

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Teasa K. Weaver, Master In Equity

Case No. 2020-CP-46-00549
Appellate Case # 2021-001192

LB PARK, LLC, Respondent,

v.

San Juan Holdings; Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; 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, Defendants,

Of Whom Ryan Powell is the Appellant..... Appellant.

**RETURN TO RESPONDENT LB PARK, LLC'S
MOTION TO DISMISS APPEAL**

Pursuant to Rule 240 (e) SCACR, Appellant Ryan Powell ("Ryan" hereinafter) makes this Return in opposition to Respondent LB PARK, LLC's ("LB PARK" hereinafter) Motion to Dismiss Appeal ("MTDA" hereinafter).

The Orders On Appeal Are Immediately Appealable

LB PARK's MTDA is based on the stated ground that "*the underlying orders are not immediately appealable*" [MTDA, para 1, pg 1]. However, the main order being appealed denies

Ryan his right to a jury trial, which affects a substantial right and is immediately appealable. A copy of the Master's order being appealed is attached as Exhibit 1. Both this Court and the Supreme Court have repeatedly held that orders that deny a party the particular mode of trial to which they have a right is immediately appealable.

"In a well-established exception to the general rule, we repeatedly have held that the denial of a party's right to a particular mode of trial is immediately appealable as a substantial right under Section 14-3-330(2).", Hagood v. Sommerville, 607 SE 2d 707 (SC Supreme Court 2005).

"It is settled beyond controversy in this state that it is error, from which an appeal will lie, to deny a party a mode of trial to which he is entitled by law.", Pelfrey v. Bank of Greer, 244 SE 2d 315 (SC Supreme Court 1978).

The other two orders that Ryan has appealed are interlocutory but they must be considered since there is an appealable issue before this Court and a ruling by this Court on those two interlocutory orders will avoid unnecessary litigation. Ryan's motions that were denied in those two interlocutory orders address lack of subject matter jurisdiction, failure to make a *prima facie* case showing personal jurisdiction, and that the "case" is not justiciable. A reversal of any one of Ryan's many motions denied in those two orders will finally dispense with this "case".

"an order that is not directly appealable will nonetheless be considered if there is an appealable issue before the [c]ourt and a ruling on appeal will avoid unnecessary litigation.", Watson v. Underwood, 756 SE 2d 155 (SC Court of Appeals 2014).

This Is A Law Case So Ryan Has A Right To A Jury Trial

This Court, and the Supreme Court, have both repeatedly held that the character of any action (i.e., law or equity) cannot be decided without analyzing both the complaint and the answer. Since Ryan's answer raised the issue of having a paramount title, this is a law case. A copy of Ryan's answer ("Answer") is attached as Exhibit 2 and incorporated herein by reference.

"He asserts that respondent's pleadings have no bearing or relevance in determining whether an order of reference should be made, theorizing that the complaint alone determines the character of the action if that character appears there with sufficient

clearness. The issue of title to real estate can be raised by complaint *or by answer* and if it is so raised it must go to the jury" ... "The pleadings present an issue of title to land, such purely legal issue being guaranteed by the Constitution as a matter of right to trial by jury unless waived.", [italics in original], Van Every v. Chinquapin Hollow, Inc., 219 SE 2d 909 (SC Supreme Court 1975);

"Typically, an action to remove a cloud on and quiet title to land is one in equity. However, when the defendant's answer raises an issue of paramount title to land, such as would, if established, defeat the Plaintiff's action, the issue of title is legal." Estate of Tenney v. South Carolina Dept. of Health, 712 SE 2d 395 (SC Supreme Court 2011); see also Mountain Lake Colony v. McJunkin, 417 SE 2d 578 (SC Supreme Court 1992); and

"[W]hen the defendant's answer raises an issue of paramount title to land, such as would, if established, defeat plaintiff's action, it is the duty of the court to submit to a jury the issue of title as raised by the pleadings.", HILTON HEAD PROP. OWNERS' ASS'N v. Donald, 651 SE 2d 614 (SC Court of Appeals 2007) citing Bryan v. Freeman, 253 S.C. 50, 52, 168 S.E.2d 793, 793-94 (SC Supreme Ct 1969).

Also, since Ryan has possession of this private property then he has a right to a jury trial -

"Parties in possession of real property have the right to stand on their possessions until compelled to yield to the rule title determined by trial by jury.", 47 Am. Jur. 2d 45.

According to the above binding cases, and legal principles, both the Complaint and the Answer must be analyzed in order to determine the character of this action. It was an error of law for the Master to deny Ryan's Motion to Return Case to Circuit Court¹ and rule that Ryan does not have a right to a jury trial when both parties are claiming to own the property at issue under distinct and separate titles.

Further, LB PARK agrees that Ryan is in possession of his private property [MTDA, page 2, last para., last sentence]. That admission proves that LB PARK's claims are not ripe as they are based on the hypothetical possibility that LB PARK will be able to take possession of Ryan's private property, which **MUST** happen **before** it brings any kind of quiet title action -

"This case was a suit brought for the purpose of setting aside a tax deed as a "cloud on the title of the plaintiffs." From a judgment in favor of the plaintiffs an appeal was prosecuted to this Court. In reversing the lower Court and finding for the defendant, this Court held

¹ See copy of Ryan's Motion to Return Case to Circuit Court attached to LB PARK's MTDA as its Exhibit 2 which is incorporated herein by reference.

that a suit to remove a cloud from the title was premature for the reason that the plaintiffs were not in possession of the property in question", Taylor v. Jennings, 106 SE 2d 391 (SC Supreme Court 1958).

Notwithstanding, since LB PARK has refused to attach a copy of its Complaint to its MTDA, this Court will not be able to analyze both the Complaint and Ryan's Answer [Exhibit 2] to properly determine whether he has a right to a jury trial. Therefore, this Court should consider the MTDA abandoned pursuant to Rule 240(g) SCACR.

Rosenbaum v. S-M-S 32 Does Not Control This Case

LB PARK did not argue the actual merits of whether or not Ryan has a right to a jury trial other than one small paragraph, out of its six (6) page motion, which contains one case citation. That one case cited is ROSENBAUM v. S-M-S 32, 427 S.E.2d 897 (1993) [MTDA, page 5, para 1]. Rosenbaum is suppose to prove that Ryan cannot raise any legal counterclaims. However, the facts in Rosenbaum are drastically different from the facts in this case, which makes Rosenbaum inapplicable, uncontrolling, and differentiated from this case. The following seven (7) reasons show why Rosenbaum does not control this case:

- 1) In Rosenbalm, the plaintiff was in possession of the land at issue, as is required of all quiet title actions in this State. In this case, Ryan is in possession of his private property;
- 2) In Rosenbalm, both the trial court and the Supreme Court found that S-M-S 32 could not raise a counterclaim of *trespass to try title* because that would violate the intention of the legislature when it passed SC Code of Laws §§ 12-61-10 to 60. However, in this case LB PARK does not have any right (standing) to use that remedy provided to tax title purchasers because LB PARK admits, in its suspiciously absent Complaint, that it did NOT purchase any tax title by or through² any tax sale and admits, in its suspiciously absent Complaint, that the land at issue was

² See SC Code of Laws § 12-51-90 which clearly describes exactly how a person purchases property "through" a tax sale, if they were not the tax title purchaser as LB PARK was not. This is the only method that can be used: "If

not forfeited unto it. Therefore, in this case it is LB PARK, and not Ryan, that is evading the intent of the legislature;

3) In Rosenbaum, the Supreme Court stated that -

"Appellant's counterclaim was based on its contention that the failure of the Beaufort County taxing authorities to follow proper procedures for the levy and sale renders respondent's tax deed invalid".

