

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

Case Number 2011-CP-12-0323

Mell Woods Appellant,

v.

John D. Hinson; Christine Jones; John C. Hinson; William L. Hinson; Lois Hinson; Robert Breakfield, as Personal Representative of the Estate of Reba P. Hinson; Elaine H. Hensley; Robert H. Hinson; George Standford, as Personal Representative of the Estate of Linda H. Standford; William C. Hinson, Jr.; Darrell W. Hinson; Mary Roe and John Doe, fictitious names used to designate all other parties, whose names are unknown, and any and all other persons claiming any right, title, estate, interest or lien upon the real estate described in the complaint,

. Respondents.

RULE 240(f) REPLY TO THE RETURN (made by un-served Letter)

Court of Appeals Internal Tracking Number 2012 212330

Mell Woods
P.O. Box 2603
Lancaster, SC 29721

RECEIVED

DEC 10 2013

SC Court of Appeals

B. Michael Brackett
Moses Koon & Brackett
P.O. Box 100261
Columbia, SC 29202
Respondent Attorney

1. On November 18, 2013, appellant served a Motion to Substitute a Party (Lois Hinson) because Mrs. Hinson has recently passed on.

2. To the motion filed on November 18, 2013, Mrs. Hinson's lawyer, and the respondent attorney for all of the defendants in the present trespass to try title case, filed, but did not serve, a letter to the Clerk of the Court of Appeals about the matter.

3. The letter is attached for ready reference.

4. It is the position of appellant that a letter by itself fails to comply with Rule 240(e) SCACR, and is not a return; however appellant is today serving and filing a formal reply under Rule 240(f) SCACR within five days of actually receiving the letter.

5. Appellant shows by the attached Affidavit that Mrs. Hinson, (or her personal representative) is a proper and indispensable party to the relief sought in the complaint and in this appeal.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

Affidavit:

Mell Woods being first duly sworn deposes and makes the following statement upon the personal knowledge of affiant Mell Woods;

Lois Hinson a respondent in the South Carolina Court of Appeals Case Number 2012 212330 possessed a document at the time of her death material to the stated appeals case and the Circuit Court Case Number 2011-CP-12-0323, namely a certain unrecorded deed from Mr. Levie Hinson to Mrs. Reba Hinson;

Further, affiant saith not.



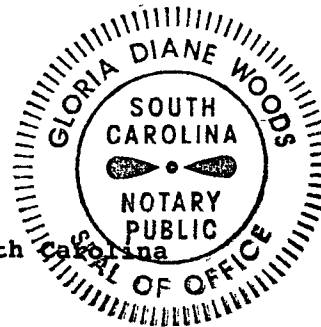
Mell Woods

Sworn to and subscribed before me,

this 03 day of December, 2013



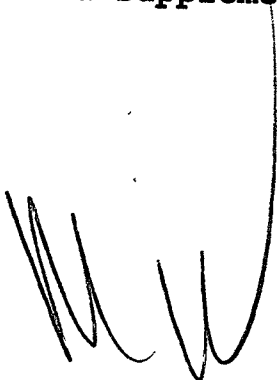
Gloria Diane Woods Notary Public for South Carolina
My Commission Expires January 08, 2018



6. The paper described in the foregoing affidavit is of the same type as the one described in Brown v. Moore, 26 S.C. 160, 2 S.E. 9, (1887), and is the key to solving this land case; appellant needs a party substituted for Lois Hinson so that this missing piece of evidence be brought forward and the Record supplemented.

Respectfully submitted,

This 23 day of December, 2013.



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

CERTIFICATE OF SERVICE

I hereby certify that I have served the respondents with a true copy of the within and foregoing *Rule 240(f) SCACR Reply to Return (un-served Letter with a copy of the Letter attached hereto as pages 4 and 5)* by method of placing the documents in the U.S. Mail addressed to the counse; of record for respondents to wit:

Moses Koon & Brackett
c/o B. Michael Brackett
P.O. Box 100261
Columbia, SC 29202

This 23 Day of December, 2013



Mell Woods

240

COPY

MOSES & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

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November 26, 2013

Via Hand Delivery

The Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
1015 Sumter St.
Columbia, SC 29201

Re: Woods v. Hinson, et. al.
2011-CP-12-323
Appellate Case No. 2012-212330
MB File No.: 12085.4

Dear Ms. Kitchings:

I represent the Respondents in the above-referenced appeal, and I am herein responding to Appellant's recent Motion to Substitute Party.

The parties were notified by the Court by letter dated November 7, 2013, that the appeal was to be submitted to the Court during the November term without oral argument.

Appellant's motion is based on the fact that Respondent Lois Hinson died on October 15, 2013 and that the personal representative of her estate should be substituted as a party. Please note that the named Respondents are in this case because they were named by the Appellant-Plaintiff.

The record from the trial court shows that Lois Hinson was once the owner of a 25% undivided interest in the real property involved in the case, **but that she conveyed her interest to her daughter, the Respondent Christine Jones.** See Respondent Breakfield's (as personal representative) Affidavit in Support of Respondents' Motion for Summary Judgment (R. 701-704, ¶ 27; and Respondents' Brief in this Court, p. 13, ¶ 27.) Appellant has made no showing in contradiction to this evidence.

Consequently, the decedent Lois Hinson has no interest in the subject matter at issue herein, and there is no need for a substitute, successor party.

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BRACKETT
Main Street, Suite 260 (29701)
Post Office Box 100261
Columbia, South Carolina 29208-0261
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November 26, 2013

Very truly yours,



B. Michael Brackett

cc. Robert H. Breakfield, Esquire
Mell Woods