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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Honorable Marvin H. Dukes, III, Master In Equity and Special Circuit Court Judge

APPELLATE CASE NO.: 2022-000475

Coffin Point Plantation Homeowners Association, Inc.

Appellants,

vs.

The State of South Carolina, Estate of Charles H. Lyman, The St. Helena Company, Its Successors or Assigns, The Estate of J.D. Cameron a/k/a J. Donald Cameron, The Estate of J.E. McTeer, Wilma Clark, Jeanine Skok, Lawrence Casler, Dean Morrissey, Carol Morrissey, Ralph Netherland, Gloria Netherland, Special Trust of William B. Fahrner, Mark Heles, Beverly Heles, David Smith, Lynn Smith, LiLi, LLC, Revocable Living Trust of Thomas Walterhoefer, Cecily Deegan McMillan, Steven Teets, Lucinda Teets, Beverly Boulware, Russell Waldon, Nicolette Waldon, David Shaffer, Delora Cook, Gerald Hartwig, Carol Hartwig, Paulette Brown, Benjamin Couch, Thomas S. Clark Family Living Trust, Euniceteen Diggs, Janet Kathleen Reynolds Trust, Slade Family Revocable Trust, David C. Strother, Andrew Seward, Ashley Heath Madilon, Arnold Hollis, Lillian Hollis, Jennifer Allen, Zia As Exchange Company, LLC, Qualified Intermediary for Barbara J. Bailey Limited Partnership, Travis Washington, Janet Embly, Trustee and Individually, William S. Embly, Trustee and Individually, Scott Simmons Omari Trust, Mary Hudson, RachelleCarolynne Owens Revocable Trust, Gerald Hartwig, Carol Hartwig, Gerald L. Wayne, Vivian M. Wayne, Lorrie Gaskin Germann, Grant Martin Germann, Gregory J. Giardina, Melissa Basenburg, Mark M. Hazard, Micah L. Myers, Jennifer J. Myers, John Joseph Edwards, Nancy Jean Edwards, Preston Ventures, LLC, Donald Lunardini, Kristina Barbara Moore Lunaradini, Melissa Uhlman Revocable Trust and All Other Persons Known or Unknown Having Any Interest, Title, Estate or Interest In Or Lien Upon the Real Property Described in the

Complaint Herein Through the Above Defendants or Any Other Source Being Designated Collectively As John Doe and Mary Roe Including All Persons Who May Be Deceased, Minors, Persons in the Armed Forces of the United States of America, Insane or Incompetent Persons, and All Other Persons Under Any Other Disability Who Might Have or Claim to Have Any Right, Title or Interest in or Lien Upon the Real Property Described in the Complaint.

Respondents.

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Respondent

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

Coffin Point Plantation Homeowners)
Association, Inc.,)

Plaintiff(s),)

vs.)

State of South Carolina, et al.,)

Defendant(s).)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO: 2018-CP-07-02109

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

This came before me March 15th, 2022, on Plaintiff's Motion for Reconsideration, filed February 7th, 2022. After hearing from parties and reviewing the filings, the motion is hereby respectfully denied.

IT IS SO ORDERED:

Honorable Marvin H. Dukes, III
Master in Equity and Special Circuit Court
Judge for Beaufort County

March _____, 2022
Beaufort, South Carolina



Beaufort Common Pleas

Case Caption: Coffin Point Plantation Homeowners Association Inc VS South Carolina State Of , defendant, et al
Case Number: 2018CP0702109
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2022-03-17 12:19:37 page 2 of 2

STATE OF SOUTH CAROLINA)
 COUNTY OF BEAUFORT)
)
 Coffin Point Plantation Property Owners)
 Association, Inc.,)
)
Plaintiff(s),)
)
 vs.)
)
 State of South Carolina, et al.,)
)
Defendant(s).)
 _____)

IN THE COURT OF COMMON PLEAS

CASE NO: 2018-CP-07-02109

ORDER
(not ending case)

This came before July 17th, 2019 on the State of South Carolina’s Motion to Dismiss, filed April 18th, 2019 and on Scot F. Hersh’s Motion to Intervene and Appear Pro-se and his Motion to Dismiss, both filed on May 2nd, 2019.

The State of South Carolina’s Motion to Dismiss is denied, however, the Plaintiff shall have fifteen (15) days to amend to make more definite and certain, particularly with regard to the assignment to the Plaintiff. Further, Plaintiff shall name all adjacent landowners and shall name parties who have a permitted dock, pier, wharf or other structure in, or crossing the property in question. Additionally, the Plaintiff shall comply with SC Code of Laws 48-39-220. Finally, the Plaintiff may amend and correct the name of the Plaintiff.

Scot F Hersh’s Motions to Intervene and Appear Pro-se are granted. Mr. Hersh’s Motion to Dismiss is denied, but relief is Ordered as set forth hereinabove.

IT IS SO ORDERED:

Honorable Marvin H. Dukes, III
Master in Equity and Special Circuit Court
Judge for Beaufort County

July 17, 2019
Beaufort, South Carolina



Beaufort Common Pleas

Case Caption: Coffin Point Plantation Property Owners Association Inc VS South
Carolina State Of , defendant, et al
Case Number: 2018CP0702109
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2019-07-17 13:53:25 page 2 of 2

ELECTRONICALLY FILED - 2019 Jul 17 2:33 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-07-02109

COFFIN POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.)

Plaintiff,)

vs.)

CONSENT ORDER OF REFERENCE

THE STATE OF SOUTH CAROLINA,)
ESTATE OF CHARLES H. LYMAN,)
THE ST. HELENA COMPANY, ITS)
SUCCESSORS OR ASSIGNS, THE)
ESTATE OF J.D. CAMERON a/k/a)
J. DONALD CAMERON, THE ESTATE)
OF J.E. MCTEER, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN)
HAVING ANY INTEREST, TITLE,)
ESTATE OR INTEREST IN OR LIEN)
UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER)
SOURCE BEING DESIGNATED)
COLLECTIVELY AS JOHN DOE AND)
MARY ROE INCLUDING ALL PERSONS)
WHO MAY BE DECEASED, MINORS,)
PERSONS IN THE ARMED FORCES OF)
THE UNITED STATES, INSANE OR)
INCOMPETENT PERSONS, AND ALL)
OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR)
CLAIM TO HAVE ANY RIGHT, TITLE,)
OR INTEREST IN OR LIEN UPON THE)
REAL PROPERTY DESCRIBED IN THE)
COMPLAINT,)

Defendants.)

THIS MATTER CAME BEFORE ME upon Motion of H. Fred Kuhn, Jr., Esquire,

attorney for the Plaintiff by and with the consent of J. Emory Smith, Jr., Deputy Solicitor General, attorney for the State of South Carolina, for an Order referring this matter to the Master in Equity for Beaufort County, South Carolina.

IT IS HEREBY ORDERED, that the Plaintiff is responsible for paying the Reference Fee set forth in South Carolina Code of Laws Section 14-11-310; however, if the Plaintiff's case has ended, any remaining party seeking Affirmative Relief shall be responsible for paying the fee. If the case is a Partition Action or Lien Foreclosure the fee amount is \$100.00; for all other types of cases the fee is \$50.00. The Reference Fee shall be paid to the Office of the Master in Equity for Beaufort County within 30 days of the date of this Order or the Master will dismiss the case for non-payment of the Reference Fee without further notice.

Honorable Perry M. Buckner, III, Chief
Administrative Judge for the Fourteenth
Judicial Circuit

Beaufort, South Carolina
_____, 2019

I So Move:

/s/ H. Fred Kuhn, Jr.
H. Fred Kuhn, Jr., Esquire
Attorney for the Plaintiff

I So Consent:

/s/ J. Emory Smith, Jr.
J. Emory Smith, Jr., Esquire
Attorney for the State of South Carolina



Beaufort Common Pleas

Case Caption: Coffin Point Plantation Property Owners Association Inc VS South Carolina State Of , defendant, et al
Case Number: 2018CP0702109
Type: Order/Referred to Master or Special Referee

So Ordered

s/Jerri Ann Roseneau, Beaufort County Clerk of Court

Electronically signed on 2019-03-28 16:30:22 page 3 of 3

ELECTRONICALLY FILED - 2019 Mar 28 4:51 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)	
)	
Coffin Point Plantation	)	C/A No. 2018CP0702109
Homeowners Association, Inc.,)	
)	
Plaintiff,	)	ORDER GRANTING
	)	PARTIAL SUMMARY JUDGMENT
vs.)	
)	
State of South Carolina, <i>et al.</i> ,)	
)	
Defendants.)	
)	

Before this Court are Motions for Summary Judgment made by the State of South Carolina and Scott Hersh. The Court initially heard the motions by WebEx on December 22, 2021. During that hearing, the Court requested briefing on the question of whether S.C. Code Ann. § 48-39-220 applies to beaches. Following filings by some of the parties on this question, the Court heard arguments on the question by conference call on January 6.

After considering all of the parties’ filings and the arguments at the above hearing and for the reasons discussed below, this Court grants summary judgment for the defendants in this case to the extent that the property at issue is beach. As to any portion of the claim that is not beach, summary judgment is denied.

BACKGROUND

This suit was brought by Plaintiff Coffin Point Plantation Property Owners Association, Inc., to quiet title to 50.13 acres of “marsh land between the high and low water mark on St. Helena Island” granted by the State to Charles H. Lyman in 1891. Coffin Point initially named the State and several other defendants. By Order dated July 17, 2019, this Court directed Plaintiff to make more definite and certain the Complaint and to name all adjacent landowners and parties who have

a permitted dock, pier, wharf or other structure in, or crossing the property in question.” Before this Court now is Plaintiff’s Second Amended Complaint.

“Our State's tidelands are a precious public resource held in trust for the people of South Carolina.” *Hoyle v. State*, 428 S.C. 279, 291, 833 S.E.2d 845, 852 (Ct.App. 2019), reh'g denied (Oct. 17, 2019), cert. dismissed (Jan. 29, 2020)). Title to lands lying between the mean high water mark and mean low water mark is held by the State in trust for public purposes absent a grant from the State or the King of England. *See Hobonny Club v. McEachern*, 272 S.C. 392, 252 S.E. 2d 133 (1979). The burden rests upon the claimants to prove that the State had granted title to the lands in question to them or their predecessors in title. *State v. Yelsen Land Co.*, 265 S.C. 78, 216 S.E. 2d 876 (1975). “[O]ne claiming an interest in tidelands pursuant to section 48-39-220(A) must convince the court that the State intended to include the tidelands within the boundaries expressed in the deed.” *Hoyle v. State*, 428 S.C. at 292, 833 S.E.2d at 852 (Ct. App. 2019) [emphasis added]. “Necessarily, the claimant must show that the language of the conveyance is specific enough to determine a reasonably precise location of its boundaries so that members of the public will not be excluded from property rightfully belonging to them.” *Id.* [emphasis added]. Further, a grant from the sovereign to a subject is construed strictly in favor of the government and against the grantee. *Hobonny Club, supra*, 252 S.E.2d at 135-36, 272 S.C. at 396.

The only statutory provision for bringing suit to claim an interest in tidelands is §48-39-220 which states as follows:

Any person claiming an interest in tidelands which, for the purpose of this section, means all lands except beaches in the Coastal zone between the mean high-water mark and the mean low-water mark of navigable waters without regard to the degree of salinity of such waters, may institute an action against the State of South Carolina for the purpose of determining the existence of any right, title or interest of such person in and to such tidelands as against the State. (emphasis added).

By its express language and as discussed below, this statute is not applicable to beaches.

SUMMARY JUDGMENT STANDARD

“[Summary judgment] shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56, SCRCP. This standard is met for partial summary judgment for the Defendants as set forth below.

JUDGMENT IS GRANTED TO THE DEFENDANTS TO THE EXTENT THAT THE PROPERTY AT ISSUE IS A BEACH

At the motions hearing on December 22 by WebEx, this Court asked whether an action to establish title to beaches is authorized by S.C. Code Ann. §48-39-220, *supra*. By the express language of this statute, such actions as to beaches are not authorized. (“Any person claiming an interest in tidelands which, for the purpose of this section, means all lands except beaches(emphasis added)).

In considering suits to quiet title to beach property, a preliminary issue exists as to whether the subject property of the suit is actually a beach. In this case, the grant from the State refers to the property as marshland but the plat provided by Plaintiff refers to it as beach¹. Plaintiff has not provided any information about his surveyor’s opinion to show whether the property, as it exists today, is by its nature a beach or a marsh; however, that the land may be on a river would not deprive it of its nature as a beach. *See Kiawah Dev. Partners, II v. S.C. Dep’t of Health & Env’t Control*, 411 S.C. 16, 42, 766 S.E.2d 707, 722 (2014) (“That stretch of sandy beach, a rare feature for a tidal river, is the only sandy beach on the Kiawah River.”); see also, §48-39-10(H)

¹¹ The plat has not been identified as the same one referenced in the grant and it does not bear the referenced book and page number although it appears to be contemporaneous.

(“Beaches’ means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.”). As established through numerous South Carolina cases, including those set forth above, Plaintiff is directed to provide a survey showing which part of the property is a beach and which is not. See also, note 2, *infra*, and as to further requirements of the survey, the conclusion, *infra*.

Although §48-39-220(C) provides that “[n]othing contained in this chapter shall be construed to change the law of this State as it exists on July 1, 1977, relative to the right, title, or interest in and to such tidelands, except as set forth in this section”, this Court finds that it does not permit this quiet title suit based upon the 1891 grant. Even if, *arguendo*, Plaintiff had shown that the property is beach and that it was conveyed by the grant, under State law Plaintiff could not exclude others from walking or otherwise engaging in recreational activities on the beach. This is due to the established policy of the State regarding the beach, as stated in §48-39-250:

- (1) The beach/dune system along the coast of South Carolina is extremely important to the people of this State and serves the following functions: . . .
 - (b) provides the basis for a tourism industry that generates approximately two-thirds of South Carolina's annual tourism industry revenue which constitutes a significant portion of the state's economy. The tourists who come to the South Carolina coast to enjoy the ocean and dry sand beach contribute significantly to state and local tax revenues; . . .
 - (d) provides a natural healthy environment for the citizens of South Carolina to spend leisure time which serves their physical and mental well-being.

* * *

- (8) It is in the state's best interest to protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike.

And, as further provided in §48-39-260: “In recognition of its stewardship responsibilities, the policy of South Carolina is to . . . (6) preserve existing public access and promote the enhancement

of public access to assure full enjoyment of the beach by all our citizens including the handicapped and encourage the purchase of lands adjacent to the Atlantic Ocean to enhance public access” This authority makes clear that the public may not be excluded from walking or otherwise recreating on State beaches. Accordingly, even if Plaintiff is in a chain of title to a grant that covers the beach, a point that has not been established², Plaintiff cannot bring a quiet title action against the defendants that would bar them from access to the beach.

These conclusions are consistent with the public trust doctrine, as discussed above, and with the Supreme Court’s acknowledgment of the public nature of the State’s Atlantic Ocean shoreline. “The public trust doctrine . . . is the guiding principle behind the [Coastal Zone Management Act] CZMA. Under that doctrine, any use of tidelands must be to the public benefit” *Kiawah Dev. Partners, II, supra*, 411 S.C. at 41, 766 S.E.2d at 722. *See also, Smiley v. SCDHEC*, 374 S.C. 326, 649 S. E.2d 31 (2007).³

NON-BEACH PORTION OF PROPERTY

To the extent that the survey shows that the property claimed is marshland rather than beach, summary judgment is denied. Although Plaintiff has, so far, failed to provide a survey as to the property or a report of the conclusions of its surveyor, fact issues clearly remain in this suit.

² Plaintiff has, so far, not produced a survey showing the location of the claimed property in relation to the 1891 grant. Therefore, we do not know if the granted land is partially or fully underwater now or whether it is aligned with the property claimed by Plaintiff.

³ In *Smiley*, the Court reversed the Court of Appeals’ conclusion that Smiley lacked constitutional standing, or the ability to establish injury, arising from a permit issued for a beach renourishment project. The appellate record included an affidavit from Smiley in which he stated that his use of the “flat, hard public beach on the Isle of Palms” was essential to his rehabilitation. He noted, also, his general enjoyment of the public beach and the disruption of the renourishment project. The Supreme Court concluded that the statements in the Affidavit clearly demonstrated a “stake in the outcome” which would allow Smiley to proceed with his challenge to the renourishment permit.

Therefore, summary judgment is denied as to any marshland claimed. Rule 56, *supra*.

CONCLUSION

For the foregoing reasons, this Court grants summary judgment for the defendants in this case to the extent that the property at issue is beach. As to any portion of the claim that is not beach, summary judgment is denied. The Plaintiff shall be allowed a continuance of the trial date and 30 days from the date of this Order to survey any non-beach portion of the claim, as this claim may allow for many of the defendants (who may no longer be affected by the claim) to be dropped from the suit. The survey should identify which part of the property at issue is beach and what is not, and the survey should identify where the 1891 grant is located in relation to the property claimed today. The survey must be provided to the parties upon completion.

Within 15 days of the completion of the survey, the Plaintiff shall notify the Court and the parties whether it intends to proceed on the basis of the existing pleadings and, if not, it must by that date move to amend the complaint based on the aforementioned survey. Depending upon how Plaintiff proceeds, this Court will issue an additional order allowing for a short period of discovery and deposition in relation to the survey and time for defendants to retain a surveyor if they should so choose.

AND IT IS SO ORDERED

[Electronic signature of Marvin H. Dukes, III, Master in Equity, follows]



Beaufort Common Pleas

Case Caption: Coffin Point Plantation Homeowners Association Inc VS South Carolina State Of , defendant, et al
Case Number: 2018CP0702109
Type: Order/Summary Judgment

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2022-02-02 10:48:31 page 7 of 7

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2018-CP-07-02109

COFFIN POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.)

