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JAN 11 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)
)
 C.B. LOWTHER, JR., CLAYTON)
 CLARK LOWTHER, MITCHELL S.)
 LOWTHER AND EFFIE SANDRA)
 TURPIN,)
)
)
)
 Plaintiffs,)
 Vs.)
)
 E. LEGRAND LOWTHER,)
)
)
 Defendant.)
)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2008-CP-27-151

ORDER ON DEFENDANT'S
MOTION TO SUSPEND SALE

THIS MATTER is before me as a matter in equity. Defendants motion raises a number of very appealing equitable arguments. None of these overbalance the equity of "Justice delayed is justice denied". This matter has been in limbo for so long that most of the original beneficiaries are dead. Some of the fault in this may be mine, but that will not reoccur.

Addressing the issues *seriatim*:

1 & 2. These arguments were addressed to the computation of the judgment amount. Primarily the argument is that the figures are not properly divided according to the undivided interests. I think these arguments have some merit, but are not grounds to cancel the sale. One item that is very, very clear is the roughly Forty-Five thousand (\$45,000.00) dollars, cited in the order as prospective credit. My order clearly directs this to be disbursed to Plaintiffs, and taken as a credit against the judgment. The Defendant apparently ignored this directive, and the fund is not now available. This clearly is part of the judgment and any verbiage premised upon payment is

now irrelevant. I do not sua sponte raise the issue of contempt.

3. I cannot take judicial notice that a particular party will prevail on a pending lawsuit.

4. If a remitter has been filed, the judgment is final.

5. I cannot take judicial notice that a change in co-tenancy affects value. Certainly in this case, a change in co-tenancy may change the asset from hypothetical to practical, in light of Defendant's recalcitrance in generating income. If these third parties want to be heard, I will certainly schedule a hearing, upon proper pleadings.

6. It is my impression that numerous accountings have been had, but the matter before me is a judgment.

7. Defendant's attorney sent his calculations of the items in the prior order in the form of a motion. If the sale proceeds exceed these calculations of \$172,845.34, I will order an escrow of the overage, and will hold another hearing. I respectfully, but emphatically, state that it is in the interest of justice that the Plaintiffs receive at least some part of the monies Defendant promised them, so many years ago.

8. I calculate the judgment, using Defendant's figures as follows:

I.	Wellington		\$132,984.98
	Mitchell	28.571	\$37,995.51
	Clark	3.571	\$4,748.89
	Sandra	3.571	\$4,748.89
	C.E. Jr.	3.571	\$4,748.89
II.	Ag South		\$9,087.12

	Mitchell	57.14 (50% + 1/7 x 50%)	\$5,192.38
	Clark	7.14	\$648.82
	Sandra	7.14	\$648.82
	C.E. Jr.	7.14	\$648.82
III.	Mims Accounting		\$21,157.97
	Mitchell	14.28	\$3,021.35
	Clark	14.28	\$3,021.35
	Sandra	14.28	\$3,021.35
	C.E. Jr.	14.28	\$3,021.35
IV.	Closing Costs		\$8000.00
	Mitchell		\$2,000.00
	Clark		\$2,000.00
	Sandra		\$2,000.00
	C.E. Jr.		\$2,000.00
	V. EchoTango		\$45,805.57
	Mitchell	25%	\$11,451
	Clark	25%	\$11,451
	Sandra	25%	\$11,451
	C.E.Jr.	25%	\$11,451

Interest 3-15-2010 to 7-24-2014

$$365 \times 4 = 1,460$$

$$\frac{129}{1,589}$$

$$\div 365 = 4.35$$

X7.25 Judgment rate interest

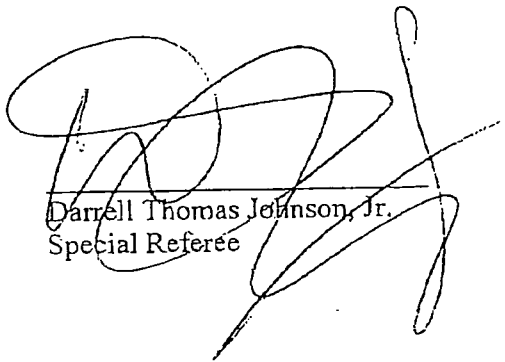
$$= 0.3153$$

TOTAL

Mitchell	\$59,659.86		
Interest 3/10/10-3/24/14	+18,810.48	=	\$78,469.48
Clark	\$21,870.06		
Interest 3/10/10-3/24/14	+6,895.62	=	\$28,765.68
Sandra	\$21,870.06		
Interest 3/10/10-3/24/14	+6,895.62	=	\$28,765.68
C.E. Jr.	\$21,870.06		
Interest 3/10/10-3/24/14	+6,895.62	=	\$28,765.68
			<hr/>
			\$172,845.34

