THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master in Equity Judge

Case No. 2022-CP-10-03492 **Appellate Case No.: 2023-001086**

PVONE REO LLC

Respondent,

v.

Mary A. White et al, Appellant.

FINAL BRIEF OF APPELLANT

DeWayne A.Sykes
1953 Jacksonville road
N. Charleston, South Carolina 29405
(843) 345-9870
Appellant

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STATEMENT OF CASE

1. Respondent PV one REO LLC. filed a Summons and Complaint on August 3, 2022. The summons and complaint do not reference DeWayne Sykes, DeWayne White, William White, Frank White jr., Clinton White,
2. Respondent claims it attempted service on Defendants by attempting to serve Defendants at 1935 Jacksonville road, North Charleston, SC 29405. No service was attempted as no evidenced by an Affidavit of Non-Service filed on record.
3. On or about August 9, 2022 Respondent filed a Motion and Order appointing a Guardian ad Ltem Nisi, in which it sought publication of Summons together with the Notice of Filing of Complaint and Notice of Appointing Guardian ad Litem Nisi by publication in the Post and Courier News addressed to 1935 Jacksonville road. Notice was subsequently published in the Post and Courier News.
4. A quick search of the Charleston County Public records reveals the addresses to Mary White are identified as 1965, 1959, 1953 Jacksonville road for the. No service was attempted at these addresses.
5. The Complaint states "Plaintiff PVone REO, LLC ("Respondent"), Respondent asserts this Complaint against the defendants for the purpose of confirming its tax title to real property described as 1935 Jacksonville Road, Charleston County, South Carolina, PIN 466-03-00-154 (the "Property"), which is herein below more specifically described and identified. Plaintiff claim to have acquired the Property through a tax deed resulting from a tax sale conducted by Charleston County pursuant to statute."
6. Respondent claims is based on ALL THAT CERTAIN piece, parcel or lot of land, located in Charleston County, South Carolina, shown and designated as "LOT Y" on a plat entitled "RESUBDIVISION OF PROPERTY IN THE 5 MILE SECTION OF CHARLESTON COUNTY" prepared by W. L. Gaillard, Registered Surveyor, dated July 27, 1981, revised October 20, 1983, and recorded in Plat Book AY, Page 192, Charleston County records. BEING a portion of the property conveyed to Mary A. White by deed from Lucreita B. Lucado, dated April 20, 1981, and recorded April 20, 1981,
7. The Order/Appt GAL & Order for Service by Publication dated 08/09/2022-16:54, the Order/Referred to Master or Special Referee dated 09/26/2022-15:09, and the Master/Order/Final Order Quiet Title and Form 4 dated 01/12/2023-16:04 are all based on improper service of process to a unknown address of 1935 Jacksonville Road.
8. During the hearing on 01/12/2023 Respondent attorney entered on the record EXHIBIT 1 Tax Deed EXHIBIT, 2 Deed to Mary A. White EXHIBIT, 3 Affidavit of Edrian Trakas EXHIBIT, 4 Letter from Dewayne Sykes,
9. EXHIBIT 3 Affidavit of Edrian Trakas paragraph # 2 states " Edrian Trakas Office sold a parcel of Real Property commonly known as 1935 Jacksonville Road",
10. the EXHIBIT 2 Deed to Mary A. White deed 125PG036 from lucrate lacudo to Mary White PIN 466-03-00-154, Charleston County Tax Deed,
11. EXHIBIT 4 Letter from Dewayne Sykes identify that Respondent had knowledge of Appellant and known the correct Address to serve the Summons and complaint.

12. After the order Master/Order/Final Order Quiet Title and Form 4 dated 01/12/2023-16:04 Appellant was notified about the court case by a agent of Respondent who trespassed on Appellant property,
13. FINDINGS OF FACT, Amendment to Correct Property Address Based on its title search, Plaintiff identified the Property address as 1935 Jacksonville Road in its prior pleadings and filings. At the hearing, it was determined that based on the Property's PIN of 466-03-00-154, and the GIS and Assessor's records of Charleston County, the correct address of the Property is 1959 Jacksonville Road. Accordingly, the case caption and all prior pleadings are hereby amended nunc pro tunc to reflect the correct address of 1959 Jacksonville Road, pursuant to Rules 15(a), (b), (c), and (d) SCRCP.alsoPrior to filing this action, Plaintiff received a letter dated April 5, 2022, from DeWayne Sykes stating as follows: This letter is to notify you that Mary A White is a Life Estate holder of a [sic] assignment on property located at 1953 Jacksonville Rd, North Charleston, SC Charleston County, South Carolina from the last will and testament of Frank White Sr. Mary A. White died in the year of 1997 at the time of her death the life Estate ended. 11/16/20 is 23 years after the ending of the life estate. Also PINE VALLEY ONE REAL ESTATE, LLC did not exist in The state of South Carolina until the day of 03/14/2022 it could not have done business in South Carolina in 11/16/2020. Tax sale under execution issued against one who is not the owner of the land is void. Donohue v. Ward, 298 S.C. 75, 378 S.E.2d 261 (Ct.App.1989). A copy of this letter was entered into evidence as Exhibit 4. The Court finds that Mr. Sykes did not challenge Plaintiff's title to the Property, which has an address of 1959 Jacksonville Road, because Mr. Sykes' letter references property located at 1953 Jacksonville Road. Based on the GIS records of Charleston County, the Property is adjacent to 1953 Jacksonville Road. Additionally, Plaintiff's title search did not find that DeWayne Sykes holds an interest of record in the Property, and Plaintiff's title search and the Tax Collector's office did not find any records showing that Mary A. White held a life estate interest in the Property.
14. After the trespass on the property and Respondent agent giving notice of an Order against Appellant I than filed a Motion / Intervene & Motion to Vacate such a void order. an hearing was held where I entered the last will and testament of Frank White Sr, transcript of Case # 79-CP-10-2289 in the motion I filed arguments on the Estates of DEWAYNE WHITE , MARY WHITE, FRANK WHITE SR., IDA GREEN GADSDEN, MONDAY GREEN ,JAMES JACKSON, and the BRETHREN OF LOVE SOCIETY.
15. During the same hearing Respondent by way of Mr Johnny Dodds argued that he believed that their is an alternate title to the property, and that he do not think Frank White sr. conveyed the property out pryer to his death and that it came to be owned by Ida Gadsden then to Lucreita B. Lucado then to Mary White, Respondent only argued the deed to Ida Gadsden and the deed from Lucreita to Mary White.and the Sykes letter in April 15 2022 and that this case has already been filed and pending.
16. This case was filed on August 3rd 2022.
17. The Respondent by way of Mr. Dodds also argued if Appellant motion to intervene was timely do to the April, 5, 2022 letter to PINEVALLY ONE REAL ESTATE LLC, and that Affidavit of Edrian Trakas stated that he did not find and reference to any obituary of

Mary White and any record of her Estate and or any deed of distribution of any property and finally whether Appellant is a real party in interest and have a legitimate stake in the outcome of this property?