Plaintiff,)

vs.)

ORDER FOR PUBLICATION

THE STATE OF SOUTH CAROLINA,)
ESTATE OF CHARLES H. LYMAN,)
THE ST. HELENA COMPANY, ITS)
SUCCESSORS OR ASSIGNS, THE)
ESTATE OF J.D. CAMERON a/k/a)
J. DONALD CAMERON, THE ESTATE)
OF J.E. MCTEER, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN)
HAVING ANY INTEREST, TITLE,)
ESTATE OR INTEREST IN OR LIEN)
UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER)
SOURCE BEING DESIGNATED)
COLLECTIVELY AS JOHN DOE AND)
MARY ROE INCLUDING ALL PERSONS)
WHO MAY BE DECEASED, MINORS,)
PERSONS IN THE ARMED FORCES OF)
THE UNITED STATES, INSANE OR)
INCOMPETENT PERSONS, AND ALL)
OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR)
CLAIM TO HAVE ANY RIGHT, TITLE,)
OR INTEREST IN OR LIEN UPON THE)
REAL PROPERTY DESCRIBED IN THE)
COMPLAINT,)

Defendants.)

It appearing to the satisfaction of this Court from the Petition and the pleadings which

have been filed in this action, that the Defendants, JOHN DOE and RICHARD ROE (fictitious names being used as the true names of such persons who are unknown to the Plaintiff), representing all persons unknown claiming any right, title, interest or estate in or to, or lien upon, the property involved in this action, cannot, after due diligence, be found within this State; that their residences are not known and cannot with due diligence be ascertained by the Plaintiff; that they are property parties to this action which relates to real estate within this State, in which real property the said Defendants may claim an interest; and, that the relief demanded by the Plaintiff consists partly in excluding said Defendants from any interest in said property. Now, on motion of H. Fred Kuhn, Jr., Esquire, attorney for the Plaintiff, it is hereby

ORDERED, that the Summons, a copy of which is hereunto annexed, be served by publication of the same in The Island News, a newspaper published in the County of Beaufort, South Carolina once a week for three (3) consecutive weeks.

JERRI ANN ROSENEAU, CLERK OF COURT
FOR THE FOURTEENTH JUDICIAL CIRCUIT

Beaufort, South Carolina
_____, 2019



Common Pleas

Case Caption: Coffin Point Plantation Property Owners Association Inc VS South Carolina State Of , defendant, et al
Case Number: 2018CP0702109
Type: Order/Publication

So Ordered

s/Jerri Ann Roseneau, Beaufort County Clerk of Court

Electronically signed on 2019-03-13 16:35:27 page 3 of 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-07-02109

COFFIN POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.)

Plaintiff,)

vs.)

ORDER APPOINTING
GUARDIAN *AD LITEM*

THE STATE OF SOUTH CAROLINA,)
ESTATE OF CHARLES H. LYMAN,)
THE ST. HELENA COMPANY, ITS)
SUCCESSORS OR ASSIGNS, THE)
ESTATE OF J.D. CAMERON a/k/a)
J. DONALD CAMERON, THE ESTATE)
OF J.E. MCTEER, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN)
HAVING ANY INTEREST, TITLE,)
ESTATE OR INTEREST IN OR LIEN)
UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER)
SOURCE BEING DESIGNATED)
COLLECTIVELY AS JOHN DOE AND)
MARY ROE INCLUDING ALL PERSONS)
WHO MAY BE DECEASED, MINORS,)
PERSONS IN THE ARMED FORCES OF)
THE UNITED STATES, INSANE OR)
INCOMPETENT PERSONS, AND ALL)
OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR)
CLAIM TO HAVE ANY RIGHT, TITLE,)
OR INTEREST IN OR LIEN UPON THE)
REAL PROPERTY DESCRIBED IN THE)
COMPLAINT,)

Defendants.)

It appearing from the Petition in this matter that a Guardian *ad Litem* is necessary to represent any and all unknown persons with an interest in the subject property, as well as minor heirs and persons under disability or in the military service, and that Ralph V. Baldwin, Esquire is a suitable and proper person to act as such Guardian *ad Litem*.

NOW THEREFORE, it is

HEREBY ORDERED, that Ralph V. Baldwin, Esquire, be and hereby is appointed to act as Guardian *ad Litem* for JOHN DOE and RICHARD ROE, and all unknown persons with an interest in the subject property, minor heirs, and persons under disability or in the military service, in the above captioned matter.

JERRI ANN ROSENEAU, CLERK OF COURT
FOR THE FOURTEENTH JUDICIAL CIRCUIT

Beaufort, South Carolina

_____, 2019



Common Pleas

Case Caption: Coffin Point Plantation Property Owners Association Inc VS South Carolina State Of , defendant, et al
Case Number: 2018CP0702109
Type: Order/Appointment Of Guardian Ad Litem

So Ordered

s/Jerri Ann Roseneau, Beaufort County Clerk of Court

Electronically signed on 2019-02-20 08:30:00 page 3 of 3

ELECTRONICALLY FILED - 2019 Feb 19 8:21 AM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO.: 2018-CP-07-02109
)	
COFFIN POINT PLANTATION HOMEOWNERS ASSOCIATION, INC.,)	
)	
Plaintiffs,	)	MOTION TO RECONSIDER, ALTER OR
vs.	)	AMEND JUDGMENT (RULE 59(e), SCRPC
)	
THE STATE OF SOUTH CAROLINA, et al.)	
)	
Defendants.)	
_____)	

TO: THE DEFENDANTS ABOVE-NAMED:

PLEASE TAKE NOTICE that the Plaintiff, Coffin Plantation Homeowners Association, Inc., through its undersigned counsel, hereby moves before the Honorable Marvin H. Dukes, III, Master in Equity for Beaufort County, for an Order reconsidering, altering, and amending that Order Granting Partial Summary Judgment filed February 2, 2022 by issuing an Order denying summary judgment.

In its Order Granting Partial Summary Judgment, the Court granted summary judgment for the Defendants in this case to the extent that the property at issue is a beach. In so doing, the Court relied upon S.C. Code Ann. §48-39-220, which expressly does not apply to beaches. It is respectfully submitted that the Court's interpretation of, and reliance on, §48-39-220 is misplaced.

Contrary to the conclusion set forth in the Order Granting Partial Summary Judgment, §48-39-220 does not prohibit an action to establish title to beaches. By the express language of the statute, it simply does not apply to any action to establish title to beaches. ("Any person claiming an interest in tidelands which, for the purpose of this section, means all lands except beaches . . .")

(emphasis added)). In other words, this statute simply has no application whatsoever to an action to establish title to a beach.

The Court correctly notes in the Order Granting Partial Summary Judgment that it is currently the public policy of South Carolina to hold tidelands and beaches in trust for the people of South Carolina. This public policy, however, applies only to tidelands and beaches that are owned by the State of South Carolina, not to privately owned property. In *Hollier v. State*, 428 S.C. 279, 291, 833 S.E.2d 845, 852 (Ct.App. 2019, Rehearing denied October 17, 2019, Certiorari dismissed January 29, 2020) the Court stated:

“**Our State’s tidelands** are a precious public resource held in trust for the people of South Carolina.”

Id., *emphasis added*. The emphasized language above, can be restated as: “Tidelands that are owned by the State are a precious public resource held in trust for the people of South Carolina.”

In its Order Granting Partial Summary Judgment the Court correctly notes that *Hobonny Club v. McEachern*, 272 S.C. 392, 252 S.E.2d 133 (1979) stands for the proposition that title to lands lying between the mean high-water mark and mean low-water mark is held by the State in trust for public purposes absent a grant from the State or the King of England. See Order, pg. 2 (emphasis added). In this case, the essential element of the “absence of a grant from the State” is missing, inasmuch as this property was expressly granted and sold by the State of South Carolina to a private citizen. As the Court in *Hobonny* noted: “Despite the special status accorded tidelands, the government, and specifically the King of England, had the power to grant, and did in fact grant, tidelands to subjects, who exercised private ownership.” *Id.* The property at issue in this case was sold by the State of South Carolina in 1891, for good and valuable consideration, to a private citizen, Lt. Lyman, who is the Plaintiff’s predecessor in title. The deed from the State to Lt. Lyman was duly recorded and was executed by no less than, among others, the Governor, the Attorney

General, the Comptroller General, and the Treasurer of South Carolina. This deed was recorded in the South Carolina Archives for State Grants, in the South Carolina Secretary of State Book of Public Grants for the State of South Carolina, and, finally, in the Office of the Register of Deeds for Beaufort County, South Carolina. Lt. Lyman thereafter sold this property to the St. Helena Company, which sold it to J.D. Cameron, who sold it to J.E. McTeer. Each of these transactions was accomplished pursuant to a deed duly recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

The bottom line is the State of South Carolina sold this property in 1891 to a private citizen. This sale and conveyance took place long before the General Assembly enacted §48-39-220.

The South Carolina Supreme Court long ago recognized the “sanctity” of private property rights. *Ex Parte Bacot*, 36 S.C. 125, 15 S.E.2d 204 (1892). Although the General Assembly may change the existing law at its pleasure, it may not deprive a person of a vested property right. This is prohibited by both the South Carolina Constitution, as well as the Fifth Amendment to the Constitution of the United States. “The State has no power to divest or impair vested rights, whether such an attempt to do so be made by legislative enactment, by municipal ordinance, or by change in the Constitution of the State.” *Muldrow v. Caldwell*, 173 S.C. 243, 175 S.E. 501 (1934).

In summary, §48-39-220 in no way prohibits an action to establish title to a beach. In fact, it expressly states that it does not apply to an action to establish title to a beach.

Additionally, although it is currently the public policy of South Carolina to hold beaches in trust for the public, that was obviously not the policy back in 1891, when South Carolina sold this property to a private citizen. South Carolina simply does not have the power, by legislative enactment, to divest a private citizen of his property.

It is accordingly respectfully requested that the Court reconsider its Order Granting Partial Summary Judgment and issue an Order Denying Summary Judgment.

Respectfully submitted,

MOSS & KUHN, P.A.

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February 7, 2022

Attorneys for the Plaintiff

enhance public access”) see also, §48-39-250.² This authority makes clear that the public may not be excluded from walking or otherwise recreating on State beaches. Therefore, even if Plaintiff, *arguendo*, could establish title to any beach, such an order would not be enforceable against persons recreating on the beach.

CONCLUSION

Plaintiff does not request reconsideration of other parts of this Court’s Order including the surveying. For the above reasons Plaintiff’s Motion should be denied.

Respectfully submitted,

s/ J. EMORY SMITH, JR.
S.C. Bar No. 5262
Deputy Solicitor General

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February 24, 2022

ATTORNEYS FOR THE STATE

² . As stated in §48-39-250:

(1) The beach/dune system along the coast of South Carolina is extremely important to the people of this State and serves the following functions: . . . (8) It is in the state's best interest to protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO.: 2018-CP-07-02109
)	
COFFIN POINT PLANTATION HOMEOWNERS ASSOCIATION, INC.,)	
)	
)	
Plaintiffs,	)	PLAINTIFF'S RESPONSE TO COURT'S
vs.	)	QUESTION RE APPLICABILITY OF §48-3
	)	220 TO BEACHES
THE STATE OF SOUTH CAROLINA, et al.)	
)	
Defendants.)	
)	

This Memorandum is respectfully submitted on behalf of the Plaintiff, Coffin Point Planation Homeowners Association, Inc.

I. FACTUAL BACKGROUND

A meeting was held on September 8, 1891 in Columbia, South Carolina by the Board of Commissioners of the Sinking Fund for the State of South Carolina ("Board of Commissioners"). The Board consisted of the Governor of the State of South Carolina (The Honorable B.R. Tillman), as well as the Attorney General for the State of South Carolina, the Comptroller General for the State of South Carolina, the South Carolina State Treasurer, and the Chairman of the South Carolina Senate Finance Committee. The purpose of the meeting was to consider the application of Lt. Charles H. Lyman for the purchase of the 164.13 acres of vacant "marsh land" between the high and low water mark on St. Helena Island in Beaufort County, South Carolina. As a result of that meeting, the Board of Commissioners approved Lt. Lyman's application for said purchase at the cost of \$1.00 per acre. The minutes of this meeting were officially memorialized at page 165 in the Minutes Book of the Commissioners of the Sinking Fund for the State of South Carolina.

In accordance with the aforesaid approval, a Deed and Land Grant was executed by the State of South Carolina in accordance with acts of the General Assembly in relation to vacant lands. Pursuant to this Deed and Land Grant the State of South Carolina, as Grantor, for and in consideration of the sum of \$164.00 paid to the Secretary of State by Lt. Lyman, granted, bargained, sold and conveyed to Charles H. Lyman, his heirs and assigns forever, 164.13 acres of real property, consisting of Lots A and B. The current litigation is concerned only with Lot B, which is described in the foregoing Deed as follows:

All that piece, parcel, plantation, or tract of vacant land, situated in St. Helena Township in Beaufort County, State of South Carolina containing 50.13 acres, more or less, being marsh land between the high and low water mark on St. Helena Island lying to the northwest, north, and northeast of Coffin Point Planation, being Lot "B" containing 50.13 acres more or less, having such shape, form and marks as are represented by a plat of said land on file in the Office of the Secretary of State in Book 2 of Public Land Plats, Page 22, together with all woods, trees, water courses, profits, commodities, appurtenances and hereditaments whatsoever thereunto belonging; reserving nevertheless to the State of South Carolina all mineral and phosphate rights and the right of the said State of South Carolina to the exclusive use, control and ownership of all mineral and phosphate deposits on the premises hereby granted; to have and to hold the said tract of 50.13 acres of land, all singular, over the premises hereby granted unto the said Charles H. Lyman, his successors and assigns, forever, in free in common soccage.

As noted above, Lot B is described in the Deed as "being marsh land between the high and low water mark."

The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Layman, his heirs and assigns, forever, was executed by his Excellency, B.R. Tillman, Governor of the State of South Carolina, and J. E. Tindall, Secretary of State of the State of South Carolina on November 30, 1981. On that same day, it was duly recorded in the Office of the Commissioners of the Sinking Fund of South Carolina in Vol. 91 at Page 58 of the South Carolina Archives for State Grants.

The aforesaid Deed and Land Grant was additionally duly recorded by the South Carolina Secretary of State in the Book of Public Grants for the State of South Carolina in Record Book 2 at Page 22.

Finally, this Deed and Land Grant from the State of South Carolina to Charles H. Lyman was recorded one more time, this time in Deed Book 19 at Page 86 in the Office of the Register of Deeds for Beaufort County, South Carolina.

The plat referenced in the foregoing Deed and Land Grant is a plat prepared by H. G. Judd, Surveyor, on August 13, 1891, and re-surveyed on June 12, 1892. It is recorded in the Office of the Secretary of State for South Carolina in Book 2 of Public Land Plats at Page 22. It was also filed with the South Carolina Department of Archives and History in its "Sinking Fund Miscellaneous Plats" at pages 298-99. This plat shows both Lot A (containing 114 acres) and Lot B. The plat contains a certification by the surveyor that he has been "well acquainted" with this tract of land for at least 25 years. In this certification he describes the property as "marsh land" states that "the same is actually and bona fide vacant land." In this certification he describes Lot B as "the line of beach extending from the mouth of Coffin Creek along the southerly margin of Morgan River, and then along the easterly line of the Coffin Point place 171 chains, with a width of 3 chains between high and low water marks; and find that the space between said lines contains 50 acres & three tenths." Lot B is precisely shown on the plat, with courses, metes, bounds, and distances.

On December 21, 1891 Lt. Lyman sold the subject real property to the St. Helena Company pursuant to a Deed recorded in Deed Book 19 at Page 87 in the Office of the Register of Deeds for Beaufort County, South Carolina.

Thereafter, the St. Helena Company sold this property to J.D. Cameron on February 21, 1914 pursuant to a Deed recorded in Deed Book 32 at Page 182 in the Office of the Register of Deeds for Beaufort County, South Carolina.

On March 31, 1953 J. D. Cameron, who is also known as J. Donald Cameron, through is Trustees, the Fidelity-Philadelphia Trust Company and J. Gardner Bradley, sold the property to J. E. McTeer pursuant to a Deed recorded in Deed Book 70 at Page 556 in the Office of the Register of Deeds for Beaufort County, South Carolina.

J. E. McTeer subsequently sold Lot A, but he retained ownership of Lot B until the time of his passing. Lot B is now “heirs property,” which is the reason this quiet title action was filed.

II. APPLICABILITY OF §48-39-220

Section 48-39-220 of the South Carolina Code of Laws allows any person who claims an interest in “tidelands” to bring an action against South Carolina for the purpose of determining the existence of any right, title or interest of such person to such tidelands against the State. This section expressly provides that it does not apply to “beaches.”

Under the statute, “tidelands” and “beaches” are precisely defined. Whether Lot B is a “tideland” or a “beach” or a combination of both, is a question of fact. Questions of fact, of course, are not appropriate for resolution by summary judgment.

Assuming for the sake of argument that all or a portion of Lot B is a “tideland,” then §48-39-220 expressly allows an action for a private citizen to establish an interest in the subject tideland.

Assuming, for the sake or argument, that all or a portion of Lot A is a “beach,” there is nothing in §48-39-220 which prohibits a person from bringing an action to establish an ownership interest in a “beach.”

Quite frankly, it does not matter if Lot B is a tideland, a beach, a combination of both, or neither. This is because the State of South Carolina, as recited under Section I, supra, long ago sold Lot B and this sale and conveyance took place before §48-39-220 existed.

