

**RECEIVED**

**Apr 03 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM JASPER COUNTY  
Court of Common Pleas

Curtis Coltrane, Special Referee

Appellate Case No. 2024-002209

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Kevin Smith, Trent Smith, Cynara Smith Love,  
Wayne Smith, and Valeria Woods Tuten,

Appellants,

v.

Charles Woods,

Respondents.

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APPELLANT'S RETURN TO RESPONDENT'S MOTION TO STRIKE APPEAL  
AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF APPELLANT

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Appellant Kevin Smith  
Appellant Trent Smith  
Appellant Cynara Love  
Appellant Wayne Smith  
Appellant Valeria Tuten  
10950 Castlebar Glen Dr  
Jacksonville, FL 32256  
Phone: 813.368.7589  
Email: [uscsmith@hotmail.com](mailto:uscsmith@hotmail.com)

Appellants<sup>1</sup> submit this return in opposition to the Respondents' Motion to Strike Appeal and Require Filing of Amended Initial Brief of Appellant.

**BACKGROUND**<sup>2</sup>

On December 13, 2022, the Honorable Judge Mullen granted Plaintiff<sup>3</sup> Motion for Special Referee and ordered the Plaintiff to *"pay all costs of the Special Referee"*. (**EXHIBIT 1** [p.1])<sup>4</sup> On June 6, 2023, Plaintiff stated, via email to Special Referee, *"The order as attached states 'Plaintiff has agreed to pay all costs of the special referee. ...Plaintiff will not be arranging for or paying for a court reporter based on the current order in Place from Judge Mullen.'"*

(**EXHIBIT 2** [p.13])<sup>5</sup>

Special Referee Curtis Coltrane held a hearing May 1, 2023 to hear Defendant Motion to Strike Lis Pendens and Defendant Motion for Temporary Injunction. No Court Reporter was present for hearing. No transcript exists for Hearing. No order from hearing was submitted by Special Referee.

Special Referee Curtis Coltrane held a Hearing June 23, 2023 to hear Defendant Motion to Disqualify Counsel. No Court Reporter was present for hearing. No transcript exists for Hearing.

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<sup>1</sup> "Appellants" refers to Defendants/Appellants Kevin Smith, Trent Smith, Cynara Love, Wayne Smith and Valeria Tuten.

<sup>2</sup> In accordance with Rule 240(c)(3), SCACR, a number of exhibits (specifically identified below) are attached to this return because the record on appeal has not yet been filed. Please note, however, that these exhibits do not include materials that have already been filed in this Court (e.g., Appellants' notice of appeal, Appellants' initial brief, etc.).

<sup>3</sup> "Plaintiff" refers to Plaintiff/Respondent Charles Woods.

<sup>4</sup> (**EXHIBIT 1** [Order 12-13-22].)

<sup>5</sup> (**EXHIBIT 2** [Defendant Memorandum in Support of Motion to Disqualify Counsel].)

A Final Hearing was held by Special Referee Curtis Coltrane October 18, 2023. No Court Reporter was present for Hearing.

Special Referee Curtis Coltrane held a hearing February 5, 2024 to hear Plaintiff Motion to Reopen Testimony. No Court Reporter was present for Hearing. No transcript exists for Hearing.

On June 20, 2024, Defendants filed Motion to Dismiss Complaint. This Motion included request to address Plaintiff's continued failure to comply with Court Order (**EXHIBIT 3** [p.5])<sup>6</sup>. Special Referee failed to schedule or hear Motion.

Special Referee Curtis Coltrane held a Hearing October 4, 2024 to hear Defendant Motion to Disqualify Special Referee. No Court Reporter was present for Hearing. No transcript exists for Hearing.

Special Referee Curtis Coltrane filed NOTICE OF TRIAL specifying a RESUMPTION of the October 18, 2023 Final Hearing on November 8, 2024.

Appellants requested Court Reporter Manager Mrs. Tammie Holmes advise obtaining Final Hearing Transcript on February 16, 2024 and, following this direction, requested Final Hearing Transcript from Special Referee Curis Coltrane February 21, 2024. (**EXHIBIT 4** [p.1])<sup>7</sup> Special Referee Coltrane did not respond. On December 10, 2024, Special Referee Curtis Coltrane allowed the Plaintiff to submit a transcript of Final Hearing. (**EXHIBIT 4** [p.4]). On December 12, 2024, Appellants requested Special Referee Curtis Coltrane confirm Plaintiff's

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<sup>6</sup> (**EXHIBIT 3** [Defendant Motion to Dismiss Complaint].)

<sup>7</sup> (**EXHIBIT 4** [Transcript of Final Hearing 10-13-23].)

document was the official Court Transcript of the Final Hearing. Special Referee did not respond but filed the Plaintiff's Document as the Transcript of Final Hearing.

### ARGUMENT

As set forth in their initial brief, which is hereby incorporated herein by reference, Appellants contend that the Special Referee erred in failing to hear and therefore denying the Defendant Motions to Dismiss Complaint and that Lower Court erred in denying Defendant Motion to Disqualify Special Referee.

Respondent argues that Appellants did not order a complete transcript of Final Hearing. Appellants did, in fact, order a Transcript from Special Referee. The matter is clear. Plaintiff refused court order to provide a Court Reporter for hearings conducted by Special Referee. No reporter was present and no transcript is available for Special Referee Hearings. When a transcript was initially requested by Appellants, the Plaintiff provided the Special Referee a document of Plaintiff's perceived transcript fourteen months after the Final Hearing. Only the Plaintiff and Special Referee reviewed the document or were allowed input by Special Referee. This document was submitted to the Court by Special Referee, and to Appellants at the same time, as a Transcript of the Final Hearing. Special Referee made note that the Final Hearing consisted of two dates (October 18, 2023 and November 8, 2024) in his Order<sup>8</sup> dated July 8, 2024 specifying that November 8, 2024 was a *continuation* of the Final Hearing. A complete official transcript of the Final Hearing does not exist; however, Appellants did order and receive Special Referee provided transcript.

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<sup>8</sup> EXHIBIT 5 ([Order to Reopen Testimony].)

An appellate court reviews all questions of law *de novo*. *Transportation Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 427, 699 S.E.2d 687, 689 (2010); *Verenes v. Alvanos*, 387 S.C. 11, 15, 690 S.E.2d 771, 772-73 (2010). Appellants feel Special Referee denied their right to a fair trial by refusing to respond to Plaintiff failure to follow Order of the Court by hearing Defendant Motion to Dismiss. For Respondent to claim Appellants failed to order an official transcript that does not exist because the Plaintiff refused to follow Order of the Court to provide a Court Reporter to transcribe the Hearing is obtuse circular logic. Regardless, Appellants ordered what the Special Referee has submitted as an Official Transcript of the Final Hearing within the required time following Final Order.

Appellants are clearly prejudiced by lack of a complete official transcript or even a reconstructed transcript without input from all parties. The transcript provided by the Special Referee is a document created by Plaintiff lacking accurate details. Defendants motioned to withdraw Quit Claim deeds on October 13, 2023 Final Hearing. There is no mention of this motion in the partial transcript received and prejudices Defendant's appeal.

Relatedly, the Respondent alleges that Appellants have failed to reference transcripts supporting the facts alleged within. The core tenant of Appellant's appeal is to validate that the law was followed to provide Defendants a fair trial. Plaintiff refused to comply with Court Order and no court reporter was present for Special Referee led Hearings. Appellants cannot reference a transcript that does not exist. The Special Referee failed to hear Defendant Motion to Dismiss, which documented all instances in which Defendants notified Special Referee of failure to comply with Court Order and Special Referee's Order.

Likewise, the Lower Court denied Defendant's Motion to Disqualify Special Referee for refusing to hear Defendant Motion to Dismiss. The appellate court is empowered to review this question of law.

