



## The South Carolina Court of Appeals

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December 23, 2025

*Received*  
*12/31/2025*

Ave Smith  
338 5th Ave & 6th  
Mount Pleasant SC 29464

Re: Ave Smith v. Heirs of Helen Tolbert  
Appellate Case No. 2025-000893

Dear Ms. Smith:

Upon reviewing your initial brief of appellant and designation of matter, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

*Jasmine D. Smith, Deputy*

CLERK

Complete

Appellant Ave. Smith  
CASE No. 2025 000 893

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add to the "Brief of Appellant"  
+ Initial Brief Form 7

## Table of Authorities And Citations

1. The South Carolina Court of Appeals - Justia - Fender Vs. Heirs At Law Smashum - Reversed And Remanded to a SC Circuit Ct, "Quiet Title," Defeated by the "Doed of Distribution," and by the judges, "Neglect," to be governed by the "Standard of Review"
2. The Document, "Why Do I Need A Quiet Title Lawsuit?" There was never a need for said lawsuit, "Dead In The Water!" in CASE NO. 2021 CP 10 0458
3. Justia - The six (6) elements to be satisfied to claim, "Title To Adverse Possession." Satisfied by me, Carolyn Tolbert Smith - See pages \_\_\_\_\_ in Justia
4. Fleming v Rose, 350 SC 488, 493, 567 S.E. 2d 857, 860 (2002) = Per mis-use of Summons Judgment
5. Faile v. SC Dept of Juvenile Justice, 350 SC 315, 324 566 S.E. 2d 536, 540 (2002) Per, "if triable issues exist those issues must be submitted to the jury (I was barred).
6. Young v. SC Dept of Correction
7. Hall v. Fedor 349 S.C. 169, 173-74, 561 S.E. 2d 654, 656 (Ct. App. 2002), Re: Summary Judgment (Judge Mr. Scarborough obstructed Justice by starting with Summary Judgment and refusing to hear my counterclaim of "Title To Adverse Possession.") "He blocked my argument by shutting down the hearing after hearing only one side, leaving my "genuine issues as to material fact," arguments "Never," presented. He took it upon himself to take my place and claim the "lie" that I had <sup>more</sup>

Copy 1.

# Table Of Authorities And Citations CASE NO.

Appellate, Are Smith

- Fleming v. Rose, 350 S.C. 488, 498, 567 S.E. 2d 857, 860 (2002). = Per mis-use of Summary Judgment
- Faile v. S.C. Dept. of Juvenile Justice, 350 S.C. 315, 324, 566 S.E. 2d 536, 540 (2002) Per if triable issues exist, those issues must be submitted to the jury (denied me, Appellant, Are Smith by the Circuit Ct. (re: my hearing before Judge Popel)).
- Young v. S.C. Dept. of Corrections, 333 S.C. 714, 718, 511 S.E. 2d 413. (Ct. App. 1999). Hall
- V. Fedor, 349 S.C. 169, 173-74, 561 S.E. 2d 654, 656. (Ct. App. 2002). Re: Summary Judgment - Even where no dispute as to evidentiary facts exists, but only as to the exclusions or inferences to be drawn from them.
- Lanham v. Blue Cross & Blue Shield of S.C., 349 S.C. 356, 363, 563 S.E. 2d 331, 334 (2002). Per: Summary Judgment is a drastic remedy that should be cautiously invoked to ensure no person is improperly deprived of a trial of disputed factual issues. In the prior case, the Backdrop to CASE 2025000893 it is a sad "Pity," the judge Scarborough avoided Viewing and following this Standard! MOOD & the claim of Quiet Title Lis Pendens be Set Aside Overturned

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for →  
Statement of  
Issues near a  
Appel

# Table of Authorities And Citations Continued -

Grant v. Grant, 288 S.C. 86, 340 S.E. 2d 791 (Ct. App. 1986 Per Ouster "Actual Turning Out" Per All Respondent except Carolyn never had a key to subject property; never lived at the resident; contributed anything to the property - they lost possession of their family's formerly designated private rooms given by the Smith family to our extended families. Former Co-owners, heirs evinced and dis-siezed by vigilance and diligence evinced that I, Appellant had exclusive possession after ten (10) yrs part of 18 yrs and now after twenty (20) yrs. Woods v. Bivens, 292 S.C. 76, 354 S.E. 2d 909 (1987). Brevard v. Fortune, 221 S.C. 117, 69, S.E. 2d 355 (1952). The act described above in "Ouster" in this case suppressed in the prior case, Backdrop for the present case, mine 2025 000 893 Per, "Ouster" unequivocal in nature and Motive of Attorney Kalivas + Andrews aided and supported by the Chas. Co., SC Master-In-Equity This very false lawsuit "Quiet Title" against me and my family. Proves distinct hostility on the part of Respondents

Ref'

3) cont'