STANDARD OF REVIEW

Although actions to quiet title are usually in equity, " when the defendants answer raises questions of paramount title to land such as would if established

STATEMENT OF ISSUES ON APPEAL

1. **THE TRIAL COURT ERR IN GRANTING SUMMARY JUDGMENT OF FORECLOSURE WITHOUT SUFFICIENT VALIDATING EVIDENCE?**
2. **THE TRIAL COURT VIOLATE MY CONSTITUTIONAL RIGHTS TO DUE PROCESS AND EQUAL PROTECTION OF THE LAW?**
3. **THE LOWER COURT ERRED IN ITS JUDGMENT BY FAILING TO RECOGNIZE A CRITICAL INCONSISTENCY IN THE PROPERTY DESCRIPTION PROVIDED IN THE DEED?**

the Master/Order/Final Order Quiet Title and Form 4 dated 01/12/2023-16:04

The central issue at hand revolves around the Property Identification Number (PIN) 466-03-00-154, which is cited in the deed from Lucreita B. Lucado to Mary A. White. However, it is imperative to note that this PIN is associated with two distinct property descriptions, thereby raising doubts about the accuracy and consistency of the deed.

The deed specifies that PIN 466-03-00-154 pertains to "ALL THAT CERTAIN piece, parcel, or lot of land, located in Charleston County, South Carolina, shown and designated as 'LOT Y' on a plat entitled 'RESUBDIVISION OF PROPERTY IN THE 5 MILE SECTION OF CHARLESTON COUNTY.'" This description is further corroborated by a plat prepared by W. L. Gaillard, a

Registered Surveyor, dated July 27, 1981, and recorded in Plat Book AY, Page 192, of the Charleston County records.

However, upon closer examination, it becomes evident that there exists no deed for a property designated as "LOT Y" on the aforementioned plat. This discrepancy is critical as it calls into question the accuracy of the property description provided in the deed. If there is no documented existence of a property identified as "LOT Y," then the validity of the deed's assertion regarding the subject property is brought into doubt.

In case# 79-CP-10-2289 Final decree dated March 31st 1981 .The Master Granted Mary White a Life Estate only and attempted to change the life estates Frank White Sr. last will granted to Frank White Jr., William Timothy White, Clinton White, and DeWayne White as Remandermans. Mary A. White conveyed only a life Estate to Lucreita B. Lucado April 1981 and a few days later Lucreita B. Lucado conveyed the life Estate right back to Mary A. White April 1981 this is the same life Estate granted to Mary A. White from Frank White Sr. that Frank White Sr. August 1973 received this life estate from Monday Green July 1885. There is no adverse claim against Appellant in case# 79-CP-10-2289 because I was born in 1979 and my Remanderman interest under Monday Green last will as a grandchild was already secured.

Furthermore, the absence of any deed for "LOT Y" raises concerns about the clarity and specificity of the property description. A deed should unequivocally identify the subject property to avoid ambiguity or confusion. In this instance, the use of a reference to a parcel designated as "LOT Y," without any accompanying deed or legal documentation, renders the description insufficient and unreliable.

In essence, the lower court failed to acknowledge the discrepancy between the property description provided in the deed and the actual recorded documents pertaining to PIN

466-03-00-154. By overlooking this crucial inconsistency, the lower court's judgment is flawed and warrants reversal.

Therefore, we respectfully urge this Honorable Court to recognize the inconsistencies in the property description and to overturn the lower court's decision accordingly. Justice demands a thorough examination of the evidence and adherence to legal standards, both of which support my appeal in this matter.

4. THE TRIAL COURT ERR IN FAILING TO DIRECT RESPONDENT TO GO BACK AND AMEND THE CORRECT ADDRESS ON THE SUMMONS AND COMPLAINT AND RE SERVICE ON THE PROPER PLAINTIFF.

RULE 4

PROCESS

(a) Summons: Issuance. The summons shall be issued by plaintiff or plaintiff's attorney. Copies of the original summons shall be served upon each defendant.

(b) Same: Form. The summons shall be signed by the plaintiff or his attorney, contain the name of the State and county, the name of the court, the file number of the action, and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify him that in case of his failure to do so judgment by default will be rendered against him for the relief demanded in the complaint.

(c) By Whom Served. Service of summons may be made by the sheriff, his deputy, or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action. Service of all other process shall be made by the sheriff or his deputy or any other duly constituted law enforcement officer or by any person designated by the court who is not less than eighteen (18) years of age and not an attorney in or a party to the action, except that a subpoena may be served as provided in Rule 45.

(d) Summons: Personal Service. The summons and complaint must be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Voluntary appearance by defendant is equivalent to personal service; and written notice of appearance by a party or his attorney shall be effective upon mailing, or may be served as provided in this rule. Service shall be made as follows:

RULE 5

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a)Service: When Required. Unless otherwise ordered by the court because of numerous defendants or other reasons, all (1) written orders; (2) pleadings subsequent to the original summons and complaint, which includes answers, counterclaims, cross claims, replies and amended complaints;

Insufficient Service of Process

1. **Failure to Comply with Statutory Requirements:** According to South Carolina Rule of Civil Procedure Rule 4, service of process must be conducted in a manner that adheres to the legal requirements outlined therein. Upon careful examination, it is evident that the manner in which service was effectuated does not conform to the stipulated guidelines.

2. **Lack of Specificity:** The documents provided do not sufficiently outline the details of the service, including the date, time, and manner in which service was executed. This lack of specificity raises concerns about the validity of the service and its compliance with established procedures.

3. **No Proof of Service:** As required by the South Carolina Rules of Civil Procedure, a valid proof of service must be filed with the court to demonstrate that proper service has been achieved. To date, I have not received any evidence of such filing, which further underscores the inadequacy of the service of process.

The issue pertains to the improper service of summons and complaint by the Respondent, as well as the lower court's subsequent failure to provide a directive for re-service of the amended summons and complaint.

As Your Honor is aware, the Respondent filed the summons and complaint with an erroneous property address of "1935 Jacksonville Road." However, the lower court, upon recognizing this error, properly amended the property address to the correct "1959 Jacksonville Road" in its final order. This amendment was undoubtedly a necessary step to ensure the accuracy and fairness of the proceedings.

Regrettably, the lower court did not explicitly direct the Respondent to re-serve the amended summons and complaint to effectuate proper service on the correct property address. This oversight has led to a situation where the corrected information remains unacknowledged by the Respondent, potentially depriving me of my right to due process and an opportunity to present my case fully.

It is essential to note that the proper service of summons and complaint is a fundamental aspect of the judicial process, ensuring that all parties have adequate notice of the proceedings against them. The error in the original filing and subsequent failure to direct re-service of the amended documents undermines this principle and creates an inequitable situation.Respondent

has placed no facts on record, and no facts appear on record whether by deposition, admission, answer to interrogatory, or by affidavit to suggest or to support jurisdiction as no competent witness appears on the record by the documentary essential facts required by law.

Before any determination, there must be a court of complete or competent jurisdiction.
a. There must be two parties with **capacity** to be there.
b. There must be subject matter jurisdiction.
c. Appearance or testimony of a competent fact witness

What this means is that without jurisdiction, **complete jurisdiction**, no court can issue a judgment that isn't void, a nullity, without force or effect, on its face and in fact.

Before a court (judge) can proceed judicially, jurisdiction must be complete consisting of two opposing parties **not their attorneys** - although attorneys can enter an appearance on behalf of a party, **only the parties can testify** and until the plaintiff testifies the court has no basis upon which to rule judicially.

