

**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Case No. 2017-CP-29-01248  
Appellate Case No.: 2018-002272

**RECEIVED**  
MAY 13 2019  
SC Court of Appeals

Desa Ballard, as successor  
trustee of the Trust of  
Chris Combis,

Appellant,

v.

Diane Combis, Chris A. Combis,  
Redding Jones PLLC,  
Simon John O'Brien, and  
Kent D. Jones

Defendants.

Of whom

Redding Jones PLLC, Simon John  
O'Brien and Kent D. Jones are

Respondents.

INITIAL REPLY BRIEF OF APPELLANT

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## **REPLY TO RESPONDENT'S ISSUE II**

No reply is necessary. As set forth in the Initial Brief of Appellants, the allegations of the complaint are deemed true for purposes of this proceeding. The factual allegations of the complaint are assumed to be true for purposes of the motion. Bessinger v. Bi-Lo, Inc., 366 S.C. 426, 622 S.E.2d 564 (2005); Justice v. The Pantry, 330 S.C. 608, 493 S.E.2d 871 (Ct.App. 1999), *affirmed as modified* 335 S.C. 37, 496 S.E.2d 871 (1999).

## **REPLY TO RESPONDENT'S ISSUES III AND IV (Purported Additional Sustaining Grounds)**

Respondents argue that the Court should affirm the judgment of the trial court based on other grounds, even if the Court agrees that the trial court's ruling on the substantive issue was in error.

### **Lack of Personal Jurisdiction**

In her Memorandum in Opposition to Motion to Dismiss, Ballard set forth in detail the minimum contacts of each of the Respondents, including answers to discovery which verified regular and systematic contacts with the State of Carolina. (Memorandum with Attachments filed October 29, 2018).

#### **A. Redding Jones LLC**

As to defendant Redding Jones, LLC, the records reflect that Redding, Jones LLC was admitted *pro hac vice* to represent the relevant clients, George and Diane Combis, in the United States District Court for the District of South Carolina, and actively continued that representation throughout the five-day trial before District Judge Anderson and on

appeal<sup>1</sup> (Exhibit B to Memorandum). Also involved in the appeal was a member of Redding Jones, who is a member of the South Carolina Bar (Joseph Pellington), who has been a member of the South Carolina Bar since 2012. (Exhibit C to Memorandum).<sup>2</sup>

Additionally, Pellington and another Redding Jones LLC lawyer who is a member of the South Carolina Bar, Ty McTier, continued to represent George and Diane Combis (as well as their son Chris), in connection with proceedings in the Estate of Chris Combis, which is a Lancaster County estate opened in 2012. Case No. 2012-ES-29-00415. The matter was removed to circuit court and assigned Case No. 2014-CP-29-000306.

Even while claiming Redding Jones lacks sufficient contacts for South Carolina to exercise personal jurisdiction over it, Redding Jones lawyers continue to appear in South Carolina Courts in this case and others. Notably, Pellington and McTier defended a Rule to Show Cause proceeding involving the Combises, which was initiated in circuit court on September 5, 2017 relative to items of personal property that belong to the Estate, which have not been released to the personal representative. The hearing on that Rule to Show Cause adjourned abruptly on November 17, 2017, when Circuit Court Judge Brian Gibbons stayed the proceedings while a report from law enforcement was requested relative to items held in both North and South Carolina. (Order November 17, 2017). The stay has been lifted, over the objection of Redding Jones' attorney Pellington. (Order dated April 16, 2019).

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<sup>1</sup> At the time, the Memorandum in Opposition to Motion to Dismiss was prepared, the Fourth Circuit Court of Appeals had not yet affirmed the judgment which was on appeal. The judgment was affirmed in part and reversed in part by order of the Fourth Circuit dated January 8, 2019 (ECF 62-1).

<sup>2</sup> The representation continued despite the obvious conflict. See footnote 3 to the Fourth Circuit Court of Appeals' Decision dated January 8, 2019.

Lastly, as was demonstrated to the Circuit Court, Redding Jones markets itself as providing legal services in both North Carolina and South Carolina. (Exhibit P to Memo).

B. Kent D. Jones

Kent Jones is the Redding Jones lawyer who assisted in the first fraudulent transfer of real estate (September 2, 2015) in avoidance of the pending judgment. (Complaint ¶¶ 20-25). As set forth in the discovery responses submitted to the trial Court, Jones vacations in South Carolina at least twice per year. (ROGs filed October 11, 2018; Exhibit L to Memo). He actively represents at least one South Carolina resident. *Id.* As noted in his discovery responses, Jones refuses to disclose any purchases of goods from any vendor in South Carolina, much less whether he has conducted any business in South Carolina during the five years prior to the filing of this action, and he refuses to disclose whether he has relatives in South Carolina. (ROGs filed October 11, 2018). As previously noted, this refusal to disclose information provides an inference that his responses, if provided, would not support his position. Baker v. Port City Steel Erectors Inc. 261 S.C. 469, 200 S.E.2d 681 (1973).