In other words, S-M-S 32's law counterclaim of trespass was based entirely on an equity issue, i.e., the validity of plaintiff Rosenbaum's tax title. Of course, S-M-S 32's law counterclaim was "insufficient" and should have been stricken by the lower court, and it was. In this action however, Ryan's claim for a jury trial is based only on law issues, those being Ryan having a paramount title to LB PARK and possession of the land at issue [Exhibit 2, Third defense], and also on Ryan's three (3) law counterclaims [Exhibit 2, pages 20-22; pages 23-24; pages 24-25];

4) In Rosenbalm the defendant S-M-S 32 was the *delinquent taxpayer* whereas Ryan is **not** the *delinquent taxpayer* in this case [Exhibit 2, #4, #19, #143-#146]. In this case, the defendant "San Juan Holdings, Brett Osborne, the trustee" ("SJH") is the alleged *delinquent taxpayer* as is proven by LB PARK's suspiciously absent Complaint. Not being the *delinquent taxpayer*, Ryan neither lost his property, nor his title from the tax sale that York County conducted against SJH;

5) Not only is Ryan not the *delinquent taxpayer* in this case, but Ryan has never been assessed with owing any *ad valorem* taxes [Exhibit 2, #46, #130] so Ryan is a nontaxpayer. Any remedies provided by the legislature, including those found in SC Code of Laws §§ 12-61-10 to 60, pertain only to taxpayers and are completely and utterly inapplicable to non-taxpayers as the legislature is without any authority to legislate, diminish, or annul the rights or remedies of

prior to the expiration of the redemption period, the purchaser assigns his interest in any real property purchased at a delinquent tax sale, the grantee from the successful bidder shall furnish the person officially charged with the collection of delinquent taxes a conveyance, witnessed and notarized. The person officially charged with the collection of delinquent taxes shall replace the successful bidder's name and address with the grantee's name and address in the delinquent tax sale book."

nontaxpayers. Therefore, any case that interprets SC Code of Laws §§ 12-61-10 to 60, as Rosenbalm does, is inapplicable to nontaxpayers like Ryan. See the following case which dealt with federal income taxes but the concepts espoused in that case are equally applicable to *ad valorem* taxes -

“* * * They [the revenue laws] relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. * * *”, Economy Plumbing & Heating Co., Inc. v. United States 470 F. 2d 585 (Court of Claims 1972), (bracketed text in original).

6) No Court has the authority to interpret any statute, including SC Code of Laws §§ 12-61-10 to 60 as Rosenbalm does, to violate a nontaxpayer's Constitutionally protected and inviolate right to a jury trial -

"All statutes are presumed constitutional and will, if possible, be construed so as to render them valid.", Last v. MSI Construction Co., 305 S.C. 349 (1991); and

7) In Rosenbaum, defendant S-M-S 32 recorded its deed thereby subjecting its property to the jurisdiction of the State, which gave the trial court the authority to decide the issue of title to the property. Since Ryan has never subjected his property to the jurisdiction of the State [Exhibit 2, Fourth Defense, #36 - #44], no court has jurisdiction over the subject-matter of this action, i.e., Ryan's private property.

According to the above seven reasons, Rosenbaum clearly cannot be used to deny Ryan his inviolate right to a jury trial.

The Record Proves This Is A Law Case

According to Rule 53(b) SCRCF, "**upon**" Ryan filing his Answer demanding a jury trial [Exhibit 2, Caption pg] the case "**shall**" be returned to the Circuit Court.

Rule 53(b) SCRCF "Any party may request a jury pursuant to Rule 38 on any or all issues triable of right by a jury and, **upon** the filing of a jury demand, the matter **shall** be returned to the circuit court."

The Master was required, by the word "shall" in Rule 53(b) SCRCP, to return the case to the Circuit Court. However, the Master could refuse to return the case to the Circuit Court if she struck, on her own initiative under Rule 12(f)³ SCRCP, Ryan's defense of paramount title and his three (3) law counterclaims as being "insufficient", "redundant", "immaterial", "impertinent" or "scandalous". The Master was constrained to striking allegations in Ryan's answer for only those five (5) specific reasons because LB PARK failed to move to strike, dismiss, or disallow any of Ryan's defenses or counterclaims. **But the Master did not strike, deny, or disallow anything in Ryan's Answer**⁴ [Exhibit 1]. That means the pleadings still contain an intact demand for a jury trial, an intact paramount title defense and three (3) intact law counterclaims with damages.

As the pleadings presently exist, this is a law case and Ryan will be able to enter evidence proving his defense of paramount title and proving his three (3) law counterclaims with damages.

"When the Circuit Court granted the motion to strike the defense that the Tennessee Court lacked jurisdiction, **the Court effectively precluded Wintenna from presenting any evidence proving the defense.**", Alladin Plastics, Inc. v. Wintenna, Inc., 390 SE 2d 370 (SC Court of Appeals 1990) [emphasis mine].

It is impossible for Ryan to not have a right to a jury trial, while at the same time he retains the right to present and prove his law claims, damages, and law defenses.

In Rosenbaum, the trial court struck defendant S-M-S 32's allegations of trespass and struck its prayer for damages. Striking those portions of the S-M-S 32's answer was required in order to make the pleadings sustain the trial court's finding that S-M-S 32 did not have the right to demand a jury trial -

³ Rule 12(f) SCRCP - "upon the court's own initiative, at any time the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter".

⁴ Ryan speculates that the Master intentionally did this because she agreed with Ryan that she did not have subject matter jurisdiction to hear his motion, but she also had a ministerial duty to rule on his motion. See Ryan's motion attached to MTDA as its Exhibit 2 which proves the Master did not have jurisdiction to rule on the motion.

"Accordingly, we affirm the order of the circuit court denying appellant's motion to transfer this case to the jury roster and striking from the counterclaim appellant's allegations of trespass and the prayer for damages.", ROSENBAUM v. S-M-S 32, 427 S.E.2d 897 (SC Supreme Ct 1993).

The trial court is required to strike, deny, or dismiss the basis for a party's demand for a jury trial at the time the Court denies the party's demand for a jury trial. This must be done so that the party is precluded from raising, arguing, or evidencing those invalid defenses and/or counterclaims. The trial court taking such actions can be found in every applicable case in the South Carolina Reporters. The above cited example from Rosenbaum is just one of hundreds.

The Master's failure to strike the basis upon which Ryan's demand for a jury trial rests, makes her finding and conclusion that Ryan "*does not have a right to a jury trial*" entirely unsupported by the evidence (i.e., pleadings) and leaves Ryan with an intact right to a jury trial.

LB PARK'S THEORY FOR ITS MTDA IS FRIVOLOUS AND FRAUDULENT

In their own words, LB PARK's theory for its MTDA is the following - "*In other words, in dismissing the appeal, the Court determined that there was no right to a jury trial in this matter. If there were an issue triable by a jury, the appeal of the Order of Reference would have been allowed to proceed.*", (underlining mine) [MTDA, page 3, first para., last two sentences]. That false statement is meant to mislead this Court into believing that the issue of Ryan's right to a jury trial was finally and conclusively decided a year ago when Ryan's erroneous appeal of the Order of Reference was dismissed. However, LB PARK's appeal attorney, Sarah P. Spruill ("Spruill" hereinafter) knows the above statement is false or she would not have concealed the fact that at the time that Ryan's erroneous appeal was dismissed, Ryan had not yet even answered LB PARK's Complaint. It would have been impossible for this Court to have finally and conclusively decided the issue of Ryan's right to a jury trial in its September 15, 2020 dismissal order [see MTDA's Exhibit 1] when Ryan did not even file and serve his Answer, containing

multiple law issues and his demand for a jury trial, until two weeks later on October 1, 2020 [Exhibit 2, pg 1]. The only way Spruill can feign that her frivolous theory in her MTDA has any merit is if she claims that she does not understand Rule 53(b) SCRCP and how it affected this case⁵. Being an experienced attorney of 21 years, Spruill can hardly make such a claim. Therefore, the MTDA should be seen for what it is - a frivolous attempted fraud on this Court.

Under Rule 53(b) SCRCP, after an order of reference is made, the case can be returned to the circuit court when a defendant raises law issues in his answer and demands a jury trial pursuant to Rule 38(b) SCRCP. Therefore, because of Rule 53(b) SCRCP, the Order of Reference that Ryan erroneously appealed was truly an interlocutory order because it did not finally decide the issue of Ryan's right to a jury trial since he had not yet answered the Complaint. See Rule 53(b) SCRCP which reads:

"Any party may request a jury pursuant to Rule 38 on any or all issues triable of right by a jury and, upon the filing of a jury demand, the matter shall be returned to the circuit court."

Since Ryan had not yet even made his demand for a jury trial, when his erroneous appeal of the Order of Reference was dismissed, there was absolutely no way that this Court could have finally and conclusively decided an issue that had not yet even been raised. Accordingly the entire theory of Spruill's MTDA is frivolous and fraudulent.

CONCLUSION

Spruill refused to attach a copy of LB PARK's Complaint to her MTDA which is a violation of Rule 240(c)(3) SCACR. Her refusal cannot be excused as an unintentional oversight because she intentionally removed all the "*attachments*" that were attached to LB PARK's "*memorandum in opposition*" filed in the Equity Court to oppose Ryan's Motion to Return Case to Circuit Court.

⁵ Ryan did not understand the implications of Rule 53(b) SCRCP when he erroneously took an appeal of the Order of Reference. He relied on older case law that was decided prior to the 2002 amendment to Rule 53(b). Ryan's ignorance probably cannot even be excused, but Spruill cannot even claim such ignorance.


