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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Civil Action No. 2021-CP-15-00210
Appellate Case No. 2025-002580

Christopher Hamilton, Cleo Hamilton, Janie Nelson a/k/a Jannie Nelson, Juanita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, David Washington, Jr., Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri, Arthur Lee, Miranda Clark a/k/a Aranda Clark, Catherine Dent, Joseph Holmes, Gwendolyn Miller, Jan Elizabeth Burton, Brenda Brown, and Guy Ackerman, Plaintiffs, v. Rehabilitation Consultants of Charleston, LLC., William Arnold Kellman, Priscilla Judge, Rhonda B. Winfield, Samuel Cox, Jr., Jimmy Cox, Lavorge Cox, Deshawn Rambert-Cox, Vanessa Cox a/k/a Vanessa Cox-Rickenbacker, Toni Cox a/k/a Tonya Piercy, Felicia Cox, Andrew Walker, Selena Walker, individually and as Personal Representative of the Estate of Earl Walker, Sonya Teresa White, Raymond Walker, Ardelia Stokes a/k/a Della Stokes, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Micah Frasier, Zelemania Walker a/k/a Sellemena Walker, Terrance Walker, George Walker, Jr., Cherise Walker Turner, Naomi Walker, Richard Cox, Richard Wilton Washington a/k/a Weldon Washington, Donna Mitchell and Curtis Mitchell, if they be alive, and John Doe and Jane Doe, whose true names are unknown and fictitious names designating the unknown heirs, devisees, distributees, issue, executors, administrators, successors, or assigns of the above-named Defendants, if they or any of them be dead, and of Charity Washington, Centrilla Washington, Andrew Washington, Priscilla Washington, a/k/a Persella Washington, Oscar Washington, Gertie Washington, Margaret Kellman, Horace Heyward, Delores Washington a/k/a Delores Williams, Johnny Washington a/k/a Johnnie Washington, Ruthie Mae Washington, Eugene Washington a/k/a Sam Washington, Geneva Washington, Maybel Walker a/k/a Maybelle Washington, Lilla Mae a/k/a Lucille Cox Smalls, Leroy Smalls, Stanley Smalls a/k/a Ronnie Smalls, Willie Hayden Smalls, George Walker, Samuel Cox, Lucille Chisolm a/k/a Loucille Chisolm, Earl Walker, Pearl Hamilton, James Hamilton, Joseph Hamilton, Elise Simmons, James Washington, Victoria Johnson Green, David Washington, Sr., Carrier Washington a/k/a Carrie Washington Williams, Carrie Washington Lee, Joseph Lee, Norris Lee, Israel Washington, David Washington, Golden Washington, Minnie Brantley Johnson

a/k/a Minnie Brantley, Mabel Simmons, William Washington a/k/a Billy Washington, Millie Washington, Phoebe Ann Washington, and Margaret Rovenka Kellman, all deceased; and Mary Roe and Richard Roe, whose true names are unknown and fictitious names designation infants, persons under disability, incompetents, imprisoned, or those persons in the military, if any; South Carolina Department of Revenue, and also all other persons, known or whose true names are unknown, claiming any right, title, interest in, or lien upon the real estate described in the Complaint herein, Defendants.

of which Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, Cherise Walker Turner are the Appellants,

and

Donna Mitchell and Curtis Mitchell are the Respondents.

SUPPLEMENTAL RECORD ON APPEAL

(signature page to follow)

LAW OFFICES OF CHARLES S. ALTMAN, LLC

/s/ Charles S. Altman

Charles S. Altman (SC Bar No. 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar No. 106905)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, SC 29403

T: (843) 853-9907

F: (843) 722-5702

Attorneys for Appellants

BRUSH LAW FIRM, P.A

Thomas H. Brush (SC Bar No: 974)

tbrush@brushlawfirm.com

J. Chris Lanning (SC Bar No 73957)

clanning@brushlawfirm.com

12 Carriage Lane, Suite A

Charleston, South Carolina 29407

Tel: 843-766-5576

Attorneys for Respondents

OBERMAN & OBERMAN, LLC

Harold A. Oberman (SC Bar No: 15253)

obermanlaw@bellsouth.net

60 Markfield Drive, Suite 2

Charleston, SC 29407

Tel: 843-577-7010

Attorney for Respondents

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With permission from the Court the parties have withdrawn an incorrect exhibit at pages ROA_0233-0253 and replaced it with the correct exhibit at page ROA_0233. Pages ROA_0234-0253 do not appear in the Record on Appeal and the page following ROA_0233 is now page ROA_0254.

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V. CERTIFICATION

Consistent with Rule 210, SCACR, the undersigned counsel for Appellants hereby certifies that this Record on Appeal contains all material proposed to be included by the parties and not any other material.

Respectfully Submitted,

LAW OFFICES OF CHARLES S. ALTMAN, LLC

/s/ Natalia Flores

Charles S. Altman (SC Bar No. 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar No. 106905)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, SC 29403

T: (843) 853-9907

Attorneys for Appellants

July 29, 2026

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
JANIE NELSON A/K/A JANNIE NELSON,)
JUANITA WILLIAMS, ELVIRA MEMMINGER,)
CLARENCE WASHINGTON, DELINDA W.)
DAWSON, DAVID WASHINGTON, JR.,)
ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
CHERRI, ARTHUR LEE, MIRANDA CLARK)
A/K/A ARANDA CLARK, CATHERINE DENT,)
JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
ELIZABETH BURTON, BRENDA BROWN, and)
GUY ACKERMAN,)

Plaintiffs,)

v.)

REHABILITATION CONSULTANTS OF)
CHARLESTON, LLC., WILLIAM ARNOLD)
KELLMAN, PRISCILLA JUDGE, RHONDA B.)
WINFIELD, SAMUEL COX, JR., JIMMY COX,)
LAVORGE COX, DESHAWN RAMBERT-COX,)
VANESSA COX a/k/a VANESSA COX-)
RICKENBACKER, TONI COX a/k/a TONYA)
PIERCY, FELICIA COX, ANDREW WALKER,)
SELENA WALKER, individually and as Personal)
Representative of the Estate of Earl Walker, SONYA)
TERESA WHITE, RAYMOND WALKER,)
ARDELIA STOKES a/k/a DELIA STOKES,)
LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,)
GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
JOHNNY J. SMALLS, DONALD R. SMALLS,)
RALPH B. SMALLS, MICAH FRASIER,)
ZELEMENIA WALKER a/k/a SELLEMENA)
WALKER, TERRANCE WALKER, GEORGE)
WALKER, JR., CHERISE WALKER TURNER,)
NAOMI WALKER, RICHARD COX, RICHARD)
WILTON WASHINGTON a/k/a WELDON)
WASHINGTON, DONNA MITCHELL and)
CURTIS MITCHELL, if they be alive, and JOHN)
DOE AND JANE DOE, whose true names are)
unknown and fictitious names designating the)

**ORDER AS TO INTEREST
OF DONNA MITCHELL AND
CURTIS MITCHELL**

unknown heirs, devisees, distributees, issue,)
 executors, administrators, successors, or assigns of)
 the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN, all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)
 herein,)
)
 Defendants.)

The matter was before the Court pursuant to Plaintiff's Summons, Complaint and Lis Pendens, filed on April 12, 2021, and Amended Summons, Amended Complaint and Amended Lis Pendens, filed on June 15, 2021.

A hearing to quiet title was held before me on February 17, 2023 at 10:00 a.m. on May 25, 2023. Present and appearing at the reconvened hearing was Barry I. Baker Esq., attorney for the Plaintiffs together with Co-Plaintiffs Christopher Hamilton, Gwendolyn Miller, Jan Elizabeth Burton and Brenda Brown appeared in person. Co-Plaintiffs Juanita Williams and Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri appeared by Zoom. Charles S. Altman, Esq., appeared on behalf of his clients together with Co-Defendants Felicia Cox, Gwendolyn Bright, Leroy Smalls Jr., and Johnny J. Smalls appearing in person. Defendant Richard Wilton Washington a/k/a Weldon Washington appeared by Zoom on a pro se basis. Brandon Gaskins, Esq., attorney for Co-Plaintiff Guy Ackerman appeared by Zoom.

Also, appearing was Thomas H. Brush, Esq. with his clients the Defendants Donna Mitchell and Curtis Mitchell who filed an Answer and Cross Complaint on behalf of his clients on March 7, 2022 claiming title to a one (1) acre tract that is a portion of the subject property. Charles S. Altman, Esq., appeared on behalf of his clients Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Cherese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls filed an Answer to the Mitchell's Answer and Crossclaim on January 16, 2023.

At the conclusion of the Suit to Quiet Title Action I held a separate hearing on the of the Mitchell's claims and the purpose of this Order is to address their claims.

FINDINGS OF FACT

All parties presented testimony and evidence and this Court dully considered all the testimony and evidence presented. This Court assessed the credibility of the witnesses' testimony and evidence presented. This Court compared all conflicting or non-conforming elements of such testimony and evidence, choosing certain elements to the exclusion of others. The Court makes the following finding of facts.

The Amended Summons and Amended Complaint filed in this action by the Plaintiff's agreed that the Defendants, Donna Mitchell and Curtis Mitchell, were the owners of the one acre tract.

The Answer to the Mitchell's Answer and Crossclaim filed on January 16, 2023 by the Defendants, Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Chereese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls, challenged the interest of Donna and Curtis Mitchell in the one acre tract.

That the Interim Decree filed on June 9, 2023 held that the Mitchells were not heirs of Charity Washington and the Defendants Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and, Leroy Smalls Jr., and Johnny J. Smalls, have a 0.132% interest each in the said property tht is the subject of the Mitchells' claims. The Decree also set for that Chereese Walker Turner had a 0.116% interest in said property.

The Plaintiffs were determined to own 84% and the remaining Defendants did not contest the interest of the Mitchells.

The property which is claimed by the Mitchells is approximately a one-acre tract that is clearly shown on an unrecorded boundary survey prepared by Forsberg Engineering & Surveying, Inc. dated March 7, 2022 as containing 27.772 acres and having such size, shape, dimensions, buttings and boundings as will appear by reference to said survey.

The original home on the aforementioned tract was built by Millie Washington in 1953 and that Millie Washington raised the Mitchells' mother, Daisy Bell Mitchell, in said home.

Upon the death of Millie Washington in 1963, Daisy Bell Mitchell remained in the home raising her nine children, including Donna Mitchell, born 1964, and Curtis Mitchell, born 1955, until her death in 1996.

Since , the Mitchells have continued to reside and occupy the property as their residences.

The Mitchells have paid the property taxes on their portion on the property every year and have maintained and remodeled the original residence and added an additional structure for Curtis Mitchell to reside. The property has a current value of \$397,927.00.

The Mitchells have been on the property in excess of sixty (60) years and as emancipated adults more than fifty (50) years. The testimony from all witnesses was overwhelming that since 1953 none of the other Defendants or their predecessors took any action to stop or remove the Mitchells from the property and testified they had no reason to ask them to leave.

The Mitchells received a dollar amount each year from the other owners for their portion of the property taxes and the evidence shows that they cultivated and maintained the one acre tract. Their possession of the one-acre tract has been continuous, hostile, actual and exclusive for more than fifty (50) years.

REVIEW OF APPLICABLE LAW

A. Acquiescence

The South Carolina Court of Appeals recently restated acquiescence in *Griffin v. Giovino*, Opinion No. 6117, July 16, 2025 as, "Acquiescence is a question of fact determined by the intent of the parties", *Kirkland v. Gross* 286 S.C. 193, 332 S.E. 2nd 546,549 (Ct. App1985) recede from on other grounds by *Boyd v. Hyatt*, 294S.C. 360, 364 S. E. 2nd 478 (ct. App. 1988),

“If a party stands by, and sees another dealing with the property in a manner inconsistent with his rights, and makes no objection, he cannot afterwards have relief. His silence permits and encourages others to part with their money or property, and he cannot complain that his interest(s) are affected. His salience is acquiescence and it estopps him.”

B. Adverse Possession

In order to establish a claim for adverse possession, the possession must be continuous, hostile, open, actual, notorious, exclusive, for the ten year the statutory period and the twenty-year common-law presumption. *Davis v. Monteith*, 289 S.C. 176, 345 S.E.2d 724 (1986)

The nature and location of the land, and the appropriate uses for which it is suited should be considered in determining whether adverse possession has been established. *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961).

In *Graniteville Co. v. Williams*, 209 S.C. 112, 120-121, 39 S.E.2d 202, 206 (1946) the court held it is sufficient that possession is open, visible and notorious that the party against whom adverse possession is asserted should, in the exercise of ordinary diligence, have had knowledge of the adverse character of the claim.

The exclusive possession necessary to acquire title by adverse possession, possession must be such as to indicate his exclusive ownership of the property. *Butler v. Lindsey*, 293 S.C. 466, 361 S.E.2d 621 (Ct. App. 1987).

In *McDaniel v. Kendrick*, 386 S.C. 437, 688 S.E.2d 852 (S.C. Ct. App. 2009), the court addressed the requirement of hostility in an adverse possession claim. The court cited *All Saints Parish, Waccamaw* and *Knox v. Bogan* regarding what must be proven to claim adverse possession and specifically, hostility. A party may begin to satisfy the requirement of hostility upon a clear disclaimer of the owner's title. As a general rule, the law presumes

that the exclusive possession of land by one who is a stranger to the holder of the legal title is adverse. *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961).

C. Laches

“The Equitable Doctrine of Laches is 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. *Jones v. Leagan*, 384 S.C. 1, 384 S.E. 2nd 6, (Ct. App. 2009) quoting *Hallums v. Hallums*, 296 S.C. 195, 378 S. E. 2nd 525 (1998). Laches arises upon the failure to assert a known right under circumstances indicating the lached party has abandoned or surrender the rights. The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances and (3) prejudiced. *Englet, Inc. v LeafGuard USA, Inc.*, 377 S. C. 129,659 S. E. 2nd 496 (2008).

CONCLUSIONS OF LAW

ACQUIESCENCE

In Order for the Mitchells to establish title by acquiescence they must prove that the other Defendants stood by, and saw the Mitchells dealing with the property in a manner inconsistent with their rights, and made no objection. The evidence is clear from the testimony of Johnny Smalls, Felicia Cox and Gwendolyn Bright that they allowed the Mitchells to live and maintain the property for more than fifty (50) years and took no action to stop the Mitchells or claim an interest until this litigation was filed. Their silence permitted and encouraged the Mitchells to part with their money and pay taxes and improve the property. As a result, they cannot complain that their interest are affected because over the last fifty (50) years their past actions were as if they had no interest. The Defendants, Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Cherese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls neglected for an unreasonable and unexplained length of time, under circumstances affording

opportunity for diligence, to do what in law should have been done. *Jones v. Leagan*, 384 S.C. 1, 384 S.E. 2nd 6, (Ct. App. 2009) quoting *Hallums v. Hallums*, 296 S.C. 195, 378 S. E. 2nd 525 (1998). They have failed to assert a known right under circumstances indicating they abandoned or surrender the rights. I therefore conclude that the Mitchells have gained title through the Acquiescence all of the Plaintiff's and Defendant's in this case.

ADVERSE POSSESSION

In order for Mitchells to establish a claim for adverse possession, they must prove by clear and convincing evidence that their possession of Plaintiff's property was actual, open, notorious, exclusive, continuous and hostile for the statutory period. *All Saints Parish, Waccamaw v. Protestant Episcopal Church In the Diocese of S.C.*, 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004). The possession must be continuous, hostile, open, actual, notorious, exclusive, for the ten-year statutory period and the twenty-year common-law presumption. *Davis v. Monteith*, 289 S.C. 176, 345 S.E.2d 724 (1986)

A. Actual Possession

For the Mitchells to prove actual possession of the property they must show they have performed acts of ownership in ways consistent with the use to which the land may be put. *Getsinger v. Midlands Orthopaedic*, 327 S.C. 424, 489 S.E.2d 223 (1997). The Mitchells testified there was originally one residence on the land that was remodeled in the 1990's and an additional structure was erected by Curtis Mitchell. The also testified that they and their mother have resided on the land as their home for more than fifty (50) years. The Defendants, Johnny Smalls, Felicia Cox and Gwendolyn Bright, confirmed the Mitchells' possession of the property with their testimony. These actions by Mitchells and their mother occurred from 1953 until present. I therefore conclude that the Mitchells were in actual possession of the property for more than fifty (50) years.

B. Open and Notorious Possession

For Defendant's Mitchell to prove that their possession of Plaintiff's property was open and notorious they must prove that their possession should be so notorious that the legal owner by ordinary diligence should have known of it. *Graniteville Co. v. Williams*, 209 S.C. 112, 120-121, 39 S.E.2d 202, 206 (1946). The testimony was overwhelming by all parties that by the exercise of ordinary diligence the Defendants Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Cherese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls should have or were aware of the Mitchells open and notorious possession. I therefore conclude that the Mitchells possession of the property was open and notorious.

C. Exclusive Possession

For Defendant Mitchells to prove that their possession was exclusive they must demonstrate that their occupancy was not shared with the owner. *Butler v. Lindsey*, 293 S.C. 466, 361 S.E.2d 621 (Ct. App. 1987). All parties testified that the Mitchells lived on the property with their mother for more than fifty (50) years testified that the previous owners never shared ownership of the property with them. All of the structures and the property were maintained and improved by the Mitchells. I therefore conclude that the Mitchells' possession of Plaintiffs' property was exclusive.

D. Continuous Possession

For the Mitchells to prove that their possession was continuous they must show that they personally held adverse possession of Plaintiffs' property for twenty years. *Getsinger v. Midlands Orthopaedic*, 327 S.C. 424, 489 S.E.2d 223 (1997). Once again, the testimony is overwhelming that they have held continuous possession of this property for more than fifty (50) years because no one has disseized them of their possession and they have not voluntarily abandoned their possession. The Mitchells have had continuous possession of the one acre tract

of Plaintiffs and Defendants property since 1953. See *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961). I therefore conclude that the Mitchells' possession of Plaintiffs' property has been continuous for fifty (50) years.

E. Hostile Possession

For the Mitchells to demonstrate that their possession of the Plaintiffs' property was hostile they must prove that they entered the property without the Plaintiffs' or the previous owners' permission. See *Knox v. Bogan*, 322 S.C. 64, 472 S.E.2d 43 (Ct. App. 1996), *All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of S.C.*, 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004) and *McDaniel v. Kendrick*, 386 S.C. 437, 688 S.E.2d 852 (S.C. Ct. App. 2009). In order for the Mitchells' possession to be hostile, it must be *without the consent* of the title owner. See *Knox*.

The testimony does not show that any previous owner of the property gave them permission to be on the property. But upon the death of an heir of Charity Washington, the Mitchells' mother took possession of Plaintiffs' property without the consent of the other heirs and that she and Donna Mitchell and Curtis Mitchell have been in possession without permission since 1963.

The actions and exclusive possession of the property from 1963 to present by the Mitchells is adverse to the previous owners' ownership of the property and is adverse to Plaintiffs' and the other Defendants ownership of the property. Since the Mitchells exclusive possession of the one acre tract was adverse and without the consent of the owners, I therefore conclude their possession was hostile. See *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961).

In this instance, the Mitchells have proven by clear and convincing evidence that their possession of Plaintiffs' property has been actual, open, notorious, exclusive, continuous and

hostile for fifty (50) years. The Mitchells have proven that they asserted ownership over Plaintiffs' and Defendants' property. In addition, the Mitchells have demonstrated that they have exercised the requisite continuous adverse dominion over the property to claim it by adverse possession well beyond the statutorily requirement of twenty (20) years. I therefore conclude that Donna Mitchell and Curtis Mitchell have acquired ownership of this one-acre tract of land by Adverse Possession.

Plaintiffs' and all Defendants' interest in this one-acre tract has been extinguished and Defendants, Donna Mitchell and Curtis Mitchell, are vested with a perfect title. The Mitchells' title is independent and is a good, actual, absolute, complete, and perfect legal title in fee simple. See *Clark v. Hargrave*, 473 S.C. 474, 323 S.E.2d 84 (C. App. 1996).

Having decided that the Defendants, Donna Mitchell and Curtis Mitchell, are the fee simple owners of the one-acre tract its not necessary to decide on their request under the South Carolina Betterments Statute and Case Law.

DEFENDANTS CAUSES OF ACTIONS

All of Defendants', Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Cherese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls, causes of action, Estoppel, Laches and Waiver, require them to have an interest in the property. Since Defendants, Donna Mitchell and Curtis Mitchell, have established ownership of the property by acquiescence and adverse possession, they no longer have an ownership interest in the property. Therefore, all of Plaintiff's causes of actions are moot.

CONCLUSION

After considering the totality of the evidence, I find that Defendants, Donna Mitchell and Curtis Mitchell, have obtained title to the one acre tract through Acquiescence of all of the Defendants including Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph

B. Smalls and Chereese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls. I also find that the Mitchells have had possession of the one acre and that their possession has been actual, open, notorious, exclusive, continuous and hostile for fifty (50) years. I also find that the Mitchells have acquired Plaintiffs' and Defendants' interest in said property by adverse possession. I further find Donna Mitchell and Curtis Mitchell are the fee simple owners of the one acre tract. I also find that Defendants' causes of actions are now moot.

ORDERS

IT IS THEREFORE ORDERED, that Defendants, Donna Mitchell and Curtis Mitchell, claim of title through Acquiescence of the property described as above is granted; and

IT IS FURTHER ORDERED, that Defendants, Donna Mitchell and Curtis Mitchell, adverse possession claim of the property described above is granted and they are the fee simple owners of Plaintiff's property described above; and

IT IS FURTHER ORDERED, that Defendants, Donna Mitchell and Curtis Mitchell, will have the one acre tract surveyed and submitted the Court for approval; and

IT IS FURTHER ORDERED, that a Master's Deed will be executed conveying the one acre tract described above to Defendants, Donna Mitchell and Curtis Mitchell; and

AND IT IS SO ORDERED!



Benajmin C.P. Sapp, Special Referee

August 14, 2025
Walterboro, SC

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
JANIE NELSON A/K/A JANNIE NELSON,)
JUANITA WILLIAMS, ELVIRA MEMMINGER,)
CLARENCE WASHINGTON, DELINDA W.)
DAWSON, DAVID WASHINGTON, JR.,)
ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
CHERRI, ARTHUR LEE, MIRANDA CLARK)
A/K/A ARANDA CLARK, CATHERINE DENT,)
JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
ELIZABETH BURTON, BRENDA BROWN, and)
GUY ACKERMAN,)

Plaintiffs,)

v.)

REHABILITATION CONSULTANTS OF)
CHARLESTON, LLC., WILLIAM ARNOLD)
KELLMAN, PRISCILLA JUDGE, RHONDA B.)
WINFIELD, SAMUEL COX, JR., JIMMY COX,)
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Representative of the Estate of Earl Walker, SONYA)
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RALPH B. SMALLS, MICAH FRASIER,)
ZELEMENIA WALKER a/k/a SELLEMENA)
WALKER, TERRANCE WALKER, GEORGE)
WALKER, JR., CHERISE WALKER TURNER,)
NAOMI WALKER, RICHARD COX, RICHARD)
WILTON WASHINGTON a/k/a WELDON)
WASHINGTON, DONNA MITCHELL and)
CURTIS MITCHELL, if they be alive, and JOHN)
DOE AND JANE DOE, whose true names are)
unknown and fictitious names designating the)

**ORDER DENYING MOTION
TO RECONSIDER**

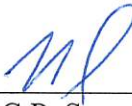
unknown heirs, devisees, distributees, issue,)
 executors, administrators, successors, or assigns of)
 the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN, all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)
 herein,)
)
 Defendants.)

The matter was before the Court pursuant to the Motion to Reconsider the Order as to the interest of Donna Mitchell and Curtis Mitchell issued by this Court on August 14, 2025 and filed on August 22, 2025, filed by Charles S. Altman Esq., on behalf of Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherise Walker Turner. A virtual hearing on said Motion to Reconsider was held held before me on October 23, 2025. Appearing by zoom was Thomas H. Brush, Esq., attorney for the Defendants, Donna Mitchell and Curtis Mitchell. Charles S. Altman, Esq., appeared by zoom on behalf of his clients, Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherise Walker Turner. Jonathan S. Altman Esq., appeared by zoom on behalf of his client, Rehabilitation Consultants of Charleston, LLC.

After reviewing the Memorandum in Support of Reconsideration filed by the Charles S. Altman, Esq., and hearing arguments from the parties respective Counsel, I concluded that no misapplication of law or equity has occurred to cause this Court to amend, change or modify its original ruling of August 14, 2025. It is, therefore,

ORDERED, that the Motion to Reconsider filed by the Charles S. Altman, Esq., on behalf of Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherise Walker Turner is hereby denied.

AND IT IS SO ORDERED.


Benjamin C.P. Sapp, Special Referee

Dec
November 3, 2025
Walterboro, SC

STATE OF SOUTH CAROLINA)
 :
 COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 CASE NO. 2021-CP-15-_____

CHRISTOPHER HAMILTON,)
)
 Plaintiff,)

v.)

JUANITA WILLIAMS, CALVIN KELLMAN a/k/a)
 ARNOLD KELLMAN, ELVIRA MEMMINGER,)
 PRISCILLA JUDGE, CLARENCE WASHINGTON,)
 RHONDA B. WINFIELD, LINDA LEE)
 WASHINGTON a/k/a DELINDA W. DAWSON,)
 JANIE NELSON a/k/a JANNIE NELSON, SAMUEL)
 COX, JR., JIMMY COX, LAVORGE COX,)
 DESHAWN RAMBERT-COX, VANESSA COX)
 a/k/a VANESSA COX-RICKENBACKER, TONI)
 COX a/k/a TONYA PIERCY, FELICIA COX,)
 ANDREW WALKER, SELENA WALKER,)
 individually and as Personal Representative of the)
 Estate of Earl Walker, SONYA TERESA WHITE,)
 RAYMOND WALKER, ARDELIA STOKES a/k/a)
 DELIA STOKES, LEROY SMALLS, JR. a/k/a)
 LEROY H. SMALLS, GWENDOLYN BRIGHT,)
 ELIZABETH SAWYER, JOHNNY J. SMALLS,)
 DONALD R. SMALLS, RALPH B. SMALLS,)
 MICAH FRASIER, ZELEMENIA WALKER a/k/a)
 SELLEMENA WALKER, TERRANCE WALKER,)
 GEORGE WALKER, JR., CHERISE WALKER)
 TURNER, NAOMI WALKER, RICHARD COX,)
 CLEO HAMILTON, CATHERINE DENT, JOSEPH)
 HOLMES, RICHARD WILTON WASHINGTON)
 a/k/a WELDON WASHINGTON, DAVID)
 WASHINGTON, JR., ELIZABETH ANN LEE a/k/a)
 ELIZABETH ANN CHERRI, ARTHUR LEE,)
 MIRANDA CLARK a/k/a ARANDA CLARK,)
 DONNA MITCHELL, and CURTIS MITCHELL, if)
 they be alive, and JOHN DOE AND JANE DOE,)
 whose true names are unknown and fictitious names)
 designating the unknown heirs, devisees, distributees,)
 issue, executors, administrators, successors, or assigns)
 of the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)

SUMMONS

WASHINGTON, GERTIE WASHINGTON,)
MARGARET KELLMAN, HORACE HEYWARD,)
DELORES WASHINGTON a/k/a DELORES)
WILLIAMS, JOHNNY WASHINGTON a/k/a)
JOHNNIE WASHINGTON, RUTHIE MAE)
WASHINGTON, EUGENE WASHINGTON a/k/a)
SAM WASHINGTON, GENEVA WASHINGTON,)
MAYBEL WALKER a/k/a MAYBELLE)
WASHINGTON, LILLA MAE SMALLS a/k/a)
LUCILLE COX SMALLS, LEROY SMALLS,)
STANLEY SMALLS a/k/a RONNIE SMALLS,)
WILLIE HAYDEN SMALLS, GEORGE WALKER,)
SAMUEL COX, LUCILLE CHISOLM a/k/a)
LOUCILE CHISOLM, EARL WALKER, PEARL)
HAMILTON, JAMES HAMILTON, JOSEPH)
HAMILTON, ELISE SIMMONS, JAMES)
WASHINGTON, VICTORIA JOHNSON GREEN,)
DAVID WASHINGTON, SR., CARRIE)
WASHINGTON a/k/a CARRIE WASHINGTON)
WILLIAMS, CARRIE WASHINGTON LEE,)
JOSEPH LEE, NORRIS LEE, ISRAEL)
WASHINGTON, DAVID WASHINGTON,)
GOLDEN WASHINGTON, MINNIE BRANTLEY)
JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
SIMMONS, WILLIAM WASHINGTON a/k/a)
BILLY WASHINGTON, MILLIE WASHINGTON,)
and PHOEBE ANN WASHINGTON, all deceased;)
and MARY ROE AND RICHARD ROE, whose true)
names are unknown and fictitious names designating)
infants, persons under disability, incompetents,)
imprisoned, or those person in the military, if any;)
SOUTH CAROLINA DEPARTMENT OF)
REVENUE, and also all other persons, known or)
whose true names are unknown, claiming any right,)
title, interest in, or lien upon the real estate described)
in the Complaint herein,)

Defendants.)
)
)

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy
of which is herewith served upon you, or to otherwise appear and defend, and to serve a copy of
your Answer to said Complaint upon the Clerk of this Court and upon Baker & Varner LLC at

their office, Post Office Box 31265, Charleston, South Carolina 29417, within thirty (30) days after service hereof if service upon you was in person and thirty-five (35) days after service hereof if service upon you was by U.S. Mail, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein and judgment by default will be rendered against you for the relief demanded in the Complaint.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiffs immediately and separately and such application will be deemed absolute and total in the absence of your application for such an appointment within thirty (30) days after the service of the Summons and Complaint upon you.

s/Barry I. Baker
BAKER & VARNER, LLC
Barry I. Baker, Esq.
Bar Number 482
bbaker@bakerlawsc.com
One Carriage Lane, Bldg. H-P.O. Box 31265
Charleston, SC 29417-1265
Office: (843) 766-9007~Fax: (843) 766-1295
ATTORNEYS FOR PLAINTIFF

Charleston, SC
April 8, 2021

STATE OF SOUTH CAROLINA)
 :
 COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 CASE NO. 2021-CP-15-_____

CHRISTOPHER HAMILTON,

 Plaintiff,

v.

JUANITA WILLIAMS, CALVIN KELLMAN a/k/a)
 ARNOLD KELLMAN, ELVIRA MEMMINGER,)
 PRISCILLA JUDGE, CLARENCE WASHINGTON,)
 RHONDA B. WINFIELD, LINDA LEE)
 WASHINGTON a/k/a DELINDA W. DAWSON,)
 JANIE NELSON a/k/a JANNIE NELSON, SAMUEL)
 COX, JR., JIMMY COX, LAVORGE COX,)
 DESHAWN RAMBERT-COX, VANESSA COX)
 a/k/a VANESSA COX-RICKENBACKER, TONI)
 COX a/k/a TONYA PIERCY, FELICIA COX,)
 ANDREW WALKER, SELENA WALKER,)
 individually and as Personal Representative of the)
 Estate of Earl Walker, SONYA TERESA WHITE,)
 RAYMOND WALKER, ARDELIA STOKES a/k/a)
 DELIA STOKES, LEROY SMALLS, JR. a/k/a)
 LEROY H. SMALLS, GWENDOLYN BRIGHT,)
 ELIZABETH SAWYER, JOHNNY J. SMALLS,)
 DONALD R. SMALLS, RALPH B. SMALLS,)
 MICAH FRASIER, ZELEMENIA WALKER a/k/a)
 SELLEMENIA WALKER, TERRANCE WALKER,)
 GEORGE WALKER, JR., CHERISE WALKER)
 TURNER, NAOMI WALKER, RICHARD COX,)
 CLEO HAMILTON, CATHERINE DENT, JOSEPH)
 HOLMES, RICHARD WILTON WASHINGTON)
 a/k/a WELDON WASHINGTON, DAVID)
 WASHINGTON, JR., ELIZABETH ANN LEE a/k/a)
 ELIZABETH ANN CHERRI, ARTHUR LEE,)
 MIRANDA CLARK a/k/a ARANDA CLARK,)
 DONNA MITCHELL, and CURTIS MITCHELL, if)
 they be alive, and JOHN DOE AND JANE DOE,)
 whose true names are unknown and fictitious names)
 designating the unknown heirs, devisees, distributees,)
 issue, executors, administrators, successors, or assigns)
 of the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)

COMPLAINT

WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 and PHOEBE ANN WASHINGTON, all deceased;)
 and MARY ROE AND RICHARD ROE, whose true)
 names are unknown and fictitious names designating)
 infants, persons under disability, incompetents,)
 imprisoned, or those person in the military, if any;)
 SOUTH CAROLINA DEPARTMENT OF)
 REVENUE, and also all other persons, known or)
 whose true names are unknown, claiming any right,)
 title, interest in, or lien upon the real estate described)
 in the Complaint herein,)

Defendants.)

The Plaintiff above named, complaining of the Defendants above named, would allege and
 show unto this Honorable Court as follows:

1. Plaintiff brings this action pursuant to SCRCF Rule 71 for a partition of the property to be more fully described hereinafter and pursuant to the provisions of the 1976 South Carolina Code of Laws, as amended, Section 15-61-310, et seq., (known as the Clementa C. Pinckney Uniform Partition of Heirs' Property Act) for a partition of the subject property to be more fully described hereinafter, Section 15-53-10, et seq., (known as the Uniform Declaratory Judgment Act), Section 15-3-380, et seq., for a quieting of title by adverse possession of forty (40) years, etc. and Section 15-67-210, et seq., for a quieting of title by adverse possession of ten (10) years and for a quieting of the title because of adverse possession under the color of title for a period of greater than twenty (20) years; for the further purpose of seeking an order from the Court that the Plaintiff and Defendants JUANITA WILLIAMS, CALVIN KELLMAN a/k/a ARNOLD KELLMAN, ELVIRA MEMMINGER, PRISCILLA JUDGE, CLARENCE WASHINGTON, RHONDA B. WINFIELD, LINDA LEE WASHINGTON a/k/a DELINDA W. DAWSON, JANIE NELSON a/k/a JANNIE NELSON, SAMUEL COX, JR., JIMMY COX, LAVORGE COX, DESHAWN RAMBERT-COX, VANESSA COX a/k/a VANESSA COX-RICKENBACKER, TONI COX a/k/a TONYA PIERCY, FELICIA COX, ANDREW WALKER, SELENA WALKER, SONYA TERESA WHITE, RAYMOND WALKER, ARDELIA STOKES a/k/a DELIA STOKES, LEROY SMALLS, JR. a/k/a LEROY H. SMALLS, GWENDOLYN BRIGHT, ELIZABETH SAWYER, JOHNNY J. SMALLS, DONALD R. SMALLS, RALPH B. SMALLS, MICAH FRASIER, ZELEMENIA WALKER a/k/a SELLEMENA WALKER, TERRANCE WALKER, GEORGE WALKER, JR., CHERISE WALKER TURNER, NAOMI WALKER, RICHARD COX, CLEO HAMILTON, CATHERINE DENT, JOSEPH HOLMES, RICHARD WILTON WASHINGTON a/k/a WELDON WASHINGTON, DAVID WASHINGTON, JR., ELIZABETH ANN LEE a/k/a ELIZABETH ANN CHERRI, ARTHUR LEE, and MIRANDA CLARK a/k/a ARANDA CLARK are the true and lawful owners of the subject property more

fully described hereinafter and for the Court to determine their respective percentages of ownership; this action is further brought for the purpose of this Court establishing and making a determination of the heirs of CHARITY WASHINGTON, CENTRILLA WASHINGTON, ANDREW WASHINGTON, PRISCILLA WASHINGTON a/k/a PERSELLA WASHINGTON, OSCAR WASHINGTON, GERTIE WASHINGTON, MARGARET KELLMAN, HORACE HEYWARD, DELORES WASHINGTON a/k/a DELORES WILLIAMS, JOHNNY WASHINGTON a/k/a JOHNNIE WASHINGTON, RUTHIE MAE WASHINGTON, EUGENE WASHINGTON a/k/a SAM WASHINGTON, GENEVA WASHINGTON, MAYBEL WALKER a/k/a MAYBELLE WASHINGTON, LILLA MAE SMALLS a/k/a LUCILLE COX SMALLS, LEROY SMALLS, STANLEY SMALLS a/k/a RONNIE SMALLS, WILLIE HAYDEN SMALLS, GEORGE WALKER, SAMUEL COX, LUCILLE CHISOLM a/k/a LOUCILE CHISOLM, EARL WALKER, PEARL HAMILTON, JAMES HAMILTON, JOSEPH HAMILTON, ELISE SIMMONS, JAMES WASHINGTON, VICTORIA JOHNSON GREEN, DAVID WASHINGTON, SR., CARRIE WASHINGTON a/k/a CARRIE WASHINGTON WILLIAMS, CARRIE WASHINGTON LEE, JOSEPH LEE, NORRIS LEE, ISRAEL WASHINGTON, DAVID WASHINGTON, GOLDEN WASHINGTON, MINNIE BRANTLEY JOHNSON a/k/a MINNIE BRANTLEY, MABEL SIMMONS, WILLIAM WASHINGTON a/k/a BILLY WASHINGTON, MILLIE WASHINGTON, and PHOEBE ANN WASHINGTON, all deceased; this action is further brought for the purpose of this Court approving the Contract of Sale dated December 10, 2020 and entered into by and between the Plaintiff, individually as Seller, and Guy Ackerman, as Buyer, for the purchase price of \$220,000.00 or to any other individual or entity that can comply with the terms of the Contract of Sale and approving a partition of approximately one (1) acre on which Donna Mitchell and Curtis Mitchell currently reside.

2. The property which is the subject matter of this action are situate in the

County of Colleton, State of South Carolina, and is more fully described as follows:

ALL that certain piece, parcel, or lot of land situate, lying and being in Jacksonboro in the County of Colleton, State of South Carolina, located off of Hope Plantation Road and being on both sides of Bean Stick Lane and formerly containing 36 acres more or less, being bounded

The said parcel measuring and now containing approximately 24.7 acres of land, more or less, as is shown on the GIS map and the tax map of Colleton County, reference is made to the said GIS and tax map for a more complete and accurate description. Colleton County records are made part and parcel of this description by reference thereto.

The said tract of land is known by the Colleton County tax map numbering system as 265-00-00-019.000.

Being a portion of the property conveyed to Charity Washington by deed of M.P. Howell dated November 8, 1897 and recorded March 4, 1898 in the Office of the RMC for Colleton County in Book 17 at Page 775.

TMS No. 265-00-00-019.000

3. Plaintiff would allege and show that the subject property was conveyed by M.P. Howell to Charity Washington by deed dated November 8, 1897 and recorded March 4, 1898 in the Office of the RMC for Colleton County in Book 17 at Page 775.

FOR A FIRST CAUSE OF ACTION
(Suit to Quiet Title)

4. The Plaintiff realleges all of the allegations contained in paragraphs 1 through 3 as if repeated verbatim herein.

5. The property which is the subject matter of this action is owned by the Estate of Charity Washington. *HEIRS*

6. Upon information and belief, Charity Washington died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her four (4) children, namely, Andrew Washington, David Washington, Sr., Minnie Brantley Johnson, and William "Billy" Washington. She was predeceased by her husband, George Washington, and by a daughter, Centrilla Washington, who passed as an infant.

HEIRS OF ANDREW WASHINGTON
(25% of interest in subject property)

7. Andrew Washington died intestate on or about August 11, 1945, leaving as his sole heirs-at-law, his wife, Priscilla Washington a/k/a Persella Washington, and his nine (9) children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Eugene Washington a/k/a Sam Washington, Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, Elise Simmons, James Washington, and Victoria Johnson Green.

8. Upon information and belief, Victoria Johnson Green was a child of another relationship and not of the marriage between Andrew Washington and Priscilla Washington a/k/a Persella Washington.