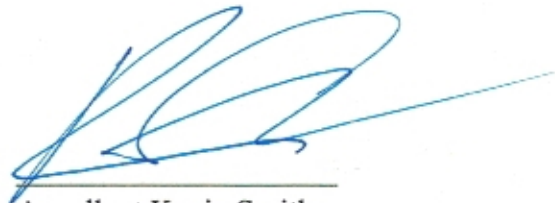
The undersigned humbly submits that, in pursuing the appeal, the appellant court consider the error by the Special Referee and Lower Court in denying due process of a fair trial to Defendants. The lack of transcripts results in inability to reference Hearing transcripts and appeal should continue with available documents available to Appellants.

The Respondent has placed balance of property within the complaint up for sale. The Court should recognize Respondent's Motion for what it is - a ploy designed to delay the appeal process and buy the Respondent time to complete sale of property to virtually eliminate Appellant's ability to receive fair interest as co-tenants of the property.

#### **CONCLUSION**

As the United States Supreme Court put it, "[t]he rules of practice and procedure are devised to promote the ends of justice, not to defeat them." *Hormel v. Helvering*, 312 U.S. 552, 557, 61 S. Ct. 719, 85 L. Ed. 1037 (1941). For the foregoing reasons, Appellants ask that the Court deny the Subject Motion.

Respectfully Submitted,



Appellant Kevin Smith  
10590 Castlebar Glen Dr  
Jacksonville, FL 32256  
Phone: 813.368.7589  
Email: [uscsmith@hotmail.com](mailto:uscsmith@hotmail.com)



Appellant Trent Smith  
2011 Firetower Rd  
Pineland, SC 29934  
Phone: 843.726.5288  
Email:  
[trentandkimsmith@hotmail.com](mailto:trentandkimsmith@hotmail.com)



Appellant Cynara Love  
211 Bulls End  
Ridgeland, SC 29936  
Phone: 843.726.7400  
Email: [cnsmith23@hotmail.com](mailto:cnsmith23@hotmail.com)



Wayne Smith  
1591 Firetower Rd  
Pineland, SC 29934  
Phone: 843.726.8450  
Email: [uscsmith@hotmail.com](mailto:uscsmith@hotmail.com)

*Valeria W Tuten*

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Valeria Tuten  
166 Elbow Rd  
Varnville, SC 29944  
Phone: 843.726.3730

April 3, 2025





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**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Jasper Common Pleas

**Case Caption:** Charles Woods VS Valeria Woods Tuten , defendant, et al

**Case Number:** 2021CP2700504

**Type:** Order/Form 4

So Ordered

s/Carmen T Mullen 2142



grounds for this motion are that, absent such an Order, the Defendants are prejudiced because, as appointed adjudicative officer, Special Referee has deprived Defendants of Due Process.

### **BACKGROUND**

Following sale of property, for which Plaintiff does not have title, Plaintiff filed Complaint 2021-CP-27-504 on November 16, 2021. On November 4, 2022, Plaintiff filed motion that the Complaint 2021-CP-27-504 be referred to Attorney Roberts Vaux as Special Referee. Defendants objected due to hostile comments by Attorney Vaux, contrary nature of Special Referee request in respect to demand of speedy trial, and attempt of Plaintiff to circumvent requirement of joined parties to the complaint. On December 13, 2022, the Honorable Judge Mullen granted Plaintiff Motion for Special Referee and ordered the Plaintiff to “*pay all costs of the Special Referee*”. On February 13, 2023, the Honorable Judge Mullen ordered the case referred to Attorney Curtis Coltrane as Special Referee and ordered parties that “*if any conflict exists, parties must notify the Court and the Court will appoint an alternate Referee*”.

Attorney Cherece Handy has not submitted a notice of appearance in regards to Complaint 2021-CP-27-504. Attorney Handy was present during Motion Hearing held before Special Referee Coltrane on June 23, 2023. During Motion Hearing held June 23, 2023, attorney Handy argued against Defendants in favor of Mr. Tom Johnson. During Motion Hearing held June 23, 2023, attorney Handy stated that she represented Mr. Johnson’s clients: Paulino Hernandez, Felipa Flores Cruz, Dionicio Gomez Flores, and Alma Gomez. By arguing against Defendants, Attorney Handy became a party to the Complaint.

On July 28, 2023, Special Referee Coltrane notified parties that “*the way to bring matters to the Court is through the methods set out in the Rules of Civil Procedure.*”

**(EXHIBIT A)** Defendants filed Motion to Compel Attorney Handy August 29, 2023. Special Referee Coltrane has not scheduled nor heard this motion. Defendants filed Motion to Disqualify Attorney Handy September 21, 2023. Special Referee Coltrane has not scheduled nor heard this motion.

On June 17, 2024, Defendants filed Memorandum in Opposition to Order to Reopen Testimony. Memorandum requested inaccuracies be addressed between April 5, 2024 motion hearing and a June 6, 2024 email from Special Referee, in which Special Referee contradicted actual events during the April 5, 2024 hearing. In addition, the Memorandum again requested Special Referee address lack of due process to Defendants. To date, Special Referee has not addressed this Memorandum, however, on June 20, 2024, Special Referee forwarded this document to an Attorney that at that time was not listed as a party to the Complaint. On June 20, 2024, Defendants objected through email to Special Referee. **(EXHIBIT B)** Special Referee did not acknowledge this objection.

On June 20, 2024, Defendants filed Motion to Dismiss Complaint. This motion identifies lack of required service, failure of Plaintiff to follow court order, and failure to hear Defendant motions. Special Referee Coltrane has not scheduled nor heard this motion. The SC Court Reporter Manager advised that Special Referee is Defendant’s recourse for unavailable transcripts to hearings held by Special Referee, but no acknowledgement has been received from Defendant’s request to Special Referee on February 21, 2024. **(EXHIBIT C)** As previously demonstrated though Plaintiff’s disregard of court order **(EXHIBIT D)**, Special Referee has not addressed the ongoing

issue caused by Plaintiff failure to follow court orders.

On July 11, 2024, Defendants filed Motion to Reconsider Order granting Plaintiff's Motion to Re-open Testimony. This motion requests Special Referee address inaccuracies of the filed Order as compared to events of April 5, 2024 Motion Hearing. As of July 24, Special Referee Coltrane had not scheduled nor heard this motion.

On Wednesday July 24, 2024, Defendants filed Motion to Disqualify Special Referee Coltrane. On Friday, July 26, 11:10am EDT Special Referee Coltrane, via email, suggested a telephone hearing of the Motion to Dismiss Special Referee on August 9 or August 16, 2024. On Friday July 26, 5:22pm EDT, Special Referee Coltrane scheduled a telephone hearing of the Motion to Dismiss Special Referee for August 16, 2024.

On Friday August 2, 2024, Special Referee Coltrane confirmed "*As the Special Referee, I am in charge of the scheduling of matters in this case.*" (**EXHIBIT E**)

During June 26, 2023 Hearing to disqualify Attorney Tom Johnson, Defendants provided Special Referee email evidence (**EXHIBIT F**) of Plaintiff Attorneys confirming knowledge of Plaintiff sale of property without title. Special Referee has been aware of the impact to purchasers of property without title since no later than this date

On January 24, 2024, following October 18, 2023 final hearing, Special Referee Coltrane communicated "*While one might be able to use the equitable principle argued by Mr. Twenge (equity considers done that which should be done), as has been argued, I think there must be direct evidence of what should have been done, and I do not see that in the record.*" (**EXHIBIT G**)

## **STANDARD OF REVIEW**

### **A. South Carolina Rules of Civil Procedure Rule 7(b)**

Provisions of SCRCRCP Rule 7(b) allow for application to the court for an order by motion.

**B. South Carolina Code of Judicial Conduct Canon Guidelines**

SCCJCC Canon 3(B)(1): A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

**C. South Carolina Code of Judicial Conduct Canon Guidelines**

SCCJCC Canon 3(B)(3): A judge shall require order and decorum in proceedings before the judge.

**D. South Carolina Code of Judicial Conduct Canon Guidelines**

SCCJCC Canon 3(B)(8): A judge shall dispose of all judicial matters promptly, efficiently and fairly.