See MTDA, pg 3, para. 2, sentence 2 - "*Memo, without attachments, attached as Exhibit 3*" (underling mine). Those "*attachments*" that Spruill removed included both the Complaint and the Answer. Obviously, Spruill does not want this Court analyzing the Complaint, which this Court **must** do in order to make **any** decision on whether Ryan has a right to a jury trial. Accordingly, this Court must find that LB PARK's MTDA has been abandoned pursuant to Rule 240(g) SCACR.

Spruill has requested this Court hurry, expedite this motion, and rush to judgment. That request is based on her frivolous allegation that clearing tax titles are given special, swift justice. Even if that were true, and it is not, LB PARK would actually have to hold a tax title and would actually have to possess Ryan's private property, to be able to claim such special, swift justice. LB PARK's Complaint is an absolute mess, it violates many legal doctrines, and was intentionally plead the way it has been plead because of the crimes and fraud that its managers have been perpetrating. Therefore, their mess can neither be excused, nor can Ryan's rights be violated to allow their crimes to come to fruition.

Not only must the MTDA be denied, but Spruill and her client must both be sanctioned, on this Court's own initiative pursuant to Rule 269 SCACR, for filing a absolutely frivolous motion totally devoid of any merit and for also violating the Rules of this Court.

Respectfully Submitted,

October 23, 2021


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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF York
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP4600549

Lb Park Llc
PLAINTIFF(S)

San Juan Holdings et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter comes before me upon motion filed by Defendant Ryan Powell requesting that this action be returned to Circuit Court pursuant to Rule 53(b), SCRPC. Upon request by Powell, this matter is decided without a hearing. After review of the pleadings and memoranda submitted by the parties, I find and conclude Powell is not entitled to a jury trial. Therefore, it is ordered that Powell's motion is DENIED.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/17/2021 .

Brett Osborne Trustee
Brett Osborne
Ryan Powell for Ryan Powell
John Doe
Mary Roe
San Juan Holdings
Ryan Powell for Ryan Powell

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2021 Sep 20 9:30 AM - YORK - COMMON PLEAS - CASE#2020CP4600549



York Common Pleas

Case Caption: Lb Park Llc VS San Juan Holdings , defendant, et al

Case Number: 2020CP4600549

Type: Order/Electronic Form 4

So Ordered

s/ Teasa K. Weaver 3084

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

LB PARK, LLC

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; 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.

2020 OCT -6 AM 11:19
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

THE COURT OF COMMON PLEAS

Case # 2020-CP-46-00549

Answer, Defenses, and Counterclaims of Ryan Powell

JURY TRIAL DEMANDED

Defendant Ryan Powell, the absolute owner ("Owner" hereinafter) of the private property that is the subject matter of this case ("Owner's Land" hereinafter) is making this answer out of necessity with no intention of waiving his defense of lack of personal jurisdiction. Attached as Exhibit A is a copy of the notice ("SJH Notice" hereinafter) that defendant San Juan Holdings, Brett Osborne, the trustee ("SJH" hereinafter) recorded in the public records and is incorporated herein by reference. The SJH Notice is the same document that is referred to in plaintiff's complaint as the "Osborne Notice".

ANSWER

FOR A FIRST DEFENSE

Owner answers plaintiff LB PARK LLC's ("LB PARK" hereinafter) complaint ("Complaint" hereinafter) as follows:

As is more fully set forth in his responses below, Owner denies each and every allegation of the Complaint not hereinafter specifically admitted.

1. Denies that plaintiff can bring an action to clear a tax title under SC Code of Laws 12-61-10 to 60 when plaintiff admits it does not have a tax title. Denies all remaining allegations in paragraph #1.
2. Denies that the property description and derivation paragraph shown in paragraph #2 describes Owner's Land as found on Owner's deed.
3. Denies that "*San Juan Holdings, Brett Osborne the trustee*" can be named as a defendant when the Complaint admits that SJH ceased to exist and ceased owning the property at issue over seven years prior to the time this case was initiated (Complaint #5, #6, & **Exhibit A**). Admits the allegations in paragraph #3.
4. Denies that SJH "*owned 100% of fee simple title to the Property prior to the tax sale*". Qualifies that denial by stating that while SJH did own Owner's Land prior to the tax sale, SJH ownership ended five (5) years prior to the tax sale and Owner was the owner of Owner's Land prior to and at the time of the tax sale. Denies that SJH has, or can claim to have, any interest in Owner's Land.
5. Denies that "*Brett Osborne as trustee of San Juan Holdings*" is a separate and distinct person from "*San Juan Holdings, Brett Osborne, the trustee*". No one can create a new person simply by changing the order of the words in the name of another person which is all that plaintiff had done. Nonetheless, "*Brett Osborne as trustee of San Juan Holdings*" cannot be named as a defendant when the Complaint admits Brett Osborne ceased being the trustee of SJH over seven years prior to the time this case was initiated (Complaint #5, #6, & **Exhibit A**). Admits that SJH did execute and record the SJH Notice.
6. Admits that the SJH Notice (**Exhibit A**) did not convey title to, or any other interest in, Owner's Land. Denies that title to Owner's Land remained vested in SJH after the SJH Notice was recorded. Admits that the SJH Notice creates a *cloud* on plaintiff's quitclaim deed because the SJH Notice proves plaintiff's deed is void on its face.
7. Admits that Owner has claimed to possess an unrecorded ownership interest in Owner's Land. Denies that plaintiff has any information upon which it can form a credible belief that Owner is not the owner of Owner's Land. Denies that plaintiff can name Owner as a defendant just to give Owner notice of this case.
8. Paragraph #8 is not an allegation of fact that can be admitted or denied.

9. Denies this Court has personal jurisdiction over any of the defendants named or unnamed. Denies this Court has jurisdiction over Owner's Land which is the subject-matter of this case.
10. Paragraph #10 is not an allegation of fact that can be admitted or denied.
11. Denies that SB MUNI CUST % LBSC-11 LLC ("SB MUNI" hereinafter) purchased Owner's Land at any tax sale. Qualifies that denial by stating that SB MUNI only purchased SJH's interest in Owner's Land, said interest being nil.
12. Denies that SB MUNI could convey to plaintiff an interest in Owner's Land when it held no interest in Owner's Land.
13. Denies that plaintiff holds any rights, title, or interest in Owner's Land.
14. Denies that plaintiff holds any rights, title, or interests in Owner's Land. Denies that plaintiff's quitclaim deed issued to it in January of 2019 is superior to Owner's warranty deed granted to him by the owner of the land in December of 2012.
- 14.a Denies that Owner's Land was sold to SB MUNI and qualifies that denial by stating that SB MUNI purchased only SJH's interest in Owner's Land at the tax sale, said interest being nil. Denies that SJH owed York County any *ad valorem* taxes at the time of the tax sale.
- 14.b Denies all allegations in paragraph #14.b.
- 14.c Denies all allegations in paragraph 14.c for lack of knowledge.
- 14.d Denies that Owner ever received any notice from York County informing Owner that he had a right or duty to redeem his property. Denies, on information and belief that York County ever gave SJH any notice of the tax sale or its right to redeem. Admits that Owner did not redeem his property after the tax sale as Owner had no obligation to do so. Denies any remaining allegations.
- 14.e Denies that SB MUNI had any interest in Owner's Land that it could convey to plaintiff.
15. Denies all allegations in paragraph #15.
16. Denies all allegations in paragraph #16.
17. There are no allegations of fact that can be admitted or denied.

18. Denies that plaintiff is entitled to recover any monies from any defendant especially those monies it admits in its Complaint that SB MUNI paid to York County. Denies that S.C. Code Ann. §§ 12-51-90 to 100 has any application whatsoever to this case.
19. Admits allegations in paragraph #19 but qualifies that admission by stating that an "ultimate redemption" under S.C. Code Ann. §§ 12-51-100 can only happen when the property is returned to the *delinquent taxpayer*. In this case that cannot happen since the property does not belong to the *delinquent taxpayer*, SJH, it belongs to Owner who had no obligation to redeem his property.
20. Denies all allegations in paragraph #20.
21. Denies that any taxes, costs, or interest has been "*justly chargeable*" to Owner's Land at any time after December 20, 2012. Denies all remaining allegations.
22. Denies all allegations in paragraph #22.
23. Denies all allegations in paragraph #23. Plaintiff can not make a claim for a refund to be paid by any defendant named in this case. Only a tax title purchaser (i.e., SB MUNI) can bring an action against York County to seek a refund of monies it paid to York County. Denies all remaining allegations.
24. Paragraph #24 is not an allegation of fact that can be admitted or denied.
25. Denies all allegations in paragraph #25 for lack of knowledge.
26. Denies all allegations in paragraph #26 for lack of knowledge.
27. Denies all allegations in paragraph #27 for lack of knowledge.
28. Denies that anyone but SB MUNI has the right to seek reformation of SB MUNI's written instrument that it made with York County. Denies that any plaintiff can seek a reformation of the entire chain of title for a minor and meaningless Scribner's error. Denies all remaining allegations in #28.
29. With respect to plaintiff's WHEREFORE clauses and subclauses, denies that plaintiff is entitled to any relief it seeks or to any relief whatsoever.

