

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS  
SECOND JUDICIAL CIRCUIT

Docket No.: 2022-CP-02-02654

William T. Hurley, Jr., as Trustee  
Of the Aiken Property Trust  
Plaintiff

**ORDER**

vs.

Linda Donovan  
Defendant

**Procedure**

1. The Summons and Complaint were filed on November 17, 2022.
2. An Answer and Counterclaim was filed on January 3, 2023.
3. A Reply was filed on January 30, 2023.
4. Defendant's Motion to Dismiss was denied on March 29, 2023.
5. Plaintiff's Motion for Summary Judgment was denied on July 24, 2023.
6. Plaintiff withdrew its Motion for a Jury Trial on February 16, 2024. An Order of Reference was filed on April 4, 2024.
7. A Motion to Intervene was filed by John J. Donovan on June 21, 2024. The trial was scheduled for June 26, 2024. The Master in Equity filed an Order denying the Motion to Intervene on June 25, 2024.
8. The trial was held on June 26, 2024. The Plaintiffs were represented by Richard C. Detwiler and the Defendant was represented by Bradley A. Brodie. The parties stipulated to Plaintiff's Exhibits 1 – 16 and Defendants Exhibits 1 – 2. After opening statements, the Defendant presented a witness out of order by agreement of the parties.

**Statement of Facts**

Morris Rudnick is an attorney in Aiken, South Carolina who has practiced law for 42 years, focusing on real estate matters. He was the closing attorney when the real estate in this matter was purchased. He met the Defendant, Linda Donovan prior to the closing. Defendant Exhibit 1 is a document reflecting money being wired from John Donovan and Linda Donovan. John Joseph Donovan wired \$8,000.00 on January 14, 2015 and Linda J. Donovan wired \$19,974.24 on the same day. Defendant Exhibit 2 is a copy of the wire transfer on January 15, 2015 from Trust One JJD, (Trust One) for \$1,282,953.49.

It was Mr. Rudnick's understanding the property would be the primary residence of Linda Donovan. The property is in the name of Aiken Property Trust and William P. Hurley is the Trustee. After Mr. Rudnick was excused, the Plaintiff called its first witness.

The Plaintiff, William T Hurley, Jr., is the Trustee of Aiken Property Trust and Trust One JJD (Trust One). Mr. Hurley has a Juris Doctor degree and is a CPA who practices in that field. He has prior experience in numerous trusts acting as the trustee since the early to mid 1990's.

John Donovan (also known as John Donovan II or John Donovan Sr. But for clarification will be referred to as Prof. Donovan) is a professor Mr. Hurley met in the late 1990's or early 2000's. Prof. Donovan and his family had numerous disputes over the years. Mr. Hurley became the Trustee in January 2015. Plaintiff Exhibit 3 is dated March 26, 2007 and is referred to as the Final Settlement Agreement (FSA) and concerns Prof. Donovan and his children. This settlement led to the creation of Trust One. Three trusts were created by this document. Trust One JJD, referred to by Mr. Rudnick, and the Trustee at that time was John Donovan, Jr. (a son of Prof. Donovan). The document was signed by Prof. Donovan as John Donovan, Sr. and John Donovan, Junior. Plaintiff Exhibit 4 is a trust agreement identified as Trust One JJD. By agreement, all trust disputes are settled by arbitration with the Hon. John S. Martin, serving as the arbitrator.

Plaintiff Exhibit 5 is an Amendment dated December 10, 2014 and references the FSA (Plaintiff Exhibit 3). Among other things this extended the 2007 agreement to the lifetime or incapacity of JJD as determined by Judge Martin. The Amendment also provides for the Trust One JJD replacement property in Aiken, South Carolina. The replacement property is owned solely by Trust One JJD. Prof. Donovan's signature sheet is attached to the exhibit with a date of December 11, 2014.

Plaintiff Exhibit 6 is a Declaration of Trust Establishing Aiken Property Trust. This document identifies the trustee as William T. Hurley, Jr. JD CPA. Mr. Hurley signed the document on January 14, 2015. The Beneficiary of the Aiken Trust is Trust One JJD, whose sole beneficiary was identified as John Donovan II (Prof. Donovan). The Aiken Trust was funded by Trust One JJD and the funds were wired to Rudnick and Rudnick to purchase the property in Aiken. Plaintiff's Exhibits 1 – 2 are the deed into the Aiken Property Trust, which is the grantee on both deeds.