9. After his death, Andrew Washington's interest in the subject property was held as follows:

Priscilla Washington a/k/a Persella Washington	8.333%
Oscar Washington	1.852%
Johnny Washington a/k/a Johnnie Washington	1.852%
Eugene Washington a/k/a Sam Washington	1.852%
Maybel Walker a/k/a Maybelle Walker	1.852%
Lucille Chisolm a/k/a Loucile Chisolm	1.852%
Pearl Hamilton	1.852%
Elise Simmons	1.852%
James Washington	1.852%
Victoria Johnson Green	1.852%
TOTAL	25.00%

10. On or about March 1966, Priscilla Washington a/k/a Persella Washington died intestate leaving as her sole heirs-at-law her eight (8) children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Eugene Washington a/k/a Sam Washington, Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, Elise Simmons, and James Washington. Her interest in the subject property therefore devolved to

said children.

11. At this point, Andrew Washington's interest in the subject property was held as follows:

Oscar Washington	2.894%
Johnny Washington a/k/a Johnnie Washington	2.894%
Eugene Washington a/k/a Sam Washington	2.894%
Maybel Walker a/k/a Maybelle Walker	2.894%
Lucille Chisolm a/k/a Loucile Chisolm	2.894%
Pearl Hamilton	2.894%
Elise Simmons	2.894%
James Washington	2.894%
Victoria Johnson Green	1.852%
TOTAL	25.00%

Heirs of Oscar Washington

12. Upon information and belief, Oscar Washington died intestate on or about January 9, 2007 leaving his wife, Gertie Washington, and his three (3) children, namely, Juanita Williams, Delores Washington a/k/a Delores Williams, and Priscilla Judge.

13. Plaintiff is informed and believes that Priscilla Judge was a child from a prior marriage and not a child of the marriage between Oscar and Gertie Washington. Plaintiff has no knowledge on whether Priscilla Judge is currently living or deceased.

14. Upon information and belief, Oscar Washington was predeceased by a daughter, Margaret Kellman, her exact date of death being unknown. She left as her sole heir-at-law, a son, Calvin Kellman a/k/a Arnold Kellman.

15. On or about January 23, 2017, Gertie Washington died intestate leaving as her sole heirs-at-law, one (1) child from her marriage to Oscar Washington, namely, Juanita Williams, and one (1) child from a prior relationship, namely, Elvira Memminger. She was predeceased by her other children, namely, Margaret Kellman, Horace Heyward, and Delores Washington a/k/a Delores Williams

16. Upon information and belief, Horace Heyward died intestate on or about December 20, 2008, predeceasing his mother, Gertie Washington and leaving no spouse or issue. His interest in the subject property devolved to his living sibling, Juanita Williams, his nephew taking by representation, Calvin Kellman a/k/a Arnold Kellman, and his half-sibling, Elvira Memminger.

17. Upon information and belief, Delores Washington a/k/a Delores Williams predeceased her mother, her exact date of death being unknown, leaving no spouse or issue. Her interest in the subject property devolved to her living sibling, Juanita Williams, her nephew taking by representation, Calvin Kellman a/k/a Arnold Kellman, and her half-sibling, Elvira Memminger.

Heirs of Johnny Washington a/k/a Johnnie Washington

18. Upon information and belief, Johnny Washington a/k/a Johnnie Washington died intestate on or about 1985, leaving as his sole heirs-at-law, his two (2) children, namely Clarence Washington, who was legally adopted, and Ruthie Mae Washington, who was his biological child.

19. Thereafter, Ruthie Mae Washington died intestate on or about January 4, 1999 without a spouse or children.

20. In Colleton County Probate Court Case No. 1999-ES-15-000159, Clarence Washington and Rhonda B. Winfield are listed as both the siblings and children of Ruthie Mae Washington. Plaintiff is informed and believes that there is a scrivener's error in the Affidavit for Collection of Personal Property in the Colleton County Probate Court Case No. 1999-ES-15-000159, whereby Clarence Washington and Rhonda B. Winfield are listed as the children of Ruthie Mae Washington. Correspondence contained in the same probate file, however, refer to Clarence Washington and Rhonda B. Winfield as her siblings.

21. Further, Plaintiff is informed and believes that Rhonda B. Winfield was never legally adopted by Johnny Washington a/k/a Johnnie Washington and was only raised by Johnny Washington a/k/a Johnnie Washington's mother-in-law. She, however, has been named as a party defendant due to the Colleton County Probate Court recognizing her as an heir of Ruthie Mae Washington in the above-referenced case, and due to her recognition as an heir, she has been listed as having an interest in the subject property which was inherited through Ruthie Mae Washington.

Heirs of Eugene Washington a/k/a Sam Washington

22. Upon information and belief, Eugene Washington a/k/a Sam Washington died intestate on or about 1971, leaving as his sole heirs-at-law his wife, Geneva Washington and his daughter, Linda Lee Washington a/k/a Delinda W. Dawson.

23. Thereafter, Geneva Washington died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her daughter, Linda Lee Washington a/k/a Delinda W. Dawson.

24. Plaintiff and the family has not had contact with Linda Lee Washington a/k/a Delinda W. Dawson since approximately 1971 and are not sure whether or not she is living.

Heirs of Maybel Walker a/k/a Maybelle Walker

25. Upon information and belief, Mabel Walker a/k/a Maybelle Walker died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her nine (9) children, namely, Jannie Nelson a/k/a Janie Nelson, Samuel Cox, Andrew Walker, Earl Walker, Raymond Walker, Ardelia Stokes a/k/a Delia Stokes, Lilla Mae Smalls a/k/a Lucille Cox Smalls, George Walker, and Richard Cox.

26. Lilla Mae Smalls a/k/a Lucille Cox Smalls died intestate on or about 1960 leaving as her sole heir-at-law, her husband, Leroy Smalls, and her eight (8) children, namely,

Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Donald R. Smalls, Ralph B. Smalls, Willie Hayden Smalls, and Stanley Smalls a/k/a Ronnie Smalls.

27. Leroy Smalls died intestate on or about 1991 leaving as his sole heirs-at-law his eight (8) children, namely, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Donald Smalls, Ralph B. Smalls, Willie Hayden Smalls, and Stanley Smalls a/k/a Ronnie Smalls.

28. Plaintiff is informed and believes that Stanley Smalls a/k/a Ronnie Smalls died intestate on or about 1992 leaving as his sole heir-at-law, a son, Micah Frasier.

29. Plaintiff believes that Willie Hayden Smalls died intestate on or about May 2, 1993 leaving no spouse or children as will more fully appear by reference to Colleton County Probate Court Case No. 1993-ES-15-00175. Pursuant to his estate, he left as his sole heirs-at-law, his six (6) siblings, namely, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Ralph B. Smalls, Johnny J. Smalls, Donald R. Smalls, and Elizabeth Sawyer. However, his nephew, Micah Frasier, son of Stanley Smalls a/k/a Ronnie Smalls, would also take by representation.

30. Thereafter George Walker, son of Maybel Walker a/k/a Maybelle Walker, died intestate on or about 2002, leaving as his sole heirs-at-law, his wife, Zelemania Walker a/k/a Sellemena Walker, and his four (4) children, namely, Dr. Terrance Walker, George Walker, Jr., Cherise Walker Turner, and Naomi Walker.

31. Thereafter, Samuel Cox died intestate in May 2018 leaving as his sole heirs-at-law, his seven (7) children, namely, Samuel Cox, Jr., Jimmy Cox, LaVorge Cox, Deshawn Rambert-Cox, Vanessa Cox a/k/a Vanessa Cox-Rickenbacker, Toni Cox a/k/a Tonya Piercy, and Felicia Cox.

32. Upon information and belief, Earl Walker died testate on or about May 3, 2020 and there is currently an open estate found in Charleston County Probate Court, Case No. 2020-ES-10-01082, with his daughter, Selena Walker acting as Personal Representative for the Estate. Under his Last Will and Testament, he left his possessions equally to his two daughters, namely, Selena Walker and Sonya Teresa White.

Heirs of Lucille Chisolm a/k/a Loucile Chisolm

33. Upon information and belief, Lucille Chisolm a/k/a Loucile Chisolm died intestate on or about January 1988 without a spouse or issue. Since her parents were deceased, her interest in the subject property devolved to her siblings or their heirs.

34. Therefore, Lucille Chisolm a/k/a Loucile Chisolm's interest in the subject property devolved to her siblings or their children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Linda Lee Washington a/k/a Delinda Dawson (heir of Eugene Washington a/k/a Sam Washington), Maybel Walker a/k/a Maybelle Walker, Pearl Hamilton, and Richard Wilton Washington a/k/a Weldon Washington (heir of James Washington).

Heirs of Pearl Hamilton

35. Upon information and belief, Pearl Hamilton died intestate on or about April 26, 1999, leaving her two (2) children, namely, Christopher Hamilton and Cleo Hamilton.

36. Plaintiff is informed and believes that Pearl Hamilton was predeceased by two (2) children, James Hamilton, who died as an infant, and Joseph Hamilton, who died intestate in January 1955, leaving as his sole heirs-at-law, his two (2) children, Catherine Dent and Joseph Holmes.

37. Therefore, the interests of Pearl Hamilton devolved to her two (2) children, Christopher Hamilton and Cleo Hamilton, and her two (2) grandchildren, Catherine Dent and Joseph Holmes.

Heirs of Elise Simmons

38. Upon information and belief, Elise Simmons died in 1975, leaving no surviving heirs. Therefore, her interest in the subject property devolved to her siblings or their children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Linda Lee Washington a/k/a Delinda Dawson (heir of Eugene Washington a/k/a Sam Washington), Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, Richard Wilton Washington a/k/a Weldon Washington (heir of James Washington), and Victoria Johnson Green.

Heirs of James Washington

39. Upon information and belief, James Washington died in 1948, leaving as his sole heir-at-law, a son, Richard Wilton Washington a/k/a Weldon Washington.

Heirs of Victoria Johnson Green

40. Upon information and belief, Victoria Johnson Green died on or about September 14, 1986, leaving no surviving spouse or issue, as will more fully appear by reference to Beaufort County Probate Court Case No. 86-ES-07-00359. Therefore, Plaintiff believes that her interest in the subject property devolved to her siblings or their children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Linda Lee Washington a/k/a Delinda Dawson (heir of Eugene Washington a/k/a Sam Washington), Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, and Richard Wilton Washington a/k/a Weldon Washington (heir of James Washington).

41. Based on the foregoing, Plaintiff believes Andrew Washington's interest in the subject property is held as follows:

<u>Heirs of Oscar Washington</u>	
Juanita W. Williams	1.389%
Calvin Kellman a/k/a Arnold Kellman	1.389%
Elvira Memminger (daughter of Gertie Washington)	0.694%

Priscilla Judge (daughter of Oscar Washington)	0.694%
<u>Heirs of Johnny Washington a/k/a Johnnie Washington</u>	
Clarence Washington (interest from father and Ruthie Mae Washington)	3.125%
Heirs of Ruthie Mae Washington	
Rhonda B. Winfield	1.042%
<u>Heir of Eugene Washington a/k/a Sam Washington</u>	
Linda Lee Washington a/k/a Delinda Dawson	4.167%
<u>Heirs of Maybel Walker a/k/a Maybelle Walker</u>	
Jannie Nelson a/k/a Janie Nelson	0.463%
Heirs of Samuel Cox	
Samuel Cox, Jr.	0.066%
Jimmy Cox	0.066%
LaVorge Cox	0.066%
Deshawn Rambert-Cox	0.066%
Vanessa Cox a/k/a Vanessa Cox-Rickenbacker	0.066%
Toni Cox a/k/a Tonya Piercy	0.066%
Felicia Cox	0.066%
Andrew Walker	0.463%
Heirs of Earl Walker	
Selena Walker	0.231%
Sonya Teresa White	0.231%
Raymond Walker	0.463%
Ardelia Stokes a/k/a Delia Stokes	0.463%
Heirs of Lilla Mae Smalls a/k/a Lucille Cox Smalls	
Leroy Smalls, Jr. a/k/a Leroy H. Smalls	0.066%
Gwendolyn Bright	0.066%
Elizabeth Sawyer	0.066%
Johnny J. Smalls	0.066%
Donald R. Smalls	0.066%
Ralph B. Smalls	0.066%
Heir of Stanley Smalls a/k/a Ronnie Smalls	
Micah Frasier	0.066%
Heirs of George Walker	
Zelemenia Walker a/k/a Sellemena Walker (spouse)	0.231%
Dr. Terrance Walker	0.058%
George Walker, Jr.	0.058%
Cherise Walker Turner	0.058%
Naomi Walker	0.058%
Richard Cox	0.463%
<u>Heirs of Pearl Hamilton</u>	
Christopher Hamilton	1.389%
Cleo Hamilton	1.389%
Heirs of Joseph Hamilton	
Catherine Dent	0.694%
Joseph Holmes	0.694%
<u>Heir of James Washington</u>	
Richard Wilton Washington a/k/a Weldon Washington	4.167%
TOTAL	25.00%

HEIRS DAVID WASHINGTON, SR.
(25% of interest in subject property)

42. David Washington, Sr. died intestate, his date of death being unknown, leaving as his sole heirs-at-law, his wife, Carrie Washington a/k/a Carrie Washington Williams, and his three (3) children, Carrie Washington Lee (from a previous relationship), Israel Washington (from a previous relationship), and David Washington, Jr. (a child of the marriage).

43. Carrie Washington a/k/a Carrie Washington Williams died intestate on or about 1985, leaving as her sole heir-at-law, her son, David Washington, Jr.

44. Carrie Washington Lee died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her four (4) children, Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri, Joseph Lee, Arthur Lee, and Norris Lee. Plaintiff is informed and believes that Joseph Lee and Norris Lee are now deceased, but it is unknown whether they have any heirs.

45. Upon information and belief, Israel Washington died intestate leaving as his sole heirs-at-law, his daughter, Miranda Clark a/k/a Aranda Clark. Plaintiff is informed and believes he had two sons, David Washington and Golden Washington, who are both deceased. It is unknown whether either of those sons had any heirs.

46. Plaintiff believes that the interests of David Washington, Sr. are held as follows:

<u>Heirs of Carrie Washington Lee</u>	
Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri	1.389%
Arthur Lee	1.389%
Heirs of Joseph Lee	1.389%
Heirs of Norris Lee	1.389%
<u>Heirs of Israel Washington</u>	
Miranda Clark a/k/a Aranda Clark	1.852%
Heirs of David Washington	1.852%
Heirs of Golden Washington	1.852%
David Washington, Jr.	13.889%
TOTAL	25.00%

HEIRS OF MINNIE BRANTLEY JOHNSON
(25% of interest in subject property)

47. Minnie Brantley Johnson a/k/a Minnie Brantley was seized and possessed of a twenty-five (25%) percent interest in the subject property as a child of Charity Washington.

48. Upon information and belief, Minnie Brantley Johnson a/k/a Minnie Brantley died intestate on or about April 6th or April 8th of 1969, leaving as her sole heir-at-law, a daughter, Mabel Simmons.

49. Plaintiff is informed and believes that Mabel Simmons is deceased, her date of death being unknown. Plaintiff is informed that she may have had a son; however, his name, location, and whether he is still living are unknown.

50. Plaintiff believes that if no additional information becomes known during the pendency of this case, that the interests of Minnie Brantley Johnson a/k/a Minnie Brantley should devolve to the heirs of her siblings, Andrew Washington and David Washington, Sr.

HEIRS OF WILLIAM "BILLY" WASHINGTON
(25% of interest in subject property)

51. William Washington a/k/a Billy Washington was seized and possessed of a twenty-five (25%) percent interest in the subject property as a child of Charity Washington.

52. William Washington a/k/a Billy Washington died intestate, his date of death being unknown, leaving as his sole heirs-at-law, his two (2) children, Millie Washington and Phoebe Ann Washington.

53. Upon information and belief, Phoebe Ann Washington died intestate on or about October 29, 1929 leaving no spouse. The family is informed and believes that she had a son, but he is deceased and they do not believe he had any surviving heirs.

54. Upon information and belief, Millie Washington died intestate about 1962 leaving no spouse or issue. She did, however, raise as her daughter, Isabel Mitchell; however, Plaintiff believes that she was never legally adopted by Millie Washington.

55. Therefore, Plaintiff believes that William Washington a/k/a Billy Washington's interest subject property devolved to the heirs of his siblings, Andrew Washington and David Washington, Sr.

56. Based on the foregoing, Plaintiff is informed and believes that the entirety of the subject property is held in the following proportions, to wit:

Heirs of Andrew Washington	
<u>Heirs of Oscar Washington</u>	
Juanita W. Williams	2.778%
Calvin Kellman a/k/a Arnold Kellman	2.778%
Elvira Memminger (daughter of Gertie Washington)	1.389%
Priscilla Judge (daughter of Oscar Washington)	1.389%
<u>Heirs of Johnny Washington a/k/a Johnnie Washington</u>	
Clarence Washington (interest from father and Ruthie Mae Washington)	6.250%
Heir of Ruthie Mae Washington	
Rhonda B. Winfield	2.084%
<u>Heir of Eugene Washington a/k/a Sam Washington</u>	
Linda Lee Washington a/k/a Delinda Dawson	8.333%
<u>Heirs of Maybel Walker a/k/a Maybelle Walker</u>	
Jannie Nelson a/k/a Janie Nelson	0.926%
Heirs of Samuel Cox	
Samuel Cox, Jr.	0.132%
Jimmy Cox	0.132%
LaVorge Cox	0.132%
Deshawn Rambert-Cox	0.132%
Vanessa Cox a/k/a Vanessa Cox-Rickenbacker	0.132%
Toni Cox a/k/a Tonya Piercy	0.132%
Felicia Cox	0.132%
Andrew Walker	0.926%
Heirs of Earl Walker	
Selena Walker	0.463%
Sonya Teresa White	0.463%
Raymond Walker	0.926%
Ardelia Stokes a/k/a Delia Stokes	0.926%
Heirs of Lilla Mae Smalls a/k/a Lucille Cox Smalls	
Leroy Smalls, Jr. a/k/a Leroy H. Smalls	0.132%
Gwendolyn Bright	0.132%
Elizabeth Sawyer	0.132%

Johnny J. Smalls	0.132%
Donald R. Smalls	0.132%
Ralph B. Smalls	0.132%
Heir of Stanley Smalls a/k/a Ronnie Smalls	
Micah Frasier	0.132%
Heirs of George Walker	
Zelemenia Walker a/k/a Sellemena Walker (spouse)	0.463%
Dr. Terrance Walker	0.116%
George Walker, Jr.	0.116%
Cherise Walker Turner	0.116%
Naomi Walker	0.116%
Richard Cox	0.926%
<u>Heirs of Pearl Hamilton</u>	
Christopher Hamilton	2.778%
Cleo Hamilton	2.778%
Heirs of Joseph Hamilton	
Catherine Dent	1.389%
Joseph Holmes	1.389%
<u>Heir of James Washington</u>	
Richard Wilton Washington a/k/a Weldon Washington	8.333%
Heirs of David Washington, Sr.	
<u>Heirs of Carrie Washington Lee</u>	
Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri	3.472%
Arthur Lee	3.472%
Heirs of Joseph Lee	3.472%
Heirs of Norris Lee	3.472%
<u>Heirs of Israel Washington</u>	
Miranda Clark a/k/a Aranda Clark	4.630%
Heirs of David Washington	4.630%
Heirs of Golden Washington	4.630%
David Washington, Jr.	22.223%
TOTAL	100.00%

FOR A SECOND CAUSE OF ACTION
(Partition of One (1) Acre Parcel)

57. The Plaintiff realleges all of the allegations contained in the above Cause of Action as if repeated verbatim herein.

58. As previously asserted, Millie Washington, daughter of William Washington, died intestate leaving no spouse or issue. She did, however, raise Isabel Mitchell as her daughter. Plaintiff is informed and believes that Isabel Mitchell was never legally adopted by Millie Washington.

59. Isabell Mitchell is now deceased, but her and her two (2) children, Donna Mitchell and Curtis Mitchell, lived in a home on the subject property for at least 64 years in total.

60. Donna Mitchell and Curtis Mitchell still reside in a home on the subject property. According to the Colleton County tax records, the residential mobile home situate on the subject property is owned by Curtis Mitchell.

61. Plaintiff believes that under the principles of equity, Donna Mitchell and Curtis Mitchell should be entitled to approximately one (1) acre portion of the subject property surrounding where their home is currently situate and on which they have lived and maintained for the entirety of their life.

62. Further, Plaintiff believes the Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to Donna Mitchell and Curtis Mitchell for a one (1) acre parcel surrounding the home.

FOR A THIRD CAUSE OF ACTION
(Partition and Approval of Contract)

63. The Plaintiff realleges all of the allegations contained in the above Cause of Action as if repeated verbatim herein.

64. Plaintiff would allege and show that the subject property constitutes heirs property pursuant to S.C. Code Ann. § 15-61-320(5) (Clementa C. Pinckney Act) and further that pursuant to the factors set forth in S.C. Code Ann. § 15-61-390, it is not possible to partition the said property in kind or by allotment without manifest injury to the parties.

65. Plaintiff is further informed and believes that this Court should determine the lawful owners of the subject property and their respective interests in the said property and order the distribution of the proceeds of sale in accordance thereto.

66. The Plaintiff has listed the subject property with Huger Sinkler, II of Holcombe, Fair & Lane, a qualified real estate agency/company, to procure a buyer of the subject

property.

67. Plaintiff is further informed and believes that this Honorable Court should approve the Contract of Sale dated December 10, 2020 and entered into by and between the Plaintiff as Seller and Guy Ackerman as Buyer for the purchase price of \$220,000.00, which Plaintiff believes meets or exceeds the fair market value of the property.

68. Plaintiff is informed and believes that if Guy Ackerman is unable or unwilling to consummate said transaction, Plaintiff would request that this Court approve any other Contract of Sale for an amount equal to or greater than the fair market value of the subject property as determined by a qualified appraiser.

69. Further, Plaintiff believes the Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to the purchaser hereinbefore set forth, or any other individual or entity that can comply with the terms and provisions thereof.

FOR A FOURTH CAUSE OF ACTION
(Judgment Holders)

70. The Plaintiff realleges all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

71. The South Carolina Department of Revenue has been named as a party Defendant to the within action by virtue of the fact that it has the following liens against parties having the same names as some named Defendants who have an interest in the subject property. Plaintiff is uncertain as to whether these liens are applicable to any of the individuals who have an interest in the subject property. The liens are as follows:

- a. Tax lien against George Walker, Lien ID No. 3517113441 in the amount of \$144.02 and filed May 27, 2014;
- b. Tax lien against Johnny Smalls, Lien ID No. 3519421223 in the amount of \$2,397.10 and filed February 21, 2017;
- c. Tax lien against Terrance Walker, Lien ID No. 664093 in the amount of \$329.76 and filed March 18, 2020;
- d. Tax lien against Minnie Johnson, Lien ID No. 3519282015 in the amount of \$901.54 and

- filed August 29, 2016;
- e. Tax lien against Minnie Johnson, Lien ID No. 3519177557 in the amount of \$81.05 and filed August 5, 2016;
 - f. Tax lien against Minnie Johnson, Lien ID No. 355679 in the amount of \$1,294.39 and filed August 5, 2016;
 - g. Tax lien against David Washington, Lien ID No. 3519556419 in the amount of \$2,290.30 and filed June 5, 2017;
 - h. Tax lien against David Washington, Lien ID No. 3517825713 in the amount of \$11,669.87 and filed November 24, 2014;
 - i. Tax lien against David Washington, Lien ID No. 3513162861 in the amount of \$368.95 and filed October 18, 2011;
 - j. Tax lien against David Washington, Lien ID No. 677883 in the amount of \$2,409.24 and filed March 6, 2020;
 - k. Tax lien against David Washington, Lien ID No. 590251 in the amount of \$3,245.59 and filed April 05, 2019;
 - l. Tax lien against Arthur Dale Lee, Lien ID No. 3513235424 in the amount of \$1,806.67 and filed November 17, 2011;
 - m. Tax lien against Joseph Lee, Lien ID No. 3517647579 in the amount of \$503.03 and filed October 6, 2014;
 - n. Tax lien against Joseph Holmes, Lien ID No. 3517563817 in the amount of \$859.75 and filed September 15, 2014;
 - o. Tax lien against Joseph Holmes, Lien ID No. 3514492435 in the amount of \$43.47 and filed August 15, 2012;
 - p. Tax lien against Joseph Holmes, Lien ID No. 3514492428 in the amount of \$2,173.19 and filed August 15, 2012;
 - q. Tax lien against Joseph Holmes, Lien ID No. 3514492411 in the amount of \$770.57 and filed August 15, 2012.

FOR A FIFTH CAUSE OF ACTION
(Reimbursement of Taxes and Expenses)

72. The Plaintiff realleges all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

73. The Plaintiff and his sister, Cleo Hamilton, would allege and show that they have advanced some monies to pay for real estate taxes and other expenses in order to preserve the subject property.

74. The Plaintiff is informed and believes that the Court should inquire into these matters and order that those parties who preserved the property for the benefit of all co-tenants be reimbursed for these expenditures.

FOR A SIXTH CAUSE OF ACTION
(Attorney's Fees)

75. The Plaintiff realleges all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

76. Plaintiff further alleges and shows that he obtained the services of Barry I. Baker, Esquire and Kyle T. Varner, Esquire to prosecute this action. Further, he is informed and believes that pursuant to S.C. Code Ann. § 15-61-110 and Rule 71 SCRPC, his attorneys should be paid reasonable attorneys' fees for the prosecution of this action, together with their costs of this action, and any and all other costs and expenses incurred in connection with the prosecution of this action.

WHEREFORE, Plaintiff prays that this Court inquire into the matters set forth herein as follows:

a. That this Court finds that Plaintiff and Defendants JUANITA WILLIAMS, CALVIN KELLMAN a/k/a ARNOLD KELLMAN, ELVIRA MEMMINGER, PRISCILLA JUDGE, CLARENCE WASHINGTON, RHONDA B. WINFIELD, LINDA LEE WASHINGTON a/k/a DELINDA W. DAWSON, JANIE NELSON a/k/a JANNIE NELSON, SAMUEL COX, JR., JIMMY COX, LAVORGE COX, DESHAWN RAMBERT-COX, VANESSA COX a/k/a VANESSA COX-RICKENBACKER, TONI COX a/k/a TONYA PIERCY, FELICIA COX, ANDREW WALKER, SELINA WALKER, SONYA TERESA WHITE, RAYMOND WALKER, ARDELIA STOKES a/k/a DELIA STOKES, LEROY SMALLS, JR. a/k/a LEROY H. SMALLS, GWENDOLYN BRIGHT, ELIZABETH SAWYER, JOHNNY J. SMALLS, DONALD R. SMALLS, RALPH B. SMALLS, ZELEMENIA WALKER a/k/a SELLEMENIA WALKER, TERRANCE WALKER, GEORGE WALKER, JR., CHERISE WALKER TURNER, NAOMI WALKER, RICHARD COX, CLEO HAMILTON, CATHERINE DENT, JOSEPH HOLMES, RICHARD WILTON WASHINGTON a/k/a WELDON

WASHINGTON, DAVID WASHINGTON, JR., ELIZABETH ANN LEE a/k/a ELIZABETH ANN CHERRI, ARTHUR LEE, and MIRANDA CLARK a/k/a ARANDA CLARK are the sole owners of the property located on 1905 Hope Plantation Road, , TMS No. 265-00-00-019.000, in the proportions as hereinbefore set forth in Paragraph 56;

b. That this Court find that the subject property cannot be partitioned in kind or by allotment without injury to the parties;

c. That this Court should issue an Order approving the Contract of Sale, dated December 10, 2020, entered into by and between the Plaintiff Christopher Hamilton as Seller, and Guy Ackerman as Buyer, for the purchase price of \$220,000.00, and that the Court authorize the sale of the subject property pursuant to the aforementioned Contract or, in the alternative, a Contract with any other individual or entity upon terms it deems just and fair if the present Contract is not consummated;

d. That this Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to the purchaser hereinbefore set forth, or any other individual or entity that can comply with the terms and provisions thereof;

e. That this Court should issue an Order approving the partitioning of the approximately one (1) acre on which Donna Mitchell and Curtis Mitchell reside and that this Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to Donna Mitchell and Curtis Mitchell for the same;

f. That out of the proceeds of the sale there should be deducted and paid to the Plaintiff attorneys their reasonable attorneys' fees for the prosecution of this action and the costs involved in this action;

g. That out of the proceeds of sale there should be deducted and paid to the Plaintiff and his sister, Cleo Hamilton, reimbursement for any real estate taxes and other

reasonable expenses they have incurred relating to the subject property;

h. That this Court determine the priority and validity of the judgments and liens aforementioned; and

i. For such other and further relief as this Court may deem just and proper.

s/Barry I. Baker

BAKER AND VARNER, LLC
BARRY I. BAKER, ESQ. – Bar #482
bbaker@bakerlawsc.com
One Carriage Lane, Building H
P.O. Box 31265
Charleston, SC 29417-1265
Office: 843.766.9007 ~ Fax: 843.766.1295
ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina
April 8, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON,)
Plaintiff,)
v.)

JUANITA WILLIAMS, CALVIN)
KELLMAN a/k/a ARNOLD KELLMAN,)
ELVIRA MEMMINGER, PRISCILLA)
JUDGE, CLARENCE WASHINGTON,)
RHONDA B. WINFIELD, LINDA LEE)
WASHINGTON a/k/a DELINDA W.)
DAWSON, JANIE NELSON a/k/a)
JANNIE NELSON, SAMUEL COX, JR.,)
JIMMY COX, LAVORGE COX,)
DESHAWN RAMBERT-COX, VANESSA)
COX a/k/a VANESSA)
COX-RICKENBACKER, TONI COX a/k/a)
TONYA PIERCY, FELICIA COX,)
ANDREW WALKER, SELENA)
WALKER, individually and as Personal)
Representative of the Estate of Earl Walker,)
SONYA TERESA WHITE, RAYMOND)
WALKER, ARDELIA STOKES a/k/a)
DELIA STOKES, LEROY SMALLS, JR.)
a/k/a LEROY H. SMALLS, GWENDOLYN)
BRIGHT, ELIZABETH SAWYER,)
JOHNNY J. SMALLS, DONALD R.)
SMALLS, RALPH B. SMALLS, MICAH)
FRASIER, ZELEMENIA WALKER a/k/a)
SELLEMENA WALKER, TERRANCE)
WALKER, GEORGE WALKER, JR.,)
CHERISE WALKER TURNER, NAOMI)
WALKER, RICHARD COX, CLEO)
HAMILTON, CATHERINE DENT,)
JOSEPH HOLMES, RICHARD WILTON)
WASHINGTON a/k/a WELDON)
WASHINGTON, DAVID WASHINGTON,)
JR., ELIZABETH ANN LEE a/k/a)
ELIZABETH ANN CHERRI, ARTHUR)
LEE, MIRANDA CLARK a/k/a ARANDA)

CLARK, DONNA MITCHELL, and)
 CURTIS MITCHELL, if)
 they be alive, and JOHN DOE AND JANE)
 DOE, whose true names are unknown and)
 fictitious names designating the unknown)
 heirs, devisees, distributees, issue, executors,))
 administrators, successors, or assigns of the)
 above-named Defendants, if they or any of)
 them be dead, and of CHARITY)
 WASHINGTON, CENTRILLA)
 WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA)
 WASHINGTON a/k/a PERSELLA)
 WASHINGTON, OSCAR)
 WASHINGTON, GERTIE)
 WASHINGTON, MARGARET)
 KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a)
 DELORES WILLIAMS, JOHNNY)
 WASHINGTON a/k/a JOHNNIE)
 WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE)
 \WASHINGTON a/k/a SAM)
 WASHINGTON, GENEVA)
 WASHINGTON, MAYBEL WALKER)
 \a/k/a MAYBELLE WASHINGTON,)
 \LILLA MAE SMALLS a/k/a LUCILLE)
 COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE)
 SMALLS, WILLIE HAYDEN SMALLS,)
 GEORGE WALKER, SAMUEL COX,)
 LUCILLE CHISOLM a/k/a LOUCILE)
 CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON,)
 JOSEPH HAMILTON, ELISE SIMMONS,)
 JAMES WASHINGTON, VICTORIA)
 JOHNSON GREEN, DAVID)
 WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE)
 WASHINGTON WILLIAMS, CARRIE)
 WASHINGTON LEE, JOSEPH LEE,)
 NORRIS LEE, ISRAEL WASHINGTON,)
 DAVID WASHINGTON, GOLDEN)
 WASHINGTON, MINNIE BRANTLEY)

JOHNSON a/k/a MINNIE BRANTLEY,)
MABEL SIMMONS, WILLIAM)
WASHINGTON a/k/a BILLY)
WASHINGTON, MILLIE)
WASHINGTON, and PHOEBE ANN)
WASHINGTON, all deceased; and MARY)
ROE AND RICHARD ROE, whose true)
names are unknown and fictitious names)
designating infants, persons under disability,)
incompetents, imprisoned, or those person in)
the military, if any; SOUTH CAROLINA)
DEPARTMENT OF REVENUE, and also)
all other persons, known or whose true)
names are unknown, claiming any right,)
title, interest in, or lien upon the real estate)
described in the Complaint herein,)
))
Defendants.)

**ANSWER AND COUNTERCLAIM OF DEFENDANTS GWENDOLYN BRIGHT,
FELICIA COX, MICAH FRASIER, ELIZABETH SAWYER, DONALD R. SMALLS,
JOHNNY J. SMALLS, LEROY SMALLS, RALPH B. SMALLS, AND CHERISE
WALKER TURNER TO COMPLAINT OF PLAINTIFF CHRISTOPHER HAMILTON**

Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner (“Defendants”), responds to the Complaint of Plaintiff Christopher Hamilton (“Plaintiff”), as follows:

1. To the extent any matters in the Complaint are not expressly admitted or modified by Defendants, they are denied.
2. Paragraph 1 contains a statement that does not demand a response.
3. Defendants admits the allegations of Paragraph 2.
4. Defendants are without sufficient information to respond to the allegations of Paragraph 3 and demand strict proof thereof.

DEFENSE TO FIRST CAUSE OF ACTION
(Suit to Quiet Title)

5. Paragraph 4 does not demand a response.
6. Defendants deny the allegations of Paragraph 5 which state that the subject property is owned by the Estate of Charity Washington, and state that the subject property is owned by the heirs of Charity Washington.
7. Defendants acknowledge they are heirs of Charity Washington and have an ownership interest in the property that is the subject matter of this action, however, they are without sufficient knowledge to respond to the remaining allegations of Paragraphs 6 through 56 of the Complaint and therefore demand strict proof thereof. Defendants further state that it does not appear that the percentages of ownership interests suggested by Plaintiff are accurate.

DEFENSE TO SECOND CAUSE OF ACTION
(Partition of One (1) Acre Parcel)

8. Paragraph 57 does not demand a response.
9. Defendants are without sufficient knowledge to respond to Paragraphs 58, 59, and 60, and therefore demand strict proof thereof.
10. Paragraphs 61 and 62 state beliefs and/or legal conclusions, and therefore do not require responses.
11. In further answering the allegations of the Second Cause of Action of Plaintiff, Defendants deny that the principles of equity entitle Donna Mitchell and Curtis Mitchell to a one (1) acre portion of the subject property surrounding their home.

DEFENSE TO THIRD CAUSE OF ACTION
(Partition and Approval of Contract)

12. Paragraph 63 does not demand a response.

13. Defendants admit the allegations of Paragraph 64 which state that the subject property constitutes heirs property pursuant to S.C. Code Ann § 15-61-320(5) (Clementa C. Pinckney Act) but deny the remaining allegations and further state that S.C. Code Ann § 15-61-390 is inapplicable, as Defendants invoke their rights to purchase Plaintiff's interest pursuant to S.C. Code Ann § 15-61-370.

14. Defendants admit the allegations of Paragraph 65 which state that this Court should determine the lawful owners of the subject property and their respective interests in the said property, but denies the remaining allegations as Defendants invoke their rights to purchase Plaintiff's interest pursuant to S.C. Code Ann § 15-61-370.

15. Defendants are without sufficient information to respond to the allegations of Paragraph 66 but state that Plaintiff had no right to list the subject property, as he only has a minor ownership interest therein and did not receive the consent of the other owners to do so.

16. Defendants deny the allegations of Paragraphs 67, 68, and 69 and state that they invoke their rights to purchase Plaintiff's interest pursuant to S.C. Code Ann § 15-61-370.

DEFENSE TO FOURTH CAUSE OF ACTION
(Judgment Holders)

17. Paragraph 70 does not demand a response.

18. Defendants are without sufficient information to respond to Paragraph 71 and therefore require strict proof thereof.

DEFENSE TO FIFTH CAUSE OF ACTION
(Reimbursement of Taxes and Expenses)

19. Paragraph 72 does not demand a response.
20. Defendants are without sufficient information to respond to Paragraphs 73 and therefore require strict proof thereof.
21. Paragraph 74 states a conclusion of law and therefore, no response is required. If a response is required, however, the Defendants deny the allegation and demand strict proof thereof.

DEFENSE TO FIFTH CAUSE OF ACTION
(Attorney's Fees)

22. Paragraph 75 does not demand a response.
23. Paragraph 76 states a conclusion of law and therefore, no response is required. If a response is required, however, the Defendants deny the allegation and demand strict proof thereof.

FIRST COUNTERCLAIM OF DEFENDANTS
(Demand for Accounting)

24. Upon information and belief, Plaintiff has received monies from third parties that has not been accounted for in the Complaint.
25. Upon information and believe, the Plaintiff has received payments for the rent of portions of the subject property.
26. If the Plaintiff has received any payment related to the use of the subject property, he was to hold the said payments for the benefit of all of the Heirs of Charity Washington and is responsible to account to the other heirs for the use of the funds received.
27. Defendants demand an accounting for any monies received by Plaintiff with regard to the use of the subject property.

WHEREFORE, having fully answered the Complaint, Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner pray that the Court review all matters relating to the case and make such decision regarding the matters before the Court as is just, equitable and proper.

THE LAW OFFICES OF CHARLES S. ALTMAN, LLC

s/ Charles Altman
Charles S. Altman (Bar No. 351)
caltman@caltmanlaw.com
Elizabeth McKelvy (Bar No. 104815)
emckelvy@caltmanlaw.com
575 King Street, Suite A
Charleston, South Carolina 29403
tel: (843) 853-9907
fax: (843) 853-9838

August 13, 2021

Attorneys for Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner

STATE OF SOUTH CAROLINA)
 :
 COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTEENTH JUDICIAL
 CIRCUIT
 CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
 JANIE NELSON A/K/A JANNIE NELSON,)
 JUANITA WILLIAMS, ELVIRA MEMMINGER,)
 CLARENCE WASHINGTON, DELINDA W.)
 DAWSON, DAVID WASHINGTON, JR.,)
 ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
 CHERRI, ARTHUR LEE, MIRANDA CLARK)
 A/K/A ARANDA CLARK, CATHERINE DENT,)
 JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
 ELIZABETH BURTON, BRENDA BROWN,)
 AND GUY ACKERMAN,)

**AMENDED
 SUMMONS**

Plaintiffs,

v.