The South Carolina Supreme Court long ago recognized the “sanctity” of private property rights. *Ex Parte Bacot*, 36 S.C. 125, 15 S.E.2d 204 (1892). Although the General Assembly may change the existing law at its pleasure, it may not deprive a person of a vested property right. This is prohibited by both the South Carolina Constitution, as well as the Fifth Amendment to the Constitution of the United States. “The State has no power to divest or impair vested rights, whether such an attempt to do so be made by legislative enactment, by municipal ordinance, or by change in the Constitution of the State.” *Muldrow v. Caldwell*, 173 S.C. 243, 175 S.E. 501 (1934).

CONCLUSION

Whether Lot B is tidelands, beaches, a combination of both, or neither, is a factual issue inappropriate for resolution by summary judgment. By its express terms, §48-39-220 does not bar this action. In any event, §48-39-220 does not, and cannot, bar this action, inasmuch as the legislature cannot pass a statute that impairs vested property rights.

Respectfully submitted,

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January 10, 2022

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(2014) (“That stretch of sandy beach, a rare feature for a tidal river, is the only sandy beach on the Kiawah River.”); see also, §48-39-10(H)(““Beaches’ means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.”)

If this property is a beach, the State has located no case setting a standard for beaches that is different from the presumption of State ownership and burden for overcoming that presumption which is applied to tidelands between mean high and low water.¹ That burden for tidelands is heavy and Plaintiff has failed to overcome it. For the reasons set forth in the State’s previous Memorandum in Support of Summary Judgment and Supplemental Memorandum, Judgment should be granted to the State because of Plaintiff’s failure to prove its case. Plaintiff never filed any memorandum in opposition to the State’s Motion and its last minute disclosure of the names of a surveyor and title expert is insufficient as well as belated in that Plaintiff did not provide a summary of their opinions.

Even if, *arguendo*, Plaintiff had shown that the property is beach and that it was conveyed by the grant, under State law, Plaintiff could not exclude others from walking or otherwise engaging in recreational activities on the beach. As stated in §48-39-250:

(1) The beach/dune system along the coast of South Carolina is extremely important to the people of this State and serves the following functions: . . .

(b) provides the basis for a tourism industry that generates approximately two-thirds of South Carolina's annual tourism industry revenue which constitutes a significant portion of the state's economy. The tourists who come to the South

¹ Title to lands lying between the mean high water mark and mean low water mark is held by the State in trust for public purposes absent a grant from the State or the King of England. See *Hobonny Club v. McEachern*, 272 S.C. 392, 252 S.E. 2d 133 (1979). The burden rests upon the claimants to prove that the State had granted title to the lands in question to them or their predecessors in title. *State v. Yelsen Land Co.*, 265 S.C. 78, 216 S.E. 2d 876 (1975). “[O]ne claiming an interest in tidelands pursuant to section 48-39-220(A) must convince the court that the State intended to include the tidelands within the boundaries expressed in the deed.” *Hoyle v. State*, 428 S.C. 279, 292, 833 S.E.2d 845, 852 (Ct. App. 2019), reh'g denied (Oct. 17, 2019), cert. dismissed (Jan. 29, 2020) [emphasis added].

Carolina coast to enjoy the ocean and dry sand beach contribute significantly to state and local tax revenues; . . .

(d) provides a natural healthy environment for the citizens of South Carolina to spend leisure time which serves their physical and mental well-being.

* * *

(8) It is in the state's best interest to protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike.

And as further provided in §48-39-260: "In recognition of its stewardship responsibilities, the policy of South Carolina is to . . . (6) preserve existing public access and promote the enhancement of public access to assure full enjoyment of the beach by all our citizens including the handicapped and encourage the purchase of lands adjacent to the Atlantic Ocean to enhance public access" This authority makes clear that the public may not be excluded from walking or otherwise recreating on State beaches.

CONCLUSION

Because of Plaintiff's failure to provide information about the property including its surveyor's opinion, the Plaintiff has not established whether the property is a beach. If it is a beach, no case appears to bar a suit to establish ownership even though §48-39-220 does not authorize such suits; however, Plaintiff must meet standards of overcoming the State's presumptive ownership of tidelands including beaches and has failed to do so. Even if Plaintiff could meet that burden, the Plaintiff could not exclude the public from recreational activities on the beach below mean high water; however, Plaintiff's case does not get that far. Plaintiff has not come forward with evidence to rebut the State's Motion for Summary Judgment and has filed no response to it whatsoever. The State's Motion for Summary Judgment should be granted.

[Signature block on next page]

Respectfully submitted,

s/ J. EMORY SMITH, JR.
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Deputy Solicitor General

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ROBERT D. COOK
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January 5, 2022

ATTORNEYS FOR THE STATE

“Necessarily, the claimant must show that the language of the conveyance is specific enough to determine a reasonably precise location of its boundaries so that members of the public will not be excluded from property rightfully belonging to them.” *Id.* [emphasis added]. Further, a grant from the sovereign to a subject is construed strictly in favor of the government and against the grantee. *Hobonny Club, supra*, 252 S.E.2d at 135-36, 272 S.C. at 396.

Although no tidelands case appears to address expressly the burden of proof, cases indicate that a standard of clear and convincing evidence must be applied to overcome the State’s presumptive ownership of tidelands. *Hoyler, supra*, certainly did so (“[O]ne claiming an interest in tidelands . . . must convince the court” (emphasis added)); *Lowcountry Open Land Tr. v. State*, 347 S.C. 96, 104, 552 S.E.2d 778, 783 (Ct. App. 2001) (“These facts convince us the master correctly ruled the grant from the State of South Carolina intended to convey fee simple title of the tidelands to Peronneau.” (emphasis added)).

Regardless of what burden of proof applies, Plaintiff has utterly failed to meet its burden and show that it is entitled to judgment as a matter of law. As more fully discussed below, Plaintiff has not produced a current description of the property claimed, has not proved that the property claimed today is in a chain with deeds that it has produced, and has not produced experts commonly used in tidelands cases, a title abstractor / examiner and a surveyor.

GROUNDS FOR JUDGMENT FOR THE STATE

1. The grant produced by Plaintiff references a plat which has courses and distances marked on it and a line delineating its perimeter, but Plaintiff has produced no current legal description of the property from which a determination can be made that the property claimed today is completely encompassed by the property granted in 1891.

2. Plaintiff has produced no documents to support its allegations regarding the chain

of title to the property claimed from the deed to J. E. McTeer in 1953 to the present. See, ¶¶ 12¹, 14, 15 and 16, Amended Complaint. Plaintiff has designated no title abstractor or other expert as to chain of title.

2. Plaintiff has designated no surveyor or other expert who is qualified to testify that the grant from the State applies to the property at issue. Surveyors are normally used in tidelands cases. As stated in, *Hobonny Club, Inc. v. McEachern*, 272 S.C. 392, 395, 252 S.E.2d 133, 135 (1979):

These two plats have been certified in the record by a licensed professional engineer to be accurate with respect to the specified acreage when measured and computed with modern instruments, and he has further certified the boundaries to be accurately relocatable on the ground by contemporary engineering methods. The engineer has graphically demonstrated the relocatability of the boundaries by the preparation of two overlays to a 1973 aerial photograph of the property, which are exhibits in the record. . . . It is undisputed that the boundaries are accurately relocatable on the ground by contemporary engineering methods.

See also Hoyle v. State, 428 S.C. 279, 295-297, 833 S.E.2d 845, 854-855 (Ct. App. 2019), reh'g denied (Oct. 17, 2019), cert. dismissed (Jan. 29, 2020); *Grant v. State*, 395 S.C. 225, 717 S.E.2d 96 (Ct. App. 2011)(use of surveyors). Plaintiff should have retained a surveyor to meet its burden of proof that its property is encompassed within the property granted by the State.

3. Because Plaintiff has not produced a current legal description of the property it is claiming and designated a surveyor, we do not know whether Plaintiff is claiming any land below mean low water. Any lands below low water claimed by Plaintiff would belong to the State regardless of the applicability of the grant. Any grant from the sovereign does not include land below the mean low water of tidal navigable streams in that title remains in the State absent a specific act of the legislature. *State v. Pacific Guano Co.*, 22 S.C. 50, 83–84 (1884) (“the beds

¹ Although Plaintiff referenced the will of Mr. McTeer in Paragraph 12 of its Amended Complaint and in its response to the State’s Production Requests, Plaintiff does not appear to have produced the will.

of such [tidal] channels below low water mark are not held by the state simply as vacant lands, subject to grant to settlers in the usual way through the land office . . . it would seem to follow that in order to give effect to an alienation which the state might undertake to make it would be necessary to have a special act of the legislature expressing in terms and formally such intention.”); *see also*, *State v. Head*, 330 S.C. 79, 498 S. E. 2d 389 (Ct. App. 1997); S.C. Const. art. XIV, § 4 (“All navigable waters shall forever remain public highways free to the citizens of the State”) Form language in grants about “waters [and] watercourses . . .” do not convey navigable streams or even other land below mean high water as the South Carolina Supreme Court has held that it is insufficient to convey land below mean high water. *State v. Fain*, 273 S.C. 748, 754, 259 S.E.2d 606, 609 (1979).²

4. The Plaintiff has otherwise failed to state facts sufficient to constitute a cause of action as for ownership of the property at issue.

CONCLUSION

Plaintiff has completely failed to prove its case. Summary judgment should be granted to the State.

Respectfully submitted,

/s J. EMORY SMITH, JR.
S.C. Bar No. 5262
Deputy Solicitor General

[Signature block continues next page]

² As stated in *Fain*: “The trial court in its rulings gave significance to the following formal language of the grants: ‘Together with all Woods Underwoods Timber and Timber Trees Lakes Ponds Fishings Waters Water Courses Profits Commodities Emoluments Appurtenances and Hereditaments whatsoever thereto belonging or in any wise Appertaining’ (Emphasis added). It construed the emphasized words as indicative of an intent to include tidelands. This rationale was considered and rejected in *Cape Romain, supra*. See dissenting opinion of Justice Cothran. *Id.* 148 S.C. at 443, 146 S.E. at 440.”

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November 1, 2021

ATTORNEYS FOR THE STATE

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)	
)	
Coffin Point Plantation	)	C/A No. 2018CP0702109
Homeowners Association, Inc.,)	
)	
Plaintiff,	)	SUPPLEMENTAL MEMORANDUM TO
	)	STATE OF SOUTH CAROLINA’S
vs.	)	MOTION FOR SUMMARY
	)	JUDGMENT
State of South Carolina, et al,)	
)	
Defendants.)	
)	

The State supplements paragraph No. 2, pages 2 and 3, of its Motion for Summary Judgment as follows. The State corrects footnote 1 therein to note that over a month after submitting responses to the State’s Production Requests, Plaintiff did produce the 1976 McTeer will and quitclaim deeds from his heirs to Coffin Point; however, those documents are not sufficient to establish title in Plaintiff. The will does not identify the property at issue as being part of the Estate nor does any other produced document show whether McTeer owned the property then or when he died in 1980. Plaintiff did not produce a deed of distribution of the property by the McTeer Estate to his heirs. The quitclaim deeds from several heirs to Coffin Point were executed eight months to nearly a year after this action was brought and nearly 40 years after McTeer died. No document produced confirms a chain from the McTeer will to those heirs or whether all heirs participated in quitclaiming their interests (Plaintiff’s Interrogatory Responses states that counsel interviewed the heirs). Coffin Point has disclosed no expert as to chain of title. In short, Plaintiff has not established a chain of title to the property and does not have standing.

Although *State ex rel. McLeod v. Sloan Const. Co.*, 284 S.C. 491, 494, 328 S.E.2d 84, 86 (Ct. App. 1985) stated that “[h]aving admitted it divested itself, as sovereign, of title in 1767, the

State [could not] rely on alleged defects in [the Defendant] Sloan's chain of title to regain ownership of what was granted," that case is not applicable here. In the instant case, the State has not admitted that it gave up title to the property at issue nor has it brought an action, as in *Sloan*, to reclaim the property. Instead, the State insists that Coffin Point must prove that the State has granted the land in question to its predecessors in title, and Plaintiff has not done so. *State v. Yelsen Land Co.*, 265 S.C. 78, 216 S.E.2d 876 (1975). Plaintiff has not established that it is in a chain of title to the property, and accordingly, it lacks standing to sue the State for title. Coffin Point also has no surveyor to establish that the property Plaintiff claims today is what was granted by the State.

Summary Judgment should be granted to the State for these reasons and the others discussed in its Motion including the failure to designate a surveyor.

Respectfully submitted,

s/ J. EMORY SMITH, JR.
S.C. Bar No. 5262
Deputy Solicitor General

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3680
(803)734-3677 (Fax)
esmith@scag.gov

December 15, 2021

ATTORNEYS FOR THE STATE

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT	)	C/A NO: 2018CP0702109
)	
COFFIN POINT PLANTATION)	
PROPERTY OWNERS ASSOCIATION,)	
INC.,)	
	)	STATE'S MOTION TO DISMISS
Plaintiff,)	
)	
v.)	
)	
THE STATE OF SOUTH CAROLINA,)	
ET AL,)	
)	
Defendants.)	
_____)	

The Defendant State of South Carolina moves for the dismissal of the Complaint herein pursuant to Rules 12(b)(1) and (6), SCRPC in that, for reasons set forth below, this Court lacks subject matter jurisdiction of this action, and Plaintiff has failed to state facts sufficient to constitute a cause of action:

1. Plaintiff has no standing.
2. Plaintiff has alleged no case or controversy.
3. This matter is not ripe for adjudication.
4. Plaintiff is not the real party in interest. (12(b)(6) only)
5. Plaintiff has failed to state facts sufficient to constitute a cause of action

For the foregoing reasons, the State respectfully requests that this case be dismissed.

Respectfully submitted,

/s J. EMORY SMITH, JR.

S.C. Bar No. 5262
Deputy Solicitor General

[Signature block continues next page]

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
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Email: esmith@scag.gov

April 18, 2019

ATTORNEYS FOR THE STATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018CP0702109

COFFIN POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.)

Plaintiff,)

vs.)
ANSWER)

MOTION TO DISMISS

THE STATE OF SOUTH CAROLINA,)
ESTATE OF CHARLES H. LYMAN)
THE ST. HELENA COMPANY, ITS)
SUCCESSORS OR ASSIGNS, THE)
ESTATE OF J.D. CAMERON A/K/A)
J. DONALD CAMERON, THE ESTATE)
OF J.E. MCTEER, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN)
HAVING ANY INTEREST, TITLE)
ESTATE OR INTEREST IN OR LEIN)
UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER)
SOURCE BEING DESIGNATED)
COLLECTIVELY AS JOHN DOE AND)
MARY ROE INCLUDING ALL PERSONS)
WHO MAY BE DECEASED, MINORS,)
PERSONS IN THE ARMED FORCES OF)
THE UNITED STATES, INSANE OR)
INCOMPETENT PERSONS, AND ALL)
OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR)
CLAIM TO HAVE ANY RIGHT, TITLE,)
OR INTEREST IN OR LIEN UPON THE)
REAL PROPERTY DESCRIBED IN THE)
COMPLAINT,)

Defendants,)

FILED
CLERK OF COURT
JAN 10 2019
COURT OF COMMON PLEAS
BEAUFORT COUNTY
SOUTH CAROLINA

The Defendant, SCOT F. HERSH, appearing Pro Se, moves for the dismissal of the Complaint herein, pursuant to Rule 12, SCRPC, in that, for reasons set forth below, this Court lacks subject matter jurisdiction of this action, and Plaintiff has failed to state facts sufficient to constitute a cause of action.

1. PLAINTIFF HAS FAILED TO NAME INDISPENSABLE PARTIES

Plaintiff has failed to name indispensable parties, upon information and belief, in that J.E. McTeer transferred a portion of his interest in the property consisting of approximately 50 (Fifty) acres, as described in paragraph 4, of Plaintiffs Complaint and delineated as Lot B, and all lands owned by him contiguous to Lot B to F.W. SCHEPER III & COLDEN R. BATTEY, JR., by Deed dated 1967, who thereafter sold / transferred to RICHARD J SCHRIVER & RICHARD C. GUTHRIDGE, Deed dated 8th of May, 1973, who thereafter developed the property, together with a portion of the marsh land delineated in Lot "B" as described in paragraph 4 of Plaintiffs Complaint, who thereafter sold lots along the tidelands of St Helena Sound, whose boundaries include property within the confines of Lot "B" as described in Plaintiffs Complaint.

Plaintiff has failed to name interested parties known or that should be known to the Plaintiff who have an interest in this action and the subject matter property, as their properties are contiguous with /to and abut a portion of the subject matter property.

2. INSUFFICIENCY OF PROCESS

Plaintiff has failed to effectuate proper service.

3. INSUFFICIENCY OF SERVICE OF PROCESS

4. PLAINTIFF HAS NO STANDING

The entitled Plaintiff, CPPPOA INC., has no interest in the property, and upon information and belief is not a legal entity, does not exist and has no standing

5. THE MATTER IS NOT RIPE FOR ADJUDICATION

The Estate of J.E. McTeer, (File W-MC-078) was admitted to Probate in Beaufort County, SC in 1980, and is Plene Administravit, closed, precluding action by the Plaintiff on its behalf.

CPPPOA INC Is not a legal representative or appointee of the Estate of JE McTeer or its heirs at law.

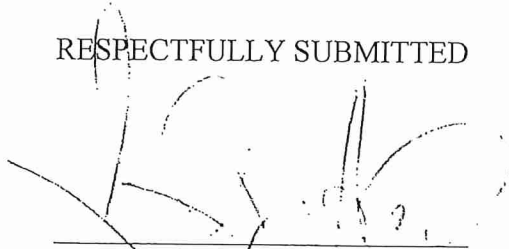
6. PLAINTIFF IS NOT A REAL PARTY IN INTEREST

CPPPOA INC. has no interest in the property, is not a representative of the McTeer Estate or otherwise authorized to appear in this matter in a representative capacity.

