or being sue in. However in the order the capacities have been removed. Showing the capacities on the order would make it void on its face and open it to collateral attack so intentionally removing that vital information is prejudicial to Plaintiff. Plaintiff moves the court to amend the caption on the order to return the parties capacities and the jurisdiction of the action (in the common law) so that the caption on the order comports to the Complaint.
 8. There is no indication in the order that shows which statute(s), if any, the court relied upon to conclude Plaintiff's action is frivolous, i.e., the court found that Plaintiff has not recorded his deed but then somehow he is still legally liable for *ad valorem* taxes despite S.C. Code of Laws § 12-37-610 showing that a real property owner must record his deed to become liable. Plaintiff moves the court to amend its order to state which law(s), if any, it relied upon to find that Plaintiff's action is frivolous.
 9. There is no mention in the order of the judicial determination of Plaintiff's motion for writ of mandamus which was on the docket to be heard during the June 19, 2014 hearing. Plaintiff moves the court to execute its ministerial duty to determine Plaintiff's motion for writ of mandamus and then amend the order to show the court's determination.



Ryan Powell, a private person of full capacity
c/o 25056 Timberlake Drive
Fort Mill, South Carolina [Non-domestic]
919-400-6339

July 1 2014

P R O C E E D I N G S

THE COURT: What I have remaining is Ryan Powell versus Amy Bohler and others. You're Mr. Powell?

MR. POWELL: Yes, sir.

THE COURT: Mr. Powell is present and representing himself. The defendants are represented by Mr. Keith Martens and Mr. Michael Kendree. This is the defendants' motion to dismiss.

MR. MARTENS: May it please the Court. I'm Keith Martens here on behalf of the defendants, and this is a motion to dismiss plaintiff's complaint in its entirety -- or actually in whole or in part.

Your Honor, the facts that are alleged by the plaintiff are as follows: Plaintiff alleges that he is the owner of a piece of real property that's located in Fort Mill, South Carolina. He alleges that the property was conveyed to him in December of 2012 by a non -- by a now-dissolved trust. Plaintiff alleges he intentionally did not record his deed in York County property records, although the trust did file a document called a notice of sale, transfer, or conveyance. That notice of sale, transfer, or conveyance says that the trust transferred the property to an emancipated male, although it doesn't say -- doesn't identify to whom it was transferred. And the document also states that the trust no longer needs to

1 exist and therefore it is dissolved.

2 Plaintiff alleges that the York County tax assessor
3 then generated and sent a tax bill to the dissolved trust.
4 The trust did not pay the tax bill. The delinquent tax
5 collector then came onto plaintiff's property without his
6 permission, posted a notice of levy, and listed the
7 plaintiff's property for sale on the York County
8 delinquent tax sale. The plaintiff became convinced that
9 his property was going to be sold for delinquent taxes.
10 He paid the taxes under protest.

11 Plaintiff now brought this action against --

12 THE COURT: And complied with the statute with
13 respect to paying under protest?

14 MR. MARTENS: It's not alleged. It just says he --

15 THE COURT: I'm sorry. Okay.

16 MR. MARTENS: Plaintiff has brought this action
17 against Amy Bohler doing business as the York County
18 auditor; Beth Latham, doing business as the York County
19 treasurer; and Robert Kiser doing business as the York
20 County delinquent tax collector. These alleged ten
21 separate causes of actions: Sham legal process, fraud,
22 trespass, a trespass quare clausum fregit. He's alleged
23 money hadn't received. He's alleged slander of title.
24 He's alleged false light, invasion of privacy, and libel.
25 He's alleged breach of contract. He's alleged negligence

1 per se. He's alleged civil conspiracy, and he's also
2 alleged intentional infliction of emotional distress.

3 The plaintiff also has requested a writ of mandamus
4 requiring the defendants to return the taxes that he paid
5 under protest, to avoid any attempts by York County to
6 collect taxes against his so-called allodial land and
7 requiring the defendant to collect any taxes owed from the
8 now-dissolved San Juan holding trust.

9 The case, Your Honor, is pretty clearly an attempt by
10 plaintiff to avoid paying taxes on his real property. The
11 entire case is premised on the notion the plaintiff's
12 property is not subject to tax or is no longer subject to
13 taxation because the plaintiff chose not to record his
14 deed with the York County register of deeds. The
15 plaintiff contends therefore the defendant acted
16 wrongfully when they attempted and then successfully
17 collected property taxes from him.

18 As an initial matter, we believe the court lacks
19 subject matter jurisdiction to hear plaintiff's case.
20 South Carolina Revenue Procedures Act unequivocally says
21 unless the cause of action is a claim challenging the
22 constitutionality of a statute that quote, "There is no
23 remedy other than those provided in this chapter in any
24 case involving the illegal or wrongful collection of taxes
25 or attempt to collect taxes." That's South Carolina code

1 section 12-60-80, the Revenue Procedures Act.

2 THE COURT: Right.

3 MR. MARTENS: The Revenue Procedures Act then
4 provides a contested case procedure where by a quote,
5 Property taxpayer, end quote, may contest the county's
6 collection or attempted collection of taxes. There's a
7 specific procedure outlined in that statute, and the end
8 venue -- the end forum for that contested case procedure
9 is for the taxpayer to file a contested case under
10 contested case procedures of the statute. That case must
11 be brought before the administrative law court. And
12 that's the exclusive remedy, and the statute is clear
13 about that.