**ARGUMENT**

**I. DISQUALIFICATION IS WARRANTED PER RULES GOVERNING THE JUDICIARY**

As assigned adjudicative officer, Special Referee is tasked with judicial duties. Special Referee announced on July 28, 2023 that Defendants must bring matters before the court to be addressed by Special Referee. On August 2, 2024, Special Referee acknowledged awareness of responsibility of the role to schedule motion hearings. Between August 29, 2023 and July 24, 2024 not one of the four previously filed motions by Defendants had been acknowledged, scheduled, or heard by Special Referee Coltrane.

In sharp contrast, within six hours on Friday July 26, 2024, Special Referee Coltrane acknowledged and scheduled the Motion to disqualify himself from the

complaint. In such a rush, Special Referee scheduled a hearing without even allowing Defendants an opportunity for scheduling input that was offered to attorneys. Denial of motion hearings by Special Referee has obstructed Defendant right to due process.

## **II. DISQUALIFICATION IS WARRANTED AS SPECIAL REFEREE FAILED TO ENFORCE COURT ORDER**

Plaintiff has failed to comply with multiple court orders. Special Referee is obligated to either dismiss the complaint or recuse himself from the complaint to ensure due process be afforded to Defendants. It is well established that a court has the authority to dismiss a case pursuant to Federal Rule of Civil Procedure 41(b) for failure of the plaintiff to prosecute or to comply with orders of the court. *Ballard v Carlson*, 882 F. 2d 93, 95 (4<sup>th</sup> Cir. 1989). Per Rule 41 (b) defendant may move for dismissal of an action or of any claim against him for failure to comply. Failure to comply with court orders by Special Referee has obstructed Defendant right to due process.

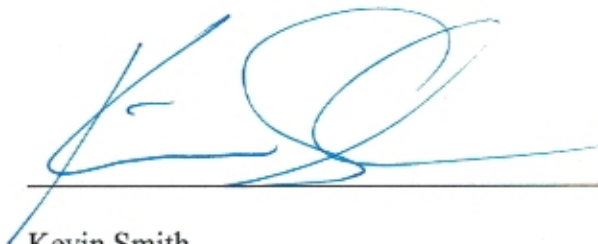
## **III. DISQUALIFICATION IS WARRANTED PER RULES GOVERNING DUTIES OF JUDICIAL OFFICE**

As assigned adjudicative officer, Special Referee is tasked with judicial duties. Per SCCJCC Canon 3(B)(8), a judge shall dispose of all judicial matters promptly, efficiently and fairly. Special Referee Coltrane announced via email on January 24, 2024, that he did not find that Plaintiff provided evidence during the October 18 2023 final hearing to support his complaint. Special Referee has not provided a final decision based upon this declaration, but instead has allowed Plaintiff to reopen testimony to provide missing evidence.

**CONCLUSION**

For the reasons discussed above and within the Motion to Disqualify Special Referee, Defendant has provided evidence of being prejudiced and denied Due Process of Law by virtue of failure to hear filed motions, which were filed per order of Special Referee, failure of Special Referee to enforce orders of the court, and denial of right to disposition of judicial matters. Defendant respectfully requests that this Court grant its motion to disqualify Special Referee and hear Defendants Motion to Dismiss.

RESPECTFULLY SUBMITTED,



Kevin Smith  
Defendant  
10590 Castlebar Glen Dr  
Jacksonville, FL 32256  
813-368-7589

September 10, 2024  
Jacksonville, Florida

**EXHIBIT A**

**From:** Curtis Coltrane <curtis@coltraneandwilkins.com>  
**Sent:** Friday, July 28, 2023 12:14 PM  
**To:** Kevin <uscsmith@hotmail.com>; Tom Johnson <tdjohnson1@johnsonslawoffice.com>  
**Cc:** Karl Twenge <twenge@twlawfirm.com>; trentandkimsmith@hotmail.com <trentandkimsmith@hotmail.com>; waynecsmith50@outlook.com <waynecsmith50@outlook.com>; Cynara Love <csmith23@hotmail.com>; Darrell Thomas Johnson Jr. <tdjohnson1@hargray.com>; Cherese T. Handy <chandy@heritage-firm.com>; Tiffany Zareva <tiffany@twlawfirm.com>; cr\_juarez\_@hotmail.com <cr\_juarez\_@hotmail.com>; fred@mossandkuhn.com <fred@mossandkuhn.com>  
**Subject:** RE: Woods v. Smith - 2021-CP-27-504

Mr. Smith:

Previously, on June 26, and in connection with an order that was filed, I advised the parties that the way to bring matters to the Court is through the methods set out in the Rules of Civil Procedure. Email correspondence to me is not one of those methods.

Thank you. I am,

Sincerely

Curtis L. Coltrane  
COLTRANE & WILKINS, LLC

Mailing Address:  
Post Office Box 6808  
Hilton Head Island, SC 29938

Street Address:  
2 Park Lane, Suite 301  
Hilton Head Island, SC 29928

(843) 785-5551  
(843) 785-5552 (Facsimile)  
[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)

**From:** Kevin <[uscsmith@hotmail.com](mailto:uscsmith@hotmail.com)>  
**Sent:** Friday, July 28, 2023 11:03 AM

**To:** Tom Johnson <[tdjohnson1@johnsonslawoffice.com](mailto:tdjohnson1@johnsonslawoffice.com)>; Curtis Coltrane <[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)>  
**Cc:** Karl Twenge <[twenge@twlawfirm.com](mailto:twenge@twlawfirm.com)>; [trentandkimsmith@hotmail.com](mailto:trentandkimsmith@hotmail.com); [waynecsmith50@outlook.com](mailto:waynecsmith50@outlook.com); Cynara Love <[cnsmith23@hotmail.com](mailto:cnsmith23@hotmail.com)>; Darrell Thomas Johnson Jr. <[tdjohnson1@hargray.com](mailto:tdjohnson1@hargray.com)>; Cherese T. Handy <[chandy@heritage-firm.com](mailto:chandy@heritage-firm.com)>; Tiffany Zareva <[tiffany@twlawfirm.com](mailto:tiffany@twlawfirm.com)>; [cr\\_juarez\\_@hotmail.com](mailto:cr_juarez_@hotmail.com); [fred@mossandkuhn.com](mailto:fred@mossandkuhn.com)  
**Subject:** Re: Woods v. Smith - 2021-CP-27-504

Good morning. We have been hoping to receive a response on our request for clarification, but nothing as of today. We will contact Jasper Clerk for information and share any update with this group.

Summary of requests for complaint information:

Defendants Wayne Smith, Kevin Smith, Trent Smith, and Cynara Smith Love requested a pre-trial status meeting during a telephone call June 5, 2023. This request was denied.

Defendants Kevin Smith, Trent Smith, and Cynara Smith Love requested a pre-trial status call during in person Motion Hearing June 23, 2023.

Defendants Wayne Smith, Kevin Smith, Trent Smith, and Cynara Smith Love requested a pre-trial status via email July 14, 2023 and July 25, 2023.

Defendants Wayne Smith, Kevin Smith, Trent Smith, and Cynara Smith Love contacted Ms. Handy for clarification via email June 26, 2023.

Defendant Kevin Smith contacted Mr. Kuhn for clarification via email July 12, 2023 and phone message July 20, 2023.

As of July 28, 2023, no party has responded.

Thank you,

Kevin Smith  
Defendant

**EXHIBIT B**

From: Kevin Smith <uscsmith@hotmail.com>Sent: Thursday, June 20, 2024 2:50 PMTo: Curtis Coltrane <curtis@coltraneandwilkins.com>; Quatray Truesdale <qtruesdale@jaspercountysc.gov>; Karl Twenge <twenge@twlawfirm.com>; filing@johnsonslawoffice.com <filing@johnsonslawoffice.com>; fred@fkuhnlawfirm.com <fred@fkuhnlawfirm.com>; Cynara Love <cnsmith23@hotmail.com>; waynecsmith50@outlook.com <waynecsmith50@outlook.com>; trentandkimsmith@hotmail.com <trentandkimsmith@hotmail.com>; Tiffany Zareva <tiffany@twlawfirm.com>Cc: A. G. Solomons Jr. <asolomons@solomonsandlawton.com>Subject: Re: 2021CP2700504; Charles Woods vs Valeria Woods Tuten, etal

All,

No Notice of Appearance or Substitution of Counsel has been filed for any additional attorney. Until so, I object to our legal files being shared.