Respondent placed no valid evidence on record to prove its case: For want of a competent fact witness appearing and testifying on record, the court wanted subject matter jurisdiction to consider the unverified, undocumented claims of Respondent. "Statements of counsel in brief or argument are not sufficient for summary judgment". ***Trinsy v. Pagliaro.*** Therefore, documents proffered by Respondent appear to be fraudulent, are un-verified, irrelevant and inadmissible as evidence and are fatal to Respondent's claim of standing to foreclose *ab initio.* This deprived the court of subject-matter jurisdiction the very moment Respondent's case was filed.

Respondent cannot deseize Appellant of his property absent proof of any debt contract, ownership of such contract and required verified documentation as required by law. The only other method of taking Appellant's property is through Eminent Domain. ***U.S. Constitution, Preamble to the Bill of Rights, and, the Bill of Rights at 4th Amendment.*** The Judge (unknowingly) and Respondent by their (alleged) judgment are, attempting to deny the Appellant his secured right to his property and have committed serious crimes against Appellant in direct violation of the State and U.S. Constitutions.

If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred.

II. "Lack of jurisdiction cannot be corrected by an order nunc pro tunc. The only proper office of a nunc pro tunc order is to correct a mistake in the records; it cannot be used to rewrite history." *E.g., Transamerica Ins. Co. v. South,* 975 F.2d 321, 325-26 (7th Cir. 1992); *United States v. Daniels,* 902 F.2d 1238, 1240 (7th Cir. 1990); *King v. Ionization Int'l, Inc.,* 825 F.2d 1180, 1188 (7th Cir. 1987). Also see *Central Laborer's Pension and Annuity Funds v. Griffee,* 198 F.3d 642, 644(7th cir. 1999).

1. Appellantts' motion for Rule 60(b)(4) relief were not raised during the foreclosure proceeding. However, this is excusable under the rule because absent exceptional circumstances, there is no time limit on a Rule 60(b)(4) attack on a judgment.
2. Granted, "[a] ***void judgment*** is void no matter when." But "[a] judgment is not void because it [may be] erroneous. It is void only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law." 11 C. Wright & A. Miller, Federal Practice and Procedure § 2862, at 198-200 (1973) (footnotes omitted)
3. Appellant has grounds for setting aside the default judgment which meet the requirements of South Carolina Civil rules., Rule 60(b) (4). There has been a denial of due process and the judgment is void. Respondent, however, contends that Appellant has failed to show a meritorious defense. But since the judgment was void, Appellant did

not have to show a meritorious defense. 7 Moore, Federal Practice, § 60.25(2) at 264 (2d ed.)

4. In the present case, however, unless the entry of the default is set aside the denial of due process remains. It is not a case for the exercise of discretion. See *Roller v. Holly*, 176 U.S. 398, 409, in which the court said: "The right of a citizen to due process of law must rest upon a basis more substantial than favor or discretion." Hence the entry of the default, like the default judgment, must be set aside. The doctrine of res judicata is predicated upon a valid judgment and a ***void judgment*** may not be used to invoke its application. *Conway v. Sanset*, 59 Misc. 2d 666, 300 N.Y.S.2d 243, 247 (1969); 46 Am. Jur. 2d Judgments § 440

Fraud was practiced in obtaining "judgment" warranting vacation of void judgment in case # 2022-CP-10-03492. Respondent committed felony fraud by advancing writings which Respondent knew were false with the intent that the court would rely on to deprive **money, property and rights** of Appellant. This activity is fatal to the Respondent's civil claim due to lack of standing ab initio and fraud. The Respondent never invoked subject matter jurisdiction of the court. Subject matter jurisdiction is lost. - Fraud committed in the procurement of jurisdiction, *Fredman Brothers Furniture v. Dept. of Revenue*, 109 Ill. 2d202, 486 N.E. 2d 893(1985).4. Fraud upon the court, In re *Village of Willowbrook*, 37Ill, App. 3d 393(1962)

Respondent placed no valid evidence on record to prove his case: For want of a competent fact witness appearing and testifying on record, the court wanted subject matter jurisdiction to consider the unverified, undocumented claims of Respondent.

Any attorney who in any proceeding before any court of a justice of the peace or police, judge or other Inferior court in which he appears as attorney, willfully misstates any proposition or seeks to mislead the court in any matter of law is guilty of a misdemeanor and on any trial therefore the state shall only be held to prove to the court that the cause was pending, that the Movant appeared as an attorney in the action, and showing what the legal statement was, wherein it is not the law. If the defense be that the act was not willful the burden shall be on the Movant to prove that he did not know that there was error in his statement of law."

The void judgment in case # 2022-CP-10-03492 contains a claim that jurisdiction is lacking on the face of the record for want of any evidence whatsoever, warrants vacation of the "judgment". Respondent must prove its case by submission of evidence through a competent witness and required documentation and verification of claim attested to the record made in case # 2022-CP-10-03492.

When the Movant was deprived of due process rights, the court was deprived of subject matter jurisdiction. For examples: "Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process," *U.S.C.A. Const. Amend.5 – Triad Energy Corp. v. McNell,* 110 F.R.D. 382 (S.D.N.Y. 1986) and "Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process," Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const. Amend. 5 – *Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).*

This court has inherent power, to vacate in its ministerial or administrative capacity any judgments, actions, orders or decrees that are void on the face of the record. The lack of facts placed on record coupled with a false exhibit entered into the court by Respondent's counsel in case # 2022-CP-10-03492 are un controverted, un-refuted. The court lacked the proper invocation of its jurisdiction in regards to case # 2022-CP-10-03492 based on sham legal process in the above captioned matters that purported to be valid. This court is respectfully reminded that any person who is affected by a judgment that is void on the face of the record or void *ab initio* by uncontroverted facts can either make a direct or collateral attack in regards to said judgment. This court has knowledge that Appellant's motion to vacate void judgment is

procedurally proper placing substantive fact issues before this court. Licensed Bar Attorneys such as Mr. John J. Dodds III, A. Parker Barnes, and Kelly Y. Woody, alleged attorney for Respondent herein, are compelled to exercise a standard of normal care as defined in the Disciplinary Rules and the Rules of Procedure. Attorneys are presumed to know and understand the Law and as a debt collector to also comply with the Uniform Commercial Code and Fair Debt Collection Practices Act and exhaust all of those remedies properly prior to filing pleadings in a court of law.

Further, summary judgment must be proved by evidence on the record through a competent witness. A third person cannot testify to the court as alleged counsel has attempted to do as to the validity of the debt. There is nothing on the alleged judgment or in any of the paperwork filed in the record of this alleged case that shows first-hand knowledge testimony from the alleged creditor or any valid instrument that would lead a reasonable person to believe that there is a valid, lawful, collectable debt.

South Carolina A void judgment is one that, from its inception, is a complete nullity and is without legal effect." Thomas & Howard Co. v. T.W. Graham and Co., 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995). The definition of void under the rule only encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction." McDaniel v. U.S. Fid. & Guar. Co., 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996). It is fundamental that no judgment or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected." Tyron Fed. Sav. & Loan Ass'n v. Phelps, 307 S.C. 361, 362, 415 S.E.2d 397, 398 (1992). Generally, a person against whom a judgment or order is taken without notice may rightly ignore it and may assume that no court will enforce it against his person or property. The requirements of due process not only include notice, but also include an opportunity to be heard in a meaningful way, and judicial review. Grannis v. Ordean, 234 U.S. 385, 394 (1914) ("The fundamental requisite of due process of law is the opportunity to be heard."); S.C. Dep't of Soc. Servs. v. Holden, 319 S.C. 72, 78, 459 S.E.2d 846, 849 (1995)

5. THE TRIAL COURT ERR BY ONLY CONSIDERING AND EXECUTING RESPONDENTS PROPOSED ORDER WHICH WAS NOT PROVIDED TO APPELLANTS, AND BY FAILING TO CONSIDER THE PROPOSED ORDER OF APPELLANTS.