**FOR A SECOND DEFENSE
(Rights To Be Respected and Upheld)**

30. Owner demands that all his natural, unalienable, god given rights, and rights protected to him by the State and federal Constitutions, which Owner has not contracted away, be respected and upheld by this Court.

FOR A THIRD DEFENSE
(Owner has Paramount Title to and Possession of the Land at Issue)

31. Brett Osborne, acting in the capacity of SJH trustee authorized by SJH to convey SJH property, signed and executed a general warranty deed on December 20, 2012 granting to Owner SJH property in fee simple. Owner has had possession of his executed deed since December 20, 2012.
32. Owner has been seized and possessed of Owner's Land since December 20, 2012. Possession of land carries with it the presumption of ownership and title.
33. Owner's title was issued to him by the legal and lawful owner of the land seven years prior to plaintiff's quitclaim deed that derives from an uncleared tax title issued by York County that had no ownership interest in, or trusteeship over, Owner's title or Owner's Land.
34. Under the settled laws of this State when a defendant raises the issue of having a paramount title to the same land as the plaintiff is claiming, an equity case transforms into a law case as equity cannot try competing titles to the same land.
35. On information Owner believes that since he is in possession of the land at issue, this case now transforms into a *trespass to try title* law case with plaintiff carrying the burden to prove it has complete/perfect title to the property.

FOR A FOURTH DEFENSE
(Want of Subject Matter Jurisdiction)

36. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
37. Owner has never recorded his deed to Owner's Land so Owner holds all rights, title, and interests in Owner's Land. Absolute ownership carries with it the absolute right to determine when, how, to whom, or if Owner's Land will be transferred.
38. Recording of a deed is what gives this Court jurisdiction over real property.
39. In 2014 Owner brought an action in the Circuit Court against three employees of York County (case #2014-CP-46-1425) in an attempt to prevent those employees from illegally selling Owner's Land. Owner's case was dismissed for want of subject matter jurisdiction. An appeal was taken by Owner of that decision all the way to the Supreme Court of South Carolina. The lower court's decision was upheld by the appellate courts. The subject-matter of that case was Owner's Land.

40. In 2017 Owner brought an action in the Administrative Law Court against three employees of York County (Docket # 17-ALJ-30-0358-IJ) in an attempt to prevent those three employees from illegal taking and selling Owner's Land. That case was dismissed for lack of subject matter jurisdiction. The subject-matter of that case was Owner's Land.
41. At least seven (7) judges in four different courts of this State have made the judicial determination that this Court does not have subject matter jurisdiction over Owner's Land.
42. Although the Appeals Court in Owner's appeal (Appellate Case No. 2014-002578) of Owner's lower court case (case #2014-CP-46-1425) issued an unpublished opinion (2016-UP-199) that opinion operates as a binding precedent case for this case because the subject-matter of that case is the same subject-matter as this case. i.e., Owner's Land.
43. This Court lacks subject-matter jurisdiction to make any order that pertains to the subject-matter of this case, i.e., Owner's Land.
44. This case must be dismissed with prejudice for lack of subject-matter jurisdiction.

**FOR A FIFTH DEFENSE
(Want of Territorial Jurisdiction)**

45. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
46. Owner has never recorded his deed to Owner's Land. As such the situs of Owner's Land is not "*in this State*" which is why Owner has never been assessed with owing any *ad valorem* taxes on Owner's Land. Recording of a deed is what puts the situs of the recorded property into the territory over which this Court has authority to make any decisions pertaining to that land.
47. The Property conveyed to Owner on December 20, 2012 is more particularly described on Owner's title as follows:

All that certain piece or lot of land situated, lying or being in or near South Carolina, Camden district, York county, Fort Mill township, being commonly known and designated as Lot 56 of Tega Cay Section 25, all being without the United States, and more particularly described on plat recorded in the Office of the Clerk of Court for York County in Plat Book 131 at page 306, which is incorporated herein as fully and as completely as if set forth here verbatim.

48. As shown by the property description above (#47) there exists no evidence that could ever show that the situs of Owner's Land is in the territory of County of York or State of South Carolina.
49. This Court lacks the territorial jurisdiction needed to declare anything pertaining to Owner's Land which is outside of this Court's territorial jurisdiction.
50. This case must be dismissed with prejudice for lack of territorial jurisdiction.

FOR A SIXTH DEFENSE
(Want of Personal Jurisdiction Over Two Defendants)

51. No one can create a new person/entity by simply changing the order of the words of the name of another person but that is what plaintiff did when it changed the words "*San Juan Holdings, Brett Osborne, the trustee*" into an allegedly new person "*Brett Osborne as Trustee of San Juan Holdings*".
52. Nonetheless, the record shows that a man named Brett Osborne was served with plaintiff's Summons and Complaint for the defendant named *San Juan Holdings, Brett Osborne, the Trustee* and for the created defendant named *Brett Osborne as Trustee of San Juan Holdings* at the address of 190 Aviation Rd. Gold Hill, NC. Gold Hill, NC is outside the boundaries of this State.
53. There are no allegations that *San Juan Holdings, Brett Osborne as the Trustee* or *Brett Osborne as Trustee of San Juan Holdings* had any interest in, used, or possessed any real property in this State at the time of the initiation of this case.
54. Neither of those two defendants has made any appearance in this case.
55. This Court does not have personal jurisdiction over those two defendants.
56. This case must be dismissed with prejudice for lack of personal jurisdiction over those two defendants named in this case.

FOR A SEVENTH DEFENSE
(Want of Personal Jurisdiction Over Owner)

57. The record shows that Owner was served with plaintiff's Summons and Complaint at the address of 3459 Mill Run, Raleigh, NC. Raleigh NC is outside the boundaries of this State.
58. Plaintiff has specifically denied that Owner has *any interest in, used, or possessed any real property in this State* (Complaint #7). Without such an allegation this Court cannot obtain personal jurisdiction over Owner, a non-resident.

59. This case must be dismissed with prejudice for lack of personal jurisdiction over Owner since it is his property that is the subject matter of this case.

**FOR A EIGHTH DEFENSE
(Two Defendants Do Not Exist)**

60. Owner re-alleges and incorporates herein by reference allegation #51 above.

61. Upon SJH transferring its property to Owner, SJH terminated as a legal entity as shown in the SJH Notice (**Exhibit A**). Plaintiff admitted having received notice of this fact in its Complaint (Complaint, #5 & #6).

62. As alleged in #51 above, plaintiff cannot create a new defendant simply by reordering the words of another person/entity but that is exactly what plaintiff is attempting to do.

63. The only allegations made in the Complaint pertaining to the existence of the defendants named *San Juan Holdings*, *Brett Osborne the trustee* and *Brett Osborne as trustee of San Juan Holdings* allege they existed twenty years ago when the property at issue was conveyed to SJH and its deed was recorded. Those are insufficient allegations to show the existence of those two legal entities at the time this case was initiated as legal entities are born and die every day.

64. Unless and until Plaintiff alleges and can ultimately produce evidence showing the existence of these two defendants it has named, they must be dismissed as defendants.

**FOR A NINETH DEFENSE
(Ineffective Service on Two Defendants)**

65. Owner re-alleges and incorporates herein by reference allegation #51 above.

66. A man named Brett Osborne was served for the two defendants named *San Juan Holdings*, *Brett Osborne the trustee* and *Brett Osborne as trustee of San Juan Holdings*. The Complaint alleges that Brett Osborne is no longer the trustee for San Juan Holdings (Complaint #5 & #6, **Exhibit A**) which allegation was confirmed by the response filed by Brett Osborne on April 1, 2020. Notwithstanding, LB PARK fraudulently pretended to serve those two defendants it named while alleging those two defendants do not exist and that Brett Osborne is not its trustee.