C. Simon John O'Brien

Mr. O'Brien is the Redding Jones lawyer who facilitated the second fraudulent transfer of real estate, on May 16, 2016, of two parcels of commercial real estate in downtown Charlotte. (Complaint ¶¶ 26 – 36). As with Mr. Jones, Mr. O'Brien vacations in South Carolina annually. (ROGs filed October 11, 2018). He previously practiced with Redding Jones, which practices in both North and South Carolina. (Exhibit Q and R to Memorandum in Opposition to MTD). At the time his motion was heard, O'Brien worked for two (2) licensed South Carolina lawyers, Charles Bridgmon and Jeff Long (who are,

coincidentally, prior counsel for George, Diane and Chris Combis) (Answers ¶¶ 16 and 20) and assisted in the representation of a corporate client based in Lexington, South Carolina.

Like his co-respondent, O'Brien refuses to reveal whether he has done business with any South Carolina entity during the past five years, although presumably he does not vacation annually in Charleston for free. (Answers ¶ 12).

“A court may assert general jurisdiction if the defendant has an ‘enduring relationship’ with the forum state. [citations omitted]. If an individual has an ‘enduring relationship’ with the state, he may be sued here even if the cause of action did not arise in South Carolina. (General jurisdiction attaches even when the nonresident defendant’s contacts with the forum state are not directly related to the cause of action. . . .”). To satisfy the ‘enduring relationship’ requirement of general jurisdiction, the defendant’s contacts must be ‘continuous and systematic’ as well as ‘so substantial and of such a nature as to justify suit against the defendant on causes of action arising from dealings entirely different from those activities”, Cribb v. Spatholt, 382 S.C. 490, 676 S.E.2d 714 (Ct.App. 2009), citing International Shoe Co. v. Washington, 326 U.S. 310, 318, 66 S.Ct. 154, 90 L.E.2d 95 (1945) (emphasis added).

“Due process requires that a defendant possess minimum contacts with the forum state such that the maintenance of suit does not offend traditional notations of fair play and substantial justice.” Cribb v. Spatholt, supra. “Further the due process requirement mandates the defendant possess sufficient minimum contacts with the forum state that he could reasonably anticipate being hauled into court there.”, *Id.*, citing Power Prods. & Services Co., v. Kozma, 379 S.C. 423, 341, 665 S.E.2d 660, 664 (Ct.App. 2008).

None of the Respondents disputed the minimum contacts with South Carolina that were demonstrated in filings before Judge Gibbons. Ballard's proof of minimum contact, therefore, is unchallenged.

Respondent's Additional Sustaining Ground on personal jurisdiction fails.

#### **RESPONSE TO ISSUES V AND VI**

Respondents are correct that Ballard cannot seek to obtain equitable relief as to transfer of title of property located in North Carolina. That is the effect of S.C. Code Section 15-7-10. Ballard abandons that request for relief in this proceeding. However, she wishes to proceed on the action for damages for the other causes of action set forth in her pleading. Section 15-7-10 does not require dismissal of the entire action as to these defendants; it merely removes from the trial court the subject matter jurisdiction to order a reconveyance of the property that was fraudulently conveyed. The damages action survives Respondent's argument under Section 15-7-10.

Issues V and VI do not provide an additional sustaining ground to affirm the decision of the trial court.

#### **RESPONSE TO ISSUE VII**

Respondents assert that, because the Fourth Circuit Court of Appeals vacated the joint and several judgment as to George Combis, Ballard is in a better position than she would have been had they not assisted in the fraudulent conveyance of the downtown Charlotte property solely to Diane. While Ballard is, indeed, attempting to collect her judgment against Diane in North Carolina<sup>3</sup>, the Fourth Circuit's ruling does nothing to address the fraudulent conveyance of the Carmel Park property, which was fraudulently

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<sup>3</sup> The Mecklenburg County Superior Court lifted the stay of proceedings to collect the judgment by order filed February 12, 2019. (NC Order 2-12-2019).

conveyed out of both George and Diane's name to the name of their son Chris while the judgment was pending. <sup>4</sup>

While the Fourth Circuit relieved George of the joint and several judgment with Diane, it left in place additional judgments which are against George. *See* footnote 3.

Moreover, after the judgment of the Fourth Circuit Court of Appeals reversed the joint and several nature as to George of the verdict for breach of fiduciary duty, leaving Diane as the only judgment debtor on that cause of action<sup>5</sup>, Diane again fraudulently conveyed the same property back into the name of herself and George. (Deed recorded March 27, 2019<sup>6</sup>). This time she used a separate and presumably uninformed lawyer to do so, rather than using her cooperating Redding Jones lawyers who fraudulently assisted her before. So, even if the Fourth Circuit's opinion did, in some respects, make it easier to collect the largest of the judgments against Diane, the Trust will continue to sustain damages as Ballard continues to chase the assets that George and Diane continue to attempt to conceal<sup>7</sup>.