REHABILITATION CONSULTANTS OF)
 CHARLESTON, LLC., WILLIAM ARNOLD)
 KELLMAN, PRISCILLA JUDGE, RHONDA B.)
 WINFIELD, SAMUEL COX, JR., JIMMY COX,)
 LAVORGE COX, DESHAWN RAMBERT-COX,)
 VANESSA COX a/k/a VANESSA COX-)
 RICKENBACKER, TONI COX a/k/a TONYA)
 PIERCY, FELICIA COX, ANDREW WALKER,)
 SELENA WALKER, individually and as Personal)
 Representative of the Estate of Earl Walker, SONYA)
 TERESA WHITE, RAYMOND WALKER,)
 ARDELIA STOKES a/k/a DELIA STOKES,)
 LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,)
 GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
 JOHNNY J. SMALLS, DONALD R. SMALLS,)
 RALPH B. SMALLS, MICAH FRASIER,)
 ZELEMENIA WALKER a/k/a SELLEMENA)
 WALKER, TERRANCE WALKER, GEORGE)
 WALKER, JR., CHERISE WALKER TURNER,)
 NAOMI WALKER, RICHARD COX, RICHARD)
 WILTON WASHINGTON a/k/a WELDON)
 WASHINGTON, DONNA MITCHELL and)
 CURTIS MITCHELL, if they be alive, and JOHN)
 DOE AND JANE DOE, whose true names are)
 unknown and fictitious names designating the)
 unknown heirs, devisees, distributees, issue,)
 executors, administrators, successors, or assigns of)

the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN, all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)
 herein,

Defendants.

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint herein, a copy of which is herewith served upon you, or to otherwise appear and defend, and to serve a copy of your Answer to said Amended Complaint upon the Clerk of this Court and upon Baker & Varner LLC at their office, Post Office Box 31265, Charleston, South Carolina 29417, within thirty (30) days after service hereof if service upon you was in person and thirty-five (35) days after service hereof if service upon you was by U.S. Mail, exclusive of the day of such service; and if you fail to answer the Amended Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiffs in this action will apply to the Court for the relief demanded therein and judgment by default will be rendered against you for the relief demanded in the Complaint.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Amended Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiffs immediately and separately and such application will be deemed absolute and total in the absence of your application for such an appointment within thirty (30) days after the service of the Summons and Complaint upon you.

s/Barry I. Baker
BAKER & VARNER, LLC
Barry I. Baker, Esq. - Bar Number 482
bbaker@bakerlawsc.com
One Carriage Lane, Bldg. H-P.O. Box 31265
Charleston, SC 29417-1265
Office: (843) 766-9007~Fax: (843) 766-1295
ATTORNEYS FOR PLAINTIFFS

s/Malena Dinwoodie
Finkel Law Firm LLC
Malena Dinwoodie, Esq. – 103978 Bar Number
James Leffew, Esq. - Bar Number 102302
mdinwoodie@finkellaw.com
jleffew@finkellaw.com
4000 Faber Place Drive, Suite 450
N. Charleston, SC 29405
Office: (843) 577-5460
ATTORNEYS FOR CO-PLAINTIFF
GUY ACKERMAN

Charleston, SC
June 15, 2022

STATE OF SOUTH CAROLINA)
 :
 COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTEENTH JUDICIAL
 CIRCUIT
 CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
 JANIE NELSON A/K/A JANNIE NELSON,)
 JUANITA WILLIAMS, ELVIRA MEMMINGER,)
 CLARENCE WASHINGTON, DELINDA W.)
 DAWSON, DAVID WASHINGTON, JR.,)
 ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
 CHERRI, ARTHUR LEE, MIRANDA CLARK)
 A/K/A ARANDA CLARK, CATHERINE DENT,)
 JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
 ELIZABETH BURTON, BRENDA BROWN,)
 AND GUY ACKERMAN,)

**AMENDED
 COMPLAINT**

Plaintiffs,)

v.)

REHABILITATION CONSULTANTS OF)
 CHARLESTON, LLC., WILLIAM ARNOLD)
 KELLMAN, PRISCILLA JUDGE, RHONDA B.)
 WINFIELD, SAMUEL COX, JR., JIMMY COX,)
 LAVORGE COX, DESHAWN RAMBERT-COX,)
 VANESSA COX a/k/a VANESSA COX-)
 RICKENBACKER, TONI COX a/k/a TONYA)
 PIERCY, FELICIA COX, ANDREW WALKER,)
 SELENA WALKER, individually and as Personal)
 Representative of the Estate of Earl Walker, SONYA)
 TERESA WHITE, RAYMOND WALKER,)
 ARDELIA STOKES a/k/a DELIA STOKES,)
 LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,)
 GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
 JOHNNY J. SMALLS, DONALD R. SMALLS,)
 RALPH B. SMALLS, MICAH FRASIER,)
 ZELEMENIA WALKER a/k/a SELLEMENA)
 WALKER, TERRANCE WALKER, GEORGE)
 WALKER, JR., CHERISE WALKER TURNER,)
 NAOMI WALKER, RICHARD COX, RICHARD)
 WILTON WASHINGTON a/k/a WELDON)
 WASHINGTON, DONNA MITCHELL, and)
 CURTIS MITCHELL, if they be alive, and JOHN)
 DOE AND JANE DOE, whose true names are)
 unknown and fictitious names designating the)
 unknown heirs, devisees, distributees, issue,)

executors, administrators, successors, or assigns of)
 the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)
 herein,)
)

Defendants.

The Plaintiffs above named, complaining of the Defendants above named, would allege and show unto this Honorable Court as follows:

Plaintiffs bring this action pursuant to SCRCP Rule 71 for a partition of the property to be more fully described hereinafter and pursuant to the provisions of the 1976 South Carolina Code of Laws, as amended, Section 15-61-310, et seq., (known as the Clementa C. Pinckney Uniform Partition of Heirs' Property Act) for a partition of the subject property to be more fully described hereinafter, Section 15-53-10, et seq., (known as the Uniform Declaratory Judgment Act), Section 15-3-380, et seq., for a quieting of title by adverse possession of forty (40) years, etc. and Section 15-67-210, et seq., for a quieting of title by adverse possession of ten (10) years and for a quieting of the title because of adverse possession under the color of title for a period of greater than twenty (20) years; for the further purpose of seeking an order from the Court that the Plaintiffs CHRISTOPHER HAMILTON, CLEO HAMILTON, JANIE NELSON A/K/A JANNIE NELSON, JUANITA WILLIAMS, ELVIRA MEMMINGER, CLARENCE WASHINGTON, DELINDA W. DAWSON, DAVID WASHINGTON, JR., ELIZABETH ANN LEE A/K/A ELIZABETH ANN CHERRI, ARTHUR LEE, MIRANDA CLARK A/K/A ARANDA CLARK, CATHERINE DENT, JOSEPH HOLMES, GWENDOLYN MILLER, JAN ELIZABETH BURTON, AND BRENDA BROWN, and Defendants WILLIAM ARNOLD KELLMAN, PRISCILLA JUDGE, RHONDA B. WINFIELD, SAMUEL COX, JR., JIMMY COX, LAVORGE COX, DESHAWN RAMBERT-COX, VANESSA COX a/k/a VANESSA COX-RICKENBACKER, TONI COX a/k/a TONYA PIERCY, FELICIA COX, ANDREW WALKER, SELENA WALKER, individually and as Personal Representative of the Estate of Earl Walker, SONYA TERESA WHITE, RAYMOND WALKER, ARDELIA STOKES a/k/a DELIA STOKES, LEROY SMALLS, JR. a/k/a LEROY H. SMALLS, GWENDOLYN BRIGHT, ELIZABETH SAWYER, JOHNNY J. SMALLS, DONALD R. SMALLS, RALPH B.

SMALLS, MICAH FRASIER, ZELEMENIA WALKER a/k/a SELLEMENA WALKER, TERRANCE WALKER, GEORGE WALKER, JR., CHERISE WALKER TURNER, NAOMI WALKER, RICHARD COX, RICHARD WILTON WASHINGTON a/k/a WELDON WASHINGTON, are the true and lawful owners of the subject property more fully described hereinafter and for the Court to determine their respective percentages of ownership; this action is further brought for the purpose of this Court establishing and making a determination of the heirs of CHARITY WASHINGTON, CENTRILLA WASHINGTON, ANDREW WASHINGTON, PRISCILLA WASHINGTON a/k/a PERSELLA WASHINGTON, OSCAR WASHINGTON, GERTIE WASHINGTON, MARGARET KELLMAN, HORACE HEYWARD, DELORES WASHINGTON a/k/a DELORES WILLIAMS, JOHNNY WASHINGTON a/k/a JOHNNIE WASHINGTON, RUTHIE MAE WASHINGTON, EUGENE WASHINGTON a/k/a SAM WASHINGTON, GENEVA WASHINGTON, MAYBEL WALKER a/k/a MAYBELLE WASHINGTON, LILLA MAE SMALLS a/k/a LUCILLE COX SMALLS, LEROY SMALLS, STANLEY SMALLS a/k/a RONNIE SMALLS, WILLIE HAYDEN SMALLS, GEORGE WALKER, SAMUEL COX, LUCILLE CHISOLM a/k/a LOUCILE CHISOLM, EARL WALKER, PEARL HAMILTON, JAMES HAMILTON, JOSEPH HAMILTON, ELISE SIMMONS, JAMES WASHINGTON, VICTORIA JOHNSON GREEN, DAVID WASHINGTON, SR., CARRIE WASHINGTON a/k/a CARRIE WASHINGTON WILLIAMS, CARRIE WASHINGTON LEE, JOSEPH LEE, NORRIS LEE, ISRAEL WASHINGTON, DAVID WASHINGTON, GOLDEN WASHINGTON, MINNIE BRANTLEY JOHNSON a/k/a MINNIE BRANTLEY, MABEL SIMMONS, WILLIAM WASHINGTON a/k/a BILLY WASHINGTON, MILLIE WASHINGTON, PHOEBE ANN WASHINGTON, and MARGARET ROVENA KELLMAN, all deceased; this action is further brought for the purpose of this Court approving the Contract of Sale dated December 10, 2020

and entered into by and between Christopher Hamilton, and affirmed by Cleo Hamilton, Janie Nelson a/k/a Jannie Nelson, Juanita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, Aranda Clark, Arthur Lee, David Washington, Jr., Elizabeth Ann Lee Cherri, Catherine Dent, Joseph Holmes, Jan Elizabeth Burton, Gwendolyn Miller, Brenda Brown as Sellers, and Guy Ackerman, as Buyer, for the purchase price of \$220,000.00 or to any other individual or entity that can comply with the terms of the Contract of Sale and approving a partition of approximately one (1) acre on which Donna Mitchell and Curtis Mitchell currently reside.

1. The property which is the subject matter of this action are situate in the County of Colleton, State of South Carolina, and is more fully described as follows:

ALL that certain piece, parcel, or lot of land situate, lying and being in the Jacksonboro in the County of Colleton, State of South Carolina, located on Hope Plantation Lane a/k/a Hope Plantation Road and being on both sides of Bean Stik Lane and formerly described as containing 36 acres, more or less.

BUTTING and BOUNDING to the North on lands now or formerly of Johnnie Green and Debra Green and Leroy Snell, et al.; to the South on lands now or formerly of Rehabilitation Consultants of Charleston, LLC; to the East by Edisto River; and to the west by Hope Plantation Road and lands now or formerly of heirs of Andrew Washington.

The said parcel of land contains approximately 24.7 acres, more or less, according to the GIS map and the tax records of Colleton County, reference is made to the said maps and are made a part and parcel of this description by reference thereto.

The said tract of land is known by the Colleton County tax map numbering system as 265-00-00-019.000.

Being a portion of the property conveyed to Charity Washington by deed of M.P. Howell dated November 8, 1897 and recorded March 4, 1898 in the Office of the ROD for Colleton County in Book 17 at Page 775.

TMS No. 265-00-00-019.000

2. Plaintiffs would allege and show that the subject property was conveyed

by M.P. Howell to Charity Washington by deed dated November 8, 1897 and recorded March 4, 1898 in the Office of the ROD for Colleton County in Book 17 at Page 775.

FOR A FIRST CAUSE OF ACTION
(Suit to Quiet Title)

3. The Plaintiffs reallege all of the allegations contained in paragraphs 1 through 3 as if repeated verbatim herein.

4. The property which is the subject matter of this action is owned by the Estate of Charity Washington.

5. Upon information and belief, Charity Washington died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her four (4) children, namely, Andrew Washington, David Washington, Sr., Minnie Brantley Johnson, and William "Billy" Washington. She was predeceased by her husband, George Washington, and by a daughter, Centrilla Washington, who passed as an infant.

HEIRS OF ANDREW WASHINGTON
(25% of interest in subject property)

6. Andrew Washington died intestate on or about August 11, 1945, leaving as his sole heirs-at-law, his wife, Priscilla Washington a/k/a Persella Washington, and his nine (9) children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Eugene Washington a/k/a Sam Washington, Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, Elise Simmons, James Washington, and Victoria Johnson Green.

7. Upon information and belief, Victoria Johnson Green was a child of another relationship and not of the marriage between Andrew Washington and Priscilla Washington a/k/a Persella Washington.

8. After his death, Andrew Washington's interest in the subject property was

held as follows:

Priscilla Washington a/k/a Persella Washington	8.333%
Oscar Washington	1.852%
Johnny Washington a/k/a Johnnie Washington	1.852%
Eugene Washington a/k/a Sam Washington	1.852%
Maybel Walker a/k/a Maybelle Walker	1.852%
Lucille Chisolm a/k/a Loucile Chisolm	1.852%
Pearl Hamilton	1.852%
Elise Simmons	1.852%
James Washington	1.852%
Victoria Johnson Green	1.852%
TOTAL	25.00%

9. On or about March 1966, Priscilla Washington a/k/a Persella Washington died intestate leaving as her sole heirs-at-law her eight (8) children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Eugene Washington a/k/a Sam Washington, Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, Elise Simmons, and James Washington. Her interest in the subject property therefore devolved to said children.

10. At this point, Andrew Washington's interest in the subject property was held as follows:

Oscar Washington	2.894%
Johnny Washington a/k/a Johnnie Washington	2.894%
Eugene Washington a/k/a Sam Washington	2.894%
Maybel Walker a/k/a Maybelle Walker	2.894%
Lucille Chisolm a/k/a Loucile Chisolm	2.894%
Pearl Hamilton	2.894%
Elise Simmons	2.894%
James Washington	2.894%
Victoria Johnson Green	1.852%
TOTAL	25.00%

Heirs of Oscar Washington

11. Upon information and belief, Oscar Washington died intestate on or about January 9, 2007 leaving his wife, Gertie Washington, and his three (3) children, namely, Juanita

Williams, Delores Washington a/k/a Delores Williams, and Priscilla Judge together with a grandson William Arnold Kellman, being the sole heir of his predeceased daughter Margaret Rovenka Kellman.

12. Plaintiffs are informed and believe that Priscilla Judge was a child from a prior marriage and not a child of the marriage between Oscar and Gertie Washington. Plaintiffs have no knowledge on whether Priscilla Judge is currently living or deceased.

13. Upon information and belief, Oscar Washington was predeceased by a daughter, Margaret Rovenka Kellman, her exact date of death being unknown. She left as her sole heir-at-law, a son, William Arnold Kellman, as set forth above.

14. On or about January 23, 2017, Gertie Washington died intestate leaving as her sole heirs-at-law, one (1) child from her marriage to Oscar Washington, namely, Juanita Williams, and one (1) child from a prior relationship, namely, Elvira Memminger. She was predeceased by her other children, namely, Margaret Rovenka Kellman, Horace Heyward, and Delores Washington a/k/a Delores Williams.

15. Upon information and belief, Horace Heyward died intestate on or about December 20, 2008, predeceasing his mother, Gertie Washington and leaving no spouse or issue. Inasmuch as Horace Heyward predeceased his mother, he never acquired any right, title or interest in the subject property.

16. Upon information and belief, Delores Washington a/k/a Delores Williams predeceased her mother, her exact date of death being unknown, leaving no spouse or issue. Her interest in the subject property devolved to her mother, Gertie Washington, under the intestacy statute set forth in the South Carolina Probate Code.

Heirs of Johnny Washington a/k/a Johnnie Washington

17. Upon information and belief, Johnny Washington a/k/a Johnnie Washington died intestate on or about 1985, leaving as his sole heirs-at-law, his two (2) children, namely Clarence Washington, who was legally adopted, and Ruthie Mae Washington, who was his biological child.

18. Thereafter, Ruthie Mae Washington died intestate on or about January 4, 1999 without a spouse or children.

19. In the Estate file of Ruthie Mae Washington, which bears Colleton County Probate Court Case No. 1999-ES-15-000159, Clarence Washington and Rhonda B. Winfield are listed as both the siblings and children of Ruthie Mae Washington. Plaintiffs are informed and believe that there is a scrivener's error in the Affidavit for Collection of Personal Property in the Colleton County Probate Court Case No. 1999-ES-15-000159, whereby Clarence Washington and Rhonda B. Winfield are listed as the children of Ruthie Mae Washington. Correspondence contained in the same probate file, however, refer to Clarence Washington and Rhonda B. Winfield as her siblings.

20. Further, Plaintiffs are informed and believe that Rhonda B. Winfield was never legally adopted by Johnny Washington a/k/a Johnnie Washington and was only raised by Johnny Washington a/k/a Johnnie Washington's mother-in-law. The Plaintiff has named Rhonda B. Winfield as a party Defendant to this action in order that this Honorable Court can determine the interest, if any, of Rhonda B. Winfield in the subject property.

Heirs of Eugene Washington a/k/a Sam Washington

21. Upon information and belief, Eugene Washington a/k/a Sam Washington died intestate on or about 1971, leaving as his sole heirs-at-law his wife, Geneva Washington and his daughter, Delinda W. Dawson.

22. Thereafter, Geneva Washington died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her daughter, Delinda W. Dawson.

Heirs of Maybel Walker a/k/a Maybelle Walker

23. Upon information and belief, Mabel Walker a/k/a Maybelle Walker died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her nine (9) children, namely, Janie Nelson a/k/a Jannie Nelson, Samuel Cox, Andrew Walker, Earl Walker, Raymond Walker, Ardelia Stokes a/k/a Delia Stokes, Lilla Mae Smalls a/k/a Lucille Cox Smalls, George Walker, and Richard Cox.

24. Lilla Mae Smalls a/k/a Lucille Cox Smalls died intestate on or about 1960 leaving as her sole heir-at-law, her husband, Leroy Smalls, and her eight (8) children, namely, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Donald R. Smalls, Ralph B. Smalls, Willie Hayden Smalls, and Stanley Smalls a/k/a Ronnie Smalls.

25. Leroy Smalls died intestate on or about 1991 leaving as his sole heirs-at-law his eight (8) children, namely, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Donald Smalls, Ralph B. Smalls, Willie Hayden Smalls, and Stanley Smalls a/k/a Ronnie Smalls.

26. Plaintiffs are informed and believe that Stanley Smalls a/k/a Ronnie Smalls died intestate on or about 1992 leaving as his sole heir-at-law, a son, Micah Frasier.

27. Plaintiffs believe that Willie Hayden Smalls died intestate on or about May 2, 1993 leaving no spouse or children as will more fully appear by reference to Colleton County Probate Court Case No. 1993-ES-15-00175. Pursuant to his estate, he left as his sole heirs-at-law, his six (6) siblings, namely, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Ralph B. Smalls, Johnny J. Smalls, Donald R. Smalls, and Elizabeth Sawyer. However,

his nephew, Micah Frasier, son of Stanley Smalls a/k/a Ronnie Smalls, would also take by representation.

28. Thereafter George Walker, son of Maybel Walker a/k/a Maybelle Walker, died intestate on or about 2002, leaving as his sole heirs-at-law, his wife, Zelemania Walker a/k/a Sellemena Walker, and his four (4) children, namely, Dr. Terrance Walker, George Walker, Jr., Cherise Walker Turner, and Naomi Walker.

29. Thereafter, Samuel Cox died intestate in May 2018 leaving as his sole heirs-at-law, his seven (7) children, namely, Samuel Cox, Jr., Jimmy Cox, LaVorge Cox, Deshawn Rambert-Cox, Vanessa Cox a/k/a Vanessa Cox-Rickenbacker, Toni Cox a/k/a Tonya Piercy, and Felicia Cox.

30. Upon information and belief, Earl Walker died testate on or about May 3, 2020 and there is currently an open estate found in Charleston County Probate Court, Case No. 2020-ES-10-01082, with his daughter, Selena Walker acting as Personal Representative for the Estate. Under his Last Will and Testament, he devised his interest in the subject property equally to his two daughters, namely, Selena Walker and Sonya Teresa White.

Heirs of Lucille Chisolm a/k/a Loucile Chisolm

31. Upon information and belief, Lucille Chisolm a/k/a Loucile Chisolm died intestate on or about January 1988 without a spouse or issue. Since her parents were deceased, her interest in the subject property devolved to her siblings or their heirs.

32. Therefore, Lucille Chisolm a/k/a Loucile Chisolm's interest in the subject property devolved to her siblings or their children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Delinda W. Dawson (heir of Eugene Washington a/k/a Sam Washington), Maybel Walker a/k/a Maybelle Walker, Pearl Hamilton, and Richard Wilton Washington a/k/a Weldon Washington (heir of James Washington).

Heirs of Pearl Hamilton

33. Upon information and belief, Pearl Hamilton died intestate on or about April 26, 1999, leaving her two (2) children, namely, Christopher Hamilton and Cleo Hamilton.

34. Plaintiffs are informed and believe that Pearl Hamilton was predeceased by two (2) children, James Hamilton, who died as an infant, and Joseph Hamilton, who died intestate in January 1955, leaving as his sole heirs-at-law, his two (2) children, Catherine Dent and Joseph Holmes.

35. Therefore, the interests of Pearl Hamilton devolved to her two (2) children, Christopher Hamilton and Cleo Hamilton, and her two (2) grandchildren, Catherine Dent and Joseph Holmes.

Heirs of Elise Simmons

36. Upon information and belief, Elise Simmons died in 1975, leaving no surviving heirs. Therefore, her interest in the subject property devolved to her siblings or their children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Delinda W. Dawson (heir of Eugene Washington a/k/a Sam Washington), Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, Richard Wilton Washington a/k/a Weldon Washington (heir of James Washington), and Victoria Johnson Green.

Heirs of James Washington

37. Upon information and belief, James Washington died in 1948, leaving as his sole heir-at-law, a son, Richard Wilton Washington a/k/a Weldon Washington.

Heirs of Victoria Johnson Green

38. Upon information and belief, Victoria Johnson Green died on or about September 14, 1986, leaving no surviving spouse or issue, as will more fully appear by reference to Beaufort County Probate Court Case No. 86-ES-07-00359. Therefore, Plaintiffs believe that

her interest in the subject property devolved to her siblings or their children, namely, Oscar Washington, Johnny Washington a/k/a Johnnie Washington, Delinda W. Dawson (heir of Eugene Washington a/k/a Sam Washington), Maybel Walker a/k/a Maybelle Walker, Lucille Chisolm a/k/a Loucile Chisolm, Pearl Hamilton, and Richard Wilton Washington a/k/a Weldon Washington (heir of James Washington).

39. Based on the foregoing, Plaintiffs believe Andrew Washington's interest in the subject property is held as follows:

<u>Heirs of Oscar Washington</u>	
Juanita W. Williams	1.389%
William Arnold Kellman	1.389%
Elvira Memminger (daughter of Gertie Washington)	0.8679%
Priscilla Judge (daughter of Oscar Washington)	0.5207%
<u>Heirs of Johnny Washington a/k/a Johnnie Washington</u>	
Clarence Washington	2.083%
Heirs of Ruthie Mae Washington (to be determined)	2.083%
Rhonda B. Winfield (if heir of Ruthie Washington)	
<u>Heir of Eugene Washington a/k/a Sam Washington</u>	
Delinda W. Dawson	4.167%
<u>Heirs of Maybel Walker a/k/a Maybelle Walker</u>	
Jannie Nelson a/k/a Janie Nelson	0.463%
Heirs of Samuel Cox	
Samuel Cox, Jr.	0.066%
Jimmy Cox	0.066%
LaVorge Cox	0.066%
Deshawn Rambert-Cox	0.066%
Vanessa Cox a/k/a Vanessa Cox-Rickenbacker	0.066%
Toni Cox a/k/a Tonya Piercy	0.066%
Felicia Cox	0.066%
Andrew Walker	0.463%
Heirs of Earl Walker	
Selena Walker	0.231%
Sonya Teresa White	0.231%
Raymond Walker	0.463%
Ardelia Stokes a/k/a Delia Stokes	0.463%
Heirs of Lilla Mae Smalls a/k/a Lucille Cox Smalls	
Leroy Smalls, Jr. a/k/a Leroy H. Smalls	0.066%
Gwendolyn Bright	0.066%
Elizabeth Sawyer	0.066%
Johnny J. Smalls	0.066%
Donald R. Smalls	0.066%
Ralph B. Smalls	0.066%

Heir of Stanley Smalls a/k/a Ronnie Smalls	
Micah Frasier	0.066%
Heirs of George Walker	
Zelemenia Walker a/k/a Sellemena Walker (spouse)	0.231%
Dr. Terrance Walker	0.058%
George Walker, Jr.	0.058%
Cherise Walker Turner	0.058%
Naomi Walker	0.058%
Richard Cox	0.463%
<u>Heirs of Pearl Hamilton</u>	
Christopher Hamilton	1.389%
Cleo Hamilton	1.389%
Heirs of Joseph Hamilton	
Catherine Dent	0.694%
Joseph Holmes	0.694%
<u>Heir of James Washington</u>	
Richard Wilton Washington a/k/a Weldon Washington	4.167%
TOTAL	25.00%

HEIRS DAVID WASHINGTON, SR.
(25% of interest in subject property)

40. David Washington, Sr. died intestate, his date of death being unknown, leaving as his sole heirs-at-law, his wife, Carrie Washington a/k/a Carrie Washington Williams, and his three (3) children, Carrie Washington Lee (from a previous relationship), Israel Washington (from a previous relationship), and David Washington, Jr. (a child of the marriage).

41. Carrie Washington a/k/a Carrie Washington Williams died intestate on or about 1985, leaving as her sole heir-at-law, her son, David Washington, Jr.

42. Carrie Washington Lee died intestate, her date of death being unknown, leaving as her sole heirs-at-law, her four (4) children, Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri, Joseph Lee, Arthur Lee, and Norris Lee. Plaintiffs are informed and believe that Joseph Lee is deceased, and it is unknown whether or not he had any heirs. Upon information and belief, Norris Lee is deceased, survived by his three (3) daughters, Gwendolyn Miller, Jan Elizabeth Burton and Brenda Brown.

43. Upon information and belief, Israel Washington died intestate leaving as his sole heirs-at-law, his daughter, Miranda Clark a/k/a Aranda Clark. Plaintiffs are informed and believe he had two sons, David Washington and Golden Washington, who are both deceased. Upon information and belief, David Washington and Golden Washington died without surviving spouse or issue.

44. Plaintiffs believe that the interests of David Washington, Sr. are held as follows:

<u>Heirs of Carrie Washington Lee</u>	
Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri	1.3875%
Arthur Lee	1.3875%
Heirs of Joseph Lee (to be determined)	1.3875%
Heirs of Norris Lee	
Gwendolyn Miller	0.4625%
Jan Elizabeth Burton	0.4625%
Brenda Brown	0.4625%
<u>Heirs of Israel Washington</u>	5.556%
Miranda Clark a/k/a Aranda Clark	
David Washington, Jr.	13.889%
TOTAL	25.00%

HEIRS OF MINNIE BRANTLEY JOHNSON
(25% of interest in subject property)

45. Minnie Brantley Johnson a/k/a Minnie Brantley was seized and possessed of a twenty-five (25%) percent interest in the subject property as a child of Charity Washington.

46. Upon information and belief, Minnie Brantley Johnson a/k/a Minnie Brantley died intestate on or about April 6th or April 8th of 1969, leaving as her sole heir-at-law, a daughter, Mabel Simmons.

47. Plaintiffs are informed and believe that Mabel Simmons is deceased, her date of death being unknown. Plaintiffs are informed that she may have had a son; however, his name, location, and whether he is still living are unknown.

48. Plaintiffs believe that if no additional information becomes known during the pendency of this case that the interests of Minnie Brantley Johnson a/k/a Minnie Brantley should devolve equally to the heirs of her siblings, Andrew Washington and David Washington, Sr.

HEIRS OF WILLIAM "BILLY" WASHINGTON
(25% of interest in subject property)

49. William Washington a/k/a Billy Washington was seized and possessed of a twenty-five (25%) percent interest in the subject property as a child of Charity Washington.

50. William Washington a/k/a Billy Washington died intestate, his date of death being unknown, leaving as his sole heirs-at-law, his two (2) children, Millie Washington and Phoebe Ann Washington.

51. Upon information and belief, Phoebe Ann Washington died intestate on or about October 29, 1929 leaving no spouse. The family is informed and believes that she had a son, but he is deceased and they do not believe he had any surviving heirs.

52. Upon information and belief, Millie Washington died intestate about 1962 leaving no spouse or issue. She did, however, raise Isabel Mitchell; however, Plaintiffs believe that Isabell Mitchell was never legally adopted by Millie Washington.

53. Therefore, Plaintiffs believe that William Washington a/k/a Billy Washington's interest subject property devolved to the heirs of his siblings, Andrew Washington and David Washington, Sr.

54. Based on the foregoing, Plaintiffs are informed and believe that the entirety of the subject property is held in the following proportions, to wit:

Heirs of Andrew Washington	
<u>Heirs of Oscar Washington</u>	
Juanita W. Williams	2.778%
William Arnold Kellman	2.778%
Elvira Memminger (daughter of Gertie Washington)	1.736%

Priscilla Judge (daughter of Oscar Washington)	1.041%
<u>Heirs of Johnny Washington a/k/a Johnnie Washington</u>	
Clarence Washington	4.166%
Heirs of Ruthie Mae Washington (to be determined)	4.166%
Rhonda B. Winfield (only if heir of Ruthie Washington)	
<u>Heir of Eugene Washington a/k/a Sam Washington</u>	
Delinda W. Dawson	8.333%
<u>Heirs of Maybel Walker a/k/a Maybelle Walker</u>	
Janie Nelson a/k/a Jannie Nelson	0.926%
Heirs of Samuel Cox	
Samuel Cox, Jr.	0.132%
Jimmy Cox	0.132%
LaVorge Cox	0.132%
Deshawn Rambert-Cox	0.132%
Vanessa Cox a/k/a Vanessa Cox-Rickenbacker	0.132%
Toni Cox a/k/a Tonya Piercy	0.132%
Felicia Cox	0.132%
Andrew Walker	0.926%
Heirs of Earl Walker	
Selena Walker	0.463%
Sonya Teresa White	0.463%
Raymond Walker	0.926%
Ardelia Stokes a/k/a Delia Stokes	0.926%
Heirs of Lilla Mae Smalls a/k/a Lucille Cox Smalls	
Leroy Smalls, Jr. a/k/a Leroy H. Smalls	0.132%
Gwendolyn Bright	0.132%
Elizabeth Sawyer	0.132%
Johnny J. Smalls	0.132%
Donald R. Smalls	0.132%
Ralph B. Smalls	0.132%
Heir of Stanley Smalls a/k/a Ronnie Smalls	
Micah Frasier	0.132%
Heirs of George Walker	
Zelemenia Walker a/k/a Sellemena Walker (spouse)	0.463%
Dr. Terrance Walker	0.116%
George Walker, Jr.	0.116%
Cherise Walker Turner	0.116%
Naomi Walker	0.116%
Richard Cox	0.926%
<u>Heirs of Pearl Hamilton</u>	
Christopher Hamilton	2.778%
Cleo Hamilton	2.778%
Heirs of Joseph Hamilton	
Catherine Dent	1.389%
Joseph Holmes	1.389%
<u>Heir of James Washington</u>	
Richard Wilton Washington a/k/a Weldon Washington	8.333%
<u>Heirs of David Washington, Sr.</u>	

<u>Heirs of Carrie Washington Lee</u>	
Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri	2.775%
Arthur Lee	2.775%
Heirs of Joseph Lee (to be determined)	2.775%
Heirs of Norris Lee	
Gwendolyn Miller	0.925%
Jan Elizabeth Burton	0.925%
Brenda Brown	0.925%
<u>Heirs of Israel Washington</u>	
Miranda Clark a/k/a Aranda Clark	11.10%
David Washington, Jr.	27.76%
TOTAL	100.00%

FOR A SECOND CAUSE OF ACTION
(Partition of One (1) Acre Parcel)

55. The Plaintiffs reallege all of the allegations contained in the above Cause of Action as if repeated verbatim herein.

56. As previously asserted, Millie Washington, daughter of William Washington, died intestate leaving no spouse or issue. She did, however, raise Isabel Mitchell. Plaintiffs are informed and believe that Isabel Mitchell was never legally adopted by Millie Washington.

57. Isabell Mitchell is now deceased, but her and her two (2) children, Donna Mitchell and Curtis Mitchell, lived in a home on a small portion of the subject property for at least 64 years in total.

58. Donna Mitchell and Curtis Mitchell still reside in a home on the subject property. According to the Colleton County tax records, the residential mobile home situate on the subject property is owned by Curtis Mitchell.

59. Plaintiffs believe that under the principles of equity, Donna Mitchell and Curtis Mitchell should be entitled to approximately one (1) acre portion of the subject property surrounding where their home is currently situate and on which they have lived and maintained for the entirety of their life.

60. Further, Plaintiffs believe the Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to Donna Mitchell and Curtis Mitchell for a one (1) acre parcel surrounding the home.

FOR A THIRD CAUSE OF ACTION
(Partition and Approval of Contract)

61. The Plaintiffs reallege all of the allegations contained in the above Cause of Action as if repeated verbatim herein.

62. Plaintiffs would allege and show that the subject property constitutes heirs property pursuant to S.C. Code Ann. § 15-61-320(5) (Clementa C. Pinckney Act) and further that pursuant to the factors set forth in S.C. Code Ann. § 15-61-390, it is not possible to partition the said property in kind or by allotment without manifest injury to the parties.

63. Plaintiffs are further informed and believe that this Court should determine the lawful owners of the subject property and their respective interests in the said property and order the distribution of the proceeds of sale in accordance thereto.

64. The Plaintiffs have listed the subject property with Huger Sinkler, II of Holcombe, Fair & Lane, a qualified real estate agency/company, to procure a buyer of the subject property.

65. Plaintiffs are further informed and believes that this Honorable Court should approve the Contract of Sale dated December 10, 2020 and entered into by and between the Plaintiff, Christopher Hamilton as Seller and Guy Ackerman as Buyer for the purchase price of \$220,000.00, which Plaintiffs believe meets or exceeds the fair market value of the property. The said contract has been affirmed by Cleo Hamilton, Janie Nelson, aka, Jannie Nelson, Juanita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, Aranda Clark, Arthur Lee, David Washington, Jr., Elizabeth Ann Lee Cherri, Catherine Dent, Joseph Holmes, Jan

Elizabeth Burton, Gwendolyn Miller, and Brenda Brown, all of whom wish to be bound by the terms and provisions of the said contract of sale.

66. Plaintiffs are informed and believe that if Guy Ackerman is unable or unwilling to consummate said transaction, Plaintiffs would request that this Court approve any other Contract of Sale for an amount equal to or greater than the fair market value of the subject property as determined by a qualified appraiser.

67. Further, Plaintiffs believe the Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to the purchaser hereinbefore set forth, or any other individual or entity that can comply with the terms and provisions thereof.

FOR A FOURTH CAUSE OF ACTION
(Judgment Holders)

68. The Plaintiffs reallege all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

69. The South Carolina Department of Revenue has been named as a party Defendant to the within action by virtue of the fact that it has the following liens against parties having the same names as some named Defendants who have an interest in the subject property. Plaintiffs are uncertain as to whether these liens are applicable to any of the individuals who have an interest in the subject property. The liens are as follows:

- a. Tax lien against George Walker, Lien ID No. 3517113441 in the amount of \$144.02 and filed May 27, 2014;
- b. Tax lien against Johnny Smalls, Lien ID No. 3519421223 in the amount of \$2,397.10 and filed February 21, 2017;
- c. Tax lien against Terrance Walker, Lien ID No. 664093 in the amount of \$329.76 and filed March 18, 2020;
- d. Tax lien against Minnie Johnson, Lien ID No. 3519282015 in the amount of \$901.54 and filed August 29, 2016;
- e. Tax lien against Minnie Johnson, Lien ID No. 3519177557 in the amount of \$81.05 and filed August 5, 2016;
- f. Tax lien against Minnie Johnson, Lien ID No. 355679 in the amount of \$1,294.39 and

- filed August 5, 2016;
- g. Tax lien against David Washington, Lien ID No. 3519556419 in the amount of \$2,290.30 and filed June 5, 2017;
 - h. Tax lien against David Washington, Lien ID No. 3517825713 in the amount of \$11,669.87 and filed November 24, 2014;
 - i. Tax lien against David Washington, Lien ID No. 3513162861 in the amount of \$368.95 and filed October 18, 2011;
 - j. Tax lien against David Washington, Lien ID No. 677883 in the amount of \$2,409.24 and filed March 6, 2020;
 - k. Tax lien against David Washington, Lien ID No. 590251 in the amount of \$3,245.59 and filed April 05, 2019;
 - l. Tax lien against Arthur Dale Lee, Lien ID No. 3513235424 in the amount of \$1,806.67 and filed November 17, 2011;
 - m. Tax lien against Joseph Lee, Lien ID No. 3517647579 in the amount of \$503.03 and filed October 6, 2014;
 - n. Tax lien against Joseph Holmes, Lien ID No. 3517563817 in the amount of \$859.75 and filed September 15, 2014;
 - o. Tax lien against Joseph Holmes, Lien ID No. 3514492435 in the amount of \$43.47 and filed August 15, 2012;
 - p. Tax lien against Joseph Holmes, Lien ID No. 3514492428 in the amount of \$2,173.19 and filed August 15, 2012;
 - q. Tax lien against Joseph Holmes, Lien ID No. 3514492411 in the amount of \$770.57 and filed August 15, 2012.

FOR A FIFTH CAUSE OF ACTION
(Reimbursement of Taxes and Expenses)

70. The Plaintiffs reallege all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

71. The Plaintiff Christopher Hamilton and Plaintiff, Cleo Hamilton, would allege and show that they have advanced some monies to pay for real estate taxes and other expenses in order to preserve the subject property.

72. The Plaintiffs are informed and believe that the Court should inquire into these matters and order that those parties who preserved the property for the benefit of all co-tenants be reimbursed for these expenditures.

FOR A SIXTH CAUSE OF ACTION
(Attorney's Fees)

73. The Plaintiffs reallege all of the allegations contained in the above Causes

of Action as if repeated verbatim herein.

74. Plaintiffs further allege and show that they obtained the services of Barry I. Baker, Esquire and Kyle T. Varner, Esquire to prosecute this action. Further, Plaintiffs are informed and believe that pursuant to S.C. Code Ann. § 15-61-110 and Rule 71 SCRPC, their attorneys should be paid reasonable attorneys' fees for the prosecution of this action, together with their costs of this action, and any and all other costs and expenses incurred in connection with the prosecution of this action.

FOR A SEVENTH CAUSE OF ACTION

(Establish the boundary lines between the properties belonging to the heirs of Charity Washington and the heirs of Andrew W. Washington)

75. The Plaintiffs reallege all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

76. The Plaintiffs would allege and show that counsel for the Plaintiffs, Barry I. Baker has met with Lewis Moore, a representative of Forsberg Engineering & Surveying, Inc. who is preparing a plat of the subject property, and Mr. Moore has advised attorney Baker that he is unable to find any type of monument or any evidence that would define the boundary lines between the subject property and a parcel bearing TMS# 265-00-00-020 owned by the heirs of Andrew W. Washington. Plaintiffs are informed and believe that this Court should determine the common boundary lines between the subject properties.

FOR AN EIGHTH CAUSE OF ACTION

(Establish the location of dimensions, buttings and boundings of a right of way easement dated November 18, 1995, recorded in Book 702 at Page 7, and executed by George Walker)

77. The Plaintiffs reallege all of the allegations contained in the above Causes of Action as if repeated verbatim herein.

78. An easement, executed by George Walker, as an owner of TMS #265-00-

00-019, dated November 18, 1995, and recorded in Book 702 at Page 7, in the ROD Office for Colleton County, granted to Gene O. Cone, owner of TMS #265-00-00-021, an ingress/egress easement across TMS #265-00-00-019.