14 THE COURT: That's the remedy for an illegal or
15 wrongful collection of taxes or an attempt?

16 MR. MARTENS: Or attempt to collect taxes, and that's
17 exactly what he's alleged. Is there was a wrongful attempt
18 to collect taxes from him. There's a lot of allegations
19 in here about constitutional rights and statutory rights
20 versus what the constitution allows. The constitution is
21 clear that the administrative law court is a part of the
22 legislative branch of this government. This court, of
23 course, is part of the judicial branch. This court is not
24 the proper court for this case to have been brought.

25 Now, in opposition to our motion, plaintiff has filed

1 a memorandum asking that I be sanctioned for filing this
2 motion, by the way.

3 THE COURT: I don't have that, I don't think.

4 MR. MARTENS: But he also alleges the statute is not
5 applicable to him because he says he's not a quote,
6 property taxpayer. The Revenue Procedures Act defines a
7 property taxpayer as a person who is liable for or whose
8 property or interest in property is subject to or liable
9 for a property tax imposed by statute. The plaintiff
10 falls squarely within the definition of property taxpayer,
11 and if he believes his property was wrongly subject to or
12 liable for a tax that was imposed, his only remedy is
13 under the Revenue Procedures Act. His only remedy is in
14 the administrative law court. This court does not have
15 subject matter jurisdiction, and the entire case should be
16 dismissed for that ground alone.

17 Now, we also have argued under Rule 12(b)6, failure
18 to state a claim upon which relief could be granted.
19 Plaintiff's claims are barred entirely by the doctrine of
20 sovereign immunity. The plaintiff has carefully
21 alleged -- carefully named individual employees of York
22 County rather than York County as his defendant. And it's
23 an attempt to void the sovereign immunity claim --
24 sovereign immunity right that the county government has.
25 The section 15-78-70 of the Tort Claims Act clearly says

1 that in a case against a government or governmental
2 entity, the proper defendant is the municipality, not the
3 individuals, and that when a claim has been brought
4 against an individual employee of the municipality, the
5 governmental entity must be substituted.

6 His defendant is York County, not these individuals.
7 And as the Court knows under traditional concepts of
8 sovereign immunity, there was no right to sue the
9 sovereign. The Tort Claims Act, which was passed in 1986,
10 waived sovereign immunity in certain specific events. It
11 didn't create any new causes of action. It simply pulled
12 back the veil of sovereign immunity that the state
13 otherwise enjoyed in any case.

14 THE COURT: In limited cases.

15 MR. MARTENS: In limited cases. That's exactly
16 right. And the Court has said that the waiver of
17 sovereign immunity must be strictly construed in favor of
18 limiting the sovereign's exposure.

19 Now, if you look at the Tort Claims Act, 15-78-60 --
20 and I also want to point out, Your Honor, in response to
21 the motion, plaintiff has argued, Well, I didn't bring my
22 claim under the Tort Claims Act. I'm not subject to the
23 Tort Claims Act. Plaintiff can't opt in or out of the
24 Tort Claims Act. He's filed tort claims against these
25 governmental employees. His claims are subject to the

1 Act.

2 Section 15-78-60 of the Tort Claims Act states that a
3 governmental entity is not liable for a loss resulting
4 from certain acts. Among those: The execution,
5 enforcement, or implementation of any process; the
6 adoption, enforcement, or compliance of any law, whether
7 the law is valid or not; entry upon property where the
8 entry is expressly or impliedly authorized by law; or --
9 and this is important -- the assessment or collection or
10 taxes or enforcement of tax laws. Those types of
11 activities are clearly immune to suit. They're subject to
12 sovereign immunity. There's no question but that the
13 allegations of the plaintiff's complaint put what these
14 folks did, these individuals did within the scope and
15 course of their public duties. They were simply carrying
16 out the taxation laws of this county and of the state.

17 The Plaintiff has no claim against them regardless of
18 his theory of liability. So Your Honor, we believe the
19 complaint should be dismissed because this court doesn't
20 have subject matter jurisdiction. It's subject to the
21 Revenue Procedures Act. We also believe that the
22 plaintiff does not have a cause of action for the facts
23 that are alleged under his complaint.

24 Now, I've also brought up alleged specific motions as
25 to individual causes of action. I don't know it would be

1 necessary for me to go into those at this time, but I'd be
2 happy to if the Court would like me to.

3 THE COURT: No, not yet. Let me ask you this about
4 the subject matter jurisdiction. I tried to -- I got a
5 copy of the statute, and I tried to plug it into the
6 allegations -- allegations of the complaint and the writ
7 of mandamus. It's not clear to me where the statute
8 12-60-80 says no remedy other than those provided in this
9 chapter for any case involving illegal or wrongful
10 collection of taxes or attempt to collect taxes. I had a
11 hard time drawing that line when you start applying that
12 to some typical common law causes of action. Let's just
13 say, for example -- forget about the operation of the Tort
14 Claims Act to the way in which he has alleged this, not
15 the substance, but the manner in which he has presented
16 these claims. Does the -- do the ALJs hear cases
17 involving intentional infliction of mental or emotional
18 distress? Because it's in the -- because it's in the --
19 because it allegedly happens in the process of trying to
20 collect taxes. I'm confused about that.

21 MR. MARTENS: To be honest with you, I don't know.

22 THE COURT: You see what I mean?

23 MR. MARTENS: Well, I do see, and that's the -- I
24 mean, that's the creative manner in which this has been
25 alleged. "I don't have to pay taxes because I didn't

1 record my deed, and when you made me, it caused me
2 emotional distress." Therefore --

3 THE COURT: For example.

4 MR. MARTENS: -- therefore I have a claim against you
5 for that.

6 THE COURT: Same question about trespass. Part of
7 the delinquent tax collection process, of course, is
8 posting the notice. And he's alleged that going on his
9 property and that and so on. Do you think it's intended
10 that the Revenue Procedures Act applies to that because
11 it's an -- because it's an attempt?

