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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY

Steven C. Kirven, Master-In-Equity

Lower Court Case Number 2023-CP-04-0846

James C. Sitton, II, individually and as Personal Representative of the Estate of John D. Sitton,
and Betty A. Sitton, Appellants,

v.

John D. Sitton, Jr., individually and as Former Trustee of the John D. Sitton Trust, and Brian K.
James, as Personal Representative of the Estate of Ruth R. Sitton, Defendants,

Of whom John D. Sitton, Jr. is the Respondent.

Appellate Case No. 2025-002061

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)
IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CASE #: 2022-CP-04-

JAMES C. SITTON, II, INDIVIDUALLY)
AND AS PERSONAL REPRESENTATIVE OF)
THE ESTATE OF JOHN D. SITTON, AND)
BETTY A. SITTON,)

PLAINTIFF,)

VS.)

JOHN D. SITTON, JR., INDIVIDUALLY)
AND AS FORMER TRUSTEE OF THE JOHN)
D. SITTON TRUST, BRIAN K. JAMES AS)
PERSONAL REPRESENTATIVE OF THE)
ESTATE OF RUTH R. SITTON,)

DEFENDANTS,)

LIS PENDENS

.....
YOU WILL PLEASE TAKE NOTICE, that an action is being commenced in this
Court that affects the below described real property located in Anderson
County, South Carolina:

12.58 acres: TM#188-00-06-021

6.44 acres: TM#188-00-11-008

Both tracts being a part of:

ALL that piece, parcel or tract of land containing 57.00 and situate lying
and being in the Brushy Creek Township of Anderson County, South Carolina and
lying along a surface treated road, which road leaves S.C. Highway #8 near
the W.A. Tripp farm and runs by way of J.O. Rosman home place to State
Highway #81, and being described according to a plat prepared by J. Coke
Smith, Surveyor, in May 1951 as follows: BEGINNING at an iron pin, the SE
corner of J.C. Sitton land running thence along the said J.C. Sitton line N
18-00 W 26,50 chains to a point, along W.A. Pickens and Newt Cantrell line N
88-45 E 35.26 chains to an iron pin; thence, along W.F. Laboon property line
S 10-15 W 13.67 chains to the aforementioned surface treated road; thence,
along said road S 81-25 W 6.50 chains; thence, with road S 63-25 W 2.40
chains; thence, continuing along said road S 57-00 W 19.32 chains to the
BEGINNING corner.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed John D. Sitton by Deborah M.
Sitton by deed dated May 10, 1951, and recorded May 14, 1951, in Deed Book 9-
F, Page 4, in the Office of the Clerk of Court for Anderson County, South
Carolina.

ALSO: "All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson, about 6 miles south of Easley, S.C. and being more fully described as follows, to-wit:

"BEGINNING in center of surface treated highway which point is also corner of W.D. Sitton Estate; thence S58-30W 8.90 chains along road; thence leaving road and running N33-45W 15.40 chains to an iron pin; thence S43-25W 23.57 chains to an iron pin; thence N27W 5.85 chains; thence N23-20E 31 chains; thence N88-45E 14.50 chains; thence S18E 26.50 chains to point of BEGINNING, and containing 61.1 acres, more or less, according to plat of J. Coke Smith, Surveyor, dated August, 1941, reference to which is hereby made for a more complete and accurate description and being bounded on the north by Bill Pickens Estate, bounded on the east by W.D. Sitton Estate, bounded on the south by highway and property of Eugene Wyatt and bounded on the west by property of J.M. Carpenter, according to said plat.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed to John D Sitton by J.C. Sitton by deed dated October 13, 1965, and recorded June 9, 1967, in Deed Book 15-D, Page 599, in the Office of the Clerk of Court for Anderson County, South Carolina.

LESS PROPERTY CONVEYED BY TRUSTEES:

TRACT 1:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, containing 2.95 acres, more or less, and being more fully described as follows, to-wit:

BEGINNING at point in Syracuse Road which point is also corner of James Hawkins, thence along Syracuse Road in southerly direction 309 feet to point in road; thence continuing along Syracuse Road South 25-30 West approximately 219 feet to point in road, which point is also corner of Robert Dickard; thence along Robert Dickard line North 69-21 West 290.83 feet to point in center of stream; thence following meanderings of same on a traverse North 44-54 East 106 feet to point in stream; thence continuing along center of stream in a northerly direction approximately 265 feet to point in stream, which point is also corner of James Hawkins property; thence along James Hawkins property line in an easterly direction approximately 302 feet to the point of BEGINNING. Being bounded on the north by Hawkins, on the east by Syracuse Road; on the south Dickard, and on the west by Lyles and Watson.

This is the identical property conveyed unto John D. Sitton, Sr., by deed of Sitton Furniture, Inc. dated January 17, 1991 and recorded February 15, 1991 in Deed Book 1132 at Page 11 and a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880006103

It is the intent of this to also quitclaim to the grantee any property that the grantor owns on the east side of Syracuse Road across from the above described tract of 2.95 acres.

ALSO:

All that certain piece, parcel or lot of land and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, on the northwest side of Old Mill Road, and being more fully described as follows, to-wit:

BEGINNING at a point in Old Mill Road, common corner with property now or formerly of Stevenson, and running thence along property of Stevenson North 13-30 West 241 feet to a point; thence continuing along property of Stevenson North 67-30 East 214.19 feet to a point on line of property of Ghizzonie, thence along line of property of Ghizzonie North 00-30 West 482.20 feet to other property of Grantee; thence turning and running along other property of Grantee North 81-00 West 30 feet to point on common line of property of grantee and portion of Tract 2, property pf Richard White, et al., South 00-30 East approximately 483 feet; thence turning and continuing along property of Wright South 67-30 West approximately 215 feet; thence turning and continuing along property of Wright South 13-30 East approximately 271 feet to point in center of Old Mill Road; thence along center of Old Mill Road North 69-00 East 30 feet to the point of BEGINNING.

THIS is a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880011004

The property in Tract 1 was conveyed by the trustees in deed recorded in deed book 10162 at page 00275.

TRACT 2:

ALL that certain piece, parcel or lot of land situate, lying and being in the County of Anderson, State of South Carolina, being shown and designated as containing 0.84 of an acre, more or less, as shown on a plat prepared by Ray Dun, PLS #19400, dated February 20, 2006, and signed February 21, 2006, of record in the Office of the Register of Deeds for Anderson County, South Carolina, in Plat 118 at Page 154, and having such metes and bounds, courses and distanced as upon said plat appear. For a more complete and accurate description of the lot herein conveyed, reference is invited to said plat, and the description contained thereon is incorporated herein by reference.

This is a portion of the property conveyed unto John D. Sitton, Jr. and Ruth R. Sitton, as trustees under the Last Will and Testament of John D. Sitton by deed of distribution from the Estate of John D. Sitton, dated October 20, 1994, recorded October 31, 1994, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 1982 at Page 46.

This conveyance is specifically made subject to any and all recorded rights of-way, easements, encroachments, conditions, restrictions, and zoning ordinances pertaining to the property herein conveyed and, in addition, is

subject to any of the foregoing which may appear from an inspection of the premises and/or which appear according to a current survey.

TMS NUMBER: 188-00-11-004

The property in Tract 2 was conveyed by the trustees in deed recorded in deed book 07381 at page 00115.

TRACT 3:

ALL that certain piece, parcel or tract of land containing 1.00 acre more or less, situate, lying and being in the county of Anderson, State of South Carolina, As shown on that certain plat prepared by Perry Ray Dunn, PLS#19400, Dated 4-18-05 and recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Book 117 at Page 820 for a more particular description as to metes and bounds, courses and distances, reference is hereby made to aforesaid plat of record.

This being the same property conveyed unto John D. Sitton and Ruth R. Sitton as trustees by deed of distribution in the matter of John D. Sitton (probate case# 93ES0400324) deed dated 10-20-94 and recorded 10-31-94 in the Office of the Register of Deeds for Anderson County, SC in Book 1981 at Page 46.

TMS: 188-00-11-008

The property in Tract 3 was conveyed by the trustees in deed recorded in deed book 06711 at page 00195.

TRACT 4:

ALL that certain piece, parcel or lot of land lying and being situate in the County of Anderson, State of South Carolina and being shown as 0.62 acres, more or less, located on Syracuse Road on a plat prepared by Spearman Surveying dated March 2, 2005 for James S. Smith and Thomas Duncan as recorded in Plat Book 1527 at Page 2-B in the Register of Deeds Office for Anderson County, South Carolina. Reference to said plat is hereby made for a more complete and accurate description thereof.

THIS being a portion of the same property to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution of the estate of John D. Sitton as recorded in Deed Book 1981 at Page 046 in the Anderson County Register of Deeds Office on 10-31-94.

TMS #: 1880006021

The property in Tract 4 was conveyed by the trustees in deed recorded in deed book 06689 at page 00234.

TRACT 5:

ALL that certain piece, parcel or lot of land situate and being in the State of South Carolina, County of Anderson, on Syracuse Road, and according to a plat by Ray Dunn Land Surveyor, dated October 28, 2004, said lot contains 0.982 acres, including all rights of way, and is more particularly described as follows, to-wit:

BEGINNING at an iron pin in the center of Syracuse Road, which point is 1500 feet, more or less, to Old Mill Road; thence along the center of Syracuse Road North 25-16-54 East 125.00 feet to an iron pin; thence leaving Syracuse Road South 65-53-56 East 265.59 feet to an iron pin; thence South 15-56-56 East 163.54 feet to an iron pin; thence North 65-52-00 West 373.40 feet to an iron pin in the center of Syracuse Road, the point of BEGINNING.

THIS is a portion of the property conveyed to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution dated October 20, 1994 and recorded October 31, 1994 in at Register of Deeds for Anderson County, South Carolina in Deed Book 1981 at Page 46.

The property in Tract 5 was conveyed by the trustees in deed recorded in deed book 6497 at page 170.

Pickens, S.C.
April 4, 2023

S/JAMES C. ALEXANDER
JAMES C. ALEXANDER
THE ALEXANDER LAW FIRM, LLC
Attorney for Plaintiff
Post Office Box 618
Pickens, South Carolina 29671
864 898-3208
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Bar number 317

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) TENTH JUDICIAL CIRCUIT
 COUNTY OF ANDERSON) CASE #: 2023-CP-04-

JAMES C. SITTON, II, INDIVIDUALLY)
 AND AS PERSONAL REPRESENTATIVE OF)
 THE ESTATE OF JOHN D. SITTON, AND)
 BETTY A. SITTON,)

PLAINTIFFS,)

VS.)

JOHN D. SITTON, JR., INDIVIDUALLY)
 AND AS FORMER TRUSTEE OF THE JOHN)
 D. SITTON TRUST, BRIAN K. JAMES AS)
 PERSONAL REPRESENTATIVE OF THE)
 ESTATE OF RUTH R. SITTON,)

DEFENDANTS,)

SUMMONS

NON JURY

.....
 TO THE DEFENDANTS:

You are hereby summoned and required to answer the Complaint in this action a copy of which is served on you and which is filed in the office of the Clerk of this Court this same date and to serve a copy of your Answer to the Complaint upon the subscriber at 107 E. Main Street, P.O. Box 618, Pickens, South Carolina, 29671 within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Complaint within that time, the Plaintiffs will be awarded default judgment against you for the relief demanded in the Complaint.

S/JAMES C. ALEXANDER
JAMES C. ALEXANDER
THE ALEXANDER LAW FIRM, LLC
ATTORNEY FOR PLAINTIFF
POST OFFICE BOX 618
PICKENS, SOUTH CAROLINA
29671
(864) 898-3208

April 13, 2023

jcalexander@thealexanderlawfirm.com

Bar number 317

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON) CASE #: 2023-CP-04-

JAMES C. SITTON, II, INDIVIDUALLY)
AND AS PERSONAL REPRESENTATIVE OF)
THE ESTATE OF JOHN D. SITTON, AND)
BETTY A. SITTON,)
)
)
)
PLAINTIFFS,) COMPLAINT
)
VS.) NON JURY

JOHN D. SITTON, JR., INDIVIDUALLY)
AND AS FORMER TRUSTEE OF THE JOHN)
D. SITTON TRUST, BRIAN K. JAMES AS)
PERSONAL REPRESENTATIVE OF THE)
ESTATE OF RUTH R. SITTON,)
)
)
DEFENDANTS,)

Plaintiffs show as follows:

1. Plaintiff James C. Sitton II is a resident of Greenville County, South Carolina. Respondent John D. Sitton Jr. upon information and belief resides in Pickens County. Brian K. James as Personal Representative of the estate of Ruth R. Sitton resides in Pickens County, South Carolina. Betty A Sitton is a resident of Greenville County, South Carolina. The real property in question is located in Anderson County, South Carolina.

2. The following real property is located in Anderson County, South Carolina:

12.58 acres: TM#188-00-06-021

6.44 acres: TM#188-00-11-008

Both tracts being a part of:

ALL that piece, parcel or tract of land containing 57.00 acres+- and situate lying and being in the Brushy Creek Township of Anderson County, South Carolina and lying along a surface treated road, which road leaves S.C. Highway #8 near the W.A. Tripp farm and runs by way of J.O. Rosman home place to State Highway #81, and being described according to a plat prepared by J. Coke Smith, Surveyor, in May 1951 as follows: BEGINNING at an iron pin, the SE corner of J.C. Sitton land running thence along the said J.C. Sitton line N 18-00 W 26,50 chains to a point, along W.A. Pickens and Newt Cantrell line N 88-45 E 35.26 chains to an iron pin; thence, along W.F. Laboon property line S 10-15 W 13.67 chains to the aforementioned surface treated road; thence, along said road S 81-25 W 6.50 chains; thence, with road S 63-25 W 2.40 chains; thence, continuing along said road S 57-00 W 19.32 chains to the BEGINNING corner.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed John D. Sitton by Deborah M. Sitton by deed dated May 10, 1951, and recorded May 14, 1951, in Deed Book 9-F, Page 4, in the Office of the Clerk of Court for Anderson County, South Carolina.

ALSO: "All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson, about 6 miles south of Easley, S.C. and being more fully described as follows, to-wit:

"BEGINNING in center of surface treated highway which point is also corner of W.D. Sitton Estate; thence S58-30W 8.90 chains along road; thence leaving road and running N33-45W 15,40 chains to an iron pin; thence S43-25W 23.57 chains to an iron pin; thence N27W 5.85 chains; thence N23-20E 31 chains; thence N88-45E 14.50 chains; thence S18E 26.50 chains to point of BEGINNING, and containing 61.1 acres, more or less, according to plat of J. Coke Smith, Surveyor, dated August, 1941, reference to which is hereby made for a more complete and accurate description and being bounded on the north by Bill Pickens Estate, bounded on the east by W.D. Sitton Estate, bounded on the south by highway and property of Eugene Wyatt and bounded on the west by property of J.M. Carpenter, according to said plat.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed to John D Sitton by J.C. Sitton by deed dated October 13, 1965, and recorded June 9, 1967, in Deed Book 15-D, Page 599, in the Office of the Clerk of Court for Anderson County, South Carolina.

LESS PROPERTY CONVEYED BY TRUSTEES:

TRACT 1:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, containing 2.95 acres, more or less, and being more fully described as follows, to-wit:

BEGINNING at point in Syracuse Road which point is also corner of James Hawkins, thence along Syracuse Road in southerly direction 309 feet to point in road; thence continuing along Syracuse Road South 25-30 West approximately 219 feet to point in road, which point is also corner of Robert Dickard; thence along Robert Dickard line North 69-21 West 290.83 feet to point in center of stream; thence following meanderings of same on a traverse North 44-54 East 106 feet to point in stream; thence continuing along center of stream in a northerly direction approximately 265 feet to point in stream, which point is also corner of James Hawkins property; thence along James Hawkins property line in an easterly direction approximately 302 feet to the point of BEGINNING. Being bounded on the north by Hawkins, on the east by Syracuse Road; on the south by Dickard, and on the west by Lyles and Watson.

This is the identical property conveyed unto John D. Sitton, Sr., by deed of Sitton Furniture, Inc. dated January 17, 1991 and recorded February 15, 1991 in Deed Book 1132 at Page 11 and a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880006103

It is the intent of this to also quitclaim to the grantee any property that the grantor owns on the east side of Syracuse Road across from the above described tract of 2.95 acres.

ALSO:

All that certain piece, parcel or lot of land and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, on the northwest side of Old Mill Road, and being more fully described as follows, to-wit:

BEGINNING at a point in Old Mill Road, common corner with property now or formerly of Stevenson, and running thence along property of Stevenson North 13-30 West 241 feet to a point; thence continuing along property of Stevenson North 67-30 East 214.19 feet to a point on line of property of Ghizzonie, thence along line of property of Ghizzonie North 00-30 West 482.20 feet to other property of Grantee; thence turning and running along other property of Grantee North 81-00 West 30 feet to point on common line of property of grantee and portion of Tract 2, property pf Richard White, et al., South 00-30 East approximately 483 feet; thence turning and continuing along property of Wright South 67-30 West approximately 215 feet; thence turning and continuing along property of Wright South 13-30 East approximately 271 feet to point in center of Old Mill Road; thence along center of Old Mill Road North 69-00 East 30 feet to the point of BEGINNING.

THIS is a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880011004

The property in Tract 1 was conveyed by the trustees in deed recorded in deed book 10162 at page 00275.

TRACT 2:

ALL that certain piece, parcel or lot of land situate, lying and being in the County of Anderson, State of South Carolina, being shown and designated as containing 0.84 of an acre, more or less, as shown on a plat prepared by Ray Dun, PLS #19400, dated February 20, 2006, and signed February 21, 2006, of record in the Office of the Register of Deeds for Anderson County, South Carolina, in Plat 118 at Page 154, and having such metes and bounds, courses and distanced as upon said plat appear. For a more complete and accurate description of the lot herein

conveyed, reference is invited to said plat, and the description contained thereon is incorporated herein by reference.

This is a portion of the property conveyed unto John D. Sitton, Jr. and Ruth R. Sitton, as trustees under the Last Will and Testament of John D. Sitton by deed of distribution from the Estate of John D. Sitton, dated October 20, 1994, recorded October 31, 1994, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 1982 at Page 46.

This conveyance is specifically made subject to any and all recorded rights of-way, easements, encroachments, conditions, restrictions, and zoning ordinances pertaining to the property herein conveyed and, in addition, is subject to any of the foregoing which may appear from an inspection of the premises and/or which appear according to a current survey.

TMS NUMBER: 188-00-11-004

The property in Tract 2 was conveyed by the trustees in deed recorded in deed book 07381 at page 00115.

TRACT 3:

ALL that certain piece, parcel or tract of land containing 1.00 acre more or less, situate, lying and being in the county of Anderson, State of South Carolina, As shown on that certain plat prepared by Perry Ray Dunn, PLS#19400, Dated 4-18-05 and recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Book 117 at Page 820 for a more particular description as to metes and bounds, courses and distances, reference is hereby made to aforesaid plat of record.

This being the same property conveyed unto John D. Sitton and Ruth R. Sitton as trustees by deed of distribution in the matter of John D. Sitton (probate case# 93ES0400324) deed dated 10-20-94 and recorded 10-31-94 in the Office of the Register of Deeds for Anderson County, SC in Book 1981 at Page 46.

TMS: 188-00-11-008

The property in Tract 3 was conveyed by the trustees in deed recorded in deed book 06711 at page 00195.

TRACT 4:

ALL that certain piece, parcel or lot of land lying and being situate in the County of Anderson, State of South Carolina and being shown as 0.62 acres, more or less, located on Syracuse Road on a plat prepared by Spearman Surveying dated March 2, 2005 for James S. Smith and Thomas Duncan as recorded in Plat Book 1527 at Page 2-B in the Register of Deeds Office for Anderson County, South Carolina. Reference to said plat is hereby made for a more complete and accurate description thereof.

THIS being a portion of the same property to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution of the estate of John D. Sitton as recorded in Deed Book 1981 at Page 046 in the Anderson County Register of Deeds Office on 10-31-94.

TMS #: 1880006021

The property in Tract 4 was conveyed by the trustees in deed recorded in deed book 06689 at page 00234.

TRACT 5:

ALL that certain piece, parcel or lot of land situate and being in the State of South Carolina, County of Anderson, on Syracuse Road, and according to a plat by Ray Dunn Land Surveyor, dated October 28, 2004, said lot contains 0.982 acres, including all rights of way, and is more particularly described as follows, to-wit:

BEGINNING at an iron pin in the center of Syracuse Road, which point is 1500 feet, more or less, to Old Mill Road; thence along the center of Syracuse Road North 25-16-54 East 125.00 feet to an iron pin; thence leaving Syracuse Road South 65-53-56 East 265.59 feet to an iron pin; thence South 15-56-56 East 163.54 feet to an iron pin; thence North 65-52-00 West 373.40 feet to an iron pin in the center of Syracuse Road, the point of BEGINNING.

THIS is a portion of the property conveyed to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution dated October 20, 1994 and recorded October 31, 1994 in at Register of Deeds for Anderson County, South Carolina in Deed Book 1981 at Page 46.

The property in Tract 5 was conveyed by the trustees in deed recorded in deed book 6497 at page 170.

3. Jurisdiction and venue is proper in Anderson County, South Carolina.

FOR A FIRST CAUSE OF ACTION

4. The estate of John D. Sitton was probated in Pickens County, SC, 1993ES3900259. The will for that estate set up a trust with John D. Sitton, Jr. and Ruth R. Sitton as trustees for the benefit of Betty A. Sitton and James C. Sitton, II. A deed of distribution was issued to John D. Sitton, Jr. and Ruth R. Sitton as trustees for the above Anderson County real property as recorded in deed book 1981 at page 046 in the Anderson County Register of Deeds Office. The trustees have conveyed certain real property as also set forth above in the "LESS" section of the property description. The estate of John D. Sitton was closed but has now been re-opened for certain litigation purposes with the plaintiff as the current personal representative of the estate. Ruth R. Sitton is deceased and her estate is opened in Pickens County (2013ES3900478) and Brian K. James is her appointed personal representative. The Pickens County Probate Court has issued an order filed on September 27, 2022 which terminates the John D. Sitton Trust.

4. Upon information and belief, two tracts of real property consisting of 12.58 acres and 6.44 acres still remain

of the original property conveyed to the two trustees. Plaintiff requests an order of this court, based on the Pickens County Probate Court Order which terminated the John D. Sitton Trust, requiring the remaining real property to be deeded to James C. Sitton, II as personal representative of the estate of John D. Sitton, either by John D. Sitton, Jr. and Brian K. James as personal representative of the estate of Ruth R. Sitton or the Anderson County Clerk of Court.

5. Plaintiffs request an award of reasonable attorney fees and costs for the bringing of this action.

FOR A SECOND CAUSE OF ACTION
ACCOUNTING
JOHN D. SITTON, JR.

6. The above allegations are incorporated by reference as if fully set forth hereinafter.

7. The trustees which include John D. Sitton, Jr. have sold portions of the real property deeded to them as trustee. Plaintiff requests that John D. Sitton, Jr. be required to provide an accounting as to the amount of money received from each sale and the money spent on behalf of the trust beneficiaries. Plaintiff requests an order requiring defendant John D. Sitton, Jr. to reimburse to the John D. Sitton estate all money that he cannot properly account for.

FOR A THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY
JOHN D. SITTON, JR.

8. The above allegations are incorporated by reference as if fully set forth hereinafter.

9. Defendant John D. Sitton, Jr. as trustee along with Ruth R. Sitton as trustee conveyed two tracts of real property to himself, John D. Sitton, Jr. for no consideration in a deed recorded in deed book 101 at page 00275 on 09/23/2011. John D. Sitton, Jr. was not a beneficiary of the John D. Sitton Trust and breached his fiduciary duty to the beneficiaries of the John D. Sitton Trust by this conveyance. Defendant John D. Sitton, Jr. acted in his own self interest and not in the best interests of the beneficiaries of the Trust.

10. Plaintiff requests that the court inquire into the matter, and order John D. Sitton, Jr. to provide an accounting for all real property conveyed to him in the above deed, and provide an accounting for any money received from any sale of such property.

11. Plaintiff requests that the court determine that John D. Sitton, Jr. as Trustee breached his fiduciary duty to Betty Sitton and James C. Sitton, II and award to plaintiffs actual and punitive damages as determined by the court.

WHEREFORE Plaintiffs pray:

1. For an order, based on the Pickens County Probate Court Order which terminated the John D. Sitton Trust, requiring the remaining real property which was deeded to the trustees and not disposed of to be deeded to James C. Sitton, II as personal representative of the estate of John D. Sitton, either by John D. Sitton, Jr. and Brian K. James as personal representative of the estate of Ruth R. Sitton or the Anderson County Clerk of Court.

2. That John D. Sitton, Jr. be required to provide an accounting as trustee as to the amount of money received from any sale and the money spent on behalf of the trust beneficiaries. Plaintiff requests an order requiring defendant John D. Sitton, Jr. to reimburse to the John D. Sitton estate all money that he cannot properly account for.

3. That John D. Sitton, Jr. be required to provide an accounting for all real property in the real property conveyed to him in the deed recorded in deed book 10162 at page 00275, and provide an accounting for any money received from any sale of such property.

4. That the court determine that John D. Sitton, Jr. as Trustee breached his fiduciary duty to Betty Sitton and James C. Sitton, II and award to plaintiff actual and punitive damages as determined by the court.

5. For an order granting plaintiff attorney fees and costs pursuant to applicable statutes, case law, and rules of court.

6. For such other and further relief as the Court may deem just and proper.

S/JAMES C. ALEXANDER
JAMES C. ALEXANDER
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April 5, 2023

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
	)	
JAMES C. SITTON, II,	)	
INDIVIDUALLY AND AS	)	
PERSONAL REPRESENTATIVE OF	)	
THE ESTATE OF	)	
JOHN D. SITTON, AND	)	
BETTY A. SITTON,	)	
PLAINTIFFS,	)	
	)	
-VS-	)	ANSWER AND COUNTERCLAIM
	)	
JOHN D. SITTON, JR.,	)	
INDIVIDUALLY AND AS	)	
FORMER TRUSTEE OF THE JOHN	)	
D.SITTON TRUST, AND	)	
BRIAN K. JAMES	)	CASE NUMBER: 2023-CP-04-00846
AS PERSONAL REPRESENTATIVE	)	
OF THE ESTATE OF	)	
RUTH R. SITTON,	)	
DEFENDANTS.	)	
	)	

The Defendant John D. Sitton, Jr., individually and as former co-trustee of the John D. Sitton Trust (hereinafter "Defendant Sitton"), answering the complaint of the Plaintiffs and by way of counterclaim, would respectfully allege and show unto the Court as follows:

FOR A FIRST DEFENSE AS TO

THE GENERAL FACTUAL ALLEGATIONS

1. All of the allegations of paragraphs 1, 2, and 3 of the complaint, not hereinafter specifically admitted, modified, or explained, are denied and strict proof demanded thereof.
2. The allegations of paragraph 1 of the complaint are admitted.

3. Responding to paragraph 2 of the complaint, Defendant Sitton admits only those allegations which are recorded deeds and matters of public record, and he denies all other allegations of said paragraph 2. Reference is craved to the recorded deeds for their exact terms.

4. Paragraph 3 pf the complaint alleges one or more conclusions of law to which no response is required. To the extent a response is required, Defendant Sitton denies the allegations of said paragraph 3 and is informed and believes that jurisdiction and venue are not properly in the Anderson County Court of Common Pleas for all causes of action.

FOR A FIRST DEFENSE AS
TO THE FIRST CAUSE OF ACTION

5. All of the allegations of the first cause of action, not hereinafter specifically admitted, modified, or explained, are denied and strict proof demanded thereof.

6. Responding to the first paragraph 4 of the first cause of action, Defendant Sitton admits all relevant matters, wills, and orders on file as public records with the Pickens County Probate Court in the Estate of John D. Sitton (Case Number: 1993-ES-39-00259) and the Estate of Ruth R. Sitton (Case Number: 2013-ES-39-00478), and he admits the terms of the handwritten Last Will and Testament of John D. Sitton, deceased, dated December 6, 1991, which contains the terms of the testamentary trust. Defendant further admits that a deed of distribution is recorded in the Anderson County Register of Deeds Office in Record Book 1981 at Page 046 dated October 20, 1994, and

that a final order was issued by the Pickens County Probate Court on September 27, 2022 in the Estate of John D. Sitton. Reference is craved to the public records, deed, and order for their exact terms, and all other allegations of said paragraph 4 are denied. Defendant Sitton would further show that Betty A. Sitton and James C. Sitton were not the sole beneficiaries of the testamentary trust of John D. Sitton and refers to the handwritten testamentary trust in John D. Sitton's Will for its exact terms and beneficiaries.

7. Defendant Sitton admits the allegations of the second paragraph 4 of the first cause of action based upon information and belief, except that any remaining real estate in the testamentary trust of John D. Sitton should be deeded to the named beneficiaries, to-wit: Betty Sitton, Dorothy Sitton Ashley, Dale Sitton Rogers, James A. Sitton, II, and John A, Sitton, Jr..

8. All of the allegations of paragraph 5 of the first cause of action are denied.

**FOR A FIRST DEFENSE AS
TO THE SECOND CAUSE OF ACTION**

9. All of the allegations of the second cause of action, not hereinafter specifically admitted, modified, or explained, are denied and strict proof demanded thereof.

10. Denies the allegations of paragraph 6 of the second cause of action previously denied.

11. Defendant Sitton admits only so much of paragraph 7 of the second cause of action as is contained in the first sentence which alleges that

the co-trustees under the testamentary trust of the Last Will and Testament of John D. Sitton sold certain real property as reference to the recorded deeds will reveal. Any and all other remaining allegations of said paragraph 7 which follow are denied and strict proof demanded thereof. (i.e., All of the allegations of paragraph 7 of the second cause of action are denied except for that portion which alleges that the co-trustees sold portions of the real property deeded to them as co-trustees.)

FOR A FIRST DEFENSE

AS TO THE THIRD CAUSE OF ACTION

12. All of the allegations of the third cause of action, not hereinafter specifically admitted, modified, or explained, are denied and strict proof demanded thereof.

13. Denies the allegations of paragraph 8 of the third cause of action previously denied.

14. All of the allegations of paragraphs 9, 10, and 11 of the third cause of action are denied and strict proof demanded thereof.

FOR A SECOND DEFENSE

AS TO THE FIRST CAUSE OF ACTION

15. Defendant Sitton reiterates and realleges the allegations contained in his first defenses as if fully restated herein.

16. The Plaintiffs' first cause of action fails to allege or state facts or a claim upon which relief can be granted and should be dismissed pursuant to Rule 12 (b)(6), South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE AS
TO THE SECOND CAUSE OF ACTION

17. Defendant Sitton reiterates and realleges the allegations contained in his first defenses as if fully restated herein.

18. The Plaintiffs' second cause of action fails to allege or state facts or a claim upon which relief can be granted and should be dismissed pursuant to Rule 12 (b)(6), South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE
AS TO THE THIRD CAUSE OF ACTION

19. Defendant Sitton reiterates and realleges the allegations contained in his first defenses as if fully restated herein.

20. The Plaintiffs' third cause of action fails to allege or state facts or a claim upon which relief can be granted and should be dismissed pursuant to Rule 12 (b)(6), South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE
AS TO ALL CAUSES OF ACTION

21. Defendant Sitton reiterates and realleges the allegations contained in his prior defenses as if fully restated herein.

22. All of the causes of action alleged by the Plaintiffs are time barred by the applicable Statutes of Limitations.

23. The applicable Statutes of Limitations are pled as affirmative defenses and complete bars to all of the Plaintiffs' causes of actions and/ or claims contained in their complaint.

FOR A FOURTH DEFENSE AS
TO ALL CAUSES OF ACTION

24. Defendant Sitton reiterates and realleges the allegations contained in his prior defenses as if fully restated herein.

25. All of the causes of action alleged by the Plaintiffs are barred by the Doctrine of Laches. Due to the passage of time, documents, information, records, accounts, and witnesses are, or may no longer be, available for the proper adjudication of this matter. This was due to the Plaintiffs' inexplicable delay in bringing this action for more than ten (10) years.

26. Laches is pled as an affirmative defense and complete bar to all of the Plaintiffs' causes of action and/ or claims contained in their complaint.

FOR A FIFTH DEFENSE AS
TO ALL CAUSES OF ACTION

27. All of the allegations of the prior defenses are realleged and incorporated herein to the same extent as if repeated verbatim.

28. All of the Plaintiffs' causes of action and/ or claims are barred by the Statute of Frauds, and the Statute of Frauds is pled as an affirmative defense and a complete bar to all of Plaintiffs' causes of action and/ or claims.

FOR A SIXTH DEFENSE AS TO
ALL CAUSES OF ACTION

29. All of the allegations of the prior defenses are realleged and incorporated herein to the same extent as if repeated verbatim.

30. Ruth R. Sitton, co-trustee, was responsible for and made all decisions relating to the trust account and trust assets. She maintained and kept all books and records relating to the trust, and Defendant has no knowledge if they are still in existence.

31. Defendant Sitton is informed and believes that Plaintiff James C. Sitton, II assisted Ruth R. Sitton, co-trustee, with the trust records, accounts, banking, and trust matters and had full access to the same.

32. Defendant Sitton is informed and believes that Plaintiff James C. Sitton, II had full knowledge of the trust records and accounts and that he along with Ruth R. Sitton and Betty A. Sitton received disbursements from the trust as beneficiaries.

33. Defendant Sitton received no money from the trust.

34. The Defendant is informed and believes that the Plaintiff James C. Sitton, II has waived any right to assert any of the allegations and/ or claims of his complaint, and he should be estopped to make any claim against Defendant Sitton.

35. All of the Plaintiffs' causes of action and/ or claims are barred by the Doctrines of Waiver, Consent, and Estoppel, all of which are pled here as affirmative defenses and complete bars to Plaintiffs' complaint and causes of action.

FOR A SEVENTH DEFENSE AS

TO ALL CAUSES OF ACTION

36. All of the allegations of the prior defenses are realleged and incorporated herein to the same extent as if repeated verbatim.

37. Based upon information and belief, the Plaintiffs come into Court with "unclean hands" based upon the conduct and actions of Plaintiff James C. Sitton, II, and the Plaintiffs' should be barred from their requested relief.

38. Unclean Hands is pled as an affirmative and complete defense and bar to all of Plaintiffs' causes of action and/ or claims.

FOR AN EIGHTH DEFENSE**AS TO ALL CAUSES OF ACTION**

39. All of the allegations of the prior defenses are realleged and incorporated herein to the same extent as if repeated verbatim.

40. The handwritten testamentary trust under the Last Will and Testament of John D. Sitton provided, in part, as follows: "My Trustees and/ or Alternate Trustee shall have unquestioned and unlimited authority to use their discretion in investing and re-investing and using any part of the corpus and/ or interest they deem necessary or advisable for the comfortable maintenance, support, health, and well-being of Betty Ann Sitton and Ruth R. Sitton and shall supplement with food, shelter, and clothing for James C. Sitton, II."

41 The testamentary trust further provided, in part, that: "My said Trustees shall not be required to make any accounting to any Court....."

42. Based upon the terms of the trust, the Plaintiffs are estopped and barred from asserting any of their causes of action and claims set forth in the complaint.

FOR A NINTH DEFENSE

AS TO ALL CAUSES OF ACTION

43. All of the allegations of the prior defenses are realleged and incorporated herein to the same extent as if repeated verbatim.

44. Defendant Sitton does not waive, expressly reserves and hereby asserts as if fully set forth herein, all other statutory and common law defenses, including all affirmative defenses not previously set forth hereinabove. Further, Defendant Sitton expressly reserves the right to amend his Answer and Counterclaim to assert such other and further defenses, claims, cross-claims, or third-party claims as may through the course of discovery be deemed necessary and proper in this matter.

FOR A TENTH DEFENSE AND

BY WAY OF COUNTERCLAIM AGAINST

JAMES C. SITTON, II

45. All of the allegations of the prior defenses are realleged and incorporated herein to the same extent as if repeated verbatim.

46. Ruth R. Sitton died testate on May 25, 2013, and she was co-trustee of the John D. Sitton Testamentary Trust. As co-trustee she handled all

accounts, records, books, and assets of the trust and made the decisions for the trust, and disbursements from the trust.

47. Defendant Sitton has none of the records, trust accounts, or books for the trust, and he is informed and believes that the Plaintiff James C. Sitton, II, might be in possession of the same.

48. Far more than ten (10) years have passed since there was any activity in the trust, and all of the Plaintiffs' causes of action are barred by the applicable statutes of limitations and by laches.

49. There has been protracted litigation in the Estate of Ruth R. Sitton since May 25, 2013, including an action in the Pickens County Court of Common Pleas that went on for two and a half years. Plaintiffs were an integral part of all litigation and parties to this litigation.

50. Plaintiffs have failed to raise any of the claims now contained in their complaint for more than ten (10) years after the death of the co-trustee and should be estopped to do so now.

51. Defendant Sitton is informed and believes that the Plaintiff James C. Sitton, II has initiated this action without the knowledge or consent of Plaintiff Betty A. Sitton and as a part of a continuing vendetta to cause Defendant Sitton to incur attorney's fees and costs unnecessarily. Plaintiffs' action is frivolous.

52. Defendant Sitton is informed and believes that Plaintiff James C. Sitton, II, individually and as Personal Representative should be required to

pay all of his reasonable attorney's fees and costs in defending this frivolous action.

WHEREFORE, Defendant John D. Sitton, Jr., Individually and as Former Trustee of the John D. Sitton Trust, prays:

1. That the complaint and all of its causes of action be dismissed with prejudice and with costs.
2. That he be awarded judgement against Plaintiff James C. Sitton, II for all of his reasonable attorney's fees and costs.
3. That any deed issued for the remaining trust real property should be to residuary trust beneficiaries individually.
4. That he reserves the right to amend his pleadings as requested by his Ninth Defense as discovery progresses.
5. For such other and further relief as this court deems just and proper.

ALLEN AND EAKES
S/ James S. Eakes
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Anderson, South Carolina
June 14, 2023

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) TENTH JUDICIAL CIRCUIT
 COUNTY OF ANDERSON) CASE #: 2023-CP-04-00846

JAMES C. SITTON, II, INDIVIDUALLY)
 AND AS PERSONAL REPRESENTATIVE OF)
 THE ESTATE OF JOHN D. SITTON, AND)
 BETTY A. SITTON,)

PLAINTIFFS,)

VS.)

) REPLY TO COUNTERCLAIM

JOHN D. SITTON, JR., INDIVIDUALLY)
 AND AS FORMER TRUSTEE OF THE JOHN)
 D. SITTON TRUST, BRIAN K. JAMES AS)
 PERSONAL REPRESENTATIVE OF THE)
 ESTATE OF RUTH R. SITTON,)

DEFENDANTS,)

.....
 Plaintiff replying to the counterclaim of defendant John D.
 Sitton, Jr. shows:

1. As to paragraph 46, plaintiff admits the date of death and trustee status of Ruth R. Sitton. Plaintiff has no knowledge as to who handled the affairs of the trust and, therefore, denies all remaining allegations as a result of lack of knowledge and demands strict proof thereof.

2. As to paragraph 47, plaintiff denies that he has any records of the trust and further shows that he has no knowledge of the remaining allegations on which to base an admission or

denial and, therefore, denies all remaining allegations as a result of lack of knowledge and demands strict proof thereof.

3. Plaintiff denies the allegations of paragraph 48.

4. As to paragraph 49, plaintiff admits that litigation has occurred as to the estate of Ruth R. Sitton and plaintiff has been a part of the litigation, but plaintiff denies all remaining allegations contained therein.

5. Plaintiff denies the allegations of paragraphs 50, 51, and 52.

WHEREFORE Plaintiff prays:

1. That all relief requested by defendant John D. Sitton, Jr. be denied and the counterclaim be dismissed with prejudice.
2. That all relief requested in the complaint be granted.
3. For an order granting plaintiff attorney fees and costs pursuant to applicable statutes, case law, and rules of court.
4. For such other and further relief as the Court may deem just and proper.

Pickens, Sc
June 14, 2023

S/JAMES C. ALEXANDER
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4 James C. Sitton, II, individually and as Personal
5 Representative of the Estate of John D. Sitton and Betty
6 A. Sitton,

8 vs.

13 Defendants.

15

17

19

23 Anderson, South Carolina

25 COURT REPORTER: Virginia H. Campbell

1 APPEARANCES:

2 James C. Alexander, Esquire

3 The Alexander Law Firm, LLC

4 Attorney for James C. Sitton II, individually and as

5 Personal Representative of Estate of Betty A. Sitton

6

7 James S. Eakes, Esquire

8 Allen & Eakes Law Firm

9 Attorney for John D. Sitton, Jr.

10

11 Brian Keith James, Esquire

12 Personal Representative of Estate of Betty A. Sitton

13

14 OTHER PARTIES:

15 James C. Sitton, II

16 John Carpenter Sitton, Jr.

17

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1 (PLAINTIFF'S EXHIBIT NUMBERS 1-15 PRE-MARKED FOR
2 IDENTIFICATION)

3 BY THE COURT:

4 This is civil action number 2023-CP-04-00846, James
5 C. Sitton, II, individually and as Personal
6 Representative of the Estate of John D. Sitton and Betty
7 A. Sitton, Plaintiffs, versus John D. Sitton, Jr.,
8 individually and as former Trustee of the John D. Sitton
9 Trust, Brian K. James as Personal Representative of the
10 Estate of Ruth R. Sitton, Defendants. This matter was
11 referred by a Consent Order of Reference filed on
12 October 21, 2024. I'm going to get the attorneys to
13 state their name for the record and tell me who they
14 represent and we'll start with the Plaintiff.

15 BY MR. ALEXANDER:

16 Your Honor, I am James C. Alexander and I represent
17 James C. Sitton, II and Betty A. Sitton, but I will
18 inform the court that Betty A. Sitton is now deceased
19 and any interest that she has in this matter, frankly,
20 would be distributed to her other siblings who include
21 James Sitton, II and John Sitton, Jr. and then their two
22 sisters as well, but she's now deceased and I represent
23 James C. Sitton, II.

24 BY THE COURT:

25 All right. I guess that brings us to Mr. Eakes

1 now.

2 BY MR. EAKES:

3 I am Steve Eakes and I represent John D. Sitton who
4 is in this action individually and as former Trustee of
5 John D. Sitton, Jr. Trust.

6 BY THE COURT:

7 All right.

8 BY MR. JAMES:

9 Yes, sir, I'm Brian James and I'm the Personal
10 Representative and I am an attorney that was appointed
11 over this estate, but I'm not representing anybody. I'm
12 just here in my capacity.

13 BY THE COURT:

14 All right. Well, are there any preliminary matters
15 we need to deal with at this point?

16 BY MR. EAKES:

17 Well, I wanted to inform the court in case
18 something happened. My client called me at 9:30 this
19 morning, I saw him late yesterday afternoon, but he
20 informed me that he was sick and feeling bad all night,
21 but he is here and hopefully he can get through the
22 trial in case something happens during the course of the
23 trial.

24 BY THE COURT:

25 All right.

1 BY MR. EAKES:

2 He didn't have time to go to a doctor.

3 BY THE COURT:

4 Okay.

5 BY MR. EAKES:

6 So we didn't have a medical excuse.

7 BY THE COURT:

8 Well, this is him sitting here?

9 BY MR. EAKES:

10 Yes, sir, Mr. Sitton is right here, yes, sir.

11 BY MR. ALEXANDER:

12 I think Mr. James has something he wants to bring
13 up.

14 BY MR. JAMES:

15 Yes, sir, I just have to -- I'm not necessarily
16 taking a position in the case. I mean if anything is to
17 be distributed to the Estate of Ruth Sitton then, of
18 course, we'll administer. I do have a hearing in
19 Pickens, a DSS hearing at 1:30, so I would just ask the
20 court if I could leave at an appropriate time and head
21 towards that area?

22 BY THE COURT:

23 Was anybody expecting Mr. James to testify?

24 BY MR. ALEXANDER:

25 No, sir.

1 BY MR. EAKES:

2 No, Your Honor.

3 BY THE COURT:

4 Okay. Well, I don't see any problem with that
5 unless somebody has an objection from the others?

6 BY MR. JAMES:

7 Yes, sir.

8 BY THE COURT:

9 Do y'all have any objection to him leaving when he
10 needs to?

11 BY MR. ALEXANDER:

12 No, sir, he can leave right now as far as we're
13 concerned.

14 BY THE COURT:

15 Well, I'll leave that up to him, but I don't know
16 at this point what your involvement is other than, you
17 know, the fact that you were the personal representative
18 of an estate that was involved, so we may want you to
19 stick around a little while and just see where we're at
20 and make sure we're all on the same page here.

21 BY MR. JAMES:

22 Yes, sir, that's my intention.

23 BY THE COURT:

24 We'll make sure you get out of here in time to get
25 to your other hearing.

1 BY MR. JAMES:

2 Thank you, sir.

3 BY THE COURT:

4 All right. Anything else?

5 BY MR. ALEXANDER:

6 Yes, sir. Judge, there are three causes of action.
7 The first cause of action was resolved at mediation and
8 there was an Order that has approved a Partial Mediation
9 Agreement. It involves two tracts of land in Anderson
10 County and I've got exhibits and I'm going to have them
11 marked as 11 and 12, well, just to identify what they
12 are so for the court's information and I'll hand those
13 up. They've been pre-marked.

