



1 (February 28, 2017.)

2 THE COURT: All right. First case is  
3 Greenspan versus Property Brothers Corporation, motion  
4 for relief from judgment by the plaintiff?

5 MR. SULAU: Yes, sir.

6 THE COURT: Whose motion is this?

7 MR. GREENSPAN: My motion.

8 THE COURT: Yours? Okay. What do you want  
9 to tell me? You're Mr. Greenspan?

10 MR. GREENSPAN: Yes.

11 THE COURT: All right. You represent  
12 yourself?

13 THE PLAINTIFF: Yes.

14 THE COURT: Stand up and tell me what your  
15 story is.

16 THE PLAINTIFF: Basically, it's an employment  
17 dispute. I filed my complaint in this court on July 18,  
18 2014. Brothers removed it. Went to federal court. They  
19 filed an extension to file a responsive pleading.

20 One day prior to their deadline I filed an  
21 amended complaint as a matter of course under Rule 15(a).  
22 Eventually, they respond -- okay. I filed the complaint,  
23 a motion to remand as well, a couple days later. They  
24 responded with a motion to strike the complaint, a motion  
25 to dismiss the complaint, and then, four days later, an

1 opposition to the motion to remand.

2 THE COURT: Okay.

3 THE PLAINTIFF: Several months later, there  
4 was a change in the -- there was a new magistrate judge  
5 assigned to the case, so about four months or so,  
6 something like that.

7 THE COURT: You mean over in the federal  
8 court?

9 THE PLAINTIFF: Yeah.

10 THE COURT: All right.

11 THE PLAINTIFF: Eventually, it was April 5th  
12 the magistrate recommended denying the motion to strike,  
13 granting the motion to remand.

14 THE COURT: Sent it back here?

15 THE PLAINTIFF: Yes.

16 THE COURT: Okay.

17 THE PLAINTIFF: That happened, essentially.  
18 They then filed the entire federal court docket with this  
19 Court on May 11, 2015, requesting -- under cover  
20 requesting a motion hearing. I ceased my preparation of  
21 a written response to the motion to dismiss that was  
22 still pending in anticipation of the motion hearing.

23 I think 35 days lapsed with nothing, no  
24 hearing scheduled or anything, so I filed a motion for  
25 extension of time to respond to the motion to dismiss,

1 start doing that again. Eight days or so later, the  
2 motion hearing was finally scheduled for 30 or so days  
3 after the motion for extension of time for the deadline I  
4 requested.

5 THE COURT: Okay.

6 THE PLAINTIFF: I didn't show up to the  
7 hearing because I had moved. There was a motion for  
8 extension of time to respond to a motion to dismiss that  
9 is a frivolous motion, undeniably. The transcript of the  
10 hearing is a bunch of jargon.

11 Basically, I mean, my complaint was dismissed  
12 without ever being read by the Court. The Court  
13 basically delegated the drafting to Brothers' counsel.  
14 They drafted an opinion that is verbatim their motion to  
15 dismiss, and that's basically kind of how we've gotten  
16 back here.

17 THE COURT: That tends to happen when you  
18 don't show up for a hearing. You lose.

19 THE PLAINTIFF: Well, the complaint -- the  
20 motion to dismiss is supposed to be based upon the  
21 complaint. Is it my obligation to defend my complaint or  
22 is it their obligation to attack my complaint  
23 legitimately? Because that's what --

24 THE COURT: They file a motion. You show up  
25 in court and tell your side. They tell their side. If

1 you don't show up, you tend to lose.

2 THE PLAINTIFF: I understand that.

3 THE COURT: So you didn't show up for --  
4 because of what reason? You didn't get notice?

5 THE PLAINTIFF: It was a game. It wasn't a  
6 game to me. It was -- they filed the motion -- or they  
7 brought it back after the motion for remand, and they  
8 requested the motion hearing.

9 THE COURT: Okay.

10 THE PLAINTIFF: It was never scheduled, and  
11 I'm waiting for the motion hearing to be scheduled.  
12 Finally, as time lapsed, I take it upon myself to respond  
13 to the Court and ask for the opportunity to provide a  
14 written response. Once I finally do that, they go again  
15 and then schedule the motion hearing. I don't know why  
16 it wasn't scheduled, but they've never even responded to  
17 the complaint.

