

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

MAR 25 2013

Gordon G. Cooper, Circuit Court Judge

S.C. SUPREME COURT

Opinion No. 4815 (S.C. Ct. App. filed April 6, 2011)
392 S.C. 264, 708 S.E.2d 821 (Ct. App. 2011)

SunTrust Bank s/b/m National Bank of Commerce,
including its Division, Central Carolina Bank,

Respondent,

v.

Brandy K. Bryant a/k/a Brandy K. McGarthy, Arnold
L. Bryant, Phyllis W. Davis and Stephen Ford, as
Spartanburg County Tax Collector, Defendants,

of whom Phyllis W. Davis is the

Petitioner.

REPLY TO RESPONDENT'S MOTION TO TAX COSTS

Petitioner, Phyllis W. Davis, by and through her undersigned counsel, respectfully objects to the Respondent's Motion to Tax Costs against the Petitioner, and requests that Respondent's Motion be denied. Mrs. Davis' objection is based upon the following:

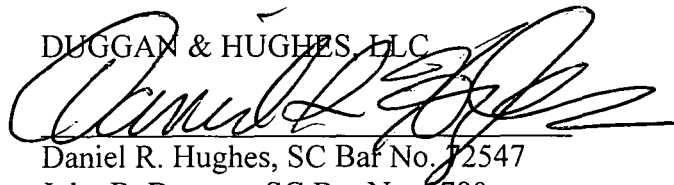
Petitioner moved this Court for review of a novel issue of law. This Court agreed that the issue deserved further review and granted certiorari. The Court of Appeals, which reversed the trial judge, noted that the case law cited by the Respondent in support of its position that it was entitled to priority over the tax sale proceeds did not apply because the cases did not deal with tax sales or purchase money mortgages. *SunTrust Bank v. Bryant*, 392 S.C. 264, 268, 708 S.E. 821, 823 (Ct. App. 2011). The Record on

Appeal demonstrates that the trial judge also determined that the cases relied upon by the Respondent did not apply to the issue before the Court. While this Court disagreed that the matter required further review, Respondent's motion for costs should be denied in a matter which was both reviewed by this Court as a novel issue of law and where the lower courts reached different results in their analysis of the issue.

Next, it is undisputed that *both* the Petitioner and the Respondent are owed money by Arnold Bryant who is not part of this Appeal. Now that the issue is finally resolved, and Respondent has prevailed, Petitioner is left without further recourse to obtain relief for money that is properly owed to her. Further, the Petitioner requests that this Court be mindful that it was the Respondent who initially sought review to the appellate court after the trial judge crafted an award that gave relief to *both* sides. Petitioner has diligently, and in good faith, attempted to protect that award. Petitioner should not be penalized for seeking to defend her position, which the trial judge agreed with.

Based upon the foregoing, the Petitioner respectfully asks that the Court use its discretion to deny the Respondent's Motion to Tax Costs.

DUGGAN & HUGHES, LLC



Daniel R. Hughes, SC Bar No. 72547

John B. Duggan, SC Bar No. 1780

P.O. Box 449

Greer, SC 29652-0449

Telephone: (864) 334-2500

Fax: (864) 879-0149

Email: dhughes@dugganhughes.com

jduggan@dugganhughes.com

Attorneys for the Respondent Phyllis W. Davis

March 20, 2013
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Circuit Court Judge

Opinion No. 4815 (S.C. Ct. App. filed April 6, 2011)
392 S.C. 264, 708 S.E.2d 821 (Ct. App. 2011)

SunTrust Bank s/b/m National Bank of Commerce,
including its Division, Central Carolina Bank,

Respondent,

v.

Brandy K. Bryant a/k/a Brandy K. McGarthy, Arnold
L. Bryant, Phyllis W. Davis and Stephen Ford, as
Spartanburg County Tax Collector, Defendants,

of whom Phyllis W. Davis is the

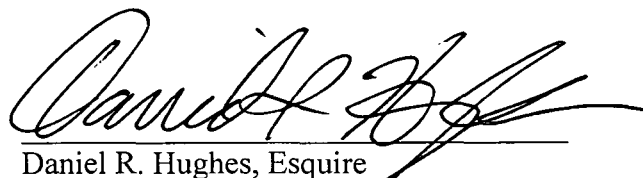
Petitioner.

PROOF OF SERVICE

I certify that I have served the Reply to Respondent's Motion to Tax Costs of Respondent Phyllis W. Davis by depositing a copy of the same in the United States mail, postage prepaid, on March 20, 2013, addressed to the following:

Dean A. Hayes, Esquire
Korn Law Firm, P.A.
P.O. Box 12369
Columbia, South Carolina 29211-2369
Attorney for Appellant

March 20, 2013



Daniel R. Hughes, Esquire
John B. Duggan, Esquire
Duggan & Hughes, LLC
Post Office Box 449
Greer, South Carolina 29652-0449
Telephone: (864) 334-2500
Attorneys for Respondent Phyllis W. Davis