14 BY MR. EAKES:

15 What are they marked as?

16 BY MR. ALEXANDER:

17 11 and 12. Judge, one is a 12-acre tract and one
18 is a six-acre tract and in mediation we agreed and it's
19 been approved by Court Order that those two tracts of
20 land are what's remaining in Anderson County that was
21 owned by John Sitton, Sr. and that those two tracts of
22 land go back to the Estate of John D. Sitton, Sr. and
23 James, his son, James C. Sitton, II, is now the
24 appointed Personal Representative. So the agreement has
25 been approved, but Mr. Eakes and I had some issues just

1 from a title standpoint of how do we handle that because
2 we're going to put an exhibit in the file in a few
3 minutes that terminates the Trust created by the Will of
4 John Sitton, Sr. Well, therefore, Mr. Sitton, Jr. has
5 no authority as Trustee to deed it back to the estate
6 because there's no Trust anymore. So my solution, and I
7 won't give Mr. Eakes' opinion on this, is if we can get
8 an Order of the court, the agreement has already been
9 approved declaring that that property is transferred
10 back to the Estate of John D. Sitton, Sr. and then
11 authorizing, if nothing else, Mr. Sitton, II to sign a
12 deed to that effect. Then we think and I think that
13 that may clear up any title issues when the property is
14 sold. So I'm open to the court's consideration of that.
15 We just want and we just need to get the property back
16 to the estate since the Trust has been terminated.

17 BY THE COURT:

18 Well, what does the Trust say about what happens at
19 termination?

20 BY MR. EAKES:

21 At termination it went to all of the, at the
22 termination of the Trust it went all to the remaining
23 siblings. There were originally five brothers and
24 sisters and as Mr. Williams (sic) indicated, Betty
25 Sitton has passed away and the Trust would technically

1 terminate at that point. But I mean it was my
2 impression when this action was filed it was all over
3 getting that real estate back where it could be sold
4 because this Trust has basically been dormant since
5 2011. There were two Trustees. Ruth is the mother of
6 these two gentlemen and was one of the Trustees. She
7 died in 2013 in May and there has been constant
8 litigation up until a couple of years ago in her estate,
9 but going over a 10-year period.

10 BY THE COURT:

11 Well, you said that this was agreed to, I mean a
12 partial agreement in the mediation process and then
13 approved by Court Order. Which court was that?

14 BY MR. ALEXANDER:

15 Yes, sir, I'll pass that Court Order up, it's
16 Plaintiff's Number 1.

17 BY THE COURT:

18 Plaintiff's 1.

19 BY MR. ALEXANDER:

20 And then I'll pass up what's been marked as
21 Plaintiff's Number 3 which is the Court Order from the
22 Pickens County Probate Court which terminates the Trust.
23 So Exhibit 1 is the Order approving the Partial
24 Mediation Agreement and Exhibit 3, paragraph 4
25 terminates the Trust. We just need a mechanism to get

1 it back to the estate so that there are no title issues
2 when it's sold.

3 BY MR. EAKES:

4 I don't have any problem with whatever it takes to
5 get it back to the estate so it can be sold, Your Honor.

6 BY THE COURT:

7 Well, I'm going to have look at the Order. Well, I
8 guess it's up to you. This is kind of a strange
9 situation where you've got a -- where did the title go?
10 I mean when the Trust is terminated and where is title
11 now?

12 BY MR. ALEXANDER:

13 It should be, but in my opinion if I'm the real
14 estate lawyer, to me when somebody dies title goes to
15 the heirs, whoever they are. So I think if we can get
16 the court just to issue an Order saying the heirs are
17 now the four surviving, Betty's siblings would go to her
18 four surviving siblings. So if we can just get an Order
19 saying the property is now titled in the name of the
20 four heirs and then the Order as approved gives the
21 Personal Representative authority to sell, if we can
22 just get a Court Order to that effect I think from my
23 standpoint if I'm doing the closing that would take care
24 of the title issue.

25 BY THE COURT:

1 Well, you know as well as I do that it doesn't
2 really matter what you think, it's a matter of what the
3 title insurance company thinks.

4 BY MR. ALEXANDER:

5 Yes, sir.

6 BY MR. EAKES:

7 That's correct and it might be appropriate -- I
8 mean if the Trust and not with its conclusion, but like
9 I said it's been dormant since 2011 and Ruth Sitton
10 died, so in '13 she was Trustee. If the Trust would've
11 terminated according to the handwritten Will of John D.
12 Sitton, at the death of his wife, Ruth, and the death of
13 his daughter, Betty, and then whatever was left in the
14 Trust would go to the four remaining siblings. So it
15 might be appropriate to have in there that they'll sign
16 a quit-claim deed if necessary and appropriate to convey
17 good title.

18 BY MR. ALEXANDER:

19 And I don't mind, I don't really object to that,
20 Judge.

21 BY THE COURT:

22 The Trustees of this Trust is John, Jr. and?

23 BY MR. ALEXANDER:

24 Ruth Sitton.

25 BY THE COURT:

1 And Ruth is now deceased?

2 BY MR. ALEXANDER:

3 Yes, sir.

4 BY MR. EAKES:

5 Been dead since 2013.

6 BY THE COURT:

7 So upon her death was there any replacement Trustee
8 or?

9 BY MR. EAKES:

10 There was a provision in the Will for an alternate
11 Trustee, but as I indicated the Trust had been dormant.
12 The alternate Trustee would have been Dale Sitton
13 Rogers, the sister of these gentlemen, and she never --
14 I mean there's just nothing left and the Trust was
15 dormant and she never acted in that capacity.

16 BY THE COURT:

17 What ever happened to her? Is she still living?

18 BY MR. ALEXANDER:

19 She lives in North Carolina. She is in bad health,
20 that is why she is not here today, but she will sign
21 whatever is necessary to do it. We just want to make
22 sure the mechanism is there and if the court could
23 reserve jurisdiction whenever the Order is issued to
24 take care of any title issues I think that would be
25 appropriate and we just want to make sure though when

1 it's sold there's a mechanism that no real estate lawyer
2 is going to ---

3 BY THE COURT:

4 But I mean and that's fine. I'm open to, you know,
5 I don't know the magic answer to your quandary here but,
6 you know, that's to me, if I was a lawyer representing a
7 buyer of this property I'd say, well, wait a minute,
8 let's make sure we get good title here and I'm going to
9 call my title insurance company up and see what they
10 say.

11 BY MR. ALEXANDER:

12 Yes, sir.

13 BY THE COURT:

14 And I mean title insurance companies, like you all
15 know, they're going to do it however they see fit and
16 sometimes you agree with it and sometimes you don't, but
17 I'm open to whatever mechanism you need to get it done.
18 Y'all are just going to have to figure out what that is
19 and give me some kind of Consent Order or whatever. We
20 can do that or if you want to wrap it up in all this
21 other then we can or?

22 BY MR. ALEXANDER:

23 Judge, if Mr. Eakes and I can get together with
24 just some language and then we'll just ask that it be
25 put in the Order?

1 BY MR. EAKES:

2 Yeah, we can settle that part of it.

3 BY THE COURT:

4 That's fine. I mean I'm open to whatever way y'all
5 want to do it, but just make sure you cover all the
6 bases for everybody.

7 BY MR. ALEXANDER:

8 If it's okay, Mr. Eakes and I'll get together and
9 we'll agree on some language to put in whatever the
10 final Order the court issues says?

11 BY THE COURT:

12 All right.

13 BY MR. ALEXANDER:

14 That would take care of the first cause of action,
15 Judge. The two causes of action that the Plaintiff is
16 going forward with today is an accounting by Mr. Sitton,
17 Jr. for any Trust assets, and then the third cause of
18 action is we have one for breach of fiduciary duty
19 against Mr. Sitton, Jr., so we're going forward on the
20 second and the third causes of action.

21 BY THE COURT:

22 All right. You got anything to add, Mr. Eakes?

23 BY MR. EAKES:

24 Well, I've raised a number of defenses, primarily
25 the Statute of Limitation, Waiver of Estoppel, Laches.

1 BY THE COURT:

2 Yeah, I noticed that, I've read over it.

3 BY MR. EAKES:

4 So you've read the pleadings, so you're aware of
5 it. There was so much litigation, there's been so much
6 litigation in the Pickens County Probate Court over
7 Ruth's estate and reopening John D. Sitton, Sr.'s estate
8 going over a 10-year period. I probably did not move
9 for a change of venue and the courts of this state have
10 jurisdiction over trust matters and the reason I didn't
11 was because the real estate was here in Anderson County,
12 but ---

13 BY THE COURT:

14 But that real estate now has basically been agreed
15 on, right? Unless you have -- are you talking about
16 other real estate that may be in question?

17 BY MR. EAKES:

18 No. There's just been so much litigation that's
19 gone on that ties into whether somebody should have
20 known about these deeds, their election and so forth and
21 so on. There's been an extreme amount of litigation.
22 We even had another deed for the property in Easley, the
23 house that went all the way, got removed to Circuit
24 Court and was heard in Circuit Court, but I mean I don't
25 know how much of that is relevant to this action.

1 BY THE COURT:

2 Well ---

3 BY MR. EAKES:

4 There's been an extreme amount of litigation.

5 BY THE COURT:

6 What Mr. Alexander is saying is that they're
7 looking for an accounting from your client for his
8 handling of Trust assets. I assume that goes back to
9 the same Trust that's now been terminated; is that
10 right?

11 BY MR. ALEXANDER:

12 Sir, I didn't understand.

13 BY THE COURT:

14 I said I assume that goes back to this same Trust
15 that's been terminated?

16 BY MR. ALEXANDER:

17 That is correct.

18 BY THE COURT:

19 And you're saying, okay, we want an accounting of
20 any Trust assets that he handled or?

21 BY MR. ALEXANDER:

22 That is correct, Judge, and it does involve some of
23 the deeding of real estate for money, so we're asking
24 for an accounting of the money received from the sale of
25 real estate by Mr. Sitton, Jr. and in this case Ruth

1 Sitton when she was alive for what happened to that
2 money. We want an accounting of what happened to the
3 money and if we can't get a proper accounting, we want a
4 judgment requiring him to put it back, give it to the
5 estate.

6 BY THE COURT:

7 Well, I mean I understand that's what you're
8 looking for.

9 BY MR. EAKES:

10 It's been so long, Your Honor, my client has no
11 records at all.

12 BY THE COURT:

13 Well, ---

14 BY MR. EAKES:

15 And his mother handled the money so.

16 BY THE COURT:

17 Okay.

18 BY MR. ALEXANDER:

19 We're ready to proceed whenever the judge is ready.

20 BY THE COURT:

21 And the other action is for a breach of fiduciary
22 duty and I assume that relates to his position as a
23 Trustee and you're kind of saying, well, if you can't
24 account for this money he must've done something wrong
25 with it and if he did something wrong he breached his

1 duty?

2 BY MR. ALEXANDER:

3 That's correct. But the primary thing, and you'll
4 see when we get to submitting the deeds, there was a
5 deed in which Mr. Sitton, Jr. and Ruth Sitton actually
6 deeded a piece of property to Mr. Sitton, Jr. as
7 Trustees and, in fact, giving him that property which we
8 believe is a violation of his fiduciary duty.

9 BY THE COURT:

10 And that would all go back to the terms of the
11 Trust, wouldn't it?

12 BY MR. ALEXANDER:

13 Yes, sir and the Trust, the document that I've
14 handed up which is the Will, Exhibit 3, sets out the
15 Trust.

16 BY MR. EAKES:

17 The Will is Exhibit 3?

18 BY MR. ALEXANDER:

19 I thought it was.

20 BY MR. EAKES:

21 I thought the Order terminating the Trust was
22 Exhibit 3.

23 BY MR. ALEXANDER:

24 I'm sorry. Well, it's Exhibit 2, Exhibit 2. I'm
25 sorry.

1 BY THE COURT:

2 Well, y'all need to be sure you get all your
3 exhibits and including a record of some kind of
4 description so that the court reporter can keep up with
5 it.

6 BY MR. ALEXANDER:

7 Yes, sir.

8 BY THE COURT:

9 And I assume y'all agreed on these exhibits; is
10 that ---

11 BY MR. EAKES:

12 I have no problem with the exhibits, Your Honor. I
13 just want to keep them straight so I know what's what.

14 BY THE COURT:

15 Well, I mean this thing has got two different tags
16 on it. One says it's Exhibit 1, John Jr.'s, and other
17 one says Plaintiff's Exhibit 2, so which one is it?

18 BY MR. ALEXANDER:

19 Judge, it's the one with the color, yellowish-
20 orange is the court reporter's.

21 BY THE COURT:

22 That's Plaintiff's Exhibit 2?

23 BY MR. ALEXANDER:

24 Yes, sir, and that's the colored exhibit sticker.

25 BY THE COURT:

1 Do you have an exhibit list?

2 BY MR. ALEXANDER:

3 I do not, Judge.

4 BY THE COURT:

5 Well, I need y'all to try to get me one.

6 BY MR. ALEXANDER:

7 I can prepare one, I'll do that, Judge. In fact,
8 if I can send the exhibit ---

9 (COURT REPORTER HANDS DOCUMENT TO JUDGE)

10 BY THE COURT:

11 Wait a minute, what have you got?

12 BY REPORTER:

13 It's a handwritten one I did before the trial
14 started.

15 BY THE COURT:

16 Where did you get that?

17 BY REPORTER:

18 I wrote it when I marked the exhibits.

19 BY THE COURT:

20 Oh, you wrote it?

21 BY MR. ALEXANDER:

22 I'm sorry, Judge. Yeah, the color tag is the court
23 reporter's exhibits.

24 BY THE COURT:

25 She's already got those listed?

1 BY MR. ALEXANDER:

2 They're marked, yes, sir.

3 BY THE COURT:

4 All right and so how many of them is there total?

5 BY MR. ALEXANDER:

6 There are 15 exhibits, Judge.

7 BY THE COURT:

8 Do you have -- have you got all your exhibits?

9 BY MR. EAKES:

10 No, Your Honor. I need to make a list of them
11 because I don't know what I'm going to need to put in.
12 It depends on what ---

13 BY THE COURT:

14 You going to give him that, are you going to give
15 him a copy of what you've got?

16 BY MR. ALEXANDER:

17 I'm sorry, I emailed Mr. Eakes the exhibits.

18 BY MR. EAKES:

19 I didn't check my emails. My secretary, she went
20 in the hospital with heart problems yesterday, so
21 I didn't check my emails. My secretary went in the
22 hospital with heart problems yesterday, so I've been
23 kind of at loose ends.

24 BY MR. ALEXANDER:

25 All right. Well, I will let Mr. Eakes review all

1 the exhibits, Judge, and then put them in.

2 (SIDE BAR DISCUSSION REGARDING EXHIBITS)

3 BY THE COURT:

4 All right. That should be a list of all exhibits,
5 so if y'all want to make sure it's correct?

6 BY REPORTER:

7 That's if you can read my handwriting.

8 BY THE COURT:

9 Good job, Ms. Court Reporter.

10 BY REPORTER:

11 Thank you.

12 BY THE COURT:

13 And just while he's looking at that, I don't see a
14 whole slew of witnesses so it looks to me like you've
15 got one on each side?

16 BY MR. ALEXANDER:

17 One and I may call Mr. Sitton, Jr. myself as well.
18 I'm only aware that there's going to be two, these two
19 men, as far as I know. I don't know if Mr. Eakes
20 intends to call anybody else. I do not.

21 BY THE COURT:

22 Okay, so it says four hours and we'll need about
23 two hours?

24 BY MR. ALEXANDER:

25 I don't think it's going to take four hours, Judge.

1 BY THE COURT:

2 I didn't either.

3 (SIDE BAR DISCUSSION RESUMES REGARDING EXHIBITS)

4 BY MR. ALEXANDER:

5 Judge, we would offer what has been marked as
6 Plaintiff's 1 through 15 into evidence. I will note
7 that Plaintiff's 13 is offered only as an aide to the
8 court. It sets out what we believe are damages to be in
9 summary form, not offered as evidence, but as an aide to
10 the court, that's number 13.

11 BY THE COURT:

12 All right.

13 BY MR. ALEXANDER:

14 But the others we offer.

15 BY THE COURT:

16 Any objection?

17 BY MR. EAKES:

18 No, Your Honor. Well, except for the one that he
19 put in just as a summary. As I understand it, it's not
20 being offered as evidence?

21 BY MR. ALEXANDER:

22 That is correct.

23 BY THE COURT:

24 That will be 13?

25 BY MR. EAKES:

1 That will be 13.

2 BY THE COURT:

3 Well...

4 BY MR. ALEXANDER:

5 We offer it as an aide to the court.

6 BY THE COURT:

7 All right. Well, 1 through 12 and 14 and 15 will
8 be admitted without objection and 13 will be accepted as
9 simply an aide to the court, but not admitted as an
10 exhibit?

11 BY MR. ALEXANDER:

12 Yes, sir.

13 (PLAINTIFF'S EXHIBIT NUMBERS 1-12, 14 AND 15 ADMITTED
14 INTO EVIDENCE)

15 BY THE COURT:

16 All right. Anything else before we get started?

17 BY MR. ALEXANDER:

18 No, not before the witnesses.

19 BY THE COURT:

20 All right.

21 BY MR. ALEXANDER:

22 So I call John Sitton, Jr.

23 BY THE COURT:

24 Come on around here to the witness stand and be
25 sworn.

1 BY REPORTER:

2 Okay, would you raise your right hand? Do you
3 solemnly swear or affirm to tell the truth, the whole
4 truth and nothing but the truth so help you God?

5 BY MR. SITTON:

6 I do.

7 BY THE COURT:

8 All right, you can have a seat. If you would just
9 speak real loud into that microphone when you're asked a
10 question so everybody can hear what you've got to say,
11 okay?

12 BY MR. SITTON:

13 Yes, sir.

14 BY THE COURT:

15 All right, Mr. Alexander.

16 TESTIMONY OF JOHN D. SITTON, JR.

17 DIRECT EXAMINATION BY MR. ALEXANDER:

18 Q. Would you state your name, sir?

19 A. John Dixon Sitton, Jr.

20 Q. And it's obvious John Sitton, Sr. was your father?

21 A. Yes, sir.

22 Q. All right and who are your siblings?

23 A. They're Dottie, Betty is deceased now, Jimmy and
24 Dale.

25 Q. Okay. So the ones that are still here are Dale,

1 Dottie, you and James Sitton, II; is that correct?

2 A. Yes, sir.

3 Q. All right and Betty passed away this past year in
4 2024?

5 A. Yes, sir.

6 Q. All right, sir. Now, Mr. Sitton, I want to show
7 you some documents and these have been put into
8 evidence. Plaintiff's Number 2, I'd ask that you
9 look at that. Do you agree that that is the Will
10 of your father, John Sitton, Sr.?

11 BY THE COURT:

12 That's Exhibit 2, is that right? Did y'all
13 eliminate Exhibit 1?

14 Q. Yes, sir.

15 A. It looks like his handwriting.

16 Q. That is Exhibit 2, Judge.

17 BY THE COURT:

18 All right.

19 Q. And I will represent to you this is the document we
20 presented to you when I took your deposition.

21 A. All right.

22 Q. So now in this Will are you aware that you were
23 appointed as Trustee of a Trust set up by your
24 father?

25 A. Yes.

1 Q. All right and your mother, Ruth Sitton, was also a
2 Trustee of this Trust, correct?

3 A. Yes, sir.

4 Q. Did you ever set up an account, checking account,
5 savings account, any type of financial account for
6 any assets as to this Trust established by your
7 father by his Will?

8 A. That was left up to my mother.

9 Q. The question is did you do that, sir?

10 A. No, I didn't.

11 Q. Are you aware if your mother set up any such
12 account in the name of the Trust now?

13 A. It's been so long ago, no, I don't.

14 Q. All right. Now, Exhibit Number 4 appears to be a
15 Deed of Distribution. I'm going to show you that,
16 sir, which deeds certain property that your father
17 owned to you and your mother as Trustees; do you
18 agree with that?

19 A. Yes.

20 Q. All right and there was two large tracts of real
21 estate, correct, 151 plus or minus acres and the
22 other 61 plus or minus acres, correct?

23 A. Yes.

24 Q. All right. Now, at some point part of that real
25 estate was divided into 9.69 acre tracts and all

1 five of y'all got that acreage; is that correct?

2 A. Yes.

3 Q. So y'all shared every -- all right.

4 A. Yes.

5 Q. But it left certain other real estate for your
6 control and your mother's control as Trustees; do
7 you agree with that?

8 A. Yeah.

9 Q. All right, I want to show you a series of deeds,
10 Mr. Sitton. Let me back up. The Trust, do you
11 agree that the Trust terms itself lists Betty
12 Sitton as the primary beneficiary of the Trust?

13 A. Can you repeat that please?

14 Q. As far as beneficiaries of the Trust that you and
15 your mother were appointed Trustees for, was your
16 sister, Betty Sitton, the person listed as
17 beneficiary?

18 A. Yes.

19 Q. And James, your brother, James Carpenter, II, was
20 listed as a second beneficiary; do you agree with
21 that?

22 A. No.

23 Q. Well, let me show you Plaintiff's Exhibit Number 2
24 and I offer that paragraph number 7 and if you will
25 look at that paragraph and tell the court who are

1 the two beneficiaries named?

2 A. Well, it was/is my sister, Betty.

3 Q. She was first, correct?

4 A. Yes.

5 Q. All right and then James Carpenter Sitton, II, he
6 was also listed as the second beneficiary; do you
7 agree with that?

8 A. I don't.

9 Q. Mr. Sitton, if you will take a look at paragraph 7?

10 BY MR. EAKES:

11 Your Honor, I don't mean to object, but this Will,
12 handwritten Will, is rather convoluted and he's
13 picking out certain pieces of it without reading it
14 as a whole.

15 BY THE COURT:

16 Well, you said you didn't mean to object, so what?

17 BY MR. EAKES:

18 I mean I object. The Will speaks for itself and
19 needs to be read as a whole.

20 BY THE COURT:

21 Well, I think he can question him about certain
22 parts, but obviously in the end it would be looked
23 at as a whole and that's the way the court looks at
24 it and I mean, you know, on cross examination ---

25 BY MR. EAKES:

1 Cross examination.

2 BY THE COURT:

3 --- you're free to bring out other parts of the
4 Will.

5 BY MR. EAKES:

6 Thank you.

7 DIRECT EXAMINATION RESUMES BY MR. ALEXANDER:

8 Q. Mr. Sitton, on paragraph -- are you on page 3 at
9 paragraph 7, Mr. Sitton?

10 A. It's page 3?

11 Q. And paragraph 7 is at the top, look at the top?

12 A. Yes.

13 Q. It's Roman numeral VII, but that's paragraph 7,
14 correct?

15 A. Right.

16 Q. All right. Let's just go down through this
17 paragraph, I give and devise -- "I devise and
18 bequeath all of the rest, residue and remainder of
19 my estate, both real and personal property and
20 wheresoever situate in trust, to be called the John
21 D. Sitton Trust. I nominate, constitute and
22 appoint my son, John D. Sitton, Jr., and my wife,
23 Ruth R. Sitton, as Trustees of said Trust and they
24 shall serve without bond and I authorize and
25 empower my Trustees qualified in acting to sell at

1 public or private sale any and all property, both
2 real and personal, falling under the Trust, making
3 good titles for sale and use the proceeds of sale
4 as hereinafter directed." Did I read that
5 correctly?

6 A. Yes, sir.

7 Q. All right. "I direct my said Trustees to provide
8 support for my daughter, Betty Sitton", so she's
9 specifically named; do you agree?

10 A. Yes.

11 Q. All right "And secondly, to provide support for my
12 son, James C. Sitton, II, if and when the need
13 arises for food, shelter, clothing and medical
14 expenses"; do you agree with that?

15 A. Yes, just for that, but he didn't provide a trust
16 for him.

17 Q. Did I read it correctly, Mr. Sitton?

18 A. Can you read it again?

19 Q. "I direct my said Trustees to provide support for
20 my daughter, Betty Sitton, and secondly to provide
21 support for my son, James C. Sitton, II, if and
22 when the need arises for food, shelter, clothing
23 and medical expenses." Did I read that correctly?

24 A. You did.

25 Q. All right. Now, I want you to look at the rest of

1 this paragraph. Is there any other named
2 beneficiary in paragraph 7?

3 A. Not that I can tell.

4 Q. Now, it does say on the next page, let's go to the
5 next page in paragraph 4, "At such time as Betty
6 Sitton and Ruth Sitton departs this life, if there
7 be remaining assets in the said Trust my remaining
8 heirs, namely my daughter, Dorothy Ann Sitton, my
9 daughter, Dale Sitton Rogers, my son, James Sitton,
10 II, and my son, James D. Sitton, Jr., shall share
11 and share alike in said Trust." Does it say that?

12 A. Yes, sir.

13 Q. All right. But as far as the administration of the
14 Trust while Betty and James is alive, they are the
15 only two named beneficiaries; do you agree with
16 that as far as this Will goes?

17 A. Well...

18 Q. Is that what it says, Mr. Sitton?

19 A. Well, that's what it says.

20 Q. Okay, all right, that's my question, it mentions
21 it. All right, now, Mr. Sitton, after your
22 appointment as Trustee, did you and your mother
23 execute certain deeds in real estate to various
24 people and get money from those sales?

25 A. Yeah, yes, sir.

1 Q. All right. Now, I'm going to show you what's been
2 marked as Plaintiff's Number 5 and ask if that is a
3 deed that you and your mother signed?

4 A. Yes, yes, sir, it is.

5 Q. All right. This is a deed, if I'm reading it
6 correctly, to a John K. Clinkscales and Kenneth W.
7 Clinkscales for \$11,000. What did you do with
8 the money, Mr. Sitton, after the sale of this
9 property in 2004? Did you put it in a bank
10 account?

11 A. I gave it to my mother and she put it in a bank
12 account.

13 Q. And what bank account did she put it in?

14 A. Well, she had a personal account.

15 Q. How was this \$11,000 spent on Betty Sitton and/or
16 James C. Sitton, II?

17 A. That's been so long ago.

18 Q. Do you know if any of that money was spent on
19 either Betty Sitton or James C. Sitton, II?

20 A. No, I don't.

21 Q. You do not know?

22 A. It's just been so long ago.

23 Q. Let me show you Plaintiff's Number 6, which is a
24 deed from John D. Sitton, Jr. and Ruth R. Sitton
25 to James S. Smith and Thomas Duncan. Did your

1 mother sign that deed?

2 A. Yes, sir.

3 Q. All right. Y'all got \$12,300; what happened to
4 that money, Mr. Sitton?

5 A. Well, my mother knew, Betty knew and Jimmy knew and
6 it's just that's the way it is, that's the way it
7 was.

8 Q. Are you aware if any of that money was spent on
9 behalf of Betty Sitton or James C. Sitton, II?

10 A. I don't remember, I don't know.

11 Q. Do you have any records to show how the money was
12 spent on that deed and the prior one that I just
13 showed you, any records at all?

14 A. Jimmy was the bookkeeper.

15 Q. My question is do you have any records that show
16 how this trust money was spent?

17 A. I do not.

18 Q. Okay. Let me show you Plaintiff's Number 7, a deed
19 from John D. Sitton, Jr. and Ruth R. Sitton to
20 Travis J. Davis, \$13,500; did y'all sign that and
21 sell that property?

22 A. We did.

23 Q. Okay. The same question, do you know if any of
24 that money was used for the support of Betty Sitton
25 or James Carpenter Sitton, II?

1 A. Well, my mother is not here to ask.

2 Q. I'm asking you, y'all were the Trustees, Mr.

3 Sitton, and I'm asking you as a Trustee?

4 A. I wasn't -- excuse me, sir. I wasn't, I never have
5 been the person to be the bookkeeper. You know,
6 when we had the furniture store Jimmy did the
7 bookkeeping, see.

8 Q. And have you got any records of ---

9 A. I do not.

10 Q. By Jimmy, you mean James C., Carpenter, Sitton, II?

11 A. Yes, sir.

12 Q. All right, let's call him Jimmy then. Are you
13 aware of any records that Jimmy may have had
14 that's in your possession that shows how this money
15 was used?

16 A. Well, he did have access, he lived there in the
17 house.

18 Q. Mr. Sitton, you were the Trustee of the Trust and
19 I'm asking what you did in your capacity as Trustee
20 with this money that was a Trust asset; do you know
21 what happened to it?

22 A. I don't.

23 Q. Let me show you Plaintiff's Number 8, a deed from
24 John D. Sitton, Jr. and Ruth R. Sitton to Kenneth
25 W. Clinkscales, which I guess is the same

1 Clinkscales as before, but this is just to him for
2 the sum of \$12,000. Did y'all sign that deed and
3 by "y'all" I mean you and your mother, Ruth Sitton?

4 A. Yes, we did and.

5 Q. All right. The same question in your capacity as
6 Trustee, do you know what happened to the proceeds
7 from that sale?

8 A. Well, the Clinkscales would come by the house and
9 make payments and they talked to Betty and ---

10 Q. Do you as Trustee know what happened to the money
11 from the sale of that real estate?

12 A. No, I don't. There's too much family involved.

13 Q. Let's get to this one, Mr. Sitton, Plaintiff's
14 Number 9, John D. Sitton, Jr. and Ruth R. Sitton to
15 John D. Sitton, Jr.; did y'all sign that deed?

16 A. Yes.

17 Q. Mr. Sitton, you are a Trustee of this Trust; why
18 would you sign a piece of property to yourself as
19 Trustee; why did you do that?

20 A. I didn't know I was doing anything wrong.

21 Q. You were Trustee of the Trust; what was your
22 understanding of your obligations as a Trustee?

23 A. Well, that concludes speaking the way you are
24 breaking it down into all -- you, you making it
25 hard for me to answer.

1 Q. Well, I asked at your deposition why you did it and
2 wasn't your answer, "Well, that was her decision, I
3 asked her and she gave that to me"; that's what you
4 told me, wasn't it?

5 A. That's what I said.

6 Q. She gave it to you and you signed it as Trustee to
7 yourself, correct?

8 A. If it says that, I guess I did.

9 Q. All right and you actually sold this piece of
10 property, did you not?

11 A. I did.

12 Q. Okay.

13 A. And I told ---

14 Q. You sold part of it in Plaintiff's Number 10 to a
15 Lesley Whitlock and received \$29,500, correct?

16 A. That's right.

17 Q. All right and you sold the other part to a guy
18 named Weston Lee Bradley for \$14,000 in Plaintiff's
19 Number 14; is that correct?

20 A. Yes, sir.

21 Q. Okay. Did you put any of that money into the Trust
22 and use it for Betty Sitton or James C. Sitton, II?

23 A. No, I didn't.

24 Q. Why not? That was originally an asset of the
25 Trust; why didn't you use that money for the two

1 beneficiaries?

2 A. I just didn't, I just didn't understand. I wasn't
3 trying to do anything wrong.

4 Q. Well, do you agree that you ---

5 A. I just didn't understand ---

6 Q. --- breached -- go ahead, I cut you off, go ahead.

7 A. I just didn't understand.

8 Q. Do you agree that you breached your fiduciary duty
9 to the two beneficiaries by taking property
10 yourself and selling it and keeping the money?

11 A. Well, since you pointed it out, yes.

12 Q. Do you have any of the money left from the sale of
13 these pieces of property?

14 A. I don't.

15 Q. And do you agree that none of that money was used
16 for the benefit of Betty Sitton or James C. Sitton,
17 II?

18 A. Well, momma may have, she's all the time helping
19 Jimmy.

20 Q. I'm not asking you what may have happened; I'm
21 asking are you aware of any of that money being
22 used for the two beneficiaries, Betty Sitton and
23 James Sitton, II?

24 A. I can't recall that.

25 Q. If I add those numbers up it comes to \$92,000, Mr.

1 Sitton; were you aware of that?

2 A. No, sir.

3 Q. Judge, that's all the questions I have of this
4 witness.

5 BY THE COURT:

6 All right. Mr. Eakes, do you want to cross examine
7 now or?

8 BY MR. EAKES:

9 I'll try not to ask so many questions, but I need
10 to get a few exhibits from Your Honor?

11 BY THE COURT:

12 All right.

13 BY MR. ALEXANDER:

14 I'll get the exhibits together, Judge, and put them
15 in order.

16 (SIDE BAR CONFERENCE BETWEEN ATTORNEYS)

17 BY MR. EAKES:

18 I need to have these marked because I wasn't sure
19 what he was going to be putting in. Defendant's
20 1 through 4.

21 BY REPORTER:

22 Okay.

23 (DEFENDANT'S EXHIBIT NUMBERS 1 - 4 MARKED
24 FOR IDENTIFICATION)

25 CROSS EXAMINATION BY MR. EAKES:

- 1 Q. When did your father die, John?
- 2 A. It was February of '93.
- 3 Q. February 16th of 1993?
- 4 A. Yes, sir.
- 5 Q. And his estate was probated in Pickens County?
- 6 A. Yes, sir.
- 7 Q. And his Will has already been offered into
- 8 evidence?
- 9 A. Yes, sir.
- 10 Q. And it is a handwritten Will, correct?
- 11 A. Yes, sir.
- 12 Q. You and your mother were named as Personal
- 13 Representatives in addition to Trustees?
- 14 A. That's right.
- 15 Q. Was his Will probated in Pickens County?
- 16 A. It was.
- 17 Q. And was that estate closed?
- 18 A. Pardon?
- 19 Q. Was it closed at some point?
- 20 A. It was.
- 21 Q. And is that when the Deed of Distribution that Mr.
- 22 Williams (sic) referred to ---
- 23 BY MR. ALEXANDER:
- 24 Alexander, not Williams.
- 25 BY MR. EAKES:

1 Mr. Alexander, I'm sorry. Pardon me, it was a long
2 night, keep me straight.

3 BY THE COURT:

4 Mr. Williams must be an unsavory character he
5 seemed to take on.

6 BY MR. EAKES:

7 I know.

8 BY THE COURT:

9 I don't know what Mr. Williams talked about, but go
10 ahead.

11 CROSS EXAMINATION RESUMES BY MR. EAKES:

12 Q. This Deed of Distribution was dated October 20th,
13 1994 and recorded October 31st, 1994, correct?

14 A. Yes, sir.

15 Q. And is that about when the estate was closed?

16 (CELL PHONE RINGING)

17 BY THE COURT:

18 Whose telephone is going off?

19 BY MR. ALEXANDER:

20 I don't think it's mine.

21 A. I tried to cut that off, Your Honor; it's got a
22 mind of its own.

23 Q. I asked you to turn it off.

24 A. Well, you did, I know and I thought I did.

25 Q. All right.

1 A. Would you repeat the question please?

2 Q. Well, my question was, was the estate closed around
3 about the time that Deed of Distribution was done?
4 The Deed of Distribution deeding the real estate to
5 the Trust was done in '94; is that about when the
6 estate was closed?

7 A. Oh, let's see, yeah, my daddy's estate?

8 Q. Yes, your daddy's estate?

9 A. Yes.

10 Q. Okay. Do you have a copy of the Will in front of
11 you?

12 A. I don't.

13 Q. All right. I'm going to hand you, I've got two
14 exhibits and I think it's Plaintiff's Exhibit 2
15 which is the Will. Mr. Alexander talked about the
16 terms of the Will relating to the John D. Sitton
17 Trust; do you recall that?

18 A. Yes, sir.

19 Q. Would you turn to page 3, Item VII?

20 A. Yes, sir.

21 Q. It says as Mr. Alexander read, "I direct my said
22 Trustees to provide support for my daughter, Betty
23 Sitton, and secondly, to provide support for my
24 son, James C. Sitton, II, if and when the need
25 arises for food, shelter, clothing and medical" ---

- 1 A. That's right.
- 2 Q. --- expenses". All right, right down below that,
3 right after it talks about the Trustees are
4 entitled to a 10% commission on the sale of real
5 property, it states, "My Trustee shall make
6 disbursements to all beneficiaries, but the
7 provisions set forth above for the three named
8 beneficiaries of this Trust shall always be given a
9 priority." He states that there were three
10 beneficiaries named above, correct?
- 11 A. Yes.
- 12 Q. All right and there were only two named, correct?
- 13 A. Right.
- 14 Q. And he read the part about what happens when Betty
15 Sitton and Ruth Sitton die that it goes to the
16 remaining four brothers and sisters. But if you
17 would look down at Item VIII -- well, let me back
18 up. You and your mother were appointed as
19 Trustees, correct?
- 20 A. Correct.
- 21 Q. All right. Item VIII states that the Alternate
22 Trustee would be Dale Sitton Rogers, correct?
- 23 A. Correct.
- 24 Q. If something happened to you or your mother?
- 25 A. Correct.

1 Q. I want you to go to page 5. All right, starting
2 with the 10th line down it states, "My Trustees
3 and/or Alternate Trustees shall have unquestioned
4 and unlimited authority to use their discretion in
5 investing and reinvesting and using any part of the
6 corpus and/or interest they deem necessary or
7 advisable for the comfortable maintenance, support
8 health and well-being of Betty Ann Sitton and Ruth
9 R. Sitton and shall supplement with food, shelter
10 and clothing for James C. Sitton, II." Is that
11 what the Will provides?

12 A. Yes.

13 Q. And for that Trust, so in reading the Will as a
14 whole, your mother was also a beneficiary of the
15 Trust, correct?

16 A. Correct.

17 Q. You and your mother were named as Trustees and
18 neither one of you could act alone; is that
19 correct?

20 A. That's correct.

21 Q. All deeds were signed by both of you?

22 A. That's correct.

23 Q. She concurred with everything that was done?

24 A. Correct.

25 Q. Let me have that Will back. Mr. Alexander showed

1 you four deeds where you and your mother signed as
2 Trustees selling certain real estate?

3 A. That's correct.

4 Q. Is that correct?

5 A. (Head nod)

6 Q. Plaintiff's Exhibit 5 is dated November 23rd, 2004;
7 does that sound correct?

8 A. Yes, sir.

9 Q. Plaintiff's Exhibit 6 is dated March the 23rd of
10 2005; is that correct?

11 A. Yes, sir.

12 Q. Plaintiff's Exhibit Number 7 is dated April 22nd,
13 2005; is that correct?

14 A. Yes.

15 Q. And the final deed, the second deed to the
16 Clinkscapes is dated March 22nd, 2006; is that
17 correct?

18 A. Yes, sir.

19 Q. All right. Do these constitute all of the deeds
20 where you and your mother sold real estate as
21 Trustees?

22 A. Yes, sir.

23 Q. What was done with the checks or the money after
24 the sale of all of these pieces of real estate?

25 A. It went in my mother's bank account.

- 1 Q. And your sister, Betty, where was she living at
2 that time?
- 3 A. She was living in North B Street there with my
4 mother.
- 5 Q. Was she living with your mother and father when
6 your father died in '93?
- 7 A. Yes, she was.
- 8 Q. Did she always live there?
- 9 A. No, she didn't.
- 10 Q. Well, what? When did she not live there?
- 11 A. In 1972 she moved to Atlanta.
- 12 Q. Okay. I'm talking about after your father died in
13 '93.
- 14 A. I said yes.
- 15 Q. Was she living there in 1993 when your father died?
- 16 A. Yes.
- 17 Q. At their house, 303 North B Street?
- 18 A. Correct.
- 19 Q. Did she continue to live there after that?
- 20 A. Yes.
- 21 Q. Did your mother provide support for her?
- 22 A. Yes.
- 23 Q. Do you know where your mother put this money?
- 24 A. No, I don't.
- 25 Q. Do you know how she spent the money?

1 A. No, I don't.

2 Q. You could not act as Trustee by yourself, correct?

3 A. Correct.

4 Q. It took you and your mother?

5 A. Correct.

6 Q. I believe your testimony on direct was that the
7 money was deposited into an account maintained by
8 your mother, correct?

9 A. Correct.

10 Q. Who handled your mother's checking account, who
11 balanced it?

12 A. My mother balanced her own bank checking account.

13 Q. You've referred to your brother, James C. Sitton,
14 II as Jimmy, ---

15 A. Yes.

16 Q. --- so I'll refer to him as Jimmy. Were Jimmy and
17 Betty aware of these deeds?

18 A. Yes, they were.

19 BY MR. ALEXANDER:

20 Your Honor, I object on grounds he just has no
21 personal -- when he says just a statement there's
22 no factual basis that he would know that they were
23 aware of it, so I object until a proper foundation
24 is laid as to how he becomes aware of it.

25 BY THE COURT:

1 All right.

2 Q. Did your mother keep Betty and Jimmy informed of
3 what was going on?

4 A. She did.

5 Q. How do you know ---

6 BY MR. ALEXANDER:

7 Your Honor, I object. He's speaking for a dead
8 person now so I object, there's no foundation.

9 BY THE COURT:

10 Well, ---

11 A. Everybody talked.

12 BY THE COURT:

13 --- I'm going to agree with you on the statements by
14 a deceased person, which would be Ruth, and again
15 there's a Dead Man's Statute and all that sort of
16 thing, but he made the statement and he was asking
17 if he was aware of it and he said he was aware of it
18 and then he asked him, well, how are you aware of it
19 and that's a reasonable question. So I'm going to
20 overrule your objection on that part of it; he can
21 ask him the question in that form if he so chooses.

22 CROSS EXAMINATION RESUMES BY MR. EAKES:

23 Q. How are you aware of the fact that Jimmy and Betty
24 knew what was going on with these deeds?

25 A. My mother had a desk there in the living room and a

1 filing cabinet and that's where a lot of business
2 transpired and Jimmy, Jimmy was there. See, I was
3 married and I wasn't there at the house all the
4 time and so. But it is that and, you know, all the
5 records have disappeared and Betty had a shelf
6 right there where she sat in the kitchen and she
7 was an excellent bookkeeper and she kept a lot of
8 her records there.

9 Q. There was some testimony in direct about the five
10 9.7 acre tracts that each of the five children
11 got a part of; do you recall that?

12 A. Yes, sir.

13 Q. I'm going to hand you Defendant's Exhibits 1
14 through 4. Well, let me hand you Number 1 and what
15 is Number 1, Defendant's Exhibit 1?

16 A. Robinson Law Firm, James C. Sitton, II and...

17 Q. Is that the deed to your brother, Jimmy, for the
18 tract of land that he got?

19 A. Yes.

20 Q. And there was no specific provision in the Trust
21 for that, correct?

22 A. Correct.

23 Q. Look at the top and what's the date of that deed?
24 What date was it recorded?

25 A. 12/9/99.

- 1 Q. Okay. I'm going to hand you the deed, Defendant's
2 Exhibit Number 2, a deed to Dale S. Rogers for
3 Tract 3; is that the property that your sister,
4 Dale Rogers, got?
- 5 A. Yes, sir.
- 6 Q. And look at the top, what's the date of that?
- 7 A. 12/9/1999.
- 8 Q. All right. The next one, Defendant's Exhibit 3 is
9 to John D. Sitton, Jr.; is that the tract that you
10 got?
- 11 A. Yes, sir.
- 12 Q. And what's the date that that was recorded on the
13 top?
- 14 A. 10/18/1999.
- 15 Q. I'm going to hand you the final one, Defendant's
16 Exhibit 4 to Dorothy S. Ashley. I believe you've
17 referred to her as Dottie; is that your sister?
- 18 A. That is.
- 19 Q. Is that the tract she got?
- 20 A. Yes, sir.
- 21 Q. And what's the date at the top of it?
- 22 A. 4/14/1998.
- 23 Q. And tell me why this -- and also I don't have the
24 deed, but did your sister, Betty, also get a tract?
- 25 A. That's right.

1 Q. There were five tracts?

2 A. Correct.

3 Q. And this was part of the property deeded to the
4 Trust by the Deed of Distribution?

5 A. Correct.

6 Q. And a plat was done showing these five tracts,
7 correct?

8 A. That's correct.

9 Q. Why was it done?

10 A. So that when each one of us was -- daddy gave each
11 one of us equal shares.

12 Q. Okay. But was this a family decision by everybody
13 to deed these tracts out?

14 A. Yes, it was.

15 Q. Did everybody sell their tracts?

16 A. Yes, sir.

17 Q. Okay, thank you. I'd like to offer into evidence
18 Defendant's 1 through 4.

19 BY MR. ALEXANDER:

20 No objections, Your Honor.

21 BY THE COURT:

22 All right. Those will be admitted without
23 objection.

24 DEFENDANT'S EXHIBIT NUMBERS 1 - 4

25 ADMITTED INTO EVIDENCE)

- 1 Q. This, Plaintiff's Exhibit 9, is the deed that Mr.
2 Alexander showed you, signed by you and your mother
3 to you, John D. Sitton, Jr., correct?
- 4 A. Yes, sir.
- 5 Q. Again, why was this property deeded to you?
- 6 A. I asked her to give that property to me.
- 7 Q. Why?
- 8 A. Well, I'm the one that always took care of my daddy
9 and my mother and Betty and I always would have to
10 check on her. She had sugar, low blood sugar, and
11 I'd go up and I'd revive her a lot of times and if
12 I couldn't revive her I'd call 911. But I just
13 always wanted to make sure everybody was okay, was
14 fine.
- 15 Q. All right. I'm going to hand you this deed and who
16 prepared that deed?
- 17 A. Well, Murray Hughes.
- 18 Q. And was he an attorney that your mother used on
19 occasion?
- 20 A. Yes.
- 21 Q. I believe he also prepared her Will, correct?
- 22 A. He did.
- 23 Q. All right, look at the next page and tell me what
24 the date of that deed is?
- 25 A. 9/23/2011.

1 Q. And look at the top of the first page and what date
2 was it recorded?

3 A. 9/23/2011.

4 Q. Did you ever have any discussions with your
5 brother, Jimmy, about this deed to you that you can
6 recall?

7 A. No. Now, you're talking about ---

8 Q. I'm talking about the deed to you.

9 A. To me?

10 Q. Yes, sir.

11 A. From my mother?

12 Q. Correct, from you and your mother.

13 A. Oh, he, he found that in the dresser drawer back in
14 20, about September of 2012 and he was furious, he
15 was furious.

16 Q. But he knew about the deed?

17 A. He knew about it.

18 Q. And Mr. Williams (sic) showed you two deeds that
19 you did sell that property and those deeds
20 accurately reflect what you received for it,
21 correct?