7. PLAINTIFF HAS FAILED TO STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION

WHEREFORE, Defendant, SCOT F. HERSH, appearing Pro Se by permission of the Court, hereby prays that this Court will inquire into the matters alleged herein and issue its Order, dismissing the Complaint, and for such other and further relief as this Court deems just and appropriate.

RESPECTFULLY SUBMITTED



SCOT F. HERSH, Pro Se
47 Saltwind Drive
St. Helena Island, SC 299
(914) 557-2353
Sfhesq25@aol.com

MAY 2, 2019

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
COFFIN POINT PLANTATION PROPERTY OWNERS ASSOC, INC)
 Plaintiff,)
 vs.)
THE STATE OF SOUTH CAROLINA, et al)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 _____ JUDICIAL CIRCUIT
 CASE NO.: 2018 -CP- 070 - 2109

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: <u>H. FRED KUHN, JR.</u> , Bar No. _____ Address: <u>1501 North St., P.O. Box 507</u> <u>Beaufort, SC 29901</u> Phone: <u>843 524 3373</u> Fax <u>843 734 1302</u> E-mail: <u>fred@mossandkuhn.com</u> Other: _____	Defendant's Attorney: <u>J. EMORY SMITH, JR.</u> , Bar No <u>5262</u> Address: <u>Office of Attorney General, P.O. Box 11549</u> <u>Columbia, SC 29211</u> Phone: <u>803 734 3680</u> Fax: _____ E-mail: <u>jsmith@scag.gov</u> Other: _____										
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)											
SECTION I: Hearing Information											
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES/ <input type="checkbox"/> NO											
SECTION II: Motion/Order Type											
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.											
_____, 20____ Signature of Attorney for <input type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant Date submitted											
SECTION III: Motion Fee											
<input type="checkbox"/> PAID – AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason) <table style="width:100%; border: none;"> <tr> <td><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support</td> <td><input type="checkbox"/> State Agency v. Indigent Party</td> </tr> <tr> <td><input type="checkbox"/> Domestic Abuse or Abuse and Neglect</td> <td><input type="checkbox"/> Post-Conviction Relief</td> </tr> <tr> <td><input type="checkbox"/> Indigent Status</td> <td><input type="checkbox"/> Motion for Stay in Bankruptcy</td> </tr> <tr> <td><input type="checkbox"/> Sexually Violent Predator Act</td> <td><input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)</td> </tr> <tr> <td><input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions</td> <td></td> </tr> </table> Name of Court Reporter: _____ <input type="checkbox"/> Other: _____		<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support	<input type="checkbox"/> State Agency v. Indigent Party	<input type="checkbox"/> Domestic Abuse or Abuse and Neglect	<input type="checkbox"/> Post-Conviction Relief	<input type="checkbox"/> Indigent Status	<input type="checkbox"/> Motion for Stay in Bankruptcy	<input type="checkbox"/> Sexually Violent Predator Act	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)	<input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support	<input type="checkbox"/> State Agency v. Indigent Party										
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<input type="checkbox"/> Indigent Status	<input type="checkbox"/> Motion for Stay in Bankruptcy										
<input type="checkbox"/> Sexually Violent Predator Act	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)										
<input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions											
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____, 20____										
CLERK'S VERIFICATION											
Collected by: _____ Date Filed: _____, 20____											
<input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED – AMOUNT DUE: \$ _____											

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-07-_____

COFFIN POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.)

Plaintiff,)

vs.)

SUMMONS

THE STATE OF SOUTH CAROLINA,)
ESTATE OF CHARLES H. LYMAN,)
THE ST. HELENA COMPANY, ITS)
SUCCESSORS OR ASSIGNS, THE)
ESTATE OF J.D. CAMERON a/k/a)
J. DONALD CAMERON, THE ESTATE)
OF J.E. MCTEER, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN)
HAVING ANY INTEREST, TITLE,)
ESTATE OR INTEREST IN OR LIEN)
UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER)
SOURCE BEING DESIGNATED)
COLLECTIVELY AS JOHN DOE AND)
MARY ROE INCLUDING ALL PERSONS)
WHO MAY BE DECEASED, MINORS,)
PERSONS IN THE ARMED FORCES OF)
THE UNITED STATES, INSANE OR)
INCOMPETENT PERSONS, AND ALL)
OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR)
CLAIM TO HAVE ANY RIGHT, TITLE,)
OR INTEREST IN OR LIEN UPON THE)
REAL PROPERTY DESCRIBED IN THE)
COMPLAINT,)

Defendants.)

_____)

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer upon the subscribed at his office, Post Office Drawer 507/1501 North Street, Beaufort, South Carolina 29901, within thirty (30) days from the service hereof, exclusive of the day of such service; and if you fail to Answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded.

MOSS, KUHN & FLEMING, P.A.

By: /s/ H. Fred Kuhn, Jr.

H. Fred Kuhn, Jr.
1501 North Street
Post Office Drawer 507
Beaufort, South Carolina 29901-0507
(843)524-3373 - telephone
(843)524-1302 - facsimile
Email: fred@mossandkuhn.com
Attorney for the Plaintiff

Beaufort, South Carolina
October 25, 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2018-CP-07-_____

COFFIN POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.,)

Plaintiff,)

vs.)

COMPLAINT
(NON-JURY TRIAL)

THE STATE OF SOUTH CAROLINA,)
ESTATE OF CHARLES H. LYMAN,)
THE ST. HELENA COMPANY, ITS)
SUCCESSORS OR ASSIGNS, THE)
ESTATE OF J.D. CAMERON a/k/a)
J. DONALD CAMERON, THE ESTATE)
OF J.E. MCTEER, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN)
HAVING ANY INTEREST, TITLE,)
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DESCRIBED IN THE COMPLAINT)
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THE UNITED STATES, INSANE OR)
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OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR)
CLAIM TO HAVE ANY RIGHT, TITLE,)
OR INTEREST IN OR LIEN UPON THE)
REAL PROPERTY DESCRIBED IN THE)
COMPLAINT,)

Defendants.)

The Plaintiff, the Coffin Point Plantation Property Owners Association, Inc., would respectfully show unto this Honorable Court as follows:

1. This action is brought to quiet title to certain real property located in the County of Beaufort in the State of South Carolina, as is more particularly described hereinafter.
2. The real property which is the subject of this action is located in the County of Beaufort in the State of South Carolina and this Honorable Court has jurisdiction over the parties, the subject matter, and all matters herein alleged.
3. On or about September 8, 1891 in Columbia, South Carolina the Board of Commissions of the Sinking Fund for the State of South Carolina, consisting of the Honorable B.R. Tillman, Governor of the State of South Carolina, as well as the Attorney General for the State of South Carolina, the Comptroller General for the State of South Carolina, the South Carolina State Treasurer and the Chairman of the South Carolina Senate Finance Committee met to consider the application of Lt. Charles H. Lyman for the purchase of 164.13 acres of vacant marsh land between the high and low water mark in St. Helena Island in Beaufort County, South Carolina, approving said application for said purchase at the cost of \$1.00 per acre, as shown at page 165 in the Minutes Book of the Commissioner of the Sinking Fund for the State of South Carolina.
4. In accordance with the aforesaid approval, and pursuant to a Deed and Land Grant executed by the State of South Carolina, as Grantor, in accordance with the acts of the General Assembly in relation to vacant lands, for and in consideration of the sum of \$164.00, paid to the Secretary of State by Charles H. Lyman, as Grantee, the State of South Carolina granted, bargained, sold and conveyed to Charles H. Lyman, his heirs and assigns forever, the following described real property, to-wit:

All that piece, parcel, plantation, or tract of vacant land, situated in St. Helena Township in Beaufort County, State of South Carolina containing 164.13 acres, more or less, being marsh land between the high and low water mark on St. Helena Island lined to the northwest, north, and northeast of Coffin Point Planation, being Lot "A" containing 114 acres more or less and Lot "B" containing 50.13 acres more or less, having such shape, form and marks as are represented by a plat of said land on file in the Office of the Secretary of State in Book 2 of Public Land Plats, Page 22, together with all woods, trees, water courses, profits, commodities, appurtenances and hereditaments whatsoever thereunto belonging: reserving nevertheless to the State of South Carolina all mineral and phosphate rights and the right of the said State of South Carolina to the exclusive use, control and ownership of all mineral and phosphate deposits on the premises hereby granted; to have and to hold the said tract of 164.13 acres of land, all and singular other the premises hereby granted under the said Charles H. Lyman, his heirs and assigns, forever, in free and common soccage.

5. The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, was executed by his Excellency, B.R. Tillman, Governor of the State of South Carolina and J. E. Tindall, Secretary of State for the State of South Carolina, on the 30th day of November, 1891, and duly recorded in the Office of the Commissioners of the Sinking Fund of South Carolina on November 30, 1891 in Vol. 91 at Page 58 of the South Carolina Archives for State Grants, in conformity with a resolution of a Commissioners of the Sinking Fund directing the same, adopted on the 8th day of September, 1891.

6. The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, was additionally duly recorded by the South Carolina Secretary of State in the Book of Public Grants for the State of South Carolina in Record Book 2 at Page 22.

7. The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, was additionally duly recorded in Deed Book 19 at Page 86 in the Office of the Register of Deeds for Beaufort County, South Carolina.

8. The subject real property granted pursuant to the aforesaid Deed and Land Grant for the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, is more particularly described by a plat prepared by H. G. Judd, Surveyor, on August 13, 1891, and re-surveyed on June 12, 1892, recorded in the Office of the Secretary of State for South Carolina in Book 2 of Public Land Plats at Page 22, and filed with the South Carolina Department of Archives and History in its "Sinking Fund Miscellaneous Plats" at pages 298-99.

9. The subject real property described in Paragraph 2, supra, was thereafter conveyed by Charles H. Lyman to the St. Helena Company on or about December 21, 1891 pursuant to a Deed recorded in Deed Book 19 at Page 87 in the Office of the Register of Deeds for Beaufort County, South Carolina.

10. The subject real property was thereafter conveyed by the St. Helena Company to J. D. Cameron on or about February 21, 1914 pursuant to a Deed recorded in Deed Book 32 at Page 182 in the Office of the Register of Deeds for Beaufort County, South Carolina.

11. The subject real property was thereafter conveyed by J. D. Cameron, who was also known as J. Donald Cameron, through his Trustees, the Fidelity-Philadelphia Trust Company and J. Gardner Bradley, Trustees for J. Donald Cameron under a Deed of Trust of Andrew C. Gray dated November 2, 1914, to J. E. McTeer on or about March 31, 1953 pursuant to a Deed recorded in Deed Book 70 at Page 556 in the Office of the Register of Deeds for Beaufort County, South Carolina. Since March 31, 1952 J. E. McTeer, his heirs and assigns, have possessed the subject real property as owners, and have claimed fee simple absolute title to the subject real property, said possession and claim being under color of title as stated aforesaid, and since that date being continuous, hostile, open, adverse, notorious, and exclusive.

12. J. E. McTeer died testate, a citizen and resident of the County of Beaufort in the State of South Carolina and his Will was admitted to probate in the Beaufort County Probate Court on or about January 4, 1980 in File W-MC-078.

13. The Plaintiff, the Coffin Point Plantation Homeowners Association, Inc., is a non-profit corporation organized under and existing by virtue of the laws of the State of South Carolina with its primary place of business in Beaufort County, South Carolina.

14. For over forty (40) years J.E. McTeer, the Estate of J.E. McTeer, and the heirs and beneficiaries of the Estate of J.E. McTeer (hereinafter collectively "McTeer Heirs") under color of title have claimed, possessed and utilized the subject real property as the owners thereof, and claim fee simple absolute title to the subject real property continuously, hostilely, openly, adversely, notoriously and exclusively.

15. McTeer Heirs, in truth and fact, possess fee simple absolute title to the subject real property by virtue of the chain of title originating from the Deed and Land Grant executed by the State of South Carolina to Charles H. Lyman, their predecessor in title.

16. Upon information and belief, the McTeer Heirs have agreed to assign all their right, title and interest in and to the subject real property to the Coffin Point Plantation Homeowners Association, Inc., for the benefit of the members of the Association.

14. The Defendant the State of South Carolina (the "State") is named as a party Defendant herein inasmuch as the subject real property is located below the high water mark and historically the State holds presumptive title to land below the high water mark. In this case, however, the State's presumptive title is overcome by the specific grant from the sovereign as set forth in Paragraphs 1, 2, 3, 4, and 5, supra.

15. The Defendants John Doe and Mary Roe, are fictitious names used to represent and designate any living heirs or devisees of the Defendants and any other interested parties who are proper Defendants, as well as any other minor, insane or incompetent person, or any person under any disability, if any, but whose names are unknown to the Plaintiff, including any person or persons who claim to have or might have any interest, title, estate or lien upon the real estate described herein.

WHEREFORE, the Plaintiff prays that this Honorable Court inquire into the facts and matters alleged herein and grant the following relief:

- a. Appointment a Guardian *ad Litem* to represent the interests of any minors, persons *non compos mentis*, persons in the armed forces of the United States, unknown Defendants, and persons or entities suffering any other disability;
- b. Refer this matter to the Beaufort County Master in Equity with the authority to enter a final Order directly appealable to the South Carolina Supreme Court;
- c. Enter judgment dissolving any interest, estate, claim, or lien of the Defendants or any other person claiming thereunder on the real property which is the subject of this action;
- d. Issue a judgment removing any cloud and quieting title to the subject real property and confirming the boundaries thereto;
- e. Issue a judgment declaring that the McTeer Heirs are the owners in fee simple absolute of the real property which is the subject of this action extinguishing the claims of any other person or entity;
- f. Issue a judgment resolving all title issues in favor of the McTeer Heirs; and
- g. For such other relief as this Honorable Court may deem to be just and proper.

MOSS, KUHN & FLEMING, P.A.

By: /s/ H. Fred Kuhn, Jr.

H. Fred Kuhn, Jr.
1501 North Street
Post Office Drawer 507
Beaufort, South Carolina 29901-0507
(843)524-3373 - telephone
(843)524-1302 - facsimile
Email: fred@mossandkuhn.com
Attorney for the Plaintiff

Beaufort, South Carolina
October 25, 2018

PROPERTY DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER SOURCE)
BEING DESIGNATED COLLECTIVELY AS)
JOHN DOE AND MARY ROE INCLUDING ALL)
PERSONS WHO MAY BE DECEASED,)
MINORS, PERSONS IN THE ARMED FORCES)
OF THE UNITED STATES OF AMERICA,)
INSANE OR INCOMPETENT PERSONS, AND)
ALL OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR CLAIM)
TO HAVE ANY RIGHT TITLE OR INTEREST)
IN OR LIEN UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT.)
)
Defendants.)
_____)

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer upon the subscribed at his office, Post Office Drawer 507/1501 North Street, Beaufort, South Carolina 29901, within thirty (30) days from the service hereof, exclusive of the day of such service; and if you fail to Answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded.

MOSS, KUHN & FLEMING, P.A.

By: /s/ H. Fred Kuhn, Jr.
H. Fred Kuhn, Jr.
1501 North Street
Post Office Drawer 507
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(843)524-3373 - telephone
(843)524-1302 - facsimile
Email: fred@mossandkuhn.com
Attorney for the Plaintiff

Beaufort, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
COFFIN POINT PLANTATION HOMEOWNERS)
ASSOCIATION, INC.,)

Plaintiffs,)

vs.)

THE STATE OF SOUTH CAROLINA, ESTATE)
OF CHARLES H. LYMAN, THE ST. HELENA)
COMPANY, ITS SUCCESSORS OR ASSIGNS,)
THE ESTATE OF J.D. CAMERON a/k/a J.)
DONALD CAMERON, THE ESTATE OF J.E.)
MCTEER, WILMA CLARK, JEANINE SKOK,)
LAWRENCE CASLER, DEAN MORRISSEY,)
CAROL MORRISSEY, RALPH NETHERLAND,)
GLORIA NETHERLAND, SPECIAL TRUST OF)
WILLIAM B. FAHRNER, MARK HELES,)
BEVERLY HELES, DAVID SMITH, LYNN)
SMITH, LILL, LLC, REVOCABLE LIVING)
TRUST OF THOMAS J. WALTERHOEFER,)
CECILY DEEGAN MCMILLAN, STEVEN)
TEETS, LUCINDA TEETS, BEVERLY)
BOULWARE, RUSSELL WALDON,)
NICOLETTE WALDON, DAVID SHAFFER,)
DELORA COOK, GERALD HARTWIG, CAROL)
HARTWIG, PAULETTE BROWN, BENJAMIN)
COUCH, THOMAS S. CLARK FAMILY LIVING)
TRUST, EUNICETEEN DIGGS, JANET)
KATHLEEN REYNOLDS TRUST, SLADE)
FAMILY REVOCABLE TRUST, DAVID C.)
STROTHER, ANDREW SEWARD, ASHLEY)
MADILON HEATH, ARNOLD HOLLIS,)
LILLIAN HOLLIS, JENNIFER ALLEN, ZIA AS)
EXCHANGE COMPANY, LLC, QUALIFIED)
INTERMEDIARY FOR THE BARBARA J.)
BAILEY LIMITED PARTNERSHIP, TRAVIS)
WASHINGTON, JANET EMBLY, TRUSTEE,)
SCOTT SIMMONS OMARI TRUST, MARY)
HUDSON, RACHELLE CAROLYNNE OWENS)
REVOCABLE TRUST, AND ALL OTHER)
PERSONS KNOWN OR UNKNOWN HAVING)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-07-02109

AMENDED COMPLAINT
(NON-JURY)

ANY INTEREST, TITLE, ESTATE OR)
INTEREST IN OR LIEN UPON THE REAL)
PROPERTY DESCRIBED IN THE COMPLAINT)
HEREIN THROUGH THE ABOVE)
DEFENDANTS OR ANY OTHER SOURCE)
BEING DESIGNATED COLLECTIVELY AS)
JOHN DOE AND MARY ROE INCLUDING ALL)
PERSONS WHO MAY BE DECEASED,)
MINORS, PERSONS IN THE ARMED FORCES)
OF THE UNITED STATES OF AMERICA,)
INSANE OR INCOMPETENT PERSONS, AND)
ALL OTHER PERSONS UNDER ANY OTHER)
DISABILITY WHO MIGHT HAVE OR CLAIM)
TO HAVE ANY RIGHT TITLE OR INTEREST)
IN OR LIEN UPON THE REAL PROPERTY)
DESCRIBED IN THE COMPLAINT.