Thank you,

Kevin Smith  
Defendant

From: Curtis Coltrane <curtis@coltraneandwilkins.com>Sent: Thursday, June 20, 2024 2:43 PMTo: Quatray Truesdale <qtruesdale@jaspercountysc.gov>; Karl Twenge <twenge@twlawfirm.com>; filing@johnsonslawoffice.com <filing@johnsonslawoffice.com>; fred@fkuhnlawfirm.com <fred@fkuhnlawfirm.com>; Kevin Smith <uscsmith@hotmail.com>; Cynara Love <cnsmith23@hotmail.com>; waynecsmith50@outlook.com <waynecsmith50@outlook.com>; trentandkimsmith@hotmail.com <trentandkimsmith@hotmail.com>; Tiffany Zareva <tiffany@twlawfirm.com>Cc: A. G. Solomons Jr. <asolomons@solomonsandlawton.com>Subject: RE: 2021CP2700504; Charles Woods vs Valeria Woods Tuten, etal

Ms. Truesdale:

Thank you. The parties to this case have been notified that A. G. Solomons, Jr. will be taking over representation of the Plaintiff in this case. I have copied Mr. Solomons and would ask that you also forward the documents to him.

Thank you. I am,

Sincerely

Curtis L. Coltrane  
COLTRANE & WILKINS, LLC

Mailing Address:

Post Office Box 6808  
Hilton Head Island, SC 29938

Street Address:

2 Park Lane, Suite 301  
Hilton Head Island, SC 29928

(843) 785-5551

(843) 785-5552 (Facsimile)

[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)

**EXHIBIT C**

**From:** Kevin <uscsmith@hotmail.com>  
**Sent:** Wednesday, February 21, 2024 9:10 AM  
**To:** Curtis Coltrane <curtis@coltraneandwilkins.com>  
**Cc:** Cynara Smith <cnsmith23@hotmail.com>  
**Subject:** Re: Request for transcript of 10/18/23 WebEx trial of case 2021 CP-2700504

Good morning Mr. Coltrane. Mrs. Holmes has directed us to contact you for access to a transcript of the Oct 18, 2023 hearing. Can you please advise on how we may go about this request?

Thank you,

Kevin Smith

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**From:** Holmes, Tammie <tholmes@sccourts.org>  
**Sent:** Friday, February 16, 2024 11:59 AM  
**To:** Kevin <uscsmith@hotmail.com>  
**Cc:** Cynara Smith <cnsmith23@hotmail.com>  
**Subject:** RE: Request for transcript of 10/18/23 WebEx trial of case 2021 CP-2700504

You will need to ask the referee how you can go about getting a transcript from that hearing.

Thank you.

Tammie M. Holmes  
Court Reporter Manager  
South Carolina Judicial Branch  
1220 Senate Street, Ste. 200  
Columbia, SC 29201  
[tholmes@sccourts.org](mailto:tholmes@sccourts.org)  
803-734-1825

## EXHIBIT D

**From:** Karl Twenge <twenge@twlawfirm.com>

**Sent:** Tuesday, June 6, 2023 9:37 AM

**To:** Kevin <uscsmith@hotmail.com>; Curtis Coltrane <curtis@coltraneandwilkins.com>; Laura McKenzie <laura@johnsonslawoffice.com>; Cynara Love <cnsmith23@hotmail.com>

**Cc:** Tiffany Zareva <tiffany@twlawfirm.com>; Tonya Russell <tonya@coltraneandwilkins.com>; trentandkimsmith@hotmail.com <trentandkimsmith@hotmail.com>; waynecsmith50@outlook.com <waynecsmith50@outlook.com>; Tom Johnson <tdjohnson1@johnsonslawoffice.com>

**Subject:** RE: Charles Woods vs. Smith, Smith, Smith, Love et al C/A No.: 2021-CP-27-00504

Curtis:

The order as attached states "Plaintiff has agreed to pay all costs of the special referee." A court reporter for some tangential motion related to what appear to be baseless allegations against Tom Johnson certainly do not rise to the level of "costs of the special referee." Additionally, if the Smith Defendants had counsel they would understand that whatever your determination at that hearing is not immediately appealable, and any objection would again need to be raised at the final hearing in this matter to preserve the issue for a potential appeal. Plaintiff will procure a court reporter for the final hearing. As such, Plaintiff will not be arranging for or paying for a court reporter based on the current order in Place from Judge Mullen.

Karl D. Twenge  
Twenge + Twombly Law Firm  
311 Carteret Street  
Beaufort, SC 29902  
Telephone: (843) 982-0100  
Facsimile: (843) 982-0103  
[twenge@twlawfirm.com](mailto:twenge@twlawfirm.com)

**EXHIBIT E**

**From:** Curtis Coltrane <curtis@coltraneandwilkins.com>  
**Sent:** Friday, August 2, 2024 12:54 PM  
**To:** Kevin Smith <uscsmith@hotmail.com>; Cynara Love <cnsmith23@hotmail.com>; Fred Kuhn <fred@fkuhnlawfirm.com>; Tiffany Zareva <tiffany@twlawfirm.com>; Karl Twenge <twenge@twlawfirm.com>; waynecsmith50@outlook.com <waynecsmith50@outlook.com>; trentandkimsmith@hotmail.com <trentandkimsmith@hotmail.com>  
**Cc:** A. G. Solomons Jr. <asolomons@solomonsandlawton.com>  
**Subject:** RE: 2021CP2700504; Charles Woods vs Valeria Woods Tuten, etal

Mr. Smith:

To my knowledge, the Clerk has not scheduled anything with respect to this case. There are motions set to be heard in Jasper County on August 29, 2024, but this case is not one of them. As the Special Referee, I am in charge of the scheduling of matters in this case. I did correspond with everyone late last month to arrange for a time to hear the outstanding motions. I did not receive a response from you, and the hearing was set for August 16. If you are not available at 1:00 PM on August 16, is there another time that day that your are available?

Thank you. I am,

Sincerely

Curtis L. Coltrane  
COLTRANE & WILKINS, LLC

Mailing Address:  
Post Office Box 6808  
Hilton Head Island, SC 29938

Street Address:  
2 Park Lane, Suite 301  
Hilton Head Island, SC 29928

(843) 785-5551  
(843) 785-5552 (Facsimile)  
[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)

**EXHIBIT F**

**From:** Kristy Harper <kmh@johnsonslawoffice.com>  
**Date:** April 28, 2023 at 5:37:53 PM EDT  
**To:** Tom Johnson <tom@johnsonslawoffice.com>  
**Subject:** FW: Bull's Walk (Charles Woods)

Plat that shows property line of good and bad title areas or tms numbers.

Kristy M. Harper  
Paralegal  
Law Offices of Darrell Thomas Johnson, Jr., LLC  
Post Office Box 1125  
300 Main Street  
Hardeeville, SC 29927  
(843) 784-2142 – Office  
(843) 784-5770 – Fax  
Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by replying to this e-mail and deleting all copies of this message.

**From:** Tommy Stanley <tommystanley@embarqmail.com>  
**Sent:** Wednesday, May 26, 2021 8:20 AM  
**To:** Kristy Harper <kmh@johnsonslawoffice.com>  
**Cc:** ALBERTO PADRON <realproperty.al@gmail.com>  
**Subject:** Re: Bull's Walk (Charles Woods)

Thanks,  
Tommy Stanley  
United Country True South Properties  
Realtree Land Pro  
843-226-0655  
tommystanleyproperties.com  
[tommystanley@embarqmail.com](mailto:tommystanley@embarqmail.com)

**From:** Tommy Stanley <tommystanley@embarqmail.com>  
**Sent:** Tuesday, June 22, 2021 6:49 PM  
**To:** Tom Johnson <tdjohnson1@johnsonslawoffice.com>  
**Cc:** Kristy Harper <kmh@johnsonslawoffice.com>; Charles Woods <woodscharles79@gmail.com>; ALBERTO PADRON <realproperty.al@gmail.com>  
**Subject:** Charles Woods - 48 acres - Jasper County Tax Map # 051-00-11-003

Tom,

I have listed some items from our conversation yesterday.