For the foregoing Defendants' motion is denied, except to the extent that any overage of the bid above One Hundred Seventy-Two Thousand Eight Hundred and Forty-Five and 34/100's (\$172, 845.34) Dollars shall be held pending further order of this Court.

Dated: August 1, 2014.


Darrell Thomas Johnson, Jr.
Special Referee

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
)
C.E. LOWTHER, JR., ET AL,)
)
)
Plaintiff,)
)
vs)
)
E. LEGRAND LOWTHER, ET AL)
)
)
Defendant)
)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2012-CP-27-314

**RECONSIDERATION
ORDER**

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
)
LEGRAND LOWTHER,)
)
)
Plaintiff,)
)
vs)
)
MITCHELL S. LOWTHER,)
)
)
Defendant)
)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2010-CP-27-230

**RECONSIDERATION
ORDER**

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
)
MITCHELL S. LOWTHER and)
CARMON B. LOWTHER.)
)
)
Plaintiff,)
)
vs)
)
E. LEGRAND LOWTHER,)
)
)
Defendant)
)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2008-CP-27-547
2008-LP-27-231

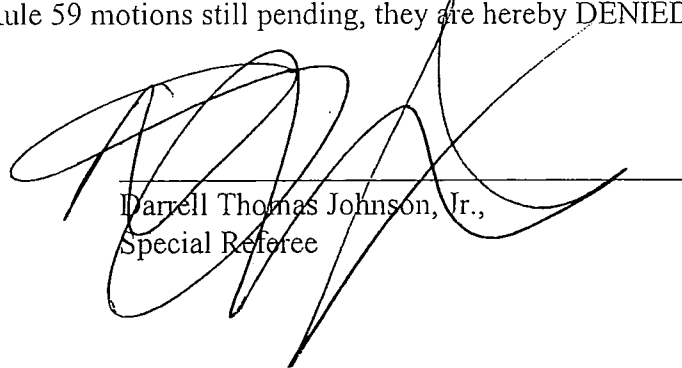
**RECONSIDERATION
ORDER**

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
)
C.E. LOWTEHER, JR., ET AL,)
)
)
Plaintiff,)
vs)
)
E. LEGRAND LOWTHER,)
)
)
Defendant)
)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2008-CP-27-151
2008-LP-27-051

**RECONSIDERATION
ORDER**

If, arguendo, there are any Rule 59 motions still pending, they are hereby DENIED.



Darrell Thomas Johnson, Jr.,
Special Referee

December 22, 2015.

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
)
C.E. LOWTEHER, JR., ET AL,)
)
)
Plaintiff,)
vs)
)
E. LEGRAND LOWTHER,)
)
)
Defendant)
)

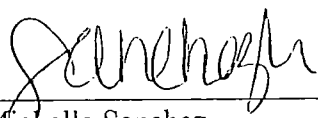
IN THE COURT OF COMMON PLEAS
C/A NO.: 2008-CP-27-151
2008-LP-27-051

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of December, 2015, placed a copy of Order in the US Mail, with sufficient postage attached, and addressed to the following:

R. Thayer Rivers, Jr., Esquire
P.O. Box 668
Ridgeland, SC 29936

F. Fred Kuhn, Esquire
MOSS, KUHN & FLEMING, P.A.
P.O. Drawer 507
Beaufort, SC 29901-0507



Michelle Sanchez

MOSS, KUHN & FLEMING, P.A.

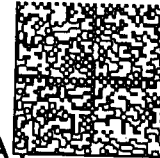
HFk


ATTORNEYS AT LAW
1501 North Street
P.O. Drawer 507
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(843) 524-3373

Lowrey

To:

Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211



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SC Court of Appeals

