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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Hall, Circuit Court Judge

RECEIVED
MAR 06 2020
SC Court of Appeals

Case No. 2019-CP-46-00310
Appellate Case No: 2019-000979

Ex Parte, Ryan Powell, Appellant.

In re LB PARK, LLC Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, Respondents.

Emergency Verified Petition for Contempt

"The power to punish for contempt is inherent in all courts. Its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice.", Curlee v. Howle, 287 SE 2d 115 (SC Supreme Court 1982).

Appellant, Ryan Powell is the real party in interest as he is the actual owner of the property at issue in this case ("Owner" hereinafter). Owner petitions this Court under Rule 240 SCACR to issue a rule to show cause to Respondent LB PARK's manager,

Joshua Schrager, and his three attorneys, Andrew Rawl (SC BAR# 102807), A. Parker Barnes, III (SC BAR# 68359), and to Sarah Spruill (SC BAR# 68337) ("The Accused" hereinafter) so that they can show cause why they should not be held in contempt for their knowing and intentional disobedience of this Court's Order issued on October 15, 2019 ("Remand Order" hereinafter). A true and correct copy of the Remand Order is attached as **Exhibit A** and incorporated herein by reference. Owner has been damaged by the contemptuous actions of The Accused.

LB PARK made a motion to this Court on or about August 13, 2019 requesting that this Court remand this case so that LB PARK could take a stipulated dismissal under Rule 41(a)(1)(A) SCRPC. Owner opposed that motion showing that three parties had answered or made an appearance in the case so under Rule 41(a)(1)(A) SCRPC, LB PARK could not take a stipulated dismissal without the agreement of those three parties. This Court agreed with Owner and did not grant LB PARK's Motion To Remand, as requested, but did order a remand of this case for the "**limited purpose of allowing LB PARK to file a MOTION TO DISMISS** ... This appeal shall be held in abeyance **pending the lower court's consideration of the motion**" (see **Exhibit A**).

The Remand Order is crystal clear that LB PARK was suppose to file a motion to dismiss its action NOT file a stipulated dismissal. However, on February 12, 2020 at 3:13pm, The Accused did conspire to knowingly and intentionally disobey the Remand Order by filing a Notice of Stipulated Dismissal into the lower court case. A true and correct copy of the Notice of Stipulated Dismissal is attached as **Exhibit B** and incorporated herein by reference. The Accused had the ability to comply with this Court's order but intentionally refused to do so. The Accused contemptuous acts are not

only a direct violation of this Court's Remand Order but also deny Owner his rights to oppose LB PARK's motion to take a voluntary dismissal, when/if such was filed, and further deny Owner his right to seek judicial review of any dismissal order should the trial court have granted one.

To further show that The Accused actions were intentional, they concealed their Stipulated Dismissal by refusing to serve any party with notice of its filing. The electronically produced Notice of Electronic Filing makes clear that the parties to this action did not receive any notice of the electronic filing so those parties "*must be served by traditional means*" (i.e., by mail). See attached as **Exhibit C** a true and correct copy of the Notice of Electronic Filing for the Notice of Stipulated Dismissal. See also a true and correct copy of the lower court's docket for this case attached as **Exhibit D** showing that as of March 2, 2020 over 18 days had elapsed since the filing of the Notice of Stipulated Dismissal and there exists no certificate of service in the record showing that notice was ever given to any party of the Stipulated Dismissal.

Conclusion

WHEREFORE Owner demands this Court provide the following relief:

- 1) Issue and serve a rule to show cause on The Accused so that they can show cause why they should not be held in contempt;
- 2) Vacate the Remand Order so that this appeal, that is presently being held in abeyance, can proceed forward;
- 3) Order LB PARK and its attorneys to pay Owner compensatory damages;
- 4) Vacate the Notice of Stipulated Dismissal and LB PARK's new action (case #2020-CP-46-00549) and order the lower court to expunge them both from their records; and

6) Any other relief this Court deems just and proper.