- 1.) Charlie Woods died intestate in September 1966 leaving his widow Ethel L. Woods and children Dorothy W. Roberts (deceased), Charles Rudolph Woods (deceased and Charles father), Valeria W. Tuten and Wanda W. Smith (deceased).
- 2.) Ethel Woods left her 1/3 interest in the 48 acres to Charles Rudolph Woods in Deed Book 86 Page 595 (Tract III).
- 3.) In 1991 The Estate of Charlie W. Woods Deed of Distribution (DB 99 PG 51) conveyed interest in 48 acres to Ethel Woods and four children listed above and mentioned conveyance of Ethel Woods 1/3 interest to Charles Rudolph Woods in Deed Book 86 Page 595.
- 4.) In 1991 the children was deeded there portion of land. The 3 daughters interest, in the 48 acres. apparently was never deeded to Charles Rudolph Woods. If so, it was never recorded.
- 5.) The parcel appears to have been put in Charles Rudolph Woods name in Jasper County Tax Assessors office in 1991.
- 6.) Charles R. Woods, Jr. was deeded Charles Rudolph Woods interest in 2007 in Deed Book 721 page 276.
- 7.) Charles R. Woods, Jr. put this parcel in a trust named the Charles R. Woods, Jr, Revocable Trust in 2017 in Deed Book 954 Page 973.

Since 1991 Charles Rudolph Woods and Charles R. Woods, Jr. have paid taxes, have managed this property for timber, farmed row crops, improved roads, harvested timber, hunted, leased hunting rights, improved drainage and built a very nice dove field on this property. No one in there family has ever questioned or disputed ownership of this parcel. I have attached timber deeds, assessors cards and other deeds and documents. Any clarity you could bring to this process would be greatly appreciated. Please inform us of any updates pertaining to the title insurance company,

Thanks,  
Tommy Stanley  
United Country True South Properties  
Realtree Land Pro  
843-226-0655  
tommystanleyproperties.com  
[tommystanley@embarqmail.com](mailto:tommystanley@embarqmail.com)

## EXHIBIT G

**From:** Curtis Coltrane <curtis@coltraneandwilkins.com>  
**Sent:** Wednesday, January 24, 2024 12:08 PM  
**To:** Karl Twenge <twenge@twlawfirm.com>  
**Cc:** H. Fred Kuhn, Jr. <fred@mossandkuhn.com>; Kevin <uscsmith@hotmail.com>;  
Cynara Love <cnsmith23@hotmail.com>; trentandkimsmith@hotmail.com  
<trentandkimsmith@hotmail.com>  
**Subject:** Woods v. Tuten

All:

I am writing regarding this case. I have seen the emails from Mr. Kevin Smith regarding Valera Woods Tuten. In my view, Mr. Smith does not have standing to raise issues on behalf of any other defendant. He is not a lawyer representing Ms. Tuten. If he acts on behalf of Ms. Tuten in any official representative capacity (such as a guardian ad litem), I am unaware of it.

Regarding the interest of Ms. Tuten in the subject property, I understand Mr. Twenge's argument of the arithmetic of Ms. Tuten's interest in the Charles Woods estate and the acreage she was conveyed line up. What the record does not include, though, is testimony from Ms. Valera Woods Tuten, or any person involved with the Charles Woods estate, or the probate of the Charles Woods estate to establish that Ms. Valera Woods Tuten did receive all the real estate she was entitled to receive. While it was argued that the intent was for Ms. Valera Woods Tuten to quit claim her interest in the remaining/subject property (after she received her 43.978 acres), and that no deed was recorded through inadvertence or negligence, there is no direct evidence in the record to that effect. The text of the proposed order makes a leap from the existence of evidence tending to show that Ms. Tuten's interest in the estate was 16.6 percent, and the 16.6 percent of 262 acres equals the 43.978 acres deeded to her (not exactly 16.6 per cent, but very close), to a conclusion that Ms. Valera Woods Tuten has no interest in the remaining/subject property.

While one might be able to use the equitable principle argued by Mr. Twenge (equity considers done that which should be done), as has been argued, I think there must be direct evidence of what should have been done, and I do not see that in the record.

Thank you. I am,

Sincerely

Curtis L. Coltrane  
COLTRANE & WILKINS, LLC



failure follow court order.

This motion will also be supported by oral argument offered at the hearing, and in addition, may be further supported by memorandum or affidavits served prior to the date of the hearing.

### **FACTUAL ALLEGATIONS & PROCEDURAL HISTORY**

On November 16, 2021, Plaintiff Charles Woods filed a quiet title complaint seeking title to 48 acres of property that was not distributed to family upon the death of owner Charlie W. Woods. Plaintiff had transferred property within complaint, while without holding title to said property, to a personal trust and sold a portion of the property within complaint prior to seeking quiet title.

Plaintiff sale of property within claim, without having title, led to failure of joining necessary parties impacted by the complaint. On September 27, 2022 the Court allowed Plaintiff to join necessary parties to complaint. Plaintiff filed amended complaints on October 4, 2022, December 14, 2022, and February 22, 2023. Plaintiff failed to properly serve original and amended complaints to necessary parties. Plaintiff filed Notice of Trial 10/2/2024. Plaintiff failed to properly serve notice of trial to all parties. Plaintiff filed Motion to Reopen Testimony 2/5/2024. Plaintiff failed to properly serve notice of motion to all parties. Plaintiff has failed to provide evidence of service to the court.

Plaintiff received order from the Honorable Judge Mullen December 13, 2022, requiring Plaintiff to assume all charges related to Special Referee. Special Referee notified Plaintiff of the responsibility to provide a court recorder for hearing and trial transcripts. Plaintiff failed to provide court recorder for any hearing or trial.

On June 26, 2023, Defendant submitted Interrogatories to Attorney Cherece Handy. On August 29, 2023, Defendant submitted Motion to Compel to receive response to Interrogatories. Motion was not acknowledged by the Court.

On August 11, 2023 Defendant submitted Interrogatories to Attorney Karl Twenge. No reply was received. Defendant made verbal motion to Compel during October 18, 2023 hearing. Motion was not acknowledged by the Court.

## STANDARD OF REVIEW

### A. Proper Service is Necessary to Confer Jurisdiction

A court cannot exercise jurisdiction over a defendant which has not been properly served. *Moore v. Simpson*, 322 S.C. 518, 521, 473 S.E.2d 64, 65 (Ct. App. 1996); See *Richardson v. P.V., Inc.*, 383 S.C. 610, 615, 682 S.E.2d 263, 265 (S.C. 2009) (“Rule 4 serves at least two purposes: it confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action.”). S.C. R. Civ. P. 12(b)(5) authorizes dismissal of an action for “insufficient service of process.” *Christian v. Healy*, 436 S.C. 507, 511, 868 S.E.2d 403, 405 (S.C. Ct. App. 2021); *Unisun Ins. v. Hawkins*, 342 S.C. 537, 541, 537 S.E.2d 559, 561 (Ct. App. 2000) (stating that a defendant is allowed to challenge the sufficiency of service of process through Rule 12(b)(5).).

When a defendant challenges the validity of the service of process, the plaintiff bears the burden of showing that the court has personal jurisdiction over the defendant. *Jensen v. Doe*, 292 S.C. 592, 358 S.E.2d 148 (Ct.App.1987); *BB&T v. Taylor*, 369 S.C. 548, 552, 633 S.E.2d 501, 503 (S.C. 2006) (holding that even though “exacting compliance” with the service of process rules is not required, the plaintiff must have sufficiently complied with the rules such that the court has personal jurisdiction over the

defendant.).