On April 27, 2015, Prof. Donovan recorded a deed in the Aiken County RMC Office in BK: RB 4549, PG: 2386 – 2388. The document purports to grant a life estate to Linda Donovan and she will receive “clear title” at the death of “John J. Donovan, Jr.” (Prof. Donovan). Recording this document led to a document titled Stipulation by John J. Donovan, Sr. which describes his activity concerning property owned by the Aiken Trust. He stipulates that his action in recording the deed in Aiken County violated the FSA dated March 26, 2007 and the terms of the Trust One agreement. The Aiken filings were acknowledged to be invalid and void *ab initio*. He also stipulated that he has no right or authority to transfer, assign or pledge any assets held by or for the benefit of Trust One. This document was signed on May 1, 2019.

Plaintiff Exhibit 9 is entitled [Proposed] Order and Award. The Arbitrator, the Hon. John S. Martin, rules that Prof. Donovan violated the terms of the FSA by making fraudulent filings in reference to the Aiken Property. Documents were executed by Prof. Donovan and Linda Donovan to correct the fraudulent filings. This document was signed on October 1, 2019. Plaintiff Exhibit 10 is an Order from the Massachusetts Superior Court confirming the October 1, 2019 Order issued by Judge Martin. Prof. Donovan and Linda Donovan also executed a Quitclaim Deed and Release to William T Hurley, Jr., Trustee of Aiken Property Trust which was recorded in the Aiken County RMC Office in BK: RB 4824, PG: 1247 – 1249 (Plaintiff Exhibit 11).

On November 10, 2021, Judge Martin issued in Award after the Donovan siblings (the children) brought an application challenging Prof. Donovan's filing and recording documents. The award provides a detailed history of the Donovan family. This document removed John Donovan, Sr. (Prof. Donovan) as the Beneficiary of Trust One JJD and his interest in the trust was forfeited. The Massachusetts Superior Court confirmed the Award on August 17, 2022. Also, Plaintiff

Exhibit 14.3 is an Order, dated March 8, 2024, from the Commonwealth of Massachusetts Appeals Court affirming the November 10, 2021 Award.

Mr. Hurley testified that Linda Donovan has never been a beneficiary of either trust. After Prof. Donovan was divested as a Beneficiary, the Defendant has remained on the Aiken property, using it as her primary residence without paying any rent to the Trust. The Plaintiff asserts she has no rights, legal or equitable, in the Aiken property. The Trustee request the court issue an Order to remove Linda Donovan from the property. He also testified the Trust needs to sell the Aiken property due to a judgment recorded in Massachusetts based on Prof. Donovan's fraudulent actions involving Trust One. Mr. Hurley admits Linda Donovan may be owed the money she contributed for the purchase of the property. He does not believe he or the Trust owes any fiduciary duty to the Defendant.

On cross examination, Mr. Hurley admitted Linda Donovan contributed funds when the Aiken property was purchased. Prof. Donovan and Trust One JJD also contributed to the purchase of the property. When the FSA set up three trust, Mr. Hurley was not trustee on any trust. Judge Martin, as the arbitrator, authorizes payments for real estate taxes, litigation, expenses, and legal fees. Linda Donovan was not a named party in the Stipulation signed by Prof. Donovan. Mr. Hurley and Trust One JJD were not parties. The remaining Donovan children may receive some benefit from the property but Mr. Hurley does not know what will be left after the judgments are paid. The Plaintiff agrees that Linda Donovan has maintained the Aiken property.

On redirect, it was clarified that the assets of Trust One were attached by a Massachusetts Court Order, which found the assets of the trust are accessible, including the Aiken property. At the conclusion of Mr. Hurley's testimony, the plaintiff rested. The Defendant made no motions and proceeded to call Linda Donovan as a witness.

Linda Donovan, wife of Prof. Donovan, has lived on the Aiken property since January 2015. Although she is retired, she was a chief financial officer for 14 years and has a Masters/Doctorate degree from Harvard. She also advised the court of serious health issues she is currently experiencing. Prof. Donovan operated an executive education company and numerous technical companies.

