

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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MAY 19 2017  
SC Court of Appeals

APPEAL FROM JASPER COUNTY  
Court of Common Pleas

Darrell Thomas Johnson, Jr., Special Referee

APPELLATE CASE NO: 2016-000042

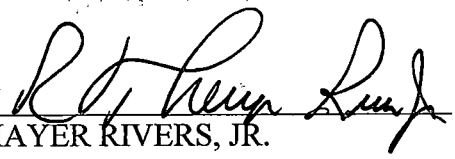
C. E. LOWTHER, JR., CLAYTON CLARK  
LOWTHER, MITCHELL S. LOWTHER  
AND EFFIE SANDRA TURPIN,.....Respondents.

v.

E. LEGRAND LOWTHER.....Appellant.

**INITIAL BRIEF OF RESPONDENT**

LAW OFFICE OF R. THAYER RIVERS, JR.



R. THAYER RIVERS, JR.  
Post Office Box 668  
Ridgeland, SC 29936  
843-726-8136

Attorney for the Appellants

Ridgeland, SC,

May 16, 2017

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**TABLE OF AUTHORITIES**

None

## STATEMENT OF ISSUES ON APPEAL

### I. **WHAT, IF ANY, PREJUDICE HAS THE APPELLANT SUFFERED AND DOES THE REMEDY HE SEEKS EXIST?**

#### STATEMENT OF THE CASE

The Respondents adopt the Appellant's Procedural History save that the Final Order of the Special Referee set the total amounts owed to the Respondents at \$172,845.34 and that the Special Referee in fact did award attorney fees to the Respondents, such amount has yet to be computed and added to the judgment, but will have the effect of making the judgment ever higher than the amounts stated by the Appellant.

This matter began upon the death of C. E. Lowther, Sr., in 2004. The "Lowther Children" are now in their 60s and 70s. As noted by the Special Referee Johnson in his Order denying the Appellant's Motion to Suspend the judicial sale, Legrand Lowther had previously been directed to disburse \$45,000.00 to his siblings which had not been done and had apparently been spent at the time of the writing of the Order (TR\_\_\_) He further set the final amount owed as of 2014 as being \$172,845.34. (TR\_\_\_) He additionally made provisions for disbursement of funds in the event a judicial sale brought an amount greater than the \$172,845.34.

At the time of the Final Order denying the Appellant's response to the judicial sale, it was known that the property sold and brought \$51,000.00, therefore, coming nowhere near the amount of judgment. (What was sold was the Appellant's one half (1/2) interest in a lot with the other half being owned by his 7 siblings, two of whom were dead – one of whose Estate had already been closed.) Thus it is obvious that the courthouse-step buyer was buying the ultimate "pig in a poke".

In order to straighten out the various land holdings and interests of the "Lowther Children" a Quiet Title Action was filed to encompass all the property. See 2012-CP-07-01826, 2012-CP-27-0314. This covers all the Lowther holdings in both Beaufort and Jasper Counties. By way of a Consent Order, the parties agreed to have the various properties listed and sold (TR \_\_\_), and the


listing was done with the consent of the Appellant. This includes the lot in question (Lot 6 Echo Tango Plantation). By Order of Judge Marvin Dukes, dated September 28, 2016, (TR \_\_\_\_ ) the sale of Lot 6 was judicially approved and carried out. Thus the Appellant's prayer for relief that the judicial sale be set aside is pretty much a nullity as the property has already been sold to outside persons and the funds escrowed pending further Order by Judge Dukes.

**CONCLUSION**

For the foregoing reasons, the Respondents respectfully request that the appeal be dismissed as there is no showing of prejudice to the Appellant nor is the remedy for which he seeks still available.

Respectfully submitted,

Law Office of R. Thayer Rivers, Jr.

  
\_\_\_\_\_

R. THAYER RIVERS, JR.

Post Office Box 668

Ridgeland, South Carolina 29936

(843) 726-8136

Ridgeland, South Carolina,  
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v.

E. LEGRAND LOWTHER.....Appellant.

**PROOF OF SERVICE**

I certify that I have served the Initial Brief of Respondents and Respondent's Designation of Matter to be Included in the Record on the Appellant, E. Legrand Lowther, by depositing a copy of same in the United States Mail, postage prepaid, on May 16, 2017, to his attorney of record, H. Fred Kuhn, Jr., Post Office Drawer 507, Beaufort, SC 29901.

Law Office of R. Thayer Rivers, Jr.



R. THAYER RIVERS, JR.  
Post Office Box 668  
Ridgeland, South Carolina 29936  
(843) 726-8136

Attorney for the Respondents

LAW OFFICE  
R. THAYER RIVERS, JR.  
COURTHOUSE SQUARE  
252 RUSSELL STREET  
POST OFFICE BOX 668  
RIDGELAND, SOUTH CAROLINA 29936

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R. THAYER RIVERS, JR.  
ALSO ADMITTED IN GEORGIA

TELEPHONE  
(843) 726-8136  
FACSIMILE  
(843) 726-4401

May 16, 2017

Ms. V. Claire Allen  
Deputy Clerk  
Post Office Box 11629  
Columbia, SC 29211

**RE: C. E. LOWTHER, JR. v. E. LEGRAND LOWTHER**  
**APPELLATE CASE NUMBER: 2016-000042**

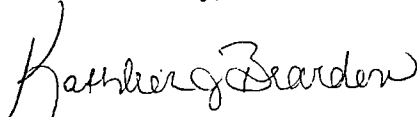
Dear Ms. Allen:

Enclosed please find the original and 1 copy each of the Respondent's Initial Brief and Designation of Matter in the above matter. Please file the original and return the clocked copy in the envelope provided.

By copy of this letter, I am serving H. Fred Kuhn, Jr., attorney for the Appellant, a copy of the aforementioned Brief and Designation.

Thank you and kindest regards.

Most sincerely,



Kathleen J. Bearden  
Paralegal to R. Thayer Rivers, Jr.

:kjb  
Enclosures

cc: H. Fred Kuhn, Jr., Esquire (w/encl.)

LAW OFFICE  
R. THAYER RIVERS, JR.  
COURTHOUSE SQUARE  
252 RUSSELL STREET  
POST OFFICE BOX 668

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