22 A. Correct.

23 Q. Let me have that back.

24 BY THE COURT:

25 And that would be Mr. Alexander.

1 BY MR. EAKES:

2 Sir?

3 BY THE COURT:

4 That would be Mr. Alexander.

5 BY MR. EAKES:

6 Alexander. Just if you've got a gun, just shoot
7 me.

8 BY THE COURT:

9 I mean does he have some kind of twin or something
10 like that?

11 BY MR. EAKES:

12 No, there was an attorney, Jim Williams.

13 BY MR. ALEXANDER:

14 I wish I had a twin, Judge.

15 BY MR. EAKES:

16 There is an attorney, Jim Williams, Your Honor.

17 BY THE COURT:

18 Well, I used to know a Jim Williams from Seneca,
19 but he may be little more ---

20 BY MR. EAKES:

21 I will try to do better.

22 BY MR. ALEXANDER:

23 I'm actually not offended, Judge. I just note it
24 for the record.

25 BY THE COURT:

1 And I agree with you.

2 BY MR. EAKES:

3 I appreciate you correcting me.

4 CROSS EXAMINATION RESUMES BY MR. EAKES:

5 Q. After that deed to you, September the 1st of 2011,
6 did you and your mother deed any other trust
7 property after that?

8 A. No, we didn't.

9 Q. Did you and your mother take any other actions
10 regarding that, the trust property after that?

11 A. We did not.

12 Q. And it's been established that there's still two
13 tracts here in Anderson County?

14 A. Yes.

15 Q. And you have agreed that that should go back to the
16 John D. Sitton Estate and be divided between the
17 four of you?

18 A. Yes.

19 Q. When did your mother die?

20 A. She died May 25th, 2012.

21 Q. Wasn't it 2013, I believe that's what the record
22 will reflect?

23 A. 2013, yeah.

24 Q. She died May 25th, 2013. Have you taken any action
25 yourself as Trustee since your mother died?

1 A. No, I have not.

2 Q. Has your sister, Dale Rogers, who was named as
3 alternate taken any action since May 25th, 2013?

4 A. Not that I'm aware of.

5 Q. Has the Trust basically been dormant since that
6 deed to you in 2011?

7 A. Yes.

8 Q. And I don't want to belabor this court with what's
9 gone on in your mother's estate, but there's been
10 constant litigation between you and Jimmy since
11 2013; is that correct?

12 A. That's correct.

13 Q. Until this action was filed in April of 2023, had
14 the issue of the Trust property ever come up
15 before?

16 A. No.

17 Q. Through all this litigation in your mother's estate
18 it had never come up?

19 A. It had not come up until ---

20 Q. As a matter of fact ---

21 A. --- he got an attorney, Alexander.

22 Q. As a matter of fact, I believe you and your brother
23 both sought to be appointed as Personal
24 Representative in your mother's estate in 2013; is
25 that correct?

1 A. I didn't realize that.

2 Q. What do you mean you didn't realize it?

3 A. Well, I, I didn't know that.

4 Q. Well, I could put the Orders in the record, but I
5 have a feeling -- I won't want delay the court with
6 that.

7 BY THE COURT:

8 The court appreciates not being belabored.

9 Q. I'm trying to figure out what is relevant. Well,
10 there's been a number of Orders issued in your
11 mother's estate, correct?

12 A. Yes.

13 Q. The first Order, you have tried to prove a copy of
14 the Will of your mother, correct?

15 A. Correct.

16 Q. And Judge Zorn found that it had been lost or
17 revoked and opened the estate as an intestate
18 estate; is that correct?

19 A. That's correct.

20 Q. Did she state in her Order that there should be an
21 independent personal representative due to the
22 animosity between the parties?

23 A. Yes, she did.

24 Q. After that, did you find the original Will one year
25 later?

- 1 A. Yeah, we found it.
- 2 Q. And it was admitted to probate?
- 3 A. Yes.
- 4 Q. And that's when Ken Roper was appointed as Personal
5 Representative?
- 6 A. Yes, it was.
- 7 Q. Was there also substantial litigation over an
8 alleged deed that your father had executed for his
9 half interest in the 303 B North Street property?
- 10 A. 303 North B Street property.
- 11 Q. Yes, sir. Do you recall going to Pickens and it
12 was removed to Common Pleas Court and we went to
13 Pickens?
- 14 A. Yes.
- 15 Q. And that was a trust deed, correct?
- 16 A. Correct.
- 17 Q. And the deed was declared invalid?
- 18 A. Correct.
- 19 Q. Throwing the half interest in the 303 B North
20 Street property back into your father's estate and
21 the John D. Sitton Trust, correct?
- 22 A. Yes.
- 23 Q. As a matter of fact, this litigation went on until
24 the Order that has been put, well, until the Order
25 that was put into evidence by Mr. Alexander,

1 correct?

2 A. Yes, sir.

3 Q. And Mr. Brian James is now acting as Personal
4 Representative of that estate in place of Kenneth
5 Roper, correct?

6 A. Correct.

7 Q. You at all times in your capacity as Trustee acted
8 in concert with your mother?

9 A. Yes.

10 Q. And did you act as best you could in reliance on
11 what your father's handwritten Will has said?

12 A. Yes.

13 Q. Thank you, that's all I have.

14 (CELL PHONE RINGING)

15 BY THE COURT:

16 Would you cut that off?

17 A. Yes. Steve, just ---

18 BY THE COURT:

19 Do you know how to work that phone? See if you can
20 cut that off.

21 BY MR. EAKES:

22 You're asking me to operate a phone, Judge?

23 BY THE COURT:

24 I was asking. I wasn't sure I would get a good
25 response, but is that an iPhone?

1 A. It's an Android.

2 (OFF RECORD DISCUSSION WHILE TURNING CELL PHONE OFF)

3 REDIRECT EXAMINATION BY MR. ALEXANDER:

4 Q. All right. Mr. Sitton, very briefly, looking at
5 Exhibit Number 9 which is the property that you got
6 from you and your mother as Trustees, did any other
7 heirs get any similar property by deed at that
8 point or since that point or were you the only one
9 that got property?

10 A. I was the only one that asked her to give me that
11 property and didn't know I was doing wrong.

12 Q. Did you say that Jimmy knew about you getting that
13 property?

14 A. He knew.

15 Q. Okay. Did you talk to him about it?

16 A. No, he was acting pretty ugly about it at the
17 house.

18 Q. So did you talk to him about it?

19 A. Oh, there wasn't any talking to him about it; he
20 went to my mother and fussed.

21 Q. Did you talk to him about you getting that property
22 before the deed was done?

23 A. Jimmy doesn't communicate with me, he never has.

24 Q. Prior to Exhibit Number 9 being signed by you and
25 your mother, did you talk to Jimmy or Dale or

1 Dottie or Betty about you getting that real estate?

2 A. I did not.

3 Q. Why not? Were you trying to hide it from them?

4 A. I was not trying to hide it and I didn't know I was
5 doing wrong.

6 Q. You do agree that you and Jimmy have not had a good
7 relationship probably since before your father
8 died; do you agree with that?

9 A. Yes. Yeah, we never have. He's always resented
10 me.

11 Q. Okay.

12 A. That's why we're having this case right now.

13 Q. In fact, he has accused you over the years of
14 taking advantage of your mother and your father and
15 Betty, hasn't he?

16 A. If that's what he wants to make up, yes.

17 Q. Well, I'm not asking you. He has actually come out
18 and accused you of not being trustworthy and taking
19 advantage of your mom, dad and Betty; is that
20 correct?

21 A. No, I have not.

22 Q. In that stead I asked you hasn't he accused you of
23 that?

24 A. Yes.

25 Q. On many occasions, hasn't he?

1 A. Oh, yeah, yeah.

2 Q. He doesn't think you're trustworthy, does he?

3 A. Well, he never has, he never has. Why are we
4 opening this case back up after all these years?
5 He resents me, he wants to make sure I don't get
6 anything, anything and that's his main goal.

7 Q. If you were getting -- whenever these 9.69 acre
8 tracts were done and everybody got property, it's
9 established in the record, ---

10 A. Yes.

11 Q. --- why didn't you make sure everybody got property
12 when you got it yourself? Why didn't you make sure
13 that Jimmy and Betty and Dottie and Dale got ---

14 A. Well, I don't understand that.

15 Q. You didn't understand that you were a Trustee and
16 was supposed to act in the best interest ---

17 A. No, I didn't know I broke the law. I didn't know I
18 broke the law and I really didn't.

19 Q. Did you ever ask Mr. Robinson who did deeds or Mr.
20 Hughes who did deeds about what the obligations of
21 a fiduciary and trustee were?

22 A. I did not.

23 Q. That's all I have, Judge. Thank you.

24 BY THE COURT:

25 All right. Have you got anything else?

1 RECROSS EXAMINATION BY MR. EAKES:

2 Q. Well, at the time that that deed to you was done in
3 2011, did you think you were doing something wrong?

4 A. I didn't think I was doing anything wrong at all.

5 Q. Thank you.

6 BY THE COURT:

7 All right, you can step down.

8 A. Thank you.

9 BY MR. ALEXANDER:

10 We'll call James Carpenter ---

11 BY THE COURT:

12 Well, hold on a minute and let's take about a 10-
13 minute break.

14 BY MR. ALEXANDER:

15 All right, sir.

16 BY THE COURT:

17 Do y'all have any need for Mr. James to remain?

18 BY MR. ALEXANDER:

19 I don't, Your Honor.

20 BY THE COURT:

21 If not, I mean it's probably a good time for him to
22 make his exit.

23 BY MR. EAKES:

24 I don't know if he can confirm all the litigation
25 in the estate. I mean I didn't even bring it and

1 I've got a full box of it.

2 BY THE COURT:

3 Well, I mean like I said, I was going to let him go
4 unless y'all object?

5 BY MR. EAKES:

6 No, I have no objection of him going.

7 BY MR. ALEXANDER:

8 It's doesn't sound like anything is going to
9 benefit Ruth's estate anyway. It's a different
10 position, so I don't see why we have to talk about
11 it really.

12 BY THE COURT:

13 Mr. James, we appreciate you coming.

14 BY MR. JAMES:

15 Yes, sir. Thank you.

16 (BRIAN JAMES DISMISSED FROM COURTROOM)

17 BY THE COURT:

18 All right, we'll take about a 10-minute break.

19 (OFF THE RECORD)

20 BY MR. ALEXANDER:

21 I call James Sitton, II.

22 BY THE COURT:

23 Are you going to swear in the witness?

24 BY REPORTER:

25 Oh, I'm sorry. Would you raise your right hand?

1 Do you solemnly swear or affirm to tell the truth,
2 the whole truth and nothing but the truth so help
3 you God?

4 BY MR. JAMES SITTON, II.

5 I do.

6 TESTIMONY OF JAMES CARPENTER SITTON, II

7 DIRECT EXAMINATION BY MR. ALEXANDER:

8 Q. State your name, sir.

9 A. James Carpenter Sitton, II.

10 Q. All right and are you the brother of John D.
11 Sitton, Jr.?

12 A. Yes.

13 Q. Okay and you've been here during his testimony; is
14 that correct?

15 A. Yes.

16 Q. Now, Mr. Sitton, are you now the appointed Personal
17 Representative of your father's estate, John D.
18 Sitton, Sr.?

19 A. Yes.

20 Q. All right and do you agree there's been extensive
21 litigation and conflict within this family for a
22 long time?

23 A. Yes.

24 Q. All right. Now, at your father's death and
25 based on his Will, what was your understanding of

1 who were the beneficiaries of the Trust created by
2 his Will?

3 A. I thought it was only Betty.

4 Q. So when did you realize that you were named as a
5 secondary beneficiary?

6 A. When you told me.

7 Q. When?

8 A. I forget.

9 Q. I've been representing you for about two to three
10 years, so it would have been, it would have
11 been at the time you hired me then?

12 A. Probably not immediately, but ---

13 Q. Thereafter?

14 A. --- thereafter.

15 Q. So all these years you did not know that you were a
16 beneficiary of this Trust?

17 A. No.

18 Q. Now, let's just talk about your relationship with
19 your brother, John, Jr. Essentially have y'all
20 had any kind of a meaningful relationship since
21 y'all were children?

22 A. No, he's always been very jealous of me.

23 Q. So even when y'all entered school, y'all haven't
24 had any kind of a civil or pleasant relationship
25 then?

1 A. No, we weren't in school together and I don't know
2 if I can say this or not what I told you, but
3 when he was about two and a half and I know it was
4 around Easter time and I had a little yellow Easter
5 duckling that I adored and that I wasn't going to
6 find. And, in fact, my sister had just found me
7 recently with it perched on my shoulder. I walked
8 into the dining room and ---

9 Q. Let me stop you right there. But I mean
10 essentially you're claiming he ran over your duck
11 and since that time ---

12 A. And she watched him run over the ---

13 Q. --- and y'all haven't had a decent relationship?

14 A. No and that just did something to me.

15 BY THE COURT:

16 Mr. Sitton, if would you speak up louder?

17 A. I'm sorry.

18 BY THE COURT:

19 Pull that microphone up closer to you.

20 A. Yes. Once that happened when I was four years old,
21 I just emotionally, I guess to protect myself,
22 distanced myself from him.

23 Q. Okay. Since then have you considered him to be
24 trustworthy in any way?

25 A. As time went on and we got older, actually we both

1 worked together at my father's furniture store,
2 you know, and that was so far in the past. We did
3 establish ---

4 Q. Let me stop you and get to the point here. Do you
5 consider your brother to be a trustworthy person?

6 A. Absolutely not.

7 Q. And how long does that go back?

8 A. Basically from when that incident happened.

9 Q. And you accused him of taking advantage of your
10 mom, your dad and Betty?

11 BY MR. EAKES:

12 Object to leading, Your Honor.

13 BY THE COURT:

14 Well, I agree with leading without a foundation, so
15 I'm going to sustain the objection.

16 Q. All right, that's fine. What has been your feeling
17 about your brother since your father died as far as
18 how he handled either your father's affairs or your
19 mother's affairs or Betty's affairs?

20 A. Actually at that point for decades we had, I guess
21 you would say, gotten along. We never really
22 conversed; there wasn't much to converse about.
23 But we had family dinners, family gatherings and he
24 was there with his wife. If anything negative
25 happened, all of us in the family tended to blame

1 his wife. Quite frankly, we all think she was a
2 gold digger and we blamed her, we blamed her for
3 when they got the furniture store.

4 BY MR. EAKES:

5 Your Honor, I'm going to object. I don't know how
6 far back this is going, but it's going way back.

7 BY THE COURT:

8 Well, no, I mean I'm going to overrule that
9 objection. He can testify as he sees fit. I mean
10 you can bring all that out in cross examination.

11 A. But basically I trusted him. Then after his
12 divorce, so I did not question he and my mother
13 being over my father's estate. I knew he had
14 manipulated my father into being the Co-Executor, I
15 knew that. I knew he was manipulative but ---

16 BY MR. EAKES:

17 Objection, Your Honor, that's speculation.

18 BY THE COURT:

19 Well, Mr. Eakes, he says he knew it and, you know,
20 I'm going to allow his question and what kind of
21 weight it carries.

22 A. But I basically trusted him with the estate.

23 Q. Until when?

24 A. Until it was I think the year 2000.

25 Q. Now, since the year 2000 what's been your feelings

1 about his trustworthiness?

2 A. He -- or it could have been '99 or 2000 he offered
3 to get the timber cut off of my 10 acres.

4 Q. My question to you, Mr. Sitton, what are your
5 feelings?

6 A. Oh, I'm sorry.

7 Q. I didn't ask you specific examples. What's been
8 your feelings about his trustworthiness since the
9 year 2000?

10 A. You can't believe anything he says.

11 Q. All right. Now, since your dad died, after your
12 dad died did you help your mother with her
13 finances?

14 A. Well, until I moved out of the house in 1996, up
15 until he moved in in 1997. I got a file cabinet
16 set up for her, I put in folders. I showed my
17 mother because she had never done it before. Daddy
18 had always taken care of it and I showed her how to
19 file, where to put documents, things like that.
20 But basically my mother, she was only 74 when he
21 died.

22 Q. Since 1997 when you moved to Atlanta, have you
23 helped your mother with her financial affairs until
24 her death?

25 A. No. I ---

- 1 Q. Go ahead if you want to add some to it?
- 2 A. I mean absolutely I was forbidden to. She told me
- 3 Johnny was over the house and she was over the
- 4 finances and she did not want to hear anything from
- 5 me about it.
- 6 Q. Do you agree at some point after your father's
- 7 death and the establishment of the Trust that each
- 8 of y'all got about a 9.6 acre tract of property in
- 9 Anderson County?
- 10 A. Yes, all five.
- 11 Q. Did Betty get a tract?
- 12 A. Yes.
- 13 Q. All right and who was over her money, her property?
- 14 A. It was in a Trust. It was in a Trust, so I was on
- 15 it with my mother.
- 16 Q. There was actually and we've had litigation over
- 17 that, there was a Trust for Betty Sitton that was
- 18 eventually terminated; is that correct?
- 19 A. Yes.
- 20 Q. All right and who was the Trustee of her Trust?
- 21 A. My mother and my brother.
- 22 Q. John, Jr.?
- 23 A. Yes.
- 24 Q. Okay, all right. Do you know what happened to her
- 25 property, this 9.69 acres?

1 A. Betty? Yes, I was living and working in Atlanta in
2 2006 and my mother was calling me every night
3 crying and she said Betty had gone ballistic.

4 BY MR. EAKES:

5 Objection. I believe we're getting into the Dead
6 Man's Statute again.

7 BY THE COURT:

8 I agree, I'll sustain.

9 Q. Let me be specific.

10 A. Okay.

11 Q. Does Betty still have her property? At the time of
12 Betty's death, did she still have her property?

13 A. No, it was taken.

14 Q. Okay and who do you blame for that property being
15 taken?

16 A. My mother told me my brother did, I don't know.

17 Q. Now, don't tell me what anybody told you; who do
18 you blame for it?

19 A. My brother.

20 Q. John, Jr.?

21 A. Yes.

22 Q. All right. Now, at some point there was a deed,
23 and Mr. Eakes has referred to this, there was a
24 deed that set up a Trust for some property that was
25 eventually set aside by Court Order, so are you

1 aware of that?

2 A. Uh-huh.

3 Q. In fact, you had hired a lawyer to contest that; is
4 that correct?

5 A. I had hired a lawyer to contest all of this that
6 we're going through, including getting him out of
7 the house.

8 Q. To be specific you were named as a plaintiff. It
9 was James C. Sitton, is that you?

10 A. Yes, sir.

11 Q. All right. You're named as a plaintiff in a case
12 2018-39-01296 which contested the Trust in that
13 Will, in that deed; is that correct?

14 A. Honestly, so much has gone on I cannot say yes.

15 Q. That's a Court Order, Mr. Sitton.

16 A. There have been so many Court Orders.

17 Q. Was that deed that set up the Trust set aside by
18 Court Order?

19 A. Yes.

20 Q. Okay. Your Honor, this Court Order is marked as
21 16 and since he's referred to it I'd offer it
22 into evidence.

23 BY THE COURT:

24 Got any objection?

25 BY MR. EAKES:

1 No, Your Honor.

2 BY THE COURT:

3 It will be admitted without objection and 16 is an
4 Order from the -- which court is that?

5 (PLAINTIFF'S EXHIBIT NUMBER 16 MARKED
6 AND ADMITTED INTO EVIDENCE)

7 BY MR. ALEXANDER:

8 Signed by Judge Gravely, Perry Gravely.

9 BY THE COURT:

10 That's Circuit Court in Pickens County?

11 BY MR. ALEXANDER:

12 Yes, sir.

13 BY THE COURT:

14 And that effectively dissolves the Trust, a Trust
15 that was set up for Betty?

16 BY MR. ALEXANDER:

17 That is correct. Judge, and I'll say this just Mr.
18 Eakes was involved. It's my understanding there
19 was a deed that set up some kind of a trust that
20 was challenged. That Order declares there is no
21 trust and that's to include the property that went
22 back into the estate is my understanding. So
23 that's not, that's not an issue today.

24 BY THE COURT:

25 All right.

1 DIRECT EXAMINATION RESUMES BY MR. ALEXANDER:

2 Q. But it's just as a matter of how we got to certain
3 places. Now, after that, your father's share of
4 the property as Mr. Eakes has referred to and in
5 effect it went back into his estate, correct?

6 A. Yes.

7 Q. All right and did you at some point apply to be the
8 Personal Representative to reopen your father's
9 estate?

10 A. Yes.

11 Q. Was your father's estate reopened?

12 A. Yes.

13 Q. Were you named as the Personal Representative?

14 A. Yes.

15 Q. Now, there is an Order, Exhibit Number 3, from the
16 Probate Court of Pickens County in which you
17 brought an action for authority to sell and certain
18 other relief, but you were asking to be able to
19 sell that real estate?

20 A. Yes.

21 Q. And, in fact, were you were given authority by that
22 Order to sell the real estate?

23 A. Yes.

24 Q. And then that's the Order that terminated the Trust
25 in your father's Will, correct?

1 A. Correct, yes.

2 Q. So are you actively -- and that's a house in the
3 City of Easley; is that correct?

4 A. (Head nod)

5 Q. Are you actively trying to sell that house now?

6 A. Yes, trying.

7 Q. Now, further as Personal Representative of your
8 father's estate when it was reopened, did you bring
9 this litigation against your brother, John, Jr.,
10 regarding the Anderson County property, as well as
11 issues with the Trust?

12 A. Yes.

13 Q. Did we have mediation in this case?

14 A. Yes.

15 Q. We went to a mediation, correct?

16 A. Yes, in Anderson.

17 Q. And we resolved the issue of the remaining Anderson
18 County property; is that correct?

19 A. Yes, it is.

20 Q. And is it your intent as Personal Representative
21 as set forth in that Mediated Agreement to sell the
22 Anderson County property?

23 A. Yes.

24 Q. You've also asked for an accounting based on the
25 Trust during the time that it was set up by your

1 father's Will, during the time before it was
2 terminated; is that correct?

3 A. Yes.

4 Q. Now, there's been at least four deeds put in in
5 which your mother and your brother sold real
6 estate; are you aware of that?

7 A. I am now, yes.

8 Q. Now, these are deeds from 2004 through 2006. When
9 did you first become aware that your mother and
10 brother were selling this Anderson County real
11 estate?

12 A. I'm not positive, but I can recollect ---

13 Q. Tell me as best you can recollect.

14 A. In 2004 I found out that they had sold some of the
15 real estate and that's when I started getting very
16 suspicious.

17 Q. Suspicious of what?

18 A. Of what else he might do.

19 Q. Now, this money which has been summarized in an
20 exhibit that I've put in, do you know what
21 happened to this money from the sale of these four
22 tracts of real estate?

23 A. I can tell you what happened to some of it.

24 Q. Okay. Tell me what you know and what you suspect,
25 but what you know, if you know anything about the

- 1 money?
- 2 A. Yes. My mother bought him a tractor and she bought
3 him a brand new truck.
- 4 Q. "Him" being who?
- 5 A. John, John, Jr., a tractor that she bought John,
6 Jr.
- 7 Q. Who is she?
- 8 A. My mother.
- 9 Q. Your mother bought John, Jr., okay, go ahead.
- 10 A. Well, at first, a brand new truck, a tractor,
11 another brand new truck. I know that he ate out a
12 lot, he dated a lot.
- 13 Q. "They" being who? Give me names.
- 14 A. I know that John, Jr. had very expensive clothes
15 And he ate out all the time and ---
- 16 Q. Was he working during that period of time?
- 17 A. No, he was looking though.
- 18 Q. Where was he living?
- 19 A. At my mother's and with girlfriends.
- 20 Q. Do you know, have any knowledge if any of this
21 money was spent on your sister, Betty?
- 22 A. I would have to say I would seriously doubt that,
23 there was no need.
- 24 Q. Did Betty have her own money?
- 25 A. Yes.

1 Q. And what was her source of income?

2 A. Disability.

3 Q. And where was she living during the years of 1997
4 when you moved out through the selling of this
5 property in 2006, where was she living?

6 A. With my mother.

7 Q. Now, were you handling your mother's affairs money-
8 wise during that period of time?

9 A. Yeah.

10 Q. So do you have any records from your mother or your
11 brother or anybody showing any of this money was
12 spent on Betty Sitton?

13 A. No, uh-uh.

14 Q. Are you asking your brother, John, Jr., to have to
15 account for the money, and if he can't do so to
16 return it to your father's estate?

17 A. Yes.

18 Q. Now, let's talk about Exhibit Number 9, which is a
19 deed in which John, Jr. and the mother deeded it to
20 John, Jr.

21 A. Uh-huh.

22 Q. Did you ever become aware of that deed being
23 issued?

24 A. No.

25 Q. Well, at some point you became aware of it because

1 we filed this case.

2 A. Well, when you talked to me about it.

3 Q. So when, when did you first become aware of that
4 deed?

5 A. In the last couple of years when you talked to me
6 about it.

7 Q. Since I've been representing you?

8 A. Yes.

9 Q. Now, there's been testimony from your brother that
10 you found that deed and blew up; did that happen?

11 A. I do not recall that.

12 Q. You don't recall seeing that deed before you hired
13 me to represent you?

14 A. No, I do not recall.

15 Q. As representative, Personal Representative of your
16 father's estate, does it bother you that John, Jr.
17 deeded himself property that was a Trust asset?

18 A. Oh, very much.

19 Q. And it was put into deeds to where he sold it for
20 29,5 and 14,000; do you want that money by him to
21 be returned back to the estate from your brother,
22 John, Jr.?

23 A. Oh, yes.

24 Q. Why do you want that?

25 A. My two surviving sisters and I need it and deserve

1 it and I don't know what else to say, it's ours.

2 Q. So we filed a Complaint in this case and go back
3 over to the relief requested here. As far as the
4 first cause of action, do you agree that's been
5 taken care of and the rest of the Anderson County
6 properties has been taken care of by the Mediated
7 Agreement; you agree with that?

8 A. Yes.

9 Q. And that Mediated Agreement gives you authority to
10 sell and have you started the process of getting a
11 realtor to sell it?

12 A. Yes, I've had several realtors to look at it and
13 I'm just waiting so that we can actually sell it
14 before I sign with a realtor.

15 Q. So once if we get the proper, if we can figure up
16 The proper language to put in the Court Order
17 you're ready to sell it?

18 A. Yes, actually they've all given me prices,
19 estimates as to what they think it's worth.

20 Q. And as far as an accounting, you ask that John, Jr.
21 be required to account and return the money from
22 those four deeds to your father's estate which is
23 now currently open?

24 A. Yes.

25 Q. Do you believe he's violated his fiduciary duty as

1 Trustee ---

2 A. Yes.

3 Q. --- by this last deed?

4 A. Yes.

5 Q. Why do you believe that?

6 A. He is not supposed to sign property to himself. I
7 mean first of all, he is not -- this is in a Trust
8 for my sister and he had no right or authority to
9 sell her land and.

10 Q. You want the money returned?

11 A. Yes.

12 Q. Were you ever your mother's bookkeeper?

13 A. I showed -- I set up her bookkeeping after daddy
14 died to show her how to do it, but she wrote her
15 own checks.

16 Q. All right and if I've heard you correctly, that
17 was up through 1997?

18 A. Yes, it's when Johnny moved into the house and I
19 had just months before, maybe a year before, moved
20 back to my condo.

21 Q. Answer any questions Mr. Eakes may have for you.

22 CROSS EXAMINATION BY MR. EAKES:

23 Q. May it please the court? These four deeds that Mr.
24 Alexander asked you about, I believe you testified
25 you found out about them around 2004?

- 1 A. That's what I can recall. I cannot distinctly
2 remember.
- 3 Q. So you knew about it in 2004?
- 4 A. That's when I became suspicious of his actions,
5 yes.
- 6 Q. In 2004 and Betty was on disability and she lived
7 with your mother?
- 8 A. Yes.
- 9 Q. Was she living with your mother and father when
10 your father died?
- 11 A. Yes.
- 12 Q. And she continued living there, correct?
- 13 A. Yes.
- 14 Q. She did not work?
- 15 A. No.
- 16 Q. She was on disability?
- 17 A. Well, she was their caregiver and you could say
18 when around she did the cleaning, the cooking,
19 things like that when she could physically do it.
- 20 Q. And you also testified that in 2004 or somewhere
21 thereabouts or shortly after about trucks and
22 tractors being bought?
- 23 A. Uh-huh.
- 24 Q. So you knew about all that way back?
- 25 A. Well, I mean he'd buy stuff. I believe it was a

1 2002 brand new Dodge truck and then I saw, I don't
2 know the different years. He sold that truck and
3 then got another brand new truck and my mother
4 called, as far as the tractor goes, and she said
5 Johnny has threatened to kill himself again if I
6 don't buy him the tractor.

7 Q. That's not what I was asking you.

8 A. Threatened to kill himself.

9 BY THE COURT:

10 Hold on. You don't get to speak anymore right now.

11 All right, go ahead.

12 Q. That's not what I asked you; I asked you when did
13 that occur, how long ago?

14 A. I was living and working in Clemson. It was
15 probably 2009 or 2010.

16 Q. Thank you. I'm going to hand you Plaintiff's
17 Exhibit 2, which is again your father's handwritten
18 Will?

19 A. Yes.

20 Q. Is that correct?

21 A. Oh, yes.

22 Q. That's clearly your father's handwritten Will?

23 A. Clearly.

24 Q. And I believe in your deposition when I took your
25 testimony on August the 20th you testified that

1 your father was very controlling and wanted
2 control?

3 A. He was a controlling person, not in a negative
4 mean way, but he liked to make sure everything was
5 in order. I mean he was head of the household and
6 he did what the head of the household does.

7 Q. But he handwrote that Will himself; he did not get
8 a lawyer to prepare it?

9 A. That was my father, to save money he would
10 handwrite it himself.

11 Q. Let's talk about the language of that Will. You've
12 selectively pulled out certain parts of it,
13 specifically Item VII where it says, "My said
14 Trustees to provide support for my daughter, Betty
15 Sitton, and secondly, to provide support for my
16 son, James C. Sitton, II, if and when the need
17 arises for food, shelter, clothing and medical
18 expenses" and that's the part you're fixated on,
19 correct?

20 A. I am not fixated on; I did not know that I was a
21 beneficiary.

22 Q. Well, in that same paragraph at the bottom of the
23 page does the Will go on to state, "My Trustee
24 shall make disbursements to all beneficiaries,"
25 all beneficiaries, "but provisions set forth above

1 for the three main beneficiaries shall always be
2 given a priority." There's only two named above,
3 correct?

4 A. (Head nod)

5 Q. Well, what did he mean by three? It's at the very
6 bottom of the page, the last four lines.

7 BY MR. ALEXANDER:

8 Your Honor, I object. There is no way, first of
9 all, the Dead Man's Statute and he asked for the
10 intent of a father and his father is deceased and
11 it would be a violation of the Dead Man's Statute.

12 BY THE COURT:

13 No, he's not asking what he said; he's asking what
14 he understood, so your objection is overruled and
15 he can testify whether he was aware of it or
16 whatever the question was. But he didn't ask what
17 a dead person said; he asked him what his
18 understanding of the meaning of that provision in
19 the Will, so that's the question.

20 A. Right now I'm wondering why it says three named
21 beneficiaries when Betty and I were the only two
22 beneficiaries.

23 Q. But that is what it says, correct?

24 A. Yes.

25 Q. And this is the trust provisions set up by father,

1 correct?

2 A. Yes.

3 Q. On page 5, ten lines down, "My Trustees and/or
4 Alternate Trustee shall have unquestioned and
5 unlimited authority to use their discretion in
6 investing and reinvesting and using any part of the
7 corpus and/or interests they deem necessary or
8 advisable for the comfortable maintenance for
9 health and well-being of Betty Ann Sitton and Ruth
10 R. Sitton and shall supplement with food, shelter
11 and clothing for James C. Sitton, II", correct?

12 A. Yes.

13 Q. That's what it says?

14 A. Yes.

15 Q. So he does name three beneficiaries in that
16 paragraph?

17 A. I see that and my mother, yes.

18 Q. And you testified that your mother handled her own
19 banking, correct?

20 A. Yes. When I was out of the picture she did that
21 until I became her Power of Attorney in February of
22 2012.

23 Q. Your mother, Ruth R. Sitton, was named as a
24 Trustee, also?

25 A. Yes.

- 1 Q. All trust deeds or anything involving this real
2 estate, all the deeds were signed by both your
3 mother and your brother, John D. Sitton, correct?
- 4 A. Uh-huh, yes.
- 5 Q. Is that correct?
- 6 A. That's my understanding, yes.
- 7 Q. Okay. Well, the five deeds for the nine to
8 approximately seven acres of land, the five tracts
9 that you and your brothers and sisters got or your
10 brother and sisters got, that was basically agreed
11 to by all of you?
- 12 A. Yes.
- 13 Q. Technically that property was a part of the
14 property in the Trust, correct?
- 15 A. Not to my knowledge, but I believe that was laid
16 aside like each one of the children is going to get
17 approximately 10 acres and I did not realize
18 that was part of the Trust. I never thought that.
- 19 Q. Where was the provision for that?
- 20 A. I don't know, I'm just going by what my parents
21 said.
- 22 Q. Well, I'm going to hand you Plaintiff's 4 which is
23 a Deed of Distribution from the estate to John D.
24 Sitton, Jr. and Ruth R. Sitton as Trustees. Were
25 those five tracts part of the property included in

1 that Deed of Distribution to the Trustees?

2 A. (Mumbling to self while reviewing) Yes, I mean I
3 have seen the 57 acres and it was my understanding
4 that that 57 acres was part of the Trust.

5 Q. Okay. So these five tracts also came out of the
6 Trust property?

7 A. Yes, they were unfortunately sold out of the Trust.

8 Q. And all five of you has since sold those tracts of
9 land?

10 A. Oh, yes.

11 Q. The tracts?

12 A. Yes, our 10 tracts, 9.7 acre tracts.

13 Q. And I think we've already covered this, but your
14 parents lived at 303 North B Street in Easley?

15 A. Yes.

16 Q. And your sister, Betty, basically lived there from
17 the time your father died?

18 A. She lived there before our father died.

19 Q. Okay, but she was living there when he died?

20 A. Yes.

21 Q. And continued to live there after he died?

22 A. Yes.

23 Q. And your mother died May of 2013?

24 A. Yes.

25 Q. Did your mother and father help support Betty while

1 she was living there?

2 A. Well, before she was on disability, yes, and she
3 got on disability right after daddy died. Betty
4 did the housework, grocery shopping, cleaning, so
5 pretty much she earned her keep.

6 Q. But her only source of income was a disability
7 check?

8 A. As of 1993 when it was approved.

9 Q. And do you know how much the check was?

10 A. I know it was over 500 a month. I know that Betty
11 said something about they were giving a part of it
12 to my mother since she was, my mother was -- she
13 was living under her roof and my mother was paying
14 for utilities. That I don't totally understand,
15 but that she was receiving a check for at least
16 \$500 a month.

17 Q. Your father named two Trustees, Ruth R. Sitton,
18 your mother, and John D. Sitton, Jr.?

19 A. Yes.

20 Q. And they signed all the deeds together?

21 A. (Head nod)

22 BY THE COURT:

23 You have to answer.

24 A. Yes, to my knowledge.

25 Q. After the deed to John D. Sitton, Jr. on September

1 the 1st of 2011 by the Trustees, was that the final
2 deed that was signed?

3 A. To my knowledge.

4 Q. After that, there was basically no activity in the
5 Trust, correct?

6 A. Correct, yes.

7 Q. It was a dormant trust and by "dormant" I mean
8 there was nothing done in it, correct?

9 A. Right, nothing done to the Trust at that time after
10 that.

11 Q. Your mother died on May 25th, 2013?

12 A. Yes.

13 Q. And there was constant litigation in her estate
14 from that point up until that Order that has been
15 put into evidence, September the 7th, 2022, correct?

16 A. Well, I'll say we first hired a lawyer, not for her
17 estate, but for money Johnny took out of her
18 checking account, so I did not hire a lawyer to ---

19 Q. Well, just part of the litigation in that estate?

20 BY MR. ALEXANDER:

21 Your Honor, I ask that he let the witness answer
22 the question.

23 Q. I'm sorry.

24 BY THE COURT:

25 Let him finish his answer. Are you finished giving

1 your answer?

2 A. I hired an attorney when I discovered that daddy
3 had what was called John Sitton, Incorporated and
4 it was a store building in Pickens and two store
5 buildings in Easley, a vacant lot in Easley. Over
6 the years all those were sold. I don't know where
7 the money went so that's more missing money, but
8 that has nothing to do with this case. So I hired
9 an attorney. Johnny and my sister, Dottie, was in
10 Charleston and wanted me -- we'd just sold a lot in
11 downtown Easley. She wanted the money in the
12 checking account or a bank account where it was
13 safe. She wanted me to be on the bank account with
14 my mother and John, Jr. We went to the bank and I
15 want to say it was Cornerstone. I thought I was
16 signing an agreement that the \$39,000 was going
17 into an account where my mother, my brother and we
18 all three would have to consent for any of it to be
19 taken out. It turned out that it was not that type
20 of account. I found out that he had taken the
21 money and run.

22 Q. When was that?

23 A. That was in October 2012 and so we hired an
24 attorney to try to get that money back.

25 Q. That was before your mother died?

1 A. It was before her death and that's when she made me
2 her POA.

3 Q. But after her death on May 25th, 2013 you filed a
4 Petition in the Pickens County Probate Court on
5 July 17th, 2013 to be appointed as Personal
6 Representative of her estate?

7 A. Yes, I believe she had all three of us, myself,
8 John, Jr. and Dale listed. Dale did not want to be
9 a part of it, plus she was six hours away and I
10 knew that there was no way I could deal with
11 John, Jr.

12 Q. But anyway, there was litigation over who would be
13 appointed as Personal Representative of her estate,
14 correct?

15 A. Yes.

16 Q. And initially John, Jr. tried to admit to probate a
17 copy of her Will when the original Will could not
18 be found; do you recall that?

19 A. Yes.

20 Q. Judge Zorn issued an Order on November 10th, 2014
21 finding that your mother died intestate and that it
22 was in the best interest of all involved to appoint
23 a disinterested person as Personal Representative,
24 preferably a member of the South Carolina Bar; is
25 that what her Order said at that time?

1 A. As I can recall.

2 Q. And the litigation continued in 2015 and John, Jr.
3 found the original Will?

4 A. Yes.

5 Q. And by Consent Order on March the 14th, 2016 Judge
6 Zorn issued a Consent Order admitting that Will
7 into probate?

8 A. Yes.

9 Q. Correct? What was that?

10 A. Yes, yes.

11 Q. And as part of that Order, she stated that due to
12 the animosity between all the parties she appointed
13 Kenneth Roper as Personal Representative?

14 A. Yes.

15 Q. Now, that Order has been put in on this trust deed.
16 I believe this is Number 6.

17 (DEFENDANT'S EXHIBIT NUMBERS 5 AND 6 MARKED FOR
18 IDENTIFICATION)

19 BY THE COURT:

20 That's going to be Defendant's Number 6?

21 Q. Defendant's 6, yes, Your Honor. I'm sorry, I've
22 got -- it's out of order. I have marked though my
23 Attorney's Fee Affidavit as Number 5, I have not
24 offered it yet.

25 BY THE COURT:

1 Okay.

2 Q. I'm going to hand you Defendant's Exhibit 6 for
3 identification and ask you if you can identify
4 that?

5 A. Yes, I have gone over it to be honest, but this is
6 something Joseph did.

7 Q. Well, he was your attorney?

8 A. Unfortunately, yes.

9 Q. And the caption reads James C. Sitton, individually
10 and as Successor Trustee of Ruth R. Sitton and
11 Dorothy Sitton Ashley, individually and as primary
12 Trustee of Ruth R. Sitton, Dale Sitton Rogers and
13 Betty A. Sitton and that's the caption?

14 A. Okay, I'm sorry to sound ignorant, but I really
15 don't understand.

16 Q. You were suing John D. Sitton, Jr. and Kenneth
17 Roper, correct, as the Personal Representatives?

18 A. I guess we were. I guess we had to.

19 Q. Just so the court has a complete record, look at
20 the last page and that's a corrective deed; is that
21 the deed you were trying to enforce as a trust
22 deed?

23 A. So this for Dottie was the trust deed of daddy's
24 half of the house.

25 Q. That was the deed you were trying to enforce as a

1 trust deed?

2 A. We were trying to enforce that, yes.

3 Q. And this resulted in the Order your attorney just
4 put into evidence?

5 A. The reason we were trying to enforce it was so
6 that we could therefore take action to get him out
7 of the house so we could sell it.

8 Q. I'd like to offer into evidence Defendant's Number
9 6.

10 BY THE COURT:

11 Well, what exactly is it?

12 BY MR. EAKES:

13 It's an action that they filed.

14 BY THE COURT:

15 Is it a Complaint or?

16 BY MR. EAKES:

17 It's a Petition.

18 BY THE COURT:

19 A Petition?

20 BY MR. EAKES:

21 Amended Petition, Summons and Amended Petition.

22 BY THE COURT:

23 All right.

24 BY MR. EAKES:

25 That's what resulted in the Circuit Court Order

1 that's in evidence.

2 BY THE COURT:

3 Any objection?

4 BY MR. ALEXANDER:

5 Judge, I think it's largely irrelevant and I don't
6 have any problem with the corrective deed because
7 that seems to be the point of the whole exercise
8 anyway. But I don't see where this is relevant, so
9 I would object, but I would not object to the last
10 page, the deed being put in.

11 BY THE COURT:

12 Well, if we're going to put any of it in, we're
13 going to put all of it in.

14 BY MR. EAKES:

15 Well, the Order is already in.

16 BY THE COURT:

17 So I don't -- I'm going to overrule your objection.

18 BY MR. ALEXANDER:

19 I don't object.

20 BY THE COURT:

21 The relevance again is going to be a matter of
22 what the weight is and ---

23 BY MR. ALEXANDER:

24 I'll withdraw my objection.

25 BY THE COURT:

1 It's a Court Order, so I mean probably judicial
2 notice ---

3 BY MR. ALEXANDER:

4 I'll point out this is an action in Probate Court,
5 where that Order was a Circuit Court action that
6 I've put in, so they're different actions. The
7 Order that I put in is not probate; this is a
8 Probate Court case.

9 BY THE COURT:

10 Okay. Well, I mean I have so many cases but.

11 BY MR. EAKES:

12 That's why I said ---

13 BY THE COURT:

14 We'll put them all in there and we'll sort it
15 out in the end.

16 BY MR. ALEXANDER:

17 That's fine, Judge.

18 BY THE COURT:

19 So that's going to be admitted over objection
20 unless -- did you withdraw your objection?

21 BY MR. ALEXANDER:

22 I'll withdraw my objection to this one.

23 BY THE COURT:

24 Defendant's Exhibit 6 is admitted without
25 objection.

1 (DEFENDANT'S EXHIBIT NUMBER 6 ADMITTED INTO EVIDENCE)

2 CROSS EXAMINATION RESUMES BY MR. EAKES:

3 Q. And I know this is confusing, so I'm going to try
4 to clarify it for whatever weight the court wants
5 to give it. The court is wondering how it got into
6 the Circuit Court?

7 BY THE COURT:

8 Well, not really but I'll be glad to hear why.

9 (DEFENDANT'S EXHIBIT NUMBER 7 MARKED FOR IDENTIFICATION)

10 Q. I hand you Defendant's Exhibit 7 for
11 identification.

12 BY MR. ALEXANDER:

13 Judge, we have no objection to this Order. He's
14 reading it, but this is an Order transferring it to
15 Circuit Court, so we have no objection to it coming
16 in.

17 BY THE COURT:

18 All right, that will be admitted as Defendant's
19 Exhibit 7 without objection.

20 (DEFENDANT'S EXHIBIT NUMBER 7 ADMITTED INTO EVIDENCE)

21 Q. Thank you, Your Honor. Clearly, with all of the
22 litigation in your mother's estate up until 2022
23 there has been significant animosity and friction
24 between you and your brother, John D. Sitton, Jr.?

25 BY THE COURT:

1 Is that a question?

2 Q. Yes, sir. Has there been significant animosity and
3 friction during the pendency in this litigation?

4 A. I cannot say animosity and friction. I can say
5 that I am fighting for myself and my sisters for
6 what is ours and I was fighting to get him out of
7 the house so we could sell it.

8 Q. Your mother was Co-Trustee and acted in all matters
9 related to the Trust. Has there been any activity
10 in this Trust since the date of September 1st, 2011?

11 A. Not to my knowledge.

12 Q. It was dormant. At any time prior to your mother's
13 death, did you demand an accounting from either
14 your mother or John D. Sitton, Jr. for the Trust?

15 A. No.

16 Q. Even though you became aware of the sale of
17 property in 2004, you did not demand an accounting?

18 A. No, because she would tell me -- see, nobody would
19 discuss anything involving John, Jr. with her.
20 She protected him and she would not hear it, she
21 didn't want to hear about it.

22 Q. Did you file a claim in your mother's estate since
23 she was a Trustee and took part in all of these
24 activities?

25 A. No, I don't believe so because she's no longer

1 here.

2 Q. You went back to reopen your father's estate when
3 it was discovered it was apparent that the half
4 interest in the 303 B North Street property in
5 Easley was part of his estate, correct?

6 A. Yes.

7 Q. And you were appointed, the estate was reopened
8 and you were appointed as Personal Representative
9 of your father's estate on December 9th, 2021?

10 A. Yes.

11 Q. Does that timeline sound correct?

12 A. It does.

13 Q. And all of these trust deeds were a matter of
14 public record?

15 A. I would think so.

16 Q. And as a matter of fact, you testified on your
17 deposition that you checked the tax records in
18 Anderson County in 2004?

19 A. That's probably how I found out, but I cannot say
20 yes when I don't fully recall. I knew I was
21 helpless. I knew my mother had dementia. I knew
22 that my sisters and I were helpless, so there was
23 no need to.

24 Q. This Final Order in the Probate Court pursuant to
25 the hearing held September the 2nd, 2022, that's

1 when you were given the authority to sell the 303
2 B North Street property in Easley?

3 A. Yeah, that sounds correct.

4 Q. And at that point in time had you raised any issues
5 about the Trust, the John D. Sitton Trust, or the
6 handling of the Trust?