Defendant Exhibit 3 is an itemization of the cost to maintain the Aiken property. The total of that exhibit is \$217,264.51. Defendant Exhibit 4 are copies of checks and receipts to verify the items listed in Defendant Exhibit 3. Linda Donovan wants to remain on the property. If she is not allowed to remain on the property, she wants to be paid back the money she contributed for the purchase and reimbursed the funds listed on Defendant Exhibit 3 and 4.

She was not a party to the arbitration and testified she only signed documents because she felt threatened. She admits to signing the quitclaim deed but feels the children coerced Prof. Donovan and her to sign the deed. At one point, she obtained a restraining order against James Donovan, one of Prof. Donovan's children. The Plaintiff filed an eviction action in the Aiken County Magistrate Court before this case was filed in the Circuit Court.

On cross examination, she admits her husband's interest in the trust is extinguished. Plaintiff Exhibit 17 is a settlement statement that Linda Donovan signed on March 27, 2007, which is the same timeframe as the FSA. Although she claims duress, she admits she has no ownership interest in the Aiken property. She also agrees the cost for maintenance is a list from 2015 to 2024. Using that period of time, the average monthly cost is less than \$2,000.00 per month. She admits she has paid no rent but she feels she has improved the property. On redirect, she testified the Plaintiff never discussed her paying any rent or provided any rental agreement. Plaintiff Exhibit 17, is an agreement signed years before the Aiken property was purchased.

The Plaintiff's motion for Directed Verdict was denied.

### **Conclusions of Law**

This Court has subject matter jurisdiction over this proceeding and personal jurisdiction over the parties. Venue of this action is property in Aiken County and this court and all persons entitled to be and or provided notice of the proceedings have been served and/or provided such notice or have otherwise appeared in this action.

This matter deals with two tracts of land in Aiken County, South Carolina. The limited warranty deed for the 40-acre tract reflects H & D Stables, LLC as the grantor and William T. Hurley, Jr., Trustee of Aiken Property Trust as the grantee (Plaintiff Exhibit 1). The limited

warranty deed for the 36.68-acre tract lists the same grantor and grantee. Linda Donovan and Prof. Donovan are not listed in any capacity in the deeds. Except for the fraudulent conveyance by Prof. Donovan and the corrective quitclaim deed, there has been no change in the ownership status. “The terms of an unambiguous deed may not be varied or contradicted by evidence drawn from sources other than the deed itself.” *Vause v Mikell by Solomon*, 290 S. C. 65, 348 S. E. 2d 187 (Ct. App. 1986). There is no dispute that Mr. Hurley succeeded John J. Donovan, III, as Trustee on April 25, 2015. He is the Trustee for Trust One and the Aiken Property Trust.

The Final Settlement Agreement (FSA) provides Judge Martin, as the arbitrator, has discretion to determine, any remedy including sanctions, damages, attorney’s fees, out of any of the three tracts for any reason. Paragraph 9 of the FSA references the settlement agreement signed by Linda Donovan and the other parties on March 26, 2007. In that agreement, Linda Donovan represented she had no interest or claim in the “properties or entities”. The FSA and the Trust Agreement restricted Prof. Donovan’s beneficiary interest and prohibited the transfer, assignment, or pledge of such interest. In 2014, Prof. Donovan and his children executed and Amendment (Plaintiff Exhibit 5) to the Trust Agreement. This document provided for the sale of some Trust One properties and authorize the purchase of the Aiken property as replacement property.

The State of Massachusetts has issued orders confirming the arbitration awards and the removal of Prof. Donovan as a beneficiary. Included in these awards were decisions concerning the fraudulent transfer of the Aiken property from Prof. Donovan to Linda Donovan. This was resolved by the arbitrator and the execution of the quitclaim deed discussed above.

Linda Donovan has lived on the Aiken property since 2015. No rental agreement was in place and she has never paid rent to the Trust, even after her husband was removed as the beneficiary. She claims to have been under duress at the time she signed any agreements or the quitclaim deed. “A party is under duress if improper external pressure or influence practically destroys the free agency of a party and causes him to do an act or form a contract not of his own volition.” *Williams. Trucking Co. v J.W. Constr. Co.*, 314 S. C. 171, 442 S. E. 2d 197 (Ct. App. 1994) (citing *Cherry v ShelbyMont, Plate Glass*, 191 S. C. 177, 4 S. E. 2d 123 (1939), *Blejski v Blejski*, 325 S. C. 491, 480 S. E. 2d 462 (Ct. App. 1997)). While Linda Donovan used the word duress, the testimony does not support finding improper external pressure or influence.