12 MR. MARTENS: I don't see how it -- can read that
13 statute any other way, Your Honor.

14 THE COURT: I just can't see the administrative law
15 court hearing trespass cases.

16 MR. MARTENS: There is no remedy other than those --
17 well, I think --

18 THE COURT: That's what it says.

19 MR. MARTENS: If you put that hand in hand with the
20 Tort Claims Act, it says there's no cause of action
21 related to collection of taxes. I think absolutely that's
22 what that statute means. You can't sue me for posting a
23 notice of levy on your tax for nonpayment of tax.

24 THE COURT: But you can go to the ALJ.

25 MR. MARTENS: You can go to the ALJ and say, "I

1 shouldn't have had to pay that. That wasn't my tax bill.
2 That was somebody's else tax bill."

3 THE COURT: What about they trespassed on my land?

4 MR. MARTENS: I don't think --

5 THE COURT: They're trying to collect my taxes
6 wrongfully and they trespassed on my land. Obviously, I
7 understand why the Tort Claims Act would deal with that,
8 or would propose to deal with that. Anyway, I guess you
9 don't know the answer either.

10 MR. MARTENS: All I can do is read the statute, and
11 the statute says --

12 THE COURT: I understand.

13 MR. MARTENS: -- there's no remedy other than what's
14 outlined in this statute.

15 THE COURT: For the illegal or wrongful collection of
16 taxes or attempt to collect taxes.

17 MR. MARTENS: Or attempt to collect taxes.

18 THE COURT: Suppose -- and this is attenuated, but
19 suppose the delinquent tax collector or the employees of
20 the county -- of the tax collector went out to the
21 house -- went out the house, the property, to post the
22 property. A fight ensues with the owner and they injure
23 the owner, personal injury and the owner brings a claim
24 against the --

25 MR. MARTENS: I don't see -- okay, I think --

1 THE COURT: Do you understand what I mean?

2 MR. MARTENS: Well, I do, but I don't think that
3 claim arises from the attempt to collect taxes. That
4 arises from an assault that occurred during that activity.

5 THE COURT: Okay.

6 MR. MARTENS: I don't think it's the same thing at
7 all.

8 THE COURT: All right.

9 MR. MARTENS: So our argument is that if Mr. Powell
10 wants to contest this issue, he has a remedy, and the
11 statute --

12 THE COURT: And this court can't hear it.

13 MR. MARTENS: And it's not in this court, and even if
14 this court did have subject matter jurisdiction, the Tort
15 Claims Act is clear that there's immunity for this.
16 There's not a tort claim. He can go to Columbia and
17 contest. He can argue his theory of why he doesn't owe
18 these taxes to any court that will hear him, but it's not
19 this one.

20 THE COURT: Mr. Powell?

21 MS. POWELL: Your Honor, I'm --

22 MR. MARTENS: Your Honor, I --

23 THE COURT: Have a seat.

24 MS. POWELL: I'm Ryan's mother, Karen Powell, and --

25 THE COURT: Ms. Powell, are you a licensed,

1 practicing attorney in South Carolina?

2 MS. POWELL: No, I'm not.

3 THE COURT: How old is Ryan?

4 MS. POWELL: Ryan is 21.

5 THE COURT: You cannot represent him and you cannot
6 speak on his behalf.

7 MS. POWELL: I believe, Your Honor --

8 THE COURT: You cannot speak on his behalf and I will
9 not permit it.

10 MR. POWELL: Okay. Can I just hand you an order --

11 THE COURT: No, ma'am. He can talk. He can say
12 anything he wants, present me with anything he wants, but
13 you can't.

14 MS. POWELL: Well, I object because the South
15 Carolina Supreme Court has said the unauthorized practice
16 of law is --

17 THE COURT: That's exactly what you're doing.

18 MS. POWELL: Exactly, and that that is their --

19 THE COURT: And do you know what penalties that
20 carries with it? It's a felony.

21 MS. POWELL: Right. Okay. Well, the Supreme Court
22 is the only court with jurisdiction to determine whether
23 somebody is or is not, and they have said In Re:
24 Unauthorized practice of law. Where the South Carolina
25 Supreme Court held any individual --

1 THE COURT: Give me your full name, please, ma'am.

2 MS. POWELL: Karen Powell.

3 THE COURT: Ms. Powell, I'm ordering you to sit down
4 and be quiet. I will not permit you to argue this case.

5 MS. POWELL: Okay. Okay. I object.

6 THE COURT: If you do, I will hold you in contempt of
7 court.

8 MS. POWELL: Okay. I object.

9 THE COURT: All right. Mr. Powell, I'll hear from
10 you.

11 MR. POWELL: Okay. Defendants said that they tried
12 to collect a tax from me and that their efforts were to
13 make -- or I was a property taxpayer and that that is --
14 my remedy is through that act. The defendants have misled
15 the Court. This is not an issue of subject matter
16 jurisdiction. This is an issue of exhaustion of
17 administrative remedies and therefore not a proper rule
18 12(b)1 motion. The South Carolina Supreme Court held in
19 McCullar v. Estate of Campbell 672 SE2d 784, quote, Tort
20 suits are within the circuit courts jurisdiction. Here on
21 its face, this complaint alleges a tort and therefore is
22 not subject to dismissal for lack of subject matter
23 jurisdiction, end quote. The South Carolina Supreme Court
24 held in Ward --

25 THE COURT: Do you know what subject matter

1 jurisdiction is, Mr. Powell?