7 A. Not that I can recall. Mr. Alexander may have
8 known.

9 Q. This Order is dated September 27th, 2022; it granted
10 you permission to sell the house and real property
11 at 303 North B Street in Easley?

12 A. Uh-huh.

13 Q. Correct?

14 A. Yes.

15 Q. And it's now going on over two and a half years
16 and the property still has not sold?

17 A. It is going on two years.

18 Q. Well, it's dated September of ---

19 A. Oh, he did not vacate the house, John, Jr. did not
20 vacate the house.

21 Q. But the point is the Order is dated September 27th,
22 2022 ---

23 A. Right.

24 Q. --- and the house still has not been sold?

25 A. Right. He did not vacate the house until I believe

1 it was February of the next year. The house has
2 grand total, including the basement, 4500 square
3 feet and it has taken me, it took me forever to go
4 through every newspaper clipping, family picture,
5 everything that my mother had saved over those
6 years. John, Jr. is a hoarder and the basement was
7 a mess and it took me a long time to get all of
8 that stuff given away, things that were not trash
9 given away and out of the moldy basement. And then
10 I had to hire two large dump loads, dump pods, so
11 I would able to throw things away into those. It's
12 been -- it was tumultuous and then while that was
13 going on I had major sinus that I got in my
14 sinus cavity so that kind of took care of the
15 summer. But it's been a long process. The house
16 is empty. While we still have not sold some of the
17 furniture, it did not all sell at the estate sale
18 so, and I can't find anybody who wants to handle
19 such a small amount. Our sister, Betty, gave Dale
20 some of her furniture, but Dale has been too sick
21 to come down and get the furniture that is hers.
22 But the house I've had on Zillow. I did let
23 people know the house is out there, but now it's
24 been one problem after another after Helene. I had
25 just switched realtors the day before Helene struck

1 and the trees.

2 Q. But the answer to my question is the house is not
3 sold?

4 A. No.

5 Q. You did have an estate sale ---

6 A. Yes.

7 Q. --- of some of the personal property?

8 A. Yes.

9 Q. Have you rendered an accounting in your father's
10 estate since this Order was issued?

11 A. Yes, I opened up an account at CPM Credit Union and
12 I put -- the estate sale person, John Brigham, he
13 gave me a list of everything sold and I put all the
14 proceeds into that bank account at CPM.

15 Q. Have you rendered an accounting to your brother and
16 sisters for the monies you've handled since the
17 order of a sale?

18 A. I verbally told my sisters because they -- I told
19 them that the money so far has gone to repairs on
20 the house.

21 Q. This Order further required you to maintain
22 insurance on the house?

23 A. Yes.

24 Q. Have you maintained the insurance?

25 A. Yes, and that's one thing that's delaying us now,

1 hearing from the insurance company. Hopefully,
2 well, I'll get to see what's in my PO box online
3 and I do have a couple of letters from American
4 Modern and hopefully one of those is a check. I do
5 have a contractor. The roof has been damaged,
6 the gutters are down, tree on the roof. We have a
7 lot, so we're in the process of doing all of that.
8 It took a long time to get all the trees removed
9 out of the front yard. The Oak tree fell onto the
10 Magnolia tree which fell onto the English boxwoods
11 and the house and then the hose connecting the
12 toilet with the water supply to the wall in the
13 main floor bathroom fell on the floor. Just I
14 happen to think it was the jarring actually of the
15 house when the trees fell that caused it to weaken.
16 So I walked into a flooded house and insurance has
17 also seen about that. The floors were damaged.

18 Q. The Order Mr. Alexander put into evidence regarding
19 the Mediated Agreement required the remaining
20 Anderson County property to be placed on the market
21 and sold within 60 days; have you done that?

22 A. No, I have not been able to because there has not
23 been a deed which I believe that's one reason we're
24 here today to ---

25 Q. This action that you filed in April of 2023

1 regarding the John D. Sitton Trust, your sister,
2 Betty, was named as a Plaintiff along with you.
3 Was she aware you had filed this action?

4 A. Yes, I kept Betty informed. She knew what was
5 going on.

6 Q. But your mother died in 2013 and you filed that
7 action in April of 2023, correct?

8 A. If that's what it says.

9 Q. Basically 10 years after your mother's death?

10 A. I guess so.

11 Q. Thank you.

12 BY THE COURT:

13 Anything on redirect?

14 REDIRECT EXAMINATION BY MR. ALEXANDER:

15 Q. You were asked questions about beneficiaries of
16 this Trust in these pages; is there anything in
17 here that makes John Sitton, Jr. a beneficiary of
18 this Trust?

19 A. No.

20 Q. You were asked a question about your dad. Tell us
21 about, I think the word used was controlling, did
22 he like things his way?

23 A. Daddy had a degree in business and accounting, so
24 he, I mean he was a very hard worker and I guess
25 you could say he had the attitude if something was

1 going to be done right, then he was going to do it
2 himself so and he actually pampered and spoiled us
3 all too much by doing things for us that we should
4 have been taught to do for ourselves and I mean my
5 father was a wonderful person and.

6 Q. Did he mean what he said? I mean was he a guy that
7 spoke honestly and truthfully and meant what he
8 said?

9 A. Yes.

10 Q. When he wrote something down, did he mean what he
11 wrote?

12 A. Yes.

13 Q. Now, it's been without question and I think we can
14 say that paragraph 7 names Betty and you by name
15 and does not name your mother. If your father had
16 meant to put your mother, is he the type of person
17 that would have wrote her name down?

18 A. It could have been an oversight. I do not know.

19 Q. And who has been paying the taxes on this six-acre
20 tract and the 12-acre tract that is still owned?

21 A. I have and Brian James did this last time.

22 Q. Okay and how long have you been paying the taxes?

23 A. I believe I've paid every single year since my
24 mother died and when I was handling her money, so I
25 did handle her money from November 12th until her

1 death on May 25th of 2013. I was her power of
2 attorney and I paid all of her bills, all of her
3 taxes and I always had \$1,000 left over every
4 month.

5 Q. One of the I guess maybe unasked questions here is
6 during this period of time that the Trust was going
7 on and if your mother got the money, do you know if
8 she used that money for Betty's benefit from the
9 four deeds where money was gotten? Do you know if
10 she used that money for Betty's benefit?

11 A. No, they didn't spend money.

12 Q. Okay. Do you know if she did?

13 A. No.

14 Q. You don't know one way or the other?

15 A. I'm going to say my mother had no need to and I
16 can't imagine it. Betty saved her money, she was
17 very careful with her money. She helped with the
18 groceries.

19 Q. Well, let me ask you this, do you actually know
20 when these four properties were sold to other
21 people, do you actually know where that money
22 went, that it actually went to your mother or John,
23 Jr.; do you know where, who it went to and who had
24 control over it?

25 A. I had my mother's bank account at the end when I

1 became her power of attorney in 2012. The money
2 wasn't in there. It was the only bank account I
3 knew of. I was at Carolina First which is now,
4 what is it, a Canadian bank, wanting to get an
5 extra printout of my bank statement and the teller
6 said, oh, you have two accounts ---

7 Q. You can't tell me what the teller said.

8 A. Oh, okay.

9 Q. Mr. Sitton, ---

10 A. I'm sorry.

11 Q. --- a specific question. No, you're fine. It's
12 very specific from 2004 those deeds, four deeds,
13 were done from 2004 to 2006. Do you know who
14 actually got the money from the sale of that
15 property to control; do you know?

16 A. Yes.

17 Q. Who got the money?

18 A. As far as the -- well, I'm sorry. Now, this would
19 have been in Betty's trust fund, the \$100,000. I
20 know that John, Jr. got it and put new siding on
21 his house on West Main Street.

22 Q. I'm talking about ---

23 A. But those, the deeds of ---

24 BY THE COURT:

25 Wait a minute, hold on, hold on.

1 A. I'm sorry I said that much.

2 BY MR. EAKES:

3 I want to object. He covered this in direct. This
4 is ---

5 BY THE COURT:

6 Well, I agree. I was sitting here thinking ---

7 BY MR. EAKES:

8 This is my view ---

9 BY THE COURT:

10 This is redirect and this is not a new matter.

11 A. And that's fine, Judge. I'm sorry.

12 Q. I don't have any other questions, Judge.

13 BY THE COURT:

14 All right.

15 RECROSS EXAMINATION BY MR. EAKES:

16 Q. Just one question in response to his redirect,
17 specifically in response, does your father's Will
18 not provide that at such time as Betty Sitton and
19 Ruth Sitton depart from this life if there's any
20 remaining assets in said Trust, it goes to his
21 heirs, namely, Dorothy Sitton, Dale Sitton Rogers,
22 James C. Sitton, II and John D. Sitton, Jr.?

23 A. Yes, sir. If I'm recalling correctly I thought the
24 Will said "or any grandchildren".

25 Q. Well, it did, it says if one is predeceased you're

1 absolutely right.

2 A. Right.

3 Q. Thank you, that's all I had.

4 BY THE COURT:

5 All right. You can step down.

6 A. Thank you.

7 BY MR. ALEXANDER:

8 That is our case, Judge.

9 BY THE COURT:

10 All right.

11 BY MR. EAKES:

12 I'm not going to recall my client. I'm going to
13 offer into evidence though my Attorney's Fee
14 Affidavit, Defendant's Exhibit 5.

15 BY MR. ALEXANDER:

16 No objection.

17 BY THE COURT:

18 Defendant's Exhibit 5 is the Attorney's Fee
19 Affidavit, admitted without objection Defendant's
20 Exhibit 5.

21 (DEFENDANT'S EXHIBIT NUMBER 5 ADMITTED INTO EVIDENCE)

22 BY THE COURT:

23 All right. Anything else?

24 BY MR. ALEXANDER:

25 No, sir. I'd just like to have some brief closing

1 remarks.

2 BY THE COURT:

3 Well, I'm going to ask Mr. Eakes, is that it for
4 you?

5 BY MR. EAKES:

6 That's it for me.

7 BY THE COURT:

8 Okay. All right, so you want to have closing
9 remarks?

10 BY MR. ALEXANDER:

11 Just very briefly, Judge.

12 BY THE COURT:

13 All right.

14 BY MR. ALEXANDER:

15 I realize at this point you've heard everything.
16 I've looked at two causes of action here. One is
17 on the accounting and one is on the breach of
18 fiduciary duty. The accounting, I think a lot of
19 testimony will be he got the money for the four
20 deeds, so that's the critical of the second cause
21 of action, who got that money? I think the
22 testimony from John, Jr. is his mom got it the best
23 I can tell. My client is not really sure who got
24 it, but he doesn't think that his mom got it. So
25 we do believe that there was a legitimate

1 accounting that should be done, that money should
2 have been put into a bank account. Mr. Sitton, Jr.
3 was a Co-Trustee, he could have been sure of that
4 and it should have been there. If it's found it
5 was used for Betty, that a legitimate use if that's
6 the case. But there's been no records to show that
7 and he has no record, that no account was set up.
8 So we think we're entitled to return that money for
9 those four deeds. But on the third one, breach of
10 fiduciary duty, from my perspective that has to be
11 clear. He deeded it to himself and got 14,000 and
12 29,500 dollars for property when he was a fiduciary
13 and he used that money for himself. We think that
14 is clearly a breach of fiduciary duty and we
15 believe we're entitled on that cause of action to
16 those sums of money, plus any right to punitive
17 damages are appropriate here too, but clearly it
18 would be a breach. From our perspective of the
19 evidence, I think he admits and he does say, well,
20 I wasn't sure what my obligations were. If you're
21 a fiduciary you know. He had lawyers who could
22 explain it to him and he chose not to. He chose to
23 get that for himself. He is not in the Will as a
24 beneficiary under any circumstances and we believe
25 we're entitled to the relief on the third cause of

1 action. Thank you, Judge, that's all I have.

2 BY THE COURT:

3 Mr. Eakes?

4 BY MR. EAKES:

5 May it please the court? They did not join the
6 Estate of Ruth R. Sitton who died May the 25th, 2013
7 nor did they file a claim in her estate. She had
8 been dead for 12 years. She was the Co-Trustee and
9 clearly not Co-Trustee, she was a named Trustee and
10 John D. Sitton, Jr. did not take any action as a
11 Trustee that she did not take, number one. Number
12 two, the evidence is clear that she handled the
13 money. Number three, Mr. Sitton has already
14 testified that he was aware of these trust deeds as
15 early as 2004 and later. John D. Sitton, Sr. had
16 died February the 16th of '93 and his estate was
17 probated in Pickens County. The Deed of
18 Distribution was issued 10/20/94. The deeds to all
19 five of them were in '98 and '99. Those clearly
20 were not provided for by the Trust; that's something
21 that the family did. The only trust deeds that were
22 signed were in 2004, 2005 and 2006 and the final one
23 in 2011. There were two Trustees and neither could
24 act without the other. The alternate Trustee, Dale
25 Rogers, they said never acted as a Trustee. There

1 had been no activity in this Trust and it was
2 dormant, had been dormant since 2011. There was
3 constant litigation in the Estate of Ruth R. Sitton.
4 The Trust was not brought up and none of the trust
5 deeds or the trust property were brought up. Due to
6 the lapse of time, there are no records. By all the
7 testimony, Ruth Sitton handled the money. She was
8 clearly, according to if you read the Will as a
9 whole, is a beneficiary of the Trust. Dale Sitton
10 and Betty Sitton lived with her in her home. There
11 are no records to bring this action at this point in
12 time. It's grossly unfair and I would proffer that
13 clearly the Statute of Limitations and Laches were
14 applied as complete defenses. There was no claim
15 filed in the Estate of Ruth Sitton and to try to
16 hold someone accountable after this passage of time
17 does not appear to be equitable and just. Thank
18 you.

19 BY THE COURT:

20 All right. Well, you know, several things about
21 this case; number one is I think it's long past time
22 with all these family disputes and squabbles and
23 needs to be put to rest and it seems like it's a
24 never-ending problem at the end. You know, I'm not
25 trying to make a decision today. I'm just giving

1 you the benefit of some of my reaction to what I've
2 heard today and I am very concerned about the time
3 that's passed since all this went about. I think
4 there's a serious issue about whether or not the
5 Statute of Limitations has passed and whether or
6 not, you know, that bars any further actions,
7 including laches and so on. Because based on the
8 testimony, the primary things that are being
9 complained about at this point are the four deeds
10 that were done by Trustees for money to third
11 parties and then the one deed that went to Mr. John,
12 Jr. Now, all that occurred back in, and most
13 recently been back about 2012 I believe it was and
14 Mr. Sitton, Jr., well, I guess the II, the II, you
15 know, he said, he was asked about whether or not he
16 found a copy of the deed in the dresser drawer and
17 then pitched a fit about it as described by Jr. and
18 his answer to that was I don't recall, which is not
19 much help as far as saying he did it. So the
20 evidence seems to say he knew about that deed at
21 that time. Now, even if he didn't discover it,
22 these deeds were all recorded and they were on
23 public record, so you've got constructive notice
24 going back to whenever that was. That was recorded
25 I think in, I can't remember the date but I think

1 2012, I think 2013 or whenever it was, whenever it
2 was, and these other deeds were recorded back in the
3 2004/2006 range. So the II was familiar enough with
4 the court records to check the taxes and things of
5 that nature so, you know, constructive notice is
6 kind an important issue here. You know, kind of
7 looking at the big picture from where I'm sitting
8 and where somebody that's listening to this would be
9 sitting, it's kind of like, okay, you've got to
10 think about the family dynamics and how things were
11 and how things have been in this part of the country
12 for a long time and it's pretty clear from looking
13 at the Will as a whole that John Sitton, Sr.'s
14 primary concern was taking care of his wife, Ruth,
15 and his disabled daughter, Betty, who lived there in
16 the home and then he's got three -- well, John, I
17 mean if James needs something and it becomes he
18 needs it, you know, he can have some money out of
19 this Trust. So it would not be shocking to believe
20 that when these properties were sold by Ruth and
21 I'll call him Jr. that the money went to Ruth and
22 she put it in her bank account and used it as she
23 saw fit at that point and she was a primary
24 beneficiary as it appears from the Will. Now, part
25 of that was to take care of Betty. Betty was living

1 at the house. Betty is living at the property
2 that's essentially owned by Ruth at that point once
3 Sr. died. I mean I know there was some trust issues
4 and all that sort of thing, but basically that was
5 Ruth's house at that point and Betty was living
6 there with her. So that was the main focus of where
7 this whole trust idea was supposed to be going
8 apparently and it pretty much did. Now, the other
9 problem I see is there's language in the Trust about
10 unquestioned authority. I mean that's a broad,
11 broad delegation of power as you well know and so
12 that certainly plays into how Ruth may have handled
13 this money once these things are sold and what she
14 did and didn't do and so on, so those are some of
15 the things that concern me. I mean it's not beyond,
16 it's not, it would not be shocking to believe that
17 any of the children would have given some deference
18 to Ruth when these properties were sold and the
19 money was forthcoming. Ruth got the money and Ruth
20 used it as she saw fit to support herself and Betty
21 and whatever else she decided to do with it and it
22 wouldn't be shocking to believe that the children of
23 Ruth would have deferred to her in that regard. I
24 mean that's just the way things have always been in
25 this whole world and in a family dynamic of this

1 nature, at least in my experience. So, you know,
2 you're asking for, at this point you're asking for
3 an accounting and I think Mr. Eakes made a point I
4 was sitting there thinking about and he brought out
5 that, you know, there wasn't a claim asserted
6 against Ruth or her estate about any mishandling of
7 the Trust and certainly a claim could have been
8 filed in her estate once she died to that effect,
9 but it wasn't and that gets back to the passage of
10 time that we're looking at. And then we have
11 questions about, you know, I suppose, estoppel and
12 things of that nature do come into play and that
13 which has been raised by the defense, so those are
14 some of the issues that concern me. The next one,
15 accounting -- I mean the first cause of action,
16 basically that's resolved. The second cause of
17 action is accounting and, you know, I'll be glad to
18 allow you to provide me with any kind of legal
19 authority of what's required to get an accounting,
20 you know, and all those things if you want to and,
21 of course, Mr. Eakes can respond to the same thing
22 as well. And then the same thing is true on the
23 breach of fiduciary duty. You know, I would say
24 that based on what I've heard today, if there was a
25 breach of fiduciary duty, and I don't know that it

1 was with any sort of malice or willfulness and
2 therefore I would be inclined that there would be no
3 punitive damages involved. I'm not saying there
4 won't be, I'm not making a decision. I'm just
5 saying that's my view of it at the current time.
6 But I'll be glad to hear from both the attorneys on
7 that point, also. There's no question rolling
8 around in my mind that somewhere along the line I
9 heard that there was a provision for a commission to
10 be paid to these Trustees, I think it was 10%, and I
11 mean how much of that comes into play on what
12 happens and I think that's a question that's out
13 there. So having said all that, I'm going to let
14 you attorneys decide if you want to submit any type
15 of memorandum or not. I'm not going to require it,
16 but if you want to submit one then I want you to do
17 it within a reasonable amount of time and I'm not
18 one to put hard headlights on you but, you know, two
19 or three weeks maybe? I don't know, what do you
20 need?

21 BY MR. ALEXANDER:

22 Would 30 days to be okay, Judge?

23 BY THE COURT:

24 30 days would be fine and I would also -- why don't
25 we do this, let the Plaintiff file his within 30

1 days and let Mr. Eakes have an extra 10 days
2 after that to respond to it? And I would also
3 suggest to you, and I think you probably already
4 got this pretty much, but both of you probably need
5 to sit down and draft some findings of facts right
6 now because my experience is you're going to come
7 closer getting that done easily and readily and
8 completely if you do it now instead of waiting for
9 another day because things tend to fade away,
10 especially when you get into older age which I can
11 safely say the attorneys in this case as well as
12 myself are there.

13 BY MR. ALEXANDER:

14 Long in the tooth.

15 BY THE COURT:

16 That's probably one way to put it. So I would
17 suggest that for you and once I make a decision,
18 I'll let you know that and I'll ask one of you to
19 draft me an Order and so those findings of facts
20 would need to be included in there and, of course,
21 at the appropriate time you need to share it with
22 the other attorney and so on about what might be
23 included when the Order is going to be submitted
24 and whatnot, okay? Any questions?

25 BY MR. ALEXANDER:

1 No, sir. I will do a memorandum and I'll certainly
2 copy Mr. Eakes of what I send in so.

3 BY THE COURT:

4 And I mean 10 days after that be okay with you?

5 BY MR. EAKES:

6 I will do my best, Your Honor.

7 BY THE COURT:

8 Well, now that gives me pause.

9 BY MR. EAKES:

10 How about 15 days?

11 BY THE COURT:

12 That's fine.

13 BY MR. EAKES:

14 Okay.

15 BY THE COURT:

16 That's 15 days. I mean this case has been hanging
17 around for a while but, you know, the other thing I
18 would say is, in part of this process I would
19 certainly like to shape this Final Order we come up
20 with as an end point to the fussing and fighting
21 and the disputes. Now, obviously that may not
22 happen and there's still things to be done. I mean
23 obviously there's still, this house could be sold,
24 there's still the Anderson County property to be
25 sold and, you know, those are all things that can

1 lead to disputes I suppose, but hopefully we could
2 get to the point where disputes are over and let's
3 get things done and let's sell these properties,
4 divide the money out appropriately and just
5 everybody move on and I think everybody will be a
6 lot better off and a lot happier and maybe whatever
7 possibility there is for some family harmony down
8 the road can be given a chance anyway. Okay?

9 BY MR. EAKES:

10 All right, thank you, Your Honor.

11 BY MR. ALEXANDER:

12 Thank you, Judge.

13 BY THE COURT:

14 Yeah, I appreciate both of you, you do a good job.

15

16 (END OF HEARING AT 1:41 P.M.)

17

18

19

20

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22

23

24

25

Page 1

Last Will and Testament

I, John D. Ditton, residing in the County of Pickens, State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby Revoking any and all other Wills and Codicils heretofore made by me.

II

I direct my Personal Representative pay out of my estate all my legal debts, my funeral expenses, any unpaid expenses of my last illness, and the cost of a suitable tombstone or marker for my grave, and I request that I be buried in the Ditton lot at St. Paul Cemetery, Anderson County. I further direct my Personal Representative to pay all estate inheritance, transfer, succession death or similar taxes, including any interest or penalties, payable by reason of my death, or assessed or imposed with respect to my estate, or any part thereof, whether or not passing under this will or any Codicil thereto, including all policies on my life. My wife, Ruth R. Ditton is to receive all proceeds from insurance policies payable to her as beneficiary, with my estate taxes to be paid from other assets of my estate.

III

I devise and bequeath to my wife, Ruth R. Ditton, my interest in our home located in Keowee Keys unit 2, lot 16; my share of stock in

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EXHIBIT EG

1
John S. Jr.

John D. Ditton

John Garnett
William C. Wood

page 2
 John Ditton, Inc.; my lot #1653 located at
 O. Hickshaw Point, Oconee County; my auto-
 mobiles; my interest in Peoples
 National Bank Stock, and my one half
 interest in Commercial Building located
 on East 1st Avenue, Easley, Pickens
 County, S.C.

I devise and bequeath to my Son, John D.
 Ditton, Jr. My three acres more or less,
 that joins his residence, located on
 Ditton Road, Anderson County, S.C.

I devise and bequeath to my Son,
 James C. Ditton, II Any debt that he
 might owe me at the time of my
 death, and Any Automobile that he is
 in possession at the time of my death.

I hereby nominate, constitute and
 appoint John D. Ditton, Jr. and Ruth R.
 Ditton, as my Personal Representatives
 of my last will and Testament, to
 serve without bond, and hereby authorize
 and empower them, or the one
 qualified and acting, to sell at public
 or private sale any and all of my
 estate, not hereinabove specifically
 mentioned, make good titles for
 same, and make distribution of said
 proceeds of sale as hereinafter directed.

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VII

I devise and bequeath all of the rest, residue and remainder of my estate, both real and personal property and wheresoever situate in TRUST, to be called: John D. Ditton Trust. I nominate, constitute and appoint my son, John D. Ditton, Jr. and my wife, Ruth R. Ditton, as Trustees of said Trust, and they shall serve without bond, and authorize and empower my Trustees qualified and acting to sell at public or private sale any and all property, both real and personal, falling under this Trust, make good titles for same, and use the proceeds of sale as hereinafter directed. I direct my said Trustees to provide support for my daughter, Betty Ditton; and secondly to provide support for my son, James E. Ditton II, if and when the need arises for food, shelter, clothing and medical expenses.

Said Trustees shall receive a total of ten (10%) per cent Commission on all sales of real property and a total of ten (10%) per cent Commission on all rental property owned by the Trust.

My Trustees shall make disbursements to all beneficiaries but the provision set forth above for the three named beneficiaries of this Trust shall always be given a priority.

Page 4.

John D. Sitton

John Sitton
William E. Allgood

At such time as Betty Sitton and Ruth R. Sitton depart this life, if there be remaining Assets in said Trust, my remaining heirs: Namely, my daughter, Dorothy Sitton Oakley, my daughter, Gale Sitton Rogers, my son, James G. Sitton, II, and my son, John D. Sitton, JR. Shall share and share alike in said Trust and said Trust can then be terminated if the four (4) heirs named herein give their approval. In the event one or more of the four (4) remaindermen named herein should die leaving a natural born child or children, then that child or children shall take the deceased parent's share; however in the event one or more of the (4) four remaindermen named herein should die leaving no child or children, then the survivors or survivors of the four (4) remaindermen shall take outright.

VIII

In the event John D. Sitton, JR. and/or Ruth R. Sitton for any reason do not qualify as trustees of the John D. Sitton Trust, then I hereby nominate, constitute and appoint Gale Sitton Rogers as Alternate Trustee for said Trust and shall be

Page 5.

Entitled to Commission as though
 she were one of the first named
 Trustees on the same percentage
 as first hereinabove mentioned,
 And she shall have all the same
 powers, Authorities and obligations
 as hereinabove vested in the first
 named Trustees, And she shall
 also serve without Bond.
 My Trustees And/or Alternate Trustee
 shall have unquestioned and unlimited
 Authority to use their discretion in
 investing And re-investing And
 using any part of the Corpus And/or
 interest they deem necessary or
 advisable for the Comfortable
 Maintenance, Support, health and
 Well being of Betty Ann Ditton And
 Ruth R. Ditton, And shall Supplement
 with food shelter, And Clothing for
 James C. Ditton II.

Any said Trustees that are qualified
 And Acting shall not be required
 to make any Accounting to any Court,
 And the only Accounting required from
 the Trustees shall be to the beneficiaries
 of the Trust, And such Accounting shall
 be made to the beneficiaries within 75

Page 6

Days after the Calendar year ends.

IX

In the event my wife, Ruth K. Dutton, Predeceases me or Perishes in a Common Disaster along with me, then Any and all of the real and personal Property left to her herein shall become a part of the Trust Created herein. It is my intention to dispose of all my estate under the terms of this my Last Will and Testament, and that I not depart this life intestate as to any part of my estate. Also in the event my wife, Ruth K. Dutton, Predeceases me or Perishes in a Common Disaster along with me, then I hereby nominate, constitute and appoint her brother, W. Jack Ragsdale, as one of my Personal Representatives, and also as one of my Trustees of my Trust set forth herein, with the same power, authorities and obligations vested in him as hereinabove vested in my wife, Ruth K. Dutton.

It is my desire that my Personal Representatives herein named complete the settlement of my estate with the Probate Court as soon as

Page 7

Practical after my death, to continue in their capacity as Trustees as hereinbefore mentioned without accountings being required of them to any Court as to their Management of the Trust Estate for out hereunto.
In witness whereof, hereunto
Set my hand and seal, his
6th day of December, 1996.

John D. Dutton

John D. Dutton
JOHN D. DUTTON

Witnessed as the Last Will and Testament of JOHN D. DUTTON, at his Request, in his Presence, and in the presence of each other, this 6th day of December, 1996.

William E. Allegood

John Dutton

Page 8

John D. Sitton
JOHN D. SITTON

Witnessed as to the Last Will and Testament of John D. Sitton at the request and in the presence of John D. Sitton, and in the presence of each other this 6th day of December, 1991.

William E. Allgood

John Harick

I, John D. Sitton, the Testator, sign my name to this instrument this 6th day of December, 1991. And being first duly sworn, do hereby declare the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purpose therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

John D. Sitton
JOHN D. SITTON

We John Harick and William E. Allgood the witnesses, sign our names to this

Page 9.

John D. Ditton

undersigned Authority that the Testator signs and executes this instrument as his Last Will and that he signs it willingly (or willingly directs another to sign for him) - And that each of us, in the presence and hearing of the Testator, hereby signs this will as witness to the Testator's signing, and that to the best of our knowledge the Testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

William E. Allgood

John Harriell

State of South Carolina
County of Pickens

Subscribed, Sworn to and Acknowledged before me by John D. Ditton, the Testator, and subscribed and sworn to before me by William E. Allgood and John Harriell Witnesses this 6th day of December, 1991.

William E. Allgood
Notary Public for South Carolina
My Commission Expires: May 19, 2000

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF PICKENS) Case #: 1993-ES-39-000259

In the Matter of:
John D. Sitton

James C. Sitton II, Personal
Representative of the Estate
of John D. Sitton,

Petitioner,

FINAL ORDER

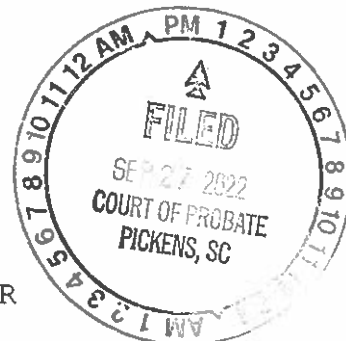
-vs-

John D. Sitton, Jr., Betty A.
Sitton, Dorothy Sitton Ashley,
Dale Sitton Rogers, and Brian K.
James as personal representative
of the estate of Ruth R. Sitton,
and any unknown adults being a
class designated as John Doe,
and any unknown infants or
persons under disability or in
the military service being a
class designated as Richard Doe,

Respondents.

Hearing Date: September 7, 2022
Trial Judge: David K. Allison
Petitioner's Attorney: James C. Alexander
Attorney for Respondent
John D. Sitton, Jr.: James S. Eakes

This matter comes before the court on September 7, 2022 for
a Final Hearing on a petition filed on May 18, 2022 by the
personal representative of this Estate. At the call of the case,
petitioner appeared being represented by James C. Alexander.
Respondent John D. Sitton, Jr. appeared being represented by



James S. Eakes. Brian K. James appeared as personal representative of the estate of Ruth R. Sitton and not as an attorney. Respondent Dorothy Sitton Ashley also appeared. Respondents Betty A. Sitton and Dale Sitton Rogers filed answers asking the court to grant the relief requested by petitioner but did not appear. All respondents were properly and timely notified of this proceeding. The court has jurisdiction over the parties and subject matter.

At the call of the case, the court was informed that a final agreement had been reached as to all issues raised in the petition and counterclaim. The terms of the agreement are as follows:

1. The Personal representative James C. Sitton II of this estate is granted permission to sell the house and real property located at 303 N. B. Street, Easley, SC as follows:

ALL that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Pickens, in the City of Easley, on the West side of North "B" street (formerly King Street) said lot being in shape of a rectangle with a frontage on the street of 1.58 chains and a depth of 3.16 chains, said lot being identified as Lot Thirteen (13) as shown by Plat of J. A. Robinson, Surveyor, dated August 25, 1906, and recorded in Book of Deeds RR, at page 125, Pickens County, South Carolina

ALSO: "ALL that certain piece, parcel or lot of land, situate, lying and being in the State of South Carolina, County of Pickens, in the City of Easley on the West side of North "B"

Street (formerly King Street) immediately to the northwest of the lot above described, being all of Lot No. Twelve (12) as shown on plat of J. A. Robinson, Surveyor, dated August 25, 1906, of record in Book of Deeds RR at page 125, Pickens County, South Carolina, less that portion conveyed by J. D. Rogers to Jack H. Burrell as shown on plat of John C. Smith and J.,. Coke Smith, Surveyors, dated August 29, 1951, said deed being recorded in Book of Deeds 7-D, at page 87"

For derivation see deed recorded in Deed Book 11, at Page 279, in the register of Deeds Office for Pickens County, South Carolina.

TMS No: 5019-12-96-8103

2. John D. Sitton, Jr. who currently resides in this residence will vacate this residence within 60 days from September 7, 2022. He will deliver a key to the residence to his attorney James S. Eakes who will then present this key to petitioner's attorney, James C. Alexander. Petitioner is granted authority to evict any other person living in the house.

3. John D. Sitton Jr. will remove only his personal property from the house and property. He will leave all personal property belonging to Ruth R. Sitton, James C. Sitton II, and any other person who has placed personal property in this residence. This court will retain jurisdiction to make a decision regarding any issues as to this personal property. Any person may bring any such issue by motion. The personal property belonging to Ruth R. Sitton will not be removed from the premises. James C. Sitton, II and any other person who owns

DKA

personal property located on the premises may remove that personal property. The personal representative of this estate will maintain a list of all such personal property removed.

4. The will of John D. Sitton establishes the "John D. Sitton Trust" in his handwritten will on file with this court. This trust is terminated.

5. John D. Sitton owned an undivided one-half interest in the above real property and the heirs and owners of this undivided one half interest are James C. Sitton II, John D. Sitton Jr., Betty A. Sitton, or the trustee of the Betty A. Sitton Trust, Dorothy Sitton Ashley, and Dale Sitton Rogers. Ruth R. Sitton owned an undivided fifty percent interest in the above real property. Her estate is currently being probated in this court, 2013ES39000478, and Brian K. James is the appointed personal representative of her estate. The heirs of Ruth R. Sitton and the joint undivided owners of her undivided fifty percent interest in the above property are James C. Sitton II, John D. Sitton Jr, Betty A. Sitton, or the trustee of the Betty A. Sitton Trust, Dorothy Sitton Ashley, and Dale Sitton Rogers.

6. The personal representative of this estate will retain the services of a real estate firm and list the above property for sale at a price to be determined in consultation with the

real estate firm. This court retains jurisdiction to resolve any issues regarding the purchase price. James C. Sitton II is granted sole authority as personal representative of the estate of John D. Sitton to sign a general warranty deed or other documents to consummate the sale of the above real property. Once all expenses and amounts claimed by any individual as allowed by this agreement, including attorney fees and costs, have been deducted from the total proceeds received from the sale, fifty percent of those net proceeds will be disbursed to Brian K. James as personal representative of Ruth R. Sitton to be distributed at the closing of that estate and the other undivided fifty percent interest will be paid to James C. Alexander to be held in trust until the closing of this estate.

7. Petitioner and respondent John D. Sitton, Jr. are entitled to attorney's fees and costs for only this action filed on May 18, 2022 to be paid from the gross proceeds before any amount is distributed. The attorneys for petitioner and John D. Sitton, Jr. must submit an attorney fee affidavit prior to the consummation of the sale of the real property. If any party challenges any attorney fee affidavit submitted by motion, this court retains jurisdiction to decide the challenge.

JKA

8. The personal representative is authorized to take necessary and reasonable actions to prepare the above house and property ready for sale. All expenses necessary to prepare this property for sale will be paid by the money currently held by Brian K. James as personal representative of the estate of Ruth R. Sitton. All continuing expenses for the real property including but not limited to utilities and homeowner's insurance premiums will be paid from the funds held by Brian K. James as personal representative for the Ruth R. Sitton estate. Written verification of the expenses will be presented by James C. Sitton, II, as personal representative to Mr. James for payment.

9. The insurance coverage for the above real property will continue as is currently with the premiums to be paid with the funds held by Brian K James as personal representative of the estate of Ruth R. Sitton. The parties may review the current insurance coverage to make sure that the house is properly insured. The insurance premiums are currently being drafted from the account of John D. Sitton, Jr., and Mr. Sitton, Jr. will continue to timely pay the insurance premiums and present proof of payment to Mr. James so that John D. Sitton, Jr., can be reimbursed.

10. The personal representative of this estate will identify all personal property belonging to Ruth R. Sitton located in and on the above house and real property and will engage the services of a licensed auctioneer who will sell all of this personal property. The personal representative of this estate will coordinate with Brian K. James who is the personal representative of the Ruth R. Sitton estate to select an auctioneer. All net proceeds from this sale will be disbursed by the auctioneer to Brian K. James as the personal representative of the Ruth R. Sitton estate, to be distributed based on the provisions of the will of Ruth R. Sitton.

11. This court retains jurisdiction to make a determination on any issues regarding the terms of this agreement and the parties may make such an issue by motion to this court.

12. An appropriate restraint similar to but less than the ubiquitous, standard restraining order that prohibits virtually all contact between the parties would be appropriate. It is therefore ordered the parties shall be mutually subject to a "no adverse contact order" (NACO) that shall restrain and enjoin the parties from engaging, directly or indirectly, in any adverse, hostile argumentative, threatening, or unpleasant conduct toward the other, or any conduct beyond or worse than

DKA

that described. This NACO shall allow the parties to contact, associate, and communicate with each other only so long as both parties consent to such conduct; however, either party may end any contact, association, or communication if he or she deems any contact, association, or communication as being adverse, hostile, or unpleasant. The purpose of this NACO is to encourage positive contact and communication between the parties, and this NACO is not intended to trigger any elements of 18 USCA Section 922(g)(0) nor is it intended to rise to the level of or be considered an Order of Protection under the SC Protection from Domestic Abuse Act. Violation of this NACO shall subject the offending party to the contempt power of this Court.

13. Once John Sitton Jr. has moved out of the above real property, he will not return to the real property. No person may occupy this real property pending sale.

14. The parties have raised issues claiming amounts due related to this real property. Any claim related to the above real property ordered be sold is waived by all parties.

15. This agreement only applies to the issues in this petition filed on May 18, 2022 and the counterclaim filed on June 17, 2022 which is solely concerned with 303 N. B. Street, Easley, SC as identified above. This agreement does not affect

any other issue that the parties may raise as part of this estate or the estate of Ruth R. Sitton.

Testimony was taken from James C. Sitton II and John D. Sitton Jr. Based on that testimony and the representation of the attorneys, the court finds that this agreement was entered into by the parties freely and voluntarily and is within the reasonable bounds of fairness under the circumstances of this case. The court approves the above agreement as the final order of this court as to the issues raised in the petition filed on May 18, 2022 and the counterclaim filed on June 17, 2022.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED:

1. The agreement of the parties as set forth above is approved and is the final order of this court.

IT IS SO ORDERED

Date: Sept. 27, 2022



DAVID K. ALLISON, JUDGE
PROBATE COURT, PICKENS COUNTY

28027

BOOK 1981 PAGE 046

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

PROBATE COURT

IN THE MATTER OF John D. Sitton

CASE NUMBER 93ES0400324

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 16th day of February, 1993; and,

WHEREAS, the estate of the decedent is being administered in the Probate Court for Pickens County, South Carolina in File #93ES3900259; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, the undersigned Personal Representatives are the duly appointed and qualified fiduciaries in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representatives have granted, bargained, sold, and released, and by these Presents do grant, bargain, sell, and release to:

John D. Sitton, Jr. and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton, their successors and assigns, forever:
303 North B Street
Easley, SC 29640

decedent's interest in the following described property:

"All that piece, parcel or tract of land containing 57.00 acres, more or less and situate lying and being in the Brushy Creek Township of Anderson County, South Carolina and lying along a surface treated road, which road leaves S.C. Highway #8 near the W.A. Tripp farm and runs by way of J.O. Rosman home place to State Highway # 81, and being described according to a plat prepared by J. Coke Smith, Surveyor, in May 1951 as follows: BEGINNING at an iron pin, the SE corner of J.C. Sitton land running thence along the said J.C. Sitton line N 18-00 W 26.50 chains to a point; thence, along W.A. Pickens and Newt Cantrell line N 88-45 E 35.36 chains to an iron pin; thence, along W.F. Laboon property line S 10-15 W 13.67 chains to the aforementioned surface treated road; thence, along said road S 81-25 W 6.50 chains; thence, with road S 63-25 W 2.40 chains; thence, continuing along said road S 57-00 W 19.32 chains to the BEGINNING corner."

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed John D. Sitton by Deborah M. Sitton by deed dated May 10, 1951, and recorded May 14, 1951, in Deed Book 9-F, Page 4, in the Office of the Clerk of Court for Anderson County, South Carolina.

ALSO: "All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson, about 6 miles south of Easley, S.C. and being more fully described as follows, to-wit:

"BEGINNING in center of surface treated highway which point is also corner of W.D. Sitton Estate; thence S58-30W 8.90 chains along road; thence leaving road and running N33-45W 15.40 chains to an iron pin; thence S43-25W 23.57 chains to an iron pin; thence N27W 5.85 chains; thence N23-20E 31 chains; thence N88-45E 14.50 chains; thence S18E 26.50 chains to point of BEGINNING, and containing 61.1 acres, more or less, according to plat of J. Coke Smith, Surveyor, dated August, 1941, reference to

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EXHIBIT

4

EXHIBIT

EG

3

John S. Jr.

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which is hereby made for a more complete and accurate description and being bounded on the north by Bill Pickens Estate, bounded on the east by W.D. Sitton Estate, bounded on the south by highway and property of Eugene Wyatt, and bounded on the west by property of J.M. Carpenter, according to said plat.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed John D. Sitton by J.C. Sitton by deed dated October 13, 1965, and recorded June 9, 1967, in Deed Book 15-D, Page 599, in the Office of the Clerk of Court for Anderson County, South Carolina.

TOGETHER with all and singular, the Rights, Members, Hereditaments, and Appurtenances to the said Premises/Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the undersigned, as Personal Representatives of the estate of the decedent, have executed this Deed, this 20 day of October, 1994.

SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF

Estate of John D. Sitton

By: John D. Sitton

By: Ruth R. Sitton

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me, the undersigned witness and made oath that (s)he saw the within named Personal Representatives sign, seal, and as their act and deed, deliver the within written Deed, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 20

day of October, 1994.

Jana B. Hudson

Notary Public for South Carolina

My Commission expires: 9/16/04

RECORDED THIS 31 DAY
OF Oct AD. 1994
IN VOL. 1980 PAGE 46
AT 11:00 A M.
... M. J. Burton R.M.C.
ANDERSON COUNTY, SC

FILED FOR RECORD
ANDERSON, S.C.
Oct 31 11 00 AM '94

BOOK 1981 PAGE 047

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT WE, JOHN D. SITTON, JR. AND RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON,

in consideration of ELEVEN THOUSAND AND NO/100 (\$11,000.00).....DOLLARS

the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant bargain sell and release unto:

JAMES K. CLINKSCALES AND KENNETH W. CLINKSCALES, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON:
303 TWO NOTCH TRAIL
EASLEY, S.C. 29642

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Anderson, on Syracuse Road, and according to a plat by Ray Dunn Land Surveyor, dated October 28, 2004, said lot contains 0.92 acres, including all rights of way, and is more particularly described as follows, to-wit:

BEGINNING at an iron pin in the center of Syracuse Road, which point is 1500 feet, more or less, to Old Mill Road; thence along the center of Syracuse Road North 25-16-54 East 125.00 feet to an iron pin; thence leaving Syracuse Road South 65-53-56 East 265.59 feet to an iron pin; thence South 15-56-56 East 163.54 feet to an iron pin; thence North 65-52-00 West 373.40 feet to an iron pin in the center of Syracuse Road, the point of BEGINNING.

~~This is a portion of the property conveyed to James K. Clinkscases by John D. Sitton, Jr. and Ruth R. Sitton, as Trustees by deed dated and recorded herewith.~~

Tax Map No.: 188-00-11-008

(CONTINUED ON BACK)

together, with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee's(s') heirs or successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s') heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s') heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS, the grantor's(s') hand(s) and seal(s) this 23rd day of November, 2004.

SIGNED, sealed and delivered in the presence of:

John D. Sitton, Jr. *John D. Sitton, Jr. Trustee* (SEAL)
Ruth R. Sitton *Ruth R. Sitton Trustee* (SEAL)

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor's(s') act and deed, deliver the within written deed and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 23rd
day of November, 2004.

W. Robinson
Notary Public for State of South Carolina
My Commission expires: 1/24/11

W. Robinson
ROBINSON LAW FIRM, P.A. - P. O. BOX 738 - EASLEY, SC 29641 - 864/859-7501

PLAINTIFF'S
EXHIBIT

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This is a portion of the property conveyed John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by Deed of Distribution dated October 20, 1994 and recorded October 31, 1994 at the Register of Deeds Office for Anderson County, South Carolina in Deed Book 1981 at Page 46.

040040342 12/09/2004 09:55:09AM
FILED, RECORDED, INDEXED
Bk:06497 Ps:00170 Pages:2
RecFee:10.00 St Fee:28.60
Co Fee:12.10
REGISTER OF DEEDS, ANDERSON CO, SC
Shirley McElhannon

14
177

ALEX J. NEWTON 3113-D EARLE E MORRIS JR HWY, PIEDMONT, SC 29673

TITLE TO REAL ESTATE

STATE OF SOUTH CAROLINA) Grantee Address: 603 S. Fishtrap Rd.
COUNTY OF ANDERSON) Greenville SC 29611

KNOW ALL MEN BY THESE PRESENTS, that **JOHN D. SITTON, JR. AND RUTH R. SITTON AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON**, In consideration of Twelve Thousand Three Hundred and 00/100 Dollars (\$ 12,300.00), the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto **James S. Smith and Thomas Duncan**, their heirs and assigns forever

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND LYING AND BEING SITUATE IN THE COUNTY OF ANDERSON, STATE OF SOUTH CAROLINA AND BEING SHOWN AS 0.62 ACRES, MORE OR LESS, LOCATED ON SYRACUSE ROAD ON A PLAT PREPARED BY SPEARMAN SURVEYING DATED MARCH 2, 2005 FOR JAMES S. SMITH AND THOMAS DUNCAN AS RECORDED IN PLAT BOOK 1527 AT PAGE 2-B IN THE REGISTER OF DEEDS OFFICE IN ANDERSON COUNTY, SOUTH CAROLINA. REFERENCE TO SAID PLAT IS HEREBY MADE FOR A MORE COMPLETE AND ACCURATE DESCRIPTION THEREOF.