79. Upon information and belief, parcel TMS #265-00-00-021 is now owned by Defendant Rehabilitation Consultants of Charleston, LLC.

80. Plaintiffs would allege and show that the verbiage in the easement merely describes the easement as “the existing dirt road extending from Westbank Road to the home of Gene O. Cone on the Edisto River near Jacksonboro, South Carolina Said road located on the land shown on Colleton County tax map #265-00-00-019”. There are no plats or any documents of record that define and describe the easement with specificity.

81. Plaintiffs would allege and show that this Court should issue an Order setting forth the exact size, scope, dimensions, location and shape of the easement.

FOR A NINTH CAUSE OF ACTION

(Co-Plaintiff Guy Ackerman against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner)

(Tortious Interference with Prospective Advantage)

82. Co-Plaintiff Guy Ackerman realleges all of the allegations contained in the above Cause of Action as if repeated verbatim herein.

83. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner have intentionally interfered with Co-Plaintiff's potential contractual relations, as evidenced by the ratified contract in favor of Co-Plaintiff to purchase the subject property.

84. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner seek to purchase the interests of the other Plaintiffs herein and any other heirs pursuant to S.C.

Code Ann. §15-61-370, the Clementa C. Pinckney Uniform Partition of Heirs' Property Act.

85. Upon information and belief, Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner are acting as straw purchasers under a private agreement with a third party not disclosed to the Court and are using the Heirs' Property Act as a vehicle to do so.

86. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner's invocation the Heirs Property Act is for an improper purpose and in violation of the spirit and objectives of the Heirs Property Act.

87. As a result of Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner's actions, Co-Plaintiff has been injured.

88. Co-Plaintiff seeks a judgment against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner in an amount to be determined by the trier of fact, in addition to pre- and post-judgment interest, plus attorney's fees and costs.

FOR A TENTH CAUSE OF ACTION

(Co-Plaintiff Guy Ackerman against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner)

(Tortious Interference with Contractual Relations)

89. Co-Plaintiff Guy Ackerman realleges all of the allegations contained in the above Cause of Action as if repeated verbatim herein, and pleads the following cause of action in the alternative to the Ninth Cause of Action.

90. Co-Plaintiff alleges that a valid and enforceable agreement exists between him and the Plaintiffs herein for the purchase of the subject property: to wit, the ratified contract

dated December 10, 2020.

91. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner have knowledge of the contract.

92. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner seek to purchase the interests of the other Plaintiffs herein and any other heirs pursuant to S.C. Code Ann. §15-61-370, the Clementa C. Pinckney Uniform Partition of Heirs' Property Act.

93. Upon information and belief, Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner have intentionally procured the breach of the contract in favor of Co-Plaintiff by acting as straw purchasers under a private agreement with a third party not disclosed to the Court and are using the Heirs' Property Act as a vehicle to do so.

94. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner's invocation of the Heirs Property Act is for an improper purpose and in violation of the spirit and objectives of the Heirs Property Act; therefore, Defendants' procurement of the breach is without justification.

95. As a result of the foregoing, Co-Plaintiff has been damaged.

96. Co-Plaintiff seeks a judgment against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner in an amount to be determined by the trier of fact, in addition to pre- and post-judgment interest, plus attorney's fees and costs.

FOR AN ELEVENTH CAUSE OF ACTION

**(Co-Plaintiff Guy Ackerman against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner)
(Abuse of Process)**

97. Co-Plaintiff Guy Ackerman realleges all of the allegations contained in the above Cause of Action as if repeated verbatim herein.

98. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner seek to purchase the interests of the other Plaintiffs herein and any other heirs pursuant to S.C. Code Ann. §15-61-370, the Clementa C. Pinckney Uniform Partition of Heirs' Property Act.

99. Upon information and belief, Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner have an ulterior purpose in invoking the Heirs Property Act, by acting as straw purchasers under a private agreement with a third party not disclosed to the Court.

100. Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner's invocation of the Heirs Property Act constitutes a willful act in the use of process that is not proper in the regular conduct of the proceeding; namely, said conduct in violation of the spirit and objectives of the Heirs Property Act.

101. As a result of the foregoing, Co-Plaintiff has been damaged.

102. Co-Plaintiff seeks a judgment against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner in an amount to be determined by the trier of fact, in addition to pre- and post-judgment interest, plus attorney's fees and costs.

WHEREFORE, Plaintiffs pray that this Court inquire into the matters set forth herein as follows:

a. That this Court finds that Plaintiffs CHRISTOPHER HAMILTON, CLEO HAMILTON, JANIE NELSON A/K/A JANNIE NELSON, JUANITA WILLIAMS, ELVIRA MEMMINGER, CLARENCE WASHINGTON, DELINDA W. DAWSON, DAVID WASHINGTON, JR., ELIZABETH ANN LEE A/K/A ELIZABETH ANN CHERRI, ARTHUR LEE, MIRANDA CLARK A/K/A ARANDA CLARK, CATHERINE DENT, JOSEPH HOLMES, GWENDOLYN MILLER, JAN ELIZABETH BURTON, AND BRENDA BROWN, and Defendants, WILLIAM ARNOLD KELLMAN, PRISCILLA JUDGE, RHONDA B. WINFIELD, SAMUEL COX, JR., JIMMY COX, LAVORGE COX, DESHAWN RAMBERT-COX, VANESSA COX a/k/a VANESSA COX-RICKENBACKER, TONI COX a/k/a TONYA PIERCY, FELICIA COX, ANDREW WALKER, SELENA WALKER, SONYA TERESA WHITE, RAYMOND WALKER, ARDELIA STOKES a/k/a DELIA STOKES, LEROY SMALLS, JR. a/k/a LEROY H. SMALLS, GWENDOLYN BRIGHT, ELIZABETH SAWYER, JOHNNY J. SMALLS, DONALD R. SMALLS, RALPH B. SMALLS, ZELEMENIA WALKER a/k/a SELLEMENIA WALKER, TERRANCE WALKER, GEORGE WALKER, JR., CHERISE WALKER TURNER, NAOMI WALKER, RICHARD COX, WILTON WASHINGTON a/k/a WELDON WASHINGTON, are the sole owners of the property located on 1905 Hope Plantation Road, bearing TMS No. 265-00-00-019.000, in the proportions as hereinbefore set forth in Paragraph 54;

b. That this Court find that the subject property cannot be partitioned in kind or by allotment without injury to the parties;

c. That this Court should issue an Order approving the Contract of Sale,

dated December 10, 2020, entered into by and between the Plaintiff, CHRISTOPHER HAMILTON, and affirmed by Plaintiffs CLEO HAMILTON, JANIE NELSON A/K/A JANNIE NELSON, JUANITA WILLIAMS, ELVIRA MEMMINGER, CLARENCE WASHINGTON, DELINDA W. DAWSON, DAVID WASHINGTON, JR., ELIZABETH ANN LEE A/K/A ELIZABETH ANN CHERRI, ARTHUR LEE, MIRANDA CLARK A/K/A ARANDA CLARK, CATHERINE DENT, JOSEPH HOLMES, GWENDOLYN MILLER, JAN ELIZABETH BURTON, AND BRENDA BROWN as Sellers, and Guy Ackerman as Buyer, for the purchase price of \$220,000.00, and that the Court authorize the sale of the subject property pursuant to the aforementioned Contract or, in the alternative, a Contract with any other individual or entity upon terms it deems just and fair if the present Contract is not consummated;

d. That this Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to the purchaser hereinbefore set forth, or any other individual or entity that can comply with the terms and provisions thereof;

e. That this Court should issue an Order approving the partitioning of the approximately one (1) acre on which Donna Mitchell and Curtis Mitchell reside and that this Court should authorize the appointed Special Referee for Colleton County to execute and deliver a Master's Deed to Donna Mitchell and Curtis Mitchell for the same;

f. That out of the proceeds of the sale there should be deducted and paid to the Plaintiff's attorneys their reasonable attorneys' fees for the prosecution of this action and the costs involved in this action;

g. That out of the proceeds of sale there should be deducted and paid to the Plaintiffs Christopher Hamilton and Cleo Hamilton, reimbursement for any real estate taxes and other reasonable expenses they have incurred relating to the subject property;

h. That this Court determine the priority and validity of the judgments and

liens aforementioned; and

i. That any proceeds of sale remaining be disbursed to the parties whom the Court determines to be the owners in their respective ownership interests; and

j. That this Court determine the common boundary lines between the subject property and the adjoining property owned by heirs of Andrew Washington; and

k. That this Court determine the size, scope, location, dimensions and shape of the easement in favor of Rehabilitation Consultants of Charleston LLC; and

l. That this Court award Co-Plaintiff Guy Ackerman judgment on the Ninth Cause of Action, or alternatively on the Tenth Cause of Action, against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner in an amount to be determined by the trier of fact, in addition to pre- and post-judgment interest, plus attorney's fees and costs;

m. That this Court award Co-Plaintiff Guy Ackerman judgment on the Eleventh Cause of Action against Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner in an amount to be determined by the trier of fact, in addition to pre- and post-judgment interest, plus attorney's fees and costs; and

n. For such other and further relief as this Court may deem just and proper.

s/Barry I. Baker

BAKER AND VARNER, LLC

BARRY I. BAKER, ESQ. – Bar #482

bbaker@bakerlawsc.com

One Carriage Lane, Building H

P.O. Box 31265

Charleston, SC 29417-1265

Office: 843.766.9007 ~ Fax: 843.766.1295

ATTORNEYS FOR PLAINTIFFS (excluding Co-Plaintiff Guy Ackerman)

AND

s/Malena Dinwoodie

Finkel Law Firm LLC

Malena Dinwoodie, Esq. – 103978 Bar Number

James Leffew, Esq. - Bar Number 102302

mdinwoodie@finkellaw.com

jleffew@finkellaw.com

4000 Faber Place Drive, Suite 450

N. Charleston, SC 29405

Office: (843) 577-5460

ATTORNEYS FOR CO-PLAINTIFF

GUY ACKERMAN

Charleston, South Carolina

June 15, 2022

STATE OF SOUTH CAROLINA)
)
)
 COUNTY OF COLLETON)
)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTEENTH JUDICIAL
 CIRCUIT
 CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
 JANIE NELSON A/K/A JANNIE NELSON,)
 JUANITA WILLIAMS, ELVIRA MEMMINGER,)
 CLARENCE WASHINGTON, DELINDA W.)
 DAWSON, DAVID WASHINGTON, JR.,)
 ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
 CHERRI, ARTHUR LEE, MIRANDA CLARK)
 A/K/A ARANDA CLARK, CATHERINE DENT,)
 JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
 ELIZABETH BURTON, BRENDA BROWN,)
 AND GUY ACKERMAN,)

Plaintiffs)

v.

REHABILITATION CONSULTANTS OF)
 CHARLESTON, LLC., WILLIAM ARNOLD)
 KELLMAN, PRISCILLA JUDGE, RHONDA B.)
 WINFIELD, SAMUEL COX, JR., JIMMY COX,)
 LAVORGE COX, DESHAWN RAMBERT-COX,)
 VANESSA COX a/k/a VANESSA COX-)
 RICKENBACKER, TONI COX a/k/a TONYA)
 PIERCY, FELICIA COX, ANDREW WALKER,)
 SELENA WALKER, individually and as Personal)
 Representatives of the Estate of Earl Walker, SONYA)
 TERESA WHITE, RAYMOND WALKER,)
 ARDELIA STOKES a/k/a DELIA STOKES)
 LEROY SMALLS, J.R a/k/a LEROY H. SMALLS)
 GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
 JOHNNY J. SMALLS, MICAH FRASIER,)
 ZELEMENIA WALKER a/k/a SELLEMENA)
 WALKER, TERRANCE ALKER, GEORGE)
 WALKER, JR., CHERISE WALKER TURNER,)
 NAOMI WALKER, RICHARD COX, RICHARD)
 WILTON WASHINGTON a/k/a WELDON)
 WASHINGTON, DONNA MITCHELL and)
 CURTIS MITCHELL, if they be alive, and JOHN)
 DOE AND JANE DOE, whose true names are)

unknown and fictitious names designating the)
 unknown heirs, devisees, distributees, issue,)
 executors, administrators, successors, or assigns of)
 the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON)
 a/k/a PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES,)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN, all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are Unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)

herein,)
 Defendants.)

ANSWER

Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherese Walker Turner (the “Answering Defendants”) responding to the Amended Complaint, state as follows:

INTRODUCTION

As a starting point, the Plaintiffs, other than Guy Ackerman, acknowledge in their allegations in the Amended Complaint that they and the Defendants including the Answering Defendants, other than Rehabilitation Consultants of Charleston, LLC, are all heirs of Charity Washington and therefore, all are cotenants. The Answering Defendants agree with the Plaintiffs, other than Guy Ackerman, that they are all heirs of Charity Washington.

The Plaintiff, Christopher Hamilton, entered into a Contract of Sale to sell Property described in the Complaint belonging to the Heirs of Charity Washington to Guy Ackerman on December 10, 2021. In the Addendum to the Contract of Sale dated the same day as the Contract of Sale, it is specifically provided as follows:

Chris Hamilton has disclosed to Buyer that the Clemntia (sic) Pinckney Act grants every heir of Charity Washington the right of first refusal to purchase the subject property.

As with the Contract of Sale, the Buyer, Mr. Ackerman, executed the Addendum and acknowledged he was aware of the right of first refusal granted to every heir of Charity Washington by the Clementa C. Pinckney Uniform Partition of Heirs Property Act SC Code

Section 15-61-310 et seq (1976 as amended) (the “Act”) and the issues in this matter are totally controlled by the Act.

The Act in Section 15-61-370 (A) and (B) provide specifically as follows:

(A) If any cotenant request partition by sale, after determination of value pursuant to Section 15-61-360, the party filing the partition action, after receipt of the value information from the clerk’s office, shall send notice to the parties that any cotenant, except a cotenant that requested partition by sale, may buy all of the interest of the cotenants that requested partition by sale.

(B) A cotenant, except a cotenant that requested partition by sale, who is interested in purchasing the interests of the cotenants that requested partition by sale, shall notify the court of that interest no later than ten days prior to the date set for the partition trial. A cotenant that did not request partition by sale **MUST** be allowed to purchase the interest of any cotenant who requested a partition by sale, as provided in this article, whether default has been entered against the cotenant or not. (Emphasis added.).

The right of the Answering Defendants to purchase the interest of the cotenants who have brought the action to sale is absolute. Mr. Ackerman rights, pursuant to the terms of the Contract are subordinate to the rights of the Answering Defendants, and in fact to any of the Defendants who are cotenants.

The issues before the Court are for the (a) the Court to determine the heirs of Charity Washington and the interest of each; (b) whether people who are not relatives of Charity Washington or her heirs should be given a portion of the property; (c) partition and approval of the contract; (d) issues related to possible liens; (e) reimbursement for taxes and expenses; (f) attorney’s fees; (g) establishment of the boundary line between the subject property and property belong to the heirs of Andrew Washington, a son of Charity Washington; (h) establishing the location of an easement to neighboring property, all on behalf of the Heirs of Charity

Washington; and then claims by Guy Ackerman alleging tortious interference with prospective advantage; tortious interference with contractual relations and abuse of process against the Answering Defendants. By agreement between the parties, the claims by the Plaintiffs other than Guy Ackerman are separate and apart from the claims by Guy Ackerman and are to be treated separately by the Court.

While Plaintiffs have suggested there are adverse possession issues related to the issues before the Court, there are no allegations in the Complaint relating to that suggestion.

The Answer contained herein are related to the claims of the Plaintiff's other than Guy Ackerman whose claims are contained in the Ninth, Tenth and Eleventh Causes of Action which claims are not claims of the Plaintiffs who claim to be heirs of Charity Washington and which claims will be responded to in another form

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

1. They deny each of the allegations of the Amended Complaint not specifically admitted or qualified.
2. They admit the allegations of Paragraph 1 of the Complaint, upon information and belief. The property described in Paragraph 1 is hereafter referred to as the "Property".
3. They admit the allegations of Paragraph 2 of the Complaint.
4. The allegations of Paragraph 3 of the Complaint are a restatement of the allegations of the previous allegations of the Complaint and no further response is required.

5. As to the allegations of Paragraphs 6 through 54, inclusive, they do not have sufficient information to admit or deny the same and demand strict proof thereof.

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

6. The allegations of Paragraph 55 of the Complaint are a restatement of the allegations of the previous allegations of the Complaint and no further response is required.

7. As to the allegation of Paragraph 56, upon information and belief, they admit that Plaintiff previously asserted that Millie Washington was the daughter of William Washington and she died intestate leaving no spouse or issue. As to the remaining allegation of Paragraph 56, they do not have sufficient information to admit or deny the same and demand strict proof thereof.

8. As to the allegations of paragraph 57, they do not have sufficient information to admit or deny the same and demand strict proof thereof.

9. As to the allegations of Paragraph 58, they are aware that Donna Mitchell and Curtis Mitchell reside on a portion of the property. Further they do not contest that there is a mobile home on the property, however, they do not have sufficient information to determine who owns the mobile home and demand strict proof thereof.

10. As to the allegations of Paragraph 59, they cannot respond to the beliefs of the Plaintiffs, however, they deny that under any theory the Mitchells are entitled to the ownership of any portion of the Property.

11. As to the allegations of Paragraph 60, they deny that any portion of the Property should be conveyed to the Mitchells.

**AS AND FOR A DEFENSE
TO THE THIRD CAUSE OF ACTION**

12. The allegations of Paragraph 61 of the Complaint are a restatement of the allegations of the previous allegations of the Complaint and no further response is required.

13. As to the allegations of Paragraph 62, they admit the same and they further allege it is not necessary to partition the Property in kind or by allotment as the Answering Defendants will purchase the interest of the Plaintiffs¹ as specifically allowed as provided in the Act.

14. As to the allegations of Paragraph 63, they admit the Court should determine the lawful owners of the Property, but the payment to be determined by the Court should only be to the heirs of Charity Washington who have acted as Plaintiffs in the matter.

15. As to the allegations of Paragraph 64, they do not have sufficient information to form a belief as to the allegations contained therein and demand strict proof thereof. Further answering the said allegations, they are informed and believe that if such a listing agreement was entered into it was done by Christopher Hamilton only without consultation with any of the Answering Defendants and without their consent, express or implied, and any payment which may be owed to the real estate broker/agent pursuant to the listing agreement should be paid out of the payment to be made to the Plaintiffs..

16. As to the allegations of Paragraph 65, they object to any decision to sell the Property to Guy Ackerman as such a sale would be in violation of the requirements of the Act as the Answering Defendants have the absolute right to purchase the Property based on the

¹ Unless otherwise specifically any reference the Plaintiffs in this Answer refers to the named Plaintiffs other than Guy Ackerman.

provisions of the Act and as agreed to by Guy Ackerman and the other Plaintiffs pursuant to the provisions of the Contract dated December 10, 2020.

17. As to the allegations of Paragraph 66, the Answering Defendants deny the same and allege that pursuant to the requirements of the Act, the Court is required to allow the Answering Defendants and any other Defendant² who so desires to purchase the interests of the Plaintiffs other than Guy Ackerman.

18. As to the allegations of Paragraph 67, Benjamin Sapp has been appointed as Special Referee in this matter and is authorized to make the determinations required in this matter and execute and deliver any documents required.

**AS AND FOR A DEFENSE
TO THE FOURTH CAUSE OF ACTION**

The Answering Defendants reassert and reallege the allegations of this Answer and Counterclaim as if fully restated verbatim.

19. As to the allegations of Paragraph 68, the allegations are a restatement of the previous allegations of the Amended Complaint and no further response is required.

20. As to the allegations of Paragraph 69, they have no information with regard to the same and request to the Court to make the necessary inquiry into the claims made and make a determination as to the applicability, if any, of the liens to the Property.

**AS AND FOR A DEFENSE
TO THE FIFTH CAUSE OF ACTION**

The Answering Defendants reassert and reallege the allegations of this Answer and Counterclaim as if fully restated verbatim.

²In referring to the "other Defendant" the Answering Defendants are referring only to the defendants who are heirs of Charity Washington and not the named defendant, Rehabilitation Consultants of Charleston, LLC.

21. As to the allegations of Paragraph 70, the allegations are a restatement of the previous allegations of the Amended Complaint and no further response is required.

22. As to the allegations of Paragraph 71, they do not have sufficient information to admit or deny the allegations and demand strict proof thereof.

23. As to the allegations of Paragraph 72, they are unaware of any actions by any of the Plaintiffs and demand the Plaintiffs provide strict proof of what they may have done and the reason(s) for what they did..

**AS AND FOR A DEFENSE
TO THE SIXTH CAUSE OF ACTION**

The Answering Defendants reassert and reallege the allegations of this Answer and Counterclaim as if fully restated verbatim.

24. As to the allegations of Paragraph 73, the allegations are a restatement of the previous allegations of the Amended Complaint and no further response is required.

25. As to the allegations of Paragraph 74, they state that any benefit from the representation of the Plaintiffs by Mr. Baker and Mr. Varner, other than the determination of the heirs of Charity Washington and their ownership interest and any fees related to the other causes of action, were solely for the benefit of the Plaintiffs and bestowed no benefit on the Answering Defendants and any fees charged related to any cause of action other than the first cause of action should be assessed against the interests of the Plaintiffs only which is in accord with the provisions of SC Code Section 15-61-110 and Rule 71 (d)(3) SCRCF as, for the reasons set forth below, no benefit has been bestowed on the Answering Defendants in this action.

26. Prior to entering into any agreement to list the Property for sale or requesting an appraisal of the Property, the Plaintiffs had a legal, ethical and/or moral obligation to discuss

with all heirs of Charity Washington their desire to sell their interest in the Property and give all other heirs of Charity Washington the option to purchase the interest of those who wanted to sell..

27. At no time have any of the Plaintiffs offered to sell their interest in the Property to any of the Defendants in an effort to maintain the Property within the family.

28. Had the Plaintiffs offered to sell their interest in the Property to any of the Answering Defendants or the other Defendants, the litigation would have been avoided and the cost incurred by the Answering Defendants in protecting their interest would not have been incurred.

29. The failure of the Plaintiffs to offer their interest in the Property to the Defendants before entering into the contract with Ackerman is per se a lack of good faith.

**AS AND FOR A DEFENSE
TO THE SEVENTH CAUSE OF ACTION**

The Answering Defendants reassert and reallege the allegations of this Answer and Counterclaim as if fully restated verbatim.

30. As to the allegations of Paragraph 75, the allegations are a restatement of the previous allegations of the Amended Complaint and no further response is required.

31. As to the allegations of Paragraph 76, they do not have information to admit or deny the factual allegations and demand strict proof thereof. As the need to determine the common boundary line between the property belong to the heirs of Charity Washington and the heirs of Andrew Washington they do not believe the same is necessary for the following reasons:

- a. The property belonging to the heirs of Andrew Washington was purchased by Andrew Washington in 1926, 96 years ago.
- b. Many of the heirs of Charity Washington are heirs of Andrew Washington.
- c. Over the 96 years since Andrew Washington purchased the property now owned by his heirs nor the heirs of Charity Washington have not seen the need to determine the boundary line between the properties.
- d. Since the ownership of the properties will remain in the same families, no need exists for the survey.

**AS AND FOR A DEFENSE
TO THE EIGHTH CAUSE OF ACTION**

The Answering Defendants reassert and reallege the allegations of this Answer and Counterclaim as if fully restated verbatim.

32. As to the allegations of Paragraph 75, the allegations are a restatement of the previous allegations of the Amended Complaint and no further response is required.

33. As to the allegations of Paragraph 78, the allegation refers to a written documents which speaks for themselves.

34. As to the allegations of Paragraph 79, they admit the same.

35. As to the allegations of Paragraph 80, the allegations contained in the first sentence of Paragraph 80 refers to a written document which speaks for itself. As to the allegations in the second sentence of Paragraph 80, they deny the same for the following reasons:

- a. The easement executed by George Walker has been in place since 1995, almost seventeen years and used by the owners of the dominate estate without objection since. The easement referred to in the in the Amended Complaint clearly indicates the road is as shown on the Colleton County Tax Maps for parcel 265-00-00-019, which is the subject property and fully depicts the road. See Exhibit A attached hereto.
- b. Plaintiff Christopher Hamilton on or about October 8, 2020, two (2) months before he entered into the contract with Guy Ackerman, executed

an Easement in favor of Dominion Energy granting an electric line easement across the property belonging to the Estate of Charity Washington for the benefit of the neighboring property, The easement is recorded in the Register of Deeds Office for Colleton County in Book RB 2899 at Page 235. A drawing, in an attachment to the Easement, clearly shows the location of the electric easement and the ingress/egress easement. This document was acceptable to Mr. Hamilton and his counsel to show the location of both the electric easement and the ingress/egress easement and is sufficient now. See Exhibit B attached hereto.

c. Since the Answering Defendants will own the Property at the conclusion of this matter they see no need for any further definition.

36. As to the allegations of Paragraph 81, they deny the same.

WHEREFORE, the Answering Defendants pray as follows:

1. The Court enter an Order determining the Heirs of Charity Washington and the interest of each heir.

2. For an Order denying the relief requested in the Second Cause of Action.

3. For an Order denying the sale of the Property to Guy Ackerman.

4. For an Order that is just and proper with regard to the Fourth Cause of Action.

5. For an Order that is just and property with regard to the Fifth Cause of Action.

6. For an Order that is just and proper with regard to the Sixth Cause of Action.

7. In the event the Court determines it is necessary to establish the boundary line between the property belonging to the Heirs of Charity Washington and the Heirs of Andrew Washington, that the Court make such determination limited to the claim made in the Amended Complaint..

8. That the Court deny the relief sought in the Eighth Cause of Action.

9. That the Court determine the value of the Property and determine the amount to be paid to each Heir of Charity Washington who has petitioned to the sale of the Property.

10. That upon payment of the amount determined to be owing to the Heirs of Charity Washington who have petitioned for the sale of the Property, that the Special Referee determine the amount to be paid by each of the Answering Defendants and upon payment of the amount issue a deed conveying the interest of the Plaintiffs to each of them for the interest they are entitled to.

11. For such other and further relief as may be just and proper.³

The Law Offices of Charles S. Altman, LLC

s/ Charles S. Altman
Charles S. Altman (S.C. Bar No. 351)
caltman@caltmanlaw.com
Christopher F. Lutz (S.C. Bar No. 105303)
575 King Street, Suite A
Charleston, South Carolina 29403
Tel.: 843-853-9907
Attorney for Answering Defendants

July 21, 2022

³The Answering Defendants have not responded to the allegations contained in the Ninth, Tenth and Eleventh Causes of Action in this Pleading as they are solely the claims of Guy Ackerman which claims are being responded to in a Motion to Dismiss pursuant to Rule 12 (c) SCRCF.

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

) FOR THE FOURTEENTH JUDICIAL CIRCUIT

COUNTY OF COLLETON

) CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,
 JANIE NELSON, JANNIE NELSON, ANITA
 WILLIAMS, ELVIRA MEMMINGER, CLARENCE
 WASHINGTON, DELINDA W. DAWSON, DAVID
 WASHINGTON, JR., ELIZABETH ANN LEE a/k/a
 ELIZABETH ANNCHERRI, ARTHUR LEE, MIRANDA
 CLARK a/k/a ARANDA CLARK,
 CATHERINE DENT, JOSEPH HOLMES, GWENDOLYN
 MILLER, JAN ELIZABETH BURTON, BRENDA
 BROWN and GUY ACKERMAN,

Plaintiffs,

V.

REHABILITATION CONSULTANTS OF
 CHARLESTON, LLC, WILLIAM ARNOLD
 KELLMAN, PRISCILLA JUDGE, RHONDA B.
 WINFIELD, SAMUEL COX, JR., JIMMY COX,
 LAVORGE COX, DESHAWN RAMBERT-COX,
 VANESSA COX a/k/a VANESSA COX-
 RICKENBACKER, TONI COX a/k/a TONYA
 PIERCY, FELICIA COX, ANDREW WALKER,
 SELENA WALKER, individually and as Personal
 Representative of the Estate of Earl Walker, SONYA
 TERESA WHITE, RAYMOND WALKER,
 ARDELIA STOKES a/k/a DELIA STOKES,
 LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,
 GWENDOLYN BRIGHT, ELIZABETH SAWYER,
 JOHNNY J. SMALLS, DONALD R. SMALLS,
 RALPH B. SMALLS, MICAH FRASIER,
 ZELEMENIA WALKER a/k/a SELLEMENA
 WALKER, TERRANCE WALKER, GEORGE
 WALKER, JR., CHERISE WALKER TURNER,
 NAOMI WALKER, RICHARD COX, RICHARD
 WILTON WASHINGTON a/k/a WELDON
 WASHINGTON, DONNA MITCHELL and
 CURTIS MITCHELL, if they be alive, and JOHN
 DOE AND JANE DOE, whose true names are
 unknown and fictitious names designating the
 unknown heirs, devisees, distributees, issue,
 executors, administrators, successors, or assigns of
 the above-named Defendants, if they or any of them
 be dead, and of CHARITY WASHINGTON,
 CENTRILLA WASHINGTON, ANDREW
 WASHINGTON, PRISCILLA WASHINGTON a/k/a
 PERSELLA WASHINGTON, OSCAR WASHINGTON,
 GERTIE WASHINGTON, MARGARET KELLMAN,
 HORACE HEYWARD, DELOREA WASHINGTON

a/k/a DELORES WILLIAMS, JOHNNY WASHINGTON a/k/a JOHNNIE WASHINGTON, RUTHIE MAE WASHINGTON, EUGENE WASHINGTON a/k/a SAM WASHINGTON, GENEYA WASHINGTON, MAYBEL WALKER a/k/a MAYBELLE WASHINGTON, LILLA MAE SMALLS a/k/a LUCILLE COX SMALLS, LEROY SMALLS, STANLEY SMALLS a/k/a RONNIE SMALLS, WILLIE HAYDEN SMALLS, GEORGE WALKER, SAMUEL COX, LUCILLE CHISOLM a/k/a LOUCILE CHISOLM, EARL WALKER, PEARL HAMILTON, JAMES HAMILTON, JOSEPH HAMILTON, ELISE SIMMONS, JAMES WASHINGTON, VICTORIA JOHNSON GREEN, DAVID WASHINGTON, SR., CARRIE WASHINGTON a/k/a CARRIE WASHINGTON WILLIAMS, CARRIE WASHINGTON LEE, JOSEPH LEE, NORRIS LEE, ISRAEL WASHINGTON, DAVID WASHINGTON, GOLDEN WASHINGTON, MINNIE BRANTLEY JOHNSON a/k/a MINNIE BRANTLEY, MABEL SIMMONS, WILLIAM WASHINGTON a/k/a BILLY WASHINGTON, MILLIE WASHINGTON, PHOEBE ANN WASHINGTON, and MARGARET ROVENA KELLMAN, all deceased; and MARY ROE AND RICHARD ROE, whose true names are unknown and fictitious names designating infants, persons under disability, incompetents, imprisoned, or those person in the military, if any; SOUTH CAROLINA DEPARTMENT OF REVENUE, and also all other persons, known or whose true names are unknown, claiming any right, title, interest in, or lien upon the real estate described in the Complaint herein,
Defendants.

SUMMONS

TO: The Defendants, Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherese Walker Turner

YOU ARE HEREBY SUMMONED and required to answer the Cross Claims of the Defendants Donna Mitchell and Curtis Mitchell, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Cross Claims on the Plaintiffs or their attorney, Thomas H. Brush, at his office, Brush Law Firm, P.A., 12 Carriage Lane, Suite A, Charleston, South

Carolina, 29407, within thirty (30) days after the service hereof, exclusive of the day of such service; and, if you fail to answer, we will apply to the Court for Default Judgment to be awarded against you for the amount alleged in the suit plus all fees and costs which have been incurred.

Dated at Charleston, South Carolina, on the 16th day of December 2022.

BRUSH LAW FIRM, P.A.

/s/ Thomas H. Brush

Thomas H. Brush

SC Bar #00974

J. Chris Lanning

SC Bar #73957

Attorney for the Plaintiff

tbrush@brushlawfirm.com

12 Carriage Lane, Suite A

Charleston, SC 29407

Phone: (843) 766-5576

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

) FOR THE FOURTEENTH JUDICIAL CIRCUIT

COUNTY OF COLLETON

) CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,
 JANIE NELSON, JANNIE NELSON, ANITA
 WILLIAMS, ELVIRA MEMMINGER, CLARENCE
 WASHINGTON, DELINDA W. DAWSON, DAVID
 WASHINGTON, JR., ELIZABETH ANN LEE a/k/a
 ELIZABETH ANNCHEIRI, ARTHUR LEE, MIRANDA
 CLARK a/k/a ARANDA CLARK,
 CATHERINE DENT, JOSEPH HOLMES, GWENDOLYN
 MILLER, JAN ELIZABETH BURTON, BRENDA
 BROWN and GUY ACKERMAN,

Plaintiffs,

V.

REHABILITATION CONSULTANTS OF
 CHARLESTON, LLC, WILLIAM ARNOLD
 KELLMAN, PRISCILLA JUDGE, RHONDA B.
 WINFIELD, SAMUEL COX, JR., JIMMY COX,
 LAVORGE COX, DESHAWN RAMBERT-COX,
 VANESSA COX a/k/a VANESSA COX-
 RICKENBACKER, TONI COX a/k/a TONYA
 PIERCY, FELICIA COX, ANDREW WALKER,
 SELENA WALKER, individually and as Personal
 Representative of the Estate of Earl Walker, SONYA
 TERESA WHITE, RAYMOND WALKER,
 ARDELIA STOKES a/k/a DELIA STOKES,
 LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,
 GWENDOLYN BRIGHT, ELIZABETH SAWYER,
 JOHNNY J. SMALLS, DONALD R. SMALLS,
 RALPH B. SMALLS, MICAH FRASIER,
 ZELEMENIA WALKER a/k/a SELLEMENA
 WALKER, TERRANCE WALKER, GEORGE
 WALKER, JR., CHERISE WALKER TURNER,
 NAOMI WALKER, RICHARD COX, RICHARD
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 WASHINGTON, DONNA MITCHELL and
 CURTIS MITCHELL, if they be alive, and JOHN
 DOE AND JANE DOE, whose true names are
 unknown and fictitious names designating the
 unknown heirs, devisees, distributees, issue,
 executors, administrators, successors, or assigns of
 the above-named Defendants, if they or any of them
 be dead, and of CHARITY WASHINGTON,
 CENTRILLA WASHINGTON, ANDREW
 WASHINGTON, PRISCILLA WASHINGTON a/k/a
 PERSELLA WASHINGTON, OSCAR WASHINGTON,
 GERTIE WASHINGTON, MARGARET KELLMAN,
 HORACE HEYWARD, DELOREA WASHINGTON

a/k/a DELORES WILLIAMS, JOHNNY WASHINGTON a/k/a JOHNNIE WASHINGTON, RUTHIE MAE WASHINGTON, EUGENE WASHINGTON a/k/a SAM WASHINGTON, GENEYA WASHINGTON, MAYBEL WALKER a/k/a MAYBELLE WASHINGTON, LILLA MAE SMALLS a/k/a LUCILLE COX SMALLS, LEROY SMALLS, STANLEY SMALLS a/k/a RONNIE SMALLS, WILLIE HAYDEN SMALLS, GEORGE WALKER, SAMUEL COX, LUCILLE CHISOLM a/k/a LOUCILE CHISOLM, EARL WALKER, PEARL HAMILTON, JAMES HAMILTON, JOSEPH HAMILTON, ELISE SIMMONS, JAMES WASHINGTON, VICTORIA JOHNSON GREEN, DAVID WASHINGTON, SR., CARRIE WASHINGTON a/k/a CARRIE WASHINGTON WILLIAMS, CARRIE WASHINGTON LEE, JOSEPH LEE, NORRIS LEE, ISRAEL WASHINGTON, DAVID WASHINGTON, GOLDEN WASHINGTON, MINNIE BRANTLEY JOHNSON a/k/a MINNIE BRANTLEY, MABEL SIMMONS, WILLIAM WASHINGTON a/k/a BILLY WASHINGTON, MILLIE WASHINGTON, PHOEBE ANN WASHINGTON, and MARGARET ROVENA KELLMAN, all deceased; and MARY ROE AND RICHARD ROE, whose true names are unknown and fictitious names designating infants, persons under disability, incompetents, imprisoned, or those person in the military, if any; SOUTH CAROLINA DEPARTMENT OF REVENUE, and also all other persons, known or whose true names are unknown, claiming any right, title, interest in, or lien upon the real estate described in the Complaint herein,
Defendants.

**ANSWER OF THE DEFENDANTS DONNA MITCHELL and CURTIS MITCHELL and
CROSS CLAIM AGAINST THE DEFENDANTS, GWENDOLYN BRIGHT, FELICIA
COX, MICAH FRASIER, ELIZABETH SAWYER, DONALD R. SMALLS, JOHNNY J.
SMALLS, RALPH B. SMALLS and CHERESE WALKER TURNER.**

The Defendants, Donna Mitchell and Curtis Mitchell, hereby Answer the Amended Complaint of the Plaintiffs and Cross Claims against the Defendants, Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Chereese Walker Turner, as follows:

FOR A FIRST DEFENSE

1. The Defendants, Donna Mitchell and Curtis Mitchell, deny each and every allegation of the Amended Complaint not specifically admitted or qualified.
2. The Defendants, Donna Mitchell and Curtis Mitchell, have no personal knowledge that would allow them to affirm or deny the allegations in Paragraphs one (1) through forty-eight (48) of the Amended Complaint and therefore demand strict proof thereof.
3. The Defendants, Donna Mitchell and Curtis Mitchell, admit the allegations of Paragraphs forty-nine (49) through fifty-two (52) of the Amended Complaint and would further show unto the Court that Lilly Washington Gillard (Aunt Millie) raised Daisybell Mitchell who is the mother of the Defendants, Donna Mitchell and Curtis Mitchell. The remaining allegations of Paragraph 52 of the Amended Complaint are admitted.
4. The Defendants, Donna Mitchell and Curtis Mitchell, have no personal knowledge that would allow them to affirm or deny the allegations in Paragraphs fifty-three (53) and fifty-four (54) and therefore demand strict proof thereof.
5. The Defendants, Donna Mitchell and Curtis Mitchell, admit the allegations in paragraphs fifty-six (56) through sixty (60) of the Amended Complaint but would show unto the Court that Millie Washington was a/k/a Lilly Washington and Isabell Mitchell was a/k/a Daisybell Mitchell.
6. The Defendants, Donna Mitchell and Curtis Mitchell, have no personal knowledge that would allow them to affirm or deny the allegations in Paragraphs sixty-two (62) through one hundred and two (102) of the Amended Complaint and therefore demand strict proof thereof.

**FOR A SECOND DEFENSE BY WAY OF CROSS CLAIM AGAINST THE
DEFENDANTS GWENDOLYN BRIGHT, FELICIA COX, MICAH FRASIER,
ELIZABETH SAWYER, DONALD R. SMALLS, JOHNNY J. SMALLS, RALPH B.
SMALLS, CHERESE WALKER TURNER.**

(Adverse Possession)

7. The Defendants, Donna Mitchell and Curtis Mitchell, reallege all the previous allegations as if they were repeated verbatim herein.
8. That Daisybell Mitchell, mother, of the Defendants Donna Mitchell and Curtis Mitchell, was raised by Lilly Washington (Aunt Millie) in the home on the one acre of land as shown on the Boundary Survey prepared by Forsberg Engineering & Surveying, Inc.
9. Upon the death of Lilly Washington her property was passed down to Daisybell Mitchell who resided on the property with her children the Defendants, Donna Mitchell and Curtis Mitchell.
10. The Defendants, Donna Mitchell and Curtis Mitchell, have resided on the property for more than

sixty (60) years and have remodeled the homes and paid their portion of the taxes each year.