2 MR. POWELL: Yes, sir, I do.

3 THE COURT: What? Tell me.

4 MR. POWELL: I don't know off the -- I know what it
5 means. I don't know how to define it.

6 THE COURT: What does it mean?

7 MR. POWELL: It's subject matter jurisdiction. I
8 don't know how to explain it, but it's basically the
9 authority to hear an action, sir, your Honor.

10 So as I was saying --

11 THE COURT: Is that there your mother's note?

12 MR. POWELL: It is from a piece of paper sitting
13 here.

14 THE COURT: Is it from the notes your mother just
15 wrote?

16 MR. POWELL: I could look it up in Black's Law
17 dictionary if you --

18 THE COURT: You could.

19 MR. POWELL: The South Carolina Supreme Court held in
20 Ward v. State 538 SC2d 245, quote, 'Thus the failure to
21 exhaust administrative remedies goes to the prematurity of
22 a case, not to subject matter jurisdiction. Therefore
23 defendants' Rule 12(b)1 must be denied.

24 THE COURT: Well, do you -- are you saying that you
25 failed to exhaust your administrative remedies and

1 therefore I can't hear it? Is that it?

2 MR. POWELL: I'm saying that they claim that I am a
3 property taxpayer...

4 THE COURT: Right. You've claimed that.

5 MR. POWELL: The Revenue Procedures Act specifically
6 applies only to property taxpayers, so one must be, in
7 fact, liable for property taxes to be required to exhaust
8 those remedies available only to those persons. This
9 Court cannot conclude that there is administrative remedy
10 available to plaintiff unless and until it finds that
11 plaintiff is liable for a property tax, which requires a
12 finding that plaintiff recorded his deed. Since plaintiff
13 has shown that South Carolina code section 12-37-610 is
14 the only statute that makes a landowner liable for
15 property taxes and defendants have failed to show
16 otherwise.

17 As further evidence that plaintiff is not a property
18 taxpayer, there are no allegations in the complaint
19 showing that defendants have ever attempted to collect a
20 tax from plaintiff, and defendants have failed to enter
21 any evidence disputing those allegations.

22 Finally, defendants' argument that plaintiff is
23 required to exhaust administrative remedies is just more
24 evidence that plaintiff's theory of this case is correct,
25 for how could the legislators force any person to abandon

1 his constitutionally protected rights for judicial court
2 for his remedy unless that person has already consented to
3 giving up that right? There is no action under -- other
4 than recording one's deed that a landowner could possibly
5 take to abandon his constitutionally protected right, and
6 without the landowner giving up that right, the
7 legislature mandating that the landowner has to exhaust
8 administrative remedy under the executive branch would be
9 unconstitutional.

10 So until defendant can show the plaintiff consented
11 to giving up his right to a judicial remedy protecting him
12 by the state constitution by recording his deed or
13 otherwise, this motion must be denied.

14 Shall I go on about --

15 THE COURT: Who owes the property taxes?

16 MR. POWELL: San Juan Holdings, Your Honor.

17 THE COURT: So would you agree with me that the
18 county may continue to pursue its process against San Juan
19 Holdings?

20 MR. POWELL: San Juan Holdings is no longer the
21 owner. However, if they wish to pursue to collect taxes
22 for unpaid debt in the past, that's absolutely their
23 right. However, San Juan Holdings has been dissolved. So
24 that's an issue that's not quite relevant to this case --

25 THE COURT: Well, then the question become whether

1 you want to lose your property or not.

2 MR. POWELL: The question is --

3 THE COURT: Because someone has got to pay the taxes.

4 MR. POWELL: I cannot be held liable for someone
5 else's taxes.

6 THE COURT: That's fine, but somebody is going to be
7 paying the taxes, or the property is going to be sold for
8 unpaid taxes.

9 MR. POWELL: That's unconstitutional, Your Honor.

10 THE COURT: No, it's not. That's been decided.
11 Someone is going to pay the taxes.

12 MR. POWELL: The taxes are levied against the owner,
13 not against the land.

14 THE COURT: But the taxes are a lien on the land,
15 hence the county can sell the land to pay the taxes, just
16 like a mortgage. It's a lien on the land by statute and
17 under the constitution. So somebody's got to pay the
18 property taxes. And unless somebody pays the property
19 taxes, the county has a statutory right to engage in the
20 delinquent tax collection process, and ultimately if --
21 unless somebody pays, sell the property to a third party.

22 MR. POWELL: Your Honor, the defendants are aware
23 that San Juan Holdings no longer owns the property and no
24 longer exists, yet they continue to try to deceptively
25 collect taxes from a nonexistent trust and refuse to issue

1 me any bill, notice, or levy in my name, even though they
2 know that San Juan Holdings doesn't exist.

3 THE COURT: They will now give you notice, I'm sure,
4 actual notice of the taxes being due when they're
5 delinquent.

6 MR. POWELL: Your Honor --

7 THE COURT: Because you have intervened and asked for
8 that notice. They'll give it you.

9 MR. POWELL: Your Honor, they can't doing without me
10 recording my deed.

11 THE COURT: Yes, they can.

12 MR. POWELL: How does -- how do I become liable for a
13 property tax if it's not --

14 THE COURT: I'm not assuming that you're liable for
15 it personally. What I'm just telling you is that the land
16 is subject to a lien for property taxes, and if the
17 property taxes aren't paid, the land will be sold at the
18 delinquent tax sale.

19 MR. POWELL: Do you know what statute says that?

20 THE COURT: Sure, I do.

21 MR. POWELL: Could you please cite it?

22 THE COURT: Well, you look it up. You're the one
23 that presented this. I deal with it all the time.

24 MR. POWELL: Okay. I think you said earlier that you
25 have not seen the response to defendants' motion to

1 dismiss and the response to defendants' memorandum in
2 opposition to plaintiff's petition for writ of mandamus?