**B. Parties are required to comply with any Order of the Court**

It is well established that a court has the authority to dismiss a case pursuant to Federal Rule of Civil Procedure 41(b) for failure of the plaintiff to prosecute or to comply with orders of the court. *Ballard v Carlson*, 882 F. 2d 93, 95 (4<sup>th</sup> Cir. 1989). Per Rule 41 (b) defendant may move for dismissal of an action or of any claim against him for failure to comply.

**C. Parties are guaranteed Full and Fair Opportunity to Complete Discovery**

In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party. *Osborne ex rel. Osborne v. Adams*, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001). Judgement must not be granted until the opposing party has had a full and fair opportunity to complete discovery.

**ARGUMENT**

**I. DISMISSAL IS WARRANTED AS PLAINTIFF FAILED TO PROPERLY SERVE DEFENDANT**

When the rules of service of process have not been followed, there is no “presumption of proper service.” *Makawi*, 721 S.E.2d at 433; See also *Taylor*, 369 S.C. at 554–55, 633 S.E.2d at 504–05 (stating that while exacting compliance with service rules is not necessary, the plaintiff must still sufficiently comply with the rules such that the court has personal jurisdiction over the defendant). Therefore, this Court cannot exercise jurisdiction over Defendants and thus, Defendant respectfully requests that the Complaint be dismissed.

## **II. DISMISSAL IS WARRANTED AS PLAINTIFF FAILED TO COMPLY WITH COURT ORDER**

The Court has long held that courts may *dismiss* actions on their own motion in a broad range of circumstances where they are not explicitly authorized to do so by statute or rule. See, e.g., *Costello v. United States*, 365 U.S. 265, 286-87 (1961) (district court may *dismiss* sua sponte for plaintiff's failure to comply with an *order* of the court).

Defendant notified court of failure to comply on multiple occasions as noted within the Memo in Opposition to Order to Reopen Testimony filed with the Court June 17,2024.

Absent the court moving on their own motion at times violations were reported,

Defendant now presents request through declared Motion to Dismiss.

## **III. DISMISSAL IS WARRANTED AS PLAINTIFF FAILED ALLOW FULL AND COMPLETE DISCOVERY PROCESS**

Plaintiff and Attorney for Specific Witnesses failed to respond to discovery requests by Defendant and Motion to Compel was not addressed. The gist and gravamen of the discovery rules mandate full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either party. *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003). The rights of discovery provided by the Rules give the trial lawyer the means to be prepared for trial. Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice, reversal is required. *Downy v. Dixon* 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). Defendant pro se has same rights as trial lawyer, which were not afforded to Defendant. Defendant respectfully requests that the Complaint be dismissed.

**CONCLUSION**

For the multitude of reasons discussed above, Defendant respectfully requests that this Court grant its motion to dismiss and dismiss Plaintiffs' Complaint with prejudice.

RESPECTFULLY SUBMITTED,

A handwritten signature in blue ink, appearing to read 'K. Smith', is written over a horizontal line. The signature is stylized and cursive.

Kevin Smith  
Defendant  
10590 Castlebar Glen Dr  
Jacksonville, FL 32256  
813-368-7589

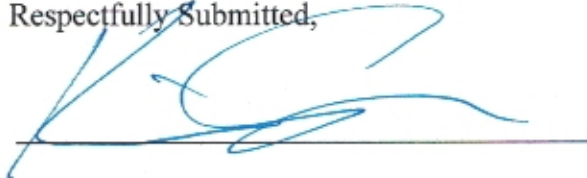
June 20, 2024  
Jacksonville, Florida

**CERTIFICATE OF SERVICE**

I, Kevin Smith, a defendant in the above-named action, certify that I served the MOTION TO DISMISS COMPLAINT on this 20 day of JUNE 2024, by placing the same in an envelope, postage prepaid, to the below named, with delivery in the United States Mail, addressed as follows:

Karl Twenge, Esq.  
311 Carteret Street  
Beaufort, SC 29902

Respectfully Submitted,



Kevin Smith  
Defendant  
10590 Castlebar Glen Dr  
Jacksonville, FL 32256  
813-368-7589

June 20, 2024  
Jacksonville, Florida

## EXHIBIT 4

**From:** Holmes, Tammie <tholmes@sccourts.org>  
**Sent:** Friday, February 16, 2024 11:59 AM  
**To:** Kevin <uscsmith@hotmail.com>  
**Cc:** Cynara Smith <cnsmith23@hotmail.com>  
**Subject:** RE: Request for transcript of 10/18/23 WebEx trial of case 2021 CP-2700504

You will need to ask the referee how you can go about getting a transcript from that hearing.

Thank you.

Tammie M. Holmes  
Court Reporter Manager  
South Carolina Judicial Branch  
1220 Senate Street, Ste. 200  
Columbia, SC 29201  
[tholmes@sccourts.org](mailto:tholmes@sccourts.org)  
803-734-1825

---

**From:** Kevin <uscsmith@hotmail.com>  
**Sent:** Wednesday, February 21, 2024 9:10 AM  
**To:** Curtis Coltrane <curtis@coltraneandwilkins.com>  
**Cc:** Cynara Smith <cnsmith23@hotmail.com>  
**Subject:** Re: Request for transcript of 10/18/23 WebEx trial of case 2021 CP-2700504

Good morning Mr. Coltrane. Mrs. Holmes has directed us to contact you for access to a transcript of the Oct 18, 2023 hearing. Can you please advise on how we may go about this request?

Thank you,

Kevin Smith

---

**From:** Tiffany Zareva <[tiffany@twlawfirm.com](mailto:tiffany@twlawfirm.com)>  
**Sent:** Wednesday, December 4, 2024 5:02:14 PM  
**To:** Curtis Coltrane <[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)>; Kevin Smith <[uscsmith@hotmail.com](mailto:uscsmith@hotmail.com)>  
**Cc:** Karl Twenge <[twenge@twlawfirm.com](mailto:twenge@twlawfirm.com)>;  
[fred@mossandkuhn.com](mailto:fred@mossandkuhn.com) <[fred@mossandkuhn.com](mailto:fred@mossandkuhn.com)>; A. G. Solomons Jr.  
<[asolomons@solomonsandlawton.com](mailto:asolomons@solomonsandlawton.com)>; Trent and Kim Smith  
<[trentandkimsmith@hotmail.com](mailto:trentandkimsmith@hotmail.com)>; Cynara Smith <[cnsmith23@hotmail.com](mailto:cnsmith23@hotmail.com)>; Wayne Smith  
<[waynecsmith50@outlook.com](mailto:waynecsmith50@outlook.com)>  
**Subject:** RE: REMINDER: Woods v. Tuten - 2021-CP-27-504

Mr. Coltrane-

Please see the previously submitted Transcript of Testimony from October. Would you like for our office to file this or would you like to file?

**Tiffany Zareva**  
**Paralegal to Karl D. Twenge**  
**Twenge + Twombly Law Firm**  
**311 Carteret Street**  
**Beaufort, SC 29902**  
Telephone: (843) 982-0100  
Facsimile: (843) 982-0103  
[tiffany@twlawfirm.com](mailto:tiffany@twlawfirm.com)

---

**From:** Cynara Love <cnsmith23@hotmail.com>  
**Sent:** Wednesday, December 4, 2024 5:35 PM  
**To:** Tiffany Zareva <tiffany@twlawfirm.com>; Curtis Coltrane <curtis@coltraneandwilkins.com>; Kevin Smith <uscsmith@hotmail.com>  
**Cc:** Karl Twenge <twenge@twlawfirm.com>; fred@mossandkuhn.com; A. G. Solomons Jr. <asolomons@solomonsandlawton.com>; Trent and Kim Smith <trentandkimsmith@hotmail.com>; Wayne Smith <waynecsmith50@outlook.com>  
**Subject:** Re: REMINDER: Woods v. Tuten - 2021-CP-27-504

All

This email indicates that this has been previously submitted. This transcript has never been provided to any party. This is not an official transcript by a licensed transcriber. This in no way can be verified for accuracy or authenticity. I respectfully request this be stricken from the record and any reference to this document be stricken from this case.