18 It's been all about attacking me personally,  
19 and in the federal court, we never had a single hearing.  
20 It was, you know, an entirely written record. I don't  
21 know why, you know, all the documents that are coming  
22 into court are not reviewed. I don't understand why I  
23 have to attack their motion to dismiss when the action is  
24 based off of my filing of the complaint.

25 Like, I'm -- I don't know how to tell you

1 I never responded to the motion to strike.  
2 The motion to dismiss never came right before the federal  
3 court. Based off of my motion to remand, their  
4 opposition to my motion to remand, and their motion to  
5 strike and then my reply, the federal court send it back  
6 here.

7 THE COURT: Okay.

8 THE PLAINTIFF: So I've been advancing  
9 arguments that I felt were necessary to see that my  
10 claims are adjudicated on the merits. I didn't respond  
11 to their motion to strike. It didn't make a difference.

12 I never got that motion to dismiss, but if  
13 that motion to dismiss came too, it was -- if it was  
14 measured against my complaint, I don't think a response  
15 would be necessary, to be honest with you, and just  
16 like -- it's frivolous.

17 THE COURT: You're Mr. McCoy?

18 MR. SULAU: Your Honor, I'm Mr. Sulau. I  
19 work with Mr. McCoy.

20 THE COURT: All right. Well, what's your  
21 side?

22 MR. SULAU: Well, first of all, you know, I'm  
23 guessing the Court will not be surprised by the fact that  
24 I disagree with much of what Mr. Greenspan has said  
25 today. I'll just start with his claim that this is a

1 complex case. I think it's a very simple case, and I  
2 will start by giving a little bit more detail, fleshing  
3 out a little bit of the procedural background of this  
4 case.

5 As Mr. Greenspan stated, the Court held a  
6 hearing on July 29th of 2015 in which my colleague at the  
7 time, Wendy Furhang, represented Brothers, and Judge  
8 Couch, noticing that Mr. Greenspan was not there, you  
9 know, noted that he had received notice of a hearing, but  
10 also heard the merits of our motion to dismiss and  
11 concluded that Mr. Green -- each of Mr. Greenspan's  
12 claims fail as a matter of law.

13 And so, as the Court stated earlier Judge  
14 Couch asked us to prepare an order. It was on the  
15 record, and he asked us to do that, and he entered that  
16 order in late August of 2015. Following that, on  
17 September 29th, 2015, Mr. Greenspan filed an appeal with  
18 the Court of Appeals, and approximately two weeks later,  
19 on October 14th, he filed a motion with the Court of  
20 Appeals seeking leave to file the same motion that brings  
21 us here today, a motion for relief of judgment, and the  
22 Court of Appeals denied that motion.

23 Mr. Greenspan then failed to timely file his  
24 appellate brief. He then -- after realizing this, he  
25 asked for an extension of time to file it, which was

1 granted. He subsequently received two additional  
2 extensions of time to file his appellate brief, the last  
3 of which he requested an extension until February 29th of  
4 2016 to file his appellate brief.

5 February 29th came and went, and he did not  
6 file his appellate brief; therefore, on April 7th, the  
7 Court of Appeals dismissed his appeal for failure to file  
8 his appellate brief. On April 25th, he filed a motion to  
9 reinstate his appeal, but withdrew that motion on  
10 July 23rd of last year, and that motion -- the Court  
11 granted his request to withdraw that motion on  
12 August 11th, I believe it was, and then three months  
13 later, on November 17th, more than a year after this case  
14 was dismissed, he filed the instant motion with this  
15 Court.

16 So, in short, you know, Mr. Greenspan has had  
17 ample opportunity to respond to our motion, to litigate  
18 his claims, or pursue his claims in some meaningful  
19 manner and has consciously chosen, time and again, not to  
20 do so. So for that reason alone, we would ask the Court  
21 to deny his motion today, and if you would like me to get  
22 into the substance of his motion, I'm happy to do that as  
23 well, but I'll leave that to you, Judge.

24 THE COURT: Mr. Greenspan, you had the  
25 opportunity to appeal Judge Couch's decision. Why didn't

1 you follow through on that?