Defendants.

The Plaintiff, the Coffin Point Plantation Property Owners Association, Inc., would respectfully show unto this Honorable Court as follows:

1. This action is brought to quiet title to certain real property located in the County of Beaufort in the State of South Carolina, as is more particularly described hereinafter.
2. The real property which is the subject of this action is located in the County of Beaufort in the State of South Carolina and this Honorable Court has jurisdiction over the parties, the subject matter, and all matters herein alleged.
3. On or about September 8, 1891 in Columbia, South Carolina the Board of Commissioners of the Sinking Fund for the State of South Carolina (“Board of Commissioners”), consisting of the Honorable B.R. Tillman, Governor of the State of South Carolina, as well as the Attorney General for the State of South Carolina, the Comptroller General for the State of South

Carolina, the South Carolina State Treasurer and the Chairman of the South Carolina Senate Finance Committee met to consider the application of Lt. Charles H. Lyman for the purchase of 164.13 acres of vacant marsh land between the high and low water mark in St. Helena Island in Beaufort County, South Carolina. As a result of this meeting, the Board of Commissioners approved said application for said purchase at the cost of \$1.00 per acre, as memorialized at page 165 in the Minutes Book of the Commissioners of the Sinking Fund for the State of South Carolina.

4. In accordance with the aforesaid approval, and pursuant to a Deed and Land Grant executed by the State of South Carolina, as Grantor, in accordance with the Acts of the General Assembly in relation to vacant lands, for and in consideration of the sum of \$164.00, paid to the Secretary of State by Charles H. Lyman, as Grantee, the State of South Carolina granted, bargained, sold and conveyed to Charles H. Lyman, his heirs and assigns forever, a parcel of real property that included the following described real property, to-wit:

All that piece, parcel, plantation, or tract of vacant land, situated in St. Helena Township in Beaufort County, State of South Carolina containing 50.13 acres, more or less, being marsh land between the high and low water mark on St. Helena Island lying to the northwest, north, and northeast of Coffin Point Planation, being Lot "B" containing 50.13 acres more or less, having such shape, form and marks as are represented by a plat of said land on file in the Office of the Secretary of State in Book 2 of Public Land Plats, Page 22, together with all woods, trees, water courses, profits, commodities, appurtenances and hereditaments whatsoever thereunto belonging: reserving nevertheless to the State of South Carolina all mineral and phosphate rights and the right of the said State of South Carolina to the exclusive use, control and ownership of all mineral and phosphate deposits on the premises hereby granted; to have and to hold the said tract of 50.13 acres of land, all singular, over the premises hereby granted unto the said Charles H. Lyman, his successors and assigns, forever, in free in common soccage.

5. The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, was executed by his Excellency, B.R. Tillman,

Governor of the State of South Carolina and J. E. Tindall, Secretary of State for the State of South Carolina, on the 30th day of November, 1891, and duly recorded in the Office of the Commissioners of the Sinking Fund of South Carolina on November 30, 1891 in Vol. 91 at Page 58 of the South Carolina Archives for State Grants, in conformity with a resolution of the Commissioners of the Sinking Fund directing the same, adopted on the 8th day of September, 1891.

6. The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, was additionally duly recorded by the South Carolina Secretary of State in the Book of Public Grants for the State of South Carolina in Record Book 2 at Page 22.

7. The aforesaid Deed and Land Grant from the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, was additionally duly recorded in Deed Book 19 at Page 86 in the Office of the Register of Deeds for Beaufort County, South Carolina.

8. The subject real property granted pursuant to the aforesaid Deed and Land Grant for the State of South Carolina to Charles H. Lyman, his heirs and assigns, forever, is more particularly described by a plat prepared by H. G. Judd, Surveyor, on August 13, 1891, and re-surveyed on June 12, 1892, recorded in the Office of the Secretary of State for South Carolina in Book 2 of Public Land Plats at Page 22, and filed with the South Carolina Department of Archives and History in its "Sinking Fund Miscellaneous Plats" at pages 298-99.

9. The subject real property described in Paragraph 2, supra, was thereafter conveyed by Charles H. Lyman to the St. Helena Company on or about December 21, 1891 pursuant to a Deed recorded in Deed Book 19 at Page 87 in the Office of the Register of Deeds for Beaufort County, South Carolina.

10. The subject real property was thereafter conveyed by the St. Helena Company to J. D. Cameron on or about February 21, 1914 pursuant to a Deed recorded in Deed Book 32 at Page 182 in the Office of the Register of Deeds for Beaufort County, South Carolina.

11. The subject real property was thereafter conveyed by J. D. Cameron, who was also known as J. Donald Cameron, through his Trustees, the Fidelity-Philadelphia Trust Company and J. Gardner Bradley, Trustees for J. Donald Cameron under a Deed of Trust of Andrew C. Gray dated November 2, 1914, to J. E. McTeer on or about March 31, 1953 pursuant to a Deed recorded in Deed Book 70 at Page 556 in the Office of the Register of Deeds for Beaufort County, South Carolina.

12. J. E. McTeer died testate, a citizen and resident of the County of Beaufort in the State of South Carolina and his Will was admitted to probate in the Beaufort County Probate Court on or about January 4, 1980 in File W-MC-078.

13. The Plaintiff, the Coffin Point Plantation Homeowners Association, Inc., is a non-profit corporation organized under and existing by virtue of the laws of the State of South Carolina with its primary place of business in Beaufort County, South Carolina.

14. Since March 31, 1952 J.E. McTeer, the Estate of J.E. McTeer, and the heirs and beneficiaries of the Estate of J.E. McTeer (hereinafter collectively "McTeer Heirs") under color of title have claimed, possessed and utilized the subject real property as the owners thereof, and claim fee simple absolute title to the subject real property continuously, hostilely, openly, adversely, notoriously and exclusively, allowing its permissive use by others for recreational purposes.

15. The McTeer Heirs, in truth and fact, possess fee simple absolute title to the subject real property by virtue of the chain of title originating from the Deed and Land Grant executed by the State of South Carolina to Charles H. Lyman, their predecessor in title.

16. The McTeer Heirs have assigned all their right, title and interest in and to the subject real property, and have executed a Quitclaim Deed conveying all their right, title and interest in and to the subject real property, to the Coffin Point Plantation Homeowners Association, Inc.

17. The Defendant the State of South Carolina (the "State") is named as a party Defendant herein inasmuch as the subject real property is located below the high water mark and historically the State holds presumptive title to land below the high water mark. In this case, however, the State's presumptive title is overcome by the specific grant from the sovereign as set forth in Paragraphs 3 through 8, supra.

18. The Defendants John Doe and Mary Roe, are fictitious names used to represent and designate any living heirs or devisees of the Defendants and any other interested parties who are proper Defendants, as well as any other minor, insane or incompetent person, or any person under any disability, if any, but whose names are unknown to the Plaintiff, including any person or persons who claim to have or might have any interest, title, estate or lien upon the real estate described herein.

19. The Defendants, Wilma Clark, Jeanine Skok, Lawrence Casler, Dean Morrissey, Carol Morrissey, Ralph E. Netherland, Gloria Netherland, William B. Fahrner Special Trust, Mark Heles, Beverly Heles, David Smith, Lynn Smith, LiLi, LLC, Revocable Living Trust of Thomas J. Walterhoefer, Cecily Deegan McMillan, Steven Teets, Lucinda Teets, Beverly J. Boulware, Russell Waldon, Nicholette Waldon, David Shaffer, Delora Cook, Gerald Hartwig,

Carol Hartwig, Paulette Brown, Benjamin Couch, Thomas S. Clark Family Living Trust, Euniceteen Diggs, Janet Kathleen Reynolds Trust, Slade Family Revocable Living Trust, David C. Strother, Andrew Seward, Ashley Madilon Heath, Arnold Hollis, Lillian Hollis, Jennifer Allen, ZIA As Exchange Company, LLC, Qualified Intermediary for the Barbara J. Bailey Limited Partnership, Travis Washington, Janet Embly Trustee, Scott Simmons Omari Trust, Mary Hudson, Rachelle Carolynne Owens Revocable Trust, are each owners of real property that adjoins, abuts, and shares a common boundary with the property that is the subject of this action, said boundary line being the high water mark. The boundary line between the real property owned by each of these Defendants and the property that is the subject of this action is the high water mark. With respect to the property that is the subject of this action, the Plaintiffs make no claim to any interest in or ownership of any property above the high water mark, and these named Defendants claim no interest in or ownership to any property below the high water mark. None of these Defendants have a permitted dock, pier, wharf or other structure on or crossing the property that is the subject of this action.

WHEREFORE, the Plaintiff prays that this Honorable Court inquire into the facts and matters alleged herein and grant the following relief:

- a. Appoint a Guardian *ad Litem* to represent the interests of any minors, persons *non compos mentis*, persons in the armed forces of the United States, unknown Defendants, and persons or entities suffering any other disability;
- b. Refer this matter to the Beaufort County Master in Equity with the authority to enter a final Order directly appealable to the South Carolina Supreme Court;
- c. Enter judgment dissolving any interest, estate, claim, or lien of the Defendants or any other person claiming thereunder on the real property which is the subject of this action;

- d. Issue a judgment removing any cloud and quieting title to the subject real property and confirming the boundaries thereto;
- e. Issue a judgment declaring that the Plaintiff is the owner in fee simple absolute of the real property which is the subject of this action, extinguishing the claims of any other person or entity;
- f. Issue a judgment resolving all title issues in favor of the Plaintiff; and
- g. For such other relief as this Honorable Court may deem to be just and proper.

MOSS, KUHN & FLEMING, P.A.

By: /s/ H. Fred Kuhn, Jr.

H. Fred Kuhn, Jr.
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Beaufort, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
NETHERLAND, SPECIAL TRUST OF
WILLIAM B. FAHRNER, MARK HELES,
BEVERLY HELES, DAVID SMITH, LYNN
SMITH, LILI, LLC, REVOCABLE LIVING
TRUST OF THOMAS J. WALTERHOEFER,
CECILY DEEGAN MCMILLAN, STEVEN
TEETS, LUCINDA TEETS, BEVERLY
BOULWARE, RUSSELL WALDON,
NICOLETTE WALDON, DAVID
SHAFFER, DELORA COOK, GERALD
HARTWIG, CAROL HARTWIG,
PAULETTE BROWN, BENJAMIN COUCH,
THOMAS S. CLARK FAMILY LIVING
TRUST, EUNICETEEN DIGGS, JANET
KATHLEEN REYNOLDS TRUST, SLADE
FAMILY REVOCABLE TRUST, DAVID C.
STROTHER, ANDREW SEWARD,
ASHLEY MADILON HEATH, ARNOLD
HOLLIS, LILLIAN HOLLIS, JENNIFER
ALLEN, ZIA AS EXCHANGE COMPANY,
LLC, QUALIFIED INTERMEDIARY FOR
THE BARBARA J. BAILEY LIMITED
PARTNERSHIP, TRAVIS WASHINGTON,
JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST, MARY
HUDSON, RACHELLE CAROLYNNE
OWENS REVOCABLE TRUST, AND ALL

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF ANTHONY ROSELLE
AND MICHELLE R. ROSELLE TO
PLAINTIFF'S AMENDED COMPLAINT**

ELECTRONICALLY FILED - 2019 Aug 15 11:09 AM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants Anthony Roselle and Michelle R. Roselle, through their undersigned attorneys, answer the Amended Complaint of Plaintiff Coffin Point Plantation Homeowners Association, Inc., and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint.

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the record owners of upland property located at 189 Sea Pines Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0199 0000, which is located

within the Coffin Point Plantation, adjacent, abutting, and extending to beach fronting the Atlantic Ocean. Defendants deny the remaining allegations of Paragraph 19, further stating they are claiming ownership of the land within their platted property boundary extending to mean high water which may include upland property above and/or beach extending to the mean high water mark. Defendants are informed and believe that beach or any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Amended Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

Mary D. Shahid
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Attorneys for Anthony Roselle and Michelle R.
Roselle

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
NETHERLAND, SPECIAL TRUST OF
WILLIAM B. FAHRNER, MARK HELES,
BEVERLY HELES, DAVID SMITH, LYNN
SMITH, LILI, LLC, REVOCABLE LIVING
TRUST OF THOMAS J. WALTERHOEFER,
CECILY DEEGAN MCMILLAN, STEVEN
TEETS, LUCINDA TEETS, BEVERLY
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NICOLETTE WALDON, DAVID
SHAFFER, DELORA COOK, GERALD
HARTWIG, CAROL HARTWIG,
PAULETTE BROWN, BENJAMIN COUCH,
THOMAS S. CLARK FAMILY LIVING
TRUST, EUNICETEEN DIGGS, JANET
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STROTHER, ANDREW SEWARD,
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ALLEN, ZIA AS EXCHANGE COMPANY,
LLC, QUALIFIED INTERMEDIARY FOR
THE BARBARA J. BAILEY LIMITED
PARTNERSHIP, TRAVIS WASHINGTON,
JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST; MARY
HUDSON, RACHELLE CAROLYNNE
OWENS REVOCABLE TRUST, AND ALL

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF CHARLES REPLOGLE
AND DIANNE REPLOGLE TO
PLAINTIFF'S AMENDED COMPLAINT**

OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants Charles Replogle and Dianne Replogle, through their undersigned attorneys, answer the Amended Complaint of Plaintiff Coffin Point Plantation Homeowners Association, Inc., and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified Grant as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the beneficiaries of the record owners, the Charles R. Replogle III Living Trust and Dianne L. Replogle 1997 Living Trust, of upland property located at 33 Heron

Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0360 0000, which is located within the Coffin Point Plantation. Defendants' property is located between Heron Drive and Sea Pines Drive, behind the properties located on Sea Pines Drive that are adjacent, abutting and extending to beach fronting the Atlantic Ocean. Defendants deny the remaining allegations of Paragraph 19. Defendants are informed and believe that beach or any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

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Attorneys for Charles Replogle and Dianne Replogle

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
NETHERLAND, SPECIAL TRUST OF
WILLIAM B. FAHRNER, MARK HELES,
BEVERLY HELES, DAVID SMITH, LYNN
SMITH, LILI, LLC, REVOCABLE LIVING
TRUST OF THOMAS J. WALTERHOEFER,
CECILY DEEGAN MCMILLAN, STEVEN
TEETS, LUCINDA TEETS, BEVERLY
BOULWARE, RUSSELL WALDON,
NICOLETTE WALDON, DAVID
SHAFFER, DELORA COOK, GERALD
HARTWIG, CAROL HARTWIG,
PAULETTE BROWN, BENJAMIN COUCH,
THOMAS S. CLARK FAMILY LIVING
TRUST, EUNICETEEN DIGGS, JANET
KATHLEEN REYNOLDS TRUST, SLADE
FAMILY REVOCABLE TRUST, DAVID C.
STROTHER, ANDREW SEWARD,
ASHLEY MADILON HEATH, ARNOLD
HOLLIS, LILLIAN HOLLIS, JENNIFER
ALLEN, ZIA AS EXCHANGE COMPANY,
LLC, QUALIFIED INTERMEDIARY FOR
THE BARBARA J. BAILEY LIMITED
PARTNERSHIP, TRAVIS WASHINGTON,
JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST, MARY
HUDSON, RACHELLE CAROLYNNE
OWENS REVOCABLE TRUST, AND ALL

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF DAVID ROSS
STRIEBINGER AND JILL C.
STRIEBINGER TO PLAINTIFF'S
AMENDED COMPLAINT**

ELECTRONICALLY FILED - 2019 Aug 15 11:04 AM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants David Ross Striebinger and Jill C. Striebinger, through their undersigned attorneys, answer the Amended Complaint of Plaintiff Coffin Point Plantation Property Owners Association, Inc., and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint.

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the record owners of upland property located at 161 Sea Pines Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0226 0000, which is located

within the Coffin Point Plantation, adjacent, abutting, and extending to beach fronting the Atlantic Ocean. Defendants deny the remaining allegations of Paragraph 19, further stating that they are claiming ownership of the land within their platted property boundary extending to mean high water which may include upland property above and/or beach extending to the mean high water mark. Moreover, Defendants are informed and believe that the beach and any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Amended Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

Mary D. Shahid
Angelica M. Colwell
NEXSEN PRUET, LLC
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Attorneys for David R. Striebinger and Jill C.
Striebinger

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
NETHERLAND, SPECIAL TRUST OF
WILLIAM B. FAHRNER, MARK HELES,
BEVERLY HELES, DAVID SMITH, LYNN
SMITH, LILI, LLC, REVOCABLE LIVING
TRUST OF THOMAS J. WALTERHOEFER,
CECILY DEEGAN MCMILLAN, STEVEN
TEETS, LUCINDA TEETS, BEVERLY
BOULWARE, RUSSELL WALDON,
NICOLETTE WALDON, DAVID
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PAULETTE BROWN, BENJAMIN COUCH,
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JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST, MARY
HUDSON, RACHELLE CAROLYNNE
OWENS REVOCABLE TRUST, AND ALL

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF DUDLEY SANFORD
DODGEN JR. AND MAUREEN
WESTMORELAND DODGEN TO
PLAINTIFF'S AMENDED COMPLAINT**

OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants Dudley Sanford Dodgen Jr. and Maureen Westmoreland Dodgen, through their undersigned attorneys, hereby answer the Amended Complaint of Plaintiff Coffin Point Plantation Homeowners Association, Inc. and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint.