Thanks

Cynara Love

---

**From:** Tiffany Zareva <tiffany@twlawfirm.com>  
**Sent:** Thursday, December 5, 2024 8:38:57 AM  
**To:** Cynara Love <cnsmith23@hotmail.com>; Curtis Coltrane <curtis@coltraneandwilkins.com>; Kevin Smith <uscsmith@hotmail.com>  
**Cc:** Karl Twenge <twenge@twlawfirm.com>; fred@mossandkuhn.com <fred@mossandkuhn.com>; A. G. Solomons Jr. <asolomons@solomonsandlawton.com>; Trent and Kim Smith <trentandkimsmith@hotmail.com>; Wayne Smith

<waynecsmith50@outlook.com>

**Subject:** RE: REMINDER: Woods v. Tuten - 2021-CP-27-504

This was previously submitted with the prior drafted Order in November 2023 to all parties and this is standard protocol. Also, Mr. Coltrane, if you could forward your invoice to our office we would greatly appreciate it.

Thank you.

**Tiffany Zareva**  
**Paralegal to Karl D. Twenge**  
**Twenge + Twombly Law Firm**  
**311 Carteret Street**  
**Beaufort, SC 29902**  
Telephone: (843) 982-0100  
Facsimile: (843) 982-0103  
[tiffany@twlawfirm.com](mailto:tiffany@twlawfirm.com)

---

**From:** Cynara Love <cnsmith23@hotmail.com>  
**Sent:** Thursday, December 5, 2024 10:05 AM  
**To:** Tiffany Zareva <tiffany@twlawfirm.com>; Curtis Coltrane <curtis@coltraneandwilkins.com>; Kevin Smith <uscsmith@hotmail.com>  
**Cc:** Karl Twenge <twenge@twlawfirm.com>; fred@mossandkuhn.com <fred@mossandkuhn.com>; A. G. Solomons Jr. <asolomons@solomonsandlawton.com>; Trent and Kim Smith <trentandkimsmith@hotmail.com>; Wayne Smith <waynecsmith50@outlook.com>  
**Subject:** Re: REMINDER: Woods v. Tuten - 2021-CP-27-504

This document was attached to a proposed order that was submitted over a year ago. The Court declined to sign that Order and a continuation of the hearing was scheduled. A proposed Order was circulated regarding the final hearing. There was no attached document circulated with this Order. This is not a Transcript or any type of official Court Record. To submit it as or reference it as "Transcript of Testimony " would not be protocol. The final Order has been signed and filed. I oppose any reference to or attachment of this document to the final Order.

Cynara

---

**From:** Curtis Coltrane <curtis@coltraneandwilkins.com>  
**Sent:** Tuesday, December 10, 2024 11:23 PM  
**To:** Tiffany Zareva <tiffany@twlawfirm.com>; Kevin Smith <uscsmith@hotmail.com>  
**Cc:** Karl Twenge <twenge@twlawfirm.com>; fred@mossandkuhn.com; A. G. Solomons Jr. <asolomons@solomonsandlawton.com>; Trent and Kim Smith <trentandkimsmith@hotmail.com>; Cynara Smith <cnsmith23@hotmail.com>; Wayne Smith

<waynecsmith50@outlook.com>

**Subject:** RE: REMINDER: Woods v. Tuten - 2021-CP-27-504

Ms. Zareva:

Thank you. We do need to have a transcript of the first hearing. The document you sent should note the appearances of all parties and Council and should also make reference to each of the five exhibits that were entered at the hearing and explain what the exhibits showed. The testimony as reported in the proposed transcript is consistent with my notes.

Thank you. I am,

Sincerely

Curtis L. Coltrane  
COLTRANE & WILKINS, LLC

Mailing Address:  
Post Office Box 6808  
Hilton Head Island, SC 29938

Street Address:  
2 Park Lane, Suite 301  
Hilton Head Island, SC 29928

(843) 785-5551  
(843) 785-5552 (Facsimile)  
[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)

---

**From:** Tiffany Zareva <tiffany@twlawfirm.com>  
**Sent:** Thursday, December 12, 2024 8:17 AM  
**To:** Curtis Coltrane <curtis@coltraneandwilkins.com>; Kevin Smith <uscsmith@hotmail.com>  
**Cc:** Karl Twenge <twenge@twlawfirm.com>; fred@mossandkuhn.com  
<fred@mossandkuhn.com>; A. G. Solomons Jr. <asolomons@solomonsandlawton.com>; Trent  
and Kim Smith <trentandkimsmith@hotmail.com>; Cynara Smith <cnsmith23@hotmail.com>;  
Wayne Smith <waynecsmith50@outlook.com>  
**Subject:** RE: REMINDER: Woods v. Tuten - 2021-CP-27-504

Please see the attached with your changes/corrections.

**Tiffany Zareva**  
**Paralegal to Karl D. Twenge**  
**Twenge + Twombly Law Firm**

**311 Carteret Street  
Beaufort, SC 29902**

Telephone: (843) 982-0100

Facsimile: (843) 982-0103

[tiffany@twlawfirm.com](mailto:tiffany@twlawfirm.com)

---

**From:** Kevin Smith <uscsmith@hotmail.com>

**Sent:** Thursday, December 12, 2024 10:21 AM

**To:** Tiffany Zareva <tiffany@twlawfirm.com>; Curtis Coltrane <curtis@coltraneandwilkins.com>

**Cc:** Karl Twenge <twenge@twlawfirm.com>; fred@mossandkuhn.com

<fred@mossandkuhn.com>; A. G. Solomons Jr. <asolomons@solomonsandlawton.com>; Trent

and Kim Smith <trentandkimsmith@hotmail.com>; Cynara Smith <cnsmith23@hotmail.com>;

Wayne Smith <waynecsmith50@outlook.com>

**Subject:** Re: REMINDER: Woods v. Tuten - 2021-CP-27-504

Good morning. Mr. Coltrane, in February 2024, Mrs. Holmes of Court Administration advised Defendants to submit a request to you for the official court transcript of the October 18, 2024 hearing. Can you please confirm that the Plaintiff document titled "Transcript of Testimony" is sanctioned by you as the official court transcript of that Hearing?

Thank you,

Kevin Smith  
Defendant

---

**From:** Curtis Coltrane <curtis@coltraneandwilkins.com>

**Sent:** Friday, December 20, 2024 4:24 PM

**To:** Quatray Truesdale <qtruesdale@jaspercountysc.gov>

**Cc:** Karl Twenge <twenge@twlawfirm.com>; A. G. Solomons Jr.

<asolomons@solomonsandlawton.com>; H. Fred Kuhn, Jr. <fred@mossandkuhn.com>; Kevin

Smith <uscsmith@hotmail.com>; Trent and Kim Smith <trentandkimsmith@hotmail.com>;

Cynara Smith <cnsmith23@hotmail.com>; Wayne Smith <waynecsmith50@outlook.com>

**Subject:** Woods v. Tuten - 2021-CP-27-504

Ms. Truesdale:

Attached is a document to be filed in case 2021-CP-27-504. Please let me know if anything else is needed.

Thank you. I am,

Sincerely

Curtis L. Coltrane  
COLTRANE & WILKINS, LLC

Mailing Address:  
Post Office Box 6808  
Hilton Head Island, SC 29938

Street Address:  
2 Park Lane, Suite 301  
Hilton Head Island, SC 29928

(843) 785-5551  
(843) 785-5552 (Facsimile)  
[curtis@coltraneandwilkins.com](mailto:curtis@coltraneandwilkins.com)



County for 40 years and in that time has searched and abstracted the titles to thousands of properties. Ms. Godwin was qualified as an Expert in the field of title abstracting in Jasper County, South Carolina. Ms. Godwin identified Exhibit 2, as an un-recorded Plat that was found in the Jasper County Accessor's office backup files for the property at issue in this case. The plat was offered and received into evidence as Exhibit 2.

Ms. Godwin further testified that she was asked to perform a title search on the 40 acres, which is the subject of this lawsuit as well as all property derived from the Estate of Charlie Woods, the Plaintiff's Grandfather.