11. The Defendants, Donna Mitchell and Curtis Mitchell, have been in continuous, hostile, open actual, notorious and exclusive possession of the one acre and the dwellings thereon.
12. The Defendants, Donna Mitchell and Curtis Mitchell, are informed and believe they have exceeded the statutory requirements for adverse possession and entitled to an Order of this Court holding them as fee simple owners of the one acre referred to herein.

**FOR A THIRD DEFENSE BY WAY OF CROSS CLAIM AGAINSTST THE
DEFENDANTS GWENDOLYN BRIGHT, FELICIA COX, MICAH FRASIER,
ELIZABETH SAWYER, DONALD R. SMALLS, JOHNNY J. SMALLS, RALPH B.
SMALLS, CHERESE WALKER TURNER.**

(Recognition and Acquiescence)

13. The Defendants, Donna Mitchell and Curtis Mitchell, reallege all the previous allegations as if they were repeated verbatim herein.
14. That the Defendants, Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Chereese Walker Turner and their predecessors in title have recognized that Defendants, Donna Mitchell and Curtis Mitchell, own the one acre of land in question.
15. That no action has been taken in more than sixty years by the above named Defendants or their predecessors in title to eject or remove Defendants, Donna Mitchell and Curtis Mitchell, from this acre.
16. The Defendants, Donna Mitchell and Curtis Mitchell, are informed and believe that the Defendants, Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Chereese Walker Turner and their predecessors have recognized and acquiesced to their ownership of the one acre.

**FOR A FOURTH DEFENSE BY WAY OF CROSS CLAIM AGAINSTST THE
DEFENDANTS GWENDOLYN BRIGHT, FELICIA COX, MICAH FRASIER,
ELIZABETH SAWYER, DONALD R. SMALLS, JOHNNY J. SMALLS, RALPH B.
SMALLS, CHERESE WALKER TURNER.**

(Marketable Title Act)

17. The Defendants, Donna Mitchell and Curtis Mitchell, reallege all the previous allegations as if they were repeated verbatim herein.
18. The Defendants, Donna Mitchell and Curtis Mitchell, are informed and believe that the South Carolina Marketable Title Act applies to this matter.

**FOR A FIFTH DEFENSE BY WAY OF CROSS CLAIM AGAINSTST THE
DEFENDANTS GWENDOLYN BRIGHT, FELICIA COX, MICAH FRASIER,
ELIZABETH SAWYER, DONALD R. SMALLS, JOHNNY J. SMALLS, RALPH B.
SMALLS, CHERESE WALKER TURNER.**

(Betterment)

19. The Defendants, Donna Mitchell and Curtis Mitchell, reallege all the previous allegations as if they were repeated verbatim herein.
20. The Defendants, Donna Mitchell and Curtis Mitchell, acted and believed at all times that they were the true owners of the property and spent substantial funds in improvements to the property.
21. The Defendants, Donna Mitchell and Curtis Mitchell, are informed and believe that should the Court not recognize their ownership in said land that they are entitled to recover the increased value of the land as a consequence of the improvements and for as much money as the land has increased in value as a result of any improvements done by Daisybell Mitchell.

WHEREFORE, the Defendants, Donna Mitchell and Curtis Mitchell, pray before this Court for its Order as follows:

- a) Holding that the Defendants, Donna Mitchell and Curtis Mitchell, are fee simple owners of the one acre as described on the aforementioned Boundary Survey.
- b) In the alternative the Defendants, Donna Mitchell and Curtis Mitchell, are entitled to damages or improvements made to the property.
- c) Awarding attorney fees and cost to them for the within action.

d) For such other relief as this Court deems just and equitable.

BRUSH LAW FIRM, P.A.

/s/ Thomas H. Brush

Thomas H. Brush

SC Bar #00974

J. Chris Lanning

SC Bar #73957

Attorney for the Defendants, Donna Mitchell and
Curtis Mitchell

tbrush@brushlawfirm.com

12 Carriage Lane, Suite A

Charleston, SC 29407

Phone: (843) 766-5576

Charleston, South Carolina
December 16, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF COLLETON	)	CASE NO. 2021-CP-15-00210
CHRISTOPHER HAMILTON, et al.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JUANITA WILLIAMS, et. al.	)	
	)	
	)	
Defendants.	)	
	)	

ANSWER OF DEFENDANTS GWENDOLN BRIGHT, FELICIA COX, MICAH FRAISER, ELIZABETH SAWYER, DONALD R. SMALLS, JOHNNY J. SMALLS, RALPH B. SMALLS and CHERESE WALKER TURNER TO DEFENDANTS DONNA MITCHELL and CURTIS MITCHELL CROSS CLAIMS

Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cheresse Walker Turner (the “Answering Defendants”) responding to Defendants Donna Mitchell and Curtis Mitchell’s (“Mitchell’s”) Cross Claims, state as follows:

1. Answering Defendants deny each of the allegations of the Mitchell’s Answer and Cross Claim not specifically admitted or qualified.
2. Paragraphs 1 though 6 do not require a response, however, if a response is required, Answering Defendant’s deny the allegations and demand strict proof thereof.

AS TO THE SECOND DEFENSE AND FIRST CROSS CLAIM
(Adverse Possession)

3. The allegation of Paragraph 7 of the Cross Claim are a restatement of the allegations

of the previous allegations of the Mitchell's Answer and Cross Claim and no further response is required.

4. As to the allegation of paragraph 8, Answering Defendant's admit insofar that the Mitchell's were raised on the Property. Answering Defendants are without sufficient knowledge as the allegation that Lilly Washington raised the Mitchell's and therefore must deny the same.

5. As to the allegations of paragraph 9, Answering Defendants admit the allegation insofar that Lily Washington is deceased. Regarding the remaining allegations in paragraph 9, Answering Defendants deny any such allegations.

6. As to the allegations of paragraph 10, Answering Defendants admit the allegations insofar that the Mitchell's have resided on the Property for an unknown period of time. As to the remaining allegations of paragraph 10, Answering Defendants deny any such allegations.

7. As to the allegations of paragraph 11, Answering Defendants deny the allegations.

8. As to the allegations of Paragraph 12, Answering Defendants deny the allegations.

AS TO THE THIRD DEFENSE AND SECOND CROSS CLAIM
(Recognition and Acquiescence)

9. The allegation of Paragraph 13 of the Cross Claim are a restatement of the allegations of the previous allegations of the Mitchell's Answer and Cross Claim and no further response is required.

10. As to the allegations in Paragraph 14, Answering Defendants deny the allegations.

11. As to the allegations in Paragraph 15, Answering Defendants admit the allegations.

12. As to the allegations in Paragraph 16, Answering Defendant's deny the allegations.

AS TO THE FOURTH DEFENSE AND THIRD CROSS CLAIM
(Marketable Title Act)

13. The allegation of Paragraph 17, of the Cross Claim are a restatement of the allegations of the previous allegations of the Mitchell's Answer and Cross Claim and no further response is required.

14. As to the allegations in Paragraph 18, upon information and belief, the South Carolina Marketable Title Act does not exist.

AS TO THE FIFTH DEFENSE AND FOURTH CROSS CLAIM
(Betterment)

15. The allegation of Paragraph 19, of the Cross Claim are a restatement of the allegations of the previous allegations of the Mitchell's Answer and Cross Claim and no further response is required.

16. As to the allegations of Paragraph 20, the Mitchell's beliefs concerning ownership were ill founded and Answering Defendant deny the allegations.

17. As to the allegations of Paragraph 21, Answering Defendants deny the allegations.

**FURTHER ANSWERING AND FOR A FURTHER
AND AFFIRMATIVE DEFENSE**
(Failure to State a Claim)

18. The Mitchell's have failed to state facts sufficient to constitute a cause of action against the Answering Defendants for which relief can be granted, and, therefore, should be dismissed pursuant to S.C.R.C.P. Rule 12(b)(6).

**FURTHER ANSWERING AND FOR A FURTHER
AND AFFIRMATIVE DEFENSE
(Estoppel, Latches, Waiver)**

18. The claims of the Mitchell's are barred by the doctrines of estoppel, latches, and waiver.

**FURTHER ANSWERING AND FOR A FURTHER
AND AFFIRMATIVE DEFENSE
(Set Off)**

19. Any claims of the Mitchell's are set off against the Answering Defendants.

Respectfully Submitted,

The Law Offices of Charles S. Altman, LLC

s/Charles S. Altman
Charles S. Altman (SC Bar No.: 351)
caltman@caltmanlaw.com
Christopher F. Lutz (SC Bar No.: 105303)
cflutz@caltmanlaw.com
575 King Street, Suite A
Charleston, South Carolina 29403
Tel.: 843-853-9907
Fax: 843-772-5702
Attorneys for Answering Defendants

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
JANIE NELSON A/K/A JANNIE NELSON,)
JUANITA WILLIAMS, ELVIRA MEMMINGER,)
CLARENCE WASHINGTON, DELINDA W.)
DAWSON, DAVID WASHINGTON, JR.,)
ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
CHERRI, ARTHUR LEE, MIRANDA CLARK)
A/K/A ARANDA CLARK, CATHERINE DENT,)
JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
ELIZABETH BURTON, BRENDA BROWN, and)
GUY ACKERMAN,)

Plaintiffs,)

v.)

REHABILITATION CONSULTANTS OF)
CHARLESTON, LLC., WILLIAM ARNOLD)
KELLMAN, PRISCILLA JUDGE, RHONDA B.)
WINFIELD, SAMUEL COX, JR., JIMMY COX,)
LAVORGE COX, DESHAWN RAMBERT-COX,)
VANESSA COX a/k/a VANESSA COX-)
RICKENBACKER, TONI COX a/k/a TONYA)
PIERCY, FELICIA COX, ANDREW WALKER,)
SELENA WALKER, individually and as Personal)
Representative of the Estate of Earl Walker, SONYA)
TERESA WHITE, RAYMOND WALKER,)
ARDELIA STOKES a/k/a DELIA STOKES,)
LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,)
GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
JOHNNY J. SMALLS, DONALD R. SMALLS,)
RALPH B. SMALLS, MICAH FRASIER,)
ZELEMENIA WALKER a/k/a SELLEMENA)
WALKER, TERRANCE WALKER, GEORGE)
WALKER, JR., CHERISE WALKER TURNER,)
NAOMI WALKER, RICHARD COX, RICHARD)
WILTON WASHINGTON a/k/a WELDON)
WASHINGTON, DONNA MITCHELL and)
CURTIS MITCHELL, if they be alive, and JOHN)
DOE AND JANE DOE, whose true names are)
unknown and fictitious names designating the)
unknown heirs, devisees, distributees, issue,)
executors, administrators, successors, or assigns of)
the above-named Defendants, if they or any of them)
be dead, and of CHARITY WASHINGTON,)

CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN, all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)
 herein,)
 Defendants.)

MOTION FOR RECONSIDERATION

TO: THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

COMES NOW the Defendants, by and through undersigned counsel, respectfully move this Court, pursuant to Rule 59(e), South Carolina Rules of Civil Procedure, to reconsider its *Order as to the Interest*

of *Donna Mitchell and Curtis Mitchell* issued by Special Referee Benjamin C.P. Sapp on August 14, 2025, and filed with the Clerk of Court on August 22, 2025.

This motion is timely made within the ten (10) days prescribed by Rule 59(e) following the filing of the Order.

As grounds for this motion, Defendants assert that reconsideration is proper and necessary in order to correct errors of law and/or fact and to prevent manifest injustice. This motion is filed in good faith and for the purpose of preserving Defendants' rights, with the intent to supplement this filing with applicable case law, relevant facts, and additional supporting materials further setting forth the basis for reconsideration.

WHEREFORE, Defendants respectfully request that this Court reconsider, alter, or amend its Order pursuant to Rule 59(e), SCRPC, and grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 29th day of August, 2025.

LAW OFFICES OF CHARLES S. ALTMAN, LLC

s/ Natalia Flores

Natalia Flores (SC Bar No.: 106905)

nflores@caltmanlaw.com

Charles S. Altman (SC Bar No.: 351)

caltman@caltmanlaw.com

575 King Street, Suite A

Charleston, South Carolina 29403

Tel.: 843-853-9907

Fax: 843-722-5702

Attorneys for Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO. 2021-CP-15-00210
	)	
CHRISTOPHER HAMILTON, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
PRISCILLA JUDGE, et al.,	)	
	)	
Defendants.	)	
	)	

**MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION FOR
RECONSIDERATION**

INTRODUCTION

Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner ("Defendants"), by and through their undersigned counsel, submit this Memorandum in Support of their Motion for Reconsideration.

The evidence does not support the Order entered by Special Referee, Benjamin C.P. Sapp on August 14, 2025 finding that Donna Mitchell and Curtis Mitchell ("Mitchells") are entitled to the one (1) acre tract of land. Rather, the facts, as set forth below, show the Mitchells are not entitled to the one (1) acre tract of land as the Mitchells' occupancy is and always has been permissive, not adverse, exclusive, or hostile; nor is there any evidence of acquiescence.

FACTUAL BACKGROUND

The Mitchells' occupancy of the one (1) acre tract of land is and always has been permissive, as confirmed by testimony. This defeats any claim by the Mitchells' that they have acquired the land by adverse possession, acquiescence, or laches. Although there may be a basis for the Plaintiff's own acquiescence, there is no act, statement, or conduct that supports the acquiescence of the Defendants. The facts support that the Mitchells were permitted to remain on the property with the Defendants' knowledge and consent - defeating any claim of adverse possession or acquiescence. No one has the right to give away someone else's property.

The Defendants acknowledge that the Mitchells have been on the property for a number of years. But it was with the permission of the Heirs of Charity Washington ("Heirs"). The parties were satisfied with the status quo until Christopher Hamilton, the original plaintiff, suggested the property should be given to the Mitchells within the Complaint and Amended Complaint.

The Plaintiff's Complaint and Amended Complaint state that, "...under the principles of equity..." the Mitchells should be entitled to approximately one (1) acre of the tract of land. The Defendants' Answer and Amended Answer, denied that claim, stating, "... they [Defendants] deny that under any theory the Mitchells are entitled to the ownership of any portion of the Property."

The Mitchells filed an Answer in response to the Defendants' crossclaims, attempting to claim ownership of the one (1) acre tract of land by adverse possession and acquiescence. The Defendants responded expressly denying those claims. A hearing on the matter was held on February 17, 2023, and on August 14, 2025, Special Referee, Benjamin C.P. Sapp, Esq., entered an order finding that the Mitchells were entitled to the one (1) acre tract of land based on adverse possession,

acquiescence, and laches. By uncontradicted testimony, the Mitchells have always resided on the property with permission.

ARGUMENT

I. The Defendants did not acquiesce.

Acquiescence is a question of fact determined by the intent of the parties. *Kirkland v. Gross*, 286 S.C. 193, 332 S.E.2d 546 (Ct. App. 1985). “If a party stands by, and sees another dealing with the property in a manner inconsistent with his rights, and makes no objection, he cannot afterwards have relief. His silence permits and encourages others to part with their money or property, and he cannot complain that his interest (s) are affected. His salience is acquiescence and it stops him.” *Id.*

Here, the Defendants were not silent. As soon as the Defendants received notice of the action, they clearly denied that the Mitchells are entitled to the one (1) acre tract of land, within their responsive pleadings. Additionally, acquiescence, which is a matter of equity, must be by all owners of the property, it is not the case here. There has been no showing that all the Heirs of Charity Washington have acquiesced. The Defendants have not acquiesced and have shown this through their responsive pleadings. There has not been an objection to the Mitchells presence because the Mitchells’ occupancy was and is afforded by the Defendants’ permission.

It is undisputed that there is no evidence the Defendants or the Heirs of Charity Washington have acquiesced.

II. The Mitchells Resided on the Property with Permission and Cannot Establish Adverse Possession.

“In order to establish a claim for adverse possession, the claimant must prove by clear and convincing evidence his possession of the subject property was continuous, hostile, actual, open,

notorious, and exclusive for the statutory period.” *McDaniel v. Kendrick*, 386 S.C. 437, 442, 688 S.E.2d 852, 855 (Ct. App. 2009). “A party asserting ownership by adverse possession must show he has met the elements by clear and convincing evidence.” *Taylor v. Taylor*, 419 S.C. 639, 651, 799 S.E.2d 919, 924-25 (Ct. App. 2017). Adverse possession is a matter of law, not equity. *Butler v. Lindsey*, 293 S.C. 466, 471, 361 S.E.2d 621 (Ct. App. 1987).

Possession is open and notorious when it is so visible and apparent that, through ordinary diligence, the true owner should have known of the adverse claim. *Jones v. Leagan*, 384 S.C. 1, 13–14, 681 S.E.2d 6 (2009). Possession is exclusive when it clearly indicates the possessor’s intent to exercise sole ownership and control over the property. *Butler v. Lindsey*, 293 S.C. at 472, 361 S.E.2d at 624. Finally, possession is hostile when it is actual, exclusive, open, notorious, and without the consent of the true owner. *Taylor*, 419 S.C. at 652, 799 S.E.2d at 919.

Here, there is no adverse possession. The Mitchells’ occupancy of the one (1) acre tract of land was never exclusive, hostile or adverse, but rather permissive, as confirmed by all parties. It was not until the filing of the Complaint in 2021 that there was any suggestion of the Mitchells’ entitlement to the one (1) acre tract of land. Further, the suggestion was not made by the Mitchells. Prior to that time, the Mitchells did not make any statements or took any actions indicating an attempt to claim ownership. The Heirs never sought to remove them from the property because their presence was and always has been by permission.

The Mitchells’ occupancy was not open or notorious. The Mitchells never attempted to obtain entitlement to the land until, Christopher Hamilton, the original plaintiff, suggested the one (1) acre of land be gifted to the Mitchells. It was only after that suggestion that the Mitchells, for the first time, attempted to assert entitlement to the land. Further, the Mitchells’ occupancy was never

exclusive, or hostile because they were residing on the property with the permission of the Heirs. In sum, the elements required by adverse possession are not satisfied.

III. The Mitchells Cannot Claim Any Entitlement or Relief Based on Laches.

Laches is an affirmative defense. Rule 8 (c), SCRCP. Affirmative defenses must be plead, if not, they are deemed waived. *Id.*; *Dearbury v. State*, 367 S.C. 34, 41, 625 S.E.2d 212, 216 (2006). “The equitable doctrine of laches is 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.’” *Jones*, 384 S.C. at 19-20, 384 S.E.2d at 23. “The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances, and (3) prejudice.” *Id.*

Here, this is issue should not be considered by the court on behalf of the Mitchells, as they are seeking affirmative relief, not defending against a claim. The Mitchells’ attempt to invoke laches is improper, as laches is strictly an affirmative defense and cannot be used as a basis for affirmative relief. Even if laches could apply, it was not pled in their pleadings and is therefore waived.

The Defendants are defending their title and the Heirs continue to assert the Mitchells have resided on the property with permission – while the Mitchells improperly seek affirmative relief under the guise of an affirmative defense. The doctrine of laches cannot be used offensively, and there is no evidence that the Defendants abandoned, surrendered, or “slept on” their rights

CONCLUSION

There was no acquiescence, as the Defendants were never silent to the Mitchells’ presence. They maintained permission for the Mitchells to reside on the property - defeating any claim of adverse possession and acquiescence. Additionally, within the Defendants’ responsive pleadings,

they clearly asserted the Mitchells are not and have never been entitled to the land, also defeating any claim of laches.

The record establishes that the Mitchells' occupancy of the property was permissive, undertaken with the Defendants' express knowledge and consent - not adverse possession.

For these reasons, the Defendants respectfully request that this Court grant their Motion for Reconsideration, vacate the August 14, 2025 Order, and reinstate full ownership of the subject tract in the Defendants' name.

The Law Offices of Charles S. Altman, LLC.

s/ Natalia Flores

Charles S. Altman (SC Bar No. 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar 106905)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, South Carolina 29403

Tel: (843) 853-9907

Fax: (843) 722-5702

*Attorney for Defendants Gwendolyn Bright,
Felicia Cox, Micah Frasier, Elizabeth Sawyer,
Donald R. Smalls, Johnny J. Smalls, Leroy Smalls,
Ralph B. Smalls, and Cherise Walker Turner*

October 22, 2025

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF COLLETON	)	CASE NO: 2021-CP-18-00210
CHRISTOPHER HAMILTON, CLEO HAMILTON,	)	
JANIE NELSON a/k/a JANNIE NELSON,	)	
JUANITA WILLIAMS, ELVIRA MEMMINGER,	)	
CLARENCE WASHINGTON, DELINDA W.	)	
DAWSON DAVID WASHINGTON, JR.,	)	
ELIZABETH ANN LEE a/k/a ELIZABETH ANN	)	
CHERRI, ARTHUR LEE, MIRANDA CLARK,	)	
a/k/a ARANDA CLARK, CATHERINE DENT,	)	
JOSEPH HOLMES, GWENDOLYN MILLER, JAN	)	
ELIZABETH BURTON, BRENDA BROWN, and	)	HEARING BEFORE THE
GUY ACKERMAN,	)	HONORABLE BENJAMIN C.P. SAPP
Plaintiffs,	)	
	)	MAY 25, 2023
v.	)	9:40 a.m.
REHABILITATION CONSULTANTS OF	)	
CHARLESTON, LLC, WILLIAM ARNOLD	)	
KELLMAN, PRISCILLA JUDGE, RHONDA B.	)	
WINFIELD, SAMUEL COX, JR., JIMMY COX,	)	
LAVORGE COX, DESHAWN RAMBERT-COX,	)	
VANESSA COX a/k/a VANESSA	)	
COX-RICKENBACKER, TONI COX a/k/a	)	
TONYA PIERCY, FELICIA COX, ANDREW	)	
WALKER, SELENA WALKER, individually	)	
and as Personal Representative of	)	
the Estate of Earl Walker, SONYA	)	
TERESA WHITE, RAYMOND WALKER, ARDELIA	)	
STOKES a/k/a DELIA STOKES, LEROY	)	
SMALLS, JR. a/k/a LEROY H. SMALLS,	)	
GWENDOLYN BRIGHT, ELIZABETH SAWYER,	)	
JOHNNY J. SMALLS, DONALD R. SMALLS,	)	
RALPH B. SMALLS, MICAH FRASIER,	)	
ZELEMENIA WALKER a/k/a SELLEMENA	)	
WALKER, TERRANCE WALKER, GEORGE	)	
WALKER, JR., CHERISE WALKER TURNER,	)	
NAOMI WALKER, RICHARD COX, RICHARD	)	
WILTON WASHINGTON a/k/a WELDON	)	
WASHINGTON, DONNA MITCHELL and CURTIS	)	
MITCHELL, if they be alive, and	)	
JOHN DOE AND JANE DOE, whose names	)	
are unknown and fictitious names	)	
designating the unknown heirs,	)	

devisees, distributees, issue,
 executors, administrators, successors
 or assigns of the above-named Defendants,
 if they or any of them be dead, and of
 CHARITY WASHINGTON, CENTRILLA WASHINGTON,
 ANDREW WASHINGTON, PRISCILLA WASHINGTON
 a/k/a PERSELLA WASHINGTON, OSCAR
 WASHINGTON, GERTIE WASHINGTON, MARGARET
 KELLMAN, HORACE HEYWARD, DELORES
 WASHINGTON a/k/a DELORES WILLIAMS, JOHNNY
 WASHINGTON a/k/a JOHNNIE WASHINGTON,
 RUTHIE MAE WASHINGTON, EUGENE WASHINGTON
 a/k/a SAM WASHINGTON, GENEVA WASHINGTON,
 MAYBEL WALKER a/k/a MAYBELLE WASHINGTON,
 LILLA MAE SMALLS a/k/a LUCILLE COX SMALLS,
 LEROY SMALLS, STANLEY SMALLS a/k/a RONNIE
 SMALLS, WILLIE HAYDEN SMALLS, GEORGE
 WALKER, SAMUEL COX, LUCILLE CHISOLM a/k/a
 LOUCILE CHISOLM, EARL WALKER, PEARL
 HAMILTON, JAMES HAMILTON, JOSEPH HAMILTON,
 ELISE SIMMONS, JAMES WASHINGTON, VICTORIA
 JOHNSON GREEN, DAVID WASHINGTON, SR.,
 CARRIE WASHINGTON a/k/a CARRIE WASHINGTON
 WILLIAMS, CARRIE WASHINGTON LEE, JOSEPH
 LEE, NORRIS LEE, ISRAEL WASHINGTON, DAVID
 WASHINGTON, GOLDEN WASHINGTON, MINNIE
 BRANTLEY JOHNSON a/k/a MINNIE BRANTLEY,
 MABEL SIMMONS, WILLIAM WASHINGTON a/k/a
 BILLY WASHINGTON, MILLIE WASHINGTON,
 PHOEBE ANN WASHINGTON, and MARGARET
 ROVENA KELLMAN, all deceased; and MARY
 ROE AND RICHARD ROE, whose true names are
 unknown and fictitious names designating
 infants, persons under disability,
 incompetents, imprisoned, or those persons
 in the military, if any, SOUTH CAROLINA
 DEPARTMENT OF REVENUE, and also all
 other persons known or whose true names
 are unknown claiming any right, title
 interest in, or lien upon the real estate
 described in the Complaint herein,
 Defendants.

Page 2 of

McCarn Court Reporting, Inc.
 P.O. Box 778
 Folly Beach, SC 29439

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs Christopher Hamilton, Cleo Hamilton, Janie Nelson, Jannie Nelson, Anita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, David Washington, Jr., Elizabeth Ann Lee a/k/a Elizabeth Anncherri, Arthur Lee, Miranda Clark a/k/a Aranda Clark, Catherine Dent, Joseph Holmes, Gwendolyn Miller, Elizabeth Burton, and Brenda Brown:

Baker & Varner LLC
By: Barry I. Baker, Esq.
By: Kyle T. Varner, Esq. (Via Zoom)
1 Carriage Lane, Suite H
Charleston, SC 29407

For the Plaintiff Guy Ackerman:
(Appearing via Zoom)

Moore & Van Allen
By: Brandon Gaskins, Esq.
78 Wentworth Street
Charleston, SC 29401

For the Defendants Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherese Walker Turner:

Law Offices of Charles S. Altman, LLC
By: Charles S. Altman, Esq.
575 King Street, Suite A
Charleston, SC 29403

For the Defendants Curtis Mitchell and Donna Mitchell:

Brush Law Firm
By: Thomas H. Brush, Esq.
12 Carriage Lane
Charleston, SC 29407

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Defendants'

No. 1 Appraisal done by Forsburg Engineering for 55
The property at address here

**(Exhibits retained by the Court.)

1 THE COURT: Mr. Brush?

2 MR. BRUSH: I think that would be I, Your
3 Honor. The first thing I would note, I think we
4 noticed this for 10. All of my people are here. I
5 may not need the last person that will be here first
6 at 10, but he will be here. It depends on if Mr.
7 Altman wants to examine him or not.

8 This is an appraisal, Mr. Altman, that he's
9 done with the Mitchell's property that we're going to
10 enter in as whichever exhibit we need to at this time.

11 THE COURT: Okay.

12 MR. BRUSH: He'll be here to testify if
13 necessary, Your Honor, but I can always put him
14 somewhere else and start somewhere else first. That's
15 not a big deal.

16 THE COURT: If you want to keep moving, let's
17 keep rolling.

18 MR. BRUSH: Do that?

19 THE COURT: Yes, sir.

20 MR. ALTMAN: First, I would object to this
21 coming in at this point. I have not seen it, and
22 there would be no basis to allow it.

23 THE COURT: I'll take your objection under
24 advisement.

25 MR. BRUSH: And I'll walk through it again,

1 Your Honor.

2 THE COURT: Okay.

3 MR. BRUSH: When Mr. Barry arrives, if we can
4 do that.

5 THE COURT: Okay. That's fine.

6 MR. BRUSH: I might add, do you -- would you
7 like -- I can give you a short statement as to where
8 we are or what this argument's about, or do you want
9 me to just go ahead and put up witnesses?

10 THE COURT: No, give me a short statement,
11 tell me kind of -- tell me where we are.

12 MR. BRUSH: Okay. I represent the
13 Defendants, Curtis and Donna Mitchell. Okay?

14 THE COURT: Okay.

15 MR. BRUSH: There's a plat if it isn't into
16 evidence, I have one that I'll mark into evidence here
17 shortly. They reside at about a 1 acre portion of the
18 property.

19 THE COURT: Okay.

20 MR. BRUSH: Okay? And the original pleadings
21 allowed them -- original pleadings from the Plaintiffs
22 said that they consented and thought that out of
23 equity that they out to give this portion of property
24 that they've been on for 60 years.

25 THE COURT: Okay.

1 MR. BRUSH: Mr. Altman's clients, who were
2 way in the minority don't believe that should happen,
3 that they should be thrown off or whatever the case
4 may be.

5 THE COURT: Okay.

6 MR. BRUSH: So I'm here today with many
7 things. We can start with adverse possession. We can
8 start with Laches. We can start with the violation
9 with the Marketable Title Act of 40 years. We can
10 also as far as -- and I've also got the appraiser for
11 the betterment statute, because it's pled in the
12 pleadings, that if they do lose then the Plaintiffs
13 would -- and Defendants, other Defendants, would owe
14 them for the betterments of the property. Hence why
15 we have the appraisal being put in.

16 So I guess the dispute is: Should they be
17 entitled to the property they've been living on or
18 should they not be entitled to the property.

19 THE COURT: Okay. I got you.

20 MR. BRUSH: That's been an issue.

21 THE COURT: Okay.

22 MR. ALTMAN: If I may respond.

23 THE COURT: Of course.

24 MR. ALTMAN: First, it's a given based on the
25 previous hearing that Mr. Mitchell and Mrs. Mitchell

1 are not heirs of Charity Washington.

2 THE COURT: Okay.

3 MR. ALTMAN: Nobody is seeking to kick either
4 Donna or Curtis Mitchell off of the property.

5 THE COURT: Okay.

6 MR. ALTMAN: The fact that my clients maybe
7 own a lesser interest than some of the other heirs of
8 Charity Washington has nothing to do with this.
9 Nobody has a right to give away property that doesn't
10 belong to them. And the Plaintiffs have no right to
11 give away property. It's alleged that they've lived
12 there for 60 years, we acknowledge that.

13 THE COURT: Okay.

14 MR. ALTMAN: But that does not mean that
15 they're entitled to continue -- or entitled to an
16 ownership interest in the property. There are issues
17 regarding that. And what's been referred to as the
18 Marketable Title Act is not the Marketable Title Act.
19 There's a Marketable Title act that doesn't exist
20 anymore in South Carolina. It exists in some other
21 states.

22 The forty-years statute is under when you
23 have a record title, it can't be challenged. We do
24 not have that. In this case there is no deed into
25 anyone. The deed still remains in Charity

1 Washington's name. And the heirs of Charity
2 Washington, that's who owns it. My clients are owners
3 and whether they own 100 percent or one percent, they
4 are owners, and nobody has a right give away their
5 property, which is what the contention is here.

6 Adverse possession. These people lived there
7 with permission. They don't have hostile occupancy of
8 the property. And therefore, there is no adverse
9 possession.

10 THE COURT: Are y'all seeking to -- but
11 you're not seeking to kick them off the property, are
12 you?

13 MR. ALTMAN: No.

14 THE COURT: Okay.

15 MR. ALTMAN: We will consent to allow them to
16 stay there for the rest of their lives.

17 THE COURT: Okay, okay. All right.

18 MR. ALTMAN: That's our position.

19 THE COURT: Okay.

20 MR. ALTMAN: As far as betterments are
21 concerned, we have not seen this appraisal. We don't
22 know what's contained in it.

23 THE COURT: The appraiser is going to come.

24 MR. ALTMAN: If he comes --

25 THE COURT: You have every right to

1 cross-examine, Mr. Altman.

2 MR. ALTMAN: -- we will have the right to
3 cross-examine him, and we'll do that.

4 THE COURT: Okay. That's fine.

5 MR. ALTMAN: So we'll move forward from
6 there.

7 THE COURT: So do you want to call them?

8 MR. BRUSH: Yes, Your Honor. I'll save the
9 legal arguments for later.

10 THE COURT: Okay.

11 MR. BRUSH: Because hostility is not required
12 under this circumstance. Laches definitely applies.
13 Adverse possession also applies. We've got a
14 situation, they've been there for 60 years. I think
15 we do need to put -- unless Mr. Altman wants to
16 stipulate, but I think we do need some bare testimony
17 of how long they've lived there, what they've done to
18 the property, and I think that's necessary to have it
19 on record.

20 THE COURT: As I've stated before to
21 everybody involved in this matter I'm not going to
22 kick anyone off of their property if they've lived
23 there for more than 40 years. I'm just not going to
24 do that. I don't think that's fair, and I don't think
25 it's right. And I would never do that to anybody.

1 So, you know, in regards to that, even the definitive
2 statement, they don't want to kick them off, if we can
3 just get some brief testimony from them about the time
4 that they've lived there.

5 MR. BRUSH: Sure.

6 THE COURT: The improvements that they've
7 made, just briefly.

8 MR. BRUSH: Right.

9 THE COURT: That would be great, just for the
10 record.

11 MR. ALTMAN: If I may follow up to what Mr.
12 Brush has said. There is a question of hostility.
13 The fact is the people who have lived there with
14 permission. Their mother was raised by an heir by the
15 name of Millie Washington.

16 THE COURT: Okay.

17 MR. ALTMAN: Their mother lived there.
18 Curtis and Donna Mitchell have lived there. We don't
19 contest that they've lived there for a long period of
20 time.

21 THE COURT: Right.

22 MR. ALTMAN: That does not --

23 MS. WILLIAMS: Excuse me, I'm sorry. It
24 sounds very muffled, I can't understand -- (audio
25 distortion) -- I can't understand you. This is New

1 York, I can 't -- it sounds very muffled, I can't
2 understand what's being said. Can you hear me?

3 THE COURT: Ma'am, I don't know how we're
4 going to rectify that situation for you. There's a
5 laptop here. We've got probably 15 folks in here
6 right now. And I just don't know how -- you can get a
7 record of the testimony. It's all being taken down by
8 a court reporter. You have every right to read it
9 over. I don't know how we're going to rectify that
10 situation.

11 MS. WILLIAMS: I would appreciate that.

12 THE COURT: Okay, ma'am.

13 MR. BAKER: You're honor, please.

14 THE COURT: Yes, sir.

15 MR. BAKER: We have five more people who have
16 come in.

17 THE COURT: Okay.

18 MR. BAKER: And I'd like them to -- starting
19 here, if they could identify themselves for us.

20 THE COURT: Okay.

21 MR. LEROY SMALLS: Leroy Smalls, Jr.

22 MR. BRUSH: Leroy Smalls?

23 MR. SMALLS: Leroy Smalls, Jr.

24 THE COURT: We have a Leroy Smalls, Jr.,
25 here.

1 MR. JOHNNY SMALLS: Johnny Joseph Smalls.

2 THE COURT: Johnny Joseph Smalls.

3 MR. BAKER: Ma'am?

4 MS. BURTON: Jan Burton.

5 MR. BAKER: Jan Burton, who is one of the
6 Plaintiffs.

7 THE COURT: Jan Burton, who's a Plaintiff in
8 the action. And?

9 MS. MILLER: Gwendolyn Miller.

10 THE COURT: Gwendolyn Miller.

11 MR. BAKER: Who is also a co-plaintiff.

12 MS. BROWN: Brenda Brown.

13 THE COURT: Brenda Brown.

14 MR. BAKER: Who is also a co-plaintiff.

15 THE COURT: And at this time, we'll call the
16 Mitchells.

17 MR. BAKER: Judge, if I could clear one thing
18 up?

19 THE COURT: Yes, sir.

20 MR. BAKER: I'm not involved in this, per se.
21 I do want the Court to know this, that the Plaintiffs,
22 if my math is right, own a --

23 MR. ALTMAN: Your Honor, I think this is
24 irrelevant to what's going on here right now.

25 MR. BAKER: Let me just make a statement.

1 THE COURT: Let me here from Mister -- I'll
2 hear from the attorneys. You have every right to say
3 what you've got to say.

4 MR. BAKER: I believe, it's only an 84
5 percent interest in this property, and they've asked
6 me to let the Court know --

7 MR. ALTMAN: Your Honor, again, he's
8 testifying.

9 MR. BAKER: I'm not testifying.

10 MR. ALTMAN: Yeah, he is testifying and I
11 object to that.

12 MR. BAKER: The position I'm taking --

13 THE COURT: I'll take your objection under
14 advisement. Go ahead.

15 MR. BAKER: The position of the Plaintiffs
16 who own 84 percent interest in the property is that
17 the property belongs to the Mitchells. Mr.
18 Christopher Hamilton is here, and he will testify.

19 THE COURT: Okay. That's fine. Let's here
20 from the Mitchells first.

21 MR. ALTMAN: Mr. Sapp, I was in the middle of
22 saying something before Mr. Baker asked to introduce
23 people.

24 THE COURT: Yes, sir.

25 MR. ALTMAN: And testifying. And I'd like to

1 continue with what I was saying.

2 THE COURT: Go ahead, go ahead, Mr. Altman.

3 MR. ALTMAN: Mr. Brush has said that there's
4 no question of adverse possession. There is a serious
5 question of adverse possession here. And if they're
6 going to prove it, they're going to have to prove that
7 to the Court. There's no stipulation as to --

8 THE COURT: We're getting ready to call them,
9 Mr. Altman. You have every right to cross-examine
10 them. I mean, we're going to call them, let them
11 testify and you can cross-examine them as to the issue
12 of adverse possession.

13 Mr. Mitchell, will you raise you're right
14 hand. Do you swear to tell the truth, the whole
15 truth, and nothing but the truth so help you God?

16 MR. MITCHELL: Yes.

17 THE COURT: You're witness, Mr. Brush.

18 MR. BRUSH: Actually, Your Honor, I was going
19 to call Donna Mitchell.

20 THE COURT: Oh, Ms. Mitchell, I'm sorry.

21 MR. BRUSH: She knows.

22 THE COURT: Ms. Mitchell, if you'll raise
23 you're right hand. Do you swear to tell the truth,
24 the whole truth, and nothing but the truth so help you
25 God?

1 MS. MITCHELL: Yes, sir.

2 THE COURT: So they've both been sworn.
3 You're witness. And you have every right to
4 cross-examine, Mr. Altman.

5 DIRECT EXAMINATION

6 BY MR. BRUSH:

7 Q Ms. Mitchell, will you just state your full
8 name and address for the Court, please ma'am.

9 A Donna Carol Mitchell, 1869 Hope Plantation
10 Lane, Jacksonboro, South Carolina, 29452.

11 Q And what do you do for a living, Ms.
12 Mitchell?

13 A I am assistant manager for LC Industries
14 Marine Corp Air Station.

15 Q Your address, is that on the property in
16 question?

17 MR. BRUSH: Do we need to identify that, Mr.
18 Altman, or are you okay with that? This has already
19 been entered once before, let me just show you this.
20 Here Mr. Altman, in case you don't --

21 MR. BAKER: Judge, here's a big copy if you
22 want it.

23 MR. ALTMAN: Wait a minute, excuse me.

24 MR. BRUSH: Charlie, this has already been
25 into evidence.

1 MR. ALTMAN: No, wait. Can I say what I need
2 to say?

3 MR. BAKER: Go ahead.

4 MR. ALTMAN: We've been now handed with two
5 plats. The pleadings ask the Court for permission to
6 prepare a plat. The Court has not ruled on that issue
7 as of this time. The plat that Mr. Brush handed me is
8 different from the plat that Mr. Baker just handed.
9 The first plat that was done was the plat that Mr.
10 Brush handed to you. The second plat that was done
11 was the one that Mr. Baker had prepared afterwards, or
12 Mr. Baker had both of them prepared despite the fact
13 that he asked permission from the Court to have the
14 plat prepared, and the plat that he asked to have
15 prepared asked only for one thing, and he went ahead
16 and had a plat of the entire property prepared without
17 permission and without consent.