67. Plaintiff has failed to name and serve the trustee of SJH.

68. This case must be dismissed for ineffective service.

FOR A TENTH DEFENSE

(Two Defendants Do Not Have Standing)

- 69. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
- 70. Owner re-alleges and incorporates herein by reference allegation #51 above.
- 71. As **Exhibit A** demonstrates, San Juan Holdings has no title, rights, interest, possession, nor is SJH using the property that is the subject matter of this case.
- 72. Neither *San Juan Holdings, Brett Osborne, the trustee*, nor *Brett Osborne as trustee of San Juan Holdings* has any material, real, or actual interest in Owner's Land.
- 73. Both *San Juan Holdings, Brett Osborne, the trustee*, and *Brett Osborne as trustee of San Juan Holdings* must be dismissed as those defendants lack standing.

**FOR A ELEVENTH DEFENSE
(Failure to State a Claim Against Owner)**

- 74. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
- 75. The main function of any court is to settle actual existing disputes between the parties.
- 76. Plaintiff has denied that Owner owns the property that is the subject matter of this case (Complaint #7, second sentence) and further alleged that it named Owner as a defendant simply to give Owner notice of its action (Complaint #7, second sentence) which means that the plaintiff has admitted that it has no dispute with Owner.
- 77. A plaintiff must allege at least one cognizable cause of action against any person it names as a defendant in order to force that person to expend their time, energy, and financial resources in defending that case.
- 78. Plaintiff has failed to show the existence of an actual, justiciable case or controversy between it and Owner.
- 79. This case must be dismissed for failure to make a claim against Owner who owns the property at issue so the case cannot continue without him.

**FOR A TWELFTH DEFENSE
(Plaintiff Does Not Have Standing)**

- 80. Plaintiff has failed to show that any legally cognizable injury it believes it has suffered are the results of any of Owner's actions or inactions (see For a Eleventh Defense - Failure to State a Claim Against Owner).
- 81. It is impossible for the two alleged entities named *San Juan Holdings, Brett Osborne, the trustee* and *Brett Osborne as trustee for San Juan Holdings* to have caused

plaintiff any injury when the plaintiff's own allegations state those two persons ceased to exist many years prior to the time of any of the allegations in the Complaint are alleged to have taken place.

82. A plaintiff seeking to establish standing must show not only that he has suffered a legally cognizable injury, but also that those injuries were caused by the defendant's actions or inactions.
83. It is impossible for any defendant named in this case to have caused plaintiff any injury so plaintiff does not have any standing to bring its case.
84. This case must be dismissed with prejudice as the plaintiff lacks standing.

**FOR A THIRTEENTH DEFENSE
(Statutory Compliance)**

85. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
86. SC Code of Laws 12-24-10(A) shows, *inter alia*, that the recording of a deed is a privilege. A privilege is typically defined as being a benefit granted to or enjoyed by some person or persons. Any benefit provider (e.g., County of York, State of South Carolina) has the authority to demand payment from those to whom it provides benefits. That is why only those property owners who request the benefit of recording their deeds are ever made liable for any *ad valorem* taxes.
87. Owner was and is exercising his natural, god given rights to own property privately and alone by not recording his deed which right is recognized by this State in their statutes and codes.
88. Plaintiff's claims do not constitute a basis for the relief sought as Owner can not be held liable for Plaintiff's loss, damages, or claims for simply complying with the codes and statutes of this State.

**FOR A FOURTEENTH DEFENSE
(Illegality)**

89. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
90. The gravamen of plaintiff's Complaint involves illegality.
91. President Lincoln declared martial law in 1863 in General Order 100 (a.k.a. the Lieber Codes). That order declared martial law which has been in continuous effect since 1863.

92. When the United States is under martial law, the international laws of war are applicable. The international laws of war can be found in the document named "Laws of War" which has been published by the Department of Defense and can be found at the URL: http://ogc.osd.mil/images/law_war_manual_december_16.pdf. Under the laws of war it is prohibited for the State to confiscate, seize, or take private property from its owner even temporarily. Plaintiff's claims are prohibited and illegal under the Laws of War.
93. No court of this State has the subject matter jurisdiction needed to make any determination pertaining to Owner's Land so any decision any Court of this State makes that clears the tax title that plaintiff's quitclaim deed derives from or allows plaintiff to take possession of Owner's Land will be void *ab initio*. Should plaintiff enter onto Owner's Land, especially with the assistance of a sheriff who will have to use force and arms to remove the people living on Owner's Land, such entry based on a void order will constitute criminal trespass under SC Code of Laws 16-11-520(A) [and will also be actionable under SC Code of Laws 15-67-410 to 470].
94. In Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) plaintiff has requested that Owner be ordered to pay plaintiff monies that it is not legally entitled to receive and that Owner can never be legally required to pay. Plaintiff's written requests amount to extortion and blackmail both of which are illegal.
95. On information Owner believes that SB MUNI passed off its uncleared tax title to plaintiff in order to lauder money, evade taxes, and/or to shelter SB MUNI's assets.
96. Plaintiff's claims do not constitute a basis for the relief sought as no Court has any authority to assist a plaintiff who is involved in, and attempting to further its actions, that are illegal, unlawful, and prohibited.

FOR A FIFTEENTH DEFENSE
(Plaintiff has no interest in Owner's Land)

97. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.
98. Plaintiff alleges that SB MUNI was the winning bidder at the tax sale of SJH property and was given a tax title to SJH property by York County on or about December 26, 2018 (Complaint #11).

99. According to the well settled laws of this State the only interest that passes in a tax title is the interest that the *delinquent taxpayer* (SJH) held at the time of the tax sale.
100. SJH had no interest in Owner's Land at the time of the tax sale.
101. The tax title issue to SB MUNI passed no interest in Owner's Land. Having no interest in Owner's Land, SB MUNI could not quitclaim its non-existent interest to the plaintiff.
102. Plaintiff has no entitlement to invoke the aid of this Court to preserve and further its attempts to take ownership and possession of land to which it has no interest.

FOR A SIXTEENTH DEFENSE

(Failure to State a Claim - Plaintiff Not Entitled to Use 12-61-10 to 60)

103. Plaintiff alleges it is the grantee on a quitclaim deed granted by SB MUNI (Complaint #11 & #12). Plaintiff has requested this court quiet someone else's deed (i.e., SB MUNI's tax title). A person cannot make a request to quiet a deed to which it was not a party and no person can quiet the previous owner's title without barring its own title.
104. SC Code of Laws 12-61-10 to 60 was created by the legislature of this State as a statute of creation which cannot be extended beyond the clear intent of the legislature. This remedy was clearly created for only the use of purchasers of tax titles. To use SC Code of Laws 12-61-10 to 60 a plaintiff must be a grantee on a tax title.
105. Plaintiff has failed to allege the facts required in order to use the special remedy found in SC Code of Laws 12-61-10 to 60.
106. This action must be dismissed for failure to state a claim upon which relief can be granted.

FOR A SEVENTEENTH DEFENSE

(Failure to State a Claim - Plaintiff Only Entitled to Request Half Costs)

107. Plaintiff paid SB MUNI \$5.00 for its quitclaim deed.
108. According to SC Code of Laws 12-61-50 - "*Whenever an action shall be brought under the provisions of this chapter relating to property for which the plaintiff paid less than the sum of one thousand dollars, all costs due shall be only one half of those ordinarily allowed.*"

109. The \$5.00 plaintiff paid for its quitclaim deed is less than \$1,000.00 so according to SC Code of Laws 12-61-50 plaintiff is only permitted to make a claim for one half the costs ordinarily allowed.
110. Plaintiff has made a claim for the full costs allowed in an action brought under SC Code of Laws 12-61-10 to 60.
111. This action must be dismissed for failure to state a claim upon which relief can be granted.

**FOR A EIGHTEENTH DEFENSE
(Failure to State a Claim - Refund of Bid Monies)**

112. Unlike the erroneous theory put forward by plaintiff in its First Alternative Cause of Action (Action to Recover Amounts Due), an "*ultimate redemption*" happens when a court finds a tax deed void, sets it aside, and returns the property to the *delinquent taxpayer*. That court order can then be used by the tax title purchaser to bring a court action against the County to seek a return of the bid monies that the tax title purchaser paid to that County. The property in this case can never be returned to the *delinquent taxpayer* (SJH) because the property did not belong to the *delinquent taxpayer* (SJH) when it was taken and sold. Owner was never made liable to pay any *ad valorem* taxes nor was Owner ever made liable to redeem his property so no action this Court takes in this case could ever be considered a redemption of any kind.
113. There is no statute, code, rule, regulation, public policy, legal principle, or case holding that allows a Plaintiff to seek a refund of monies it never paid or to seek a refund to be paid by any person other than the person who received and is in possession of those monies being requested to be refunded which would be York County.
114. Plaintiff alleges that SC Code of Laws 12-51-90 to 100 allows this claim to be brought against "*any person challenging the tax title*". But SC Code of Laws 12-51-90 to 100 has no application whatsoever to the facts and parties named in this case.
115. Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) must be dismissed for failure to state a claim upon which relief can be granted.