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the record owners of upland property located at 221 Sea Pines Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0189 0000, which is located

within the Coffin Point Plantation adjacent, abutting and extending to beach fronting the Atlantic Ocean. Defendants deny the remaining allegations of Paragraph 19, further stating they are claiming ownership of the land within their platted property boundary extending to mean high water which may include upland property above and/or beach extending to the mean high water mark. Defendants are informed and believe that beach or any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Amended Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

Mary D. Shahid
Angelica M. Colwell
NEXSEN PRUET, LLC
205 King Street, Suite 400
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Attorneys for Dudley Sanford Dodgen Jr. and
Maureen Westmoreland Dodgen

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
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NICOLETTE WALDON, DAVID
SHAFFER, DELORA COOK, GERALD
HARTWIG, CAROL HARTWIG,
PAULETTE BROWN, BENJAMIN COUCH,
THOMAS S. CLARK FAMILY LIVING
TRUST, EUNICETEEN DIGGS, JANET
KATHLEEN REYNOLDS TRUST, SLADE
FAMILY REVOCABLE TRUST, DAVID C.
STROTHER, ANDREW SEWARD,
ASHLEY MADILON HEATH, ARNOLD
HOLLIS, LILLIAN HOLLIS, JENNIFER
ALLEN, ZIA AS EXCHANGE COMPANY,
LLC, QUALIFIED INTERMEDIARY FOR
THE BARBARA J. BAILEY LIMITED
PARTNERSHIP, TRAVIS WASHINGTON,
JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST, MARY
HUDSON, RACHELLE CAROLYNNE
OWENS REVOCABLE TRUST, AND ALL

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF FREDERICK LAMBERT
URTZ AND JILL URTZ TO
PLAINTIFF'S AMENDED COMPLAINT**

ELECTRONICALLY FILED - 2019 Aug 15 11:22 AM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants Frederick Lambert Urtz and Jill Urtz, through their undersigned attorneys, answer the Amended Complaint of Plaintiff Coffin Point Plantation Homeowners Association, Inc., and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint.

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the record owners of upland property located at 233 Sea Pines Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0186 0000, which is located

within the Coffin Point Plantation, adjacent, abutting, and extending to beach fronting the Atlantic Ocean. Defendants deny the remaining allegations of Paragraph 19, further stating they are claiming ownership of the land within their platted property boundary extending to mean high water which may include upland property above and/or beach extending to the mean high water mark. Defendants are informed and believe that beach or any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Amended Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

Mary D. Shahid
Angelica M. Colwell
NEXSEN PRUET, LLC
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Attorneys for Frederick Lambert Urtz and Jill Urtz

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
NETHERLAND, SPECIAL TRUST OF
WILLIAM B. FAHRNER, MARK HELES,
BEVERLY HELES, DAVID SMITH, LYNN
SMITH, LILI, LLC, REVOCABLE LIVING
TRUST OF THOMAS J. WALTERHOEFER,
CECILY DEEGAN MCMILLAN, STEVEN
TEETS, LUCINDA TEETS, BEVERLY
BOULWARE, RUSSELL WALDON,
NICOLETTE WALDON, DAVID
SHAFFER, DELORA COOK, GERALD
HARTWIG, CAROL HARTWIG,
PAULETTE BROWN, BENJAMIN COUCH,
THOMAS S. CLARK FAMILY LIVING
TRUST, EUNICETEEN DIGGS, JANET
KATHLEEN REYNOLDS TRUST, SLADE
FAMILY REVOCABLE TRUST, DAVID C.
STROTHER, ANDREW SEWARD,
ASHLEY MADILON HEATH, ARNOLD
HOLLIS, LILLIAN HOLLIS, JENNIFER
ALLEN, ZIA AS EXCHANGE COMPANY,
LLC, QUALIFIED INTERMEDIARY FOR
THE BARBARA J. BAILEY LIMITED
PARTNERSHIP, TRAVIS WASHINGTON,
JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST, MARY
HUDSON, RACHELLE CAROLYNNE
OWENS REVOCABLE TRUST, AND ALL

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF JAMES VAN ROSSEM
AND LORI VAN ROSSEM TO
PLAINTIFF'S AMENDED COMPLAINT**

OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants James van Rossem and Lori van Rossem, through their undersigned attorneys, answer the Amended Complaint of Plaintiff Coffin Point Plantation Homeowners Association, Inc., and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint.

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the record owners of upland property located at 179 Sea Pines Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0232 0000, which is located

within the Coffin Point Plantation, adjacent, abutting, and extending to beach fronting the Atlantic Ocean. Defendants deny the remaining allegations of Paragraph 19, further stating that they are claiming ownership of the land within their platted property boundary extending to mean high water which may include upland property above and/or beach extending to the mean high water mark. Defendants are informed and believe that beach or any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Amended Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

Mary D. Shahid
Angelica M. Colwell
NEXSEN PRUET, LLC
205 King Street, Suite 400
P.O. Box 486
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PHONE: 843.577.9440
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Attorneys for James van Rossem and Lori van Rossem

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

COFFIN POINT PLANTATION
HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

vs.

THE STATE OF SOUTH CAROLINA,
ESTATE OF CHARLES H. LYMAN, THE
ST. HELENA COMPANY, ITS
SUCCESSORS OR ASSIGNS, THE
ESTATE OF J.D. CAMERON a/k/a/ J.
DONALD CAMERON, THE ESTATE OF
J.E. MCTEER, WILMA CLARK, JEANINE
SKOK, LAWRENCE CASLER, DEAN
MORRISSEY, CAROL MORRISSEY,
RALPH NETHERLAND, GLORIA
NETHERLAND, SPECIAL TRUST OF
WILLIAM B. FAHRNER, MARK HELES,
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SMITH, LILI, LLC, REVOCABLE LIVING
TRUST OF THOMAS J. WALTERHOEFER,
CECILY DEEGAN MCMILLAN, STEVEN
TEETS, LUCINDA TEETS, BEVERLY
BOULWARE, RUSSELL WALDON,
NICOLETTE WALDON, DAVID
SHAFFER, DELORA COOK, GERALD
HARTWIG, CAROL HARTWIG,
PAULETTE BROWN, BENJAMIN COUCH,
THOMAS S. CLARK FAMILY LIVING
TRUST, EUNICETEEN DIGGS, JANET
KATHLEEN REYNOLDS TRUST, SLADE
FAMILY REVOCABLE TRUST, DAVID C.
STROTHER, ANDREW SEWARD,
ASHLEY MADILON HEATH, ARNOLD
HOLLIS, LILLIAN HOLLIS, JENNIFER
ALLEN, ZIA AS EXCHANGE COMPANY,
LLC, QUALIFIED INTERMEDIARY FOR
THE BARBARA J. BAILEY LIMITED
PARTNERSHIP, TRAVIS WASHINGTON,
JANET EMBLY, TRUSTEE, SCOTT
SIMMONS OMARI TRUST, MARY
HUDSON, RACHELLE CAROLYNNE

IN THE COURT OF COMMON PLEAS

Case No. 2018-CP-07-02109

**ANSWER OF JOHN B. MARLOW AND
VERONICA ELAINE MARLOW TO
PLAINTIFF'S AMENDED COMPLAINT**

ELECTRONICALLY FILED - 2019 Aug 15 10:54 AM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702109

OWENS REVOCABLE TRUST, AND ALL OTHER PERSONS KNOWN OR UNKNOWN HAVING ANY INTEREST, TITLE, ESTATE OR INTEREST IN, OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN THROUGH THE ABOVE DEFENDANTS OR ANY OTHER SOURCE BEING DESIGNATED COLLECTIVELY AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, PERSONS IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, INSANE OR INCOMPETENT PERSONS, AND ALL OTHER PERSONS UNDER ANY OTHER DISABILITY WHO MIGHT HAVE OR CLAIM TO HAVE ANY RIGHT, TITLE, OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT,

Defendants.

Defendants John B. Marlow and Veronica Elaine Marlow, through their undersigned attorneys, answer the Amended Complaint of Plaintiff Coffin Point Plantation Homeowners Association, Inc., and allege as follows:

FOR A FIRST DEFENSE

1. Every allegation in the Amended Complaint, including any and all sub-paragraphs, not specifically admitted herein is denied and strict proof thereof is demanded.
2. Paragraph 1 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied.
3. On information and belief, Defendants admit so much of the allegations of Paragraph 2 of the Amended Complaint as allege that the real property that is the subject of this

action is located in the County of Beaufort in the State of South Carolina. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 2 of the Amended Complaint and, therefore, deny the allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Amended Complaint and, therefore, deny the allegations.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 8 of the Amended Complaint and, therefore, deny the allegations. Defendants further specifically deny the sufficiency of the Deed and Land Grant and the plat.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of the Amended Complaint and, therefore, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 10 of the Amended Complaint and, therefore, deny the allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 11 of the Amended Complaint and, therefore, deny the allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of the Amended Complaint and, therefore, deny the allegations.

14. Defendants admit the allegations of Paragraph 13 of the Amended Complaint.

15. Defendants deny the allegations of Paragraph 14 of the Amended Complaint. Defendants further specifically deny that J.E. McTeer and/or his heirs and assigns have possessed the real property that is the subject of the Amended Complaint as owners, and/or that they have claimed fee simple absolute title to said property by way of possession, use and/or claim under color of title that was continuous, hostile, open, adverse, notorious and exclusive and/or by allowing permissive use by others for recreational purposes.

16. Defendants deny the allegations of Paragraph 15 of the Amended Complaint. Defendants further specifically deny the sufficiency of the Deed and Land Grant.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Amended Complaint and, therefore, deny the allegations. Further answering the allegations of Paragraph 16, Defendants allege that Plaintiff's title is not established until a court of competent jurisdiction renders a determination in accordance with S.C. Code § 48-39-220, the applicable legal standard for alienation of public trust lands.

18. Paragraph 17 of the Amended Complaint contains conclusions or statements of law to which no response is required; however, to the extent any allegation is made to which a response may be required, such allegation(s) are denied. Defendants further specifically deny that the subject real property, identified as "... marshland between high and low later mark on St. Helena Island ...," includes any part of the shoreline that constitutes upland property above and/or beach extending to the mean high water mark of the applicable adjacent waterbody, which may be the Atlantic Ocean and/or the Saint Helena Sound, any part of the public beach as defined in Chapter 90, Art. III, Sec. 90-62 of the Beaufort County Ordinances (Code 1982, § 11-9) as "that area lying between the low water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations lying closest in proximity to the Atlantic Ocean. ..." or any lands below the mean high water mark held in trust for the public.

19. Defendants admit the allegations of Paragraph 18 of the Amended Complaint.

20. Defendants admit so much of the allegations of Paragraph 19 of the Amended Complaint as allege that they are the record owners of upland property located at 169 Sea Pines Drive, Saint Helena Island, South Carolina, PIN # R300 013 000 0496 0000, which is located

within the Coffin Point Plantation, adjacent, abutting, and extending to beach fronting the Atlantic Ocean. Defendants also own a second lot located behind the first lot which does not have a parcel address but is identified as PIN # R300 013 000 0599 0000. Defendants deny the remaining allegations of Paragraph 19, further stating they are claiming ownership of the land within their platted property boundary extending to mean high water which may include upland property above and/or beach extending to the mean high water mark. Defendants are informed and believe that beach or any lands below mean high water are held in trust for the benefit of the public by the State of South Carolina.

FOR A SECOND DEFENSE

21. The Amended Complaint, and each and every allegation therein, fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

22. This Court lacks subject matter jurisdiction over this action.

FOR A FOURTH DEFENSE

23. Plaintiff lacks standing to bring this action.

FOR A FIFTH DEFENSE

24. Plaintiff is not the real party in interest for this matter and has no alleged case or justiciable controversy appropriate for judicial determination by this Court.

FOR A SIXTH DEFENSE

25. Plaintiff's claims are barred by the statute of frauds, including without limitation those set forth in S.C. Code Ann. § 32-3-10.

FOR A SEVENTH DEFENSE

26. Defendants reserve the right to allege additional defenses and additional facts and circumstances in support of their defenses as such facts become available.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants seek an Order from this Court dismissing Plaintiff's Amended Complaint, denying title and ownership of the real property that has not and cannot be sufficiently located and identified with certainty that is the subject of this action to the McTeer Heirs who are not parties to this action, along with such other relief as this Court deems appropriate, just and proper.

Respectfully submitted,

/s/ Mary D. Shahid

Mary D. Shahid
Angelica M. Colwell
NEXSEN PRUET, LLC
205 King Street, Suite 400
P.O. Box 486
Charleston, South Carolina 29401
PHONE: 843.577.9440
FACSIMILE: 843.414.8242
MShahid@nexsenpruet.com
AColwell@nexsenpruet.com

Attorneys for John B. Marlow and Veronica Elaine Marlow

August 14, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF
	)	COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH
	)	JUDICIAL CIRCUIT
COFFIN POINT PLANTATION)	
HOMEOWNERS ASSOCIATION, INC.,	)	CASE NO. 2018-CP-07-02109
)	
)	
Plaintiff,	)	ANSWER TO AMENDED
	)	COMPLAINT
vs.	)	(NON-JURY)
)	
THE STATE OF SOUTH CAROLINA, ET AL.,)	
)	
Defendants.)	

2019 AUG 9 11:11:49
 DEPT. OF COURT
 BEAUFORT COUNTY

The Defendant, SCOT F. HERSH, appearing pro se, with permission of the Court to intervene, answering the Plaintiff's Amended Complaint, alleges and states upon information and belief:

That each and every allegation of Plaintiff's Complaint, not hereinafter specifically admitted or qualified is denied.

1. That Paragraphs 1, 2, 13 are admitted.
2. As to Paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, and 19 are denied.
3. Defendant denies knowledge and information sufficient to form a belief as to Paragraph 18 of the Plaintiff's Complaint.

AS AND FOR A SEPARATE AND DISTINCT FIRST AFFIRMATIVE DEFENSE

4. The action as commenced, fails to name indispensable parties whose identity is known and required to be named as defendant.

AS AND FOR A SEPARATE AND DISTRICT SECOND AFFIRMATIVE DEFENSE

5. The Defendant alleges that the Grant, as described in Paragraphs 4, 5, 6, and 7 of the Plaintiff's Complaint is void ab initio or voidable as a matter of law.

AS AND FOR A SEPARATE AND DISTINCT THIRD AFFIRMATIVE DEFENSE

6. The Estate of J.E. MCTEER is prene administrad , or closed, thereby precluding action on behalf of MCTEER heirs without their consent in their entirety.

AS AND FOR A SEPARATE AND DISTINCT FOURTH AFFIRMATIVE DEFENSE

7. The Estate of JANE L. MCTEER is prene administrad , or closed, thereby precluding action on behalf of said heirs without their consent in their entirety.

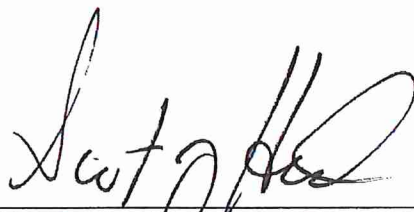
AS AND FOR A SEPARATE AND DISTINCT FIFTH AFFIRMATIVE DEFENSE

8. That the proposed conveyance to CPPP08, INC. is in violation of the public trust doctrine (PTD, as adopted by the State of South Carolina in its constitution and as adopted by the State of South Carolina pursuant to the Carolina Coastal Zone Management Act, 1977 (60 SC 22, modified at SC Code 48-39-10, 220).

AS AND FOR A SEPARATE AND DISTINCT SIXTH AFFIRMATIVE DEFENSE

9. Plaintiff cannot establish unbroken chain of title, and cannot seek to quiet title to property previously transferred.

WHEREFORE, Defendant prays that this Court will inquire into the matters as alleged herein and issue its Order dismissing the Plaintiff's Amended Complaint and for such other and further relief as this Court deems just and appropriate.



SCOT F. HERSH, PRO SE
47 Salt Wind Drive
St. Helena Island, SC 29920

SCOT F. HERSH, PRO SE
47 SALTWIND DRIVE
ST. HELENA ISLAND, SC 29920
(914) 557-2353
SFHESQ25@AOL.COM

2019 AUG -9 AM 11:49
JEFFREY J. HERSH
BEAUFORT COUNTY, S.C.
CLERK OF COURT

August 6, 2019

State of South Carolina
County of Beaufort
The Court of Common Pleas

Re: Case Number: 2018-CP-070-2109
Coffin Point Plantation Property Owners
Assoc., Inc. vs. The State of South
Carolina, et al.

Gentlemen:

With reference to the above matter, please find enclosed the Answer to the Amended Complaint.