18 THE COURT: It's a plat, Mr. Altman. It's
19 already been introduced as Exhibit 1. I don't know
20 what the problem is, sir.

21 MR. ALTMAN: I don't know when it was
22 produced as exhibit 1.

23 THE COURT: Mr. Altman, it's a plat, sir.
24 It's clear, it's a plat on its face.

25 MR. ALTMAN: But this --

1 THE COURT: What's the problem? What's the
2 problem, sir?

3 MR. ALTMAN: You're looking --

4 THE COURT: It's a plat. There's a plat.
5 It's not a problem.

6 MR. ALTMAN: Your Honor, there are two
7 different plats in front of you.

8 THE COURT: It looks like the same exact plat
9 to me.

10 MR. ALTMAN: They aren't. The difference is
11 that this one acre is marked off on this plat and not
12 on that one.

13 THE COURT: It's one line, Mr. Altman. It's
14 one line, sir.

15 MR. ALTMAN: Mr. Sapp, whether it's one line
16 or five lines, it's still a different plat. This
17 plat is not --

18 THE COURT: Mr. Altman, Mr. Altman, this plat
19 is introduced, I'm going to go with this plat.

20 (Exhibit No. 1 introduced.)

21 THE COURT: Okay. Go ahead.

22 MR. ALTMAN: Which plat are you going with.

23 THE COURT: I'm going with Exhibit 1.

24 MR. ALTMAN: Fine. Thank you.

25 THE COURT: It's already been introduced.

1 Mr. Altman, if you're going to argue about everything,
2 sir, we're going to be here all day.

3 MR. ALTMAN: Mr. Sapp --

4 THE COURT: Mr. Brush, go ahead.

5 BY MR. BRUSH:

6 Q Ms. Mitchell, can you, on the plat that's in
7 front of you, at the top left-hand corner, those are
8 the only residences, buildings, improvements that are
9 located on this piece of property?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Is that where you and your brother live?

14 A Yes, sir.

15 Q Thank you, ma'am.

16 A Yes, sir. Thank you.

17 Q How many dwellings are these that are there?

18 A How many?

19 Q How many residences are on this piece of
20 property?

21 A Just Curtis and I.

22 Q So you have a residence?

23 A Uh-huh.

24 Q Curtis has a residence?

25 A Yes, sir.

1 Q Okay. How long have you lived on this
2 property?

3 A All our lives, we were born in that house.

4 Q Which house, the house that you're in?

5 A The house that I lived in.

6 Q Okay. And how old are you?

7 A I'm 59 and a half.

8 Q Okay. How old is Curtis?

9 A 60?

10 MR. MITCHELL: 68.

11 BY MR. BRUSH:

12 Q Okay. Has Curtis lived there, as well?

13 A Yes, sir.

14 Q Who built the original home?

15 A The original home was built by Millie
16 Washington. Millie Washington was the daughter of
17 Billy Washington. Billy Washington had two children,
18 Millie and Viviette.

19 Q Okay. So you referred to her as Aunt Millie?

20 A Well, my mama called. That was my grandma.

21 Q Your mama said that's who you --

22 A Grandma, grandma.

23 Q Okay. And she related to all these people?

24 A Yes.

25 Q Or was related, I should say?

1 A Yes, sir.

2 Q Okay. Do you know when she built the home?

3 A The home was built in 1953.

4 Q How did your mother come about living with
5 Aunt Millie?

6 A Her mother gave Millie to raise my mom when
7 she was a baby.

8 Q What's your mother's name?

9 A Daisy Bell Mitchell.

10 Q So your mother, Daisy Bell Mitchell was
11 raised by Aunt Millie?

12 A Yes.

13 Q Did your mother live in that house with Aunt
14 Millie?

15 A She lived there until the day she died, which
16 she died at 57.

17 Q And what year was that?

18 A 1996.

19 Q And when did Aunt Millie die?

20 A Aunt Millie died in 1963.

21 Q So from '63 to '96, after Millie died, your
22 mother, you and your brother resided on the property?

23 A Yes, sir.

24 Q Has anyone else ever lived on any portion of
25 that property where the two of you all are?

1 A No, sir.

2 Q Has anyone come around and told you -- before
3 2019 or '18, has anybody come around and tried to
4 chase you off the property?

5 A No, sir.

6 Q Has anyone told you that you wasn't supposed
7 to be there?

8 A No, sir.

9 Q You and Curtis have continuously resided
10 there all your lives?

11 A Yes, sir.

12 Q Okay. No one has come and said, don't build,
13 don't do this, get off the property?

14 A No, sir.

15 Q Now, in 2019, someone did try to get you off
16 the property; is that correct?

17 A Yes, sir.

18 Q And who was that?

19 A Samuel Cox, Jr.

20 Q Is he a party to this action?

21 A Not in this courtroom at the time.

22 Q Is he an heir to the property?

23 A Yes, he is.

24 Q Okay. And what did he tell you?

25 A He told us, at first, he wanted to charge

1 Curtis and I \$800 a month to live on the property,
2 each. And then, he took me to magistrate court to
3 have us thrown off the property within 30 days. And
4 we won that case.

5 Q The magistrate refused to do it, in other
6 words?

7 A Right.

8 Q Okay. Have you paid the property taxes on
9 this property?

10 A Every year, we always give more.

11 Q So somebody brings you the tax bill?

12 A Yes.

13 Q And you pay whatever they tell you to pay?

14 A Yes.

15 Q And you've done this?

16 A All our lives after our mom passed away, yes,
17 sir.

18 Q Anyone ever come visit you that's a
19 Plaintiff?

20 A No.

21 Q Anyone in this room ever come tell you get
22 off the property?

23 A No, sir.

24 Q None of these people have told you to get off
25 the property?

1 A No, sir.

2 Q None of the people have challenged your
3 ownership to the property?

4 A No, sir.

5 Q So for -- we can take your mother's -- since
6 '63 to now, which is 60 years?

7 A Yes, sir.

8 Q No one has come and challenged your interest
9 except that one occasion?

10 A Exactly.

11 Q Three years ago?

12 A Yes, sir, that's it.

13 Q All right. You've improved the property, I
14 assume?

15 A Yes, sir.

16 Q Can you tell the Court about how the property
17 has been improved.

18 A Well, after my mom died, I basically gutted
19 the whole house and remodeled the whole entire house.
20 At the time, it did not have central air and heat. I
21 also added that to it. Aluminum siding and vinyl
22 siding, new windows completely around the house, added
23 on a sunporch/sunroom, storage desk, two-car garage,
24 everything.

25 Q Okay. Did you have an appraisal recently

1 done of the property?

2 A Yes, sir.

3 Q That was done for you?

4 A Yes, sir.

5 Q By Mister -- excuse me, just a minute I
6 forgot his -- lost his last name, I'm sorry. Barry?

7 A Barry.

8 Q Now, Mr. Barry is coming to testify, so I'm
9 not going to give you the appraisal, I'm just going to
10 ask you, what did that appraisal state the property is
11 worth?

12 MR. ALTMAN: Objection. Your Honor, that
13 would be hearsay, and she has no basis to determine
14 it. Mr. Barry can testify to any value.

15 THE COURT: Sustained.

16 MR. BRUSH: All right. Let me -- okay. I
17 have nothing further, Your Honor.

18 THE COURT: Okay. Your witness, Mr. Altman.

19 CROSS-EXAMINATION

20 BY MR. ALTMAN:

21 Q Ms. Mitchell, we're talking about one acre of
22 land, correct?

23 A Correct.

24 Q And you've lived there with permission except
25 for the time when Mr. Cox, you testified that you

1 should get off or pay rent?

2 A Can you repeat.

3 Q You've lived there with permission from Aunt
4 Millie, the person you referred to as Aunt Millie and
5 your mother all lived there with permission, didn't
6 you?

7 A I don't think it was quite permission. I was
8 born into that. It wasn't permission. At the time,
9 when my mom was raised by Millie, it was like
10 handshakes and thank you, because back in those days,
11 those people could not read nor write. So I was born
12 into that.

13 Q Millie --

14 MR. BRUSH: Objection. Don't answer the
15 question, because you've answered the question twice
16 and she's answered it. That's all I'm asking.

17 MR. ALTMAN: I haven't asked the question,
18 Mr. Brush.

19 MR BRUSH: Go ahead, Mr. Altman.

20 BY MR. ALTMAN:

21 Q Your mother came to live with Millie
22 Washington, correct?

23 A Correct.

24 Q And you were born on this property, correct?

25 A We all were, yes, all nine of us.

1 Q All nine of you?

2 A Yes.

3 Q So there are seven others other than you and
4 your brother, Curtis?

5 A Well, right now there's, what, six of us?
6 Six of us.

7 Q But there were seven of you?

8 A Yes.

9 Q And you were all raised on the property?

10 A Yes, sir.

11 Q On the one acre in the one house?

12 A Yes.

13 Q And up until the time Mr. Cox came to you,
14 nobody asked you to leave, correct?

15 A No, sir.

16 Q Everybody let you live there, correct?

17 A Like I said, I lived there all my life.
18 Nobody let me live there. I lived there all my life,
19 sir.

20 Q Nobody tried to kick you off?

21 A No, sir.

22 Q Until Mr. Cox came there; is that correct?

23 A That's correct, sir.

24 Q How much did you pay in taxes last year?

25 A Usually 4 -- it was almost \$500. We always,

1 like I said, we always give extra every year towards
2 the tax.

3 Q How much did you say?

4 A Almost five.

5 Q Five what?

6 A Hundred.

7 Q 500?

8 A Uh-huh.

9 Q How did you arrive at that number?

10 A Well, basically, Mr. Christopher Hamilton,
11 will usually call us and let us know how much the tax
12 is. Basically, he told us to pay like 3, 350, but we
13 gave almost 5, because like I said, we always give
14 extra. He will always, every year, let us know how
15 much the tax costs.

16 Q Did you pay anything in addition to what the
17 taxes were?

18 A I'm sorry?

19 Q Did you pay anything in addition to taxes?

20 A Not additional, but like I said, we give
21 extra every year.

22 Q How much extra did you pay every year?

23 A Well, like I said, last year, 200, because
24 last year, it was like -- he told us 300, but we gave
25 200 -- I mean 200 extra.

1 Q What about the year before that?

2 A Every year we give extra.

3 Q 200 or more every year?

4 A 200 or whatever more. We try to give 200
5 every year more towards the tax.

6 Q You testified that Mr. Cox tried to evict you
7 from the property; is that right?

8 A Yes, sir.

9 Q And you went to magistrates court? Who was
10 the magistrate?

11 A I'm sorry?

12 Q Who was the magistrate?

13 A Sir, I can't really say, because that was
14 quite a while. I can't remember who it was.

15 Q It was 2019?

16 A Yes, and this is 2023.

17 Q That's four years ago?

18 A Yes, sir.

19 Q And the Court found in your favor?

20 A Yes, sir.

21 Q Do you have a copy of the order saying that
22 you weren't going to be evicted?

23 A No, I don't.

24 MR. BRUSH: I do.

25 THE WITNESS: He does.

1 MR. BRUSH: I'll be glad to send you a copy.

2 MR. JOHNNY SMALLS: Can I speak?

3 MR. ALTMAN: No, no, no. No, sir. Mr.
4 Brush, you do not have a copy of that here?

5 MR. BRUSH: I think I only have one, Charlie.
6 It would take me two minutes, if we get a break, I'll
7 be glad to get it for you.

8 MR. ALTMAN: I would like to see that. I
9 think that's an important aspect of this.

10 THE COURT: Well, I'm sure the case was
11 dismissed by the magistrate, because it's heirs'
12 property. There's no eviction action. That's
13 judicial notice.

14 MR. BRUSH: He had lack of jurisdiction.

15 THE COURT: Yeah, that's judicial notice.

16 MR. ALTMAN: Okay.

17 THE COURT: That's clear.

18 MR. ALTMAN: Okay. I --

19 THE COURT: That's clear.

20 MR. ALTMAN: -- find the basis.

21 BY MR. ALTMAN:

22 Q You testified regarding money that you put
23 into the house that was existing when you were born,
24 correct?

25 A Correct.

1 Q And you did some improvements to the house?

2 A Yes, sir.

3 Q How much money did you pay to do that?

4 A Sir, I can't really give you numbers, because
5 each one of the windows that I bought to go in the
6 house, they were \$350 each. So I can't really give
7 you a number of how much I paid to have the house
8 remodeled, but my garage that I just had put in, I
9 paid over \$20,000 for that.

10 Q How about the siding?

11 A I'm sorry?

12 Q The siding, how much did you pay for that?

13 A Sir, that was years ago, I can't give you a
14 number of how much I paid for it. Maybe 12, 12,000.

15 Q Maybe?

16 A Yeah, maybe.

17 Q How about the air conditioning?

18 A That was put in in 1996, I can't give you a
19 number.

20 Q Are there any other improvements to the
21 property other than what you testified?

22 A Just like I said, I gutted the whole house,
23 ceiling, floors, everything.

24 Q You acknowledge you're not an heir of Charity
25 Washington?

1 A I'm not going to acknowledge that, sir.

2 Q You're not?

3 A Like I said, I was -- okay, we can argue all
4 day, but it's like I said, I was born into this.
5 Okay?

6 Q Ms. Mitchell, are you a blood relative of
7 Charity Washington?

8 A Yes, I am.

9 Q You are a blood relative --

10 A I'm not blood. Because like I said, I was
11 born into this.

12 Q Ms. Mitchell, my question to you was if you
13 are a blood relative of Charity Washington?

14 A Not blood, no, sir.

15 Q You've lived on the property your whole life?

16 A All my life.

17 Q And your mother lived there --

18 A All her life.

19 Q Please let me finish the question. Your
20 mother lived there for most of her life, correct?

21 A Until the day she died.

22 Q And how is she related to Millie Washington?

23 A Millie Washington and her mother was family,
24 basically. And just like I said, her mother gave her
25 to Mille.

1 Q Was her mother related to Charity Washington?

2 A I don't know that, sir. That wasn't
3 discussed to me by my mother. We just got bits and
4 pieces.

5 MR. ALTMAN: I have nothing further at this
6 point. I would like to -- well, I don't need to see
7 the order if that was the basis for the eviction being
8 beyond it.

9 MR. BRUSH: If I could just follow up with
10 one question here, Your Honor, with Ms. Mitchell.

11 THE COURT: Yes, sir, yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. BRUSH:

14 Q Ms. Mitchell, did anybody in this room that
15 you know of ever come over and stop you from doing any
16 improvements or tell you not to do any improvements?

17 A No, sir.

18 Q Did they ever tell you, you're on our land.

19 A Well they used to come argue with me for
20 cleaning the land, yes.

21 Q For doing what?

22 A When I used to keep the land clean and the
23 property clean and the trees cut, yeah, they all come
24 and attacked me and told me this is not my property.

25 Q So quit cleaning?

1 A Yeah, quit cleaning.

2 Q But you kept cleaning?

3 A Kept it clean.

4 Q How long have you been cleaning.

5 A All my life since I been there.

6 MR. BRUSH: I have nothing further, Your
7 Honor.

8 MR. ALTMAN: I do have one. Well, excuse me.

9 FURTHER CROSS-EXAMINATION

10 BY MR. ALTMAN:

11 Q Has anybody, any of the heirs, the people I
12 represent, has anybody ever told you that you own the
13 property?

14 A No, sir.

15 MR. ALTMAN: Bear with me one moment, Your
16 Honor.

17 THE COURT: Yes, sir.

18 MR. BRUSH: Your Honor, our next --

19 MR. ALTMAN: Wait a minute, I'm not done.

20 MR. BRUSH: Okay. I thought you were done.

21 MR. ALTMAN: No, I was waiting --

22 MR. BRUSH: Okay. I'm sorry, my apologies.

23 MR. ALTMAN: Nothing further.

24 THE COURT: Mr. Altman, you stated earlier
25 that your clients do not wish to kick the Mitchells

1 off the property, correct?

2 MR. ALTMAN: Correct.

3 THE COURT: Okay.

4 MR. ALTMAN: When I refer to the Mitchells,
5 I'm talking about Donna and Curtis Mitchell. I'm not
6 talking about any potential --

7 THE COURT: These two individuals?

8 MR. ALTMAN: Correct.

9 THE COURT: And y'all are brother and sister?

10 THE WITNESS: Yes.

11 THE COURT: And y'all have lived there
12 forever?

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay, okay. And the house was
15 built in 1953?

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay. And you've done extensive
18 remodels, you've paid the taxes on the property, from
19 your testimony?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. All right, Mr. Brush,
22 what's next, sir?

23 MR. BRUSH: I think we need to put Mr. Chris
24 Hamilton up here, Your Honor.

25 THE COURT: Okay. Mr. Hamilton?

1 MR. HAMILTON: Yes.

2 THE COURT: Will you raise your right hand.
3 Do you swear to tell the truth, the whole truth, and
4 nothing but the truth, so help you God?

5 MR. HAMILTON: Yes, sir.

6 THE COURT: Your witness.

7 DIRECT EXAMINATION

8 BY MR. BRUSH:

9 Q Mr. Hamilton, just state your name and
10 address for the Court.

11 A My name is Christopher Hamilton. I live
12 at --

13 MR. BAKER: Speak louder, please.

14 THE WITNESS: Christopher Hamilton, 8749
15 Laurel Grove Lane, North Charleston, South Carolina,
16 29420.

17 (The Court reporter asked for clarification.)

18 BY MR. BRUSH:

19 Q You're one of the Plaintiffs in this case?

20 A Yes.

21 Q Is that correct?

22 A Yes, it is.

23 Q Do you know Curtis and Donna Mitchell?

24 A Yes, all their lives.

25 Q How long -- when you say, "all their lives?"

1 A When they was born in this world.

2 Q How old are you, sir?

3 A I'm 74 years old.

4 Q Did you know their mother?

5 A Oh, yes.

6 Q Did you know Aunt Millie?

7 A Oh, yes.

8 Q Can you tell us, to your knowledge, how they
9 came about being on this property?

10 A Yes.

11 Q And how long they've been there, please, sir.

12 A Aunt Millie raised their mother.

13 Q Okay. She raised their mother?

14 A Yes. Until her mother died, yeah.

15 Q Okay. Who gives them the tax bill?

16 A I do.

17 Q You do?

18 A Now I do. Sam Cox, Jr., was giving it to
19 them.

20 Q Okay.

21 A There was a stipulation and the taxes wasn't
22 right. In 2019, they took him to Court up there. I
23 took over.

24 Q Okay.

25 A I took over with the taxes, and every since I

1 got the tax, the tax went sky high.

2 Q And do you know how much the taxes are?

3 A Yeah, 1,600, about.

4 Q And who's --

5 A It was 700 before.

6 Q So you're telling them how much to pay?

7 A Yes.

8 Q And they've been paying?

9 A Yes.

10 Q Okay. Now, as far as you're concerned, and
11 the other Plaintiffs, but I'll just say it's your
12 concern.

13 A Sure.

14 Q And the pleadings say --

15 A Yes.

16 Q -- that in equity, it is y'all's belief that
17 they're entitled to the property they're living on?

18 A Yes.

19 Q Why is that, sir?

20 A They were raised there. They're raised on
21 the property. Millie is the heir, okay?

22 Q Uh-huh?

23 A And it's heirs' property. Heirs -- that's
24 they're relation, okay? But the family probably don't
25 know.

1 Q So Millie was the heir?

2 A Yes.

3 Q And so it was viewed that she could do with
4 her property whatever she wanted to?

5 A She can do what she wants. Give it or sell
6 it to anybody. Sell your rights to anybody, give your
7 rights to anybody on heirs' property.

8 Q Okay.

9 A That's the law.

10 Q Have you -- did you or any of the Plaintiffs
11 ever tell them they couldn't be there, they weren't
12 supposed to be there?

13 A Oh, no.

14 Q Didn't have a right to be there?

15 A Oh, no, no.

16 Q Could you see that they had this set up as a
17 home?

18 A Oh, yes.

19 Q Was that one acre or whatever that dimension
20 is always kept clean?

21 A Yes.

22 Q And occupied?

23 A No problems, none whatever.

24 Q And they've never made any claims to the
25 whole tract of land?

1 A No.

2 Q Just this --

3 A That's it.

4 Q -- one part? And there never was really any
5 claim, they just lived there, correct?

6 A Yes, true.

7 Q As if it were theirs?

8 A Yes.

9 Q Since?

10 A Day one, you know, after their mother died,
11 you know.

12 Q Got it.

13 A They're the only ones that live up in
14 Jacksonboro, the whole property.

15 Q Do you know if anyone, other than this thing
16 in 2019, was ever done to try to get them off the
17 property?

18 A No, nothing, oh, no.

19 Q That didn't come up until?

20 A 2019, Sam Cox.

21 Q And then, it became a part of this?

22 A Yes.

23 Q Litigation?

24 A Yes.

25 Q But not to the Plaintiffs?

1 A No, no.

2 Q Okay.

3 A I spoke to the Plaintiffs now.

4 Q I understand.

5 A Once I told them, I come out there every
6 year.

7 Q Okay.

8 A What they want to do with it?

9 Q Uh-huh.

10 A Because you can't have heirs property and
11 don't let people know about what's going on.

12 Q Right.

13 A You've got liability here, so.

14 Q I understand.

15 A So I contact everybody, everybody over 18,
16 and it was six years, seven years ago, after George's
17 heirs, three girls was coming. And then they asked
18 us, I'm going to go over there, and that's all I am at
19 the property, you know?

20 Q Right.

21 A With the lawyer. They want it sold.

22 Q And now, you're wanting to have the property
23 sold?

24 A Yes.

25 Q Okay. And moving to sell the property, was

1 their property ever appraised by anybody for the
2 estate?

3 A Mr. Baker take it.

4 Q Are there sales prices on the property?

5 A Yeah, yeah, Mr. Baker has an appraisal.

6 (Court reporter asked for clarification.)

7 BY MR. BRUSH:

8 Q Were you able to physically see the
9 improvements they did to the property?

10 A Yes.

11 Q But you've got no idea what they cost either?

12 A They cost a lot a money, a whole --

13 MR. ALTMAN: Objection, Your Honor. He'd
14 have no way of knowing.

15 THE COURT: Sustained.

16 BY MR. BRUSH:

17 Q But the property has been improved
18 dramatically?

19 A Yes.

20 MR. ALTMAN: Objection.

21 MR. BRUSH: I have nothing further, Your
22 Honor.

23 CROSS-EXAMINATION

24 BY MR. ALTMAN:

25 Q Mr. Hamilton, how many heirs, how many heirs

1 of Charity Washington are there?

2 A Excuse me?

3 Q How many heirs of Charity Washington are
4 there?

5 A Five.

6 Q Five?

7 A Six.

8 Q And alive today, how many heirs of Charity
9 Washington are there?

10 A Six heirs.

11 Q Six?

12 A Yes, all my grandfather's kids. Okay? And
13 those kids right there. The family, Charity
14 Washington's grands, that's their family right there,
15 you know what I'm saying?

16 Q You're telling me that alive today, there are
17 only six heirs of Charity Washington?

18 A Six heirs, family-wise, six heirs, yeah.

19 Q Six people, you're saying six people --

20 A Not six people now.

21 Q How many people are there alive today that
22 you know of that are heirs of Charity Washington?

23 A Oh, I can't do that. I can't count that
24 many, you know. All I know is heir, heir, heir. How
25 many in their family, I can't say. Okay? I can't

1 say.

2 Q More than ten?

3 A Some people, yes, you know. Because a lot of
4 family, they had children, you know. I can't say all
5 of them.

6 Q Do you think it would be more than 20?

7 A I'm telling you what's my heir part of it.

8 Q I didn't ask you that.

9 A Okay.

10 Q I asked, how many heirs of Charity Washington
11 are there?

12 A There's six, there's six.

13 Q Alive today?

14 A There is six heirs. He's an heir, I'm an
15 heir. Now, how many children I have, I --

16 Q No, sir. Your children aren't heirs yet.

17 A (Indiscernible. Cross-talk.)

18 Q People who are alive today that actually
19 claim to be heirs? We've got a long list of people
20 listed in this caption in this case?

21 A I don't know, really. I don't count them,
22 but I know a few, yeah.

23 Q What percentage of the property do you own?

24 A My mother is the granddaughter of Charity
25 here, my mother.

1 Q Aren't you an heir of Andrew Washington?

2 A Yes.

3 Q So it's through Andrew Washington, not your
4 mother that you're an heir, correct?

5 A Right. Both. Andrew Washington is my
6 mother's father. And my mother, Charity Washington is
7 my mother's grandmother.

8 Q How many heirs of Andrew Washington are
9 there?

10 A There's five heirs.

11 Q To Andrew Washington?

12 A Five children.

13 Q He had five children?

14 A Yeah, yeah.

15 Q How many grandchildren did Andrew Washington
16 have?

17 A I don't -- oh, man, at least -- let's see.
18 It's too much. Three of us. About 20, maybe.

19 Q About 20? All right.

20 A I never count them really.

21 Q Do you know what percentage in this property
22 are -- what percentage interest in the property you
23 have?

24 A Mr. Baker can tell you that.

25 Q I'm asking you.

1 A What percentage, that's the total of my
2 mother. Whatever my mother had, that's what I just
3 took over.

4 Q You've got it all -- do you have any
5 brother's or sisters?

6 A I have a sister.

7 Q You have a sister?

8 A I have a sister and a brother. My brother's
9 daughter is --

10 Q Each of you split what your mother had,
11 correct?

12 A Yes, yes.

13 Q Okay. Is it less than 5 percent?

14 A I don't know about 5 percent now.

15 Q Huh?

16 A I know it's more than 5 percent.

17 Q It's not 5 percent.

18 A More than 5 percent.

19 Q You think --

20 A If I take over what my mother had.

21 Q No, what you have?

22 A Talk to Mr. Baker. Mr. Baker take care of
23 all that.

24 Q Do you believe anybody is entitled to more
25 interest in the property than their ancestor had?

1 A No.

2 Q So everybody is entitled to whatever their
3 ancestor had?

4 A Yes.

5 Q And the Mitchells, the way you're talking,
6 their ancestor would be Millie Washington?

7 A Yes.

8 Q And whatever she would be entitled to, you
9 think they have?

10 A Yes.

11 Q You testified that you went to everybody all
12 the heirs and asked about selling the property --

13 A Not everybody, okay, not everybody. I know
14 there's six of them. The heir families. Okay? So I
15 went to them, let them know that, I told them, who was
16 the head of their family, okay, and they approved
17 everything. And --

18 Q Did you go to Gwendolyn Bright and ask her?

19 A I haven't seen Gwendolyn.

20 Q Did you go to Felicia Cox and ask her?

21 A I knew Richard Cox, Jim Nelson, yes.

22 Q You talked --

23 A That's the heir there.

24 Q I understand. You talked to Felicia Cox and
25 she said --

1 A (Indiscernible.)

2 Q Excuse me?

3 A She's an heir of (indiscernible).

4 MR. ALTMAN: I have nothing further.

5 THE COURT: Mr. Hamilton, who's this Cox
6 gentleman, this Samuel Cox.

7 THE WITNESS: That's her brother.

8 THE COURT: That's your brother?

9 MS. FELICIA COX: Yes.

10 THE COURT: Okay. Anything further, Mr.
11 Brush?

12 MR. BRUSH: Not of this witness, Your Honor.

13 THE COURT: Okay. Anything further, Mr.
14 Altman?

15 MR. ALTMAN: Not at this point.

16 THE COURT: Anything, Mr. Baker?

17 MR. BAKER: No, sir.

18 THE COURT: Okay.

19 MR. BRUSH: Your Honor, I'd like next to call
20 Mr. Smalls.

21 THE COURT: Mr. Smalls, can you raise your
22 right hand for me, sir. Do you swear to tell the
23 truth, the whole truth, and nothing but the truth, so
24 help you God?

25 THE WITNESS: Yes, I do.

1 THE COURT: Your witness, Mr. Brush. State
2 your name for the record, Mr. Smalls.

3 THE WITNESS: Johnny Smalls.

4 THE COURT: Johnny Smalls. Okay. Your
5 witness.

6 DIRECT EXAMINATION

7 BY MR. BRUSH:

8 Q Mr. Smalls, how long have you known Curtis
9 and Donna Mitchell?

10 A All my life.

11 Q Where do you live, sir?

12 A Right there in the big house, Pricilla
13 Washington --

14 Q The property next door? Is it close to them,
15 the property next door?

16 A The whole property of Pricilla Washington.

17 Q Is it on this plat, sir? I'm just trying to
18 verify it, sir. Is it this piece of property?

19 MR. ALTMAN: What property are you talking to
20 him about?

21 MR. BRUSH: Right there, there's a tract of
22 land that's right next door, he just said next door.
23 I'm just trying to verify where it is.

24 MR. ALTMAN: He said -- Mr. Brush, you said,
25 is it this piece of property?

1 BY MR. BRUSH:

2 Q Do you live adjacent to them?

3 A Huh?

4 Q Do you live next door to them?

5 A Yeah.

6 Q Thank you, sir.

7 THE COURT: For the record, this is TMS -- I
8 guess you're assuming this is the Andrew Washington
9 Estate, 5.001 acres, TMS 285-00-00-020? That's where
10 he lives?

11 MR. BRUSH: I'm just asking him if that's
12 where he lives, Your Honor.

13 THE COURT: Okay.

14 MR. BRUSH: Just to verify how well he knows
15 them.

16 BY MR. BRUSH:

17 Q How old are you, sir?

18 A I'm 68.

19 Q Have you seen what goes on, on the property
20 next door?

21 A Yeah, I live right next door.

22 Q Okay. Have you see the improvements that
23 were being done?

24 A No, everything look the same, they've been
25 the same, not for sale. And why -- I want to know how

1 I was being taxed to help somebody else or everybody,
2 but in this courthouse, I'm paying -- how Christopher
3 can pay the tax, and I was drawing the taxes. And in
4 this courthouse, I'm listed as the caretaker of the
5 property.

6 (Mr. Barry entered.)

7 THE WITNESS: And how did that change down at
8 the courthouse to Christopher doing it? I don't know
9 how did that happened when in the courthouse, it's in
10 my name. How can he draw tax when I'm drawing the
11 taxes?

12 BY MR. BRUSH:

13 Q That's something that I'm not here to answer,
14 sir. Okay? What I want to know is: Did you know
15 they were living on property that you had a claim on?

16 A Yeah, they were lived there. They lived
17 there all there lives. It was paid, never not was
18 sold and stayed the same.

19 Q So how long have you known this?

20 A Knowing what?

21 Q That they were living on property you had an
22 interest in?

23 A They live right there. I've known that all
24 my life.

25 Q So --

1 A So what?

2 Q 40 years, I'm just going to give you, because
3 you said it was 60. So for at least 40 years, you've
4 known they were living on a piece of property that you
5 had an interest in?

6 A That's right.

7 Q Did you ever tell them to get off?

8 A No. For what?

9 MR. BRUSH: I have nothing further, Your
10 Honor.

11 THE COURT: Mr. Altman, any questions?

12 MR. ALTMAN: I don't have any questions.

13 THE COURT: Okay. Thank you. All right.
14 Next witness.

15 MR. BRUSH: Mr. Barry.

16 THE COURT: Mr. Barry, will you raise your
17 right hand for me, please, sir. Do you swear to tell
18 the truth, the whole truth, and nothing but the truth,
19 so help you God?

20 THE WITNESS: Yes, sir.

21 THE COURT: Can you state your full name for
22 the record.

23 THE WITNESS: James L. Barry, James Lawrence
24 Barry.

25 THE COURT: Your witness, Mr. Brush.

DIRECT EXAMINATION

BY MR. BRUSH:

Q Mr. Barry, what is your trade, sir?

A Real estate appraiser.

Q And where is your real estate appraisal office, sir?

A It is currently in Manning, South Carolina.

Q How long have you been doing appraisals, sir?

A Since 1995.

Q Are you properly licensed by the State of South Carolina?

A Yes, sir.

Q Do you have any special credentials that allows you to be an appraiser, sir?

A I'm licensed by the State of South Carolina, yes, sir.

Q Okay. Were you asked by Ms. Mitchell to do an appraisal on a property and some dwellings?

A Yes, sir.

Q I want to show you a copy of this. Can you identify that as the appraisal that you did?

A Yes, sir.

MR. BRUSH: Your Honor, could we now -- I'd like to move to mark the appraisal into evidence.

THE COURT: Is that going to be Plaintiffs'

1 or Defendants'?

2 MR. BRUSH: Well, we're all Defendants, Your
3 Honor.

4 THE COURT: Yeah, that's what I was thinking.
5 It would be Defendants No. 1. Any objection?

6 MR. ALTMAN: No objection.

7 (Defendants' Exhibit No. 1 marked.)

8 THE COURT: Defendants' 1 is marked without
9 objection.

10 BY MR. BRUSH:

11 Q Can you explain to the Court how you come to
12 value the land and improvements on the property.

13 A I compared the land sales to come up with the
14 price or cost of the land or the value of the land.
15 Same thing with the structures, I compared similar
16 structures. I used Round O and Cottageville because
17 they're close to the river and they're close to a
18 major area just like Jacksonboro is, which give a
19 similar value. The only -- and I used one house as
20 the primary structure, and the other house, I used
21 basically as a cost approach on it, less depreciation.
22 And this was the depreciation on this, as well.

23 Q Can you tell the Court what you valued the
24 land at on this appraisal.

25 A \$10,000, I believe. Let me make sure.

1 Q Okay.

2 A Yeah, \$10,000.

3 Q And what was the value of the improvements?

4 A Total value of the improvements were,
5 excluding the land, is 387,927. And then 10,000 for
6 the land is 397, so improvements. Now I do have to
7 say that this is less depreciation and all that.

8 Q Okay. And your total value of the land and
9 the property?

10 A The land and all improvements thereon are
11 397,927.

12 Q Can you state for the Court and from an
13 appraising standpoint the condition of the dwelling.

14 A The dwelling would be average, yes.

15 Q Okay.

16 A Average construction, average quality.

17 MR. BRUSH: Okay. I have nothing further,
18 Your Honor.

19 THE COURT: Any questions, Mr. Altman?

20 MR. ALTMAN: Yes, I do.

21 CROSS-EXAMINATION

22 BY MR. ALTMAN:

23 Q Mr. Barry, I'm going to ask you to look on
24 the second page of your appraisal.

25 A Okay, yeah. Okay, yeah.

1 Q And it's addressed to Washington, Charity,
2 Estate?

3 A Yeah.

4 Q Now, you were asked who engaged you to do the
5 appraisal and you testified Donna Mitchell?

6 A Right.

7 Q Why did you address it Washington, Charity,
8 Estate?

9 A Because they are the owner that I address it
10 to. That's the reason why, because it's in her name.

11 Q And underneath that, it says, opinion of
12 value, 371,750?

13 A Yeah, right. I made a mistake there, right.
14 What I gave you a while ago was the cost approach.

15 MR. BRUSH: I understand.

16 THE WITNESS: What I gave you as the 371 is
17 the opinion of value of all sales, which is the
18 371,750.

19 BY MR. ALTMAN:

20 Q So what is your answer as to what the
21 value --

22 A 371,750 is the value of the property.

23 Q Okay. That's land and the buildings?

24 A That's everything, yes, sir.

25 Q Do you know who built the houses on the

1 property?

2 A No. It's over 90.

3 Q And you testified, I believe that you were
4 looking for comparables on the river?

5 A No, not on the river. In a similar location
6 to the river as the subject, which would be
7 Cottageville and Roundo and areas such as Summerville,
8 Charleston with populations growing that way.

9 Q Okay. Did those other properties have access
10 to the river?

11 A This one doesn't either.

12 Q I know, but --

13 A No.

14 Q So what does being near the river have to do
15 with the value of the property?

16 A It has nothing to do with the value of the
17 property.

18 Q Then why did you testify that it was similar
19 because it was near the river?

20 A Well, it is near the river. Cottageville is
21 near the river. These properties -- we can get into
22 this, the only thing I can say. These properties are
23 similar demand, sales as this piece of property here.

24 Q But you didn't -- there's nothing on here
25 that you're saying is because -- none of the value is

1 because it's --

2 A None of the value is based on the river.

3 Q Do you have any idea of what the cost of the
4 improvements that Mr. Mitchell or Ms. Mitchell may
5 have put into the property?

6 A No. All I can give you is the value of the
7 total of the two properties plus improvements.

8 MR. ALTMAN: I have nothing further.

9 THE COURT: Okay. Anything further?

10 MR. BRUSH: I have nothing further, Your
11 Honor.

12 THE COURT: Can he be excused as a witness?

13 MR. BRUSH: He may, Your Honor.

14 THE COURT: Mr. Barry, you can be excused,
15 sir.

16 MR. BRUSH: Thank you, sir.

17 THE COURT: Anything further, Mr. Brush?

18 MR. BRUSH: No, sir.

19 THE COURT: Okay. Anything further, Mr.
20 Altman?

21 MR. ALTMAN: Mr. Sapp, can I have a
22 few-minute break, I'd like to speak to my clients.

23 THE COURT: Yes, sir, of course.

24 MR. ALTMAN: Just to make sure of something.

25 THE COURT: We'll take a five-minute recess.

1 (Short recess.)

2 THE COURT: All right. We're going to go
3 back on the record in the matter of Christopher
4 Hamilton and others, Plaintiffs, versus Juanita
5 Williams and others.

6 Mr. Altman, did you have a chance to discuss
7 with your clients everything you need to discuss?

8 MR. ALTMAN: I did.

9 THE COURT: Okay. Perfect. Mr. Brush, did
10 you have a chance to discuss with your clients
11 everything you need to discuss?

12 MR. BRUSH: Yes, Your Honor.

13 THE COURT: Mr. Baker, did you have a chance
14 to discuss with your clients everything you need to
15 discuss?

16 MR. BAKER: I didn't have anything.

17 THE COURT: Okay. I got you. All right.
18 Not a problem. Mr. Brush, is that your case.

19 MR. BRUSH: I'm resting, Your Honor.

20 THE COURT: Okay. You've rested.

21 MR. BRUSH: Officially.

22 THE COURT: Okay. Thank you very much. We
23 greatly appreciate that.

24 MR. BRUSH: I don't know if we're using those
25 big words in here.

1 THE COURT: We'll try to use the big words,
2 look official.

3 MR. BRUSH: Look official.

4 THE COURT: Yes, sir, of course.

5 Mr. Altman, anything from you, sir?

6 MR. ALTMAN: Yes, sir.

7 THE COURT: Okay. What do you have?

8 MR. ALTMAN: I have two brief witnesses.

9 First, I'm going to call Felicia Cox, who's the lady
10 sitting two down from me.

11 THE COURT: Okay. Ms. Cox, will you raise
12 your right hand for me, please, ma'am. Do you swear
13 to tell the truth, the whole truth, and nothing but
14 the truth, so help you God?

15 THE WITNESS: So help me God.

16 THE COURT: And will you state your full name
17 for me, please.

18 THE WITNESS: Felicia Cox.

19 THE COURT: Your witness, Mr. Altman.

20 DIRECT EXAMINATION

21 BY MR. ALTMAN:

22 Q Ms. Cox, are you an heir of Andrew
23 Washington?

24 A Yes.

25 Q Andrew Washington was your great grandfather?

1 A Yes.

2 Q And he was a child of Charity Washington,
3 correct?

4 A Correct.

5 Q Okay. You've heard the testimony here today.
6 You heard Mr. Hamilton testify that he spoke to
7 people. Has he ever spoken to you about this case?

8 A No.

9 Q Did he ever ask you if you wanted to sell the
10 property?

11 A No.

12 Q Did he ever ask you if you believe the
13 Mitchells should be entitled to an equal share of the
14 property?

15 A No.

16 Q What's your position with regard to the
17 Mitchells remaining on the property?

18 A My position is they live there, so they can
19 stay there, but I'm an heir and they're not. So they
20 can stay there, we don't have a problem with that, but
21 assuming rights to it, we're heirs, we're blood, blood
22 heirs. And in my opinion, that goes to the blood
23 heirs.