As the Appellant in this matter, I am deeply troubled by the Respondent's failure to comply with Rule 5(b) (3) of the South Carolina Rules of Civil Procedure, specifically with regard to the

service of the proposed order and the Appellant's opportunity to review and comment on said order prior to its signing.

Rule 5(b) (3) clearly outlines the requirements for service of a proposed order and emphasizes the importance of providing the opposing party with an opportunity to review and comment on the proposed order before it is signed by the Court. The intent behind this rule is to ensure fairness, transparency, and due process in the legal proceedings, allowing both parties to present their perspectives and concerns before any final decisions are made.

In this case, I regret to inform the Court that the Respondent failed to adhere to this essential procedural requirement. Despite the explicit language of Rule 5(b) (3), I was not provided with the proposed order nor given an opportunity to review or comment on it prior to its signing. This egregious oversight has denied me my right to be heard and has infringed upon the principles of fairness that underpin our judicial system.

The failure to comply with Rule 5(b) (3) not only undermines the integrity of the legal process but also hampers my ability to present a robust defense and advocate for my interests effectively. It is my sincere hope that the Court recognizes the gravity of this matter and takes appropriate action to rectify the situation.

RULE 5

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(b)(3) Service of Proposed Orders and Other Papers. Any party providing a proposed order, proposed findings of fact or conclusions of law, or proposed judgment or other paper to the court for its consideration in any pending matter **shall serve the same on all counsel of record at the same time and by the same means.**

Note to 1994 Amendment:

Rule 5(b)(3) clarifies the intent of Rule 5(a) and requires that proposed orders, findings of fact and conclusions of law and other materials provided to the court are to be served on all counsel of record. The material is to be provided to all other counsel at the same time and by the same means as they are provided to the court. Thus opposing counsel will have the opportunity to review and comment on the proposed order before it is signed. The rule does not require the court to delay entering any proposed order.

6. THE TRIAL COURT ERR IN FAILING TO DIRECT A NEW TRIAL AFTER RESPONDENT ENTERS NEW EVIDENCE AFTER THE TRIAL HEARING.

The Master in Equity should not have ruled on evidence the Respondent never argued or summinted before and during the hearing in trial court and secretly filed in the court after the trial hearing.

RULE 29
POST TRIAL MOTIONS

(a) Generally. Except for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence. In cases involving appeals from convictions in magistrate's or municipal court, post-trial motions shall be made within ten (10) days after receipt of written notice of entry of the order or judgment disposing of the appeal. The time for appeal for all parties shall be stayed by a timely post-trial motion and shall run from the receipt of written notice of entry of the order granting or denying such motion. The time within which to make the motion shall not be affected by the ending of a term of court or departure of the judge from the circuit, and the circuit judge shall retain jurisdiction of the action for the purpose of hearing and disposing of the motion if not heard and disposed of during the term. Except by consent of the parties, argument on the motion shall be heard in the circuit where the trial or hearing was held. The motion may, in the discretion of the court, be determined on briefs filed by the parties without oral argument.

(b) New Trials Based on After-Discovered Evidence. A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence. A motion for a new trial based on after-discovered evidence may not be made while the case is on appeal unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion. Leave of the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court

7. THE TRIAL COURT ERR IN FINDING THE AFFIDAVIT OF PUBLICATION IN THE POST AND COURIER OF AUGUST 12,19,26 WAS NEVER CORRECTED BASED ON THE EVIDENCE OF RECORD.

The court identified that the address in the Summons, Complaint, and Publications was wrong and did not exist. see transcript pages 18 rows 19-25

RULE 5(d)

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(d) Filing. All papers required to be served upon a party except as provided in Rule 26(g)(1), shall be filed with the court within five (5) days after service thereof. The summons and complaint shall be filed before service. Proof of service shall be filed within ten (10) days after

service of the summons and complaint. **Upon failure to serve the summons and complaint, the action may be dismissed by the court** on the court's own initiative or upon application of any party. Upon failure of a party to file other pleadings, motions, or papers, the court may permit filing or proceed as though the same had not been served.

Note:

This Rule 5(d) encompasses present Circuit Rule 68 and former Rule 75, as well as Code § 15-9-1000. It is a more concise statement, and provides more specific sanctions in the court's discretion.

Note to 1993 Amendment:

Rule 5(d) was amended to add language permitting the court to dismiss an action on its own initiative if it has been filed but not served upon the defendant. The prior rule required a motion by a party.

Insufficient Service of Process

4. **Failure to Comply with Statutory Requirements:** According to South Carolina Rule of Civil Procedure Rule 4, service of process must be conducted in a manner that adheres to the legal requirements outlined therein. Upon careful examination, it is evident that the manner in which service was effectuated does not conform to the stipulated guidelines.

5. **Lack of Specificity:** The documents provided do not sufficiently outline the details of the service, including the date, time, and manner in which service was executed. This lack of specificity raises concerns about the validity of the service and its compliance with established procedures.

6. **No Proof of Service:** As required by the South Carolina Rules of Civil Procedure, a valid proof of service must be filed with the court to demonstrate that proper service has been achieved. To date, I have not received any evidence of such filing, which further underscores the inadequacy of the service of process.

According to the rule of law A defect in service of process by publication is jurisdictional, rendering any judgment or order obtained thereby void. Jones v. Wallis, 211 NC App. 353, 712 S.E.2d 180 (2011).

(4) Judgments After Service by Publication; Affidavit; Undertaking.

In actions for the recovery of money only, when the summons has been served by publication and the defendant is a non-resident of the State, no default judgment shall be rendered unless the plaintiff or his agent at or before the time of making the application for judgment shall have been examined on oath respecting any payments that have been made to the plaintiff or any one for his use on account of the demand mentioned in the complaint, and shall show by affidavit that an attachment has been issued in the action and levied upon property belonging to the defendant, which affidavit shall contain a specific description of such property, and a statement of its value and shall be filed with proof of publication. Before judgment is rendered the plaintiff shall, unless the court in its discretion dispenses with the same, cause to be filed an

undertaking in such amount as shall be ordered by the court with security to be approved by the court or the clerk thereof, that the plaintiff will abide the order of the court touching the restitution of any estate or effects which may be directed by such judgment to be transferred or delivered, or the restitution of any money that may be collected under, or by virtue of, such judgment, in event the defendant or his representative shall apply and be admitted to defend the action and shall succeed in such defense.
Article 1 SECTION 23. Provisions of the Constitution are mandatory. The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissory by its own terms. (1970 (56) 2684; 1971 (57) 315.), Rule 4(d) of the South Carolina Rules of Civil Procedure to be the equivalent of a statute, strict compliance with both that rule and section 15-9-740 would be required since service by publication is in derogation of the common law, therefore requiring strict compliance with the authorizing statute or rule. See, Wayne County, ex rel. Williams v. Whitley, 72 NC App. 155, 323 S.E.2d 458 (1984); see also, Caldwell v. Wiquist, 402 SC 565, 741 S.E.2d 583 (Ct. App. 2013) (to avoid resolving litigation by default, strict compliance with publication statutes is required).
Further When the Rules of Civil Procedure were promulgated by the Supreme Court and not rejected by the General Assembly, the latter also passed a bill which attempted to repeal those statutes previously enacted which were in conflict with the Rules of Civil Procedure. See 1985 Act 100 (effective 7/1/85). The legislature further provided that in the event of conflict between any provision of the South Carolina Rules of Civil Procedure and any other statutory provisions as to practice and procedure not otherwise repealed by the Act, the provisions of the rule would prevail. Since procedure concerns the machinery for carrying on a legal action, including pleadings, process, evidence and practice, it appears clear that service by publication concerns a matter of procedure. Based upon this Act, the dictates of Rule 4 would prevail over section 15-9-740. Accordingly, the commencement of any action requires service of both a summons and complaint. The respondent, PVONE REO LLC, and several other Officers of the Charleston county acting criminally produced an Irregular Complaint by Publication which it cannot prove any set of Facts Rule 602.