Respectfully submitted 3/2/2020

Ryan Powell
Ryan Powell
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

VERIFICATION

I, Ryan Powell, being competent to testify, at least 21 years of age, and with first hand knowledge, do hereby declare under penalty of perjury that the above stated allegations are true and correct to the best of my knowledge and belief and that all attached Exhibits are true and correct copies.

3/2/2020
Date

Ryan Powell
Ryan Powell

STATE OF North CAROLINA
COUNTY OF Durham

Before me, the undersigned, a Notary Public in and for said County and State on the 2 day of March, 2020, personally appeared Ryan Powell to me known to be the man who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free will act and deed.

Given under my hand and seal the day and year last above written.

S Florence Mays Notary Public

My commission expires Sept 9th 2023



The South Carolina Court of Appeals

Ex Parte, Ryan Powell, Appellant,

In re LB PARK, LLC, Respondent,

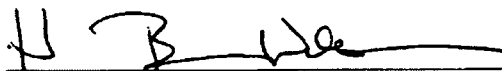
v,

San Juan Holdings, Bret Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 250056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, Respondents.

Appellate Case No. 2019-000979

ORDER

LB PARK, LLC's motion to remand this case for the limited purpose of allowing LB PARK to file a motion to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRCP, is granted. This appeal shall be held in abeyance pending the lower court's consideration of the motion. LB PARK shall provide this court with status updates every thirty days.



FOR THE COURT

FILED

October 15, 2019

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

Case No. 2019-CP-46-00310

LB PARK, LLC,

Plaintiff,

vs.

STIPULATION OF DISMISSAL

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023,

Defendants.

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Pursuant to Rule 41(a) of the South Carolina Rules of Civil Procedure, Plaintiff LB Park, LLC hereby provides notice that the above captioned action is dismissed without prejudice.

Andrew M. Rawl
A. Parker Barnes III, SC Bar No. 68359
pbarnes@hsblawfirm.com
Andrew M. Rawl, SC Bar No. 102807
drawl@hsblawfirm.com

Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, South Carolina 29211-1889
(803) 779-3080

February 12, 2020

Attorneys for Plaintiff

Certificate of Electronic Notification

Recipients

A. Barnes - Notification transmitted on 02-12-2020 03:13:43 PM.

Andrew Rawl - Notification transmitted on 02-12-2020 03:13:43 PM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2019CP4600310