THIS BEING A PORTION OF THE SAME PROPERTY CONVEYED TO JOHN D. SITTON, JR. AND RUTH R. SITTON AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON BY DEED OF DISTRIBUTION OF THE ESTATE OF JOHN D. SITTON AS RECORDED IN DEED BOOK 1981 AT PAGE 046 IN THE ANDERSON COUNTY REGISTER OF DEEDS OFFICE ON 10-31-94.

TMS # 1880006021

This conveyance is subject to all restrictions, setback lines, roadways, easements and rights-of-way, if any, appearing of record, on the premises, or on the recorded plat(s), which affect the property hereinabove described.

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in anywise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s) and the grantee's(s') heirs or successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s') heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s') heir or successors and against every person whomsoever lawfully claiming or to claim the same of any part thereof.

WITNESS the grantor's(s') hand(s) this 23rd day of March, 2005.

SIGNED, sealed and delivered in the presence of:

Alex J. Newton

Julie Powell Ringley

John D. Sitton, Jr., Trustee
John D. Sitton, Jr., Trustee under the Last Will and Testament of John D. Sitton

Ruth R. Sitton
Ruth R. Sitton, Trustee under the Last Will and Testament of John D. Sitton

PLAINTIFF'S
EXHIBIT

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STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor's (s') act and deed, deliver the within written deed and that (s)he, with the other witness-subscribed above, witnessed the execution thereof.

SWORN to before me this 23rd day of March, 2005.

Alex J. Newton

Notary Public for South Carolina (SEAL)

My Commission Expires: 6/13/07

Title Check (X) No Title Check ()

050011420 4/15/2005 10:18 AM
FILED, RECORDED, INDEXED
Bk: 06689 Ps: 00234 Pages:002
Rec Fee: 10.00 St Fee: 32.50
Co Fee: 13.75
REGISTER OF DEEDS, ANDERSON CO, SC
Shirley McElhannon

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS THAT JOHN D. SITTON, JR. and RUTH R. SITTON as Trustees, hereinafter, whether one or more, called Grantor, in the State aforesaid, for the consideration of the sum of THIRTEEN THOUSAND FIVE HUNDRED AND no/100 Dollars (\$ 13,500.00) to the Grantor herein paid at and before the sealing of these presents by TRAVIS J. DAVIS, hereinafter, whether one or more, called Grantee, the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said Grantee and Grantee's heirs, or successors, and assigns forever, the following described real property:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND CONTAINING 1.00 ACRES, MORE OR LESS, SITUATE, LYING AND BEING IN THE COUNTY OF ANDERSON, STATE OF SOUTH CAROLINA, AS SHOWN ON THAT CERTAIN PLAT PREPARED BY PERRY RAY DUNN, PLS#19400, DATED 4-18-05 AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR ANDERSON COUNTY, SOUTH CAROLINA IN BOOK 117 AT PAGE 820 FOR A MORE PARTICULAR DESCRIPTION AS TO METES AND BOUNDS, COURSES AND DISTANCES, REFERENCE IS HEREBY MADE TO AFORESAID PLAT OF RECORD.

THIS BEING THE SAME PROPERTY CONVEYED UNTO JOHN D. SITTON, JR. AND RUTH R. SITTON, AS TRUSTEES BY DEED OF DISTRIBUTION IN THE THE MATTER OF JOHN D. SITTON (PROBATE CASE#93ES0400324) DEED DATED 10-20-94 AND RECORDED 10-31-94 IN THE OFFICE OF THE REGISTER OF DEEDS FOR ANDERSON COUNTY, SC IN BOOK 1981 AT PAGE 46.

TMS# 188-00-11-008

This property is subject to and all recorded rights-of-ways, easements, restrictions, covenants and conditions pertaining to property herein conveyed and is further subject to any of the above which may appear from an inspection of the premises.

~~THIS DEED~~

GRANTEE'S ADDRESS: 1911 OLD MILL ROAD
EASLEY SC 29640

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND HOLD, all and singular, the said Premises before mentioned unto the said Grantee and Grantee's heirs, or successors, and assigns forever.

And Grantor does hereby bind Grantor and Grantor's Heirs, Successors, Executors and Administrators to warrant and forever defend all and singular the said premises unto the said Grantee and Grantee's Heirs, Successors and assigns against Grantor and Grantor's Heirs, Successors, Executors, Administrators and Assigns and against all other persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS Grantor's hand and seal this 22 day of April, 2005.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Branda G. Hyle
Branda G. Hyle

[Signature]
[Signature]

John D. Sitton, Jr.
John D. Sitton, Jr. as Trustee

Ruth R. Sitton
Ruth R. Sitton, as Trustee

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that he saw the within named Grantor sign, seal and as Grantor's act and deed, deliver the within-written Deed, and that he with other witness subscribe above, witnessed the execution thereof.

Branda G. Hyle
Branda G. Hyle

Sworn to before me this 22 day of April, 2005.

[Signature]
(SEAL)
Notary Public for South Carolina
My commission expires 1-27-06

050013165 4/29/2005 10:07 AM
FILED, RECORDED, INDEXED
Bk: 06711 Pg: 00195 Pages: 001
Rec Fee: 10.00 St Fee: 35.10
Co Fee: 14.85
REGISTER OF DEEDS, ANDERSON CO, SC
Shirley McElhannon

PLAINTIFF'S
EXHIBIT
7

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS That We, **John D. Sitton, Jr. and Ruth R. Sitton**, as Trustees under the Last Will and Testament of John D. Sitton, of the County of Anderson, State of South Carolina, in consideration of the sum of Twelve Thousand and no/100 (\$12,000.00) Dollars to us in hand paid at and before the sealing of these presents by **Kenneth W. Clinkscales**, of the County of Anderson, State of South Carolina, (the receipt whereof is hereby acknowledged), have granted, bargained, sold, and released, and by these presents do grant, bargain, sell, and release unto **Kenneth W. Clinkscales**, his Heirs and Assigns forever:

All that certain piece, parcel or lot of land situate, lying and being in the County of Anderson, State of South Carolina, being shown and designated as containing 0.84 of an acre, more or less, as shown on a plat prepared by Ray Dun, PLS #19400, dated February 20, 2006, and signed February 21, 2006, of record in the Office of the Register of Deeds for Anderson County, South Carolina, in Plat ~~224~~ 118 at Page 154, and having such metes and bounds, courses and distances as upon said plat appear. For a more complete and accurate description of the lot herein conveyed, reference is invited to said plat, and the description contained thereon is incorporated herein by reference.

This is a portion of the property conveyed unto John D. Sitton, Jr. and Ruth R. Sitton, as trustees under the Last Will and Testament of John D. Sitton by deed of distribution from the Estate of John D. Sitton, dated October 20, 1994, recorded October 31, 1994, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 1981 at Page 46.

This conveyance is specifically made subject to any and all recorded rights-of-way, easements, encroachments, conditions, restrictions, and zoning ordinances pertaining to the property herein conveyed and, in addition, is subject to any of the foregoing which may appear from an inspection of the premises and/or which may appear according to a current survey.

TMS NUMBER: 188-00-11-004

GRANTEE'S MAILING ADDRESS: 303 Two Notch Trail
 Easley, SC 29642

TOGETHER with all and Singular the Rights, Members, Hereditament and Appurtenances to the said premises belonging, or in anywise incident or appertaining.

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TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the said **Kenneth W. Clinkscales**, his Heirs and Assigns forever.

AND we do hereby bind ourselves and our Heirs and Assigns to warrant and forever defend all and singular the said premises unto the said **Kenneth W. Clinkscales**, his Heirs and Assigns against us and our Heirs and Assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Witness our hand and seal this 22 day of March, in the year of our Lord Two Thousand, Six and in the Two Hundred and Twenty-ninth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

John W. Clinkscales
Donna Y. Wooten

John D. Sitton, Jr.
Ruth R. Sitton
John D. Sitton, Jr.
Ruth R. Sitton
Trustees under the Last Will
and Testament of John D.
Sitton

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

Personally appeared before me the undersigned witness and made oath that he saw the within named **John D. Sitton, Jr. and Ruth R. Sitton**, as Trustees under the Last Will and Testament of John D. Sitton, sign, seal and as their act and deed deliver the within written deed and that he, with the other witness subscribed above witnessed the execution thereof.

Sworn to before me this 22th
day of March, A.D., 2006.

Donna Y. Wooten (Seal)
Notary Public for South Carolina
My Commission Expires: 10/16/06

060017217 5/25/2006 03:46:32 PM
FILED, RECORDED, INDEXED
Bk: 07381 Pg: 00115 Pages: 002
Rec Fee: 10.00 St Fee: 31.20
Co Fee: 13.20
REGISTER OF DEEDS, ANDERSON CO, SC
Shirley McElhannon

2
9
182

Prepared By: R. Murray Hughes, Attorney at Law
P. O. Box 1389
Pickens, South Carolina 29671

Grantee Address: 303 N. "B" Street
Easley, South Carolina, 29640

(NO TITLE SEARCH BY THIS FIRM)

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON) TITLE TO REAL ESTATE
(General Warranty)

KNOW ALL MEN BY THESE PRESENTS, that We, **JOHN D. SITTON, JR., & RUTH R. SITTON**, as Trustees under the Last Will and Testament of John D. Sitton, deceased in consideration of the sum of One and No/100 (\$1.00) dollar, and distribution from the trust to trust beneficiary and no other considerations, the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto **JOHN D. SITTON, JR.**, his heirs and assigns forever:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles South of the City of Easley, containing 2.95 acres, more or less, and being more fully described as follows, to-wit:

BEGINNING at point in Syracuse Road which point is also corner of James Hawkins, thence along Syracuse Road in a southerly direction 309 feet to point in road; thence continuing along Syracuse Road South 25-30 West approximately 219 feet to point in road, which point is also corner of Robert Dickard; thence along Robert Dickard line North 69-21 West 290.83 feet to point in center of stream; thence following meanderings of same on a traverse North 44-54 East 106 feet to point in stream; thence continuing along center of stream in a northerly direction approximately 265 feet to point in stream, which point is also corner of James Hawkins property; thence along James Hawkins property line in an Easterly direction approximately 302 feet to the point of BEGINNING. Being bounded on the North by Hawkins, on the east by Syracuse Road; on the South Dickard, and on the West by Lyles and Watson.

This is the identical property conveyed unto John D. Sitton, Sr., by Deed of Sitton Furniture, Inc., dated January 17, 1991 and recorded February 15, 1991 in Deed Book 1132 at page 11 and a portion of the



property conveyed to the Grantors by Deed of Distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at page 46, Anderson County records.

Anderson County Tax Map Parcel #1880006103

It is the intent of this deed to also quitclaim to the grantee any property that the grantor owns on the east side of Syracuse Road across from the above described tract of 2.95 acres.

ALSO:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles South of the City of Easley, on the northwest side of Old Mill Road, and being more fully described as follows, to-wit:

BEGINNING at a point in center of Old Mill Road, common corner with property now or formerly of Stevenson, and running thence along property of Stevenson North 13-30 West 241 feet to a point; thence continuing along property of Stevenson North 67-30 East 214.19 feet to a point on line of property of Ghizzonie, thence along line of property of Ghizzonie North 00-30 West 482.20 feet to other property of Grantee, thence turning and running along other property of Grantee North 81-00 West 30 feet to point on common line of property of grantee and portion of Tract 2, property of Richard Wright, et al; thence turning and running along property of Richard Wright, et al., South 00-30 East approximately 483 feet, thence turning and continuing along property of Wright South 67-30 West approximately 215 feet, thence turning and continuing along property of Wright South 13-30 East approximately 271 feet to point in center of Old Mill Road; thence along center of Old Mill Road North 69-00 East 30 feet to the point of BEGINNING.

This is a portion of the property conveyed to the Grantors by Deed of Distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at page 46, Anderson County records.

Anderson County Tax Map Parcel #1880011004

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee's(s') heirs or successors and assigns, forever. And, the grantor(s) do(es)

hereby bind the grantor(s) and the grantor's(s') heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s') heirs and successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s') hand(s) and seal(s) this 15th day of September, 2011.

SIGNED, sealed and delivered in the presence of:

Michael R. Hines John D. Sitton, Jr. as Trustee
JOHN D. SITTON, JR., as Trustee

Ruth R. Sitton, as Trustee
RUTH R. SITTON, as Trustee

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

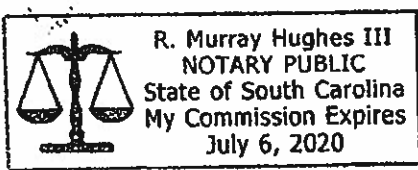
ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this _____ day of _____, 2011 by John D. Sitton, Jr., and Ruth R. Sitton, as Trustees under Last Will and Testament of John D. Sitton, Sr., deceased.

SWORN to before me this 15th day of September, 2011.

R. Murray Hughes III
NOTARY PUBLIC FOR SOUTH CAROLINA
My commission expires: _____

U:\Murray\MyFiles\WORD PERFECT\DEEDS-rmh\SITTON-2.95 a.. Syracuse Rd, Anderson Co.docx



STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. Property located known and designated as 2.95 acres, on Syracuse Road; Anderson County Tax Map Parcel #1880006103; 25' wide strip of property, Old Mill Road, Anderson County Tax Map Parcel #1880011004; was transferred from Testamentary Trust of John D. Sitton, Sr., to John D. Sitton, Jr.
3. Check one of the following: The deed is
 - a. subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - b. subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - c. ☒ exempt from the deed recording fee because (See information sections of affidavit: 9 (If exempt, please skip items 4-7, and to item 8 of this affidavit).)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?
Check Yes or No

4. Check one of the following if either item 3(a) or item 3(b) above has been checked. (See information sections of affidavit):

- a. the fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$.
- b. the fee is computed on the fair market value of the realty which is _____.
- c. the fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes or No ☒ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement or realty after the transfer. If ☐ Yes, ☐ the amount of the outstanding balance of this lien or encumbrance is .

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	\$0.00
(b) Place the amount listed in item 5 above here:	
(If no amount listed, place zero here.)	\$
() Subtract Line 6(b) from Line 6(a) and place result here	\$0.00

7. The deed recording fee is based on the amount listed on Line 6 c above and the deed recording fee due is \$0.00.

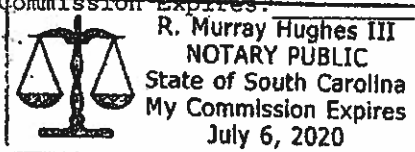
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: the grantee.

9. I further understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

John D. Sitton Jr.
Purchaser, Legal Representative of the
Purchaser, or other Responsible Person
Connected with the Transaction

SWORN to before me this 15th
day of September 2011.

Notary Public for South Carolina
My Commission Expires _____



INFORMATION

(Handwritten signature/initials)

110018194 9/23/2011 8k: 10162 Pg: 00279

* EXCEPT as provided in this paragraph, the term value means the consideration paid or to be paid in money or its worth for the realty. Consideration paid or to be paid in money or its worth includes, but is not limited to, other realty, stocks, personal property, bonds, partnership interest and other intangible property, the forgiveness or cancellation of debt, the assumption of a debt and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust beneficiary. Valued means the realty's fair market value. A deduction is allowed from this value for the amount of any lien or encumbrance existing on land, tenement, or realty before the transfer and remaining on it after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXEMPTIONS

Exemptions from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in the stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee, even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A family partnership is a partnership whose partners are all members of the same family. A family trust is a trust in which the beneficiaries are all members of the same family. Family means the grantor, the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendant of any of the above. A charitable entity means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing, or new partnership;
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, as long as no consideration is paid or is to be paid under the corrective or quitclaim deed;
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings.
- (14) transferring realty from and agent to the agent's principal in which realty was purchased with the funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty,
- (15) transferring title to facilities for transmitting electricity that is transferred, sold or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 USC Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

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110018194 9/23/2011 09:53:19 AM
FILED, RECORDED, INDEXED
8k: 10162 Pg: 00275 Pages: 005
Rec Fee: 10.00 St Fee: EXEMPT
Co Fee: EXEMPT
REGISTER OF DEEDS, ANDERSON CO, SC
Shirley McElhannon

WHITLOCK21-070/WHITLOCK

ELECTRONICALLY FILED - 2025 Feb 21 3:36 PM - ANDERSON - COMMON PLEAS - CASE#2023CP0400846

____ Space above this line for recording information _____

Thomas B. Peterman, PA 3113-A Hwy 153, Piedmont, SC 29673 (864) 295-2266

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

)
)
) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT, JOHN D. SITTON, JR. herein referred to as Grantor for and in consideration of the sum of TWENTY NINE THOUSAND FIVE HUNDRED AND 00/100 (\$29,500.00) Dollars to me paid by LESLEY WHITLOCK, hereinafter referred to as Grantee in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee, her heirs, successors, and assigns forever.

All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson being shown and designated as Tract "A", containing 1.71 acres, more or less, on plat prepared for "John D. Sitton, Jr", dated March 5, 2020 by Thomas E. Belcher Land Surveyor and recorded in Plat Book S2714 at Page 00008 in the Anderson County ROD Office. Reference is hereby made to said plat for a more complete and accurate metes and bounds description of said property.

This being a portion of the property conveyed to John D. Sitton, Jr. by deed of John D. Sitton, Jr. & Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton, deceased as shown in deed recorded on 9/23/11 in Book 10162 at Page 00275 in the Anderson County ROD Office.

TMS# 188-00-06-103

This conveyance is made subject to any and all existing reservations, easements, rights of way, zoning ordinances, setback lines, and restrictions or protective covenants that may appear of record, on the recorded plat(s), or on the premises of record, including matters shown on recorded plats.

Grantee Address:

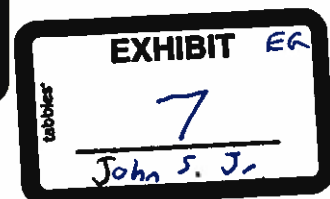
211 Andrea Circle, Apt. 14
Earley, SC 29642

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, her heirs, and assigns forever.

AND THE GRANTOR does hereby bind Grantor heirs, and the Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, her heirs and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

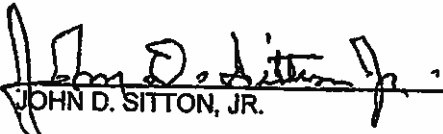
Purchaser will be responsible for rollback taxes.

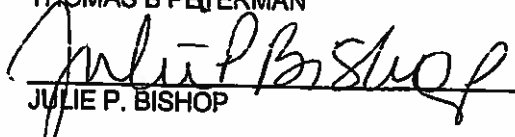


WITNESS my Hand and Seal this 31st day of March, in the year of our Lord 2021.

Signed, Sealed and Delivered
in the Presence of


THOMAS B. PETERMAN


JOHN D. SITTON, JR.

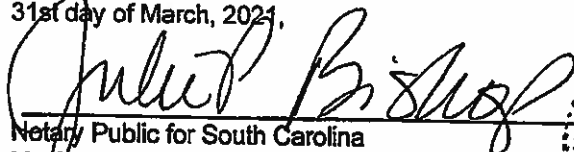

JULIE P. BISHOP

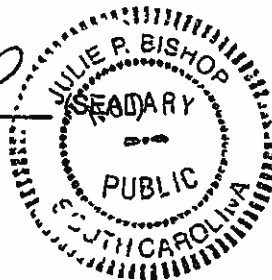
STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

ACKNOWLEDGMENT

I, the undersigned Notary Public, do certify that the within named JOHN D. SITTON, JR. personally appeared before me and having satisfactorily proven to be the person whose name is subscribed above, has acknowledged the due execution of the within instrument and the witnesses are not a party or beneficiary to the transaction.

SWORN to before me this
31st day of March, 2021,


Notary Public for South Carolina
My Commission Expires: 5/23/27



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON)

AFFIDAVIT

Page 1 of 2

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located at TRACT "A" ON SYRACUSE RD
bearing ANDERSON County Tax Map Number 188-00-06-103
by JOHN D. SITTON, JR., was transferred
by LESLIE WHITLOCK on 3/31/21 to _____

3. Check one of the following: The deed is

- (a) X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money=s worth.
- (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) X The fee is computed on the consideration paid or to be paid in money or money=s worth in the amount of 29,500.00
- (b) _____ The fee is computed on the fair market value of the realty which is _____
- (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5. Check Yes _____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If A Yes, @ the amount of the outstanding balance of this lien or encumbrance is: _____

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: 29,500.00
- (b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: 29,500.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording, fee due is: _____

8. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as: GRANTOR

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

John D. Sitton, Jr.
Responsible Person Connected with the Transaction

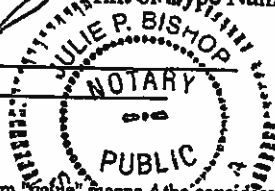
SWORN to before me this 31
day of March 2021

JOHN D SITTON, JR.

Print or Type Name Here

Notary Public for SC

My Commission Expires: 5/21/23



INFORMATION

Except as provided in this paragraph, the term "value" means the consideration paid or to be paid in money or money's worth for the realty. @ Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, Avalue@ means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A family partnership@ is a partnership whose partners are all members of the same family. A family trust@ is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. A family@ means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A charitable entity@ means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quit claim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quit claim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed-pursuant to foreclosure proceedings.
- (14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

210011185 4/01/2021 02:49:59 PM
FILED, RECORDED, INDEXED
BK: 15204 Pg: 00112 Pages: 004
Rec Fee: 15.00 St Fee: 76.70
Cd Fee: 32.45
REGISTER OF DEEDS, ANDERSON CO, SC
Mandy Reifel



ANDERSON COUNTY TREASURER
P.O. BOX 8002
ANDERSON, SC 29622
Jason Phillips, Treasurer
John Benca, Auditor
FORWARDING SERVICE REQUESTED

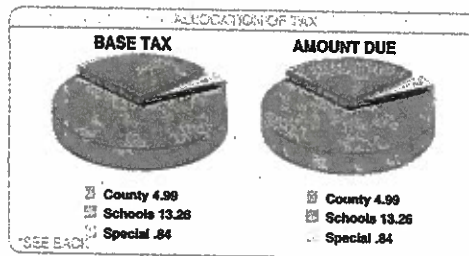
REAL PROP

73691

100048 1 AB 0.488 P:100048 / T:472 / S:



JOHN JR + RUTH R AS TRU SITTON
PO BOX 26361
GREENVILLE SC 29616-1361



TAXPAYER'S COPY

Notice of taxes due on the following described property for the fiscal year commencing January 1st. On 04/01/2022 all taxes due are in arrears.

ACCOUNT NUMBER	TOTAL ASSESSMENT	TAX YEAR	TAX LEVY
2022 7383788	60	2022	.31822
CO I.D. NUMBER	TAX DISTRICT	TAX MAP SHEET	
	100	188-00-06-021 000	
PROPERTY IDENTIFICATION		PROPERTY LOCATION	
SITTON RD 12.58 AC		SITTON RD 12.58 AC	
MORTGAGE COMPANY		TAXABLE VALUE	
		162,035	
CLASS	RATIO	NUMBER ACRES	NUMBER LOTS
A	.040	12.58	
LAND ASSESSMENT		NUMBER IMPROVEMENTS	
60			
IMPROVEMENT ASSESSMENT			
TOTAL		60	
12.58			

County Council is responsible for determining county operational budgets. The County Auditor leaves no taxes necessary to fund all approved budgets.

COUNTY	LEVY	BASE TAX	PLUS FEES	LESS EXEMPTION	SCHOOL TAX CREDIT	AMOUNT DUE
COUNTY OPERATIONS	.06350	3.80				3.80
BOND DEBT	.00180	.11				.11
LIBRARY SYSTEM	.00650	.39				.39
COUNTY EMS	.00640	.38				.38
CAP PROJ/INFRASTRUCT	.00510	.31				.31
County Total	.08330	4.99				4.99

School Districts are responsible for determining school budgets with approval by the County Board of Education and/or Legislative Delegation.

SCHOOLS	LEVY	BASE TAX	PLUS FEES	LESS EXEMPTION	SCHOOL TAX CREDIT	AMOUNT DUE
SCHOOL DISTRICT 1 OP	.15005	9.00				9.00
BOND DEBT	.03400	2.04				2.04
COUNTY SCHOOLS	.01770	1.06				1.06
CAREER & TECHNOLOGY	.01926	1.16				1.16
School Total	.22101	13.26				13.26

The Legislative Delegation, County Council, Municipal or Governing Boards are responsible for approval of budgets and setting taxes.

MUNICIPAL/SPECIAL DISTRICTS	LEVY	BASE TAX	PLUS FEES	LESS EXEMPTION	SCHOOL TAX CREDIT	AMOUNT DUE
FIRE	.00718	.43				.43
TRI COUNTY TEC	.00310	.19				.19
ECONOMIC DEVELOPMENT	.00300	.18				.18
WATERSHED	.00063	.04				.04
Agency/Special Total	.01391	.84				.84
TOTAL	.31822	19.09				19.09

SEE BACK

CURRENT YEAR BASE TAX AMOUNT	\$ 19.09
PRICER YEAR BASE TAX AMOUNT	

PAY THIS AMOUNT	19.09
After Jan. 15th 3% Penalty	19.66
After Feb. 1st 10% Penalty	21.00
After March 16th 15% Penalty & \$6.00 SW Fee	21.95

DETACH AT PERFORATION AND RETURN BOTTOM PORTION WITH PAYMENT

TAX COLLECTOR'S COPY

OWNER	ACCOUNT NUMBER
SITTON JOHN JR + RUTH R AS TRU	2022 7383788
CO I.D. NUMBER	TAX DISTRICT
188-00-06-021 000	100
TAX YEAR	2022
PROPERTY IDENTIFICATION	
SITTON RD 12.58 AC	
PAY THIS AMOUNT	19.09
After Jan. 15th 3% Penalty	19.66
After Feb. 1st 10% Penalty	21.00
After March 16th 15% Penalty & \$6.00 SW Fee	21.95

YOU CAN PAY YOUR TAXES ONLINE AT:
www.andersoncountysc.org

TAX RECEIPTS ARE NULL AND VOID
IF PAYMENT IS MADE WITH A CHECK
THAT FAILS TO CLEAR THE BANK.



ANDERSON COUNTY TREASURER
PO BOX 1658
ANDERSON SC 29622-1658

202200073837880000019090000019660000021000000021956



TMS:	1880006021	SITTON JOHN JR + RUTH R AS TRUSTEES	
Owner:	PO BOX 26361		
Owner Address:	GREENVILLE SC	Zip Code: 29616	
City/State:	1981	Deed Page: 46	
Deed Book:	100	Current Plat: CP 080/00246	
Tax District:	1994	Description: SITTON RD 12.58 AC	
Sale Year:		Sale Price: \$1 Market Value: \$162,280	



1 in = 3.19 ft

0 0.0325 0.065 0.13 mi

0 0.05 0.1 0.2 km

ESRI, Highland Mapping, and Anderson County GIS

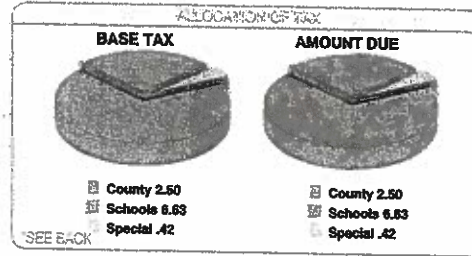


ANDERSON COUNTY TREASURER
P.O. BOX 8002
ANDERSON, SC 29622
Jason Phillips, Treasurer
John Benca, Auditor
FORWARDING SERVICE REQUESTED

REAL PROP

73826

100049 1 AB 0.488 P:100049 / T:472 / S:
|||||
JOHN D JR + RUTH R AS T SITTON
PO BOX 26361
GREENVILLE SC 29616-1361



TAXPAYER'S COPY

Notice of taxes due on the following described property for the fiscal year commencing January 1st. On March 16th all taxes go into execution.

ACCOUNT NUMBER	TOTAL ASSESSMENT	TAX YEAR	TAX LEVY
2022 7397288	30	2022	.31822
COID NUMBER	TAX DISTRICT	MARKET VALUE	TAX MAP SHEET
	100	77,280	188-00-11-008 000
PROPERTY IDENTIFICATION		PROPERTY LOCATION	
OLD MILL RD 6.44 AC		OLD MILL RD 6.44 AC	
MARKET VALUE		MARKET VALUE	
77,280			
CLASS	RATIO	NUMBER ACRES	NUMBER LOTS
A	.040	6.44	
TOTAL		6.44	30

County Council is responsible for determining county expenditures. The County Auditor issues the taxes necessary to fund all approved budgets.

COUNTY	LEVY	BASE TAX	PLUS FEES	LESS EXEMPTION	SCHOOL TAX CREDIT	AMOUNT DUE
COUNTY OPERATIONS	.06350	1.91				1.91
BOND DEBT	.00180	.05				.05
LIBRARY SYSTEM	.00650	.20				.20
COUNTY EMS	.00640	.19				.19
CAP PROJ/INFRASTRUCT	.00510	.15				.15
County Total	.08330	2.50				2.50

School Districts are responsible for determining school budgets with approval by the County Board of Education and/or Legislative Delegation.

SCHOOLS	LEVY	BASE TAX	PLUS FEES	LESS EXEMPTION	SCHOOL TAX CREDIT	AMOUNT DUE
SCHOOL DISTRICT 1 OP	.15005	4.50				4.50
BOND DEBT	.03400	1.02				1.02
COUNTY SCHOOLS	.01770	.53				.53
CAREER & TECHNOLOGY	.01926	.58				.58
School Total	.22101	6.63				6.63

The Legislative Delegation, County Council, Municipal or Governing Boards are responsible for approval of budgets and setting taxes.

MUNICIPAL/SPECIAL DISTRICTS	LEVY	BASE TAX	PLUS FEES	LESS EXEMPTION	SCHOOL TAX CREDIT	AMOUNT DUE
FIRE	.00718	.22				.22
TRI COUNTY TEC	.00310	.09				.09
ECONOMIC DEVELOPMENT	.00300	.09				.09
WATERSHED	.00063	.02				.02
Agency/Special Total	.01391	.42				.42
TOTAL	.31822	9.55				9.55

SEE BACK

CURRENT YEAR BASE TAX AMOUNT \$ **9.55**
PRIOR YEAR BASE TAX AMOUNT

PAY THIS AMOUNT

After Jan. 15th 3% Penalty	9.84
After Feb. 1st 10% Penalty	10.51
After March 16th 15% Penalty & \$6.00 SW Fee	10.98

DETACH AT PERFORATION AND RETURN BOTTOM PORTION WITH PAYMENT

TAX COLLECTOR'S COPY

OWNER	ACCOUNT NUMBER
SITTON JOHN D JR + RUTH R AS T	2022 7397288
COID NUMBER	TAX DISTRICT
188-00-11-008 000	100
TAX YEAR	2022
PROPERTY IDENTIFICATION	
OLD MILL RD 6.44 AC	
PAY THIS AMOUNT	
After Jan. 15th 3% Penalty	9.84
After Feb. 1st 10% Penalty	10.51
After March 16th 15% Penalty & \$6.00 SW Fee	10.98

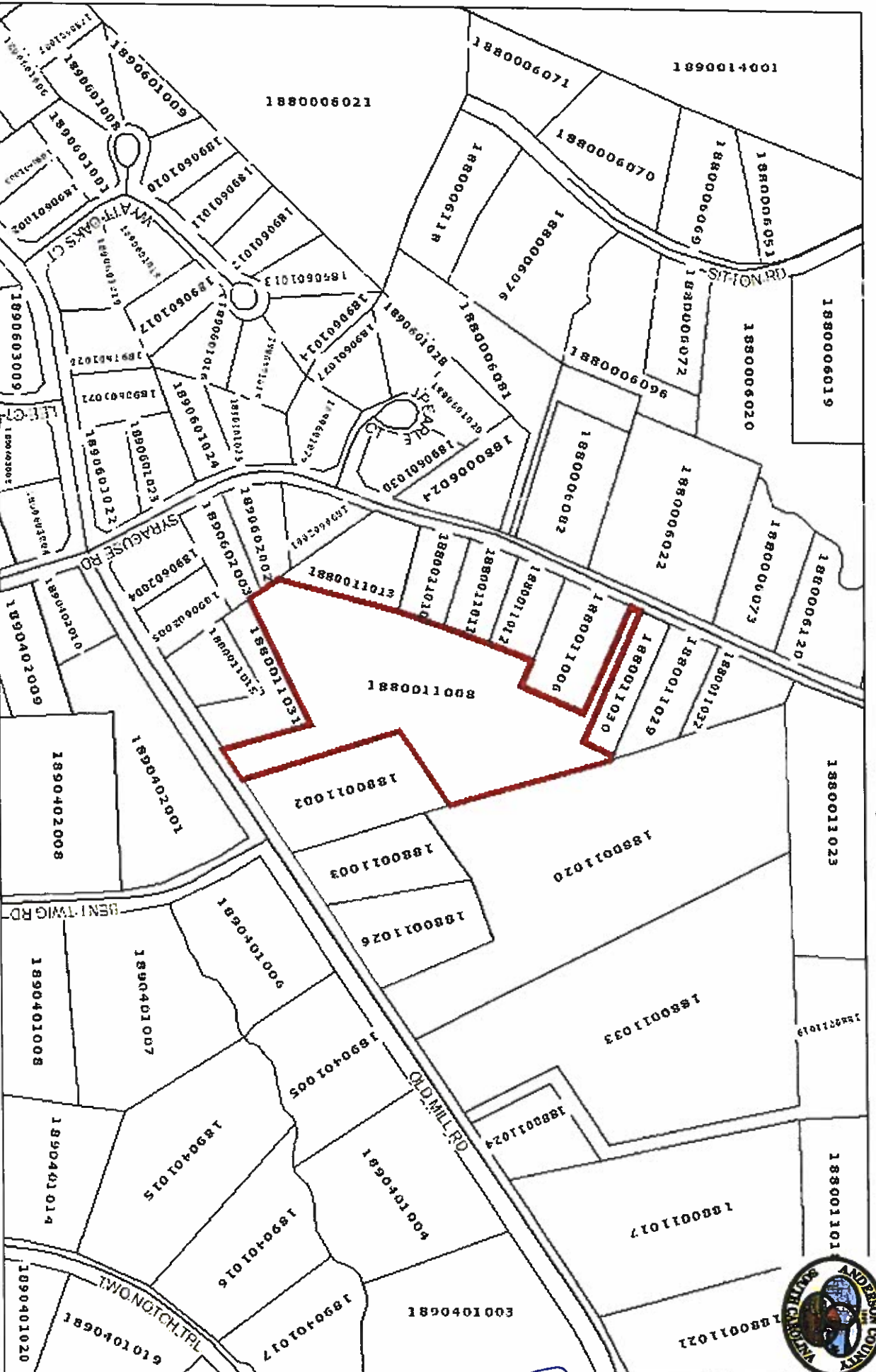
YOU CAN PAY YOUR TAXES ONLINE AT:
www.andersoncountysc.org

TAX RECEIPTS ARE NULL AND VOID IF PAYMENT IS MADE WITH A CHECK THAT FAILS TO CLEAR THE BANK.

|||||
ANDERSON COUNTY TREASURER
PO BOX 1658
ANDERSON SC 29622-1658



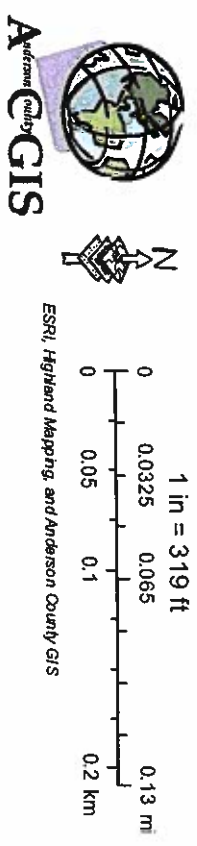
202200073972880000009550000009840000010510000010988



9 Jr. Depo

April 17, 2023 Disclaimer accepted.

TMS: 1880011008
Owner: SITTON JOHN D JR + RUTH RAS TRUSTEES
Owner Address: PO BOX 26361
City/State: GREENVILLE SC
Deed Book: 1981
Tax District: 100
Sale Year: 1994
Deed Page: 46
Description: OLD MILL RD 6.44 AC
Market Value: \$77,280
Sale Price: \$1



Anderson County GIS

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

) IN THE COURT OF COMMON PLEAS
) TENTH JUDICIAL CIRCUIT
) CASE #: 2023-CP-04-00846

JAMES C. SITTON, II, INDIVIDUALLY
AND AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF JOHN D. SITTON, AND
BETTY A. SITTON,

)
)
)
)
)
) PROCEEDS, SALE OF PROPERTY

PLAINTIFFS,

VS.

JOHN D. SITTON, JR., INDIVIDUALLY
AND AS FORMER TRUSTEE OF THE JOHN
D. SITTON TRUST, BRIAN K. JAMES AS
PERSONAL REPRESENTATIVE OF THE
ESTATE OF RUTH R. SITTON,

DEFENDANTS,

Year	Percentage of Respondents (%)
1990	65
1991	68
1992	70
1993	72
1994	75
1995	78
1996	80
1997	82
1998	85
1999	88
2000	90
2001	92
2002	95
2003	98
2004	85

1. To James and Kenneth Clinkscales: 2004, book 06497 page 170	\$11,000.00
2. To James Smith and Thomas Duncan: 2005, book 06689 page 00234	\$12,000.00
3. To Travis J. Davis: 2005, book 06711 page 00195	\$13,500.00
4. To Kenneth Clinkscales: 2006, book 07381 page 00115	\$12,000.00
5. John D. Sitton, Jr. 2011, book 10162 page 00275	\$ 0.00

Sold in two Tracts:

To Whitlock in 2021:	\$29,500.00
To Bradley in 2020:	\$14,000.00

Total: \$92,000.00

**PLAINTIFF'S
EXHIBIT**
13

____ Space above this line for recording information _____

Thomas B. Peterman, PA 3113-A Hwy 153, Piedmont, SC 29673 (864) 295-2266

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

)
)
) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT, JOHN D. SITTON, JR. herein referred to as Grantor for and in consideration of the sum of FOURTEEN THOUSAND AND 00/100 (\$14,000.00) Dollars to me paid by WESTON LEE BRADLEY, hereinafter referred to as Grantee in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee, his heirs, successors, and assigns forever:

All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson being shown and designated as Tract "B", containing 1.20 acres, more or less, on plat prepared for "John D. Sitton, Jr", dated March 5, 2020 by Thomas E. Belcher Land Surveyor and recorded in Plat Book ~~S2714~~ at Page 8 in the Anderson County ROD Office. Reference is hereby made to said plat for a more complete and accurate metes and bounds description of said property.

This being a portion of the property conveyed to John D. Sitton, Jr. by deed of John D. Sitton, Jr. & Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton, deceased as shown in deed recorded on 9/23/11 in Book 10162 at Page 00275 in the Anderson County ROD Office.

TMS# p/o 188-00-06-103

This conveyance is made subject to any and all existing reservations, easements, rights of way, zoning ordinances, setback lines, and restrictions or protective covenants that may appear of record, on the recorded plat(s), or on the premises of record, including matters shown on recorded plats.

Grantee Address:

198 PEPPER RD
EASLEY, SC 29642

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, his heirs, and assigns forever.

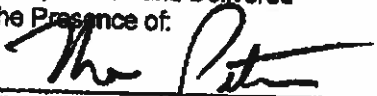
AND THE GRANTOR does hereby bind Grantor heirs, and the Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, his heirs, his heirs and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

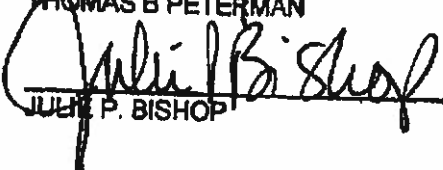
Purchaser will be responsible for any rollback taxes that may be assessed by Anderson County for the change of use of land.

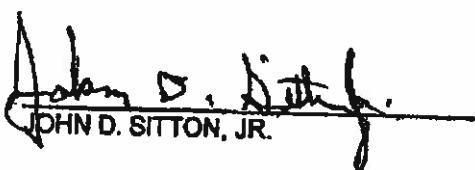


WITNESS my Hand and Seal this 9th day of October, in the year of our Lord 2020.

Signed, Sealed and Delivered
in the Presence of:


THOMAS B. PETERMAN


JULIE P. BISHOP

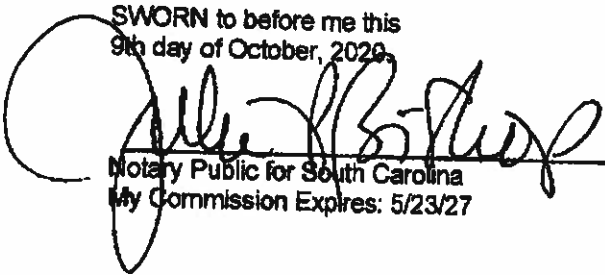

JOHN D. SITTON, JR.

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

ACKNOWLEDGMENT

I, the undersigned Notary Public, do certify that the within named John D. Sitton, Jr. personally appeared before me and having satisfactorily proven to be the person whose name is subscribed above, has acknowledged the due execution of the within instrument and the witnesses are not a party or beneficiary to the transaction.

SWORN to before me this
9th day of October, 2020.


Notary Public for South Carolina
My Commission Expires: 5/23/27



STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

AFFIDAVIT

Page 1 of 2

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located at TRACT "B" on Syracuse Rd
bearing Anderson County Tax Map Number p/o 188-00-06-103
by John D. Sitton, Jr., was transferred
Weston Lee Bradley on 10/9/20 to

3. Check one of the following: The deed is

- (a) X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) exempt from the deed recording fee because (See Information section of affidavit):

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of 14,000.00
- (b) The fee is computed on the fair market value of the realty which is
- (c) The fee is computed on the fair market value of the realty as established for property tax purposes which is

5. Check Yes _____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If A Yes, @ the amount of the outstanding balance of this lien or encumbrance is:

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: 14,000.00
- (b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: 14,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording, fee due is: 51.808. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

John D. Sittler Jr.
Responsible Person Connected with the Transaction

SWORN to before me this 9
day of October 2020

John D. Sittler Jr.
Print of Name Here

Notary Public for SC

My Commission Expires: 5/23/27

INFORMATION

Except as provided in this paragraph, the term "value" means the consideration paid or to be paid in money or money's worth for the realty. Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, Avalue@ means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A family partnership@ is a partnership whose partners are all members of the same family. A family trust@ is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. A family@ means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A charitable entity@ means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quit claim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quit claim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed-pursuant to foreclosure proceedings;
- (14) transferring realty from an agent to the agent's principal in which the realty was previously purchased by the agent and a notarized document is also filed with the deed that establishes the fact that the agent and purchaser as well as for the purpose of purchasing the realty.
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or conveyed to a limited liability company, electric cooperatives, or political subdivisions to a limited liability company Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take assets as defined in the Federal Power Act.

200028853 10/14/2020 11:38:22 AM

FILED, RECORDED, INDEXED

Bk: 14830 Pg: 111 Pages: 4

Rec Fee: 15.00 St Fee: 36.40

Co Fee: 15.40

REGISTER OF DEEDS, ANDERSON CO, SC

Wendy Reffel

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No.: 2018-CP-39-01296

James C. Sitton, individually and as
Successor Trustee of Ruth R. Sitton, and
Dorothy Sitton Ashley, individually and as
Primary Trustee of Ruth R. Sitton, Dale
Sitton Rogers, and Betty A. Sitton,

Petitioners,

v.

John D. Sitton, Jr., and Kenneth Roper,

Respondents.

ORDER

This matter comes before the Court upon transfer from the Pickens County Probate Court to determine the validity and effect of a trust deed. This matter was originally scheduled for April 29, 2020, but with consent of the parties the matter was rescheduled for May 6, 2020 and was conducted pursuant to the Order of the South Carolina Supreme Court for the "Operation of the Trial Courts During the Coronavirus Emergency" issued on April 3, 2020 (as amended) (hereinafter "Emergency Order"). The parties consented to holding the hearing via telephone without a Court Reporter. Participating in the hearing were Joseph Plaxco for Petitioners and James S. Easkes for participating Respondents.

The Probate Court was handling various matters relating to the Estate and Trust of Ruth R. Sitton when the Court held a hearing and found that it did not have jurisdiction to make a determination as to the validity a deed which purportedly set up a trust for Ruth R. Sitton for a one-half interest in property located at 303 North B. Street, Easley, South Carolina. In its Order of October



31, 2018, the Probate Court transferred this sole issue to Circuit Court to determine the validity of the deed in issue.

The record establishes that on May 7, 1987, John D. Sitton executed a deed, recorded in Deed Book 11, Page 279 of the Pickens County Register of Deeds, which designates the grantee as: "Dorothy Sitton Ashby, Trustee for Ruth R. Sitton, with authority to convey, her successors and/or assigns, my one-half undivided interest" in the subject property. Subsequently on July 9, 1987, John D. Sitton executed a corrective deed merely to correct the name of the trustee and the grantee was designated as "Dorothy Sitton Ashley, Trustee for Ruth R. Sitton, with authority to convey, her successors and/or assigns, my one-half undivided interest". This deed was recorded with the Pickens County Register of Deeds in Deed Book 15, Page 313. In the Probate Court proceedings, the parties raised the issues of the validity of the referenced deeds and the interest which they conveyed, if any.

Even though the deeds met the formal requirements to record a deed, there is no evidence of any other document which sets up a trust for Ruth R. Sitton for this property. To create a trust, South Carolina Code §62-7-402 requires: (1) the settlor has capacity to create a trust; (2) the settlor indicates an intention to create the trust; (3) the trust has a definite beneficiary; (4) the trustee has duties to perform; and (5) the same person cannot be sole trustee and beneficiary. Prior decisions by South Carolina Courts have held that the creation of a trust requires (1) declaration of creating the trust; (2) the trust res; and (3) designated beneficiaries and (4) it must be in writing if the property includes realty. See Whetstone v. Whetstone, 309 S.C. 227, 231, 420 S.E.2d 877, 879 (Ct. App. 1992). There is no evidence to support that any of these requirements have been met to establish a trust.