as used in Code, § 29, Emphasis added SC Rule 17 providing that an action must be prosecuted In the name of the real party in interest, means the person entitled to the avails of the suit; and a mere assignee, having no interest In the result of the suit, and who obtains an assignment on a promise to pay the assignor the amount he may derive from the action, is not the real party in interest, and cannot maintain the action. Hoagland v. Van Etten, 35 N. W.Ш, 870, 22 Neb. 681.

as used in Code, § 29, Emphasis added SC Rule 17 providing that an action must be prosecuted In the name of the real party in interest, means the person entitled to the avails of the suit; and a mere assignee, having no interest In the result of the suit, and who obtains an assignment on a promise to pay the assignor the amount he may derive from the action, is not the real party in interest, and cannot maintain the action. Hoagland v. Van Etten, 35 N. W.Ш, 870, 22 Neb. 681.

In order to establish standing, three elements must be established. First, the party must have suffered an injury in fact---an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of---the injury has to be fairly traceable to the challenged action of the adverse party and not the result of independent action of some third party not before the court. Third, it must be likely as opposed to merely speculative, that the injury will be redressed by a favorable decision. SeeLujan v. Defenders of Wildlife, 504 U.S. 555, 112 S.Ct. 2130, 2136, 119 L.Ed.2d 351 (1992); Chambers Medical Technologies of S.C. v. Bryant, 52 F.3d 1252 (4th Cir. 1995). The plaintiff or the master in Equity Court does not satisfy any of the requirements required to establish standing.

Heirs are the Victim of Malicious prosecution and Void Order evidenced by the attachments proof that there was no true diligent search by PVONE REO LLC stating the place was unoccupied when that was never the case the court is in error by using that as proof of diligent service to service by publication. Since the service of a summons, which gives a court the power to render a judgment over a party within its jurisdiction, must be accomplished with service of the complaint, there is no personal jurisdiction over a party without the service of both summons and complaint together. Without personal jurisdiction, any judgment rendered by a court is void. Universal Benefits, Inc. v. McKinney, 349 S.C. 179, 561 S.E.2d 659 (Ct. App. 2002) (A judgment is void when a court lacks personal jurisdiction over a party). Because a void judgment is a nullity, it may be attacked at any time within "reason" without a showing of excusable neglect or meritorious defense. See *Flanagan, James F.,* South Carolina Civil Procedure (2d Ed.). Under Rule 60(b)(4), relief where a judgment is void is non-discretionary and a matter of right. Richardson Construction Co. v. Meck Engineering & Construction Co., 274 S.C. 307, 262 S.E.2d 913 (l980). As a result, if the above analysis proves true, any service by publication upon a defendant which is undertaken in conformance with section 15-9-740 may have been improper and cause the judgment rendered upon a default to be void and subject to relief pursuant to Rule 60(b)(4) of the South Carolina Rules of Civil Procedure.

8. THE TRIAL COURT ERR IN THE COURT ORDER THAT MARY WHITE IS A FEE SIMPLE OWNER AND HELD GOOD TITLE TO THE PROPERTY.

June 1885 Monday Green last will and testament appointed his three daughters one who is Ida Green Gadson life estates, he also gave life estates to children of his children Frank White Sr., It is Monday Green desire that his house and lands to be kepth together as a home for his children or grandchildren. case # 300-0003,

August 3 1973 Frank White Sr. last will and testament appointed his wife Mary A White life estate and executrix and upon her death he gave the same life estate to his children

appointing his son DeWayne Alphonza White as substitute executor. case # 73-559 & 12-1302,

December 2016 DeWayne A White died appointing DeWayne Alphonza Sykes as Personal Representative and sole heir

The trial court already ruled that MaryA. White has a life interest in the premises in the Masters Report and Final decree dated March 31st 1981 in case# 79-CP-10-2289.

despite the trial court ruling that Mary White held fee simple title to the property its inconsistent with the basics of real property law specifically a life estate holder can not obtain a fee simple title by adverse possession because she could not me the hostile element from adverse possession plus the courts ruling that she owns fee simple is inconsistent with the law.

Frank White Sr. last will in testament in 1973 issued Mary A. White a volunteer life interest and upon her death he gives the same life interest to his children this makes Appellant the remainderman as grandchild of Frank White Sr..

Mary White identified in her own testimony that she has a life estate interest in the Reference in case# 79-CP-10-2289.

2. LIFE ESTATES. Grantee of life tenant, holding over after life tenant's death, could not set up hostile claim against remaindermen based simply on possession (Hemingway's Code, sections 2628, 2629, 2632).

1) Trustee cannot defeat her own trust: 100 S.C. 220. Adverse possession cannot run against remaindermen during lifetime of life tenants: 115 S.C. 186; 108 S.C. 308; 82 S.C. 536. Lands impressed with trusts: 50 S.C. 128; 35 S.C. 422; 10 S.C. 376. Use was executed in the remaindermen: 82 S.C. 539; 18 S.C. 184; 78 S.C. 150; 2 Wn. Real. Prop., 1351. No adverse possession where lines were incorrectly run: 114 S.C. 303. Courts will preserve trusts: 112 S.C. 297.

DeWayne A. White

Title automatically transferred to DeWayne Alphonza White as a life interest . Dewayne A. White was deemed incapacitated in Probate Court case # 88-747C/G from 1988 tell December 2016 see Exhibit. DeWayne Alphonza White did not sign over his interests and if he did it could only be a life interest in 1989. DeWayne A. White thereafter died intestate on 12/27/2016 an estate was opened Appellant is the personal representative and his sole heir of the estate thus identifies that Appellant do have an interest in the subject property as a remainder interest.

2) an action to set aside a deed or petition signature on the basis of mental incompetence, which is an action in equity. Vereen v. Bell, 256 S.C. 249, 251-52, 182 S.E.2d 296, 297 (1971) (applying an equitable standard of review on appeal for an action to rescind and cancel a deed for lack of capacity); Ballenger v. City of Inman, 336 S.C. 126, 130, 518 S.E.2d 824, 827 (Ct. App. 1999) (applying an equitable standard of review on appeal for an action to set aside the signature on land annexation petition for

lack of mental capacity). Likewise, an action to rescind a contract is in equity. Gibbs v. G.K.H., Inc., 311 S.C. 103, 105, 427 S.E.2d 701, 702 (Ct. App. 1993).