Respectfully yours,


SCOT F. HERSH, PRO SE

CC: H. Fred Kuhn, Jr., Esq.
151 North Street
Post Office Drawer 507
Beaufort, SC 29901

J. Emery Smith, Jr.
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211

Mary Duncan Shahid
205 King Street, Ste. 400
Charleston, SC 29401

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT)	
	)	C/A NO: 2018CP0702109
COFFIN POINT PLANTATION)	
HOMEOWNERS ASSOCIATION,)	
INC.,)	
	)	ANSWER OF THE STATE
Plaintiff,	)	TO AMENDED COMPLAINT
)	
v.)	
)	
THE STATE OF SOUTH CAROLINA,)	
ET AL,)	
)	
Defendants.)	
_____)	

The Defendant State of South Carolina, by way of answer to the Amended Complaint (Complaint) herein, alleges as follows:

FOR A FIRST DEFENSE

1. The State denies each and every allegation of the Complaint not hereinafter specifically admitted.
2. The State admits Paragraph 1 of the Complaint, but the State is without knowledge or information sufficient to form a belief as to the truth of any allegation that Plaintiff is entitled to relief.
3. As to Paragraph 2, the State admits that the real property at issue is located in Beaufort County, but the State is without knowledge or information sufficient to form a belief as to the truth of the remainder of Paragraph 2.
4. As to Paragraph 3 – 12 of the Complaint, the State of South Carolina craves reference to the referenced documents and denies any allegations inconsistent therewith. The

State is without knowledge or information sufficient to form a belief as to the truth of any allegations as to ownership of the property at issue. The State asserts that it has *prima facie* fee simple title, in public trust, of all lands now or formerly lying below the high water mark of all tidal navigable waters in the State, including, but not limited to the Atlantic Ocean, including any such lands at issue in the instant case, unless those lands at issue in this case were granted by a sovereign grant and deeded under South Carolina law. The State also alleges that it may have presumptive title to any lands created by the deposit of dredging or other fill material on State owned land lying below mean high water including any such lands, should they exist, in the instant case.

5. The State admits Paragraph 13 on information and belief.

6. The State is without knowledge or information sufficient to form a belief as to the truth of Paragraphs 14, 15 and 16. The State asserts that it has *prima facie* fee simple title, in public trust, of all lands now or formerly lying below the high water mark of all tidal navigable waters in the State, including, but not limited to the Atlantic Ocean, including any such lands at issue in the instant case, unless those lands at issue in this case were granted by a sovereign grant and deeded under South Carolina law. The State also alleges that it may have presumptive title to any lands created by the deposit of dredging or other fill material on State owned land lying below mean high water including any such lands, should they exist, in the instant case.

7. The State admits the first sentence of Paragraph 17. The State is without knowledge or information sufficient to form a belief as to the truth of the second sentence of that Paragraph.

8. As to Paragraph 18, the State admits only that Plaintiff has named the referenced Defendants for the stated purpose, but the State is without knowledge or information sufficient to

form a belief as to the truth of whether any of these other Defendants has claim to the property at issue.

9. The State is without knowledge or information sufficient to form a belief as to the truth of the first two sentences of Paragraph 19 except that, on information and belief, the State admits that Andrew Seward owns real property adjoining the property at issue. The State admits the third sentence of that Paragraph on information and belief. The State denies the last sentence of that Paragraph on information and belief.

10. As to the Prayer for Relief, the State is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations that it should receive the relief requested except that the State acknowledges that this case has already been referred to the Master in Equity.

FOR A SECOND DEFENSE

11. As an affirmative defense, the State asserts that it has *prima facie* fee simple title, in public trust, of all lands now or formerly lying below the high water mark of all tidal navigable waters in the State, including any such lands in the instant case, unless those lands at issue in this case were granted by a sovereign grant and deeded to Plaintiff under South Carolina law or, for any land below mean low water, by a statute of the General Assembly enacted into law.

FOR A THIRD DEFENSE

12. To the extent that any navigable waters are on the property at issue, no person or entity has the power to exclude the general public from that property, because the public has a right under the Constitution and statutes of South Carolina to make use of navigable waters.

WHEREFORE, having fully answered the Complaint herein, the State prays that this Court grant judgment to the State in this matter in accordance with the defenses set forth above and the evidence in this case.

/s J. EMORY SMITH, JR.

S.C. Bar No. 5262
Deputy Solicitor General

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3680
Email: ESmith@scag.gov

August 14, 2019

ATTORNEYS FOR THE STATE

2
GRANT TO LYMAN

The State of South Carolina.

To all to whom these Presents shall come---Greeting :

Know YE, That in pursuance of the Acts of the General Assembly in relation to Vacant Lands, for and in consideration of the sum of One hundred and sixty four $\frac{13}{100}$ dollars paid to the Secretary of State by Charles H. Lyman the actual purchaser for value,

WE HAVE GRANTED, and by these Presents do grant, unto the said

Charles H. Lyman his

heirs and assigns, a Plantation or Tract of Vacant Land, situate in St Helena Township in Beaufort County, and State aforesaid containing One hundred and sixty four $\frac{13}{100}$ acres, more or less,

being marsh land between high and low water mark, on St Helena Island lying to the north west north and north east of Coffee Point Plantation, being lot A containing 114 acres more or less and lot B containing 50 $\frac{13}{100}$ acres more or less

having such shape, form and marks as are represented by a Plat of said land on file in the office of the Secretary of State, in Book 7 of Public Land Plats, Page 27, together with all woods, trees, water courses, profits, commodities, appurtenances and hereditaments whatsoever thereto Reserving nevertheless to the State of South Carolina all lands belonging to have and to hold the said Tract of One hundred and sixty four $\frac{13}{100}$ acres of Land, and all and singular other the premises hereby granted unto the said Charles H. Lyman his heirs and assigns, forever, in free and common socage.

GIVEN UNDER THE SEAL OF THE STATE.

WITNESS, His Excellency C. R. Freeman Governor and Commander-in-Chief in and over the said State, at Columbia, this 30th day of November, Anno Domini one thousand eight hundred and Ninety one and in the 11th year of the Independence of the United States of America.

(L. M. S.) C. R. Freeman

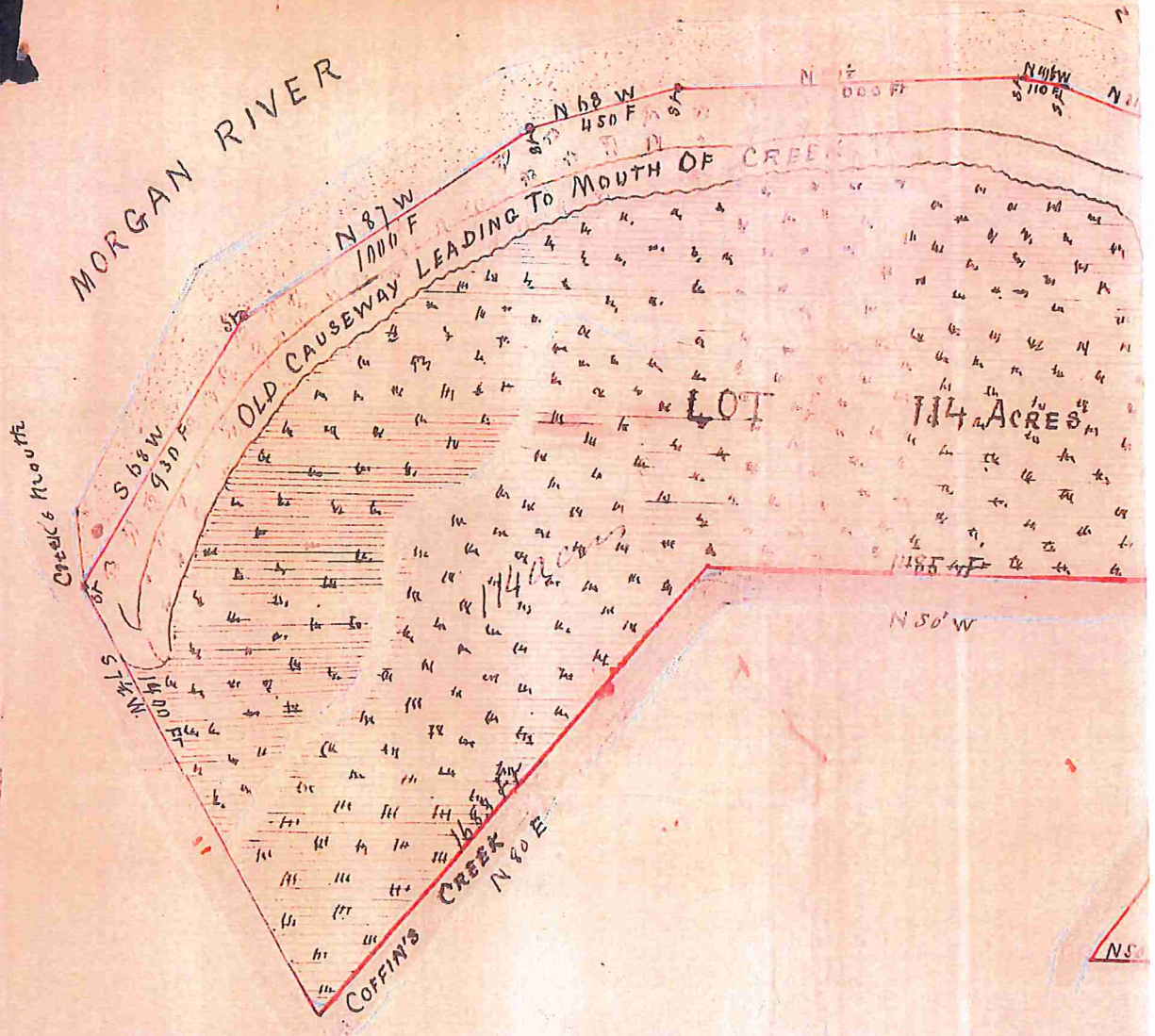
J. E. Finley
Secretary of State

OFFICE COMMISSIONERS OF THE SINKING FUND OF SOUTH CAROLINA,
COLUMBIA, S. C., Nov 24th 1891

The foregoing Grant is issued in conformity with a Resolution of the Commissioners of the Sinking Fund directing the same, adopted on the Eighth day of Sept 1891

W. S. Coates
Secretary of the Sinking Fund Commission.

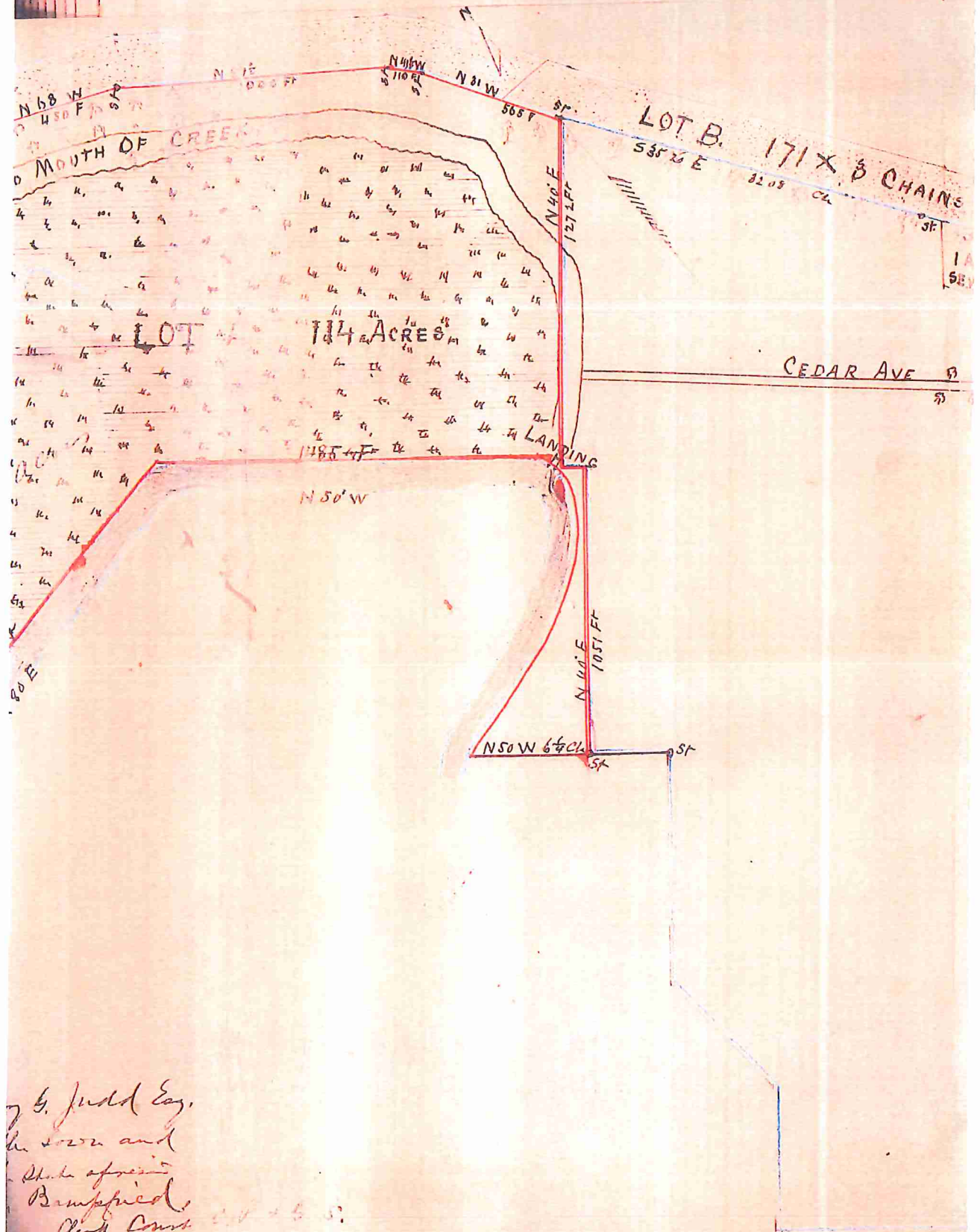
Recorded December 9th 1891



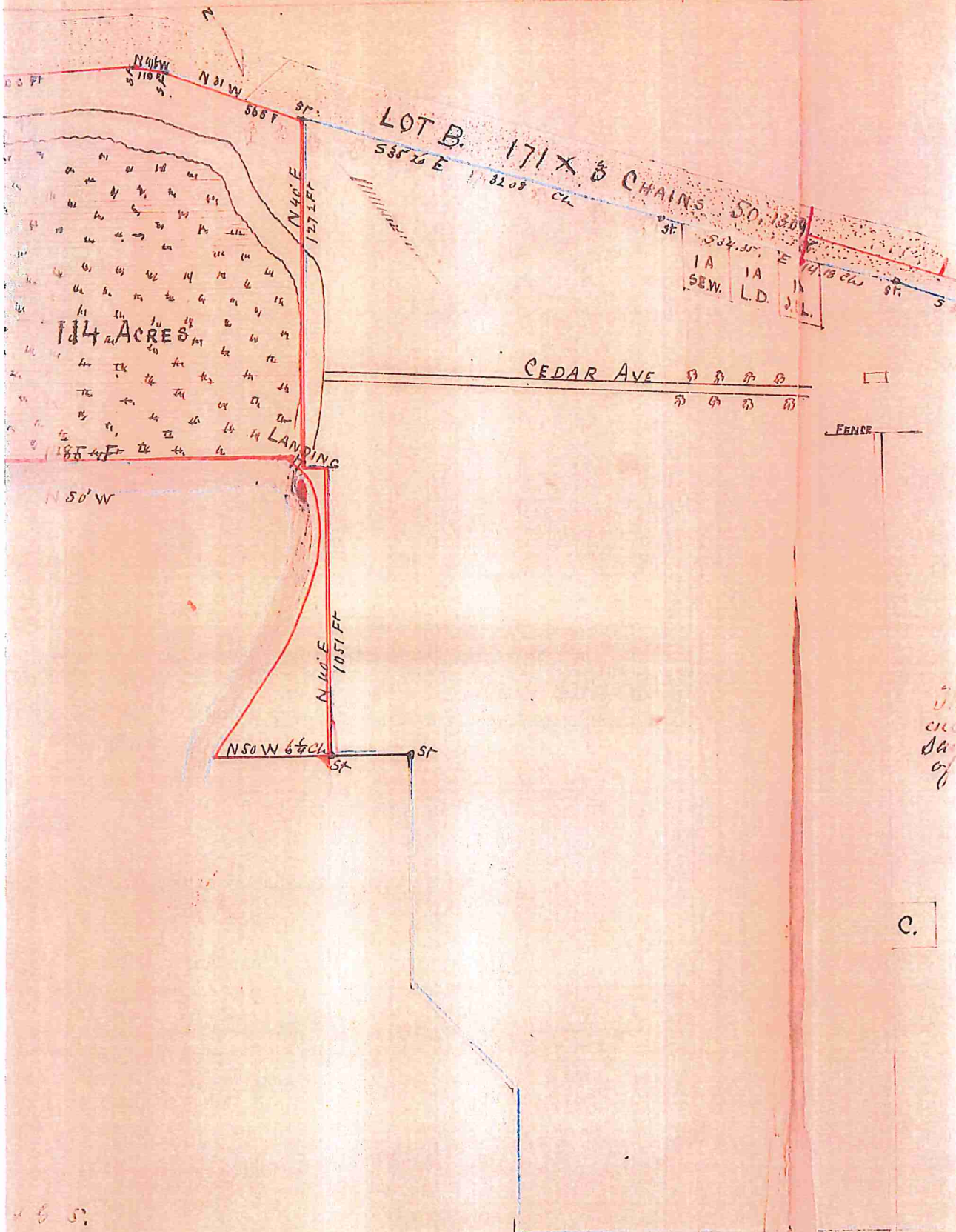
State South Carolina }
 Beaufort County }
 I hereby certify that Henry G. Judah Eay,

is a Attorney resident in the town and
 County of Beaufort in the State aforesaid.