3 THE COURT: Let me tell you what I do have. I have a
4 response to defendants' motion to dismiss and to
5 substitute defendants. That's from you. I read it. I
6 have a response to defendants' memorandum in opposition to
7 plaintiff's petition for writ of mandamus, and I read it.
8 I have the complaint, which I read, and then I have the
9 defendant's motion, which I read. That's what I've got.
10 Anything else I don't have that you have?

11 MR. POWELL: No, I think you have all the documents,
12 but I move to continue this hearing until I can amend my
13 complaint to add my mother as a co-plaintiff, where she
14 will then have the right to speak in this action. She
15 lives with me in my house and has been affected by this.

16 THE COURT: Yeah, but she doesn't own the property.

17 MS. POWELL: I possess it.

18 THE COURT: Possession doesn't have anything do with
19 it. I deny your motion. Anything else?

20 MR. POWELL: I would like to read from the motion for
21 mandamus.

22 THE COURT: All right.

23 MR. POWELL: The following four incontrovertible
24 principles of law clearly illustrate that Taylor's supra
25 must be controlling in this case at bar. First, if the

1 sale of plaintiff's allodial land has progressed the to
2 issuance of a tax title, how could defendant tax collector
3 transfer rights, title, and interest in property from San
4 Juan Holdings if San Juan Holdings has no right to title
5 or interest in the property to take? Second, since
6 failure to give notice of the expiration of the redemption
7 period is a jurisdictional failure, rendering any title --
8 any tax title void ab initio, how could defendants take
9 plaintiff's allodial land without giving him, at the very
10 least, notice of the expiration of the redemption period.

11 May I just stop in there, I did say plaintiff's
12 allodial land. It is referred in this as plaintiff's
13 allodial land, although I never claimed that it is, in
14 fact, allodial land. It is simply a handle to refer to my
15 land. I never...

16 THE COURT: Doesn't matter to me.

17 MR. POWELL: Okay. Could take plaintiff's land
18 without giving him at least -- at the very least, notice
19 of the expiration of the redemption period. I kind of
20 stopped in the middle of that sentence.

21 THE COURT: Well, I'm pretty sure that as a result of
22 all this, the county will most certainly -- the taxes have
23 been paid under protest for the year that's -- the only
24 year at issue so far, right?

25 MR. MARTENS: That's correct. They've been paid for

1 2012.

2 THE COURT: They're due --

3 MR. MARTENS: They're due for 2013.

4 THE COURT: And the delinquent tax process has begun?

5 MR. MARTENS: Mr. Powell, is that correct they have
6 not --

7 MR. POWELL: And the taxes are still in San Juan
8 Holdings' name.

9 MR. MARTENS: Mr. Powell, is it correct that taxes
10 have not been paid for 2013?

11 MR. POWELL: I am not aware. I have no idea.

12 THE COURT: Okay. Well, the county does.

13 MR. MARTENS: I think that's correct, Your Honor.

14 MR. POWELL: I've never received a bill for those
15 taxes.

16 THE COURT: I thought you didn't want to receive a
17 bill for the taxes. You say you don't owe them.

18 MR. POWELL: If they can me a bill, I'd love for them
19 to do it, but until they can send me a bill, I don't see
20 how I can be held liable. They've never sent me a bill.

21 THE COURT: You tell them you're not an owner.

22 MR. POWELL: Excuse me?

23 THE COURT: You tell them you don't own the property
24 because the deed isn't recorded.

25 MR. POWELL: That's not true.

1 THE COURT: That's what the pleadings you filed say.

2 MR. POWELL: No, just because I haven't recorded the
3 deed doesn't mean I don't own the property. I can own the
4 property and not record the deed. There is no law
5 requiring --

6 THE COURT: I agree with that.

7 MR. POWELL: -- to record my deed.

8 THE COURT: I agree with that. Well, then you are
9 the owner, right?

10 MR. POWELL: Yes, sir.

11 THE COURT: If you'll give the county your address,
12 I'll assure you they'll send you notice. And the
13 delinquent tax process, based on my experience, has
14 probably begun as to the 2013 taxes.

15 MR. POWELL: South Carolina code annotation 13-76-10
16 states the following: Each person is liable to take -- to
17 pay taxes and assessments on the real property that he
18 owns as recorded in the public records for deeds of that
19 county in which the property is located, end quote.

20 THE COURT: Right.

21 MR. POWELL: The deed is not recorded, thus the
22 person is not liable.

23 THE COURT: That's why they're not sending you a
24 notice. That's why they're not sending you a notice.

25 MR. POWELL: And I'm not liable. I don't owe --

1 THE COURT: I didn't say you were liable.

2 MR. POWELL: Then --

3 THE COURT: What I said is the property is going to
4 be sold for delinquent taxes if you don't pay it, or
5 somebody doesn't pay it. The fact the deed has not been
6 recorded is exactly the reason I suppose that the county
7 hasn't been sending you a bill. What the county will
8 likely do is publish notice in the paper to San Juan
9 Holdings to advise them of the delinquent tax collection
10 process. They will also post a notice on your -- on the
11 property that you own but for which you have not recorded
12 the deed, because they can't locate San Juan Holdings.
13 They have no good address for San Juan Holdings.

14 MR. POWELL: Your Honor --

15 THE COURT: And thereby, you will be notified.

16 MR. POWELL: Your Honor, Defendant Treasurer's
17 position that she can take my land for San Juan Holdings,
18 that is patently false. That would give the defendants
19 the authority to violate all inherent right of plaintiff,
20 or myself, discussed above. This is, again, from the
21 motion for mandamus. More specifically, the South
22 Carolina Supreme Court has steadfastly held that the tax
23 execution attaches to the defaulting taxpayer, not the
24 property. It is a common assumption that a tax execution
25 is issued against the property. Such is not the case. It

1 is issued against the defaulting taxpayer.