9. THE TRIAL COURT ERR IN THE COURT ORDER THAT APPELLANT DID NOT CHALLENGE OF THE TAX SALE OF THE PROPERTY.

The answer was based on the wrong address therefore there was no reason to challenge the tax sale, so it didn't pertain to the correct address of the subject property.

The central issue in this appeal revolves around the incorrect address of the subject property, specifically, 1935 Jacksonville Road, which forms the crux of the dispute. It is my contention that the erroneous reference to this address fundamentally distorted the proceedings, rendering the decision of the lower court unjust and unwarranted.

Factual Background

In the original proceedings, the lower court's decision was rooted in an assertion that the tax sale of the subject property, 1935 Jacksonville Road, was valid. However, it has come to light that this address is entirely incorrect and does not pertain to the property in question. The proper address, which ought to have been considered throughout the proceedings, is 1959 Jacksonville road, and it is critical to emphasize that the tax sale pertains exclusively to this address.

Legal Analysis

The gravamen of my argument rests upon the principle that due process and fairness require proceedings to be based on accurate and relevant information. In this case, the erroneous address of 1935 Jacksonville Road forms the foundation of the lower court's decision, thereby rendering it null and void. The incorrect address led to the misguided belief that the tax sale was applicable to the subject property when, in reality, it was not.

The precedent is clear that when errors of this nature occur, they inherently prejudice the outcome of the case. A decision based on erroneous information lacks the credibility and legal validity that our judicial system demands. In the present appeal, the lower court's decision, having been premised on the incorrect address, has failed to uphold the principles of fairness, justice, and due process.

10. THE TRIAL COURT ERR IN DENYING APPELLANTS ARGUMENT THAT

LOT Y. PLUS THE ADDRESS ATTACHED NO LONGER EXIST ALONG WITH MARY WHITE LIFE ESTATE.

SECTION 27-5-40. Feoffment with livery of seizin shall not defeat remainder.

No estate in remainder, whether vested or contingent, shall be defeated by any deed of feoffment with livery of seizin.

SECTION 27-5-50. Warranties by life tenants; collateral warranties.

All warranties which shall be made by any tenant for life of any lands, tenements or hereditaments descending or coming to any person in reversion or remainder shall be void and of no effect.

As Appellant identified section 27-5-50 A Resubdivision of a property plat made in 1981 by Mary White a tenant for life is a warranty and shall be void and of no effect. Also Appellant identified in the case transcript page 10 rows 1,2,3,4, This Identifies that lots x,y,z reverted back to its original description of a lot know as lot 29 of STROMBOLI on a plat created in 1875 by WM Hume Simmons surveyor.

These points pertain to the validity and effect of a resubdivision of a property plat made in 1981 by Mary White, as well as the identification of critical information from the case transcript that substantiates my claims.

The central issue at hand pertains to the applicability of Section 27-5-50 A, which stipulates that a warranty is attached to a resubdivision of a property plat. As the Appellant, I assert that the resubdivision of the property plat carried out in 1981 by Mary White, a tenant for life, falls squarely within the purview of this statute. Therefore, any such resubdivision must adhere to the provisions of the law. Section 27-5-50 A explicitly states that such a warranty renders the resubdivision void and of no effect.

Moreover, the transcript of the case provides a definitive link between the lots in question and their original description as outlined in the plat created by Frederick J Smith, Engineer and Architect, in 1879. On page 10 of the case transcript, specifically in rows 1, 2, 3, and 4, this crucial identification is made. These references conclusively demonstrate that the lots denoted as x, y, and z in the resubdivision made by Mary White in 1981 have reverted back to their original description, which is synonymous with the lot identified as Section I of STROMBOLI on the 1879 plat.

The significance of this evidence cannot be overstated. It validates my assertion that the resubdivision by Mary White attempted to alter the fundamental characteristics of the property, which was rightfully established in the original 1879 plat by Frederick J Smith. This evidence highlights the importance of maintaining the integrity of property descriptions and the historical context in which they were established.

In light of the aforementioned arguments and compelling evidence, I respectfully urge the Court to give due consideration to the applicability of Section 27-5-50 A and the identified information from the case transcript. The resubdivision made by Mary White in 1981 must be assessed against the stringent requirements of the law, and any deviation from these requirements renders the resubdivision null and void.

11. THE TRIAL COURT ERR THAT PVONE REO LLC 01206713 SOUTH CAROLINA AND PINEVALLY ONE REAL ESTATE LLC M20000005632 FLORIDA IS THE SAME PLANTIFF IN THIS CASE.

PVONE REO LLC , PVONE REAL ESTATE, PINE VALLEY ONE REAL ESTATE LLC are distinct legal entities and should not be treated as the same plaintiff for the purposes of this litigation.

The Court identified **PVONE REAL ESTATE** in Dania Beach, Florida in the letter of April 2022 from the Brethren of Love Society trust and that letter is published at the top of page 4 in the courts order see transcript page 4 rows 5-12

MR. Dodds argument **PVONE REO LLC** about April 2022 letter from the Brethren of Love Society trust made as a exhibit see transcript page 20 rows 2-6

Appeallant identified that letter from the Brethren of Love Society trust was addressed to **PINE VALLEY ONE REAL ESTATE LLC** in Dania Beach Florida April 2022

The letter of April 2022 from the Brethren of Love Society gave Respondent notice of a trust and the correct address to service of the summons and complaint.

LEGAL IDENTITY

1. The South Carolina Rules of Civil Procedure Rule 10 (a) require that parties involved in litigation be accurately identified and named in the pleadings. The accurate identification of parties is essential to ensure that the rights of all parties are preserved and protected.

2. Failing to accurately identify the Plaintiff as PINE VALLEY ONE REAL ESTATE LLC instead of PVONE REO LLC may lead to confusion, potential prejudice, and a misunderstanding of the true nature of the parties involved in this case.

RULE 10
FORM OF PLEADINGS

(a) Caption, Name of Parties. Every pleading shall contain a caption setting forth the name of the State and County, the name of the Court, the title of the action, the file number and a designation as in Rule 7(a). **In the summons and complaint the title of the action shall**

include the names of all parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

A fundamental matter in this litigation: the distinct legal identities of the plaintiffs involved. It is our contention that PVONE REO LLC, PVONE REAL ESTATE, and PINE VALLEY ONE REAL ESTATE LLC are separate and distinct legal entities, each with its own rights, responsibilities, and obligations. It is imperative that they should not be treated as a single entity for the purposes of this litigation.

The Context:

The Court has already established the significance of distinguishing between legal entities, as evidenced by the letter of April 2022 from the Brethren of Love Society trust. This pivotal document, published at the top of page 4 in the court's order, clearly identifies PVONE REAL ESTATE in Dania Beach, Florida, as a separate and distinct entity. The letter, which was a communication addressed to PINE VALLEY ONE REAL ESTATE LLC, provides crucial notice of a trust and correctly indicates the address for service of the summons and complaint. This adherence to proper legal procedure underscores the importance of respecting and acknowledging each entity's individuality.

Appellant's Assertion:

In accordance with the proceedings on transcript page 20, rows 2-6, the appellant has introduced the aforementioned April 2022 letter from the Brethren of Love Society trust as an exhibit. This exhibit, incontestably addresses PINE VALLEY ONE REAL ESTATE LLC in Dania Beach, Florida, thereby fortifying the assertion that the Brethren of Love Society trust recognizes and acknowledges the distinct legal identity of PINE VALLEY ONE REAL ESTATE LLC.