It is undisputed that the only documents which in anyway relates to this purported trust are the referenced deeds. The South Carolina Court of Appeal addressed a similar issue in Foster v. Foster, 384 S.C. 380 (2009) where an individual executed a deed to his daughter as trustee while

reserving a life estate for himself. In Foster, the Court found that there was no document which created a trust prior to the conveyance to the daughter as trustee, therefore, the deed was invalid "because it designates a grantee that does not exist." In the case before this Court, like Foster, the conveyance to "Dorothy Ashley Sitton, Trustee" was to a non-existing grantee at the time the deed was executed and anytime since then. Therefore, the Court finds that the Corrective Deed executed on July 9, 1987 and the initial deed executed on May 7, 1987 deed as referenced above would be void *ab initio* and no trust was created by said deeds. This matter is remanded back to Probate Court for further proceedings.

IT IS SO ORDERED.

May 18, 2020

Signature Page of Judge Perry H. Gravely to follow



Pickens Common Pleas

Case Caption: Ruth R (Deceased) Sitton VS , defendant, et al

Case Number: 2018CP3901296

Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2020-05-18 14:48:12 page 4 of 4

099043383 12/09/1999 R03588 P00089

ROBINSON LAW FIRM, P.A.

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, That JOHN D. SITTON, JR. and RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, in the State aforesaid, in consideration of the sum of ONE DOLLAR AND NO OTHER CONSIDERATION (\$1.00) Dollar, to it in hand paid at and before the sealing of these presents, by JAMES C. SITTON, II. in the State aforesaid, (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released, and by these Presents does, grant, bargain, sell and release, unto the said

JAMES C. SITTON, II. His Heirs and Assigns, forever:

503 South B St
Easley, SC 29640

All that certain piece, parcel, or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract #5, containing 9.685 acres, more or less, located on the western side of Syracuse Road, according to a plat dated December 16, 1997 and prepared by Robert R. Spearman for John D. Sitton, said plat being recorded in Anderson County Plat Book 876 at Page 3, reference to the recorded plat being made and incorporated herein for a more complete description of the property herein conveyed.

This is a portion of the property conveyed John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by Deed of Distribution from the Estate of John D. Sitton dated October 20, 1994 and recorded October 31, 1994 at the RMC Office for Anderson County, South Carolina in Deed Book 1981 at Page 046.

This property is conveyed subject to the restrictions recorded at the Register of Deeds Office for Anderson County, South Carolina in Deed book 2923 at Page 157.

TOGETHER with all and singular the Rights, Members, Hereditaments, and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said JAMES C. SITTON, JR. his Heirs and Assigns forever.

And the said JOHN D. SITTON and RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, does hereby bind itself and its successors, to warrant and forever defend all and singular the said premises unto the said DALE S. ROGERS, her Heirs and Assigns, against itself and its successors and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

DEFENDANT'S
EXHIBIT

099043383 12/09/1999 803588 P00090

IN WITNESS WHEREOF JOHN D. SITTON and RUTH R. SITTON, AS TRUSTEES
 UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, has caused these
 presents to be executed in its name by JOHN D. SITTON, JR. And RUTH R. SITTON, AS
 TRUSTEES this 1st day of September in the year of our Lord, one
 thousand nine hundred and ninety-nine, and in the two hundred and twenty-second year of the
 Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
 in the Presence of

Jammi B. Schneider
Jane B. Hester

By: John D. Sitton, Jr.
 John D. Sitton, Jr., Trustee
 By: Ruth R. Sitton
 Ruth R. Sitton - Trustee

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw
 the within named grantor sign, seal and as the grantor's act and deed, deliver the within
 written deed and that (s)he, with the other witness subscribed above, witnessed the execution
 thereof.

SWORN to before me this 1st
 day of September, 1999.

Jane B. Hester
 Notary Public for South Carolina
 My Commission expires: 9/16/01

Jammi B. Schneider

099043383 12/09/1999 01:12:04PM
 FILED, RECORDED, INDEXED
 Bk:03588 Pg:00089 Pages:2
 Rec Fee:10.00 St Fee:0.00
 Co Fee:0.00
 REGISTER OF DEEDS, ANDERSON CO, SC
 Shirley McElhannon



Welcome to:

ACPASS

"Anderson County Public Access System and Services"

REAL PROPERTY

TAXES

FINANCES

COURTS

PERMITS

FORMS

Main=>Real Property=>Deed Search=>Select Record=>Deed Detail

		HISTORY DETAIL					
Inst #:	1999 099043383	File Date:	12/09/1999 13:12:00		Amount:		
Type:	DEED	Book/Page:	03588 00089		Last Modified:	12/09/1999	
SITTON, JOHN D JR TR				GRANTOR			
SITTON, JAMES C II				GRANTEE			
SITTON, RUTH R TR				GRANTOR			
DESCRIPTION							
TRACT 5 9.685 AC AND CO							
IMAGES							
View Images							

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099043382 12/09/1999 R03588 P00087

ROBINSON LAW FIRM, P.A.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, That JOHN D. SITTON, JR. and RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, in the State aforesaid, in consideration of the sum of ONE DOLLAR AND NO OTHER CONSIDERATION (\$1.00) Dollar, to it in hand paid at and before the sealing of these presents, by DALE S. ROGERS, in the State aforesaid, (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released, and by these Presents does, grant, bargain, sell and release, unto the said

DALE S. ROGERS, her Heirs and Assigns, forever:

205 Pine St
 New Ellenton, SC 29809

All that certain piece, parcel, or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract #3, containing 9.684 acres, more or less, located on the northwest side of Old Mill Road, according to a plat dated December 16, 1997 and prepared by Robert R. Spearman for John D. Sitton, said plat being recorded in Anderson County Plat Book 876 at Page 3, reference to the recorded plat being made and incorporated herein for a more complete description of the property herein conveyed.

This is a portion of the property conveyed John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by Deed of Distribution from the Estate of John D. Sitton dated October 20, 1994 and recorded October 31, 1994 at the RMC Office for Anderson County, South Carolina in Deed Book 1981 at Page 046.

This property is conveyed subject to the restrictions recorded at the Register of Deeds Office for Anderson County, South Carolina in Deed book 2923 at Page 157.

TOGETHER with all and singular the Rights, Members, Hereditaments, and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said DALE S. ROGERS, her Heirs and Assigns forever.

And the said JOHN D. SITTON and RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, does hereby bind itself and its successors, to warrant and forever defend all and singular the said premises unto the said DALE S. ROGERS, her Heirs and Assigns, against itself and its successors and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

DEFENDANT'S
 EXHIBIT

2

099043382 12/09/1999 B03588 P00088

IN WITNESS WHEREOF JOHN D. SITTON and RUTH R. SITTON, AS TRUSTEES
 UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, has caused these
 presents to be executed in its name by JOHN D. SITTON, JR. And RUTH R. SITTON, AS
 TRUSTEES this 1st day of September in the year of our Lord, one
 thousand nine hundred and ninety-nine, and in the two hundred and twenty-second year of the
 Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
 in the Presence of

Jamie B. Schneider
Jane B. Schneider

By: John D. Sitton, Jr.
 John D. Sitton, Jr. - Trustee
 By: Ruth R. Sitton
 Ruth R. Sitton - Trustee

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw
 the within named grantor sign, seal and as the grantor's act and deed, deliver the within
 written deed and that (s)he, with the other witness subscribed above, witnessed the execution
 thereof.

SWORN to before me this 1st
 day of September, 1999.

Jane B. Schneider
 Notary Public for South Carolina
 My Commission expires: 9/16/04

Jamie B. Schneider

099043382 12/09/1999 01:11:55PM
 FILED, RECORDED, INDEXED
 BK:03588 Pg:00087 Pages:2
 Rec Fee:10.00 St Fee:0.00
 Co Fee:0.00
 REGISTER OF DEEDS, ANDERSON CO, SC
 Shirley McElhannon



Welcome to:

ACPASS

"Anderson County Public Access System and Services"

REAL PROPERTY

TAXES

FINANCES

COURTS

PERMITS

FORMS

Main=>Real Property=>Deed Search=>Select Record=>Deed Detail

HISTORY DETAIL

		HISTORY DETAIL					
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Type:	DEED	Book/Page:	03588 00087		Last Modified:	12/09/1999	
SITTON, JOHN D JR TR					GRANTOR		
SITTON, RUTH R TR					GRANTOR		
ROGERS, DALE S					GRANTEE		
DESCRIPTION							
TRACT 3 9.684 AC AND CO							
IMAGES							
View Images							

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099037622 10/18/1999 B03536 P00232

ROBINSON LAW FIRM, P.A.

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, That JOHN D. SITTON, JR. and RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, in the State aforesaid, in consideration of the sum of ONE DOLLAR AND NO OTHER CONSIDERATION (\$1.00) Dollar, to it in hand paid at and before the sealing of these presents, by JOHN D. SITTON, JR. in the State aforesaid, (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released, and by these Presents does, grant, bargain, sell and release, unto the said

JOHN D. SITTON, JR., his Heirs and Assigns, forever:

803 S B. St

Eastly, N. 29640

All that certain piece, parcel, or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract #4, containing 9.690 acres, more or less, located on the eastern side of Syracuse Road, according to a plat dated December 16, 1997 and prepared by Robert R. Spearman for John D. Sitton, said plat being recorded in Anderson County Plat Book 876at Page 3, reference to the recorded plat being made and incorporated herein for a more complete description of the property herein conveyed.

This is a portion of the property conveyed John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by Deed of Distribution from the Estate of John D. Sitton dated October 20, 1994 and recorded October 31, 1994 at the RMC Office for Anderson County, South Carolina in Deed Book 1981 at Page 046.

This property is conveyed subject to the restrictions recorded at the Register of Deeds Office for Anderson County, South Carolina in Deed book 2923 at Page 157.

TOGETHER with all and singular the Rights, Members, Hereditaments, and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said JOHN D. SITTON, JR. his Heirs and Assigns forever.

And the said JOHN D. SITTON and RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, does hereby bind itself and its successors, to warrant and forever defend all and singular the said premises unto the said JOHN D. SITTON, JR., his Heirs and Assigns, against itself and its successors and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

DEFENDANT'S
EXHIBIT

3

099037622 10/18/1999 003536 P00233

IN WITNESS WHEREOF JOHN D. SITTON and RUTH R. SITTON, AS TRUSTEES
 UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, has caused these
 presents to be executed in its name by JOHN D. SITTON, JR. And RUTH R. SITTON, AS
 TRUSTEES this 1st day of September in the year of our Lord, one
 thousand nine hundred and ninety-nine, and in the two hundred and twenty-second year of the
 Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
 in the Presence of

W. Robinson
Dee B. Hines

By: John D. Sitton, Jr.
 John D. Sitton, Jr. - Trustee
 By: Ruth R. Sitton
 Ruth R. Sitton - Trustee

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw
 the within named grantor sign, seal and as the grantor's act and deed, deliver the within
 written deed and that (s)he, with the other witness subscribed above, witnessed the execution
 thereof.

SWORN to before me this 1st
 day of September, 1999.

Dee B. Hines
 Notary Public for South Carolina
 My Commission expires: 9/16/04

W. Robinson

099037622 10/18/1999 01:13:34PM
 FILED, RECORDED, INDEXED
 Bk: 03536 Pg: 00232 Pages: 2
 Rec Fee: 10.00 St Fee: 10.00
 Co Fee: 0.00
 REGISTER OF DEEDS, ANDERSON CO, SC
 Shirley McElhannon



Welcome to:

ACPASS

"Anderson County Public Access System and Services"



REAL PROPERTY

TAXES

FINANCES

COURTS

PERMITS

FORMS

Main=>Real Property=>Deed Search=>Select Record=>Deed Detail

HISTORY DETAIL					
Inst #:	1999 099037622	File Date:	10/18/1999 13:13:00	Amount:	
Type:	DEED	Book/Page:	03536 00232	Last Modified:	10/18/1999
SITTON, RUTH R TR			GRANTOR		
SITTON, JOHN D JR TR			GRANTOR		
SITTON, JOHN D EST			GRANTOR		
SITTON, JOHN D JR			GRANTEE		
DESCRIPTION					
TRACT 4 9.690 AC AND CO					
IMAGES					
View Images					

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98011385 04/14/1998 B2923 P159

OLSON, SMITH, JORDAN & COX, P.A.
Attorney At Law
Post Office Box 1026
Easley, South Carolina 29641

TITLE TO REAL ESTATE

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

KNOW ALL MEN BY THESE PRESENTS:

That We, JOHN D. SITTON, JR. AND RUTH R. SITTON, AS TRUSTEES UNDER THE LAST WILL AND TESTAMENT OF JOHN D. SITTON, in the State aforesaid, in consideration of the sum of ONE DOLLAR (\$1.00) AND NO OTHER CONSIDERATION to the grantors in hand paid at and before the sealing of these presents by the grantee, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said DOROTHY S. ASHLEY, her heirs and assigns forever, all of our right, title and interest in and to:

ALL that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County Anderson, located on Old Mill Road and Syracuse Road, being known and designated as Tract #1, containing 9.686 acres, more or less, according to plat prepared by Robert R. Spearman for John D. Sitton, dated December 16, 1997, said plat being recorded in Plat Slide 876, at Page 349 in the Office of the Anderson County Register of Deeds, reference being made to said recorded plat for a more complete and accurate description.

The above described property is subject to any and all easements and/or rights of way for roads, utilities, drainage, etc. as may appear of record and/or on the premises and to any and all restrictions covenants or zoning ordinances affecting such property as may appear of record. The above described property is specifically subject to those certain Restrictive Covenants recorded in Deed Book 2923, at Page 157 in the Office of the Anderson County Register of Deeds.

**DEFENDANT'S
EXHIBIT**

4

98011385 04/14/1998 B2923 P160

This is a portion of the property conveyed to John D. Sitton, Jr. and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton by Deed of Distribution from the Estate of John D. Sitton, dated October 20, 1994 and recorded October 31, 1994 at the Register of Deeds Office for Anderson County, South Carolina, in Deed Book 1981, at Page 46.

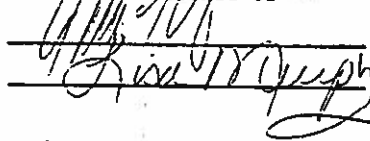
TOGETHER with all and Singular the Rights, Members, Hereditments and Appurtenances to the said premises, belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the grantee hereinabove named, and her heirs and assigns forever.

And the grantors do hereby bind the grantors and the grantors' Successors and Assigns to warrant and forever defend all and singular the said premises unto the grantee hereinabove named, and the grantee's Heirs and Assigns against the grantors and the grantor's Successors and Assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Witness the grantors' hands and seals this 31st day of March in the year of our Lord One Thousand Nine Hundred and Ninety Eight.

Signed, Sealed and Delivered
in the Presence of


John D. Sitton, Jr., Trustee

Trustees of the Last Will
and Testament of John D. Sitton

By: 
John D. Sitton, Jr., Trustee

By: 
Ruth R. Sitton, Trustee



Welcome to:

ACPASS

"Anderson County Public Access System and Services"

REAL PROPERTY

TAXES

FINANCES

COURTS

PERMITS

FORMS

Main=>Real Property=>Deed Search=>Select Record=>Deed Detail

HISTORY DETAIL

		HISTORY DETAIL					
Inst #:	1998 098011385	File Date:	4/14/1998 13:22:00		Amount:		
Type:	DEED	Book/Page:	02923 00159		Last Modified:	4/14/1998	
SITTON, RUTH R TR					GRANTOR		
SITTON, JOHN D EST					GRANTOR		
SITTON, JOHN D JR TR					GRANTOR		
ASHLEY, DOROTHY S					GRANTEE		
DESCRIPTION							
TRACT 1 9.686 AC AND CO							
IMAGES							
View Images							

Legal Disclaimer - HELP - Privacy Disclaimer

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

In Re: Ruth R. Sitton, Deceased

James C. Sitton, individually and as
Successor Trustee of Ruth R. Sitton, and
Dorothy Sitton Ashley, individually and as
Primary Trustee of Ruth R. Sitton, Dale
Sitton Rogers, and Betty A. Sitton

Petitioners,

-vs-

John D. Sitton, Jr., and Kenneth Roper,

Respondents.

IN THE PROBATE COURT



AMENDED
SUMMONS

C/A No.: 2017-GC-39-00036

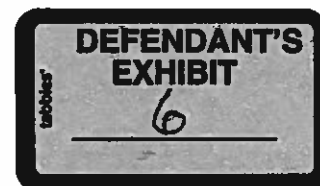
TO: THE RESPONDENTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Petition in this action, a copy of which is herewith served upon you and which is filed in the office of the Clerk of this Court this same date and to serve a copy of your Answer to the Petition upon the subscriber at 707 East North Street, Greenville, South Carolina, 29601, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Petition within that time, the Petitioner will be awarded a default judgment against you for the relief demanded in the Petition.

JOSEPH M. PLAXCO, LLC

Joseph M. Plaxco (SC Bar No. 100975)
707 East North Street
Greenville, South Carolina 29601
(864) 240-9112 (telephone)
(864) 232-7707 (fax)
joseph.plaxco@plaxcolaw.com

Greenville, South Carolina
Dated this 10th day of December, 2017



STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

In Re: Ruth R. Sitton, Deceased

James C. Sitton, individually and as
Successor Trustee of Ruth R. Sitton,
Dorothy Sitton Ashley, individually and as
Primary Trustee of Ruth R. Sitton, Dale
Sitton Rogers, and Betty A. Sitton,

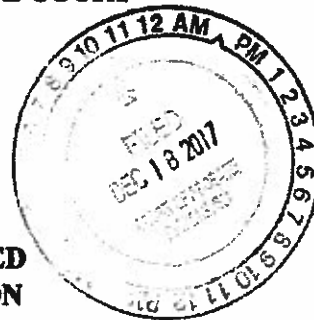
Petitioners,

-vs-

John D. Sitton, Jr., and Kenneth Roper,

Respondents.

IN THE PROBATE COURT



**AMENDED
PETITION**

C/A No.: 2017-GC-39-00036

The Petitioners would respectfully show unto this Court as follows:

JURISDICTIONAL STATEMENTS

1. Petitioner James C. Sitton, son of Ruth R. Sitton, Deceased ("the Decedent"), is a resident of Greenville, South Carolina, and he is the successor trustee of Petitioner Dorothy Sitton Ashley of the trust that is the subject of this civil action and which is described in more detail below.
2. Petitioner Dorothy Sitton Ashley is a resident of Charleston County, South Carolina, and she is the adult daughter of the Decedent. Dorothy Sitton Ashley was named as the primary trustee of the the trust that is the subject of this civil action and which is described more in detail below. Dorothy Sitton Ashley is informed and believes that she is no longer the trustee of said trust after she transferred it to James C. Sitton; but she is nonetheless named as a petitioner in this action, as Primary Trustee, in the event that her trusteeship was not succeeded by James'.
3. The Petitioner Dale Sitton Rogers is a resident of Halifax County, North Carolina and is the adult daughter of the Decedent.
4. The Petitioner Betty A. Sitton is a resident of Greenville County, South Carolina and is the

adult daughter of the Decedent.

5. The Respondent John D. Sitton, Jr. is a resident of Pickens County, South Carolina and is the adult son of the Decedent. John is a party to this action by virtue of his interest in the real property that is the subject of this action and in the Decedent's Estate.
6. The Respondent Kenneth Roper is the Personal Representative of the Estate of Ruth R. Sitton

STATEMENT OF THE FACTS

7. The Decedent died on May 25, 2013. Her Estate is being probated in the Pickens County Probate Court under File No. 2013ES3900478.
8. The Estate owns a one-half interest in real property located at 303 North B Street, Easley, South Carolina, 29640, and which is described in more detail on Exhibit A attached hereto (the "real property").
9. The other one-half interest in the real property is owned in trust by "Dorothy Sitton Ashley, Trustee for Ruth R. Sitton, with authority to convey [said property]." See Deed of John D. Sitton to Dorothy Sitton Ashley, Trustee, attached hereto as Exhibit B.
10. Of the one-half interest in the real property that is owned by the Estate, Decedent's Last Will and Testament provides that upon her death the property shall be distributed to Decedent's children (or the Trustee of a child), subject, however, to the following provision: "Any of my children who are occupying my home as his or her principal residence at the time of my death shall have the right to continue to occupy my home as his or her principal residence until my estate is closed or my home is sold, whichever event last occurs."
11. The Petitioners James C. Sitton and Dorothy Ashley Sitton, as Successor Trustee and Primary Trustee, respectively, wish to convey the trust's interest to James C. Sitton, individually, Dorothy Ashley Sitton, individually, and Dale Sitton Rogers.
12. Upon information and belief, John has been residing in the home and is using it as his primary principal residence since approximately 1997 or 1998.
13. Upon information and belief, John has directly caused injury and waste to the real property during his residency there. Upon information and belief, such injury and waste includes, but is not limited to, allowing and not addressing mold infestation in the basement and first floor bedroom wing and the family room/den; extensive disregard of the yard and trash debris

therein; cluttering the home with various personal property items; neglecting to keep the interior and exterior of the home in a reasonably clean condition; and failing to comply with the previous homeowners insurance policy such Petitioner James C. Sitton was required to obtain alternate homeowners insurance.

**FOR A FIRST CAUSE OF ACTION
(Approval of Trust Transaction)**

14. All prior allegations of this Complaint are realleged where not inconsistent with this cause of action.
15. Petitioners James C. Sitton and Dorothy Sitton Ashley, as Successor and Primary Trustees, respectively, are informed, allege, and believe that they are entitled to an order of this Court approving the transaction of conveyance for one-half of the property located at 303 North B Street, Easley, South Carolina and which is in trust as set forth above and as contained in Exhibit B. Specifically, Petitioners James C. Sitton and Dorothy Sitton Ashley, as Successor and Primary Trustees, are informed, allege and believe that they are entitled, as trustees, to convey the property to James C. Sitton, individually, Dorothy Sitton Ashley, individually, and Dale Sitton Rogers.

**FOR A SECOND CAUSE OF ACTION
(Partition)**

16. All prior allegations of this Complaint are realleged where not inconsistent with this cause of action.
17. Upon approval of the conveyance from the trustees to James C. Sitton, individually, Dorothy Ashley Sitton, individually, and Dale Sitton Rogers, as set forth above, James C. Sitton, individually, Dorothy Sitton Ashley, individually, and Dale Sitton Rogers will be tenants in common with the other one-half interest of the Estate of Ruth R. Sitton.
18. The Petitioners are informed, believe and therefore allege that the Property is incapable of division in kind between the owners.
19. The Petitioner, James C. Sitton, has expended funds to pay the real estate taxes, insurance, repairs and maintenance on the Property that shall be determined at a later date and pending this action.

20. All Petitioners are informed, believe and therefore allege that they are entitled to a partition of the property pursuant to the statutory and common law of the state of South Carolina, as well as the applicable rules of court procedure.
21. Petitioner James C. Sitton is further informed, believes and alleges that credit should be given to him for the sums expended by him for taxes, insurance, repairs and other maintenance costs, as well as payment of their attorney's fees and costs, all to be paid from the proceeds of the sale, before distribution to the other parties.

FOR A THIRD CAUSE OF ACTION
As to Respondent John D. Sitton, Jr.
(Waste)

22. All prior allegations of this Complaint are realleged where not inconsistent with this cause of action.
23. Upon information and belief, Respondent John D. Sitton, Jr. by way of his action(s), inaction(s), negligence, and willfulness has caused injury and damages to the Property as set forth in detail in Paragraph 13 above.
24. Upon information and belief, the Petitioners are entitled to an order of this Court finding that Respondent John D. Sitton, Jr. has allowed waste to the Property and he shall be financially responsible for the damages and/or injury to the Property that he caused, as well as pay attorneys fees, costs, and punitive damages.

WHEREFORE, having full plea, the Petitioners pray for the following relief:

- A. For an order of this Court approving the transaction as set forth in the First Cause of Action herein;
- B. For an order of the Court approving the partition of the Property upon approval of the transaction as set forth in the Second Cause of Action herein;
- C. For an order of this Court finding that John D. Sutton has allowed the property be damaged by way of waste and that he shall be financially responsible for the waste he has caused to the Property;
- D. For attorneys fees, the costs of this action, punitive damages; and

E. Whatever further relief the Court finds to be just and proper.

Respectfully submitted,

JOSEPH M. PLAXCO, LLC



Joseph M. Plaxco (SC Bar No. 100975)

707 East North Street

Greenville, South Carolina 29601

(864) 240-9112 (telephone)

(864) 232-7707 (fax)

joseph.plaxco@plaxcolaw.com

Greenville, South Carolina

Dated this 10th day of December, 2017

Exhibit A

ALL that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Pickens, in the City of Easley, on the West side of North "B" Street (formerly King Street), said lot being in shape of a rectangle with a frontage on the street of 1.58 chains and a depth of 3.16 chains, said lot being identified as Lot Thirteen (13) as shown by Plat of J.A. Robinson, Surveyor, dated August 25, 1906, and recorded in the Book of Deeds RR, at Page 125, Pickens County, South Carolina.

ALSO: All that certain piece, parcel or lot of land, situate, lying and being in the State of South Carolina, County of Pickens, in the City of Easley, on the West side of North "B" Street (formerly King Street), immediately to the northwest of the lot above described, being all of Lot No. Twelve (12) as shown on a plat of J.A. Robinson, Surveyor, dated August 25, 1906, of record in Book of Deeds RR, at Page 125, Pickens County, South Carolina, less that portion conveyed by J.D. Rogers to Jack H. Burrell as shown on plat of John C. Smith and J. Coke Smith, Surveyors, dated August 29, 1951, said deed being recorded in Book of Deeds 7-D, at Page 87.

Said property is subject to any and all existing rights of way for roads, utilities, and other easements that may appear of record and/or on the premises, including Restrictions, if any, governing this property.

CORRECTIVE DEED

N. T. C. Book 15 Page 313
 TITLE TO REAL ESTATE ACKER, ACKER, FLOYD & WELMAKER, ATTORNEYS-AT-LAW, PICKENS, S.C. 29671

STATE OF SOUTH CAROLINA
PICKENS COUNTY

303 North B Street
 Easley, SC 29640

That I, **JOHN D. SITTON** Know All Men By These Presents:

In consideration of the sum of One Dollar and Correction of Deed recorded in Deed Book 11, page 279,
 to the grantor(s) in hand paid at and before the sealing of these presents by the grantor(s) (the receipt whereof is hereby acknowledged, have
 granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said **Dorothy Sitton**
Ashley, Trustee for **Ruth R. Sitton**, with authority to convey, her successors and/or assigns,
 my one-half undivided interest, in and to:

"ALL that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Pickens, in the City of Easley, on the West side of North "B" Street (formerly King Street), said lot being in shape of a rectangle with a frontage on the street of 1.58 chains and a depth of 3.16 chains, said lot being identified as Lot Thirteen (#13) as shown by Plat of J. A. Robinson, Surveyor, dated August 25, 1906, and recorded in Book of Deeds RR, at page 125, Pickens County, South Carolina.

"ALSO: All that certain piece, parcel or lot of land, situate, lying and being in the State of South Carolina, County of Pickens, in the City of Easley on the West side of North "B" Street (formerly King Street) immediately to the northwest of the lot above described, being all of Lot No. Twelve (#12) as shown on plat of J. A. Robinson, Surveyor, dated August 25, 1906, of record in Book of Deeds RR at page 125, Pickens County, South Carolina, less that portion conveyed by J. D. Rogers to Jack H. Burrell as shown on plat of John C. Smith and J. Coke Smith, Surveyors, dated August 25, 1951, said deed being recorded in Book of Deeds 7-D, at page 87."

THIS IS THE IDENTICAL property conveyed by John D. Sitton to Dorothy Sitton Ashley, Trustee for Ruth R. Sitton, with authority to convey, dated May 7, 1987, recorded on May 7, 1987 in Deed Book 11, page 279.

THE INTENT AND PURPOSE of this deed is to correct the spelling of the last name of the Trustee from Ashley to ASHLEY.

This property is conveyed subject to any and all existing rights-of-way for roads, utilities and other easements that may appear of record and/or on the premises, including restrictions, if any, governing this property.

JUL 9 2 44 PM '88
 OLIVER A. NEAL
 FILED
 PICKENS, S.C.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appurtenant.

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the grantor(s) hereinabove named, and grantor's(s) Heirs and assigns forever.

And the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s) Heirs, Executors and Administrators to warrant and forever defend all and singular the said premises unto the grantor(s) hereinabove named, and the grantor's(s) Heirs and Assigns against the grantor(s) and the grantor's(s) Heirs and against every person whatsoever lawfully claiming or to claim the same or any part thereof.

Witness the grantor's(s) hand(s) and seal(s) this 9th day of July in the year of our Lord One Thousand Nine Hundred and 87

Signed, Sealed and Delivered in the Presence of

Betty B. Henderson (Seal)
Miriam W. Waldrop (Seal)

John D. Sitton (Seal)
 JOHN D. SITTON (Seal)
 _____ (Seal)
 _____ (Seal)
 _____ (Seal)

State of South Carolina,
 PICKENS County

Personally appeared before me the undersigned witness and made oath that (s/he saw the within named grantor(s) sign, seal and as the grantor(s) act and deed deliver the within written deed, and that (s/he, with the other witness subscribed above witnessed the execution thereof.

Sworn to before me this 9th day of July, A.D. 1987

Miriam W. Waldrop (Seal)
 Notary Public for South Carolina

Betty B. Henderson

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)
)
 IN THE MATTER OF :)
 RUTH R. SITTON TRUST,)

IN THE PROBATE COURT

2017GC3900036

2018-CP-39-1296

ORDER

This matter was before the Court based on a *Notice of Motion and Motion to Dismiss the Amended Petition for Approval of a Trust Action, a Partition Action, and an Action for Waste against John D. Sitton, Jr.* in the estate of Ruth R. Sitton Trust filed by Mr. James S. Eakes for lack of jurisdiction over the subject matter. I also have a *Memorandum in Opposition to the Motion to Dismiss* filed by Mr. Joseph Plaxco. The amended Petition for Relief in question was filed by Mr. Joseph Plaxco, Attorney at Law, for the Petitioners, Mr. James C. Sitton and Ms. Dorothy Sitton Ashley on December 18, 2017.

Present for the hearing were Mr. John D. Sitton, Jr., Mr. Plaxco, and Mr. Eakes. Mr. Roper, the court appointed personal representative for the estate of Ms. Sitton did not appear, however, filed a letter stating he had no position on the merits of the Motion or the Petition. Counselors asked for a Summary of the issues to be heard and then for the court to rule. That format was accepted.

Mr. Eakes argues that the Amended Petition should be dismissed for lack of jurisdiction over the subject matter. He says that the Probate Court lacks subject matter jurisdiction to determine the validity of the subject deed or the other causes of action for partition and waste. The Respondent further moves to dismiss the amended Petition in its entirety because "there is no trust." The purported trust is in the form of a deed.

Mr. Plaxco maintains that "the Probate Court certainly has subject matter jurisdiction to determine the validity of the subject deed, as well as the causes of action for partition and waste." He refers to Section 62-1-302(a)(1) of the South Carolina Code, Annotated which specifies that the Probate Court has original jurisdiction over certain subject matter but concurrent jurisdiction with the Circuit Court to determine heirs and successors as necessary to resolve real estate issues

KPZ
#1

#1
HAC



including partition actions. He also refers to Section 62-3-911 concerning Partition actions of deceased persons estates indicating that the Probate Court has subject matter jurisdiction over the partitioning of property subject to an estate and in which multiple heirs or devisees are entitled. He also asserts that then any issues dealing with waste associated thereto would be under the Probate Court's jurisdiction. And further refers to Section 62-1-301(1)(3) that states that the Probate Court has exclusive jurisdiction over "trusts, inter vivos or testamentary".

The issue before the court now is not whether or not a trust exists but whether or not this court has the authority to determine that issue and proceed with corrections if necessary. There were cases filed concerning the pending hearing to be held. This court cannot take into its decision the outcome of the pending hearing.

After hearing the summary, the court finds that although the Probate Court has concurrent jurisdiction with Circuit Court to partition property and determine waste and exclusive jurisdiction over trusts this issue concerns a purported trust deed to real estate and its clarification. If said deed were to be determined not to be legitimate, the Probate Court cannot void the deed.

THEREFORE,

1) Based on the attorney's arguments I have heard, it is appropriate to transfer the issue to clarify the deed to Circuit Court to be determined.

And it is so Ordered.

October 31, 2018

Kathy P. Zorn
KATHY P. ZORN
PICKENS COUNTY PROBATE JUDGE

#2

#2
Chamberlain
CLERK OF COURT
PICKENS COUNTY, S.C.
OCT 14 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON) IN THE COURT OF COMMON PLEAS
 TENTH JUDICIAL CIRCUIT
 CASE #: 2023-CP-04-00846

JAMES C. SITTON, II, INDIVIDUALLY)
AND AS PERSONAL REPRESENTATIVE OF)
THE ESTATE OF JOHN D. SITTON, AND)
BETTY A. SITTON,)

PLAINTIFFS,

VS.

PLAINTIFF'S MEMORANDUM

JOHN D. SITTON, JR., INDIVIDUALLY)
AND AS FORMER TRUSTEE OF THE JOHN)
D. SITTON TRUST, BRIAN K. JAMES AS)
PERSONAL REPRESENTATIVE OF THE)
ESTATE OF RUTH R. SITTON,)

DEFENDANTS,

.....
Plaintiff James C. Sitton II is the Personal Representative
of the John Sitton estate. Betty A. Sitton is now deceased.

THERE ARE THREE CAUSES OF ACTION:

FIRST CAUSE OF ACTION

The First Cause of Action involves real property in
Anderson County, South Carolina. The issues of the remaining
real property consisting of 12.58 acres and 6.44 acres were
resolved by a mediation agreement which has been approved by
Court Order. The heirs of John D. Sitton Sr. were his five
children. James C. Sitton, II, Dorothy Sitton Ashley, Betty A.
Sitton, Dale Sitton Rogers, and John D. Sitton, Jr. Betty A.

Sitton is now deceased, intestate, unmarried, and without children. Her heirs are her surviving four siblings.

To implement the mediation agreement and allow the sale of the real property, plaintiff requests that the following be put in the Final Order as to this real property:

"The following real property in Anderson County, South Carolina is what remains from the real property transferred to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton, Sr., their successors and assigns as set forth in the deed of distribution recorded in deed book 1981 at page 046 in the Register of Deeds Office for Anderson County, South Carolina:

12.58 acres: TM#188-00-06-021

6.44 acres: TM#188-00-11-008

(The real property description shown as set forth in the attached Lis Pendens will be entered here)

The Trust established by the Will of John D. Sitton, Sr., Pickens County Probate file #1993ES3900259-2 has been terminated by order of the Pickens County Probate Court filed on September 27, 2022. The Partial Mediation Agreement requires the transfer of this real property back to the Estate of John D. Sitton, Sr. for purposes of sale. This real property is now an asset of the Estate of John D. Sitton, Sr. The heirs of John D. Sitton Sr.

were his five children: James C. Sitton, II, Dorothy Sitton Ashley, Betty A. Sitton, Dale Sitton Rogers, and John D. Sitton, Jr. Betty A. Sitton is now deceased, intestate, unmarried, and without children. Her heirs are her surviving four siblings of James C. Sitton, II, Dorothy Sitton Ashley, Dale Sitton Rogers, and John D. Sitton, Jr. Therefore, the current heirs of the Estate of John D. Sitton, Sr. are James C. Sitton, II, Dorothy Sitton Ashley, Dale Sitton Rogers, and John D. Sitton, Jr. As a result of the termination of the Trust of John D. Sitton, Sr. September 27, 2022, James C. Sitton, II as personal representative of the Estate of John D. Sitton, Sr., estate #1993ES3900259-2, is authorized to sign and record a deed for the above real property to the estate of John D. Sitton, Sr. 1993ES3900259-2."

SECOND CAUSE OF ACTION
ACCOUNTING
JOHN D. SITTON, JR.

The estate of John D. Sitton was probated in Pickens County, SC, 1993ES3900259. John D. Sitton, Jr. and Ruth Sitton were the appointed personal representatives. The estate was reopened on December 9, 2021, with James C. Sitton, II being appointed as the personal representative. This resulted primarily because of the order in plaintiff's exhibit 16 which set aside a proposed trust established by a deed prior to the

death of John Sitton, Sr. so that this real property could be dealt with by the estate. Also, the estate was reopened to deal with the 12.58 acre and the 6.44 acre real property in Anderson County as set forth above. Thereafter, the Pickens County Probate Court issued an order filed on September 27, 2022 which terminated the John D. Sitton Trust. This Trust was established by the will of John Sitton, Sr. (Plaintiff's exhibit 2). The trustees were Ruth R. Sitton and John D. Sitton, Jr. who were deeded the real property as set out in the deed of Distribution in plaintiff's exhibit 4. These trustees sold portions of this real property in 4 deeds as shown in plaintiff's exhibits 5-8 for a total of \$58,500.00 from 2004 to 2006. The trustees never opened a bank account for this Trust as testified to by John D. Sitton, Jr. and he had no records as to how the money was spent or who spent it. He merely said that he gave the money to Ruth R. Sitton who handled the money. No records were produced as to how the \$58,500.00 was used or spent. John D. Sitton, Jr. claimed that Betty Sitton lived with her mother Ruth Sitton after the death of her father and that her mother took care of her. James Sitton II testified that Betty Sitton drew disability benefits and paid her own expenses. Essentially, John D. Sitton, Jr. did not produce any records or had any testimony to show that the \$58,500.00 was used for the benefit of Betty Sitton of James C. Sitton, II.

John D. Sitton, Jr. accepted the position as trustee which is a fiduciary position and was responsible for the \$58,500.00 received and was responsible for ensuring that this money was used for Betty Sitton's care and then for James C. Sitton, II, if he needed any money. John D. Sitton, Jr. failed as trustee to ensure the money was used properly and plaintiff requests an order requiring defendant John D. Sitton, Jr. to reimburse to the John D. Sitton estate for the sum of \$58,500.00, which was received by him and which is unaccounted for.

FOR A THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY
JOHN D. SITTON, JR.

Defendant John D. Sitton, Jr., as trustee along with Ruth R. Sitton as trustee, conveyed two tracts of real property in the trust to himself without any consideration in a deed recorded in deed book 101 at page 00275 on 09/23/2011, (plaintiff's exhibit 9). This conveyance is a clear violation of the fiduciary duty of John Sitton, Jr. as trustee as he was not a beneficiary of the John D. Sitton Trust. He breached his fiduciary duty to the beneficiaries of the John D. Sitton Trust by this conveyance to himself. He subsequently sold this property for \$43,500.00 and retained all proceeds. Defendant John D. Sitton, Jr. acted in his own self interest and not in the best interests of the beneficiaries of the Trust.

John D. Sitton, Jr. sold a portion of this real property for \$29,500.00 on March 31, 2021 (plaintiff's exhibit 10) and for \$14,000.00 on October 9, 2020 (plaintiff's exhibit 14) and kept all of the proceeds for himself. John D. Sitton, Jr. clearly breached his fiduciary duty by deeding this real property to himself and then selling the property for \$43,500.00 and keeping the money for himself.

Plaintiff is entitled to judgment against John Sitton, Jr. for \$43,500.00 actual damages. As to punitive damages, he stated in his testimony that he did not know that he was doing anything wrong. This statement is not credible. His testimony shows that he knew the property was a part of the trust and that the property was to be used for Betty Sitton and then James C. Sitton II. He is a business man with access to lawyers, knew that he was not a beneficiary of the trust, and knew that he was not entitled to the real property. He testified that he asked his mother Ruth Sitton to give him the property. His actions were intentional as he knew that he was not entitled to the property but signed the deed to himself anyway. John D. Sitton, Jr. acted in bad faith and punitive damages are appropriate in an amount as determined by this Court.

PLAINTIFF'S RESPONSE TO DEFENSES OF DEFENDANT:

As to the defenses of defendant, I want to point out one important provision of the Trust of which John D. Sitton, Jr.

was a trustee that affects all defenses. The eighth defense in paragraph 41 quotes the Will on page 5, plaintiff's exhibit 2, "My said Trustees shall not be required to make any accounting to any Court...." and then ends there. However, the defendant fails to finish the sentence in the will on page 5 which goes on to say "and the only accounting required from the trustees shall be to the beneficiaries of the trust and such accounting shall be made to the beneficiaries within 75 days after the calendar year ends." The Will itself places an absolute obligation on the Trustees to provide an accounting to the beneficiaries every calendar year, which includes plaintiff, James C. Sitton, II. Defendant failed to finish the sentence and point this provision out and left the impression that no accounting of any nature was required. This is far from the truth. The will placed a continuing obligation on Trustee John D. Sitton, Jr. within 75 days of each calendar year to submit an accounting to each beneficiary, which he never did, as his testimony shows. This obligation continued until the Trust was terminated on September 27, 2022. This continuing obligation and the failure of John D. Sitton, Jr. to provide this accounting affects the defenses of the Statute of Limitations and the equitable defenses as will be discussed below.

A) RESPONSE TO DEFENSE OF STATUTE OF LIMITATIONS

This defense does not apply to the second cause of action or the third cause of action as the facts do not justify its application. The Trust was established by the Will of John D Sitton, Sr. in 1993. Ruth R. Sitton and John D. Sitton, Jr. were named as trustees. The Deed of Distribution which is Plaintiff's Exhibit 4 was recorded on October 20th, 1994. Ruth R. Sitton also acted as trustee up until her death in 2013 and John D. Sitton, Jr. continued as sole trustee up until the termination of the trust by an order of the Pickens County Probate Court on September 27, 2023 (Plaintiff's Exhibit 3). The beneficiaries of the trust were Betty Sitton and James C. Sitton, II. As pointed out above, John D. Sitton, Jr. had a continuing obligation until September 27, 2022 to provide a yearly accounting to the beneficiaries. Any reference to the Statute of Limitations must begin on September 27, 2022 which is when defendant's obligations as a Trustee ended.

1) AS TO THE SECOND CAUSE OF ACTION

The trustees conveyed property out of the Trust beginning in 2004 and continuing until 2006 by 4 deeds as summarized on Plaintiff's Exhibit 13, with these deeds being admitted as Plaintiff's Exhibits 5, 6, 7, and 8. While the last Deed was done in 2006, the Statute of Limitations is still not a bar to the second cause of action as to John D. Sitton, Jr. FIRST,

James C. Sitton, II was not appointed as personal representative until December 9, 2021. The Trust, which was set up by the John D. Sitton, Sr. estate, was not terminated until the Probate Court's order On September 27th, 2022. Plaintiff did not have any authority to act and bring an action for an accounting as to the Trust until the trust was terminated on September 27, 2022 and he could not have done so prior to December 9, 2021 as he was not a Personal Representative of the estate, since the estate had been closed. The Statute of Limitations would not begin to run until either September 27th, 2022 or December 9, 2021 when James C. Sitton, II appointed as personal representative. Therefore, there is no appropriate defense of the Statute of Limitations as to the Second Cause of Action and the accounting request until at least December 9, 2021, which is within the statutory period of time. This action was brought on April 17th, 2023 which is well within the three year statute of limitations from the appointment of James C. Sitton, II as Personal Representative on December 9, 2021 and is clearly within the three-year statute of limitations based on the date of termination of the Trust on September 27, 2022. SECONDLY AND MORE IMPORTANTLY, The time to bring an action would not begin until the termination of the Trust which would terminate the obligation of John D. Sitton, Jr. to provide a yearly accounting. This did not occur until September 27, 2022 and the

Statute of Limitations would run from that date. This continuing obligation until September 27, 2022 and the failure of John D. Sitton, Jr. to provide this accounting requires the Court to deny relief based on the Statute of Limitations on the second cause of action.

AS TO THE THIRD CAUSE OF ACTION

The facts set forth above apply here on the Breach of Fiduciary duty Cause of Action. John D. Sitton, Jr. had a continuing duty as to his status as a fiduciary as a trustee of the Trust until the Trust was terminated, and provide a yearly accounting. As to the real property involved, the deed to John D. Sitton, Jr. was on September 1st, 2011, plaintiff's exhibit 9. However, the sale by him as trustee was not until March 31, 2021 to Ms. Whitlock as set forth in Plaintiff's Exhibit 10 and the sale of real property to Mr. Bradley was on October 9, 2020 as set forth in Plaintiff's Exhibit 14. FIRST, This action was brought on April 17th, 2023 which is within the 3 year statute of limitations as to the sale to Mr. Bradley on October 9, 2020 and certainly to Ms. Whitlock on March 31, 2021. While he received the real property on a prior date, he did not get the money until 2020 and 2021. The defense by defendant as to the Third Cause of Action based on the statute limitation should be denied as it was timely filed. SECOND AND MORE IMPORTANTLY, if he had provided the yearly accounting as required by the will,

then plaintiff would have been on notice that real property had been unlawfully conveyed to John D. Sitton, Jr., but John D. Sitton, Jr. did not provide such a yearly accounting as required. The Statute would not begin to run until September 27, 2022 and the Cause of Action is timely filed. The relief requested by defendant should be denied.

RESPONSE TO DEFENSE OF LACHES AND ESTOPPEL AND UNCLEAN HANDS

This is an equitable defense based essentially on the lapse of time. Equitable matters go both ways and defendant cannot come into Court and claim an equitable defense when he himself has unclean hands. There are two questions: (1) Does defendant enter the Court with unclean hands? (2) From a factual standpoint, has too much time elapsed that would prevent, as a matter of fairness and equity, plaintiff from bringing and recovering on these two Causes of Actions for an accounting and reimbursement?