Ms. Godwin identified the chain of title documents resulting from her title search, including the subject property of this case. These documents were offered and received into evidence as Exhibit 3.

Ms. Godwin testified that the public records show that in 1991, Charlie Woods' heirs distributed his real property amongst themselves. Charlie Woods' heirs were to receive as follows: Rudolph Woods 49.9% or 131.53 acres, and Dorothy Roberts, Valeria Tuten and Wanda Smith were all to receive 16.6% each or 43.49 acres. This is shown on documents offered and received into evidence as Exhibits 4 and 5.

Ms. Godwin testified that at the time of the distribution of the Estate property, Dorothy Roberts and Valeria Tuten received almost exactly what they were entitled to from the Estate. See Exhibits 3 and 4.

Ms. Godwin testified that per the recorded Deeds, Wanda Smith was entitled to an additional 20.407 acres to make her part of the estate distribution conform to the amount she was supposed to receive from the Estate.

Ms. Godwin testified that on the same date as the other distributions, Rudolph Woods, the Plaintiff's father, deeded Wanda Smith approximately 20 acres that was separate from the estate property. This conveyance is recorded in the Office of the Register of Deeds for Jasper County, South Carolina, in Deed Book 102 at Page 189. This property is adjacent to the 20.407 acres Wanda Smith received from the Estate.

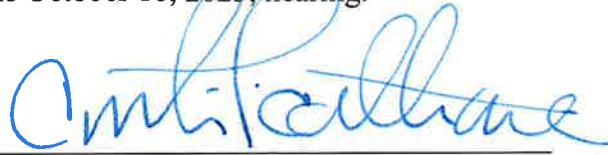
Ms. Godwin testified the Rudolph Woods to Wanda Smith deed was signed the same date as the deeds distributing the Estate property and was recorded along with the deeds distributing the Estate property in sequential book and page numbers in the Office of the Register of Deeds for Jasper County, South Carolina. The transfer from Rudolph Woods resulted in Wanda Smith receiving the approximate 43.49 acres she was entitled to and giving her a contiguous piece of property.

Ms. Godwin testified that as a result of the conveyance from Rudolph Woods to Wanda Smith, though, Rudolph Woods was short approximately 40 acres from the distribution of the Estate. This is size of the subject property in this case.

Ms. Godwin testified that the only part of the Estate property that remained following the distributions was the approximately 40 acre parcel that is the subject matter of this case, and there was not a deed of record conveying it out of the estate. She testified that there are quit claim deeds from some of

the descendants of Charlie Woods reciting that the intention as for the 40 acre parcel to be conveyed to the Plaintiff. See Exhibit 3.

No further evidence was presented at the October 18, 2023, hearing.



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Curtis L. Coltrane, Special Referee for  
Jasper County, South Carolina

Hilton Head Island, South Carolina

This 20<sup>th</sup> Day of December, 2024.

EXHIBIT 5

ELECTRONICALLY FILED - 2024 Jul 09 10:12 AM - JASPER - COMMON PLEAS - CASE#2021CP2700504

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C/A No.: 2021-CP-27-504
COUNTY OF JASPER	)	
	)	
CHARLES WOODS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER TO RE-OPEN TESTIMONY</b>
	)	
VALERIA WOODS TUTEN, KATHY R.	)	
THOMAS, ROBERT THOMAS, JR.,	)	
ROBERT THOMAS, III, KATELYN	)	
THOMAS, ELLISON THOMAS,	)	
BRYANT THOMAS, REBECCA	)	
BABILON, PAM WOODS, WANDA W.	)	
SMITH, WAYNE SMITH, KEVIN	)	
SMITH, TRENT SMITH, CYNARA	)	
SMITH LOVE, PEGGY POWERS,	)	
ANNA COPE, ADELL BISHOP GRAY,	)	
CANDELARIA ROSALIA MAYORGA,	)	
WILLIAM DAVID MIXON, II,	)	
CHARLES MILLER, BETTY MILLER	)	
REVOCABLE TRUST, MARION	)	
RALPH SMITH, BETTY SMITH,	)	
PAULINO JUAREZ HERNANDEZ,	)	
FELIPA FLORES CRUS, ALMA	)	
GOMEZ, DIONICIO GOMEZ FLORES,	)	
EDUARDO VALENCIA BENITEZ,	)	
SAUL BENITEZ CASTAEDA, RAMON	)	
BENITEZ CASTANEDA, JOHN DOE	)	
AND MARY ROE.	)	
	)	
Defendants.	)	

This matter is before the undersigned on the motion to re-open of the Plaintiff Charles Woods. Following the trial of this case, the undersigned requested that Karl D. Twenge submit a proposed Order. On review of the proposed order, the undersigned raised a question in an exchange of email correspondence on which all parties who had appeared were copied, about the interest of one Defendant, being Ms. Valeria Woods.

Following that, the Plaintiff filed its motion to re-open the testimony. The motion was heard on April 5, 2024, via telephone. All parties who had appeared in the case were present.

Trent Smith, Kevin Smith, and Cynara Love (hereinafter the “Defendants”), opposed the motion. At the hearing, it was not contested that issues were left unresolved, and the question was whether any Defendant would suffer legal prejudice if the motion were to be granted. In the case of *Chapman v. Associated Transp.*, 218 S.C. 554, 563, 63 S.E.2d 465, 469 (1951), our Supreme Court said:

It is a well-nigh universally recognized principle, and a common practice, for the trial court to allow a case to be reopened and additional evidence introduced in order to prevent a nonsuit or directed verdict, where counsel for plaintiff has omitted evidence by accident, inadvertance, or even because of mistake or misapprehension as to the necessity for offering a particular witness or particular evidence. A matter of this kind is left to the sound discretion of the trial judge; and a refusal to re-open a case may be an abuse of discretion where the party has acted in good faith, and where no prejudice would result to the other party.

At the April 5, 2024, hearing, I made an inquiry to the Defendants about whether they would suffer legal prejudice if the case were to be re-opened. The record is that the Defendants had conveyed their interest in the property that is the subject matter of this case to the Plaintiff prior to the trial in October of 2023. The response was that the defendants are heirs of Valeria Woods, and they stood to inherit whatever interest Valeria Woods might have in the property that is the subject matter of this case.

It is my view that this is not a showing of legal prejudice. I say that for this reason: the unresolved question is what is the interest of Valeria Woods in the property that is the subject matter of this case? If the answer turns out to be that Ms. Valeria Woods has an interest, then there is no prejudice because the property will ultimately be distributed as

directed by Valeria Woods' will or by the law regarding intestate succession if there is no will. If the answer turns out to be that Ms. Valeria Woods has no interest, then there is no prejudice because there was nothing for the Defendants to inherit.

#### CONCLUSION

Having heard and considered the arguments of Counsel and the Defendants at the April 5, 2024, hearing, I conclude that the Plaintiff's motion should be granted. Accordingly, this case is re-opened, and a resumption of the trial will be set for the completion of the presentation of evidence.

IT IS SO ORDERED!



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Curtis L. Coltrane  
Special Referee For Jasper County,  
South Carolina

Hilton Head Island, South Carolina

July 8, 2024.

**Apr 03 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM JASPER COUNTY  
Court of Common Pleas

Curtis Coltrane, Special Referee

Appellate Case No. 2024-002209

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Kevin Smith, Trent Smith, Cynara Smith Love,  
Wayne Smith, and Valeria Woods Tuten,

Appellants,

v.

Charles Woods,

Respondent.

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**PROOF OF SERVICE**

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I, Appellant Kevin Smith, do hereby certify that on April 3, 2025, I served a copy of **APPELLANTS' RETURN TO RESPONDENT'S MOTION TO STRIKE APPEAL AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF APPELLANT** in the above-captioned case on **Bess Jones DuRant** by First Class mail addressed to Bess J. DuRant, Sowell and DuRant, 1325 Park St. Ste 100, Columbia, SC 29201.



Appellant Kevin Smith  
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Jacksonville, FL 32256  
Phone: 813.368.7589  
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April 3, 2025  
Jacksonville, Florida