Application of Rule 10 - Form of Pleadings:

Rule 10 of the South Carolina Rules of Civil Procedure clearly emphasizes the necessity of accurate designations and captions to ensure the proper identification of parties in litigation. It is crucial to note that Rule 10(a) mandates the inclusion of the names of all parties in the summons and complaint, thereby ensuring that every distinct legal entity is recognized. In this case, the letter from the Brethren of Love Society trust serves as compelling evidence that such adherence to proper designations is not merely procedural, but rather a substantive requirement to uphold the integrity of the legal process.

Conclusion:

It is Appellant firm belief that the evidence presented, including the April 2022 letter from the Brethren of Love Society trust, unequivocally establishes the separate and distinct legal identities of PVONE REO LLC, PVONE REAL ESTATE, and PINE VALLEY ONE REAL ESTATE LLC. The context, the exhibit introduced by the Respondent , and the application of Rule 10 all converge to affirm this critical point. To disregard these distinct legal entities and treat them as one would be a disservice to the principles of justice and the integrity of our legal system.

PRECEDENT AND CLARITY

Accurate identification of parties is not only a legal requirement but also a fundamental principle of fairness and due process. Courts have consistently upheld the importance of proper party identification to prevent any confusion that may arise during litigation.
To maintain judicial efficiency, ensure a fair trial, and avoid unnecessary disputes, it is imperative that the Plaintiff be identified accurately and consistently throughout this case.

12. THE TRIAL COURT ERR IN NOT FINDING FACT ON WHICH FRANK WHITE IS ALLEGED TO HAVE SIGNED OVER HIS RIGHTS TO IDA GREEN GADSEN IN A DEED.

This deed along with a few other deeds was new evidence submitted to the judge after the trial hearing. there is three different Frank White's in this case

1.) Frank White the 1st. see as father of Frank White Sr. death certificate and of Wade Hampten the 2nd estate.
2.) Frank White Sr. see death certificate and will
3.) Frank White Jr. see in will of Frank White Sr. and remainder Plaintiff in case#

According to the transcript of the day of the hearing Respondent argued before the master in equity that there chain of title was Frank White signed his rights to Ida Gadsen, Ida Gadsen signed to Lucreita Lucado, and Lucreita Lucado signed over to Mary White,

plus the deed is not signed by anyone. There is no fact finding to support the masters findings that Frank White Sr. signed over his rights.

13. THE MASTER IN EQUITY AND THE CIRCUIT COURT ERR IN INTERPRETING THE WILL TO GIVE PVONE REO LLC AUTHORITY TO ACT AS A TRUSTEE DE SON TORT WITH AUTHORITY TO SEEK TERMINATION OF THE TESTAMENTARY TRUST FROM ITS INCEPTION AND DISTRIBUTE

all its language and provisions, giving effect to every part when, under a reasonable interpretation, all the provisions may be harmonized with each other and with the will as a whole. King v. S.C. Tax Commn., 253 S.C. 646, 649, 173 S.E.2d 92, 93 (1970); Wise v. Poston, 281 S.C. 574, 578, 316 S.E.2d 412, 414 (Ct. App. 1984). The rules of construction are of secondary importance to the need to ascertain what the testator meant by the terms used in the written instrument itself, and each item of a will must be considered in relation to other portions. Allison v. Wilson, 306 S.C. 274, 278, 411 S.E.2d 433, 435 (1991). An interpretation that fits into the whole scheme or plan of the will is most likely to be the correct interpretation of the intent of the testator. Lemmon v. Wilson, 204 S.C. 50, 69, 28 S.E.2d 792, 800 (1944).

As with a will, the primary consideration in construing a trust is to discern the settlors intent. Bowles v. Bradley, 319 S.C. 377, 380, 461 S.E.2d 811, 813 (1995). In fact, the law relating to discerning the drafters intent is identical for wills and trusts. All Saints Parish, Waccamaw v. Protestant Episcopal Church, 358 S.C. 209, 224 n.10, 595 S.E.2d 253, 262 n.10 (Ct. App. 2004). trusts are entitled to peculiar favor; the courts will construe them to give them effect, if possible, and to carry out the general intention of the donor. Colin McK. Grant Home v. Medlock, 292 S.C. 466, 470, 349 S.E.2d 655, 657 (Ct. App. 1986) (citing Porcher v. Cappelmann, 187 S.C. 491, 499, 198 S.E. 8, 11 (1938)).

While precedent is helpful at times, no will has a brother. A court may find little guidance in prior decisions interpreting wills and testamentary trusts in other cases due to the different intent and circumstances of each testator or settlor. *E.g.* Estate of Houston, 421 A.2d 166, 170 n.5 (Pa. 1980) (No will has a brother, declared Sir William Jones. . . . Each will is its own best interpreter, and a construction of one is no certain guide to the meaning of another.); Ball v. Phelan, 49 So. 956, 963 (Miss. 1909) (If any one thing can be evident, after the review of the authorities, it is what Sir William Jones said more than 200 years ago, that no will has a brother. Every will must be determined upon considerations pertaining to its own peculiar facts and terms alone.)

Nevertheless, concludeing the lower courts interpretation of the language is not reasonably supported by a plain reading of the will and testamentary trust. The lower courts erred in discerning Testator intent by isolating this language and interpreting it in a manner which conflicts with the remainder of the will. A reading of the will and testamentary trust as a whole, giving due weight to all their provisions in an effort to read them in harmony, reveals Testator did not intend by this language to give Executix the power to terminate the trust and immediately distribute all trust assets to her self.

The grant of various general powers in will, including the language, was intended to give substantial latitude to the substitute Executor or and Personal Representative of substitute Executor estate in the management and administration of Testator estate. However, the distribution contemplated by Testator as shown by the terms of his will was not the immediate distribution of all trust assets, but distribution of the life interest. Testator intended to ensure Substitute Executor had ample freedom to convert and reverse warranties from the life estate

without extensive oversight or interference. conclude this will, although inartfully drafted, can not be read in isolation in a manner which conflicts with the obvious, stated intent of Testator as shown throughout the remainder of his will.

14. THE TRIAL COURT ERR IN ITS RULING THAT APPELLANT DO NOT HOLD AN INTEREST IN THE PROPERTY.

SC code 62-7-103

(2) "Beneficiary" means a person that:

(A) has a present or future beneficial interest in a trust, vested or contingent; or

(B) in a capacity other than that of trustee, holds a power of appointment over trust property; or

(C) In the case of a charitable trust, has the authority to enforce the terms of the Trust.

(7) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(11) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

15. THE TRIAL COURT ERR IN NOT INVOKING THE EXCLUSIVE EQUITY.

16. THE TRIAL COURT ERR IN ITS ORDER THAT PVONE REO LLC DID A PROPER TITLE SEARCH OF MARY LIFE ESTATE.

The issue at hand concerns the Respondent's failure to conduct proper research on the matter of Mary's life estate and the subsequent erroneous order of the trial court that relied on a purported title search by PVONE REO LLC.

Respondent claimed that its title search in the Charleston County tax collector office did not show that Mary White had a life estate interest in the property. The court already identified that Mary White held a life estate.