2 THE PLAINTIFF: The February 29th deadline  
3 that I requested was the third extension, which I don't  
4 deny. I mean, I've been spending ample -- all of my time  
5 dedicated to this. The order that was dated April 7th  
6 dismissing my appeal was referring to an order dated  
7 February 24th, five days prior to that deadline, where my  
8 appeal was apparently -- or there was an order dated  
9 February 24th, 2016 that I never received, that Brothers  
10 has never mentioned as well.

11 When they dismissed my appeal on  
12 April 25th -- I'm sorry. Okay. On April 7th when they  
13 dismissed my appeal, they said for failure to file and  
14 serve appellant's initial brief as required by Rule 208  
15 and the Court's order dated February 24th, I don't know  
16 what that order stated. They've never mentioned it. I  
17 briefly mentioned that in my reply to their opposition to  
18 the motion for 60(b).

19 They packed my complaint in their motion to  
20 dismiss in such a way that convoluted my arguments, and,  
21 basically, there's nothing that I couldn't -- I had  
22 running on 100 pages as I was preparing the thing, and I  
23 was trying to cut it down, and as time was going on, I  
24 don't want to toss all my issues away.

25 You know, this is my career that I was

1 working on and building on, my employment. I never  
2 anticipated it coming to this point, but I have a lot at  
3 stake because, I mean, it's just a case that's never been  
4 heard. My complaint hasn't been addressed. It's never  
5 been -- I mean, I don't know --

6 THE COURT: Well, I don't understand what  
7 your problem is with not following the Court rules.  
8 You've said you got notice of Judge Couch's hearing. You  
9 chose not to appear. Judge Couch had a hearing. You  
10 weren't here to give your side. He ruled against you.

11 That's not entirely surprising at all. You  
12 then appeal, didn't follow any of the rules about their  
13 filing requirements, and --

14 THE PLAINTIFF: I'm sorry to interrupt you.

15 THE COURT: So, you know, that's some -- the  
16 Courts are here to try to help you out, but you got to  
17 help yourself, and you tend to pick and choose, it sounds  
18 like, the rules that you want to follow, but I don't see  
19 any basis for giving you relief from the judgment.

20 You had the opportunity to appeal. You chose  
21 not to pursue that, and so your motion is denied. You  
22 can appeal this, though.

23 THE PLAINTIFF: Okay.

24 THE COURT: Good luck.

25 MR. SULAU: Thank you.


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(Whereupon, the proceedings were concluded.)  
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I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 28th of February 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 26, 2017



Circuit Court Reporter

June 30, 2017

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

**RECEIVED**  
JUL 03 2017  
SC Court of Appeals

RE: Jacob Greenspan, Appellant, v. Brothers Property Corp.; Brothers Property Management Corp., Victor Fuller, Individually and in his official capacity; Ana Reina, Individually and in her official capacity; and Oliver Rooskens, Individually and in his official capacity, Defendants, Of whom Brothers Property Corp., and Brothers Property Management Corp. are Respondents, Appellate Case No. 2017-000703

Dear Ms. Kitchings:

Enclosed please find a copy of the transcript of the proceedings held in the above-referenced civil action on February 28, 2017, before the Honorable Roger M. Young Sr., Circuit Court Judge, in Charleston County, received from the court reporter, Ms. Amanda Haffenden, on Thursday, June 29, 2017.

Sincerely,

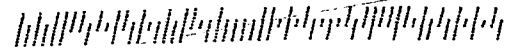
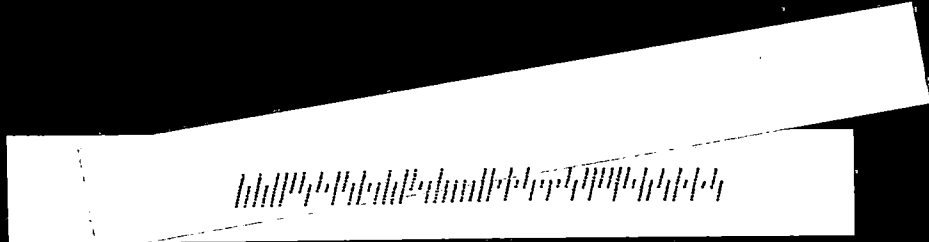


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cc: John W. Sulau, Attorney for Respondents  
S.C. Office of Court Administration



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