The Defendant has also raised certain issues about the legitimacy of the Massachusetts awards by the arbitrator. “The Full Faith and Credit Clause of the United States Constitution provides that “Full Faith and Credit shall be given in each state to the... Judicial proceedings of every other state.” *U.S. Const. art. IV*, section 1, *Gregoire v Byrd*, 338 S. C. 489, 527 S. E. 2d 361 (Ct. App. 2000). “The thrust of the clause is that courts of one state must give such force and effect to a foreign judgment as a judgment would receive in the issuing state. *Purdie v Smalls*, 293 S. C. 216, 527 S. E. 2d 361 (Ct, App, 2000), *Id.* The Massachusetts awards by the arbitrator, Massachusetts Superior Court orders and the appellate court orders are entitled to full faith and credit. Any defenses pled challenging this finding are denied.

Linda Donovan contributed \$19,974.24 towards the purchase of the property. In reference to the damages/reimbursements she claims, the items are normal upkeep, usage, and maintenance for the equestrian property that was described. She renovated the apartments but has lived there since 2015. She testified she has not collected any rent from any portion of the property other than some possible feeds for a third-party renting stable space. Fencing, a new arena, property taxes and insurance are normal expenses for an individual living on the property.

Based on the pleadings, testimony, exhibits, and case law, Linda Donovan has no right or interest in either tract owned by Aiken Property Trust. Plaintiff is awarded the requested declaratory relief that the Defendant has no legal or equitable claim of ownership, or any right to remain on the Aiken property. Linda Donovan has been asked to leave the property. “Trespass to land is an interference with another’s present right of possession. The historical requirements for recovery under the common-law action of trespass include “an invasion (a) which interfered with the right of exclusive possession of the land, and (b) which was the direct result of some act committed by the Defendant.”” See generally *Prosser and Keeton on Torts*, section 13, *Graham v Town of Latta, South Carolina*, 417 S. C. 164, 789 S. E. 71 (Ct. App. 2016).

Based on the evidence submitted, Linda Donovan is now trespassing. However, under these unusual facts, the trespasser appears to have always maintained the property, helped to maintain the value, and the Plaintiff has established no damages for an award of actual or punitive damages. The Defendant has even paid over \$35,000.00 in property taxes. Prior to the demand to leave the property, the Plaintiff presented no contract for rent even though it is undisputed that new of the

Defendant living on the property. At this time, the Plaintiff is entitled to an order ejecting the Defendant from the property.

The Defendant is not entitled to relief based on the Rule 12, SCRPC defenses raised in the Answer. The Plaintiff has not waived any rights or unreasonably delayed taking any action in regards to this matter. Any delay has simply benefited the Defendant and the trespass has continued prior to this lawsuit being filed. The Defendants failed to establish she is entitled to relief under the Statute of Limitations defense, did not present any evidence or testimony in regards to the Statute of Frauds, the equitable defense of unclean hands or the failure of the plaintiff to mitigate its damages. In regards to the counterclaims filed by the Defendant, no fiduciary duty was established between the Plaintiff and the Defendant. To the contrary, the Plaintiff presented numerous documents to establish the understanding of the Defendant and her rights in the Aiken property. Finally, the court does not find the Plaintiff was unjustly enriched due to the actions of the Defendant. As stated above, the maintenance performed by the Defendant is the result of normal usage of this type of property. The Defendant is entitled to the return of the funds she paid towards the purchase of the property.

The Defendant will have sixty days from the date of this Order to vacate the property and remove all personal items. After the Defendant leaves, the Plaintiff may raise any issues it has with the condition of the property through any future legal claims. The Plaintiff will reimburse the Defendant \$19, 974.24 for the funds she contributed to the purchase of the property within sixty days from the date of this order. The parties are responsible for their own attorney fees and cost.

**IT IS SO ORDERED**

---

Aiken County Master in Equity/M. Anderson Griffith



Aiken Common Pleas

**Case Caption:** William T Hurley Jr , plaintiff, et al VS Linda Donovan

**Case Number:** 2022CP0202654

**Type:** Master/Order/Other

AND IT IS SO ORDERED

s/M Anderson Griffith-3076