24 Q To your knowledge have the Mitchells been
25 living on the property with permission of the heirs of

1 Charity Washington?

2 A To my knowledge.

3 MR. ALTMAN: I have nothing further.

4 THE COURT: Any cross-examination?

5 MR. BRUSH: Yes, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. BRUSH:

8 Q Who gave them permission?

9 A I mean, I never had a problem with them, but
10 I'm not sure who gave them verbal permission.

11 Q Anybody give them permission?

12 A As far as I know.

13 Q Who?

14 A Whoever -- I don't know who gave them
15 permission.

16 Q So we don't know if they had permission or
17 didn't have permission?

18 A As far as I know.

19 Q They were there?

20 A Yes.

21 Q Did you ever tell them to stop?

22 A No --

23 Q I'm sorry, where do you live?

24 A I live in Summerville, South Carolina.

25 Q Okay. Did you ever visit the property?

1 A Yes.

2 Q Did you go over and tell them to stop?

3 A No.

4 Q Did you go over and tell them to quit
5 improving the property?

6 A They never had permission for it.

7 Q Did you try to stop them?

8 A Why would I?

9 MR. BRUSH: I have nothing further, Your
10 Honor.

11 THE COURT: Ms. Cox, what's your address,
12 ma'am?

13 THE WITNESS: 260 Avonshire Drive, that's
14 A-V-O-N-S-H-I-R-E, Drive, Summerville, 29483.

15 THE COURT: Just wanted that for the record.
16 Have y'all ever paid -- you pay taxes on this
17 property, ma'am?

18 THE WITNESS: I don't live there.

19 THE COURT: Okay. Any other?

20 MR. ALTMAN: I just want to follow up a
21 little bit.

22 THE COURT: Yes, sir.

23 REDIRECT EXAMINATION

24 BY MR. ALTMAN:

25 Q To your knowledge, have the Mitchells lived

1 on this property your entire life?

2 A Yes.

3 Q And they were living there before you were
4 born?

5 A No.

6 Q Oh, okay.

7 A Well, Daisy Bell was but not the children.

8 Q Okay.

9 A With the exception for Curtis, I'm older than
10 her.

11 Q Oh, okay. I don't know ages. Okay. But to
12 your knowledge, they were living there with permission
13 of the family?

14 A To my knowledge, yes.

15 MR. ALTMAN: Okay. I have nothing further.

16 THE COURT: Okay. Next witness.

17 MR. ALTMAN: Gwendolyn Bright.

18 THE COURT: Ms. Bright, raise your right hand
19 for me, please, ma'am. Do you swear to tell the
20 truth, the whole truth, and nothing but the truth, so
21 help you God?

22 THE WITNESS: I do.

23 THE COURT: Let the record say that she did
24 say she does. She has a mask on. Your witness, Mr.
25 Altman.

DIRECT EXAMINATION

BY MR. ALTMAN:

Q Ms. Bright, you are an heir of Andrew Washington, correct?

A Yes.

Q Same as Felicia Cox?

A Yes.

Q Same as Christopher Hamilton?

A Yes.

Q Did Mr. Hamilton ever talk to you about selling this property or about giving any property to the Mitchells?

A No.

Q Never contacted you?

A No.

Q Okay. To your knowledge, have the Mitchells actually lived on this property, this one acre of land, to your knowledge, they've lived on it --

A To my knowledge, it was the house that Donna has. Curtis was extended towards it. So I don't think that it was a whole acre of land.

Q Okay.

A I have not heard that anybody in the family has a problem with them living on it.

Q What is the problem you have? Is the problem

1 you have them owning it?

2 A Yes, because it's not enough land for the
3 heirs. We have a vast amount of heirs to come along.
4 Myself, there's no heirs. My mother had eight kids.
5 With the part that Donna's on, this 25 acres, divide
6 that up among all the heirs and you give away a whole
7 acre of land, where would the rest of them be able to
8 live on?

9 Q So are you testifying that you feel even if
10 they were entitled to it because of what Millie
11 Washington had, an acre is more than she would be
12 entitled to?

13 A I would think so, yes.

14 Q You don't have a problem with them continuing
15 to live there during the rest of their lives?

16 A Never have, never will.

17 Q But no ownership?

18 A No.

19 MR. ALTMAN: I have nothing further.

20 THE COURT: Okay. Mr. Brush?

21 MR. BRUSH: Thank you.

22 CROSS-EXAMINATION

23 BY MR. BRUSH:

24 Q How long have you known they were living
25 there, years-wise.

1 A All of their lives, because I'm older.

2 Q So you know they've been there all their
3 lives?

4 A Well, yes, because --

5 Q Did you give them permission to be there.

6 A I shouldn't have to give them permission.

7 Q Okay. Did you stop them?

8 A As Felicia said, why should we? They were
9 always living there.

10 Q So they've been there all their lives, and
11 you just let them stay?

12 A Yes.

13 Q Okay. But now you want them gone?

14 A I never said that I want -- this is the
15 second time that I heard you say gone. We've never
16 said kick them off the land. There's no reason why.

17 Q You do -- do you realize what the underlying
18 action of this is before the Court? Do you know what
19 the Plaintiffs and Defendants are asking the Court
20 today?

21 A I know that they're asking for a acre of
22 land.

23 Q Forget about them. Do you understand that
24 the action that is before this Court is to partition
25 the property, which means to sell the property?

1 A Uh-huh.

2 Q Do you have contracts on the property to sell
3 it?

4 A No, no. And the person who has tried to sell
5 it didn't have a contract on it to sell it.

6 Q Do we have offers on the property to buy it?

7 A I was told that there was. This is the
8 reason why we're here.

9 Q Okay.

10 A Because we were told that the land was trying
11 to be sold.

12 Q Okay.

13 A But me as a child, my great grandmother,
14 grandfather, and everybody else had told us, that's
15 heirs' property, we're never to sell the property.
16 Whoever that's heirs will always have a place to stay
17 on the property as long as it's not sold.

18 Q But part of this case is to sell the
19 property; is that not correct?

20 A Yes.

21 Q So if that occurs, there will be no heirs on
22 this property. It will be sold to somebody else,
23 correct?

24 A You said if.

25 Q I did.

1 A Could you repeat that question.

2 Q Yes, ma'am. If this property is sold, okay,
3 it will be sold to someone.

4 A Uh-huh.

5 Q The heirs problem will have been cleared up,
6 and that new person will own the property free and
7 clear?

8 A Well, I'm hoping that if it's sold, it would
9 be the heirs sell -- part of the heirs sell to the
10 other part of the heirs, and the rest of the heirs,
11 the property will be in their names. Because we do
12 not plan to sell.

13 Q But you understand the action before the
14 Court is to sell?

15 A Yes.

16 Q And if that happens, then there will be no
17 heirs on the property?

18 A That part I do not understand you, when you
19 keep saying there will be no heirs.

20 Q Okay.

21 A Because there will always be heirs. We're
22 not selling.

23 MS. COX: Are you talking about the one acre
24 or the whole property?

25 BY MR. BUSH:

1 Q All of the property.

2 A That's what he's talking about. There's
3 not --

4 Q There's no offers on the table to purchase
5 this property from anyone?

6 A Well, there was --

7 MR. ALTMAN: I'm going to object to this
8 because Mr. Brush is assuming that the Clementa
9 Pinckney Act does not exist and the rights --

10 THE COURT: I'll sustain that.

11 MR. BRUSH: I'm just trying to show the
12 relevance.

13 THE COURT: I understand.

14 MR. BRUSH: She said she don't want -- that
15 they want the property back and only should belong to
16 heirs, but we're sitting here in the middle of a
17 lawsuit to sell the property.

18 THE WITNESS: Probably --

19 MR. ALTMAN: Subject to the rights of the
20 Clementa Pinckney Act which give the heirs, the
21 remaining heirs the absolute right to purchase it.

22 BY MR. BRUSH:

23 Q Okay. You heard the appraiser appraise their
24 property for \$371,000?

25 A Uh-huh.

1 Q Do you have the money to give them if they
2 have to move?

3 A Maybe. Don't underestimate what I have and
4 what I don't have.

5 (Court reporter asked for clarification.)

6 MR. BRUSH: I have nothing further, Your
7 Honor.

8 THE COURT: Okay.

9 MR. ALTMAN: I have nothing further.

10 THE COURT: Nothing further from Mr. Altman.
11 Nothing further from Mr. Brush. Is that everything
12 before the court today?

13 MR. ALTMAN: Yes, sir.

14 MR. BRUSH: Yes, sir.

15 THE COURT: Okay. Procedurally, just so
16 everyone is on the same page here: Ma'am, you all
17 understand what they're trying to do here is one group
18 is trying to sell the property. One group wants to
19 keep the property. I recognize that, okay?

20 The Clementa Pinckney Act specifically
21 reserves a right for y'all to purchase the property,
22 okay, but you're going to have to purchase -- my duty,
23 okay, before the whole, all of you involved here is to
24 get the highest dollar for the heirs possible. That's
25 my duty, to make sure that the heirs get the highest

1 value for the property. That's what this court is
2 here to do today. Okay?

3 So if you've got someone offering a half a
4 million dollars for this property, whatever y'all's
5 percentage is, y'all are going to have to come up with
6 that kind of money in order to buy out the other
7 heirs. Okay? You all need to understand that. It
8 doesn't -- the Clementa Pinckney act doesn't just say,
9 oh, okay, y'all can just have it.

10 You're an heir, what your portion is, you can
11 have, of course. And I will grant that immediately to
12 make sure that the heirs keep it. I want y'all to
13 keep your land. But, as we all know, land has
14 skyrocketed in value, okay, and it is very expensive,
15 this stuff. And this thing is like gold. For some
16 reason, two people want it really badly, and they're
17 fighting over it really bad. That's why we're here,
18 obviously.

19 So y'all have every right to purchase the
20 property but you're going to have to come up with the
21 money. So y'all need to start thinking about that in
22 earnest, because when it comes down, it's going to
23 be -- I mean, this thing could even go to auction at
24 the end of the day. If we can't reach an agreement,
25 it could go to auction. I can sell it on the

1 courthouse steps, okay, subject to y'all's rights,
2 which y'all have innumerable rights through the
3 Clementa Pinckney Act. Okay? Just wanted everyone to
4 understand that so everyone is on the same page, but
5 my duty is to the heirs to make sure y'all get the
6 highest value for the property. Okay?

7 Procedurally, what's next?

8 MR. BAKER: Well, I'm going to get you the
9 order to quiet title. And I understand the Clementa
10 Pinckney Act, and the more I think I understand, the
11 more I realize I don't understand it.

12 THE COURT: Yeah, it's a difficult act.

13 MR. BAKER: I believe we then have to have a
14 hearing, and you have to make a determination as to
15 the fair market value of the property. That's what I
16 think.

17 THE COURT: So we're going to have to have an
18 appraisal on the 24 acres of land, correct?

19 MR. BAKER: 27 acres. On all the property.

20 THE COURT: On the whole tract.

21 MR. BRUSH: Right.

22 THE COURT: Correct. And y'all obviously
23 have the right to have your own appraisal, Mr. Altman,
24 of course.

25 MR. ALTMAN: We understand that.

1 THE COURT: Okay.

2 MR. BAKER: And the next thing is after
3 the -- I don't have my young law partner here to talk
4 to, but as I understand it -- every lawyer needs a
5 lawyer.

6 There was a great lawyer, he had a wonderful
7 mouth, he was a heck of an orator in Charleston. His
8 name was Ben Scott Whaley, and I was watching a trial,
9 and his lawyer was his law partner, Mr. Barnwell, Mr.
10 Nat Barnwell. And the judge asked Mr. Whaley a
11 question. He said, Your Honor, if you could just give
12 me a minute, I need to speak with my lawyer to answer
13 that question.

14 So I don't have Mr. Varner here that I can
15 ask my question, but it's my understanding that you
16 have to make a determination as to what the fair
17 market value of the property is.

18 THE COURT: Okay.

19 MR. BAKER: And then I think you hold a
20 partition hearing.

21 THE COURT: Okay.

22 MR. BAKER: At that point. Now, since I am
23 the moving party, I have previously had this property
24 appraised by Mr. Kevin Ard. And I would like you to
25 authorize me to retain Mr. Ard as a court-appointed

1 appraiser. And he'll have to give us a current value
2 from his last appraisal.

3 THE COURT: You don't have any objection to
4 that, do you?

5 MR ALTMAN: I don't think the Court has a
6 right or an obligation to approve the appraiser he
7 wants to use. We've obtained an appraiser also.

8 THE COURT: Okay.

9 MR. ALTMAN: But that's our decision.

10 MR. BAKER: All right. That's fine.

11 THE COURT: You just bring who you want to
12 bring, and you bring who you want to bring, and we'll
13 listen to both and what their testimony is. And y'all
14 both have the right to cross-examine either appraiser.

15 Mr. Brush?

16 MR. BRUSH: Obviously, that appraisal will
17 depend on whether this piece of property is part of
18 that appraisal process.

19 THE COURT: I understand that.

20 MR. BRUSH: That's all I have to say, Your
21 Honor.

22 THE COURT: I understand that. I'll
23 recognize that.

24 MR. BRUSH: Thank you.

25 THE COURT: All right. Well, we'll adjourn.

1 Thank you. We'll see you all at the next hearing,
2 which will be for the appraisal to determine the
3 value.

4 MR. ALTMAN: Thank you.

5 THE COURT: Yes, sir. Y'all have a nice day.

6 (The hearing concluded at 10:53 a.m.)

7 * * *

C-E-R-T-I-F-I-C-A-T-E

I, Kendra Kay Johnson, Professional Court Reporter and Notary Public for the State of South Carolina, certify that the foregoing hearing was held at 101 Hampton Street, Walterboro, South Carolina; that the foregoing pages constitute a true and accurate transcript of the proceeding.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 4th day of June, 2023.

Kendra Kay Johnson
Notary Public for South Carolina
My Commission Expires:
September 21, 2028

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In The Matter Of:
Christopher Hamilton, et al. v.
Priscilla Judge, et al.

Hearing of Motion for Reconsideration
October 23, 2025
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1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF COLLETON) CASE NO. 2021-CP-15-00210
3

4 CHRISTOPHER HAMILTON, ET AL.,
5 Plaintiffs,

6 vs. Pages 1 - 21

7 PRISCILLA JUDGE, ET AL.,
8 Defendants.
9

10

11 BEFORE THE HONORABLE BENJAMIN C. P. SAPP
12 COLLETON COUNTY, SOUTH CAROLINA

13 TRANSCRIPT OF MOTION FOR RECONSIDERATION
14

15 DATE: Thursday, October 23, 2025
16 TIME: 10:04 AM through 10:24 AM
17 LOCATION: Zoom Videoconferencing
18 REPORTED BY: Robin L. Herrera, RMR, CRR, CRC
19
20
21

22 FOR: Rely Reporting LLC
23 156 Whitetail Road
24 Summerville, South Carolina 29483
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5
6 APPEARANCES VIA ZOOM

7
8 FOR THE PLAINTIFFS DONNA MITCHELL AND CURTIS
MITCHELL

9 Thomas H. Brush, Esq.
Brush Law Firm
10 12 Carriage Lane, Suite A
Charleston, SC 29407
11 tbrush@brushlawfirm.com

12
13 FOR THE DEFENDANTS GWENDOLYN BRIGHT, FELICIA COX,
MICAHA FRASIER, ELIZABETH SAWYER, DONALD R. SMALLS,
14 JOHNNY J. SMALLS, LEROY SMALLS, RALPH B. SMALLS, AND
CHERISE WALKER TURNER

15 Charles S. Altman, Esq.
Law Offices of Charles S. Altman, LLC
16 575 King Street, Suite A
Charleston, SC 29403
17 caltman@caltmanlaw.com

-and-

18 Jonathan S. Altman, Esq.
Derfner & Altman
19 575 King Street, Suite B
Charleston, SC 29403
20 jaltman@derfneraltman.com

1 (Proceedings commence at 10:04 AM.)

2 THE COURT: This is State of
3 South Carolina, County of Colleton. This is
4 Christopher Hamilton and others, plaintiffs,
5 v. Priscilla Judge and others.

6 This is a motion for -- the defendants'
7 motion for reconsideration.

8 Present today are Charlie S. Altman,
9 Jonathan Altman, and Tommy Brush. Mr. Brush
10 represents the Mitchells -- excuse me -- right,
11 Mr. Brush?

12 MR. BRUSH: Yes, sir.

13 THE COURT: And I previously ruled that
14 because they had been in possession of the
15 house for 50-plus years that they would be
16 granted title. And obviously Charlie and
17 Jonathan are going to argue that that was an
18 incorrect ruling.

19 And I'll be happy to hear from you,
20 Mr. Altman.

21 MR. C. ALTMAN: Okay. Thank you.

22 Where we are is this: The complaint as
23 originally filed by Christopher Hamilton
24 alleged in the second cause of action that as a
25 matter of equity the Mitchells should be

1 entitled to one acre of land.

2 When we became involved representing a
3 number of the defendants -- Felicia Cox,
4 Micah Frazier, Elizabeth Sawyer, Donald Smalls,
5 Johnny Smalls, Leroy Smalls, Ralph Smalls,
6 Cherise Walker Turner -- we denied that they
7 would be entitled to it as a matter of equity
8 based on the fact that they were there with
9 permission and they did not want -- my clients
10 did not want the Mitchells to have ownership of
11 any portion of the property. They were not
12 entitled to it. They are not members of the
13 family.

14 By more background, a lady by the name of
15 Lily Washington, who was an heir, brought Daisy
16 Belle Mitchell on to live with her.
17 Ms. Mitchell was never adopted; had no
18 ownership interest in the property; was not an
19 heir of Charity Washington. Ms. Mitchell had a
20 number of children, including Mr. Brush's
21 clients.

22 At all times, the Mitchells have lived on
23 this property with permission. Their living on
24 the property was -- living on the property only
25 was by acquiescence, which is part of your

1 ruling, but it was not acquiescence as to
2 title; acquiescence as to being able to live on
3 the property.

4 And we had previously made it clear that
5 they are entitled -- we would let them -- if my
6 clients become the owners of this property,
7 would allow them to live there for the rest of
8 their lives.

9 There was no adverse possession. In order
10 for there to be adverse possession, there are a
11 number of criteria. All of them have to be
12 met, being hostile possession is maybe the
13 hardest one to prove.

14 In this case, there was never any
15 testimony, never any facts, never anything that
16 was said that would indicate that the Mitchells
17 living on this property was by acquiescence --
18 not acquiescence -- by permission.

19 There is some -- there was some payment
20 toward taxes on this property, but that was an
21 agreement between the heirs and the Mitchells
22 since they were allowed to. This is an
23 accommodation. This is a situation that the
24 Mitchells clearly were there with permission,
25 and there is no adverse possession.

1 We filed an answer to Mr. Brush's
2 cross-claim denying it and setting forth the
3 fact, again, it was with permission.

4 The testimony at the hearing by everybody
5 who testified was that they were there with
6 permission. There was nothing adverse about
7 what they were doing or the fact that they were
8 there or how they got there. It never ripened
9 into anything that would resemble adverse
10 possession.

11 Again, acquiescence. My clients filed an
12 answer saying, no, we didn't acquiesce.
13 Everybody didn't acquiesce to them having
14 ownership.

15 The initial claim in the complaint was
16 because of a matter of equity. That's not the
17 case here. They're not entitled to it because
18 everybody doesn't want to.

19 Now, obviously if somebody else owns the
20 property and wants to give it to them, that's
21 fine. But where we are, this order could be
22 premature because we don't know who is going to
23 end up with ownership of this property.

24 If my clients do, no, they're not. If
25 somebody else does, maybe they're willing to

1 give it to them. My clients are not. And
2 until the Court rules on that issue, this is
3 premature.

4 Give me a moment. Interesting. One of
5 the bases of your order was laches. Laches is
6 an affirmative defense only. It does not
7 entitle anyone to get affirmative relief on a
8 claim; so there is no basis for that.

9 Additionally, one of the claims made,
10 which it was ignored, and I think correctly
11 ignored in your order was that they were
12 entitled to it because of the South Carolina
13 Title Act, which I had never heard of, did my
14 best to find it, and find that no such thing
15 exists.

16 So Mr. Sapp, the fact is there is no
17 adverse possession. There is no acquiescence.
18 They're not -- laches, again, does not entitle
19 you to affirmative relief to get something;
20 it's a defense.

21 So we believe that the order is incorrect
22 and that you should reconsider that and reverse
23 it.

24 And, Jon, I don't know if you --

25 MR. J. ALTMAN: Thank you, Judge.

1 And Charles and I have talked about this a
2 good bit just kind of hypothetically, and we
3 all deal with adverse possession. It's one of
4 the things that we probably all learned first
5 semester in law school in our property class.
6 It's a concept that's been around for a long
7 time, and we talk about it a lot in
8 South Carolina.

9 And I certainly appreciate the inference
10 that because these folks have been on the
11 property for a long time that that raises the
12 issue, which has their occupancy converted to
13 some ownership status.

14 And that's one of the elements of adverse
15 possession is you've got to be on the property
16 for a certain period of time to even be
17 eligible to raise the claim.

18 But that's really the first threshold that
19 one would look at saying have you been there.
20 Is it even worth opening the door.

21 And I think we all can agree, whether it's
22 10 years or 50 years or 100 years, that these
23 folks have been there for a long time.

24 But as Charlie mentioned, the significant
25 hurdle that one asserting this claim, acquiring

1 property from somebody else, is that you've
2 been open, you've been notorious, and that your
3 occupancy has been hostile. You've been
4 adverse to the folks that hold record title to
5 the property, and that's the hurdle that we
6 believe just has not been met.

7 These folks were never adverse to each
8 other. They were never hostile to each other.
9 They worked together during this period of
10 occupancy in a very friendly manner.

11 The payment of taxes -- and Charlie and I
12 talked about it -- is indicative of kind of the
13 nature of their relationship; that it was the
14 opposite of that.

15 That there was a singular tax bill issued
16 with regard to this property. And the folks
17 worked together to go ahead, and Tommy's
18 clients paid a portion of that tax bill and
19 gave money to the record holders to go ahead
20 and get those taxes paid.

21 That conduct, that relationship, that
22 agreement is an indication that the folks were
23 not adverse to each other; that they weren't
24 hostile to each other; that there was an
25 agreement as to how their relationship would be

1 governed.

2 Tommy's clients would be allowed to live
3 on the property; they would be allowed to
4 occupy the property, and in return for that,
5 they would pay a portion of the property taxes.

6 There was nothing precluding Tommy's
7 clients from going to the tax collector and
8 saying "Hey, this is our property. We're going
9 to go ahead and pay this portion because we own
10 it." The record reflects the agreement between
11 the parties.

12 And while Tommy's clients can establish
13 occupancy for well beyond the threshold to open
14 the door to adverse possession, I'm unaware of
15 anything in the record that establishes that
16 their occupancy was, in fact, hostile; was, in
17 fact, idle, and that is a burden that they've
18 got to go ahead and meet, and it's often the
19 most challenging hurdle in an adverse
20 possession analysis.

21 So that's kind of my assessment of where
22 we're at relative to the legal threshold. The
23 notion of being -- acquiescence being a
24 component of this, there's no question that
25 they were allowed to be there. And a property

1 owner often allows somebody to occupy that
2 property. That is not an element of an adverse
3 possession analysis.

4 It's simply that I'm unaware of anything
5 in the record that would suggest that these
6 folks were, in fact, hostile to the record
7 titleholders. And without that showing, I
8 don't believe a finding that they've acquired
9 ownership through adverse possession is
10 appropriate or certainly not appropriate at
11 this time.

12 THE COURT: Thank you, Jon.

13 MR. J. ALTMAN: I'm happy to answer any
14 questions the Court may have.

15 THE COURT: I don't have any questions for
16 y'all.

17 Mr. Brush, I'll be happy to hear from you
18 in regards to the motion for reconsideration.

19 MR. BRUSH: I'm sorry. I'm here,
20 Your Honor. I'll try to keep it brief.

21 We've made these arguments before. I do
22 not completely agree with what the two Altmans
23 are saying about the testimony that's in the
24 record.

25 I think the record reflects, number one,

1 that these people did acquiesce because I think
2 the record even stated it was their opinion
3 that the property belonged to my people.

4 That's why they gave them part of the tax bill.

5 I think there's even law as to hostile --
6 I mean, that's what everybody wants to say.
7 The Supreme Court, Court of Appeals -- hostile
8 itself does not mean we got to have a gun and
9 hold it on somebody.

10 As to acquiescence, the new case that's
11 quoted in the order certainly fits the
12 circumstances here. I'm comfortable with the
13 arguments that are made and set out in your
14 order, and I don't think that we've added
15 anything new here over the last 18 months that
16 suggests that we need to have the Court set
17 aside the current order.

18 The only thing that has happened, in my
19 opinion, is that all of the defendants -- so at
20 this point in time, we're only talking about
21 less than 5 percent of ownership that is being
22 contested because the rest of the parties
23 involved have not appealed, not filed an order
24 for reconsideration to your current order.

25 We did not address the betterment statute.

1 If we're going to go back and turn this thing
2 over, but, I -- you know, I'm not going to
3 rehash it all.

4 I think it's in his memorandum. It's in
5 your order, which I think is totally supported
6 by the record. And based on that, I'd just ask
7 the Court to deny the motion for
8 reconsideration and let's move forward.

9 THE COURT: Mr. Altman, anything further?

10 MR. C. ALTMAN: Yeah, I've got one more
11 comment.

12 There was no indication from the Mitchells
13 or anybody that the Mitchells were entitled to
14 ownership until this complaint was filed, the
15 original complaint, in, I think, 2021.

16 And that complaint, when Christopher
17 Hamilton was the sole plaintiff, said as a
18 matter of equity the Mitchells never came up
19 with anything, never asked, never suggested to
20 anybody that they were entitled to ownership.

21 So why did it start? Why did they start
22 asking for ownership? Because maybe somebody
23 else was going to own the property and some of
24 the heirs in the first case, Mr. Hamilton,
25 wanted to give something to these people who

1 had been around a long time, but were there all
2 the time with permission. Including today,
3 they're there with permission.

4 So to suggest something other than that,
5 Mr. Brush says that 95 percent agree. The fact
6 is, the other 5 percent don't, and the Court at
7 some point is going to have to make a decision
8 on who is entitled to ownership, and we need to
9 get to that point.

10 But until that happens, and if -- maybe
11 the purchaser will look and give the Mitchells
12 the property, but my clients do not. They
13 don't feel they're entitled to it.

14 My clients have agreed that they can stay
15 there during their lives, but this only began
16 because of this suit, which it clearly
17 indicates they were there with permission and
18 everybody acquiesced to them being there.

19 Again, that's part of adverse possession,
20 I think, the hostility. Nobody's trying to
21 kick them off. Nobody was claiming they owned
22 it. They didn't claim they owned it until this
23 suit was brought, and they were all happy being
24 there with permission. Thank you.

25 MR. J. ALTMAN: Judge, if I can just say

1 one thing because it just occurred to me. And
2 I think it's kind of a -- I haven't seen this
3 happen before where you've got a plaintiff who
4 is an heir, brings a suit to quiet title, and
5 in the body of that heir asks for the Court to
6 allow a nonfamily member to acquire ownership
7 because it's equitable or fair.

8 So I think that that linkage is
9 interesting. Mr. Hamilton is not saying in
10 his -- in the complaint that got this adventure
11 started that Tommy's clients own the property.
12 He's not saying that they acquired it by
13 adverse possession in its initial filing. He's
14 simply saying "I'd like to do it because I
15 think it's the equitable or fair thing to do."

16 Now, that is -- he may be right in his --
17 the way he feels, that's his definition of
18 equity, but he's certainly not acknowledging
19 that they've acquired ownership by adverse
20 possession in that filing to my knowledge, and
21 that's -- I understand why he's doing it, but
22 as far as the basis for this motion, it is
23 really just a question of law, and whether or
24 not what Mr. Hamilton thinks is fair or what
25 he'd like to accomplish with the notion of this

1 impending sale would come anywhere close to
2 equating to acquiring ownership by adverse
3 possession.

4 And just by doing that, it does kind of
5 frame that these folks are not adverse to each
6 other. They're not hostile to each other. In
7 fact, they're working together, looking out for
8 each other in their own mind.

9 Those seem to be kind of inconsistent
10 approaches to this. And while maybe honorable
11 and well-meaning, it certainly is in contrast
12 to being on opposing sides of an issue of
13 ownership, and I'll leave it at that.

14 THE COURT: Thank you-all.

15 MR. BRUSH: Your Honor, let me make one
16 comment. If we're going to get into talking
17 about what Mr. Hamilton said about equity, then
18 they need to go back and read the transcript.

19 We're not here to testify as to what we
20 believe or interpret Mr. Hamilton said. In
21 fact, Mr. Hamilton -- and I won't even
22 testify -- and the transcript made it very
23 clear what he thought, and I would just leave
24 it at that. We don't need to be testifying for
25 Mr. Hamilton.

1 THE COURT: Okay. Anything further from
2 anybody?

3 MR. J. ALTMAN: I don't believe so,
4 Your Honor.

5 MR. C. ALTMAN: No.

6 THE COURT: Okay. What I'll do is I'll
7 get y'all to each submit opposing orders, I'll
8 review them both, and I'll make a decision.

9 MR. C. ALTMAN: How much time?

10 THE COURT: Whatever y'all need. What do
11 y'all need? I mean, this thing has been
12 dragging on forever. 30 days is good with
13 y'all?

14 MR. J. ALTMAN: Okay. 30 days is great.

15 MR. C. ALTMAN: That's great. Thank you.

16 THE COURT: Yeah. Gives you a little bit
17 of time to get through Thanksgiving and all or
18 right up to Thanksgiving, I guess.

19 MR. C. ALTMAN: Okay. Thank you.

20 THE COURT: Thank y'all.

21 MR. C. ALTMAN: Good seeing everybody.
22 Thank you very much. I did want a transcript
23 of this.

24 THE COURT: Okay. Charlie and Jon, where
25 do we stand? I mean, so Barry is out of it. I

1 got that. He sold his interest to the other
2 gentleman; correct? And y'all have like, what,
3 about a 5 percent ownership interest now?

4 MR. J. ALTMAN: I think so, Your Honor.

5 MR. C. ALTMAN: Where we stand is Ackerman
6 had bought a lot of interest, his company
7 bought some interest. There have been some
8 draft orders presented to you regarding some
9 motions on that -- it was done some time ago --

10 THE COURT: Yeah.

11 MR. C. ALTMAN: -- as to whether -- or who
12 would be the plaintiffs now. We took the
13 position plaintiff and his company because he
14 is a -- it's a single-member LLC, and
15 Mr. Gaskins acknowledged that they would be a
16 plaintiff.

17 There's a motion by Ackerman through
18 Mr. Gaskins that they be allowed to amend the
19 complaint to change the character of the suit,
20 candidly, that's our opinion.

21 They've submitted an order; we've
22 submitted an order. We can resubmit that if
23 you wish, and once I think that's ruled on, I
24 think we're in a position to go to a final
25 hearing.

1 THE COURT: Okay. Good.

2 MR. J. ALTMAN: Judge, what I would
3 probably suggest is Charlie and I will reach
4 out to Brandon Gaskins, who represents the
5 other party in the case.

6 If you recall, we had tried to mediate the
7 case again. That was not -- didn't give us a
8 roadmap toward closure. But I do want to
9 circle back to Brandon.

10 Why don't we do that, and then if -- all
11 of us will jointly report back to the Court as
12 to that. If new -- if orders need to be
13 submitted or resubmitted, we'll go ahead and
14 get you everything fresh so you don't have to
15 look for it, and why don't we do that in 15
16 days; get you these proposed orders in 30?

17 THE COURT: That would be great. That
18 would be great. Let's move this thing forward.

19 MR. J. ALTMAN: We agree.

20 THE COURT: I mean, it's been dragging on
21 forever.

22 MR. C. ALTMAN: I agree.

23 MR. J. ALTMAN: All things end, and maybe
24 it's time for this one too.

25 THE COURT: I agree wholeheartedly. All

1 right. Y'all have a nice day.

2 (Proceedings adjourn at 10:24 AM.)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF DARLINGTON) CERTIFICATE

3

4 I, Robin L. Herrera, RMR, CRR, CRC, and
5 Notary Public, certify that I was authorized to and
6 did stenographically report the foregoing hearing
7 via Zoom, and that the transcript is a true record
8 of the proceedings.

9 I certify that the same was reduced to
10 typewritten form from my original stenograph notes
11 by computer-aided transcription.

12 I further certify that I am not of
13 counsel or kin to any of the parties to this cause
14 of action, nor am I interested in any manner in
15 its outcome.

16 IN WITNESS WHEREOF I have hereunto set
17 my hand and seal November 4th, 2025.

18

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Robin L. Herrera, RMR, CRR, CRC
Notary Public, South Carolina
My Comm. Expires 03/27/2028

25

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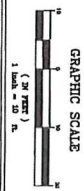
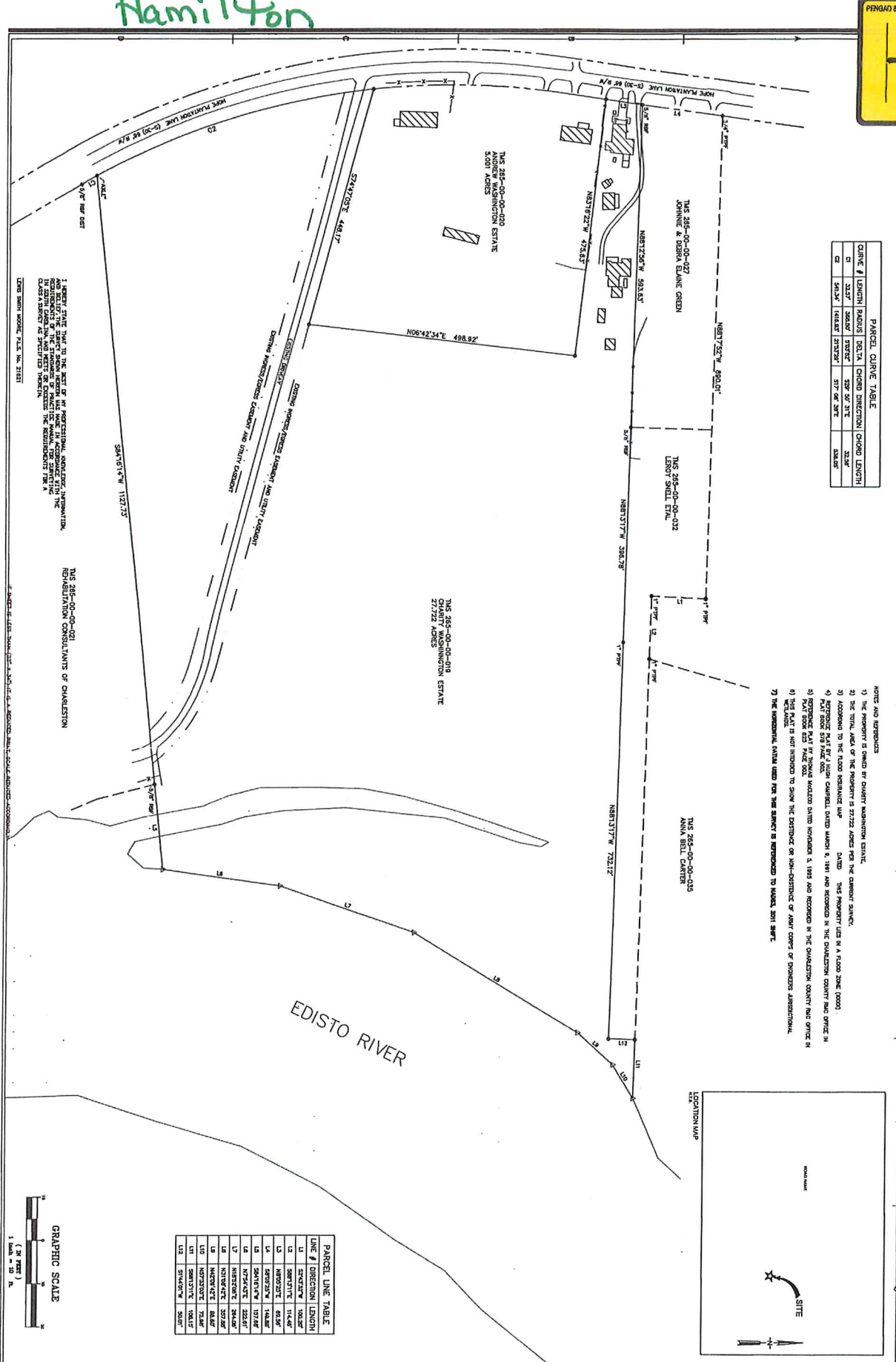
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talk (1) 8:7 talked (2)	unaware (2) 10:14;11:4 up (3)			

PARCEL CURVE TABLE

CURVE #	LENGTH	RADIUS	BEING	CHORD	DIRECTION	CHORD LENGTH
C1	23.37'	200.00'	100.00'	200.00'	S 23.37° E	23.37'
C2	541.34'	144.88'	173.72'	173.72'	S 17.04° W	541.34'

- NOTES AND REFERENCES**
- 1) THE PROPERTY IS OWNED BY CHARLIE WASHINGTON ESTATE.
 - 2) THE TOTAL AREA OF THE PROPERTY IS 37.22 ACRES FOR THE CURRENT SURVEY.
 - 3) ACCORDING TO THE 1900 RECORDS MAP, DATED 1900, THE PROPERTY LIES IN A 1000 ZONE (0000).
 - 4) THE PROPERTY LIES IN THE 1000 ZONE (0000).
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 - 100) THE PROPERTY LIES IN THE 1000 ZONE (0000).



PARCEL LINE TABLE

LINE #	DIRECTION	LENGTH
L1	S 23.37° E	23.37'
L2	S 17.04° W	541.34'
L3	S 23.37° E	23.37'
L4	S 17.04° W	541.34'
L5	S 23.37° E	23.37'
L6	S 17.04° W	541.34'
L7	S 23.37° E	23.37'
L8	S 17.04° W	541.34'
L9	S 23.37° E	23.37'
L10	S 17.04° W	541.34'
L11	S 23.37° E	23.37'
L12	S 17.04° W	541.34'
L13	S 23.37° E	23.37'
L14	S 17.04° W	541.34'
L15	S 23.37° E	23.37'
L16	S 17.04° W	541.34'
L17	S 23.37° E	23.37'
L18	S 17.04° W	541.34'
L19	S 23.37° E	23.37'
L20	S 17.04° W	541.34'
L21	S 23.37° E	23.37'
L22	S 17.04° W	541.34'
L23	S 23.37° E	23.37'
L24	S 17.04° W	541.34'
L25	S 23.37° E	23.37'
L26	S 17.04° W	541.34'
L27	S 23.37° E	23.37'
L28	S 17.04° W	541.34'
L29	S 23.37° E	23.37'
L30	S 17.04° W	541.34'
L31	S 23.37° E	23.37'
L32	S 17.04° W	541.34'
L33	S 23.37° E	23.37'
L34	S 17.04° W	541.34'
L35	S 23.37° E	23.37'
L36	S 17.04° W	541.34'
L37	S 23.37° E	23.37'
L38	S 17.04° W	541.34'
L39	S 23.37° E	23.37'
L40	S 17.04° W	541.34'
L41	S 23.37° E	23.37'
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L56	S 17.04° W	541.34'
L57	S 23.37° E	23.37'
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L99	S 23.37° E	23.37'
L100	S 17.04° W	541.34'

BOUNDARY SURVEY
TMS 265-00-00-019
1869 HOPE PLANTATION LANE
COLLETON COUNTY, SOUTH CAROLINA

FORSBERG ENGINEERING AND SURVEYING, INC.
1587 SAVANNAH HIGHWAY SUITE B
CHARLESTON, SOUTH CAROLINA 29417
(843) 551-2828 FAX (843) 551-1870
CIVIL ENGINEERING SURVEYING AND LANDSCAPE ARCHITECTURE

DATE 3/17/2022
DRAWN/CHECKED LAM/LSC
LAST REVISION
APPROVED LAM
SCALE 1"=40'
PROJECT NO.
FILE NO.
SHEET NUMBER 1
OF 1

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Civil Action No. 2021-CP-15-00210

RECEIVED

Dec 23 2025

SC Court of Appeals

Gwendolyn Bright, Felicia Cox, Micah Frasier,
Elizabeth Sawyer, Donald R. Smalls, Johnny J.
Smalls, Leroy Smalls, Ralph B. Smalls, Cherise
Walker Turner,

Appellants,

v.