Defendant has unclean hands as to both Causes of Action: (1) He deeded real property in the trust to himself as a trustee when he was not a beneficiary, violating his fiduciary duty. He sold this real property and realized \$43,500.00 in money which lawfully belonged to the beneficiaries and used the money for himself. This is the essence of bad faith and unclean hands. He further had a continuing duty to provide a yearly accounting to the beneficiaries which he never did, which deprived the

beneficiaries of knowledge of his wrongdoing. He has engaged in bad faith from the beginning of this estate, violated his fiduciary duty as a trustee in the most egregious manner and cannot now come into Court and assert any equitable defense based on his own unclean hands. (2) Too much time has not elapsed as to either Cause of Action. The legal Statute of Limitations has not lapsed as to the Third cause of Action and these defenses clearly do not apply. John D. Sitton, Jr. did not sell the real property that had been unlawfully conveyed to him until 2020 and 2021 and receive proceeds that did not lawfully belong to him. The deed to himself was in 2011, but that is not such a long time to pass that would allow these defenses to apply to the Third Cause of Action, particularly since he did not provide yearly accountings as required and did not sell the property until 2020 and 2021.

As to the Second Cause of Action for an accounting of the four deeds referred to already in this memorandum, which were conveyed by the trustees from 2004-2006 as set out as Plaintiff's Exhibits 5, 6, 7 and 8, the last date being 2006, this is not such a time lapse from when this action was brought in 2023 by Plaintiff. Equity applies when it would be prejudicial to Defendant in some way by the lapse of time. If he had provided the yearly accounting as required by the will, the beneficiaries would have known about the receipt of the money

and been able to question what happened to it. His unclean hands is also relevant here. Testimony reveals clearly that John D. Sitton, Jr. kept no records of any nature at any time on the proceeds from the sale of these 4 tracts of real property. It would not have mattered how much time had passed because he had no records of any nature to produce. We only have his testimony that he gave this money to his mother but he doesn't have any record showing that he did this. He accepted the money as Trustee from the sales and is responsible for handling it as a Trustee.

The equitable defenses as plead of Latches, Estoppel, and Unclean Hands simply do not apply factually and no relief should be granted.

Plaintiff James D. Sitton, II did not have any authority to bring this action until he was appointed as personal representative on December 9, 2021 when the estate of John D Sitton Sr. was reopened. He brought this action within three years from the date of his appointment which was very timely. There is no equitable or no fairness reason for John D. Sitton, Jr. to keep money that he was responsible for as a fiduciary and not have to reimburse the John D. Sitton Sr. estate for the sum of \$43,500.00 or to prevent him from being required to return that money to the Estate of John D Sitton, Sr. There is no equitable defense available.

RESPONSE TO DEFENSE OF STATUTE OF FRAUDS

Plaintiff is unclear as to how the Statute of Frauds applies in any way to the Second or Third Causes of Action in this case. The defense itself as pled does not set out any facts which would allow even an intelligent response to this defense. Paragraph 28 of Defendant's answer merely says the Statute of Frauds applies but ends there. The Defense of the Statute of Frauds should be denied.

RESPONSE TO EIGHTH DEFENSE

As to the eighth defense the Will does allow unlimited authority to the Trustees and does not require any accounting to the Court but defendant fails to finish the sentence in the will on page 5 which goes on to say "and the only accounting required from the trustees shall be to the beneficiaries of the trust and such accounting shall be made to the beneficiaries within 75 days after the calendar year ends." The Will itself requires an accounting by the trustees every calendar year to the beneficiaries, which includes plaintiff James C. Sitton, II. Defendant failed to point this provision out and leaves the impression that no accounting was required. Trustee John D. Sitton, Jr. had an obligation within 75 days of each calendar year to submit an accounting to each beneficiary, which he never did. The testimony of John D. Sitton, Jr. is that he has never had any records of any nature, much less a yearly accounting,

which was required. This accounting was required of John D. Sitton, Jr. and was never done. Any relief based on this defense should be denied.

RESPONSE TO COUNTERCLAIM

Attorney's fees should not be awarded to John D. Sitton, Jr. in this case as he has acted totally in disregard of his duties as a fiduciary as a trustee of the John D. Sitton, Sr. Trust. The counterclaim in full should be denied for the reasons as set forth above.

PLAINTIFF requests: (1) The language above be added to the issued Order as to the First Cause of Action. (2) Judgment against defendant in the sum of \$58,500.00 on the Second Cause of Action and an order requiring defendant to return this amount to the estate. (3) Judgment against the defendant in the sum of \$43,500.00 actual damages on the Third Cause of Action and an order requiring defendant to return this amount to the estate. (4) Judgment against the defendant for punitive damages on the Third Cause of Action, in an amount as determined by the Court.



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March 20, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	CASE #: 2022-CP-04-
JAMES C. SITTON, II, INDIVIDUALLY	)	
AND AS PERSONAL REPRESENTATIVE OF	)	
THE ESTATE OF JOHN D. SITTON, AND	)	
BETTY A. SITTON,	)	
	)	
	)	LIS PENDENS
PLAINTIFF,	)	
	)	
VS.	)	
	)	
JOHN D. SITTON, JR., INDIVIDUALLY	)	
AND AS FORMER TRUSTEE OF THE JOHN	)	
D. SITTON TRUST, BRIAN K. JAMES AS	)	
PERSONAL REPRESENTATIVE OF THE	)	
ESTATE OF RUTH R. SITTON,	)	
	)	
DEFENDANTS,	)	
	)	

.....

YOU WILL PLEASE TAKE NOTICE, that an action is being commenced in this Court that affects the below described real property located in Anderson County, South Carolina:

12.58 acres: TM#188-00-06-021

6.44 acres: TM#188-00-11-008

Both tracts being a part of:

ALL that piece, parcel or tract of land containing 57.00 and situate lying and being in the Brushy Creek Township of Anderson County, South Carolina and lying along a surface treated road, which road leaves S.C. Highway #8 near the W.A. Tripp farm and runs by way of J.O. Rosman home place to State Highway #81, and being described according to a plat prepared by J. Coke Smith, Surveyor, in May 1951 as follows: BEGINNING at an iron pin, the SE corner of J.C. Sitton land running thence along the said J.C. Sitton line N 18-00 W 26.50 chains to a point, along W.A. Pickens and Newt Cantrell line N 88-45 E 35.26 chains to an iron pin; thence, along W.F. Laboon property line S 10-15 W 13.67 chains to the aforementioned surface treated road; thence, along said road S 81-25 W 6.50 chains; thence, with road S 63-25 W 2.40 chains; thence, continuing along said road S 57-00 W 19.32 chains to the BEGINNING corner.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed John D. Sitton by Deborah M. Sitton by deed dated May 10, 1951, and recorded May 14, 1951, in Deed Book 9-F, Page 4, in the Office of the Clerk of Court for Anderson County, South Carolina.

ALSO: "All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson, about 6 miles south of Easley, S.C. and being more fully described as follows, to-wit:

"BEGINNING in center of surface treated highway which point is also corner of W.D. Sitton Estate; thence S58-30W 8.90 chains along road; thence leaving road and running N33-45W 15.40 chains to an iron pin; thence S43-25W 23.57 chains to an iron pin; thence N27W 5.85 chains; thence N23-20E 31 chains; thence N88-45E 14.50 chains; thence S18E 26.50 chains to point of BEGINNING, and containing 61.1 acres, more or less, according to plat of J. Coke Smith, Surveyor, dated August, 1941, reference to which is hereby made for a more complete an accurate description and being bounded on the north by Bill Pickens Estate, bounded on the east by W.D. Sitton Estate, bounded on the south by highway and property of Eugene Wyatt and bounded on the west by property of J.M. Carpenter, according to said plat.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed to John D Sitton by J.C. Sitton by deed dated October 13, 1965, and recorded June 9, 1967, in Deed Book 15-D, Page 599, in the Office of the Clerk of Court for Anderson County, South Carolina.

LESS PROPERTY CONVEYED BY TRUSTEES:

TRACT 1:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, containing 2.95 acres, more or less, and being more fully described as follows, to-wit:

BEGINNING at point in Syracuse Road which point is also corner of James Hawkins, thence along Syracuse Road in southerly direction 309 feet to point in road; thence continuing along Syracuse Road South 25-30 West approximately 219 feet to point in road, which point is also corner of Robert Dickard; thence along Robert Dickard line North 69-21 West 290.83 feet to point in center of stream; thence following meanderings of same on a traverse North 44-54 East 106 feet to point in stream; thence continuing along center of stream in a northerly direction approximately 265 feet to point in stream, which point is also corner of James Hawkins property; thence along James Hawkins property line in an easterly direction approximately 302 feet to the point of BEGINNING. Being bounded on the north by Hawkins, on the east by Syracuse Road; on the south Dickard, and on the west by Lyles and Watson.

This is the identical property conveyed unto John D. Sitton, Sr., by deed of Sitton Furniture, Inc. dated January 17, 1991 and recorded February 15, 1991 in Deed Book 1132 at Page 11 and a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880006103

It is the intent of this to also quitclaim to the grantee any property that the grantor owns on the east side of Syracuse Road across from the above described tract of 2.95 acres.

ALSO:

All that certain piece, parcel or lot of land and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, on the northwest side of Old Mill Road, and being more fully described as follows, to-wit:

BEGINNING at a point in Old Mill Road, common corner with property now or formerly of Stevenson, and running thence along property of Stevenson North 13-30 West 241 feet to a point; thence continuing along property of Stevenson North 67-30 East 214.19 feet to a point on line of property of Ghizzonie, thence along line of property of Ghizzonie North 00-30 West 482.20 feet to other property of Grantee; thence turning and running along other property of Grantee North 81-00 West 30 feet to point on common line of property of grantee and portion of Tract 2, property pf Richard White, et al., South 00-30 East approximately 483 feet; thence turning and continuing along property of Wright South 67-30 West approximately 215 feet; thence turning and continuing along property of Wright South 13-30 East approximately 271 feet to point in center of Old Mill Road; thence along center of Old Mill Road North 69-00 East 30 feet to the point of BEGINNING.

THIS is a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880011004

The property in Tract 1 was conveyed by the trustees in deed recorded in deed book 10162 at page 00275.

TRACT 2:

ALL that certain piece, parcel or lot of land situate, lying and being in the County of Anderson, State of South Carolina, being shown and designated as containing 0.84 of an acre, more or less, as shown on a plat prepared by Ray Dun, PLS #19400, dated February 20, 2006, and signed February 21, 2006, of record in the Office of the Register of Deeds for Anderson County, South Carolina, in Plat 118 at Page 154, and having such metes and bounds, courses and distanced as upon said plat appear. For a more complete and accurate description of the lot herein conveyed, reference is invited to said plat, and the description contained thereon is incorporated herein by reference.

This is a portion of the property conveyed unto John D. Sitton, Jr. and Ruth R. Sitton, as trustees under the Last Will and Testament of John D. Sitton by deed of distribution from the Estate of John D. Sitton, dated October 20, 1994, recorded October 31, 1994, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 1982 at Page 46.

This conveyance is specifically made subject to any and all recorded rights of way, easements, encroachments, conditions, restrictions, and zoning ordinances pertaining to the property herein conveyed and, in addition, is

subject to any of the foregoing which may appear from an inspection of the premises and/or which appear according to a current survey.

TMS NUMBER: 188-00-11-004

The property in Tract 2 was conveyed by the trustees in deed recorded in deed book 07381 at page 00115.

TRACT 3:

ALL that certain piece, parcel or tract of land containing 1.00 acre more or less, situate, lying and being in the county of Anderson, State of South Carolina, As shown on that certain plat prepared by Perry Ray Dunn, PLS#19400, Dated 4-18-05 and recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Book 117 at Page 820 for a more particular description as to metes and bounds, courses and distances, reference is hereby made to aforesaid plat of record.

This being the same property conveyed unto John D. Sitton and Ruth R. Sitton as trustees by deed of distribution in the matter of John D. Sitton (probate case# 93ES0400324) deed dated 10-20-94 and recorded 10-31-94 in the Office of the Register of Deeds for Anderson County, SC in Book 1981 at Page 46.

TMS: 188-00-11-008

The property in Tract 3 was conveyed by the trustees in deed recorded in deed book 06711 at page 00195.

TRACT 4:

ALL that certain piece, parcel or lot of land lying and being situate in the County of Anderson, State of South Carolina and being shown as 0.62 acres, more or less, located on Syracuse Road on a plat prepared by Spearman Surveying dated March 2, 2005 for James S. Smith and Thomas Duncan as recorded in Plat Book 1527 at Page 2-B in the Register of Deeds Office for Anderson County, South Carolina. Reference to said plat is hereby made for a more complete and accurate description thereof.

THIS being a portion of the same property to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution of the estate of John D. Sitton as recorded in Deed Book 1981 at Page 046 in the Anderson County Register of Deeds Office on 10-31-94.

TMS #: 1880006021

The property in Tract 4 was conveyed by the trustees in deed recorded in deed book 06689 at page 00234.

TRACT 5:

ALL that certain piece, parcel or lot of land situate and being in the State of South Carolina, County of Anderson, on Syracuse Road, and according to a plat by Ray Dunn Land Surveyor, dated October 28, 2004, said lot contains 0.982 acres, including all rights of way, and is more particularly described as follows, to-wit:

BEGINNING at an iron pin in the center of Syracuse Road, which point is 1500 feet, more or less, to Old Mill Road; thence along the center of Syracuse Road North 25-16-54 East 125.00 feet to an iron pin; thence leaving Syracuse Road South 65-53-56 East 265.59 feet to an iron pin; thence South 15-56-56 East 163.54 feet to an iron pin; thence North 65-52-00 West 373.40 feet to an iron pin in the center of Syracuse Road, the point of BEGINNING.

THIS is a portion of the property conveyed to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution dated October 20, 1994 and recorded October 31, 1994 in at Register of Deeds for Anderson County, South Carolina in Deed Book 1981 at Page 46.

The property in Tract 5 was conveyed by the trustees in deed recorded in deed book 6497 at page 170.

Pickens, S.C.
April 4, 2023

S/JAMES C. ALEXANDER
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Bar number 317

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
	)	
	)	
JAMES C. SITTON, II,	)	
INDIVIDUALLY AND AS	)	
PERSONAL REPRESENTATIVE OF	)	MEMORANDUM OF
THE ESTATE OF	)	JOHN D. SITTON, JR.,
JOHN D. SITTON, AND	)	DEFENDANT
BETTY A. SITTON,	)	
PLAINTIFFS,	)	
	)	
-VS-	)	
	)	
JOHN D. SITTON, JR.,	)	
INDIVIDUALLY AND AS	)	
FORMER TRUSTEE OF THE JOHN	)	
D.SITTON TRUST, AND	)	
BRIAN K. JAMES	)	CASE NUMBER: 2023-CP-04-00846
AS PERSONAL REPRESENTAIVE	)	
OF THE ESTATE OF	)	
RUTH R. SITTON,	)	
DEFENDANTS.	)	
	)	

The Plaintiffs filed this non-jury action on April 17, 2023, against the Defendants alleging three causes of action. The first cause of action was settled at mediation. The partial mediation agreement was approved by consent order of the Court dated May 5, 2024, and filed May 7, 2024. By their agreement, the parties agreed that any remaining real estate in Anderson County titled in the John D. Sitton Trust would be transferred to the Estate of John D. Sitton, which had been reopened in the Pickens County Probate Court.

By the second cause of action, the Plaintiffs requested an accounting by John D. Sitton, Jr., for the John D. Sitton Trust and, by their second cause of action, the Plaintiffs alleged a breach of fiduciary duties by John D. Sitton, Jr.

Betty A. Sitton is a named Plaintiff, and she is now deceased, having died during the pendency of this action in 2024. Prior to her death, it is unclear whether or not Betty A. Sitton ever knew that she was a named Plaintiff in this action. It is uncontested that, prior to her death, she never actually participated in this action.

The Defendant John D. Sitton, Jr., individually and as former Trustee of the John D. Sitton Trust, (hereinafter "Defendant Sitton" or John D. Sitton, Jr.) timely filed and served his answer and counterclaim. Defendant Sitton asserted a number of affirmative defenses including the Statutes of Limitations, Laches, Waiver and Estoppel, and Unclean Hands. The Plaintiffs timely filed and served a reply to Defendant's Counterclaim.

STATEMENT OF ISSUES

- 1.) Whether or not the Plaintiff James C. Sitton, II., individually and as Personal Representative of the Estate of John D. Sitton, (hereinafter "Plaintiff Sitton" or "James C. Sitton, II.") is entitled to an accounting?
- 2.) Whether or not Defendant breached his fiduciary duties as Co-Trustee of the John D. Sitton Trust?

STATEMENT OF THE CASE

John D. Sitton ("John D. Sitton, Sr.") died testate on February 16, 1993, and, at the time of his death, he was a citizen and resident of Pickens County, South Carolina. His estate was probated in the Pickens County Probate Court under Case Number: 1993-ES-04-00324. Ruth R. Sitton and John D. Sitton were appointed as Co-Personal Representatives of his estate. This estate was

closed around November, 1994, after the issuance of deeds of distribution by the Personal Representatives. After litigation involving an alleged trust deed, the Estate of John D. Sitton was reopened on December 9, 2021, and James C. Sitton, II was appointed Personal Representative.

John D. Sitton, Sr., was survived by his wife, Ruth R. Sitton, and his five (5) children, to-wit: John D. Sitton, Jr.; Dorothy Sitton Ashley; Betty A. Sitton; Dale Sitton Rogers; and James C. Sitton, II.

The hand written Last Will and Testament of John D. Sitton dated December 6, 1991, was admitted to probate without contest. (Plaintiff's Exhibit 2). By his Last Will and Testament dated December 6, 1991, John D. Sitton created a testamentary trust which is the subject of this action.

By ITEM VI of his Last Will and Testament, John D. Sitton appointed John D. Sitton, Jr., and Ruth R. Sitton "... as Personal Representatives of my Last Will and Testament, to hereby serve without bond... ." John D. Sitton, Jr., and Ruth R. Sitton were duly appointed as Personal Representatives and served until the estate was closed in 1994.

By ITEM III, ITEM IV, and ITEM V of his Last Will and Testament, John D. Sitton made specific bequests and devises to Ruth R. Sitton, John D. Sitton, Jr, and James C. Sitton, II.

ITEM VII of the Last Will and Testament of John D. Sitton devises his entire residuary estate, in trust, to the John D. Sitton Trust. He names his son, John D. Sitton, Jr., and his wife, Ruth R. Sitton, as Trustees, to serve without bond, and with full power to sell real or personal property. It further provided

for a ten (10%) percent commission for the Trustees on all sales of real property and ten (10%) percent commission on all rental property owned by the Trust.

ITEM VII of the Last Will and Testament further provides, in part, as follows: "I direct my said Trustees to provide support for my daughter, Betty Sitton; and secondly to provide support for my son, James C. Sitton, II, if and when the need arises for food, shelter, clothing, and medical expenses. ... My Trustees shall make disbursements to all beneficiaries but the provisions set forth above for all **three named beneficiaries** of the Trust shall always be given a priority." (emphasis added). (Plaintiff's Exhibit 2).

ITEM VII of the Last Will and Testament of John D. Sitton further provided: "At such time as Betty A. Sitton and Ruth R. Sitton depart this life, if there be any remaining assets in said Trust, my remaining heirs: namely, my daughter, Dorothy Sitton Ashley, my daughter, Dale Sitton Rogers, my son, James C. Sitton, II., and my son, John D. Sitton, Jr., shall share and share alike in said Trust and said Trust can then be terminated if the four (4) heirs named herein give their approval. ..." (Plaintiff's Exhibit 2).

ITEM VIII of the Last Will and Testament of John D. Sitton names and appoints Dale Sitton Rogers as alternate Trustee for the John D. Sitton Trust. The decedent makes no provisions for one of the Trustees to act alone, and Dale Sitton Rogers did not act as co-trustee after the death of Ruth R. Sitton. (Plaintiff's Exhibit 2.)

ITEM VIII further provides, in part, as follows: My Trustees and/ or Alternate Trustee shall have unquestioned and unlimited authority to use their

discretion in investing and re-investing and using any part of the Corpus and/or interest they deem necessary or advisable for the comfortable maintenance, support, health, and well being of **Betty Ann Sitton and Ruth R. Sitton.**, and shall supplement with food, shelter, and clothing for James C. Sitton, II.” (Emphasis Added) (Plaintiff’s Exhibit 2).

The paramount consideration in the construction of every will is to determine and carry out the intentions of the testator unless in conflict with some rule of law. The rules of construction are subservient to the primary consideration of ascertaining 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 the other portions . Estate of Gill ex.Rel. Grant v. Clemson University Foundation, 397 S.C. 419, 725 S.E.2d 516 (SC. App. 2012). The law relating to discerning the drafter’s intent is identical for wills and trusts. Epworth Children’s Home v. Beasley, 365 S.C. 157, 616 S.E.2d 710 (2005). This is codified under **S.C. Code Ann.** §62-1-102(b)(2) (2021) relating to the underlying purposes and policies of the South Carolina Probate Code which states: “to discover and make effective the intent of a decedent in the distribution of his property... .”

Based upon a reading of the entire Last Will and Testament of John D. Sitton dated December 6, 1991, it is clear that the primary beneficiaries of the testamentary trust created under his will were his wife, Ruth R. Sitton, and his disabled daughter, Betty Ann Sitton, who lived at the home and was supported by her father, John D. Sitton, and her mother, Ruth R. Sitton, during their

lifetimes. Item VIII of the will provides that "... the **three** named beneficiaries of this Trust shall always be given priority." Item VIII of the will states that the Trustees had "unquestioned and unlimited authority" to use "any part of the Corpus and/ or interest they deem necessary or advisable for the comfortable maintenance, support, health, and well being of Betty Ann Sitton and Ruth R. Sitton, and shall supplement will food, shelter, and clothing for James C. Sitton, II. Therefore, the primary trust beneficiaries were Ruth R. Sitton and Betty Ann Sitton with James C. Sitton, II to be supplemented with "food, shelter, and clothing." (**i.e.**, the three named beneficiaries of the Trust to be given a priority.)

TRUST DEEDS

Evidently, the only residuary assets transferred to the Trust consisted of the real estate owned by John D. Sitton at his death and not specifically devised to named beneficiaries by specific bequests in the will. (The decedent devised and bequeathed to his wife, Ruth R. Sitton, specific real estate and other assets by Item III of his will, and he devised to his son, John D. Sitton, Jr., three acres of land located on Sitton Road in Anderson County, South Carolina. By Item VI. By Item V, he devised to have his son, James S. Sitton, II debt forgiveness and an automobile.)

John D. Sitton, Jr. and Ruth R. Sitton, as Personal Representatives, executed a statutory deed of distribution dated October 20, 1994, and recorded on October 31, 1994, in the Office of the Register of Deeds for Anderson County in Record Book 1981 at Page 46 conveying all real estate owned by the

decedent at his death in Anderson County to John D. Sitton, Jr and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton. (Plaintiff's Exhibit 4).

In 1998, pursuant to an agreement between Ruth R. Sitton and her five (5) children, each of the five (5) children was deeded a tract of land by John D. Sitton, Jr., and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton, without consideration. The Trustees deeded Tract #1 containing 9.686 acres to Dorothy S. Ashley, by deed dated March 31, 1998, and recorded in Record Book 2923 at Page 159. (Defendant's Exhibit 4). The Trustees deeded Tract #4 containing 9.690 acres to John D. Sitton, Jr. by deed dated September 1, 1999, and recorded in Record Book 3536 at Page 232. (Defendant's Exhibit 3). The Trustees deeded Tract #3 containing 9.684 acres to Dale S. Rogers by deed dated September 1, 1999, and recorded in Record Book 3588 at Page 87. (Defendant's Exhibit 2). The Trustees deeded Tract #5 containing 9.685 acres to James C. Sitton, II by deed dated September 1, 1999, and recorded in Record Book 3588 at Page 89. (Defendant's Exhibit 1). Betty Ann Sitton received Tract #2 containing 9.688 acres and/ or the proceeds from the sale of this tract from the Trustees. These tracts were a part of the real estate described in the deed of distribution, and the five (5) tracts are shown on a plat by Robert R. Spearman, PLS #3615, dated December 16, 1997, and recorded in/ on Plat Slide 876 at Pages 3 & 4. There was no specific language in the testamentary trust for these transfers of trust assets to the five (5) siblings, and it was evidently a product of a family agreement between Ruth R.

Sitton and her five (5) children and to carry out the wishes of John D. Sitton, Sr. According to the testimony of John D. Sitton, Jr., "Daddy gave each one of us equal shares." (T.O.R. page 55, lines 10-16). James C. Sitton, II confirmed this in his testimony. (T.O.R. page 9, lines 7-12). All of the siblings sold their respective tracts of real estate deeded to them.

Between 2004 and 2006, John D. Sitton, Jr and Ruth R. Sitton, as Trustees Under the Last Will and Testament of John D. Sitton, sold the following four (4) tracts of real estate to third parties:

- A.) On November 23, 2004, the Trustees sold a parcel of land on Syracuse Road to James K. Clinkscales and Kenneth W. Clinkscales for \$11,000.00. The deed was recorded on December 9, 2004, in Record Book 6497 at Page 170. (Plaintiff's Exhibit 5).
- B.) On March 23, 2005, the Trustees sold 0.62 of an acre of land on Syracuse Road to James S. Smith and Thomas Duncan for \$12,300.00. The deed was recorded on April 15, 2005, in Record Book 6689 at Page 234. (Plaintiff's Exhibit 6).
- C.) On April 22, 2005, the Trustees sold 1.00 acre of land to Travis J. Davis for \$13,500.00. The deed was recorded on April 29, 2005 in Record Book 6711 at Page 195. (Plaintiff's Exhibit 7).
- D.) On March 22, 2006, the Trustees sold 0.84 of an acre of land to Kenneth W. Clinkscales for \$12,000.00. The deed was recorded on May 25, 2006, in Record Book 7381 at Page 115. (Plaintiff's Exhibit 8).

Finally, on September 1, 2011, John D. Sitton, Jr. and Ruth R. Sitton, as Trustees Under the Last Will and Testament of John D. Sitton, conveyed certain real estate to John D. Sitton, Jr. by deed dated September 1, 2011, and recorded on September 23, 2011, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 10162 at Page 275. (Plaintiff's Exhibit 9).

The deed of September 11, 2011, was the final deed executed and issued by the Trustees. There is no evidence that there has been any activity in the Trust since that time, and the Trust has been dormant and inactive since September 11, 2011. Essentially, the Trust terminated on this date.

ESTATE OF RUTH R. SITTON

Ruth R. Sitton died on May 25, 2013, and she was still living in the family home she shared with her husband at 303 North B Street, Easley, South Carolina. Her disabled daughter, Betty Ann Sitton, was still residing with her at the time of her death. There has been almost constant litigation in the Estate of Ruth R. Sitton since her death. The Estate of Ruth R. Sitton is being probated in the Pickens County Probate Court under Case Number: 2013-ES-39-00478.

On July 17, 2013, James S. Sitton, II filed for formal appointment as personal representative of his late mother's estate. John D. Sitton, Jr. filed an answer and counterclaim on August 9, 2013, seeking formal appointment as Personal Representative and, also, formal probate of a copy of the Last Will and Testament of Ruth R. Sitton dated July 17, 2009. Pursuant to a hearing held on October 28, 2014, Judge Kathy P. Zorn, Pickens County Probate

Judge, issued an order dated November 10, 2014, finding that Ruth R. Sitton died intestate since her original will had not been found and that it was in the best interests of all parties involved “to appoint a disinterested person as Personal Representative, preferably a member of the South Carolina Bar, due to the animosity between the parties.”

On July 6, 2015, the original Last Will and Testament of Ruth R. Sitton dated July 17, 2009, was found and delivered to the Pickens County Probate Court on July 7, 2015. On September 22, 2015, John D. Sitton, Jr. filed a petition for formal probate of the will and formal appointment as Personal Representative. This was contested by James C. Sitton, II, who filed an answer and counterclaim again seeking appointment as Personal Representative. Pursuant to a hearing in the Pickens County Probate Court, Judge Kathy P. Zorn issued a consent order dated March 14, 2016, admitting the original Last Will and Testament of Ruth R. Sitton to probate and confirming the appointment of a third-party personal representative, Kenneth Roper, of the Pickens County Bar, to continue to serve as Personal Representative of the Estate of Ruth R. Sitton “due to the severe animosity between the parties”.

Even though James C. Sitton, II is now seeking an accounting of the John D. Sitton testamentary trust and alleging breach of the fiduciary duties by the Trustees, he did not file a statutory creditor’s claim in the Estate of Ruth R. Sitton even though she was one of the Trustees. Ruth R. Sitton and John D. Sitton, Jr. signed all deeds out of the Trust as trustees. Neither could act

independently, and Dale Sitton Rogers never acted as trustee in place of her deceased mother, Ruth R. Sitton.

On December 18, 2017, James C. Sitton, II., individually and as Successor Trustee of Ruth R. Sitton, and Dorothy Sitton Ashley, individually and as Primary Trustee of Ruth R. Sitton, Dale Sitton Rogers, and Betty Ann Sitton filed an amended summons and petition with the Pickens County Probate Court against John D. Sitton, Jr. and Kenneth Roper for approval of a trust, for partition of the 303 North B Street property, and for waste. This litigation arose out of a corrective deed by John D. Sitton executed prior to his death on July 9, 1987, where he attempted to convey his undivided one-half (1/2) interest in the 303 North B Street property to "Dorothy Sitton Ashley, Trustee for Ruth R. Sitton, with authority to convey". (Defendant's Exhibit 6). Pursuant to a motion to dismiss filed by John D. Sitton, Jr., for lack of jurisdiction over the subject matter, Judge Kathy P. Zorn issued her order dated October 31, 2018, finding it is appropriate to transfer the issue to clarify the deed to Circuit Court to be determined. (Defendant's Exhibit 7). Therefore, the action was removed to the Pickens County Court of Common Pleas.

The action over the alleged trust deed came to be heard before the Honorable Perry H. Gravely, Circuit Court Judge for Pickens County, on April 3, 2020. Judge Gravely issued his order dated May 18, 2020, and he found that the two deeds attempting to convey the undivided one-half (1/2) interest of John D. Sitton in the 303 North B Street property to "Dorothy Sitton Ashley, Trustee" were to a non-existing grantee at the time the deeds were executed

and anytime since then. Therefore, he found that the original deed and the corrective deed were “void *ab initio* ,and no trust was created by said deeds.” He remanded the case back to the Probate Court for any further proceedings. (Plaintiff’s Exhibit 16). This order was not appealed. Therefore, the undivided one-half (1/2) interest of John D. Sitton in and to the 303 North B Street, Easley, South Carolina, property was an asset of the Estate of John D. Sitton, Sr., and this resulted in the re-opening of his estate and the appointment of James C. Sitton, II as successor Personal Representative.

Brian K. James has been appointed as successor Personal Representative of the Estate of Ruth R. Sitton, in place of Kenneth Roper, and he is still acting in this capacity.

AS TO THE SECOND CAUSE OF
ACTION FOR AN ACCOUNTING

The primary initial beneficiaries of the John D. Sitton Testamentary Trust were his wife, Ruth R. Sitton, and his disabled daughter, Betty Ann Sitton. His son, James C. Sitton, II was mentioned as a beneficiary, and the Trustees were directed to “... supplement with food, shelter, and clothing for James C. Sitton, II.” The named Trustees were decedent’s wife, Ruth R. Sitton, and his son, John D. Sitton, Jr. They were named as co-trustees, and neither could act unilaterally.

At the time of his death in 1993, John D. Sitton lived at 303 North B Street, Easley, South Carolina, with his wife, Ruth R. Sitton, and his disabled daughter, Betty Ann Sitton, who had always lived with her parents. Betty Ann

Sitton continued to live with her mother, Ruth R. Sitton, until her mother died on May 25, 2013, and Ruth continued to provide support for Betty.

Evidently, the primary asset of the testamentary trust consisted of real estate in Anderson County, South Carolina, as evidenced by the statutory deed of distribution. There is no evidence of any other assets, money or otherwise, that were transferred into the trust. The only money ever in the trust was generated by the sale of real estate.

Up until November 23, 2004, there is no evidence of any money to account for in the Trust. On this date, the Trustees sold the first of four (4) separate parcels of real estate to third-party purchasers. The final of the four parcels was sold on March 22, 2006. The total proceeds from the sale of real estate was \$48,000.00. Ruth R. Sitton and John D. Sitton, Jr., signed all four (4) deeds as Trustees.

John D. Sitton, Jr., never handled any of the money from these sales of real estate. He deferred to his mother. Regarding the money, he testified "I gave it to my mother and she put it into her bank account." (T.O.R. pg. 37, lines 11-12). John D. Sitton, Jr further testified that all of the money from the sales of real estate "... went into my mother's bank account". (T.O.O. pg. 50, line 25). He further testified that he did not specifically know where his mother put the money or how she spent it. Ruth R. Sitton deposited the money into her own account, and she handled her own account, deciding how to spend the money. John D. Sitton, Jr., did not have access to his mother's account. (T.O.R. pages

50-51). Ruth's children deferred to her, and the money was primarily for her needs and Betty's needs.

James C. Sitton, II was living in the home with his mother and Betty when his father died in 1993. His mother, Ruth R. Sitton, was seventy-four (74) years old when her husband died. He continued to live with his mother until around 1997, when he moved to Atlanta, and he helped her with finances. James C. Sitton, II testified that he set up a file cabinet and folders – showed her where to put documents and how to file. (T.O.R. page 74). John D. Sitton, Jr., testified that his brother, James C. Sitton, II, was the bookkeeper and helped his mother with finances until he moved to Atlanta in 1997.

James C. Sitton, II further confirmed that Ruth R. Sitton handled her own finances and made her own decisions after 1997. When asked if he helped his mother with her own financial affairs after 1997, he testified: "I mean absolutely I was forbidden to. She told me Johnny was over the house and she was over the finances and she did not want to hear anything from me about it." (T.O.R. pg. 75, lines 1-6).

John D. Sitton, Jr. did not handle the finances – his mother did. He, therefore, has no records from almost twenty years ago. Again, Ruth R. Sitton and Betty Ann Sitton were primary beneficiaries of the Trust. Ruth was supporting her daughter, Betty. The Trustees were given broad powers and discretion in handling the limited trust monetary assets.

The final paragraph of the Last Will and Testament of John D. Sitton, Sr., is informative on this point. It states: "It is my desire that my Personal

Representatives herein named complete the settlement of my estate with the Probate Court as soon as practical after my death and then to continue in their capacity as trustees as hereinafore mentioned without accounting being required of them to any Courts as to the Management of the Trust Estate set out herein.” (Plaintiff’s Exhibit 2).

The final evidence of any money being received by the Trustees is the fourth deed dated March 22, 2006, and recorded on March 25, 2006. James C. Sitton, II did not file his action for an accounting until April 27, 2023, seventeen (17) years later and ten (10) years after his mother died. He did not file a claim in his mother’s estate. He knew when his mother died there was no money in her account. The limited funds were obviously spent for Ruth and Betty. Plaintiff’s claim for an accounting is clearly ,also, barred by the applicable statute of limitations, laches, and waiver and estoppel.

THIRD CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

The Plaintiff’s claim of a breach of fiduciary duty arises primarily out of a deed executed by John D. Sitton, Jr. and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton, deceased, to John D. Sitton, Jr. conveying certain real estate in the Trust. The deed was dated September 1, 2011, and recorded on September 23, 2011, in the Anderson County Register of Deeds Office in Record Book 10162 at Page 275.

The execution of this deed was the last known act of the Trustees, and occurred almost twelve (12) years before the Plaintiff filed his action for an

alleged breach of fiduciary duty. After September 1, 2011, no other actions were ever taken by the Trustees, and the Trust was dormant. Ruth R. Sitton died May 25, 2013, ten (10) years before the Plaintiff filed this action, and he filed no statutory creditor's claim in his mother's estate. As stated, she had broad discretion and signed all trust deeds. Further, the Trustees were entitled to a ten percent (120%) commission.

John D. Sitton, Jr testified that it was his mother's decision to deed this property to him for all he had done for the family. (T.O.R. page 56). Again, the Trustees had broad discretion and powers. John D. Sitton, Jr further testified that his brother, James C. Sitton, II ("Jimmy") found this deed in a dresser drawer around September of 2012, and "he was furious". (T.O.R. pg. 57).

His brother, Jimmy, was aware as early as 2012 that this deed had been executed to John D. Sitton, Jr. In his testimony on re-direct from Plaintiff's attorney, John D. Sitton, Jr. reaffirmed that Jimmy knew about this deed in 2012 and that "he was acting pretty ugly about it at the house" and "he went to my mother and fussed". (T.O.R. pg. 64.) When asked about this, James C. Sitton, II testified twice "I do not recall that" and "no, I do not recall". (T.O.R. pg. 84). He never denied finding the deed.

It should, also, be noted that all five (5) of the Sitton children/ siblings were each deeded comparable tracts of land by the Trustees in 1998 and 1999. These five (5) deeds were by the Trustees and from the Trust real property. All were aware of the deeds, and no one objected. Each of the siblings were deeded

approximately 9.7 acres from the Trust property which they subsequently sold and benefited from.

It is apparent that all five of Ruth's children deferred to her regarding the trust real estate and money derived from the sale of trust real property. Again, the Trustees had full and broad powers and discretion. There was no breach of fiduciary duty, especially taking into consideration the dynamics of the "Sitton" family as revealed by the trial testimony.

Ruth R. Sitton died May 25, 2013, almost twelve (12) years after she executed the September 1, 2011 deed to John D. Sitton, Jr. The affirmative defenses of the statute of limitations, laches, and waiver, consent, and estoppel are clear bars to Plaintiff's action for alleged breach of fiduciary duty.

STATUTE OF LIMITATIONS

The current South Carolina Trust Code ("S.C.T.C.") was enacted into law in 2013 with an effective date of January 1, 2014. **S.C. Code Ann. § 62-7-1005** (2021) established a statute of limitations especially applicable to trustees' liabilities to trust beneficiaries for breach of trust or breach of fiduciary duties. This section is similar in content to the former South Carolina Probate Section 62-7-307.

This Code section establishes two limitation periods pertaining to the commencement of a proceeding against a trustee for breach of trust. **S.C. Code Ann. § 62-7-1005** (a)(b) sets the limit for commencement of an action against a trustee by a beneficiary at one year after receiving a report from the trustee that provides sufficient information so that the beneficiary should know

or be on inquiry notice of a possible claim. **S.C. Code Ann.** § 62-7-1005 (c) provides that, in other cases, a three year statute of limitation applies.

The Plaintiff's causes of action for an accounting and for breach of fiduciary duties are both clearly barred by both the one year and the three year statutes of limitations. John D. Sitton's will was admitted to probate in 1993. The deed of distribution conveying the real estate to the Trustees was executed on October 20, 1994, and recorded on October 31, 1994. The sales by the Trustees to third-party buyers occurred November 23, 2004; March 23, 2005; April 22, 2005; and March 22, 2006. The deed by the Trustees to John D. Sitton, Jr., was executed on September 1, 2011. No action was taken by the Trustees after this date, and the Trust was effectively dormant. James C. Sitton, II admitted her knew about the deeds to third-party buyers as early as 2004.

The Plaintiff, James C. Sitton, II, participated in the family agreement to convey equal tracts of land to he and his four (4) siblings in 1998- 1999. The Trustees, John D. Sitton, Jr., and Ruth R. Sitton, executed a deed to James C. Sitton, II on September 1, 1999, conveying Tract #5 containing 9.685 acres to him. This deed was recorded on December 9, 1999, in the Anderson County Register of Deeds Office in Record Book 3588 at Page 89. The deed clearly identifies the property and lists the property as part of the John D. Sitton Trust property and lists his address as 303 North B. Street, Easley, South Carolina, 29640, the home of his mother, Ruth R. Sitton. The Plaintiff later sold this property receiving all of the proceeds of sale.

The Trust was dormant when Ruth R. Sitton died on May 25, 2013. This was twelve (12) years after the last action by the Trustees. John D. Sitton, Jr., took no action as trustee after his mother's death, and the alternate trustee, Dale Sitton Rogers, never acted as trustee. There has been constant and protracted litigation in the Estate of Ruth R. Sitton since her death, and the Plaintiff, James C. Sitton, II has been a primary actor and participant in this litigation. The Estate of Ruth R. Sitton is still open.

James C. Sitton, II., had actual notice of the actions of the Trustees or, at the very least had constructive notice. He admitted that he helped his mother with bookkeeping and setting up her finances. In 2012 Plaintiff became power of attorney for his mother, Ruth R. Sitton, and handled all of her finances until her death on May 25, 2013. He knew there was no remaining trust money in her account. He had access to all of her records (T.O.R. pg. 91). The Plaintiff admitted that he knew about the sale of trust property by his mother and brother as early as 2004 and that he became "very suspicious". (T.O.R. pg. 81). James C. Sitton, II knew his mother was handling the money received from sales of trust property during 2004-2006 and was concerned about how she was spending the money. (T.O.R. pg. 82). The Plaintiff checked the public tax records and knew about the sale of the four parcels between 2004-2006. After he became power of attorney for his mother, Ruth R. Sitton, in 2012, he paid her bills and her real estate taxes. Therefore, he knew about the remaining trust property. The Plaintiff even testified that he was handling his mother's affairs money-wise from 1997-2006 (T.O.R. pg. 83 lines 3-9).

The September 1, 2011 deed to John D. Sitton, Jr., was a matter of public record. Further, John D. Sitton Jr., testified that Plaintiff found this deed and “was furious”. (T.O.R. pg. 57). When asked about this, James C. Sitton, II testified: “I do not recall”. It is not credible that he did not remember.

There are numerous examples in his testimony that Plaintiff had actual knowledge of the things he now complains of. He testified that in 2009 or 2010, he was concerned about how his mother was spending money on his brother, John (T.O.R. pgs. 87-88).

The Plaintiff, James C. Sitton, II, testified that there were concerns over missing money in 2012 and “so we hired an attorney to try to get the money back” (T.O.R. pg. 96). Plaintiff acknowledges that the Trustees took no action as trustees after September 1, 2011. The Plaintiff further testified that he became his mother’s power of attorney in 2012 and handled all of her money and finances until her death in 2013. (T.O.R. pgs. 111-112). More telling, he testified: “I had my mother’s bank account at the end when I became her power of attorney in 2012. The money wasn’t in there”. (T.O.R. pgs. 112-113).

The causes of action by Plaintiff, James C. Sitton, II, for an accounting are time barred by the applicable statutes of limitation. More that ten (10) years passed after he was power of attorney for his mother, Ruth R. Sitton, from 2013-2013 until he filed this action on April 27, 2023. More than seventeen (17) years passed after the deeds of 2004-2006 and more than twelve (12) years since the deed of September 1, 2011.

LACHES

The common law of trusts and principals of equity, supplement the **South Carolina Trust Code**. (“S.C.T.C.”) **S.C. Code Ann.** §62-7-106 (2021). An act done and any right acquired or accrued before the effective date of S.C.T.C is not affected by the act. Unless otherwise provided by the act, any right in a trust accrues in accordance with the law in effect on the date of the creation of the trust and a substantive right in the decedent’s estate accrues in accordance with the law in effect on the date of the decedent’s death. 2013 Act No. 100 of the South Carolina Legislature.

The principal of “laches” is in effect an equitable statute of limitations. White v. Warby, 176 S.C. 36, 179 S.E. 671 (1935). Laches is an equitable doctrine, which “arises upon the failure to assert a known right. “**EX parte Stokes**, 256 S.C. 260, 182 S.E.2d 306 (1971).

Laches has been defined as:

“Neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Whether a claim is barred by laches is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage the other party; delay alone in assertion of a right does not constitute laches. “Hallums v. Hallums, 296 S.C. 195, 198-199, 371 S.E.2d 525, 527 (1988). Simply put, to prove laches, a party must establish (1) delay; (2) unreasonable delay; and (3) prejudice.

The 1961 Supreme Court Case of Byars v. Cherokee County, 237 S.C. 548, 559, 118 S.E.2d 324, 330 defined laches as follows: “Laches is the neglect

for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do in law what should have been done, **or neglecting or omitting to do what in law should have been done for an unreasonable and unexplained length of time and in circumstances which afforded opportunity for diligence.**" (Emphasis added).

No action was taken by the Trustees of John D. Sitton after the deed of September 1, 2011, a period of almost twelve (12) years before the Plaintiff filed this action. One of the trustees, Ruth R. Sitton, died in 2013. The Plaintiff had actual knowledge and/ or inquiry notice of the facts forming the basis of his claim starting in 2004 and inexplicably failed to assert his claims for nineteen (19) years. Defendant Sitton has been prejudiced by Plaintiff's unexplained delay of such great length due to the death of witnesses, including a Trustee, Ruth R. Sitton, and loss of records making it difficult or impossible to defend against Plaintiff's claims. The unexplained delay further renders it more difficult for the Court to determine the matters in controversy. See. All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of South Carolina, 358 S.C. 209, 595 S.E.2d 253 (S.C. App. 2004); Byars v. Cherokee County, 237 S.C. 548, 118 S.E.2d 324 (1961); and Presbyterian Church of James Island v. Pendarvis, 227 S.C. 50, 86, S.E.2d 740 (1995).

The facts and circumstances of this case are such as to import that the Plaintiff, James C. Sitton, II, has, in essence, abandoned the claims he now seeks to assert, and both of his causes of action should be barred by the equitable doctrine of laches.