As the record shows, the trial court's order incorrectly stated that PVONE REO LLC had conducted a proper title search of Mary's life estate. This assertion is deeply flawed and misleading, as the Master in Equity Judge Condon had already ruled on March 31, 1981, that Mary held a life estate. This pivotal ruling is a matter of established legal precedent and should have been recognized and respected by the Respondent and the trial court.

It is disconcerting that the Respondent, despite its legal obligations, failed to undertake adequate research and diligence in verifying the status of Mary's life estate. The Master in Equity Judge Condon's decision from 1981 remains a cornerstone of this case, and any attempt to undermine or disregard it is a grave disservice to the principles of justice and legal integrity.

The importance of conducting thorough research and recognizing established legal precedent cannot be overstated. In this instance, the Respondent's neglect to acknowledge the Master in Equity Judge Condon's ruling demonstrates a lack of due diligence and a disregard for the factual and legal foundations of the case.

In light of the aforementioned circumstances, I respectfully submit the following arguments for this Honorable Court's consideration:

I. Negligence and Lack of Due Diligence: The Respondent's failure to acknowledge and respect the Master in Equity Judge Condon's 1981 ruling on Mary's life estate demonstrates a lack of due diligence and legal responsibility. This negligence raises concerns about the Respondent's commitment to upholding the principles of accurate research and legal precedent.

II. Misrepresentation of Facts: The trial court's reliance on PVONE REO LLC's purported title search, despite the well-established ruling by Master in Equity Judge Condon, amounts to a misrepresentation of facts. This misrepresentation has led to an erroneous order that must be rectified to ensure a just and equitable resolution of the case.

III. Precedent and Legal Integrity: Upholding legal precedent and maintaining the integrity of established rulings is essential to the fair administration of justice. Disregarding precedent, especially one as significant as Master in Equity Judge Condon's decision, undermines the credibility and effectiveness of the legal system.

IV. Negligence and Lack of Due Diligence: The Respondent's failure to acknowledge and respect the Master in Equity Judge Condon's 1981 ruling on Mary's life estate demonstrates a lack of due diligence and legal responsibility. This negligence raises concerns about the Respondent's commitment to upholding the principles of accurate research and legal precedent.

V. Misrepresentation of Facts: The trial court's reliance on PVONE REO LLC's purported title search, despite the well-established ruling by Master in Equity Judge Condon, amounts to a misrepresentation of facts. This misrepresentation has led to an erroneous order that must be rectified to ensure a just and equitable resolution of the case.

VI. Precedent and Legal Integrity: Upholding legal precedent and maintaining the integrity of established rulings is essential to the fair administration of justice. Disregarding precedent, especially one as significant as Master in Equity Judge Condon's decision, undermines the credibility and effectiveness of the legal system.

18. THE TRIAL COURT ERR IN DENYING APPELLANTS MOTION TO INTERVENE RULING THAT APPELLANT DO NOT HOLD AN INTEREST IN THE PROPERTY?

SCRCP RULE 24

INTERVENTION

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Note:

This is the same as Federal Rule 24(a). Intervention of right under this Rule is a counterpart to Rule 19(a) on joinder of persons needed for a just adjudication; where, upon motion of a party in an action, an absentee should be joined so that he may protect his interest which as a practical matter may be substantially impaired by the disposition of the action, he ought to have a right to intervene in the action on his own motion. The Rule expands intervention of right as provided by Code § 15-5-200, and Circuit Court Rule 22.

FRCP RULE 24

INTERVENTION

The general purpose of original Rule 24(a)(2) was to entitle an absentee, purportedly represented by a party, to intervene in the action if he could establish with fair probability that the representation was inadequate. Thus, where an action is being prosecuted or defended by a trustee, a beneficiary of the trust should have a right to intervene if he can show that the trustee's representation of his interest probably is inadequate; similarly a member of a class should have the right to intervene in a class action if he can show the inadequacy of the representation of his interest by the representative parties before the court.

FACTS

The Brethren of Love Society trust is the owner of lands known as Long Point/Stromboli farm lots 1-37 located on Charleston neck in the County of Charleston. Appellant is a beneficiary of the trust with rights by blood as a grandchild of Monday Green with a perpetuity interest with rights to use, domicile and rent out any part of the trust land as an accounting.

In April 5, 2022 Appellant on behalf of the trust responded to a letter that found its way in the trust office about a tax foreclosure sale of an unknown address of 1935 jacksonville road. The trust letter was to a company named PINEVALLEY ONE REAL ESTATE LLC with a location of Dania Beach in the State of Florida territory, the letter from trust identified by letter head the true owner of the subject property and identified no such address exist therefore giving them the opportunity to correct the address so that PINEVALLEY ONE REAL ESTATE LLC can properly serve who ever the owners of the correct property that is being tax foreclosed sale on.

Respondent PVONE REO LLC, a different company filed this action against Mary White a Life Estate holder of a section known as lot 29 of the trust land subdivided by Mary White life estate known as lot Y warranted. A summons and complaint and publication was served with the wrong address of 1935 Jacksonville road , the court in its final order corrected the address to 1959 Jacksonville road but did not issue an order for Respondent to amend the summons, complaint, publication and re-service so the correct Defendants can get proper service. This robbed the court of proper Jurisdiction to hear the case. By abuse of discretion the court for want of Jurisdiction continue the case knowing the address was wrong, once Appellant intervene in the court's Final Order stated Appellant did not have any interest in the subject property based on probate estates that only documents life estate interest and Appellant's family tree to his rights as a beneficiary to the trusts which bypasses probate, the building identified as 1959 Jacksonville road. The same location is part of lot 29 on Stromboli on the tribal lands owned by the Brethren of Love Society trust. after the Final Order Appellant confronted a trespasser who was asked to leave off the tribal trust lands who identified as a agent for a company called THE AGENTOWNED REALTY CO. Who are agents for the Respondent. The agent gave Appellant his business card with a case number to this case stating he has a final order and they own 1959 Jacksonville road now two days following this event Appellant filed a motion to intervene and to vacate the judge orders.

CONCLUSION

Based upon the reasons stated, this Court should reverse the judgment do to The accurate identification of parties is a fundamental principle of a fair and just legal system. The distinction between PVONE REO LLC and PINE VALLEY ONE REAL ESTATE LLC is significant and should be preserved to ensure clarity, fairness, and due

process in this litigation.The trial court lack Jurisdiction they knew it because of the wrong address of 1935 they identified it in the Final Order still went forward with the evidence filed in the case. The fact that there was not proper service of the summons and complaint also notice by publication to gain personal jurisdiction. There was no such right to hear the case without Jurisdiction.

The courts of South Carolina have traditionally followed the property rule that a purchaser cannot purchase more than his grantor owns. *See Cummins v. Varn*, 307 S.C. 37, 413 S.E.2d 829 (1992) (no deed can convey an interest which the grantor does not have in the land described in the deed); *Griggs v. Griggs*, 199 S.C. 295, 19 S.E.2d 477 (1942) (no deed can operate so as to convey a greater estate or interest than grantor has); *Hutto v. Ray*, 192 S.C. 364, 6 S.E.2d 747 (1940) (a life tenant can convey no more than his life estate). Moreover, this Court has previously stated that a purchaser at a judicial sale secures the same title and rights in the property as the person whose interest was sold. *Harrington v. Blackston*, 311 S.C. 459, 429 S.E.2d 826 (Ct. App. 1993). All facts identified Mary White has a life estate interest.

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

SEPTEMBER 12, 2024

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