2 THE COURT: Well, it's curious to me the statute
3 permits the sale of the property for delinquent taxes if
4 that's the case.

5 MR. POWELL: As I continue reading, it says, "All
6 taxes, assessments, and penalties legally assessed shall
7 be considered and held as a debt payable to the state by a
8 party against whom the same shall be charged."

9 THE COURT: That's true.

10 MR. POWELL: And the taxes may be made out of the
11 property the taxpayer has. It has thus seen that the
12 execution must issue against the true owner of the
13 property.

14 THE COURT: All right. Mr. Powell, I've heard
15 enough. You may have a seat. It gives me concern to see
16 young people who obviously have a good mind misled into --
17 what am I trying to say? -- fallacies and theories which
18 have no basis in the law, and will ultimately only cause
19 you trouble. And you have been misled. There's no basis
20 in the law for what you say. The plaintiff is entitled to
21 judgment. Now --

22 MR. MARTENS: Your Honor, you said plaintiff is
23 entitled to judgment?

24 THE COURT: Defendant. Defendants. First of all, I
25 guess we need to substitute York County, because under the

1 Tort Claims Act, the individual defendants are entitled to
2 be dismissed and the county substituted as a defendant. I
3 order that.

4 I am not frankly not -- I'll do it this way. I'm
5 going to dismiss the plaintiff's case with prejudice under
6 your alternate theory, which would be characterized as
7 12(b)6, because he states no cause of action that he can
8 maintain against the county.

9 MR. POWELL: Your Honor --

10 THE COURT: With prejudice. And that's based upon
11 the application of the Tort Claims Act. Now -- and this
12 is counterintuitive or really counterproductive, but to
13 the extent that -- it does appear from the complaint that
14 all causes of actions alleged, while couched in terms of
15 common law remedies, arise out of acts intended to carry
16 out a tax collection process. To the extent that that
17 complaint is construed to involve the illegal or wrongful
18 collection of taxes or attempt to collect taxes, the Court
19 does lack subject matter jurisdiction. I'm not sure of
20 the breadth and scope of the statute in that regard when a
21 person alleges a common law cause of action, which, in
22 this instance, would be barred by the Tort Claims Act. I
23 would appreciate your comments on how on that would be
24 handled.

25 MR. POWELL: Your Honor --

1 THE COURT: Just a minute.

2 MR. MARTENS: I think to the -- as I said in my
3 argument, to the extent the plaintiff wants to argue he
4 can't be made to pay taxes on this property, I think he
5 can bring that claim under the Revenue Procedures Act.

6 THE COURT: Yes.

7 MR. MARTENS: He can go to Columbia and he can argue,
8 "I don't have to pay this because I didn't record my
9 deed."

10 THE COURT: Okay.

11 MR. MARTENS: But with regard to the acts that have
12 been the basis of this complaint, which is these people
13 trespassed, they hurt my feelings, they did all this bad
14 stuff because I had to pay this to avoid my property being
15 sold, I think there's no cause of action for that.

16 THE COURT: Under the Tort Claims Act?

17 MR. MARTENS: Under the Tort Claims Act.

18 THE COURT: I think that's a fair distinction, and
19 that's really what I intend to do.

20 Mr. Powell, to the extent that you allege that the --
21 just allege in general that the effort to collect taxes on
22 your property is illegal, this court lacks subject matter
23 jurisdiction. That is a matter that is entirely -- even
24 if it were a reappraisal and reassessment, right, of the
25 property, if you contested the value they assigned to the

1 property, your remedy is not in this court and this court
2 doesn't have jurisdiction. Other than that, it's entirely
3 a matter to be taken up in the administrative law court as
4 set out in section 12-60-80.

5 To the extent that the causes of action that you
6 allege are common law causes of actions for injury
7 resulting from acts of York County, those -- your
8 complaint fails to state a cause of action upon which
9 relief can be granted because they are barred by the Tort
10 Claims Act.

11 MR. POWELL: Your Honor, the Tort Claims Act doesn't
12 apply here. The South Carolina Supreme Court in Wade V.
13 Berkeley County, 529 SC 2d 743, held, quote, We hold
14 15-78-70 (d) does not bar Wade's action against the county
15 under the Tort Claims Act. Wade's claim against Pierce
16 was not under the Tort Claims Act. It was an action
17 against Pierce as an individual facing personal liability.

18 THE COURT: I understand.

19 MR. POWELL: And this is against an individual. It's
20 not the county.

21 THE COURT: It arises out of the effort to collect
22 taxes.

23 MR. POWELL: They haven't collected any taxes from
24 me, Your Honor.

25 THE COURT: I know that. Any response to that,

1 Mr. Martens?

2 MR. MARTENS: Your Honor, the fact is they did
3 collect taxes.

4 THE COURT: Well, he paid them under protest. They
5 didn't collect it from him. He paid them under protest.

6 MR. MARTENS: I understand.

7 THE COURT: Finally, Mr. Powell, the entirety of what
8 you have presented to the court here is nonsense. People
9 have an obligation to pay property taxes. If -- they
10 don't have to pay them, but they're subject to losing
11 their property if they don't. Your -- the position you've
12 asserted in your complaint and in this supposed writ of
13 mandamus -- petition for writ of mandamus is frivolous.
14 There is no basis upon which a reasonable lawyer or a
15 reasonable person under existing law or any extension of
16 it would make such a claim.