**FOR A NINETEENTH DEFENSE
(Claim Not Ripe for Adjudication - Recovery of Amounts Owed)**

116. Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) can only be brought in a new action after a court enters an order declaring void and setting aside a tax deed, and then returns the property to the delinquent taxpayer.
117. After a final judgment is issued, and any appeals are taken, a judgment that makes those finding and conclusions discussed above in #116, can then be used by SB MUNI to bring a new action and request a refund of monies it paid to York County.
118. Plaintiff's First Alternative Cause of Action (Action to Recover Amounts Due) must be dismissed as it is not yet ripe for adjudication.

**FOR A TWENTIETH DEFENSE
(Failure to State a Claim - Reformation of Deeds)**

119. Plaintiff alleges it is the grantee on a quitclaim deed granted by SB MUNI (Complaint #11 & #12). Plaintiff wants to reform, not its own deed but someone else's deed (i.e., SB MUNI's tax deed). A person cannot make a request to reform a written instrument to which it was not a party.
120. A reformation of a written instrument action must include all persons that were parties to the written instrument. On a written deed instrument both the grantor and the grantee have to be parties to the reformation action so that their intentions, agreement and understanding can be adjudicated.
121. Plaintiff has failed to name and serve both of the parties to the written instrument that it wants reformed, i.e., the tax deed issued by York County to SB MUNI.
122. The error in the property description of SB MUNI's tax deed has existed in the recorded chain of titles for decades and has survived many different owners.
123. Plaintiff has failed to allege that it has or will suffer any harm from the minor and meaningless Scribner's error.
124. Equity does not have jurisdiction to reform a written instrument to correct an error that is without any legal or equitable effect, i.e., the error doesn't matter.
125. Plaintiff's Second Cause of Action (Reformation of Tax Deed) must be dismissed for failure to state a claim upon which relief can be granted.

**FOR A TWENTY- FIRST DEFENSE
(Tax Title is Void and Unenforceable)**

126. Owner re-alleges and incorporates herein by reference allegations #31 - #32 above.

127. The tax title that was issued to SB MUNI is void for having been made in violation of the strict requirements that all tax sales/tax titles must comply.
128. It is well settled law in this State that any tax sale and tax title must have both been executed and made in the name of the true owner of the property. The tax deed issued to SB MUNI was made in the name of SJH who was not the true owner of the property at issue at the time of the tax sale or at the time the tax deed was issued.
129. According to SC Code of Laws 12-49-10, York County can only take and sell land that actually belongs to a delinquent taxpayer (i.e., SJH) and then only if the assessment was legally made. The assessment that York County made against SJH on or about January 1, 2017 was illegally made because SJH was not the owner of that land on the date they were assessed with a debt. The tax sale and the tax deed were conducted and made in violation of SC Code of Laws 12-49-10.
130. According to SC Code 27-1-10 land becomes chargeable only for the debts of the land's owner. Owner has never been assessed with owing any debts of any kind to any governmental entity so Owner's Land has never been made chargeable with any debts, duties or demands, of whatever nature or kind. The tax sale and the tax deed were conducted and issued against land that was never made chargeable with any debts, duties or demands, of whatever nature or kind and was made in violation of SC Code 27-1-10.
131. Owner has a right protected by the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article 1, Section 13(a) to never have his private property taken without his consent. Owner has never given his consent to have his private property taken. Any Taking of property in violation of a right protected by the Constitution voids the Taking.
132. York County never sent any notice of the tax sale of Owner's Land to Owner. York County never sent any notice of Owner's right or duty to redeem Owner's Land. According to the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article 1, Section 3 and the Bill of Rights, Article 5 (part of the Constitution of the United States) a person can never be deprived of property without due process of law FIRST being provided to that person. The tax sale and the tax deed were conducted and issued in violation of Owner's right to receive due process of law before his

property was taken. That due process violation can never be cured by any court AFTER the Taking.

133. The tax sale and tax deed were conducted and issued in violation of the taxing codes and Owner's rights protected by the Constitutions and are therefore void *ab initio* and unenforceable by any court.
134. Plaintiff's quitclaim deed derives from a void and unenforceable tax title so its deed is also void and unenforceable.
135. Plaintiff has no entitlement to invoke the aid of this Court to enforce an absolutely void and unenforceable deed.

**FOR A TWENTY- SECOND DEFENSE
(Failure to Join Necessary and Indispensable Parties)**

136. Plaintiff has requested this Court clear SB MUNI's tax title, order a refund of monies that plaintiff alleges SB MUNI paid to York County, and reform SB MUNI's tax title issued by York County.
137. Plaintiff has failed to name and serve SB MUNI as a co-plaintiff and York County as a defendant. These two parties are necessary and indispensable to all of plaintiff's causes of action.
138. These two parties must be added or this case must be dismissed.

**FOR A TWENTY- THIRD DEFENSE
(Misjoinder)**

139. Plaintiff has requested this Court clear SB MUNI's tax title, order a refund of monies that plaintiff alleges SB MUNI paid to York County, and reform SB MUNI's tax title issued by York County.
140. Plaintiff has failed to name and serve SB MUNI as a co-plaintiff and York County as a defendant. However, SB MUNI cannot be made a co-plaintiff since it quit its claims to the property at issue when it granted its property to plaintiff on a quitclaim deed so it no longer has any real, material interest in the subject matter of this case so SB MUNI does not have standing to be named a co-plaintiff in this case.
141. This case must be dismissed with prejudice for misjoinder.

**FOR A TWENTY- FOURTH DEFENSE
(Right to Additional Defenses Reserved)**

142. Owner hereby gives notice that he may rely on other defenses if and when such defenses become known during the course of discovery and litigation, and hereby reserves the right to amend his answer to assert any other defenses or counterclaims as they become known or available.

COUNTERCLAIMS

143. Brett Osborne, acting in the capacity as the trustee authorized by SJH to convey SJH property signed and executed a general warranty deed on December 20, 2012 granting to Owner SJH property in fee simple. Owner has had possession of his executed deed since December 20, 2012.

144. Owner has been seized and possessed of Owner's Land since December 20, 2012. Possession of land carries with it the presumption of ownership and title.

145. Owner choose to claim his rights to own his property privately and alone so Owner did not record his deed as that is the only method a man can use to claim those rights.

146. The world was given actual notice on December 26, 2012 (**Exhibit A**) seven (7) years prior to plaintiff purchasing its quitclaim deed that SJH was not the owner of the property at issue at the time of the tax sale. Plaintiff admitted that it was aware of the SJH Notice (Complaint #5 & #6) before it brought this case so plaintiff has admitted it is aware of this fact.

First Cause of Action **(Sanctions for Frivolous Complaint)**

147. Owner re-alleges and incorporates herein by reference all of the above allegations.

148. The jurisdiction for this cause of action is the South Carolina Frivolous Civil Proceedings Sanctions Act in SC Code of Laws 15-36-10 to 100.

149. All bidders at tax sales in York County are given notice that the tax titles they are bidding on may have any number of defects and come with no warranty whatsoever. Plaintiff was not a bidder on Owner's Land, however, on information Owner believes that plaintiff's manager, Joshua W. Schrage, is the same person as SB MUNI's manager so Mr. Schrage must have received a copy of the bidder's notice.