EQUITABLE ESTOPPELAND WAIVER

- A.) Under the doctrine of equitable estoppel, a person's acts or conduct, or silence when it is his duty to speak, may prevent him from asserting a right that he otherwise would have had against another person who relied on that voluntary action. (**i.e.**, "when his own conduct renders assertion of those rights contrary to equity.") American Bankers Insurance Group, Inc. v. Long, 453 F.3d 623 (C.A.S.C. 2006) and Premium Investment Corporation V. Green, 283 S.C. 464, 324 S.E.2d 72 (S.C. App. 1984)
- B.) "Waiver" is a voluntary and intentional abandonment or relinquishment of a known right. Mac Papers, Inc. v. Genesis Press, Inc., 426 S.C. 393, 826 S.E.2d 874 (S.C. App. 2019). The equitable doctrine of "laches" is the equivalent to the legal doctrine of waiver, which is the voluntary and intentional relinquishment or abandonment of a known right. Equitable estoppel focuses on a party's detrimental reliance on another party's conduct while a waiver analysis focuses on a party's unequivocal intent to relinquish a known right Strickland v. Strickland, 375 S.C. 76, 650 S.E.2d 465 (2007).

Based upon his conduct, the Plaintiff, James C. Sitton. II, has waived his right to assert his causes of action for an accounting and for breach of fiduciary duty by Defendant, John D. Sitton, Jr, and he should be estopped to assert said causes of action.

PUNITIVE DAMAGES

There is absolutely nothing in the record which would justify an award of punitive damages. No evidence was presented of any willful, reckless, wanton, wicked, malicious, or fraudulent conduct on the part of Defendant Sitton. Plaintiff is not even entitled to recover on either of his causes of action and, therefore, he is not entitled to recover punitive damages.

CONCLUSION

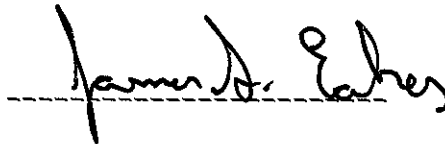
The Plaintiff, James C. Sitton, II ("Jimmy") obviously brought this action based upon long-standing animosity against his brother, John D. Sitton, Jr., ("Johnny"). In his testimony, he goes back to an incident that happened to him when he was four (4) years old, and Johnny allegedly ran over his duck. Plaintiff testified that he has not trusted his brother, Johnny, since then. The Plaintiff further testified that he has been suspicious of his brother, Johnny since 2000 and that he has not trusted or believed anything Johnny said. This action is personal with Jimmy. His brother, Johnny testified: "He resent me – he wants to make sure I don't get anything and that's his main goal. (T.O.R. pg. 66).

The Plaintiff offered no reasonable or rational explanation for why he failed to act for a period of twenty-three (23) years. He had all of his mother's, ("Ruth R. Sitton's") records when he acted as her attorney-in-fact during 2012-2013. And he failed to act for ten (10) years after his mother, who was the primary trustee, died.

The Defendant, John D. Sitton, Jr., respectfully submits that the Plaintiff should be denied his requested relief and that Plaintiff's Second and Third Causes of Action should be dismissed with prejudice.

Respectfully Submitted

ALLEN AND EAKES

A handwritten signature in black ink, appearing to read "James S. Eakes", is written over a horizontal dashed line.

James S. Eakes, S.C. Bar # 1820
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Anderson, South Carolina
April 4, 2025

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF ANDERSON	)	IN THE COURT OF COMMON PLEAS
	)	TENTH JUDICIAL CIRCUIT
	)	
JAMES C. SITTON, II,	)	
INDIVIDUALLY AND AS	)	
PERSONAL REPRESENTATIVE OF	)	FINAL ORDER
THE ESTATE OF	)	
JOHN D. SITTON, AND	)	
BETTY A. SITTON,	)	
PLAINTIFFS,	)	
	)	
-VS-	)	
	)	
JOHN D. SITTON, JR.,	)	
INDIVIDUALLY AND AS	)	
FORMER TRUSTEE OF THE JOHN	)	
D.SITTON TRUST, AND	)	
BRIAN K. JAMES	)	CASE NUMBER: 2023-CP-04-00846
AS PERSONAL REPRESENTATIVE	)	
OF THE ESTATE OF	)	
RUTH R. SITTON,	)	
DEFENDANTS.	)	
_____	)	

The Plaintiffs filed this non-jury action on April 17, 2023, with the Anderson County Clerk of Court, against the Defendants alleging three causes of action. The first cause of action was settled at mediation. The partial mediation agreement was approved by consent order of the Anderson County Court of Common Pleas dated May 5, 2024, and filed May 7, 2024. By their agreement, the parties agreed that any remaining real estate in Anderson County titled in the John D. Sitton Trust would be transferred to the Estate of John D. Sitton, which had been reopened in the Pickens County Probate Court.

PARTIAL MEDIATED AGREEMENT

The following real property in Anderson County, South Carolina is what remains from the real property transferred to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton, Sr., their successors and assigns as set forth in the deed of distribution recorded in deed book 1981 at page 046 in the Register of Deeds Office for Anderson County, South Carolina:

12.58 acres: TM#188-00-06-021

6.44 acres: TM#188-00-11-008

Both tracts being a part of:

ALL that piece, parcel or tract of land containing 57.00 and situate lying and being in the Brushy Creek Township of Anderson County, South Carolina and lying along a surface treated road, which road leaves S.C. Highway #8 near the W.A. Tripp farm and runs by way of J.O. Rosman home place to State Highway #81, and being described according to a plat prepared by J. Coke Smith, Surveyor, in May 1951 as follows: BEGINNING at an iron pin, the SE corner of J.C. Sitton land running thence along the said J.C. Sitton line N 18-00 W 26.50 chains to a point, along W.A. Pickens and Newt Cantrell line N 88-45 E 35.26 chains to an iron pin; thence, along W.F. Laboon property line S 10-15 W 13.67 chains to the aforementioned surface treated road; thence, along said road S 81-25 W 6.50 chains; thence, with road S 63-25 W 2.40 chains; thence, continuing along said road S 57-00 W 19.32 chains to the BEGINNING corner.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed John D. Sitton by Deborah M. Sitton by deed dated May 10, 1951, and recorded May 14, 1951, in Deed Book 9-F, Page 4, in the Office of the Clerk of Court for Anderson County, South Carolina.

ALSO: "All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Anderson, about 6 miles south of Easley, S.C. and being more fully described as follows, to-wit:

“BEGINNING in center of surface treated highway which point is also corner of W.D. Sitton Estate; thence S58-30W 8.90 chains along road; thence leaving road and running N33-45W 15.40 chains to an iron pin; thence S43-25W 23.57 chains to an iron pin; thence N27W 5.85 chains; thence N23-20E 31 chains; thence N88-45E 14.50 chains; thence S18E 26.50 chains to point of BEGINNING, and containing 61.1 acres, more or less, according to plat of J. Coke Smith, Surveyor, dated August, 1941, reference to which is hereby made for a more complete and accurate description and being bounded on the north by Bill Pickens Estate, bounded on the east by W.D. Sitton Estate, bounded on the south by highway and property of Eugene Wyatt and bounded on the west by property of J.M. Carpenter, according to said plat.

LESS HOWEVER: Those conveyances made by John D. Sitton.

This is the remainder of the property conveyed to John D Sitton by J.C. Sitton by deed dated October 13, 1965, and recorded June 9, 1967, in Deed Book 15-D, Page 599, in the Office of the Clerk of Court for Anderson County, South Carolina.

LESS PROPERTY CONVEYED BY TRUSTEES:

TRACT 1:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, containing 2.95 acres, more or less, and being more fully described as follows, to-wit:

BEGINNING at point in Syracuse Road which point is also corner of James Hawkins, thence along Syracuse Road in southerly direction 309 feet to point in road; thence continuing along Syracuse Road South 25-30 West approximately 219 feet to point in road, which point is also corner of Robert Dickard; thence along Robert Dickard line North 69-21 West 290.83 feet to point in center of stream; thence following meanderings of same on a traverse North 44-54 East 106 feet to point in stream; thence continuing along center of stream in a northerly direction approximately 265 feet to point in stream, which point is also corner of James Hawkins property; thence along James Hawkins property line in an easterly direction approximately 302 feet to the point of BEGINNING. Being bounded on the north by Hawkins, on the east by Syracuse Road; on the south Dickard, and on the west by Lyles and Watson.

This is the identical property conveyed unto John D. Sitton, Sr., by deed of Sitton Furniture, Inc. dated January 17, 1991 and recorded February 15, 1991 in Deed Book 1132 at Page 11 and a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October

20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880006103

It is the intent of this to also quitclaim to the grantee any property that the grantor owns on the east side of Syracuse Road across from the above described tract of 2.95 acres.

ALSO:

All that certain piece, parcel or lot of land and being situate in the State of South Carolina, County of Anderson, and being located about five (5) miles south of the City of Easley, on the northwest side of Old Mill Road, and being more fully described as follows, to-wit:

BEGINNING at a point in Old Mill Road, common corner with property now or formerly of Stevenson, and running thence along property of Stevenson North 13-30 West 241 feet to a point; thence continuing along property of Stevenson North 67-30 East 214.19 feet to a point on line of property of Ghizzonie, thence along line of property of Ghizzonie North 00-30 West 482.20 feet to other property of Grantee; thence turning and running along other property of Grantee North 81-00 West 30 feet to point on common line of property of grantee and portion of Tract 2, property pf Richard White, et al., South 00-30 East approximately 483 feet; thence turning and continuing along property of Wright South 67-30 West approximately 215 feet; thence turning and continuing along property of Wright South 13-30 East approximately 271 feet to point in center of Old Mill Road; thence along center of Old Mill Road North 69-00 East 30 feet to the point of BEGINNING.

THIS is a portion of the property conveyed to the grantors by deed of distribution from the Estate of John D. Sitton, Sr., October 20, 1994 and recorded October 31, 1994 in Deed Book 1981 at Page 46, Anderson County records.

Anderson County Tax Map Parcel # 1880011004

The property in Tract 1 was conveyed by the trustees in deed recorded in deed book 10162 at page 00275.

TRACT 2:

ALL that certain piece, parcel or lot of land situate, lying and being in the County of Anderson, State of South Carolina, being shown and designated as containing 0.84 of an acre, more or less, as shown on a plat prepared by Ray

Dun, PLS #19400, dated February 20, 2006, and signed February 21, 2006, of record in the Office of the Register of Deeds for Anderson County, South Carolina, in Plat 118 at Page 154, and having such metes and bounds, courses and distanced as upon said plat appear. For a more complete and accurate description of the lot herein conveyed, reference is invited to said plat, and the description contained thereon is incorporated herein by reference.

This is a portion of the property conveyed unto John D. Sitton, Jr. and Ruth R. Sitton, as trustees under the Last Will and Testament of John D. Sitton by deed of distribution from the Estate of John D. Sitton, dated October 20, 1994, recorded October 31, 1994, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 1982 at Page 46.

This conveyance is specifically made subject to any and all recorded rights of way, easements, encroachments, conditions, restrictions, and zoning ordinances pertaining to the property herein conveyed and, in addition, is subject to any of the foregoing which may appear from an inspection of the premises and/or which appear according to a current survey.

TMS NUMBER: 188-00-11-004

The property in Tract 2 was conveyed by the trustees in deed recorded in deed book 07381 at page 00115.

TRACT 3:

ALL that certain piece, parcel or tract of land containing 1.00 acre more or less, situate, lying and being in the county of Anderson, State of South Carolina, As shown on that certain plat prepared by Perry Ray Dunn, PLS#19400, Dated 4-18-05 and recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Book 117 at Page 820 for a more particular description as to metes and bounds, courses and distances, reference is hereby made to aforesaid plat of record.

This being the same property conveyed unto John D. Sitton and Ruth R. Sitton as trustees by deed of distribution in the matter of John D. Sitton (probate case# 93ES0400324) deed dated 10-20-94 and recorded 10-31-94 in the Office of the Register of Deeds for Anderson County, SC in Book 1981 at Page 46.

TMS: 188-00-11-008

The property in Tract 3 was conveyed by the trustees in deed recorded in deed book 06711 at page 00195.

TRACT 4:

ALL that certain piece, parcel or lot of land lying and being situate in the County of Anderson, State of South Carolina and being shown as 0.62 acres, more or less, located on Syracuse Road on a plat prepared by Spearman Surveying dated March 2, 2005 for James S. Smith and Thomas Duncan as recorded in Plat Book 1527 at Page 2-B in the Register of Deeds Office for Anderson County, South Carolina. Reference to said plat is hereby made for a more complete and accurate description thereof.

THIS being a portion of the same property to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution of the estate of John D. Sitton as recorded in Deed Book 1981 at Page 046 in the Anderson County Register of Deeds Office on 10-31-94.

TMS #: 1880006021

The property in Tract 4 was conveyed by the trustees in deed recorded in deed book 06689 at page 00234.

TRACT 5:

ALL that certain piece, parcel or lot of land situate and being in the State of South Carolina, County of Anderson, on Syracuse Road, and according to a plat by Ray Dunn Land Surveyor, dated October 28, 2004, said lot contains 0.982 acres, including all rights of way, and is more particularly described as follows, to-wit:

BEGINNING at an iron pin in the center of Syracuse Road, which point is 1500 feet, more or less, to Old Mill Road; thence along the center of Syracuse Road North 25-16-54 East 125.00 feet to an iron pin; thence leaving Syracuse Road South 65-53-56 East 265.59 feet to an iron pin; thence South 15-56-56 East 163.54 feet to an iron pin; thence North 65-52-00 West 373.40 feet to an iron pin in the center of Syracuse Road, the point of BEGINNING.

THIS is a portion of the property conveyed to John D. Sitton, Jr. and Ruth R. Sitton as Trustees under the Last Will and Testament of John D. Sitton by deed of distribution dated October 20, 1994 and recorded October 31, 1994 in at Register of Deeds for Anderson County, South Carolina in Deed Book 1981 at Page 46.

The property in Tract 5 was conveyed by the trustees in deed recorded in deed book 6497 at page 170.

The Trust established by the Will of John D. Sitton, Sr., Pickens County

Probate file #1993ES3900259-2 has been terminated by order of the Pickens

County Probate Court filed on September 27, 2022. The Partial Mediation Agreement requires the transfer of this real property back to the Estate of John D. Sitton, Sr. for purposes of sale. This real property is now an asset of the Estate of John D. Sitton, Sr. The heirs of John D. Sitton Sr. were his five children: James C. Sitton, II, Dorothy Sitton Ashley, Betty A. Sitton, Dale Sitton Rogers, and John D. Sitton, Jr. Betty A. Sitton is now deceased, intestate, unmarried, and without children. Her heirs are her surviving four siblings of James C. Sitton, II, Dorothy Sitton Ashley, Dale Sitton Rogers, and John D. Sitton, Jr. Therefore, the current heirs of the Estate of John D. Sitton, Sr. are James C. Sitton, II, Dorothy Sitton Ashley, Dale Sitton Rogers, and John D. Sitton, Jr. As a result of the termination of the Trust of John D. Sitton, Sr. September 27, 2022, James C. Sitton, II as personal representative of the Estate of John D. Sitton, Sr., estate #1993ES3900259-2, is authorized to sign and record a deed for the above real property to the estate of John D. Sitton, Sr. 1993ES3900259-2.

By the second cause of action, the Plaintiffs requested an accounting by John D. Sitton, Jr., for the John D. Sitton Trust and, by their third cause of action, the Plaintiffs alleged a breach of fiduciary duties by John D. Sitton, Jr.

Betty A. Sitton was a named Plaintiff, and she is now deceased, having died during the pendency of this action in 2024.

The Defendant John D. Sitton, Jr., individually and as former Trustee of the John D. Sitton Trust, (hereinafter “Defendant Sitton”, or “Defendant” John D. Sitton, Jr.) timely filed and served his answer and counterclaim. Defendant

Sitton asserted a number of affirmative defenses including the Statute of Limitations, Laches, Waiver and Estoppel, and Unclean Hands. The Plaintiffs timely filed and served a reply to Defendant's Counterclaim.

By a consent order of reference dated October 20, 2024, this matter was referred to me for trial, to make Findings of Fact, Conclusions of Law, and to render a final order with any appeal to be made directly to the South Carolina Supreme Court or Court of Appeals as appropriate.

The matter came before me for trial on January 29, 2025, at 10:30 a.m. The Plaintiff, James C. Sitton, II, was present with his attorney, James C. Alexander. The Defendant, John D. Sitton, Jr., was present with his attorney, James S. Eakes. Brian K. James, Defendant, was present, and he was released since he was not a necessary party.

STATEMENT OF ISSUES

- 1.) Whether or not the Plaintiff James C. Sitton, II., individually and as Personal Representative of the Estate of John D. Sitton, (hereinafter "Plaintiff Sitton", or "Plaintiff" "James C. Sitton, II.") is entitled to an accounting?
- 2.) Whether or not Defendant Sitton breached his fiduciary duties as Co-Trustee of the John D. Sitton Trust?

STATEMENT OF THE CASE

John D. Sitton ("John D. Sitton, Sr.") died testate on February 16, 1993, and, at the time of his death, he was a citizen and resident of Pickens County,

South Carolina. His estate was probated in the Pickens County Probate Court under Case Number: 1993-ES-04-00324. Ruth R. Sitton and John D. Sitton, Jr. were appointed as Co-Personal Representatives of his estate. This estate was closed around November, 1994, after the issuance of deeds of distribution by the Personal Representatives. After litigation involving an alleged trust deed, the Estate of John D. Sitton, Sr. was reopened on December 9, 2021, and James C. Sitton, II was appointed as Successor Personal Representative.

John D. Sitton, Sr., was survived by his wife, Ruth R. Sitton, and his five (5) children, to-wit: John D. Sitton, Jr.; Dorothy Sitton Ashley; Betty A. Sitton; Dale Sitton Rogers; and James C. Sitton, II.

The handwritten Last Will and Testament of John D. Sitton dated December 6, 1991, was admitted to probate without contest. By his Last Will and Testament dated December 6, 1991, John D. Sitton created a testamentary trust which is the subject of this action.

By ITEM VI of his Last Will and Testament, John D. Sitton appointed John D. Sitton, Jr., and Ruth R. Sitton "... as Personal Representatives of my Last Will and Testament, to hereby serve without bond... ." John D. Sitton, Jr., and Ruth R. Sitton were duly appointed as Personal Representatives and served until the estate was closed in 1994.

By ITEM III, ITEM IV, and ITEM V of his Last Will and Testament, John D. Sitton made specific bequests and devises to Ruth R. Sitton, John D. Sitton, Jr, and James C. Sitton, II.

ITEM VII of the Last Will and Testament of John D. Sitton devised his entire residuary estate, in trust, to the John D. Sitton Trust. He named his son, John D. Sitton, Jr., and his wife, Ruth R. Sitton, as Trustees, to serve without bond, and with full power to sell real or personal property. It further provided for a ten (10%) percent commission for the Trustees on all sales of real property and a ten (10%) percent commission on all rental property owned by the Trust.

ITEM VII of the Last Will and Testament of John D. Sitton further provides, in part, as follows: “I direct my said Trustees to provide support for my daughter, Betty Sitton; and secondly to provide support for my son, James C. Sitton, II, if and when the need arises for food, shelter, clothing, and medical expenses. ... My Trustees shall make disbursements to all beneficiaries but the provisions set forth above for all **three named beneficiaries** of the Trust shall always be given a priority.” (emphasis added).

ITEM VII of the Last Will and Testament of John D. Sitton further provided: “At such time as Betty A. Sitton and Ruth R. Sitton depart this life, if there be any remaining assets in said Trust, my remaining heirs: namely, my daughter, Dorothy Sitton Ashley, my daughter, Dale Sitton Rogers, my son, James C. Sitton, II., and my son, John D. Sitton, Jr., shall share and share alike in said Trust and said Trust can then be terminated if the four (4) heirs named herein give their approval. ...”.

ITEM VIII of the Last Will and Testament of John D. Sitton named and appointed Dale Sitton Rogers as alternate Trustee for the John D. Sitton Trust.

The decedent made no provision for one of the Trustees to act alone, and Dale Sitton Rogers did not act as co-trustee after the death of Ruth R. Sitton.

ITEM VIII further provides, in part, as follows: My Trustees and/ or Alternate Trustee shall have unquestioned and unlimited authority to use their discretion in investing and re-investing and using any part of the Corpus and/ or interest they deem necessary or advisable for the comfortable maintenance, support, health, and well being of **Betty Ann Sitton and Ruth R. Sitton.**, and shall supplement with food, shelter, and clothing for James C. Sitton, II.” (Emphasis Added).

The paramount consideration in the construction of every will is to determine and carry out the intentions of the testator unless in conflict with some rule of law. The rules of construction are subservient to the primary consideration of ascertaining 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 the other portions . *Estate of Gill ex.Rel. Grant v. Clemson University Foundation*, 397 S.C. 419, 725 S.E.2d 516 (SC. App. 2012). The law relating to discerning the drafter’s intent is identical for wills and trusts. *Epworth Children’s Home v. Beasley*, 365 S.C. 157, 616 S.E.2d 710 (2005). This is codified under **S.C. Code Ann.** §62-1-102(b)(2) (2021) relating to the underlying purposes and policies of the South Carolina Probate Code which states: “to discover and make effective the intent of a decedent in the distribution of his property... .”

Betty A. Sitton died prior to the trial of this case and is no longer a party. Brian K. James, as Personal Representative of the Estate of Ruth R. Sitton, did not participate in the trial and is not a real party in interest. All references to Plaintiff are to James C. Sitton, II., individually, and all references to Defendant are to John D. Sitton, Jr.

FINDINGS OF FACT

Based upon a careful review of the record in this case, including the pleadings, evidence submitted at trial, testimony of the parties, arguments advanced in trial and in post-trial briefs, as well as the Court's trial notes, the Court makes the following findings of fact.

1. John D. Sitton, Sr., died testate on February 16, 1993, and his estate was probated in the Pickens County Probate Court under Case Number: 1993-ES-04-00324.

2. Based upon a reading of the entire Last Will and Testament of John D. Sitton dated December 6, 1991, it is clear that the primary beneficiaries of the testamentary trust created under his will were his wife, Ruth R. Sitton, and his disabled daughter, Betty Ann Sitton, who lived at the home and was supported by her father, John D. Sitton, and her mother, Ruth R. Sitton, during their lifetimes. Item VIII of the will provides that "... the **three** named beneficiaries of this Trust shall always be given priority." Item VIII of the will states that the Trustees had "unquestioned and unlimited authority" to use "any part of the Corpus and/ or interest they deem necessary or advisable for the comfortable maintenance, support, health, and wellbeing of Betty Ann Sitton and Ruth R.

Sitton, and shall supplement will food, shelter, and clothing for James C. Sitton, II. Therefore, the primary trust beneficiaries were Ruth R. Sitton and Betty Ann Sitton with James C. Sitton, II to be supplemented with “food, shelter, and clothing.” (**i.e.**, the three named beneficiaries of the Trust to be given a priority.)

3. The only residuary probate assets transferred to the John D. Sitton Trust consisted of the real estate owned by John D. Sitton at his death and not specifically devised to named beneficiaries by specific bequests in the will. (The decedent devised and bequeathed to his wife, Ruth R. Sitton, specific real estate and other assets by Item III of his will, and he devised to his son, John D. Sitton, Jr., three acres of land located on Sitton Road in Anderson County, South Carolina. By Item VI, he devised to his son, James S. Sitton, II debt forgiveness and an automobile.)

4. John D. Sitton, Jr. and Ruth R. Sitton, as Personal Representatives, executed a statutory deed of distribution dated October 20, 1994, and recorded on October 31, 1994, in the Office of the Register of Deeds for Anderson County in Record Book 1981 at Page 46 conveying all real estate owned by the decedent at his death in Anderson County to John D. Sitton, Jr and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton.

5. In 1998, pursuant to an agreement between Ruth R. Sitton and her five (5) children, each of the five (5) children were deeded a tract of land by John D. Sitton, Jr., and Ruth R. Sitton, as Trustees under the Last Will and Testament of John D. Sitton, without consideration. The Trustees deeded Tract #1

containing 9.686 acres to Dorothy S. Ashley, by deed dated March 31, 1998, and recorded in Record Book 2923 at Page 159. The Trustees deeded Tract #4 containing 9.690 acres to John D. Sitton, Jr. by deed dated September 1, 1999, and recorded in Record Book 3536 at Page 232. The Trustees deeded Tract #3 containing 9.684 acres to Dale S. Rogers by deed dated September 1, 1999, and recorded in Record Book 3588 at Page 87. The Trustees deeded Tract #5 containing 9.685 acres to James C. Sitton, II by deed dated September 1, 1999, and recorded in Record Book 3588 at Page 89. Betty Ann Sitton, a.k.a Betty A. Sitton, received Tract #2 containing 9.688 acres and/ or the proceeds from the sale of this tract from the Trustees. These tracts were a part of the real estate described in the deed of distribution, and the five (5) tracts are shown on a plat by Robert R. Spearman, PLS #3615, dated December 16, 1997, and recorded in/ on Plat Slide 876 at Pages 3 & 4. There was no specific language in the testamentary trust for these transfers of trust assets to the five (5) siblings, and it was evidently a product of a family agreement between Ruth R. Sitton and her five (5) children and to carry out the wishes of John D. Sitton, Sr. According to the testimony of John D. Sitton, Jr., "Daddy gave each one of us equal shares." James C. Sitton, II confirmed this in his testimony. All of the siblings sold the respective tracts of real estate which were deeded to them.

6. Between 2004 and 2006, John D. Sitton, Jr and Ruth R. Sitton, as Trustees Under the Last Will and Testament of John D. Sitton, sold the following four (4) tracts of real estate to third parties:

- A.) On November 23, 2004, the Trustees sold a parcel of land on Syracuse Road to James K. Clinkscales and Kenneth W. Clinkscales for \$11,000.00. The deed was recorded on December 9, 2004, in Record Book 6497 at Page 170.
- B.) On March 23, 2005, the Trustees sold 0.62 of an acre of land on Syracuse Road to James S. Smith and Thomas Duncan for \$12,300.00. The deed was recorded on April 15, 2005, in Record Book 6689 at Page 234.
- C.) On April 22, 2005, the Trustees sold 1.00 acre of land to Travis J. Davis for \$13,500.00. The deed was recorded on April 29, 2005 in Record Book 6711 at Page 195.
- D.) On March 22, 2006, the Trustees sold 0.84 of an acre of land to Kenneth W. Clinkscales for \$12,000.00. The deed was recorded on May 25, 2006, in Record Book 7381 at Page 115.

7. Finally, on September 1, 2011, John D. Sitton, Jr. and Ruth R. Sitton, as Trustees Under the Last Will and Testament of John D. Sitton, conveyed certain real estate to John D. Sitton, Jr. by deed dated September 1, 2011, and recorded on September 23, 2011, in the Office of the Register of Deeds for Anderson County, South Carolina, in Record Book 10162 at Page 275.

8. The deed of September 11, 2011, was the final deed executed and issued by the Co-Trustees. There is no evidence that there has been any activity in the Trust since that time, and the Trust became dormant and inactive after September 11, 2011.

9. Ruth R. Sitton died on May 25, 2013, and she was still living in the family home she shared with her husband at 303 North B Street, Easley, South Carolina. Her disabled daughter, Betty Ann Sitton, was still residing with her at the time of her death. There has been almost constant litigation in the Estate of Ruth R. Sitton since her death. The Estate of Ruth R. Sitton is being probated in the Pickens County Probate Court under Case Number: 2013-ES-39-00478.

10. On July 17, 2013, James S. Sitton, II filed for formal appointment as personal representative of his late mother's estate. John D. Sitton, Jr. filed an answer and counterclaim on August 9, 2013, seeking formal appointment as Personal Representative and, also, formal probate of a copy of the Last Will and Testament of Ruth R. Sitton dated July 17, 2009. Pursuant to a hearing held on October 28, 2014, Judge Kathy P. Zorn, Pickens County Probate Judge, issued an order dated November 10, 2014, finding that Ruth R. Sitton died intestate since her original will had not been found and that it was in the best interests of all parties involved "to appoint a disinterested person as Personal Representative, preferably a member of the South Carolina Bar, due to the animosity between the parties."

11. On July 6, 2015, the original Last Will and Testament of Ruth R. Sitton dated July 17, 2009, was found and delivered to the Pickens County Probate Court on July 7, 2015. On September 22, 2015, John D. Sitton, Jr. filed a petition for formal probate of the will and formal appointment as Personal Representative. This was contested by James C. Sitton, II, who filed an answer and counterclaim again seeking appointment as Personal

Representative. Pursuant to a hearing in the Pickens County Probate Court, Judge Kathy P. Zorn issued a consent order dated March 14, 2016, admitting the original Last Will and Testament of Ruth R. Sitton to probate and confirming the appointment of a third-party personal representative, Kenneth Roper, of the Pickens County Bar, to continue to serve as Personal Representative of the Estate of Ruth R. Sitton “due to the severe animosity between the parties”.

12. Even though James C. Sitton, II is now seeking an accounting of the John D. Sitton testamentary trust and alleging a breach of the fiduciary duties by the Trustees, he did not file a statutory creditor’s claim in the Estate of Ruth R. Sitton even though she was one of the Co-Trustees. Ruth R. Sitton and John D. Sitton, Jr. signed all deeds out of the Trust as Co-trustees. Neither could act independently, and Dale Sitton Rogers never acted as trustee in place of her deceased mother, Ruth R. Sitton.

13. On December 18, 2017, James C. Sitton, II., individually and as Successor Trustee of Ruth R. Sitton, and Dorothy Sitton Ashley, individually and as Primary Trustee of Ruth R. Sitton, Dale Sitton Rogers, and Betty Ann Sitton filed an amended summons and petition with the Pickens County Probate Court against John D. Sitton, Jr. and Kenneth Roper for approval of a trust, for partition of the 303 North B Street property, and for waste. This litigation arose out of a corrective deed by John D. Sitton executed prior to his death on July 9, 1987, where he attempted to convey his undivided one-half (1/2) interest in the 303 North B Street property to “Dorothy Sitton Ashley,

Trustee for Ruth R. Sitton, with authority to convey”. Pursuant to a motion to dismiss filed by John D. Sitton, Jr., for lack of jurisdiction over the subject matter, Judge Kathy P. Zorn issued her order dated October 31, 2018, finding it was appropriate to transfer the issue to clarify the deed to Circuit Court to be determined. Therefore, the action was removed to the Pickens County Court of Common Pleas.

14. The action over the alleged trust deed came to be heard before the Honorable Perry H. Gravely, Circuit Court Judge for Pickens County, on April 3, 2020. Judge Gravely issued his order dated May 18, 2020, and he found that the two deeds attempting to convey the undivided one-half (1/2) interest of John D. Sitton in the 303 Noth B Street property to “Dorothy Sitton Ashley, Trustee” were to a non-existing grantee at the time the deeds were executed and anytime since then. Therefore, he found that the original deed and the corrective deed were “void *ab initio* ,and no trust was created by said deeds.” He remanded the case back to the Probate Court for any further proceedings. This order was not appealed. Therefore, the undivided one-half (1/2) interest of John D. Sitton in and to the 303 North B Street, Easley, South Carolina, property was a probate asset of the Estate of John D. Sitton, Sr., and this resulted in the re-opening of his estate and the appointment of James C. Sitton, II as successor Personal Representative.

15. Brian K. James has been appointed as successor Personal Representative of the Estate of Ruth R. Sitton in place of Kenneth Roper, and he is still acting in this capacity.

16. The primary initial beneficiaries of the John D. Sitton Testamentary Trust were his wife, Ruth R. Sitton, and his disabled daughter, Betty Ann Sitton. His son, James C. Sitton, II was mentioned as a beneficiary, and the Co-Trustees were directed to "... supplement with food, shelter, and clothing for James C. Sitton, II." The named Trustees were decedent's wife, Ruth R. Sitton, and his son, John D. Sitton, Jr. They were named as co-trustees, and neither could act unilaterally.

17. At the time of his death in 1993, John D. Sitton lived at 303 North B Street, Easley, South Carolina, with his wife, Ruth R. Sitton, and his disabled daughter, Betty Ann Sitton, who had always lived with her parents. Betty Ann Sitton continued to live with her mother, Ruth R. Sitton, until her mother died on May 25, 2013, and Ruth continued to provide support for Betty.

18. The primary asset of the testamentary trust consisted of real estate in Anderson County, South Carolina, as evidenced by the statutory deed of distribution. There is no evidence of any other assets, money or otherwise, that were transferred into the trust. The only money ever in the trust was generated by the sale of real estate. (Per the mediated agreement approved by the Court, all remaining real estate titled in the John D. Sitton Trust is to be transferred to the Estate of John D. Sitton.)

19. Up until November 23, 2004, there was no evidence of any money to account for in the Trust. On this date, the Trustees sold the first of four (4) separate parcels of real estate to third-party purchasers. The final of the four

parcels was sold on March 22, 2006. The total proceeds from the sale of real estate was \$48,000.00. Ruth R. Sitton and John D. Sitton, Jr., signed all four (4) deeds as Co-Trustees.

20. John D. Sitton, Jr., never handled any of the money from these sales of real estate. He deferred to his mother. Regarding the money, he testified "I gave it to my mother and she put it into her bank account.". John D. Sitton, Jr further testified that all of the money from the sales of real estate "... went into my mother's bank account". He further testified that he did not specifically know where his mother put the money or how she spent it. Ruth R. Sitton deposited the money into her own account, and she handled her own account, deciding how to spend the money. John D. Sitton, Jr., did not have access to his mother's account. Ruth's children deferred to her, and the money was primarily for her needs and Betty's needs.

21. James C. Sitton, II was living in the home with his mother and sister Betty when his father died in 1993. His mother, Ruth R. Sitton, was seventy-four (74) years old when her husband died. He continued to live with his mother until around 1997, when he moved to Atlanta, and he helped her with finances. James C. Sitton, II testified that he set up a file cabinet and folders – showed her where to put documents and how to file. John D. Sitton, Jr., testified that his brother, James C. Sitton, II, was the bookkeeper and helped his mother with finances until he moved to Atlanta in 1997.

22. James C. Sitton, II further confirmed that Ruth R. Sitton handled her own finances and made her own decisions after 1997. When asked if he

helped his mother with her own financial affairs after 1997, he testified: “I mean absolutely I was forbidden to. She told me Johnny was over the house and she was over the finances and she did not want to hear anything from me about it.”.

23. John D. Sitton, Jr. did not handle the finances – his mother did. He, therefore, has no records from almost twenty years ago. Again, Ruth R. Sitton and Betty Ann Sitton were primary beneficiaries of the Trust. Ruth was supporting her daughter, Betty. The Trustees were given broad powers and discretion in handling the limited trust monetary assets.

24. The final paragraph of the Last Will and Testament of John D. Sitton, Sr., is informative on this point. It states: “It is my desire that my Personal Representatives herein named complete the settlement of my estate with the Probate Court as soon as practical after my death and then to continue in their capacity as trustees as hereinafore mentioned without accounting being required of them to any Courts as to the Management of the Trust Estate set out herein.”

25. The final evidence of any money being received by the Trustees is the fourth deed dated March 22, 2006, and recorded on March 25, 2006. James C. Sitton, II did not file his action for an accounting until April 27, 2023, seventeen (17) years later and ten (10) years after his mother died. He did not file a claim in his mother’s estate. He knew when his mother died there was no money in her account. The limited funds were obviously spent for Ruth R. Sitton and her daughter, Betty.

26. The Plaintiff's claim of a breach of fiduciary duty arises primarily out of a deed executed by John D. Sitton, Jr. and Ruth R. Sitton, as Co-Trustees under the Last Will and Testament of John D. Sitton, deceased, to John D. Sitton, Jr. conveying certain real estate in the Trust. The deed was dated September 1, 2011, and recorded on September 23, 2011, in the Anderson County Register of Deeds Office in Record Book 10162 at Page 275.

27. The execution of this deed was the last known act of the Trustees, and occurred almost twelve (12) years before the Plaintiff filed his action for an alleged breach of fiduciary duty. After September 1, 2011, no other actions were ever taken by the Trustees, and the Trust was dormant. Ruth R. Sitton died on May 25, 2013, ten (10) years before the Plaintiff filed this action, and he filed no statutory creditor's claim in his mother's estate. Ruth R. Sitton had broad discretion and signed all trust deeds. The Trustees were, also, entitled to a ten percent (10%) commission.

28. John D. Sitton, Jr testified that it was his mother's decision to deed this property to him for all he had done for the family. Again, the Trustees had broad discretion and powers. John D. Sitton, Jr further testified that his brother, James C. Sitton, II ("Jimmy") found this deed in a dresser drawer around September of 2012, and "he was furious".

29. James C. Sitton, II was aware as early as 2012 that this deed had been executed to John D. Sitton, Jr. In his testimony John D. Sitton, Jr. reaffirmed that Jimmy knew about this deed in 2012 and that "he was acting pretty ugly about it at the house" and "he went to my mother and fussed".

When asked about this, James C. Sitton, II testified twice “I do not recall that” and “no, I do not recall”. He never denied finding the deed.

30. All five (5) of the Sitton children/ siblings were each deeded comparable tracts of land by the Trustees in 1998 and 1999. These five (5) deeds were executed by the Trustees and were part of the Trust real property. All were aware of the deeds, and no one objected. Each of the siblings were deeded approximately 9.7 acres from the Trust property which they subsequently sold and benefited from.

31. It is apparent that all five (5) of Ruth Sitton’s children deferred to her regarding the trust real estate and money derived from the sale of trust real property. Again, the Trustees had full and broad powers and discretion

32. The Court is compelled to include its observations on the credibility of the respective parties. The Defendant presented as completely forthcoming and freely acknowledged his actions of one kind or another. On the other hand, the Plaintiff was evasive in many instances and not believable on other instances such as his claim that he did not recall finding the deed to the Defendant in 2012. The Defendant asserted that the Plaintiff had a deep rooted ill-will, almost hatred, of his Defendant-Brother.

33. I find that both the accounting cause of action and the breach of fiduciary duty cause of action are time barred by the statute of limitations based upon the established facts of this case. On the accounting issue, all actions took place between 2004 and 2006, long before this action was commenced in 2023. It is clear that the Plaintiff was well aware of the various

deeds executed by both trustees, and yet he raised no question for an extremely long time of seventeen (17) years – way too long. Regarding the breach of fiduciary duty cause of action, the Plaintiff had constructive notice of the deed from the Trustees to Defendant when it was recorded on September 23, 2011. The evidence further leads to the inescapable conclusion that the Plaintiff learned of this deeds when he found it at his Mother's home in 2012. Yet no action was filed until 2023, a period of eleven (11) years.

34. The basis of the Plaintiff's claim for an accounting is that the trust beneficiaries (of which he was a secondary one) were entitled to an accounting under decedent's will within seventy-five days from the year end beginning upon activation of the trust after John D. Sitton's death in 1994 which were never provided. The Plaintiff, as a beneficiary, could have brought an action for an accounting, at any time over the life of the trust, but failed to do so until 2023. It is again noted that no money was received from the sale of the trust real estate after March 22, 2006. James C. Sitton, II admitted in his testimony that he knew about the deeds to the third-party buyers. Therefore, even under Plaintiff's theory of the case, he is barred by the statute of limitations.

35. I further find that the Plaintiff's causes of action for an accounting and for breach of fiduciary duty are barred by the affirmative defense of "laches". The Plaintiff neglected for an unreasonable and unexplained length of time to file his action resulting in a loss of records, witnesses, the death of a co-trustee, and loss of evidence. He unreasonably failed to assert his claims in a timely fashion.

36. I further find that the affirmative defenses of waiver and estoppel are applicable to this case and would bar the Plaintiff's recovery.

37. Even if the Plaintiff was not barred by the time and other defenses, the testimony provided by the Defendant at trial provides as complete of an accounting as the Defendant is able to provided based upon the death of his mother and the loss of her records due to the passage of time caused by Plaintiff's unreasonable delay. In short, the money from the sales of real estate went into his mother's account and were used by her for the maintenance and support of herself and her daughter, Betty, who lived with her, both of whom were beneficiaries of the trust. At one point for a considerable period of time, the Plaintiff assisted his mother with her records and bank account, and he had access to her records and bank account long before this action and claims were asserted against his brother, the Defendant herein. The Plaintiff even acted as his mother's attorney-in-fact under a durable power-of-attorney prior to her death in 2013, at least ten (10) years before he asserted his claims. As to the breach of fiduciary duty claim, the deed to the Defendant, John Sitton, Jr., in 2011 was an act of his mother and the Defendant acting as co-trustees. There are a number of reasons why the deed was issued to the Defendant, including his right to a commission and his various assistance to his mother, Ruth D. Sitton, and his sister, Betty Sitton over a considerable period of time.

CONCLUSIONS OF LAW

Based upon the findings of salient facts, the Court finds the following conclusions of law to be applicable.

1. Pursuant to Rule 53(b), **S.C.R.C.P.**, this matter has been properly referred to me by consent of the parties to make findings of fact and conclusions of law and to issue a final order on the cause of action pertaining to an accounting and the cause of action pertaining to breach of fiduciary duty.
2. Pursuant to Rule 53(e), **S.C.R.C.P.**, any appeal shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.
3. The current South Carolina Trust Code (“S.C.T.C.”) was enacted into law in 2013 with an effective date of January 1, 2014. **S.C. Code Ann.** § 62-7-1005 (2021) established a statute of limitations especially applicable to trustees’ liabilities to trust beneficiaries for breach of trust or breach of fiduciary duties. This section is similar in content to the former South Carolina Probate Section 62-7-307.

This Code section establishes two limitation periods pertaining to the commencement of a proceeding against a trustee for breach of trust.

S.C. Code Ann. § 62-7-1005 (a)(b) sets the limit for commencement of an action against a trustee by a beneficiary at one year after receiving a report from the trustee that provides sufficient information so that the beneficiary should know or be on inquiry notice of a possible claim. **S.C. Code Ann.** § 62-7-1005 (c) provides that, in other cases, a three year statute of limitation applies.

4. The common law of trusts and principals of equity, supplement the **South Carolina Trust Code**. (“S.C.T.C.”) **S.C. Code Ann.** §62-7-106 (2021). An act done and any right acquired or accrued before the effective date of S.C.T.C are not affected by the act. Unless otherwise provided by the act, any right in a trust accrues in accordance with the law in effect on the date of the creation of the trust and a substantive right in the decedent’s estate accrues in accordance with the law in effect on the date of the decedent’s death. 2013 Act No. 100 of the South Carolina Legislature.
5. The principal of “laches” is in effect an equitable statute of limitations. White v. Warby, 176 S.C. 36, 179 S.E. 671 (1935). Laches is an equitable doctrine, which “arises upon the failure to assert a known right. **“EX parte” Stokes**, 256 S.C. 260, 182 S.E.2d 306 (1971). Laches has been defined as:
 “Neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Whether a claim is barred by laches is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage the other party; delay alone in assertion of a right does not constitute laches.
“Hallums v. Hallums, 296 S.C. 195, 198-199, 371 S.E.2d 525, 527 (1988). Simply put, to prove laches, a party must establish (1) delay; (2) unreasonable delay; and (3) prejudice.

The 1961 Supreme Court Case of Byars v. Cherokee County, 237 S.C. 548, 559, 118 S.E.2d 324, 330 defined laches as follows: “Laches is the neglect for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do in law what should have been done, **or neglecting or omitting to do what in law should have been done for an unreasonable and unexplained length of time and in circumstances which afforded opportunity for diligence.**” (Emphasis added).

6. Under the doctrine of equitable estoppel, a person’s acts or conduct, or silence when it is his duty to speak, may prevent him from asserting a right that he otherwise would have had against another person who relied on that voluntary action. (**i.e.**, “when his own conduct renders assertion of those rights contrary to equity.”) American Bankers Insurance Group, Inc. v. Long, 453 F.3d 623 (C.A.S.C. 2006) and Premium Investment Corporation V. Green, 283 S.C. 464, 324 S.E.2d 72 (S.C. App. 1984)
7. “Waiver” is a voluntary and intentional abandonment or relinquishment of a known right. Mac Papers, Inc. v. Genesis Press, Inc., 426 S.C. 393, 826 S.E.2d 874 (S.C. App. 2019). The equitable doctrine of “laches” is the equivalent to the legal doctrine of waiver, which is the voluntary and intentional relinquishment or abandonment of a known right. Equitable estoppel focuses on a party’s detrimental reliance on another party’s conduct while a waiver analysis focuses on a party’s unequivocal intent

to relinquish a known right Strickland v. Strickland, 375 S.C. 76, 650 S.E.2d 465 (2007).

IT IS, THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED:

- 1.) That the Plaintiff's cause of action for an accounting is hereby time barred by the applicable statute of limitations and laches.
- 2.) That the Plaintiff's cause of action for an alleged breach of fiduciary duty is hereby barred by the applicable statute of limitations and laches.
- 3.) That the Plaintiff's causes of action for an accounting and for an alleged breach of fiduciary duty are hereby barred by the affirmative defenses of waiver and estoppel.
- 4.) That the Plaintiff's causes of action for an accounting and for an alleged breach of fiduciary duties are hereby dismissed with prejudice.

IT IS SO ORDERED.

Anderson, South Carolina
September __, 2025

Steven C. Kirven, Master-In-Equity
For Anderson and Oconee Counties,
Tenth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2023CP0400846

James C Sitton II John D Sitton Betty A Sitton	John D Sitton Estate Betty A Sitton Estate James C Sitton II Prs	John D Sitton Jr Ruth R Sitton Estate John D Sitton As Former Trustee	Ruth R Sitton Brian K James Prs
PLAINTIFF(S)		DEFENDANT(S)	
Submitted by: Steve Eakes		Attorney for: ☐ Plaintiff ☒ Defendant ☐ Self-Represented Litigant	

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Master in Equity, Court Judge	3081 Judge Code	9/5/2025 Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

James C. Alexander PO Box 618 Pickens, SC 29671

Brian Keith James PO Box 93 Easley, SC 29641

James S. Eakes PO Box 1405 Anderson, SC 29622

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

- Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Anderson Common Pleas

Case Caption: James C Sitton II , plaintiff, et al VS John D Sitton Jr , defendant, et al

Case Number: 2023CP0400846

Type: Order/Other

And it is so ordered

s/ Steven C. Kirven, Master in Equity, #3081

Electronically signed on 2025-09-05 15:30:54 page 32 of 32