17 MR. POWELL: Your Honor, am I entitled to a fair
18 hearing on this action?

19 THE COURT: You just had it.

20 MR. POWELL: Are your salary, benefits, and pension
21 paid by the York County council?

22 THE COURT: That's none of your business. It's
23 public record.

24 MR. POWELL: South Carolina code section 14-11-30
25 says that compensation of master in equity, the governing

1 body of --

2 THE COURT: Let me correct you about something. I'm
3 appointed by the governor of South Carolina upon the
4 recommendation of the general assembly of South Carolina.
5 York County has nothing do with whether I do my job.

6 MR. POWELL: Right, but --

7 THE COURT: And if you don't believe that, ask York
8 County if I've ruled against them.

9 MR. POWELL: Section 14-11 --

10 THE COURT: That's the end of that. We're through.
11 You are excused.

12 MR. MARTENS: Would you like --

13 THE COURT: E-mail me an order. You get his e-mail
14 address so you can send him a copy.

15 (Whereupon, the proceedings were concluded.)
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1 THE COURT - Okay, next I have Ryan Powell against
2 Amy Bohler and others. Mr. Powell? Give me just a minute
3 please. (Brief pause) All right, I've received a number of
4 things in this matter, but what I have on the Clerk's
5 schedule is simply a motion under Rule 59 to reconsider my
6 prior Order. Is that right?

7 MR. POWELL - Yes.

8 THE COURT - Okay. It's your Motion, Mr. Powell.

9 MR. POWELL - Judge, I brought my claim in the
10 common law as a private person, which is the common law
11 term for a man who is not a corporate fiction created by
12 and subject to this State, so please do not address me
13 using any title like Mr., which is applicable only to
14 fictions.

15 THE COURT - I'll address you in the manner I
16 customarily address all people who appear in this Court.

17 MR. POWELL - I will presume that any further use
18 of Mr. to address me was done by you in error and that you
19 are addressing me as a man. I, a man, accept your oath of
20 office, that you swore as a man before you took office. I
21 remind you of your duties to me to first do no harm to me,
22 and second, protect my private property under the mandatory
23 provisions of the constitutions and the laws of this State
24 which you agreed to uphold. My ---

1 THE COURT - The first duty applies to doctors.
2 That's the hippocratic oath.

3 MR. POWELL - My action pivots in ---

4 THE COURT - My job is to do justice to you.

5 MR. POWELL - My action pivots entirely on one
6 question and only one question, and that is, am I liable to
7 pay any taxes on my private property or am I not. First,
8 during the hearing of the Defendant's Motion to Dismiss,
9 you found that I was not liable, because I did not record
10 my deed, but then you turned around and found that my land
11 was liable simply because it is within some imaginary
12 boundary line. However, the very definition of liable
13 means responsible to do something and likely to be harmed.
14 Since my land is an inanimate object, it can never be
15 responsible to do anything, so by the very definition of
16 liable, it is impossible for my land to be liable. More
17 importantly, since I am the one being harmed and by the
18 very definition of liable I am liable. So you determine
19 that I am not liable because I did not record my deed, but
20 at the same time I am liable, because I am likely to be
21 harmed. It is impossible to be both. Second, there is no
22 way my land can be liable for a tax, because that would
23 violate my natural rights to own property free of any
24 taxation. The Oregon Supreme Court unanimously held in
25 Redfield v. Fisher that "An individual, unlike a

1 corporation is not subject to tax for the mere privilege of
2 existing and owning property which are natural rights."

3 May I hand up the case?

4 THE COURT - Yes, sir.

5 (DOCUMENT HANDED UP TO THE COURT.)

6 THE COURT - Thank you.

7 MR. POWELL - If such natural rights existed in
8 Oregon in 1930, then they exists for me here today, for no
9 government can ever interfere with a man's natural rights.
10 Also, in an international document signed by the United
11 States in 1948 named the Universal Declaration of Human
12 Rights, the world declared that everyone has the right to
13 own property. Property is defined in Am.Jur.2d, part 2
14 section 1, definitions as "The unrestricted and exclusive
15 rights to a thing, the right to dispose of it in every
16 legal way, to possess it, to use it and to exclude everyone
17 else from interfering with it." So according to that
18 definition, if Defendants have the authority to interfere
19 with my exclusive use of my property by seizing it and
20 selling it, then by the very definition of property, my
21 land is not my property. So your decision that my land is
22 liable violates my human right to own property and my
23 natural right to own property free of any taxation. Third,
24 there is no way for me to be liable, because there is only
25 one statute that makes anyone liable, and that one statute

1 is 12-37-610. The title for that statute reads, "Persons
2 liable for taxes and assessments on real property." The
3 title alone leaves no room for any misunderstanding that
4 this is the statute that creates the liability. The
5 statute then goes on to read, "Each person is liable to pay
6 taxes and assessments on the real property that as of
7 December 31st of the year preceding the tax year, he owns in
8 fee for life, for as a trustee as recorded in the public
9 records for deeds of the County in which the property is
10 located." That statute could not be any clearer about who
11 the legislature made liable for taxes and assessments on
12 real property. Fourth, the following four published cases
13 decided by the higher Courts of this State prove that a
14 person must record their deed to become liable. "It is a
15 common assumption that a tax execution is issued against
16 the property. Such is not the case. It is issued against
17 the defaulting tax payer. It is thus seen that the
18 execution must issue against the true owner of the
19 property." Taylor v. Jennings. "Tax execution is not
20 issued against the property. It is issued against the
21 defaulting tax payer. Statute is explicit that land shall
22 be listed and assessed and levied on and sold in the name
23 of the true owner." Aldridge v. Rutledge. "Assessment,
24 levy and execution and sale must be made in the name of the
25 true owner." Osborne, et al. v. Valentine. "Tax sale

1 under and execution issued against one who is not the owner
2 of the land is void." Donahue v. Ward. These four cases
3 prove that the name on the recorded deed must match the
4 name of the actual owner of the property being seized and
5 sold. This requirement declared to be the law of the State
6 ensures that the property is being taken only from an owner
7 who has recorded his deed. Also Donahue v. Ward shows that
8 the only thing Defendants are achieving with their actions
9 by seizing and selling my land in the name of someone who
10 is not the true owner is to create a void tax sale, not
11 voidable, but void, annulity, non-existent as if it never
12 happened.