150. Plaintiff admitted during a hearing held in plaintiff's first case (case# 2019-CP-46-00310) that it was aware of the extended litigation Owner pursued for over five (5)

- years during Owner's failed attempts to prevent York County from taking and selling Owner's Land. Owner's court actions all failed because at least seven (7) judges of this State determined that this State does not have jurisdiction over Owner's Land.
151. Owner attempted to intervene into plaintiff's first case because of his claim of ownership of the property that was the subject matter of that case.
152. No person would expend over six (6) years of their life, time, effort, and financial resources defending property that they did not own.
153. Despite plaintiff's awareness of Owner's extended litigation, Owner's attempt to intervene into plaintiff's first case, and plaintiff taking a voluntary dismissal of its first case for the alleged purpose of naming Owner as a defendant, plaintiff denied that Owner is the owner of the property at issue in this case (Complaint #7).
154. It is well settled law in this State that in order for any tax sale to be upheld, the tax sale and tax deed must have both been conducted and made in the name of the true owner of the land. The tax sale and the resultant tax title issued to SB MUNI was made in the name of SJH and not in Owner's name.
155. York County violated almost every taxing code that they are required to strictly follow when selling a property for delinquent taxes. The following four allegations are included as examples of York County's many violations of their authority when they sold the property at issue in this case and issued a tax title to SB MUNI:
- a) York County violated SC Code of Laws 12-37-610 by creating an assessment against SJH five years after SJH disposed of their property upon which they were assessed a tax debt.
 - b) York County violated SC Code of Laws 12-49-10 by selling Owner's Land to satisfy an assessed debt against SJH.
 - c) York County violated SC Code of Laws 27-1-10 by making Owner's Land liable for debts assessed against a person not the land's owner.
 - d) York County violated SC Code of Laws 27-1-10 (b) by using Owner's Land as an asset for the satisfaction of debts that Owner has never been charged with.
156. It is well settled law in this State that due process of law requires some sort of notice to a landowner before he can be deprived of his property. When notice is not given that failure is a fundamental defect rendering the proceedings absolutely void

- and unenforceable. The tax title issued to SB MUNI shows that York County addressed all of its notices to SJH and no notice was ever addressed to Owner.
157. It is well settled law of this State that if the notice of sale and right to redeem are not correctly given to the actual and true owner of the land, the tax deed issued is absolutely void and unenforceable.
158. According to the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article I, Section 3 and Amendment V of the United States Bill of Rights, no person can ever be deprived of their property without due process of law being first provided to that person. The tax sale and the tax deed were conducted and issued in violation of Owner's right to receive due process of law before his property was taken, i.e., before a tax title was issued.
159. According to the CONSTITUTION OF THE STATE OF SOUTH CAROLINA, Article I, Section 13(a) "*private property shall not be taken for private use without the consent of the owner*". There is neither allegations nor evidence that could ever show that Owner has given his consent to have his private property taken from him.
160. Any Taking in violation of rights protected by the Constitution is void and unenforceable.
161. On information Owner believes that Plaintiff is managed by Joshua W. Schrager who buys tax deeds, clears those tax deeds through litigation, sells the properties taken under those tax deeds, and manages multiple limited liability companies whose assets are measured in the millions of federal reserve notes.
162. On information Owner believes that there is no possibility that any person with Joshua W. Schrager's experience could ever form a credible belief that a trustee of a trust, who was contractually obligated to protect the trust's property, used a notice to transfer ownership of its property as alleged in plaintiff's Complaint #6.
163. On information Owner believes that Joshua W. Schrager and plaintiff's attorneys intentionally made the allegation in plaintiff's Complain #6 knowing it to be false but did so because they could not determine any other way for plaintiff to both acknowledge the existence of the SJH Notice, to get it quieted, and at the same time ignore the contents of the SJH Notice so that they could pretend that SJH was still the owner of the property at issue and still existed as a legal entity.

164. Plaintiff failed to conduct any discovery during the litigation of its first case and again during the litigation of this case to determine the truth and veracity of SJH's claims made in the SJH Notice and the claims of ownership made by Owner. On information Owner believes that plaintiff failed to do any discovery because plaintiff would have been unable to continue its pretence that Owner does not have a deed to his property once plaintiff actually saw Owner's deed and discovery would certainly prove that plaintiff has no meritorious claims.
165. Plaintiff has filed this same case twice with the only change being naming Owner as a defendant to allegedly give Owner notice of this action. A person cannot be named as a defendant just to give that person notice of the case. There was no need to bring a new action just to give Owner notice of something he obviously already knew about because he was attempting to intervene in plaintiff's first case. Plaintiff then failed to make any allegations of any cause of action against Owner.
166. All of Owner's Affirmative Defenses listed and alleged above are incorporated herein by reference as if they were copied verbatim. Owner's Affirmative Defenses show that plaintiff's complaint is entirely defective and could never survive any honest analysis for having any merit.
167. Owner seeks sanctions under 15-36-10(B)(2) against plaintiff and its two attorneys for filing plaintiff's frivolous Complaint and *lis pendens*. The sanctions which Owner seeks includes both monetary reimbursement for owner's costs and time having to defend in this frivolous action as well as having the Complaint and *lis pendens* stricken.

Second Cause of Action
(Intentional Infliction of Emotional Distress)

168. Owner re-alleges and incorporates herein by reference all of the above allegations.
169. On information Owner believes that Joshua W. Schragger spoke with Brett Osborne shortly after the tax sale was held inquiring about SJH ownership of the property at issue. Brett Osborne told Joshua W. Schragger that he had not had anything to do with the property since he had sold that property many years earlier.
170. On information Owner believes Plaintiff failed to make any attempt to determine who the owner of the property was before filing its first case even though plaintiff

had been given actual notice that SJH was not the owner of the property at issue and that Joshua W. Schragger had spoken with SJH former trustee.

171. Plaintiff failed to publish its summons for its first case (case# 2019-CP-46-00310). Service by publication is required in all cases where there might be unknown and unnamed defendants.
172. After plaintiff served SJH in its first case up until the time that Owner served his notice of appeal in that case, Owner feared that plaintiff would seek a default judgment since SJH had not answered and would not answer for property they did not own. Any default judgment entered would have resulted in Owner, his family, and their personal property being thrown out onto the street by Sheriffs using force and arms. Those thoughts and mental images caused Owner many months of extreme and severe fear, anxiety, stress, and loss of sleep.
173. Plaintiff blocked Owner from intervening into its first case. Owner took an immediate appeal of the order denying him intervention. Plaintiff then attempted to get Owner's appeal dismissed which had such succeeded would have left Owner completely unable to defend his property from being illegally stolen. During the months that plaintiff's motion to dismiss Owner's appeal waited for a ruling, Owner suffered extreme and severe fear, mental anguish, and loss of sleep.
174. Plaintiff then got Owner's appeal remanded which made it moot and put into abeyance. Had plaintiff allowed Owner's appeal to be perfected and heard, plaintiff's first case would have been dismissed with prejudice for want of subject matter jurisdiction which would have ended plaintiff's attempts to steal Owner's Land or steal Owner's personal property (i.e., his currency).
175. Plaintiff is attempting to extort and blackmail Owner, under color of right, to pay plaintiff bid monies and other monies that Owner can never be legally held liable to pay. On information Owner believes that plaintiff alleged its First Alternative Cause of Action (Action to Recover Amounts Due) because SB MUNI lost its ability to get its money back from York County through its foolish decision to quit its claims to the property at issue before clearing its deed so plaintiff is unlawfully attempting to get SB MUNI's money back from Owner. No man should have to endure years of

anguish, fear, and emotional distress that the crimes of extortion and blackmail cause to their victims.

176. If plaintiff's main cause of action were to succeed, Owner will lose the entire market value of his property since Owner can never make a claim for the bid monies that SB MUNI paid York County for its tax title. Owner will lose many hundreds of thousands of federal reserve notes that he has invested in his property and many hundreds of hours of his labor that he has invested in the maintenance, upkeep, and updates Owner has made to his property. The thoughts of taking such a devastating financial loss has caused Owner severe and continuing distress, fear, and anxiety.

177. If plaintiff's First Alternative Cause of Action were to succeed, Owner will be held liable to pay plaintiff a couple hundred thousand federal reserve notes that Owner can never be legally held liable to pay. The thoughts of taking such a devastating financial loss has caused Owner severe and continuing distress, fear, and anxiety.

178. No man should ever have to suffer two years of severe fear, anxiety, distress, and loss of sleep knowing that he, his family, and their personal belongings may likely be throw out on the street by Sheriffs using force and arms when Owner's private property is illegally stolen from him or when he is unlawfully ordered to pay plaintiff a refund that Owner can never be legally held liable to pay.

179. As clearly shown above in Owner's First Cause of Action (Sanctions for Frivolous Complaint) plaintiff's case is entirely frivolous so plaintiff does not have any valid defense for its actions in this case.

180. Owner seeks a determination of the all damages allowed by law that should be awarded to Owner and against plaintiff for its intentional, continuing, and knowing infliction of emotional distress.

Third Cause of Action
(Declare Void and Set Aside Tax Deed)

181. Owner re-alleges and incorporates herein by reference all of the above allegations.

182. The jurisdiction for this cause of action is the South Carolina Declaratory Judgment Act in SC Code of Laws 15-53-10 to 140.