J. J. Bamphred,
 Clerk Court C. J. & C. S.



G. Judd Esq.
 the above and
 State of
 Benning
 Clerk Const.

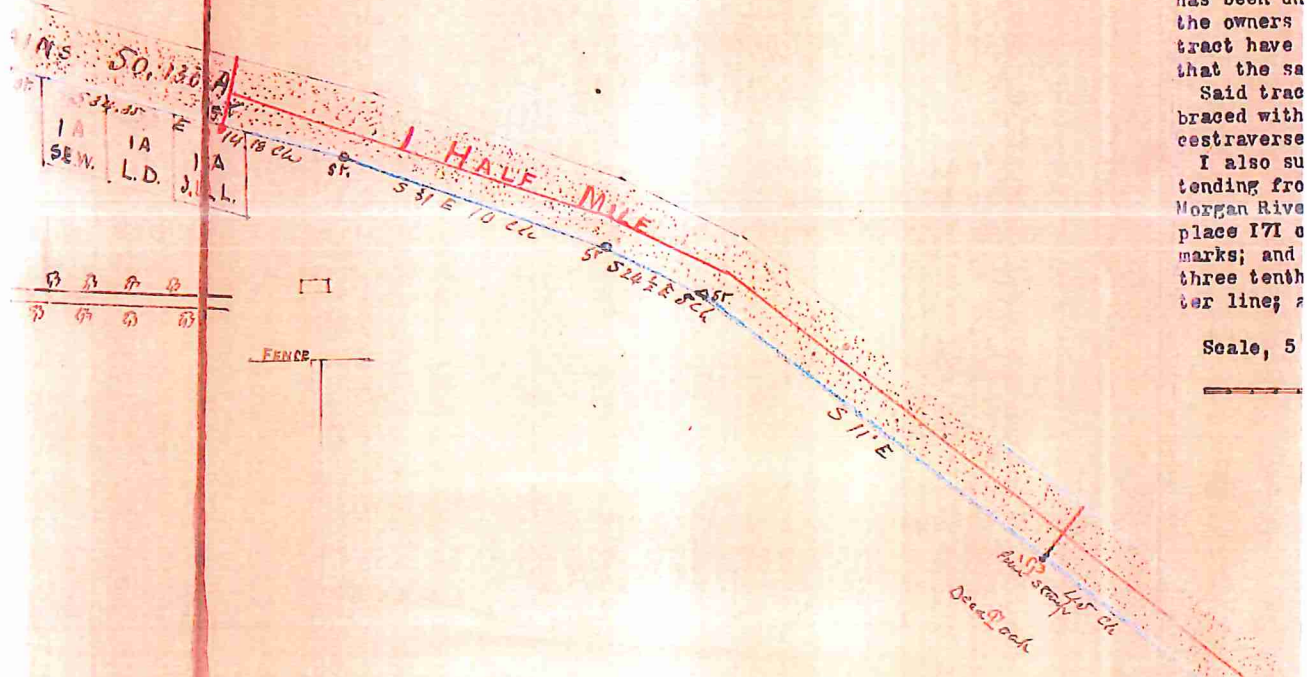


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This portion of the Coffin Point Plantation enclosed within blue lines contains 298 acres, and is the same tract that was recently sold as the property of the estate of Mr L. C. Whitwell.

RESURVEYED FOR B.S. SAMS EXECUTOR JUNE 11
 By H. G. JODD,

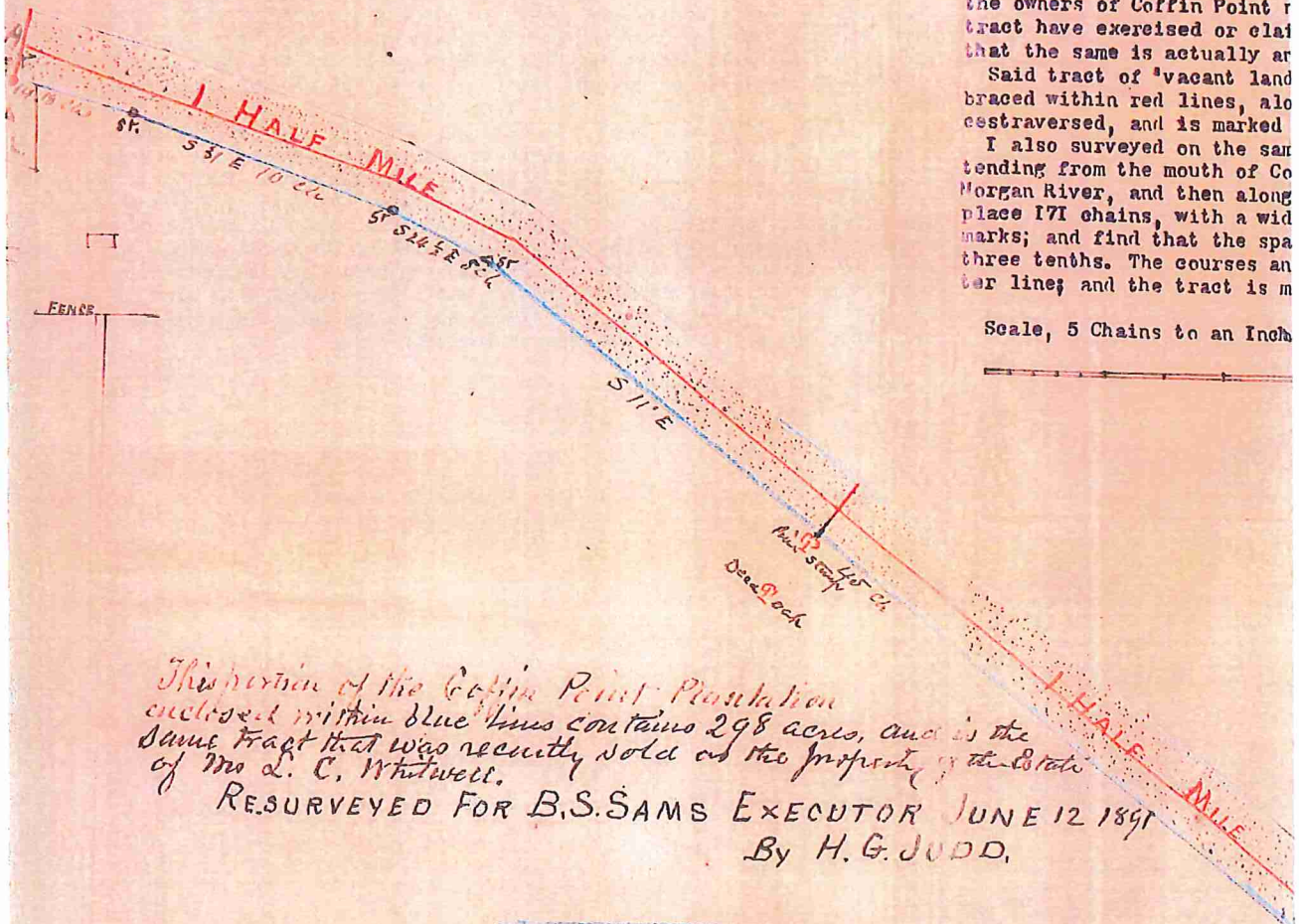
C.

PRIMUS
 SIMON MITCHELL
 WILL COLONEL
 ABEL POPE
 THOMAS BROWN

This is to Certify, that at the request of Lieutenant marsh land, lying to the north east of Coffin Point, situate at the north eastern part of the County, S. C. ; that I have surveyed a tract of land for at least twenty-five acres, which has been unoccupied by any person, and which the owners of Coffin Point tract have exercised or claimed that the same is actually vacant land.

Said tract of vacant land is bounded within red lines, also crossed and traversed, and is marked with 171 chains, with a width of three tenths. The courses are as follows: and the tract is marked as follows:

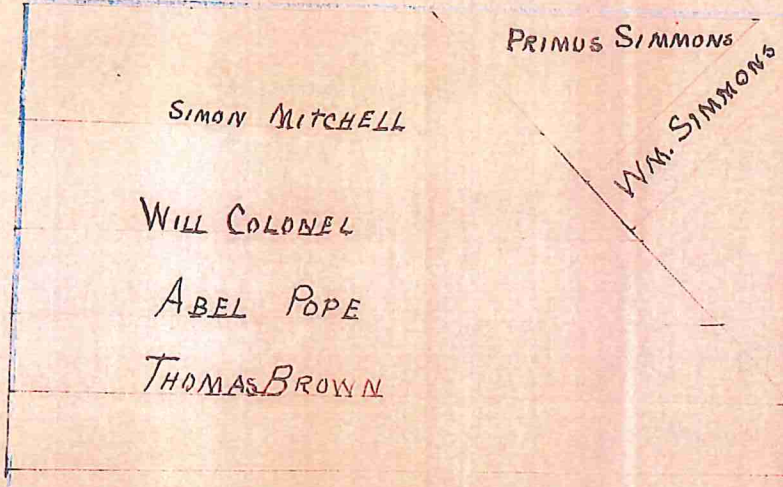
Scale, 5 Chains to an Inch



The portion of the Coffin Point Plantation enclosed within blue lines contains 298 acres, and is the same tract that was recently sold as the property of the estate of Mr L. C. Whitwell.

RESURVEYED FOR B.S. SAMS EXECUTOR JUNE 12 1891
By H. G. JUDD.

C.



This is to Certify, that on the 13th day of August, 1891, I surveyed at the request of Lieutenant C. H. Lyman, U. S. N. a certain tract of marsh land, lying to the north and west of the Coffin Point plantation, situate at the north easterly point of St. Helena Island in Beaufort County, S. C. ; that I have been well acquainted with said tract of land for at least twenty-five years, during all of which time the same has been unoccupied by any person or persons whomsoever; that neither the owners of Coffin Point nor Fripps Point places which adjoin said tract have exercised or claimed rights of ownership in said lands, but that the same is actually and bona fide "vacant land".

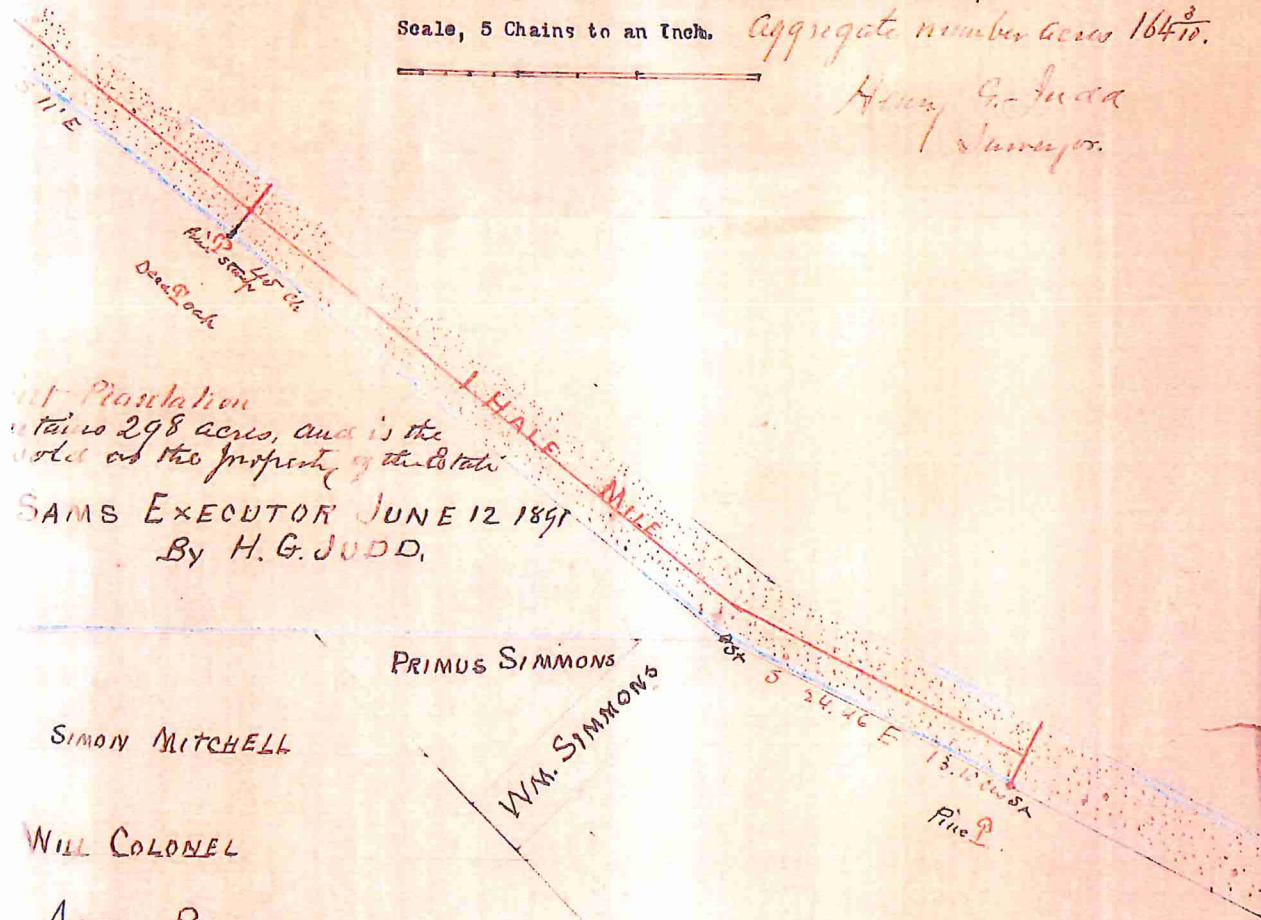
Said tract of "vacant land" is delineated on this map, and is embraced within red lines, along which are marked the courses and distances traversed, and is marked Lot "A," and contains 114 acres, more or less.

I also surveyed on the same day for Mr. Lyman, the line of beach extending from the mouth of Coffin Creek along the southerly margin of Morgan River, and then along the easterly line of the Coffin Point place 171 chains, with a width of 3 chains between high and low water marks; and find that the space between said lines contains 50 acres & three tenths. The courses and distances are marked along the high water line; and the tract is marked by the letter "B";

Scale, 5 Chains to an Inch.

Aggregate number acres 164 ³/₁₀.

Henry G. Judd
Surveyor.



Coffin Point Plantation
contains 298 acres, and is the
sold as the property of the State

SAMS EXECUTOR JUNE 12 1891
By H. G. JUDD,

- PRIMUS SIMMONS
- SIMON MITCHELL
- WILL COLONEL
- ABEL POPE
- THOMAS BROWN
- WM. SIMMONS

RECEIVED

Mar 31 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Honorable Marvin H. Dukes, III, Master In Equity and Special Circuit Court Judge

APPELLATE CASE NO.: 2022-000475

Coffin Point Plantation Homeowners Association, Inc.

Appellants,

vs.

The State of South Carolina, Estate of Charles H. Lyman, The St. Helena Company, Its Successors or Assigns, The Estate of J.D. Cameron a/k/a J. Donald Cameron, The Estate of J.E. McTeer, Wilma Clark, Jeanine Skok, Lawrence Casler, Dean Morrissey, Carol Morrissey, Ralph Netherland, Gloria Netherland, Special Trust of William B. Fahrner, Mark Heles, Beverly Heles, David Smith, Lynn Smith, LiLi, LLC, Revocable Living Trust of Thomas Walterhoefer, Ceclily Deegan McMillan, Steven Teets, Lucinda Teets, Beverly Boulware, Russell Waldon, Nicolette Waldon, David Shaffer, Delora Cook, Gerald Hartwig, Carol Hartwig, Paulette Brown, Benjamin Couch, Thomas S. Clark Family Living Trust, Euniceteen Diggs, Janet Kathleen Reynolds Trust, Slade Family Revocable Trust, David C. Strother, Andrew Seward, Ashley Heath Madilon, Arnold Hollis, Lillian Hollis, Jennifer Allen, Zia As Exchange Company, LLC, Qualified Intermediary for Barbara J. Bailey Limited Partnership, Travis Washington, Janet Embly, Trustee and Individually, William S. Embly, Trustee and Individually, Scott Simmons Omari Trust, Mary Hudson, Rachelle Carolynne Owens Revocable Trust, Gerald Hartwig, Carol Hartwig, Gerald L. Wayne, Vivian M. Wayne, Lorrie Gaskin Germann, Grant Martir Germann, Gregory J. Giardina, Melissa Basenburg, Mark M. Hazard, Micah L. Myers, Jennifer J. Myers, John Joseph Edwards, Nancy Jean Edwards, Preston Ventures, LLC, Donald Lunardini, Kristina Barbara Moore Lunaradini, Melissa Uhlman Revocable Trust and All Other Persons Known or Unknown Having Any Interest, Title, Estate or Interest In Or Lien Upon the Real Property Described in the

RECEIVED

Mar 31 2023

SC Court of Appeals

Complaint Herein Through the Above Defendants or Any Other Source Being Designated Collectively As John Doe and Mary Roe Including All Persons Who May Be Deceased, Minors, Persons in the Armed Forces of the United States of America, Insane or Incompetent Persons, and All Other Persons Under Any Other Disability Who Might Have or Claim to Have Any Right, Title or Interest in or Lien Upon the Real Property Described in the Complaint.

Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

MOSS & KUHN, P.A.

By: 

H. Fred Kuhn, Jr.
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Post Office Drawer 507
Beaufort, South Carolina 29901
(843)524-3373 - Telephone
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Beaufort, South Carolina
March 29, 2023

Attorneys for the Appellant

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Winston-Salem, North Carolina 27106

Donald Lunardini and Kristina Lunardini
4 Saltwind Drive
St. Helena Island, South Carolina 29920

Melissa Uhlman Revocable Trust
81 Sea Pines Drive
St. Helena Island, South Carolina 29920

in a post office or official depository under the exclusive care and custody of the United States

Postal Service on March 31, 2023.

MOSS & KUHN, P.A.

By: _____


Sue Radford