13 THE COURT - Let me ask you a question.

14 MR. POWELL - I'd ask you to ---

15 THE COURT - Would be your position that if nobody
16 recorded a deed since the King of England transferred this
17 land to individuals, that there would be nobody to pay
18 taxes?

19 MR. POWELL - I'd ask you to hold your questions
20 until I finish my opening.

21 THE COURT - I get to ask questions. Answer it.

22 MR. POWELL - Yes.

23 THE COURT - Okay. Go ahead.

24 MR. POWELL - So now to sum up, I have shown that
25 Defendant's theory that my land is liable, which you ruled

1 in favor of, violates my human and natural rights. It's
2 impossible by the very definition of liable, creates
3 absurd, illegal and unconstitutional results, violates
4 holdings of the higher Courts stating that any seizure and
5 sale must be made in the name of the true owner and
6 violates universal law. That is, if you deny my Motion to
7 Reconsider, you will have made a judicial determination
8 that I am a slave with no rights to own property. On the
9 other hand, Defendants have supported their absurd theory
10 with -- well, with nothing, except their desire to not be
11 held liable for their ---

12 THE COURT - I think it's an absurdity for you to
13 equate your status with that of slavery, which is an
14 entirely different matter. That's an offense.

15 MR. POWELL - The Defendants have supported their
16 theory with nothing, except their desire to not be held
17 liable for their wrongs done to me and your desire to help
18 them. You are required to reverse your Order dismissing my
19 action which is harming me, a man, and immediately grant my
20 Motion for Writ of Mandamas. Since my Writ probably cannot
21 be entered before the sale of my land on Monday, I move the
22 Court to enter an emergency temporary injunction enjoining
23 the Defendants from auctioning off my private property this
24 Monday, less than two business days from now.

25 THE COURT - Anything further?

1 (No response)

2 THE COURT - Mr. Martens?

3 MR. MARTENS - May it please the Court. Your
4 Honor, this is a Rule 59 Motion. Our Supreme Court has
5 said that there are basically two grounds for a Rule 59
6 Motion. One is, a party may file a motion I believe if the
7 Court's misunderstood or failed to consider an argument he
8 has made. The second ground is that a party must file a
9 motion where he has raised an argument the Court did not
10 rule upon. Rule 59 Motion is not an opportunity to raise a
11 new argument or some new theory and some novel theory that
12 was not asserted in the original complaint. This complaint
13 was essentially a tort action seeking damages from three
14 York County government officials who were carrying out
15 their duties in executing taxing procedures of this County
16 and of the State. Your Honor ruled that there is no civil
17 liability for that under the Tort Claims Act. Your Honor
18 also ruled that if Mr. Powell wishes to challenge the
19 authority of the County to execute or levy taxes against
20 his property, that there is a remedy provided him under the
21 Revenue Procedures Act, and that this not the proper Court
22 to raise that challenge. Mr. Powell has not made any
23 arguments today regarding the substantive issues in his
24 complaint, and we believe his motion should be denied in
25 its entirety.

1 THE COURT - It is denied. I will do an Order.

2 Thank you.

3 (END OF TRANSCRIPT)

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Rule 210 (g) SCACR Certification of Record on Appeal

I, Ryan Powell, Appellant, certify that this Record on Appeal contains all matter proposed by either party that is in accordance with Rule 210 (c) SCACR and not any other material.

April 6, 2015

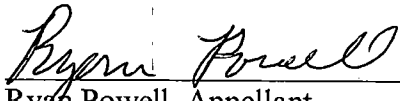
Ryan Powell
Ryan Powell, Appellant

See Next page

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Ryan Powell, Appellant

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In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Stonewall Jackson Kimball, Special Circuit Court Judge

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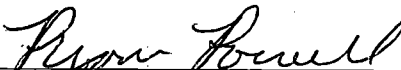
v.

Amy Boheler d/b/a York County Auditor,
Beth Latham d/b/a York County Treasurer, and
Robert Kiser d/b/a York County Delinquent Tax Collector,
each in their individual and official capacities, ... Respondents.

Rule 211 (b) SCACR Certificate

I certify that the Final Brief of Appellant and the Final Reply Brief of Appellant are identical to the initial briefs Appellant previously served under Rule 208 except that the references to the documents have been changed to reference the Record On Appeal and a minor correction of typographical errors and misspellings.

April 11, 2015


Ryan Powell, Appellant
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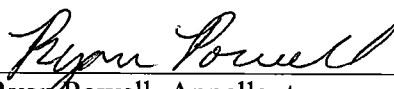
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Certificate of Service

I certify that I have served on all Respondents the Final Brief of Appellant and the Final Reply Brief of Appellant by and through their attorney of record by First Class Mail with proper postage affixed on the date below shown addressed to W, Keith Martens of HAMILTON, MARTENS, BALLOU & CARROLL, LLC, P.O. Box 10940, Rock Hill, SC 29731

April 13, 2015


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