183. Owner will be pursuing this cause of action only if his defense of paramount title is, with finality, stricken or denied to Owner.
184. Owner's deed, having not been recorded, affects his status, rights, and legal relations with York County, State of South Carolina, and with plaintiff so Owner has a right to a declaratory judgment as described in SC Code of Laws 15-53-30.
185. As alleged above in Owner's First Cause of Action (Sanctions for Frivolous Complaint), SB MUNI's tax title was made in violation of many of the taxing codes with which York County must strictly comply when creating and issuing a tax title.
186. The taking of Owner's private property violated multiple of Owner's rights protect to him by both the State and federal Constitutions.
187. SB MUNI obtained the same interest in Owner's Land that SJH had in Owner's Land at the time of the tax sale. SJH had no interest in Owner's Land at time of the tax sale. SB MUNI received no interest in Owner's Land. It is well settled law in this State that no grantee can ever grant more interest in a property than it has in the property therefore LB PARK received no interest in Owner's Land.
188. Owner seeks a declaratory judgment declaring void and setting aside SB MUNI's tax title and plaintiff's quitclaim deed and declaring that these actions do not constitute a redemption since the property is not being returned to the *delinquent taxpayer* which will terminate the litigation between plaintiff and Owner. Owner also seeks a declaration that Owner is a non-taxpayer so his property must be removed from the York County tax rolls.

Fourth Cause of Action
(Intentional Interference with Contract)

189. Owner re-alleges and incorporates herein by reference all of the above allegations.
190. Owner accepted his deed making his deed a bilateral contract.
191. Plaintiff moved to remand Owner's appeal in plaintiff's first case so that plaintiff could take a voluntary dismissal of that case. Plaintiff stated its reason for taking a voluntary dismissal was to bring a new case with the only change being the naming of Owner as a defendant. Plaintiff then denied that Owner owns the property at issue and denies that Owner has a deed to the property (complaint #6 & #7). On information Owner believes that plaintiff's actions speak louder than its words. Logic

and reason dictate that no plaintiff would have gone through the trouble and expense of dismissing its action so that it could file a new action and serve all the parties again just to give Owner notice of its action. Plaintiff's actions are especially illogical since Owner already knew about and was attempting to intervene into plaintiff's first case.

192. Plaintiff has breached Owner's deed contract by executing its quitclaim deed and is attempting to further breach Owner's contract by attempting to illegally and unlawfully take ownership and possession of Owner Land that Owner's deed contract granted to Owner.

193. Plaintiff's entire action is wholly frivolous as shown above in Owner's First Cause of Action so plaintiff is not justified in its breach of Owner's deed contract with SJH.

194. Owner seeks a determination of the damages that should be awarded to Owner and against plaintiff for its knowing and intentional breach of Owner's deed contract.

Fifth Cause of Action
(Slander of Title)

195. Owner re-alleges and incorporates herein by reference all of the above allegations.

196. Plaintiff's quitclaim deed is clearly void and unenforceable as shown above in Owner's First Cause of Action (Sanctions for Frivolous Complaint).

197. Neither *lis pendens* that plaintiff filed in its two cases are authorized by law as they are based on frivolous claims and outright lies and deception. The *lis pendens* both falsely state that they were filed "*to quiet tax title to the following described real property*". It is a violation of the laws of this State to request the clearing of a tax title by a person who does not have a tax title.

198. As demonstrated above, plaintiff knew or should have known that its quitclaim deed was not legally made nor is it enforceable by any court of this State.

199. Plaintiff filed its quitclaim deed and two *lis pendens* into the records of this Court intending to harm the interests of Owner and to call into question, disparage and slander the title of Owner.

200. As a direct and proximate consequence of the plaintiff's actions, Owner's title to his property was disparaged or diminished, his property was rendered unmarketable, and three clouds were unlawfully placed on Owner's title.

201. Accordingly, Owner is entitled to recover all of his actual damages to be proven at trial, for his special damages, including the costs and attorneys' fees that Owner will have to pay during the litigation of this case, along with punitive damages.

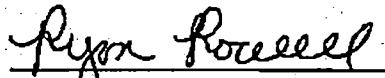
Demand for Relief

WHEREFORE, for the reasons set forth above, Ryan Powell demands that this Court enter judgment:

1. Ordering that the Complaint and the *lis pendens* be dismissed with prejudice and dismissing the *lis pendens* plaintiff filed against Owner's Land in plaintiff's first action but failed to dismiss when it dismissed its first case;
2. Finding Ryan Powell's title to be paramount to LB PARK's title. In the event that Ryan Powell's defense of paramount title is denied to him then declaring SB MUNI's tax deed and LB PARK's quitclaim deed void and unenforceable, declaring that this action is not a redemption since the property is not being returned to SJH, and also declaring that Owner is a non-taxpayer so his property should not be listed on York County's tax rolls;
3. Ordering the York County Clerk of Court to expunge both LB PARK's quitclaim deed and SB MUNI's tax deed from the public land records or to mark those deeds "cancelled of record";
4. Ordering the York County Assessor to remove Ryan Powell's land from the York County tax rolls;
5. Ordering costs be awarded to Ryan Powell for having to defend this suit;
6. In favor of Ryan Powell on all counterclaims he has asserted herein;
7. Awarding Ryan Powell actual, consequential, special, direct, and punitive damages as allowed by law;
8. Awarding Ryan Powell such other and further relief as the Court may deem just, proper, and equitable.

Respectively presented, with all rights reserved, without prejudice,

Dated: 10/11/2020



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

Exhibit A

201200198786
Filed for Record in
YORK COUNTY, SC
DAVID HAMILTON, CLERK OF COURTS
12-26-2012 At 02:40 PM.
NOTICE 10.00
OR Vol 13103 Page 241 - 242

STATE OF SOUTH CAROLINA)
COUNTY OF YORK) Notice of Sale, Transfer or Exchange

WHEREAS, SAN JUAN HOLDINGS is a private contractual trust (hereinafter Trust); and

WHEREAS, Trust is the owner of record of the property recorded on June 28, 2000 in vol: 3173 page: 343 in the Office of the Clerk of the Court for York County, South Carolina; and

WHEREAS, Brett Osborne's trustee of Trust with power to convey title to the aforesaid property; said power recorded on June 28, 2000 in Vol 3173, page 344 in the Office of the Clerk of the Court for York County, South Carolina; and

WHEREAS, aforesaid recorded property of Trust has been assigned the tax map number of 843-10-01-023 by the York County Tax Assessor; and

WHEREAS, On December 20, 2012 Trust, by and through Brett Osborne trustee, in a private transaction did grant, bargain, sell, release, and convey the aforesaid private property to an unenfranchised living man; and

WHEREAS, the proceeds of the aforesaid transaction have been distributed as required by the law of the Trusts' indenture terminating the Trust; and

WHEREAS, giving this notice is the final duty of Brett Osborne trustee for Trust;

THEREFORE, YOU ARE TO TAKE NOTICE THAT: SAN JUAN HOLDINGS no longer owns the property in the records of the Office of the Clerk of the Court for York County, South Carolina and those records should be updated accordingly; that SAN JUAN HOLDINGS has been terminated and no longer exists by the aforesaid actions according to the law of the trusts' indenture; and that Brett Osborn has completed his duties as trustee for SAN JUAN HOLDINGS.

After Recording return this Notice to:
Brett Osborne
c/o 9127 Dalmeny House Lane
Charlotte, North Carolina

WITNESS our Hand and Seal this 20th day of December, 2012.

SAN JUAN HOLDINGS

By:  Trustee
Brett Osborne trustee

Signed and Sealed in the presence of:



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

OCT 25 2021

APPEAL FROM YORK COUNTY
Court of Common Pleas

SC Court of Appeals

Daniel Hall, Circuit Court Judge

Case No. 2020-CP-46-00549
Appellate Case # 2021-001192

LB PARK, LLC, Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; 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, Defendants,

OF WHOM Ryan Powell is the Appellant..... Appellant.

Certificate of Service For
Return To Respondent LB PARK, LLC's Motion to Dismiss Appeal

I certify that I served all Respondents with a copy of the Return To Respondent LB PARK, LLC's Motion to Dismiss Appeal by and through their attorney of record by First Class Mail with proper postage affixed on the below date addressed as follows:

A. Parker Barnes, III
P.O. Box 11889,
Columbia, SC 29211-1889
Attorney for Respondent LB PARK, LLC

Brett Osborne
190 Aviation Lane,
Gold Hill NC 28071

Pro Se for Defendant San Juan Holdings, Brett Osborne, trustee and
Defendant Brett Osborne as trustee of San Juan Holdings.

10/23/2021
Date

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

October 23, 2021

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

Re: Appellate Case # 2021-001192

Dear Clerk,

Enclosed for filing please find the following documents:

- 1) Original Return to LB PARK LLC's Motion to Dismiss Appeal;
- 2) Original Certificate of Service for the above document; and
- 3) 6 Copies of Return to LB PARK LLC's Motion to Dismiss Appeal.

Sincerely,



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

RECEIVED
OCT 25 2021
SC Court of Appeals