Official File Stamp: 02-12-2020 03:13:25 PM

Court: CIRCUIT COURT

Common Pleas

York

Case Caption: LB Park LLC VS San Juan Holdings , defendant,
et al

Document(s) Submitted: Notice/Other
- Exhibit/Filing of Exhibits

Stipulation Of Dismissal

Filed by or on behalf of: Andrew Marshall Rawl

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

A. Parker Barnes, III for LB Park LLC

Andrew Marshall Rawl for LB Park LLC

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Karen Marie Powell

Brett Osborne for Brett Osborne

Brett Osborne Trustee

Brett Osborne for Brett Osborne

John Doe

Mary Roe

Ryan Powell

San Juan Holdings



**York County
Sixteenth Judicial Circuit
Public Index**



[York County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View					
LB Park LLC VS San Juan Holdings, defendant, et al					
Case Number:	2019CP4600310	Court Agency:	York County Common Pleas	Filed Date:	01/25/2019
Case Type:	Common Pleas	Case Sub Type:	Real Prop/Other 499	File Type:	Non-Jury
Status:	Dismissed	Assigned Judge:	Weaver, Teasa Kay		
Disposition:	Dismissed per Rule 41(a)	Disposition Date:	02/12/2020	Disposition Judge:	Clerk Of Court C P, G S, And Family Court
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties	Judgments	Tax Map Information	Associated Cases	Actions	Financials	
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
LB Park LLC	NEF(02-12-2020 03:13:25 PM) Notice/Other	Filing		02/12/2020-15:18	02/12/2020-15:18	
LB Park LLC	Notice/Other	Filing		02/12/2020-15:13	02/12/2020-15:13	
LB Park LLC	Stipulation Of Dismissal	Filing		02/12/2020-15:13	02/12/2020-15:13	
LB Park LLC	ADR/Deferred (Until Appeal is Resolved)	Action		01/21/2020-11:58	02/12/2020-11:58	
LB Park LLC	ADR/Alternative Dispute Resolution (Workflow)	Action		08/23/2019-16:45	01/21/2020-16:45	
Powell, Ryan	Appeal/Notice of Appeal to Court of Appeals & Cert Serv	Filing		06/11/2019-11:11	02/12/2020-14:46	
Doe, John	NEF(05-31-2019 02:28:14 PM) Order/Electronic Form 4	Filing		05/31/2019-14:28	02/12/2020-14:28	
Doe, John	Order/Electronic Form 4 Denying Motion to Dismiss	Order		05/31/2019-14:28	02/12/2020-14:28	
LB Park LLC	NEF(05-31-2019 02:26:01 PM) Order/Electronic Form 4	Filing		05/31/2019-14:26	02/12/2020-14:26	
LB Park LLC	Order/Electronic Form 4 to Refer to MIE	Order		05/31/2019-14:26	02/12/2020-14:26	
LB Park LLC	Order/Referred to Master or Special Referee	Order		05/31/2019-14:26	02/12/2020-16:29	
Powell, Ryan	Opp to Mot for Order of Ref/Memo In Support of Mot to Dis/CS	Filing		05/13/2019-11:30	02/12/2020-11:31	
Powell, Karen Marie	Opposition to Motion for Order of Reference/Service	Filing		05/13/2019-11:30	02/12/2020-11:33	
LB Park LLC	NEF(05-07-2019 01:37:14 PM) Notice/Notice of Hearing and	Filing		05/07/2019-13:51	02/12/2020-13:51	
LB Park LLC	Notice/Notice of Hearing and Service	Filing		05/07/2019-13:37	02/12/2020-13:37	

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY

Court of Common Pleas

Daniel Hall, Circuit Court Judge

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Certificate of Service

I certify that I have served all the following persons accused of having committed contempt a copy of Appellant's Emergency Petition for Contempt by First Class Mail with proper postage affixed on the date below shown and addressed as follows:


Sarah Spruill
P.O. Box 2048(29602)
Greenville, SC 29601
Appellate Attorney of Record for Respondent LB PARK, LLC

A. Parker Barnes, III
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, South Carolina 29211-1889
Attorney of Record for Respondent LB PARK, LLC

Joshua Schragger manager of LB PARK, LLC
the Petition served on A. Parker Barnes, III (LB PARK'S agent)
is to be considered notice to principle (Joshua Schragger manager of LB PARK, LLC)
A well settled maxim of commerce is "*notice to agent is notice to principle*"

Andrew Rawl
~~P.O. Box 2048(29607)~~
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, SC 29211-1889
Co-Attorney of Record for Respondent LB PARK, LLC

March 4, 2020



Ryan Powell, Appellant
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

March 4, 2020

Clerk of Court
Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
MAR 06 2020
SC Court of Appeals

Re: Appellate Case No. 2019-000979

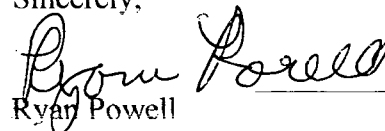
Dear Clerk,

Enclosed for filing please find the following original documents (original on top) and six copies of each:

- 1) Emergency Petition for Contempt.
- 2) Certificate of Service for the above document.

Please also find enclosed a money order for \$50.00 to cover the filing fee for the Petition.

Sincerely,



Ryan Powell
c/o 25056 Timberlake Drive
Fort Mill, South Carolina
919-400-6339

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PRESS FIRMLY TO SEAL

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P

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FORT MILL SC 29708

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CLERK OF COURT COURT OF APPEALS
PO BOX 11629
COLUMBIA SC 29211-1629



Q405 515Q 0101 TR02 4771 GR

USPS TRACKING #