### B) Table Of Authorities And Citations

- 1) Ouster unmistakable, Felder, 278 <sup>S.C.</sup> at 330,
- 2) 295, S.E. 2d at 642. In rare extreme cases ouster ~~of~~ by one co-tenant of other co-tenants will be implied from exclusive possession and dealings with the property such as collection of rents, improvement of the property. *Id.*, 278 S.C. at 331, 295 S.E. 2d at 642. Our Improvement, (new HVAC system, new roof, ground build up, exterior painting of the dwelling, upkeep of yard, lawn and garden regularly, taxes pd. to preserve our ownership) *ie* for all who asserted his co-ownership. None did! Only my brother, mother and I.
- 3) Ouster is presumed from possession only, if it is continued for a period of twenty yrs. Title by 10 yrs. (ten) Adverse Possession by a co-tenant against another may be acquired only after actual Ouster of which the latter has notice (latter references the co-tenant ousted) or should have in the exercise of a reasonable diligence and vigilance. *Walson v. Little*, 224 S.C. 359, 364, 79 S.E. 2d 384, 387 (1958).

See please the list of improvements

Please see Evidence Justice vs Felder vs Smackum

8. "Standard of Review," Same even if, where no dispute as to evidentiary facts exist but only as to the exclusions or inferences to be drawn from them, Summary judgment a drastic remedy should be used "precautiously to insure no person is deprived of a trial of disputed factual issues - Lanham v. Blue Cross Blue Shield of SC, 349 S.C. 356, 363, 563, S.E. 2d 331, 334 (2002).

9. Grant v. Grant, 288 S.C. 86, 340, S.E. 2d 791 (Ct. App. 1986) Per "Duster," Clearly accomplished by me, Carolyn but Never heard suppressed by Judge M. Scarborough

10. Woods v. Bivens, 292 S.C. 76, 354, S.E. 2d 909 (1987),

11. Brorard v. Fortune, 221 S.C. 117, 69, S.E. 2d 353, (1952), "Duster," in my, Carolyn case unequivocal!

12. Folder, 278, S.C. at 330, 295, S.E. 2d at 642,

Watson v. Little, 224 S.C. 359, 364, 79 S.E. 2d 384, 387 (1958) Lusk v. Callahan, 287 S.C. 459, 460, 339, S.E. 2d 156, 157, (Ct. App. (1986),

\* Freeman v. Freeman 323 S.C. 95, 99-100, 473 S.E. 2d

467 (Ct. App 1996) "Duster is presumed from possession only if it is continued for a period of twenty yrs (Never, ever the case) the case No. 2021 CP 1004058 was always and only for ten yrs. (Judge Scarborough deceived the SC

District Ct. For the District of SC, documenting that it did not prevail, in Carolyn, because I had not resided at the re-

sident exclusively for 20 yrs. Clearly another Casual Compromise of the

"Truth," by opposing judiciary. Nevertheless Freeman follows up

14. "Title," by ten yrs, may be acquired only after actual

3c

cont Table of Authorities

3c

14. Ouster of which the latter has notice or should have in the exercise of a reasonable diligence.

"Watson v. Little, 224 S.C. 359, 364, 79 S.E.2d 384, 387 (1953).

The Case law cited herein are relied on to prevail in the subject "Motion" To Dismiss said case with Prejudice and for this, "Mis-earriage of Justice," all the "Obstruction of justice," "The Prosecutorial-Mis Conduct," attached to the conspiracy, with the result executed in Sabotage of judge Scarborough's scheduled hearing to hear and to have heard my argument for my entitlement to have been granted at that hearing where said judge omitted hearing my side of issue. He ignored the "Standard of Review

(4)  
Final  
portion of...

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# Table of Authorities And Citations

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1) ~~The~~ Claiming, "title" to land by "adverse pos-  
session" has the burden of proving  
adverse possession by clear and con-  
vincing evidence. Lusk v. Callahan,  
287 S.C. 459, 460, 339 S.E. 2d 156, 157.

meritous

(Ct. App. 1986). - This is accomplished by  
Ave Smith, Appellant more than once  
e.g. 2003-20 at the false filing  
of Keith L. Tolbert re, "Quiet Title LisPendens and  
by the ten (10) yr. "Title To Adverse Possession 2003-  
and secondly now in my case by twenty (20) yrs

Please see  
attachment  
regarding  
all six ele-  
ments I've  
satisfied

- of exclusive possession and legal right
- to prevail as an extremely rare case, having re-

Sided & held "Subject property as my residence  
exclusively of and adverse to the right of  
possession of all other co-tenants who  
did not assert ownership in the subject  
property and cannot satisfy the six (6) ele-  
ments required along with "Exclusive Pos-  
session. Only I, Appellant qualify as do the  
Corporal W. Leroy Smith family as to this present  
case NO. 2025 000 893

meritous

"Quiet Title" Reversed And Remanded, [6]  
I) Ave Smith Cite pg. Seven (7) of Justia - Fender v. Heirs of Smashum  
4.