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<sup>4</sup> Chris is also subject to the contempt matter relative to withholding personal property from the estate.

<sup>5</sup> There are other judgments against George that were not affected by the appeal. (Notice of Filing, February 9, 2017, Page 4, Paragraph 3(d), (e) and (f)).

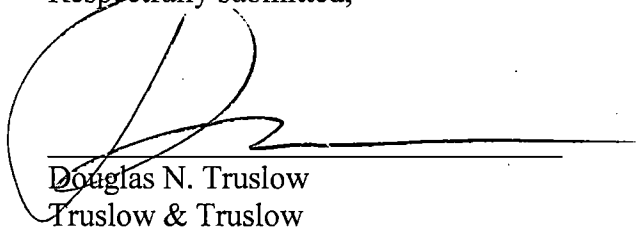
<sup>6</sup> This conveyance by Diane violated the August 25, 2017 order from the Mecklenburg County Superior Court which gave full faith and credit to the South Carolina judgment, but stayed collections during pendency of the appeal to the Fourth Circuit. One of the conditions of the stay was that "neither defendant herein transfer, convey, or otherwise encumber any real property, owned jointly, or individually by either of them, to any other party". (Order of August 25, 2017, Paragraph 2(b)).

<sup>7</sup> The March 27, 2019 conveyance by Diane was not only a fraudulent conveyance under applicable law, it was also in direct violation of a stay that was issued by the Superior Court in Mecklenburg County which prohibited her and George from conveying assets away while the stay was in effect. The stay was not lifted until April 10, 2019, so Diane's conveyance of the downtown Charlotte commercial property from herself solely, to herself and George, was not only another fraudulent conveyance, it was in direct violation of the Stay put in place by the North Carolina Court.

## CONCLUSION

For the reasons stated in the Initial Brief of Appellants, and as further discussed herein, this Court should reverse the judgment of the circuit court and allow the claim for damages against Respondents Redding Jones, LLC, Jones and O'Brien proceed to trial.

Respectfully submitted,



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May 13, 2019

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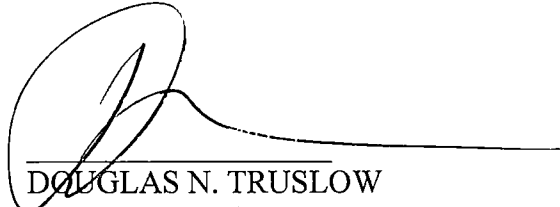
Respondents.

**PROOF OF SERVICE**

I certify that I have served the **Initial Reply Brief** and additional **Designation of Matter to be Included on Appeal** on Respondents Redding Jones PLLC, Simon John O'Brien and Kent D. Jones by depositing a copy of same in the United States Mail, postage prepaid on May 13, 2019 addressed to their attorney of record, Edward B. Davis, Esquire at 227 West Trade Street, Suite 1800, Charlotte, North

Carolina 28202, on Defendant Diane Combis at 8707 Lake Challis Lane, Charlotte, North Carolina 28226  
and on Defendant Chris A. Combis at 2310 North Brevard Street, Charlotte, North Carolina 28206.

May 13, 2019

A handwritten signature in black ink, appearing to read 'D. Truslow', is written over a horizontal line. The signature is stylized with a large, looping initial 'D' and a long, sweeping tail that extends to the right.

DOUGLAS N. TRUSLOW

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May 13, 2019

**RE: Desa Ballard v. Diane Combis**  
**Appellate Case Number: 2018-002272**

Via Hand Delivery  
Honorable Jenny Abbott Kitchings  
Clerk of SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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MAY 13 2019

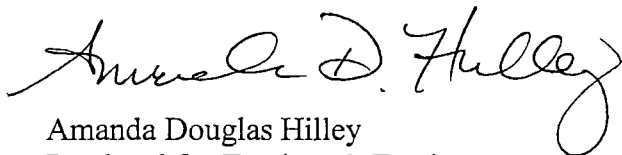
SC Court of Appeals

Dear Ms. Kitchings:

Please see the enclosed Initial Reply Brief and additional Designation of Matter to be Included on Appeal as well as the Proof of Service of same upon Respondents and Defendants Chris Combis and Diane Combis which is being hand delivered for filing.

Please clock same and return the clocked copies to the runner.

Sincerely,



Amanda Douglas Hilley  
Paralegal for Truslow & Truslow

cc: Desa Ballard, Esquire  
Edward B. Davis, Esquire  
Chris Combis  
Diane Combis