

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III, Master-in-Chief

RECEIVED

FEB 12 2018

SC Court of Appeals

Docket Nos.: 2011-CP-07-128 and 2011-CP-07-129

Appellate Case No.: 2015-002156
(Opinion No. 5532 filed January 31, 2018)

First Citizens Bank and Trust Company, Inc., Respondent/Appellant,

v.

Blue Ox, LLC and J. Chris Lindgren, Defendants,

Of Whom J. Chris Lindgren is the.....Appellant/Respondent.

RESPONDENT/APPELLANT'S PETITION FOR REHEARING

Joey R. Floyd, Bar No. 68491
Chelsea J. Clark, Bar No. 102211
Bruner, Powell, Wall & Mullins, LLC
P.O. Box 61110
Columbia, SC 29260
(803) 252-7693
Attorneys for Respondent/Appellant

PETITION FOR REHEARING

Pursuant to Rule 221, SCACR, Respondent/Appellant First Citizens Bank (the Bank) petitions the Court for rehearing of case number 2015-002156. The Court heard oral arguments in this matter on October 3, 2017 and issued its published decision, Opinion Number 5532, on January 31, 2018. Respondent/Appellant requests that the Court reverse its positions in the opinion.

The Bank respectfully asserts that the Court overlooked or misapprehended material points of fact or law in its decision. The Bank respectfully avers that the decision will have inadvertent negative outcomes and create imprudent public policy. The Bank respectfully argues that the Court's decision will have the unintended consequence of shielding beyond a fair and just point otherwise executable assets from parties who are entitled by law to be repaid.

The Bank states its arguments with particularity in the accompanying memorandum. The Bank asks that Court vacate its prior opinion and consider the arguments set forth by Respondent/Appellant.

Respectfully submitted,

BRUNER, POWELL, WALL & MULLINS, LLC



Joey R. Floyd, Bar No. 68491
Chelsea J. Clark, Bar No. 102211
Post Office Box 61110 (29260)
1735 St. Julian Place, Suite 200 (29204)
Columbia, South Carolina
(803) 252-7693
Attorneys for Respondent/Appellant

February 12, 2018
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr., Master-in-Equity

RECEIVED

FEB 12 2018

SC Court of Appeals

Case No.: 2011-CP-07-128 and 2011-CP-07-129
Appellant Case No.: 2015-002156

First Citizens Bank and Trust Company, Inc., Respondent/Appellant,

v.

Blue Ox, LLC and J. Chris Lindgren, Defendants,

Of Whom J. Chris Lindgren is the Appellant/Respondent.

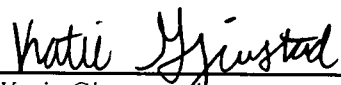
PROOF OF SERVICE

I, Katie Gjennestad, with the law firm of Bruner, Powell, Wall & Mullins, LLC, Attorneys for the Respondent-Appellant, do hereby certify that on this 12th day of February, 2018, I served the **Notice of Appearance, Respondent/Appellant's Petition for Rehearing and Respondent/Appellant's Memorandum in Support of its Petition for Rehearing** upon counsel for the Appellant-Respondent by depositing a copy of same in the U.S. Mail, first class, postage prepaid, addressed as follows:

VIA U.S. Mail

Keating L. Simons, III, Esquire
Simons & Dean
147 Wappoo Creek Drive, Suite 604
Charleston, SC 29412

February 12, 2018
Columbia, SC


Katie Gjennestad

BRUNER, POWELL, WALL & MULLINS, LLC

ATTORNEYS AND COUNSELORS AT LAW
1735 ST. JULIAN PLACE, SUITE 200
POST OFFICE BOX 61110
COLUMBIA, SOUTH CAROLINA 29260-1110
TELEPHONE 803-252-7693
FAX 803-254-5719
WWW.BRUNERPOWELL.COM

JAMES L. BRUNER, P.A.
OF COUNSEL

WARREN C. POWELL, JR., P.A.**
HENRY P. WALL
E. WADE MULLINS III, P.A.
BRIAN P. ROBINSON, P.A.
WESLEY D. PEEL, P.A.
JOEY R. FLOYD, P.A.
BENJAMIN C. BRUNER, P.A.

ANN F. ALLISON
CAITLIN C. HEYWARD
CHELSEA J. CLARK

AUTHOR'S E-MAIL: KGJENNESTAD@BRUNERPOWELL.COM

** Also Admitted in District of Columbia

February 12, 2018

VIA HAND-DELIVERY

The Honorable Jenny Abbott Kitchings
The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
FEB 12 2018
SC Court of Appeals

Re: First Citizens Bank and Trust Company, Inc. v. Blue Ox, LLC, and J. Chris Lindgren
Appellate Case No.: 2015-002156
Our File No.: 8-2545-116

Dear Ms. Kitchings:

Enclosed for filing with your office please find the original and seven (7) copies of the Respondent/Appellant's Petition for Rehearing, Respondent/Appellant's Memorandum in Support of its Petition for Rehearing and a check for \$25.00 to cover the filing fee.

You will also find an original and one copy of the Notice of Appearance and Proof of Service. Please file the original and return the clocked in copies to our courier who will be waiting. If you have any questions, please do not hesitate to call me. Thank you for your assistance in this matter.

With my highest regards, I am,

Sincerely,



Katie Gjennestad

CJC/kg

Enclosures

Cc: Keating L. Simons, III, Esq. (Via U.S. Mail w/copy of Encl.)