Donna Mitchell and Curtis Mitchell,

Respondents.

NOTICE OF APPEAL

Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, and Cherise Walker Turner ("Appellants") hereby appeal from the Order as to Interest of Donna Mitchell and Curtis Mitchell ("Order"), entered August 14, 2025, granting Donna Mitchell and Curtis Mitchell the right to one (1) acre tract of land. Additionally, Appellants appeal from the Order Denying Motion to Reconsider ("Final Order") issued by Special Referee Benjamin C.P. Sapp on December 2, 2025. This Notice of Appeal is being filed and served within thirty (30) days of receipt of the December 2, 2025 Final Order.

Copies of the Final Order and the Order being challenged on appeal, are attached as exhibits to this Notice.

Respectfully submitted,

THE LAW OFFICES OF CHARLES S. ALTMAN, LLC

s/ Charles S. Altman
Charles S. Altman (S.C. Bar 351)
caltman@caltmanlaw.com
Natalia Flores (S.C. Bar 106905)
nflores@caltmanlaw.com
575 King Street, Suite A
Charleston, SC 29401
Tel: 843-853-9907
Attorneys for Appellants

December 22, 2025

Other Counsel of Record:

Brush Law Firm, P.A.

Thomas H. Brush (SC Bar No 974)
tbrush@brushlawfirm.com
J. Chris Lanning (SC Bar No 73957)
clanning@brushlawfirm.com
12 Carriage Lane, Suite A
Charleston, SC 29407
Tel: 843-766-5576
Attorneys for Respondents,
Donna Mitchell and Curtis Mitchell

Moore & Van Allen, PLLC
E. Brandon Gaskins (SC Bar No: 73274)
brandongaskins@mvalaw.com
78 Wentworth Street
PO Box 22828
Charleston, SC 29401
Tel: (843) 579-7038
Attorney for Plaintiff Guy Ackerman

Derfner & Altman, LLC

Jonathan S. Altman (SC Bar No: 65400)

jaltman@derfneraltman.com

575 King Street, Suite B

Charleston, SC 29403

Tel: (843) 723-9804

Attorney for Defendant

Rehabilitation Consultants of Charleston, LLC

South Carolina Department of Revenue

Kiera C. Dillon (SC Bar No: 79891)

Robert J. Thomas (SC Bar No: 13027)

kiera.dillon@dor.sc.gov

robert.thomas@dor.sc.gov

300A Outlet Pointe Blvd.

Columbia, SC 29210

Attorneys for Defendant South Carolina

Department of Revenue

Parker Law Group, LLP

Mark David Ball (SC Bar No: 12894)

mball@parkerlawgroupsc.com

PO Box 487

101 Mulberry St.

Hampton, SC 29924

Tel: (803) 903-1781

Attorney for Defendant Rehabilitation Consultants of

Charleston, LLC, Carrie Washington, Carrie Lee Washington

Carrie Washington Williams

Legare Hare & Smith

Jeffrey C. Moore (SC Bar No: 80370)

jmoore@legareharesmith.com

1 Carriage Lane

Suite H, 2Nd Floor

Charleston, SC 29407

Tel: (843) 722-7773

Attorney for Defendant Jane Doe, John Doe,

Mary Roe and Richard Roe

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
JANIE NELSON A/K/A JANNIE NELSON,)
JUANITA WILLIAMS, ELVIRA MEMMINGER,)
CLARENCE WASHINGTON, DELINDA W.)
DAWSON, DAVID WASHINGTON, JR.,)
ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
CHERRI, ARTHUR LEE, MIRANDA CLARK)
A/K/A ARANDA CLARK, CATHERINE DENT,)
JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
ELIZABETH BURTON, BRENDA BROWN, and)
GUY ACKERMAN,)

Plaintiffs,)

v.)

REHABILITATION CONSULTANTS OF)
CHARLESTON, LLC., WILLIAM ARNOLD)
KELLMAN, PRISCILLA JUDGE, RHONDA B.)
WINFIELD, SAMUEL COX, JR., JIMMY COX,)
LAVORGE COX, DESHAWN RAMBERT-COX,)
VANESSA COX a/k/a VANESSA COX-)
RICKENBACKER, TONI COX a/k/a TONYA)
PIERCY, FELICIA COX, ANDREW WALKER,)
SELENA WALKER, individually and as Personal)
Representative of the Estate of Earl Walker, SONYA)
TERESA WHITE, RAYMOND WALKER,)
ARDELIA STOKES a/k/a DELIA STOKES,)
LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,)
GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
JOHNNY J. SMALLS, DONALD R. SMALLS,)
RALPH B. SMALLS, MICAH FRASIER,)
ZELEMENIA WALKER a/k/a SELLEMENA)
WALKER, TERRANCE WALKER, GEORGE)
WALKER, JR., CHERISE WALKER TURNER,)
NAOMI WALKER, RICHARD COX, RICHARD)
WILTON WASHINGTON a/k/a WELDON)
WASHINGTON, DONNA MITCHELL and)
CURTIS MITCHELL, if they be alive, and JOHN)
DOE AND JANE DOE, whose true names are)
unknown and fictitious names designating the)

ORDER DENYING MOTION
TO RECONSIDER

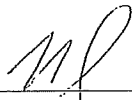
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Dec 23 2025
SC Court of Appeals

The matter was before the Court pursuant to the Motion to Reconsider the Order as to the interest of Donna Mitchell and Curtis Mitchell issued by this Court on August 14, 2025 and filed on August 22, 2025, filed by Charles S. Altman Esq., on behalf of Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherise Walker Turner. A virtual hearing on said Motion to Reconsider was held before me on October 23, 2025. Appearing by zoom was Thomas H. Brush, Esq., attorney for the Defendants, Donna Mitchell and Curtis Mitchell. Charles S. Altman, Esq., appeared by zoom on behalf of his clients, Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherise Walker Turner. Jonathan S. Altman Esq., appeared by zoom on behalf of his client, Rehabilitation Consultants of Charleston, LLC.

After reviewing the Memorandum in Support of Reconsideration filed by the Charles S. Altman, Esq., and hearing arguments from the parties respective Counsel, I concluded that no misapplication of law or equity has occurred to cause this Court to amend, change or modify its original ruling of August 14, 2025. It is, therefore,

ORDERED, that the Motion to Reconsider filed by the Charles S. Altman, Esq., on behalf of Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls and Cherise Walker Turner is hereby denied.

AND IT IS SO ORDERED.



Benjamin C.P. Sapp, Special Referee

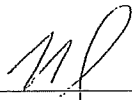
Dec-
November 2, 2025
Walterboro, SC

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AND IT IS SO ORDERED.



Benjamin C.P. Sapp, Special Referee

Dec-
November 2, 2025
Walterboro, SC

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

CASE NO. 2021-CP-15-00210

CHRISTOPHER HAMILTON, CLEO HAMILTON,)
JANIE NELSON A/K/A JANNIE NELSON,)
JUANITA WILLIAMS, ELVIRA MEMMINGER,)
CLARENCE WASHINGTON, DELINDA W.)
DAWSON, DAVID WASHINGTON, JR.,)
ELIZABETH ANN LEE A/K/A ELIZABETH ANN)
CHERRI, ARTHUR LEE, MIRANDA CLARK)
A/K/A ARANDA CLARK, CATHERINE DENT,)
JOSEPH HOLMES, GWENDOLYN MILLER, JAN)
ELIZABETH BURTON, BRENDA BROWN, and)
GUY ACKERMAN,)

Plaintiffs,

v.

REHABILITATION CONSULTANTS OF)
CHARLESTON, LLC., WILLIAM ARNOLD)
KELLMAN, PRISCILLA JUDGE, RHONDA B.)
WINFIELD, SAMUEL COX, JR., JIMMY COX,)
LAVORGE COX, DESHAWN RAMBERT-COX,)
VANESSA COX a/k/a VANESSA COX-)
RICKENBACKER, TONI COX a/k/a TONYA)
PIERCY, FELICIA COX, ANDREW WALKER,)
SELENA WALKER, individually and as Personal)
Representative of the Estate of Earl Walker, SONYA)
TERESA WHITE, RAYMOND WALKER,)
ARDELIA STOKES a/k/a DELIA STOKES,)
LEROY SMALLS, JR. a/k/a LEROY H. SMALLS,)
GWENDOLYN BRIGHT, ELIZABETH SAWYER,)
JOHNNY J. SMALLS, DONALD R. SMALLS,)
RALPH B. SMALLS, MICAH FRASIER,)
ZELEMENIA WALKER a/k/a SELLEMENA)
WALKER, TERRANCE WALKER, GEORGE)
WALKER, JR., CHERISE WALKER TURNER,)
NAOMI WALKER, RICHARD COX, RICHARD)
WILTON WASHINGTON a/k/a WELDON)
WASHINGTON, DONNA MITCHELL and)
CURTIS MITCHELL, if they be alive, and JOHN)
DOE AND JANE DOE, whose true names are)
unknown and fictitious names designating the)

**ORDER AS TO INTEREST
OF DONNA MITCHELL AND
CURTIS MITCHELL**

RECEIVED

Dec 23 2025

SC Court of Appeals

unknown heirs, devisees, distributees, issue,)
 executors, administrators, successors, or assigns of)
 the above-named Defendants, if they or any of them)
 be dead, and of CHARITY WASHINGTON,)
 CENTRILLA WASHINGTON, ANDREW)
 WASHINGTON, PRISCILLA WASHINGTON a/k/a)
 PERSELLA WASHINGTON, OSCAR)
 WASHINGTON, GERTIE WASHINGTON,)
 MARGARET KELLMAN, HORACE HEYWARD,)
 DELORES WASHINGTON a/k/a DELORES)
 WILLIAMS, JOHNNY WASHINGTON a/k/a)
 JOHNNIE WASHINGTON, RUTHIE MAE)
 WASHINGTON, EUGENE WASHINGTON a/k/a)
 SAM WASHINGTON, GENEVA WASHINGTON,)
 MAYBEL WALKER a/k/a MAYBELLE)
 WASHINGTON, LILLA MAE SMALLS a/k/a)
 LUCILLE COX SMALLS, LEROY SMALLS,)
 STANLEY SMALLS a/k/a RONNIE SMALLS,)
 WILLIE HAYDEN SMALLS, GEORGE WALKER,)
 SAMUEL COX, LUCILLE CHISOLM a/k/a)
 LOUCILE CHISOLM, EARL WALKER, PEARL)
 HAMILTON, JAMES HAMILTON, JOSEPH)
 HAMILTON, ELISE SIMMONS, JAMES)
 WASHINGTON, VICTORIA JOHNSON GREEN,)
 DAVID WASHINGTON, SR., CARRIE)
 WASHINGTON a/k/a CARRIE WASHINGTON)
 WILLIAMS, CARRIE WASHINGTON LEE,)
 JOSEPH LEE, NORRIS LEE, ISRAEL)
 WASHINGTON, DAVID WASHINGTON,)
 GOLDEN WASHINGTON, MINNIE BRANTLEY)
 JOHNSON a/k/a MINNIE BRANTLEY, MABEL)
 SIMMONS, WILLIAM WASHINGTON a/k/a)
 BILLY WASHINGTON, MILLIE WASHINGTON,)
 PHOEBE ANN WASHINGTON, and MARGARET)
 ROVENA KELLMAN, all deceased; and MARY)
 ROE AND RICHARD ROE, whose true names are)
 unknown and fictitious names designating infants,)
 persons under disability, incompetents, imprisoned,)
 or those person in the military, if any; SOUTH)
 CAROLINA DEPARTMENT OF REVENUE, and)
 also all other persons, known or whose true names)
 are unknown, claiming any right, title, interest in, or)
 lien upon the real estate described in the Complaint)
 herein,)
)
 Defendants.)

The matter was before the Court pursuant to Plaintiff's Summons, Complaint and Lis Pendens, filed on April 12, 2021, and Amended Summons, Amended Complaint and Amended Lis Pendens, filed on June 15, 2021.

A hearing to quiet title was held before me on February 17, 2023 at 10:00 a.m. on May 25, 2023. Present and appearing at the reconvened hearing was Barry I. Baker Esq., attorney for the Plaintiffs together with Co-Plaintiffs Christopher Hamilton, Gwendolyn Miller, Jan Elizabeth Burton and Brenda Brown appeared in person. Co-Plaintiffs Juanita Williams and Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri appeared by Zoom. Charles S. Altman, Esq., appeared on behalf of his clients together with Co-Defendants Felicia Cox, Gwendolyn Bright, Leroy Smalls Jr., and Johnny J. Smalls appearing in person. Defendant Richard Wilton Washington a/k/a Weldon Washington appeared by Zoom on a pro se basis. Brandon Gaskins, Esq., attorney for Co-Plaintiff Guy Ackerman appeared by Zoom.

Also, appearing was Thomas H. Brush, Esq. with his clients the Defendants Donna Mitchell and Curtis Mitchell who filed an Answer and Cross Complaint on behalf of his clients on March 7, 2022 claiming title to a one (1) acre tract that is a portion of the subject property. Charles S. Altman, Esq., appeared on behalf of his clients Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Cherese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls filed an Answer to the Mitchell's Answer and Crossclaim on January 16, 2023.

At the conclusion of the Suit to Quiet Title Action I held a separate hearing on the of the Mitchell's claims and the purpose of this Order is to address their claims.

FINDINGS OF FACT

All parties presented testimony and evidence and this Court dully considered all the testimony and evidence presented. This Court assessed the credibility of the witnesses' testimony and evidence presented. This Court compared all conflicting or non-conforming elements of such testimony and evidence, choosing certain elements to the exclusion of others. The Court makes the following finding of facts.

The Amended Summons and Amended Complaint filed in this action by the Plaintiff's agreed that the Defendants, Donna Mitchell and Curtis Mitchell, were the owners of the one acre tract.

The Answer to the Mitchell's Answer and Crossclaim filed on January 16, 2023 by the Defendants, Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Chereese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls, challenged the interest of Donna and Curtis Mitchell in the one acre tract.

That the Interim Decree filed on June 9, 2023 held that the Mitchells were not heirs of Charity Washington and the Defendants Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and, Leroy Smalls Jr., and Johnny J. Smalls, have a 0.132% interest each in the said property tht is the subject of the Mitchells' claims. The Decree also set for that Chereese Walker Turner had a 0.116% interest in said property.

The Plaintiffs were determined to own 84% and the remaining Defendants did not contest the interest of the Mitchells.

The property which is claimed by the Mitchells is approximately a one-acre tract that is clearly shown on an unrecorded boundary survey prepared by Forsberg Engineering & Surveying, Inc. dated March 7, 2022 as containing 27.772 acres and having such size, shape, dimensions, buttings and boundings as will appear by reference to said survey.

The original home on the aforementioned tract was built by Millie Washington in 1953 and that Millie Washington raised the Mitchells' mother, Daisy Bell Mitchell, in said home.

Upon the death of Millie Washington in 1963, Daisy Bell Mitchell remained in the home raising her nine children, including Donna Mitchell, born 1964, and Curtis Mitchell, born 1955, until her death in 1996.

Since , the Mitchells have continued to reside and occupy the property as their residences.

The Mitchells have paid the property taxes on their portion on the property every year and have maintained and remodeled the original residence and added an additional structure for Curtis Mitchell to reside. The property has a current value of \$397,927.00.

The Mitchells have been on the property in excess of sixty (60) years and as emancipated adults more than fifty (50) years. The testimony from all witnesses was overwhelming that since 1953 none of the other Defendants or their predecessors took any action to stop or remove the Mitchells from the property and testified they had no reason to ask them to leave.

The Mitchells received a dollar amount each year from the other owners for their portion of the property taxes and the evidence shows that they cultivated and maintained the one acre tract. Their possession of the one-acre tract has been continuous, hostile, actual and exclusive for more than fifty (50) years.

REVIEW OF APPLICABLE LAW

A. Acquiescence

The South Carolina Court of Appeals recently restated acquiescence in *Griffin v. Giovino*, Opinion No. 6117, July 16, 2025 as, "Acquiescence is a question of fact determined by the intent of the parties", *Kirkland v. Gross* 286 S.C. 193, 332 S.E. 2nd 546,549 (Ct. App1985) recede from on other grounds by *Boyd v. Hyatt*, 294S.C. 360, 364 S. E. 2nd 478 (ct. App. 1988),

“If a party stands by, and sees another dealing with the property in a manner inconsistent with his rights, and makes no objection, he cannot afterwards have relief. His silence permits and encourages others to part with their money or property, and he cannot complain that his interest(s) are affected. His salience is acquiescence and it estopps him.”

B. Adverse Possession

In order to establish a claim for adverse possession, the possession must be continuous, hostile, open, actual, notorious, exclusive, for the ten year the statutory period and the twenty-year common-law presumption. *Davis v. Monteith*, 289 S.C. 176, 345 S.E.2d 724 (1986)

The nature and location of the land, and the appropriate uses for which it is suited should be considered in determining whether adverse possession has been established. *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961).

In *Graniteville Co. v. Williams*, 209 S.C. 112, 120-121, 39 S.E.2d 202, 206 (1946) the court held it is sufficient that possession is open, visible and notorious that the party against whom adverse possession is asserted should, in the exercise of ordinary diligence, have had knowledge of the adverse character of the claim.

The exclusive possession necessary to acquire title by adverse possession, possession must be such as to indicate his exclusive ownership of the property. *Butler v. Lindsey*, 293 S.C. 466, 361 S.E.2d 621 (Ct. App. 1987).

In *McDaniel v. Kendrick*, 386 S.C. 437, 688 S.E.2d 852 (S.C. Ct. App. 2009), the court addressed the requirement of hostility in an adverse possession claim. The court cited *All Saints Parish, Waccamaw* and *Knox v. Bogan* regarding what must be proven to claim adverse possession and specifically, hostility. A party may begin to satisfy the requirement of hostility upon a clear disclaimer of the owner's title. As a general rule, the law presumes

that the exclusive possession of land by one who is a stranger to the holder of the legal title is adverse. *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961).

C. Laches

“The Equitable Doctrine of Laches is 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. *Jones v. Leagan*, 384 S.C. 1, 384 S.E. 2nd 6, (Ct. App. 2009) quoting *Hallums v. Hallums*, 296 S.C. 195, 378 S. E. 2nd 525 (1998). Laches arises upon the failure to assert a known right under circumstances indicating the lached party has abandoned or surrender the rights. The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances and (3) prejudiced. *Englet, Inc. v LeafGuard USA, Inc.*, 377 S. C. 129,659 S. E. 2nd 496 (2008).

CONCLUSIONS OF LAW

ACQUIESCENCE

In Order for the Mitchells to establish title by acquiescence they must prove that the other Defendants stood by, and saw the Mitchells dealing with the property in a manner inconsistent with their rights, and made no objection. The evidence is clear from the testimony of Johnny Smalls, Felicia Cox and Gwendolyn Bright that they allowed the Mitchells to live and maintain the property for more than fifty (50) years and took no action to stop the Mitchells or claim an interest until this litigation was filed. Their silence permitted and encouraged the Mitchells to part with their money and pay taxes and improve the property. As a result, they cannot complain that their interest are affected because over the last fifty (50) years their past actions were as if they had no interest. The Defendants, Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Chereese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls neglected for an unreasonable and unexplained length of time, under circumstances affording

opportunity for diligence, to do what in law should have been done. *Jones v. Leagan*, 384 S.C. 1, 384 S.E. 2nd 6, (Ct. App. 2009) quoting *Hallums v. Hallums*, 296 S.C. 195, 378 S. E. 2nd 525 (1998). They have failed to assert a known right under circumstances indicating they abandoned or surrender the rights. I therefore conclude that the Mitchells have gained title through the Acquiescence all of the Plaintiff's and Defendant's in this case.

ADVERSE POSSESSION

In order for Mitchells to establish a claim for adverse possession, they must prove by clear and convincing evidence that their possession of Plaintiff's property was actual, open, notorious, exclusive, continuous and hostile for the statutory period. *All Saints Parish, Waccamaw v. Protestant Episcopal Church In the Diocese of S.C.*, 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004). The possession must be continuous, hostile, open, actual, notorious, exclusive, for the ten-year statutory period and the twenty-year common-law presumption. *Davis v. Monteith*, 289 S.C. 176, 345 S.E.2d 724 (1986)

A. Actual Possession

For the Mitchells to prove actual possession of the property they must show they have performed acts of ownership in ways consistent with the use to which the land may be put. *Getsinger v. Midlands Orthopaedic*, 327 S.C. 424, 489 S.E.2d 223 (1997). The Mitchells testified there was originally one residence on the land that was remodeled in the 1990's and an additional structure was erected by Curtis Mitchell. The also testified that they and their mother have resided on the land as their home for more than fifty (50) years. The Defendants, Johnny Smalls, Felicia Cox and Gwendolyn Bright, confirmed the Mitchells' possession of the property with their testimony. These actions by Mitchells and their mother occurred from 1953 until present. I therefore conclude that the Mitchells were in actual possession of the property for more than fifty (50) years.

B. Open and Notorious Possession

For Defendant's Mitchell to prove that their possession of Plaintiff's property was open and notorious they must prove that their possession should be so notorious that the legal owner by ordinary diligence should have known of it. *Graniteville Co. v. Williams*, 209 S.C. 112, 120-121, 39 S.E.2d 202, 206 (1946). The testimony was overwhelming by all parties that by the exercise of ordinary diligence the Defendants Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Chereese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls should have or were aware of the Mitchells open and notorious possession. I therefore conclude that the Mitchells possession of the property was open and notorious.

C. Exclusive Possession

For Defendant Mitchells to prove that their possession was exclusive they must demonstrate that their occupancy was not shared with the owner. *Butler v. Lindsey*, 293 S.C. 466, 361 S.E.2d 621 (Ct. App. 1987). All parties testified that the Mitchells lived on the property with their mother for more than fifty (50) years testified that the previous owners never shared ownership of the property with them. All of the structures and the property were maintained and improved by the Mitchells. I therefore conclude that the Mitchells' possession of Plaintiffs' property was exclusive.

D. Continuous Possession

For the Mitchells to prove that their possession was continuous they must show that they personally held adverse possession of Plaintiffs' property for twenty years. *Getsinger v. Midlands Orthopaedic*, 327 S.C. 424, 489 S.E.2d 223 (1997). Once again, the testimony is overwhelming that they have held continuous possession of this property for more than fifty (50) years because no one has disseized them of their possession and they have not voluntarily abandoned their possession. The Mitchells have had continuous possession of the one acre tract

of Plaintiffs and Defendants property since 1953. See *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961). I therefore conclude that the Mitchells' possession of Plaintiffs' property has been continuous for fifty (50) years.

E. Hostile Possession

For the Mitchells to demonstrate that their possession of the Plaintiffs' property was hostile they must prove that they entered the property without the Plaintiffs' or the previous owners' permission. See *Knox v. Bogan*, 322 S.C. 64, 472 S.E.2d 43 (Ct. App. 1996), *All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of S.C.*, 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004) and *McDaniel v. Kendrick*, 386 S.C. 437, 688 S.E.2d 852 (S.C. Ct. App. 2009). In order for the Mitchells' possession to be hostile, it must be *without the consent* of the title owner. See *Knox*.

The testimony does not show that any previous owner of the property gave them permission to be on the property. But upon the death of an heir of Charity Washington, the Mitchells' mother took possession of Plaintiffs' property without the consent of the other heirs and that she and Donna Mitchell and Curtis Mitchell have been in possession without permission since 1963.

The actions and exclusive possession of the property from 1963 to present by the Mitchells is adverse to the previous owners' ownership of the property and is adverse to Plaintiffs' and the other Defendants ownership of the property. Since the Mitchells exclusive possession of the one acre tract was adverse and without the consent of the owners, I therefore conclude their possession was hostile. See *Mullis v. Winchester*, 237 S.C. 487, 118 S.E.2d 61 (1961).

In this instance, the Mitchells have proven by clear and convincing evidence that their possession of Plaintiffs' property has been actual, open, notorious, exclusive, continuous and

hostile for fifty (50) years. The Mitchells have proven that they asserted ownership over Plaintiffs' and Defendants' property. In addition, the Mitchells have demonstrated that they have exercised the requisite continuous adverse dominion over the property to claim it by adverse possession well beyond the statutorily requirement of twenty (20) years. I therefore conclude that Donna Mitchell and Curtis Mitchell have acquired ownership of this one-acre tract of land by Adverse Possession.

Plaintiffs' and all Defendants' interest in this one-acre tract has been extinguished and Defendants, Donna Mitchell and Curtis Mitchell, are vested with a perfect title. The Mitchells' title is independent and is a good, actual, absolute, complete, and perfect legal title in fee simple. See *Clark v. Hargrave*, 473 S.C. 474, 323 S.E.2d 84 (C. App. 1996).

Having decided that the Defendants, Donna Mitchell and Curtis Mitchell, are the fee simple owners of the one-acre tract its not necessary to decide on their request under the South Carolina Betterments Statute and Case Law.

DEFENDANTS CAUSES OF ACTIONS

All of Defendants', Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph B. Smalls and Cherese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls, causes of action, Estoppel, Laches and Waiver, require them to have an interest in the property. Since Defendants, Donna Mitchell and Curtis Mitchell, have established ownership of the property by acquiescence and adverse possession, they no longer have an ownership interest in the property. Therefore, all of Plaintiff's causes of actions are moot.

CONCLUSION

After considering the totality of the evidence, I find that Defendants, Donna Mitchell and Curtis Mitchell, have obtained title to the one acre tract through Acquiescence of all of the Defendants including Felicia Cox, Gwendolyn Bright, Micah Frasier, Donald R. Smalls, Ralph

B. Smalls and Chereese Walker Turner, Leroy Smalls Jr., and Johnny J. Smalls. I also find that the Mitchells have had possession of the one acre and that their possession has been actual, open, notorious, exclusive, continuous and hostile for fifty (50) years. I also find that the Mitchells have acquired Plaintiffs' and Defendants' interest in said property by adverse possession. I further find Donna Mitchell and Curtis Mitchell are the fee simple owners of the one acre tract. I also find that Defendants' causes of actions are now moot.

ORDERS

IT IS THEREFORE ORDERED, that Defendants, Donna Mitchell and Curtis Mitchell, claim of title through Acquiescence of the property described as above is granted; and

IT IS FURTHER ORDERED, that Defendants, Donna Mitchell and Curtis Mitchell, adverse possession claim of the property described above is granted and they are the fee simple owners of Plaintiff's property described above; and

IT IS FURTHER ORDERED, that Defendants, Donna Mitchell and Curtis Mitchell, will have the one acre tract surveyed and submitted the Court for approval; and

IT IS FURTHER ORDERED, that a Master's Deed will be executed conveying the one acre tract described above to Defendants, Donna Mitchell and Curtis Mitchell; and

AND IT IS SO ORDERED!



Benjamin C.P. Sapp, Special Referee

August 14, 2025
Walterboro, SC

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Civil Action No. 2021-CP-15-00210
Appellate Case No. 2025-002580

Christopher Hamilton, Cleo Hamilton, Janie Nelson a/k/a Jannie Nelson, Juanita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, David Washington, Jr., Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri, Arthur Lee, Miranda Clark a/k/a Aranda Clark, Catherine Dent, Joseph Holmes, Gwendolyn Miller, Jan Elizabeth Burton, Brenda Brown, and Guy Ackerman, Plaintiffs, v. Rehabilitation Consultants of Charleston, LLC., William Arnold Kellman, Priscilla Judge, Rhonda B. Winfield, Samuel Cox, Jr., Jimmy Cox, Lavorge Cox, Deshawn Rambert-Cox, Vanessa Cox a/k/a Vanessa Cox-Rickenbacker, Toni Cox a/k/a Tonya Piercy, Felicia Cox, Andrew Walker, Selena Walker, individually and as Personal Representative of the Estate of Earl Walker, Sonya Teresa White, Raymond Walker, Ardelia Stokes a/k/a Della Stokes, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Micah Frasier, Zelemania Walker a/k/a Sellemena Walker, Terrance Walker, George Walker, Jr., Cherise Walker Turner, Naomi Walker, Richard Cox, Richard Wilton Washington a/k/a Weldon Washington, Donna Mitchell and Curtis Mitchell, if they be alive, and John Doe and Jane Doe, whose true names are unknown and fictitious names designating the unknown heirs, devisees, distributees, issue, executors, administrators, successors, or assigns of the above-named Defendants, if they or any of them be dead, and of Charity Washington, Centrilla Washington, Andrew Washington, Priscilla Washington, a/k/a Persella Washington, Oscar Washington, Gertie Washington, Margaret Kellman, Horace Heyward, Delores Washington a/k/a Delores Williams, Johnny Washington a/k/a Johnnie Washington, Ruthie Mae Washington, Eugene Washington a/k/a Sam Washington, Geneva Washington, Maybel Walker a/k/a Maybelle Washington, Lilla Mae a/k/a Lucille Cox Smalls, Leroy Smalls, Stanley Smalls a/k/a Ronnie Smalls, Willie Hayden Smalls, George Walker, Samuel Cox, Lucille Chisolm a/k/a Loucille Chisolm, Earl Walker, Pearl Hamilton, James Hamilton, Joseph Hamilton, Elise Simmons, James Washington, Victoria Johnson Green, David Washington, Sr., Carrier Washington a/k/a Carrie Washington Williams, Carrie Washington Lee, Joseph Lee, Norris Lee, Israel Washington, David Washington, Golden Washington, Minnie Brantley Johnson

a/k/a Minnie Brantley, Mabel Simmons, William Washington a/k/a Billy Washington, Millie Washington, Phoebe Ann Washington, and Margaret Rovenka Kellman, all deceased; and Mary Roe and Richard Roe, whose true names are unknown and fictitious names designation infants, persons under disability, incompetents, imprisoned, or those persons in the military, if any; South Carolina Department of Revenue, and also all other persons, known or whose true names are unknown, claiming any right, title, interest in, or lien upon the real estate described in the Complaint herein, Defendants.

of which Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, Cherise Walker Turner are the Appellants,

and

Donna Mitchell and Curtis Mitchell are the Respondents.

INITIAL BRIEF OF APPELLANTS

LAW OFFICES OF CHARLES S. ALTMAN, LLC

/s/ Charles S. Altman

Charles S. Altman (SC Bar No. 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar No. 106950)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, SC 29403

T: (843) 853-9907

F: (843) 722-5702

Attorneys for Appellants

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STATEMENT OF ISSUES ON APPEAL

- I. THE TRIAL COURT ERRED IN FINDING THAT THE RESPONDENTS ACQUIRED OWNERSHIP BY ADVERSE POSSESSION BECAUSE THEIR POSSESSION WAS PERMISSIVE, NOT HOSTILE.
- II. THE TRIAL COURT ERRED IN FINDING THAT RESPONDENTS ACQUIRED OWNERSHIP OF THE PARCEL UNDER A THEORY OF ACQUIESCENCE.

STANDARD OF REVIEW

In an action at law tried before a master [special referee], the appellate court "will affirm the master's factual findings if there is any evidence in the record which reasonably supports them." Estate of Tenney v. S.C. Dep't of Health & Envtl. Control, 393 S.C. 100, 105, 712 S.E.2d 395, 397 (2011) (quoting Query v. Burgess, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006)). However, "[a]n appellate court may determine questions of law with no particular deference to the trial court." Id. (quoting Verenes v. Alvanos, 387 S.C. 11, 14, 690 S.E.2d 771, 772-73 (2010)).

STATEMENT OF CASE

This matter arises from a case filed in Colleton County, South Carolina, subject to the Clementia C. Pinckney Uniform Partition of Heirs Property Act, Section 15-61-310, *et seq.* of the S.C. Code ("Act"), concerning the partition and possible sale of the subject Heirs' property. The Plaintiffs and Defendants in the matter are all Heirs of Charity Washington ("Heirs"), except for Guy Ackerman, Rehabilitation Consultants of Charleston, LLC, Donna Mitchell, and Curtis Mitchell. (emphasis added).

On April 12, 2021, Plaintiff, Christopher Hamilton ("Hamilton"), filed a Complaint (C/A No. 2021-CP-18-00210) which included a cause of action for the partition of a one (1) acre tract of land. (Complaint of Hamilton, ¶57-62, April 21, 2021). The Complaint stated that Millie

Washington (“Washington”)¹, an heir of Charity Washington, raised Isabel Mitchell², but never “legally adopted” her. (Complaint of Hamilton, ¶58, April 21, 2021). The Complaint further stated that Isabel Mitchell’s children, Donna Mitchell and Curtis Mitchell (“Respondents”) were entitled to the one (1) acre tract of land under “principles of equity” (emphasis added), based on the Mitchells living at the property for about sixty-four (64) years. (Complaint of Hamilton, ¶61, April 21, 2021).

Appellants filed an Answer denying that Respondents were entitled to the one (1) acre parcel. (Answer of Appellants ¶11, Aug. 17, 2021). Thereafter, an Amended Complaint was filed in which certain Defendants, identified as Heirs, were realigned as Plaintiffs; however, the second cause of action—seeking the partition of the one (1) acre tract of land under principles of equity (emphasis added) for the benefit of the Mitchells—remained unchanged. (Amended Complaint of Plaintiffs ¶55–60, June 15, 2022). Appellants denied that Respondents were entitled to ownership of any portion of the property under “any theory” (emphasis added). (Answer of Appellants ¶9, July 22, 2022).

On December 16, 2022, Respondents filed a cross-claim against the Appellants, asserting entitlement to the one (1) acre tract under theories of adverse possession, acquiescence and recognition and the South Carolina Marketable Title Act³. (Cross-Claim of Respondents, ¶7-16, December 16, 2022). Appellants answered the cross-claims and again denied that Respondents were entitled to the one (1) acre parcel under any theory. (Answer of Appellants, ¶3-12, January

¹ Millie Washington is an heir of Charity Washington.

² Isabel [Daisy Bell] Mitchell is the mother of Respondents Donna Mitchell and Curtis Mitchell, all of whom are not heirs of Chairty Washington.

³ While the Mitchells made a claim under what they referred to as the South Carolina Marketable Title Act, no such statute exists in South Carolina.

16, 2023). Additionally, Appellants asserted affirmative defenses of failure to state a claim, estoppel, laches, and waiver, and set off within their Answer. (Answer of Appellants, ¶13-19, January 16, 2023).

On August 22, 2025, the Special Referee issued an Order finding the Respondents were entitled to the one (1) acre tract of land⁴ under theories of acquiescence and adverse possession. (Order, P.7-12, August 22, 2025). Additionally, the Order referenced laches⁵.

On August 29, 2025, Appellants filed a Motion for Reconsideration. (Motion of Appellants, August 29, 2025). On October 22, 2025, Appellants filed a Memorandum in Support for Reconsideration in which they stated that Appellants did not acquiesce to Respondents' purported ownership of the property and had simply allowed Respondents to occupy their property honoring the longstanding generational permission granted by Washington and the additional heirs of Charity Washington. (Memorandum in Support of Appellants' Motion, October 22, 2025). Additionally, the Appellants stated that the Respondents, whose occupancy was permissible, did not have a claim for adverse possession as the hostility element was not satisfied. On December 2, 2025, the Special Referee entered an Order denying Appellants' Motion for Reconsideration.

⁴ In the Order issued by the Special Referee, the only description of the property being given to the Mitchells is the reference to an unapproved and unrecorded plat. There is no other description.

⁵ The Order referenced laches but only in reciting general principles of law (Order, P.7, August 22, 2025), laches was neither plead by Respondents nor relied upon as a basis for the ruling. Laches is an affirmative defense under Rule 8 (c), SCRCP, and must be specifically plead. In the event the Special Referee relied on Laches in concluding the Mitchells are entitled to any property that reliance is misplaced as Laches is only a defense and cannot be relied on to obtain affirmative relief.

FACTS

Appellants and other heirs allowed Respondents to reside on the at issue one (1) acre parcel. The parties were satisfied with the status quo for decades until Hamilton filed the Complaint asserting, among other claims, that the Respondents were equitably entitled ownership to a one (1) acre tract (emphasis added). Appellants expressly denied that the Mitchells are entitled to ownership under any theory (Appellants' Answer, ¶9, July 22, 2022). The Complaint and Amended Complaint did not allege any basis for relief other than "principals of equity" (emphasis added).

Because the Respondents' occupancy has always been permissive, ownership cannot be established under theories of adverse possession or acquiescence. Respondents lived on the property with Appellants' and the additional Heirs' knowledge and consent, which is fatal to any claim of adverse possession or acquiescence. (Tr. p. 62, l. 24–25; p. 63, l. 1–2; p. 65, l. 11–14).

Notably, Respondents asserted their claims only against Appellants. No claims were brought against any other heirs of Charity Washington. Because title to heirs' property is held collectively by the heirs of Charity Washington, any claim seeking to divest ownership must necessarily be asserted against all Heirs, not selectively against only some.

ARGUMENTS

I. THE TRIAL COURT ERRED IN FINDING THAT THE RESPONDENTS WERE ENTITLED TO THE ONE (1) ACRE TRACT OF LAND BY ADVERSE POSSESSION BECAUSE THEIR POSSESSION WAS PERMISSIVE, NOT HOSTILE.

"The party asserting adverse possession must show continuous, hostile, open, actual, notorious, and exclusive possession for a certain period of time." Taylor v. Heirs of William

Taylor, 419 S.C. 639, 649, 799 S.E.2d 919, 924 (Ct. App. 2017). “Because an adverse possession claim is an action at law, the character of the possession is a question for the jury or fact finder...” Butler v. Lindsay, 293 S.C. 466, 471, 361 S.E.2d 621, 624 (Ct. App. 1987).

“A party asserting ownership by adverse possession must show he [they] has [have] met the elements by clear and convincing evidence.” Taylor, 419 S.C. at 651, 799 S.E.2d at 924–25. “To show the possession was hostile, the adverse claimant is required to show only that his possession was actual, exclusive, open, notorious, and without the consent of the title owner.” (emphasis added) Id.; Knox v. Bogan, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App. 1996). “Where one enters the land under permission from the title holder, the possession can never ripen into an adverse title unless a clear and positive disclaimer of the title under which entry was made is brought home to the other party.” Young v. Nix, 286 S.C. 134, 136, 332 S.E.2d 773, 774 (Ct. App. 1985) (emphasis added).

Hamilton asserted that, under “principles of equity” (emphasis added), Respondents were entitled to the one-acre tract. (Complaint of Hamilton, ¶61, April 21, 2021). However, adverse possession, claimed by the Respondents, is not an equitable remedy—it is an action at law governed by strict legal elements that must be proven by clear and convincing evidence. Butler, 293 S.C. at 471, 361 S.E.2d at 624; Taylor, 419 S.C. at 651, 799 S.E.2d at 924–25. Title through adverse possession, a legal claim, cannot be awarded based upon equitable considerations, long occupancy, or perceived fairness. Instead, Respondents’ claim must rise or fall on whether they satisfy each required element of adverse possession as a matter of law.

The dispositive issue in this analysis is hostility. The record establishes that Respondents’ possession originated as permissive and always remained consensual (emphasis added). (Tr. P. 27,

L. 21–25; P. 28, L. 1–12; P. 35, L. 11–14). Under South Carolina law, such possession is presumed to remain permissive absent a clear and communicated repudiation of title. McDaniel v. Kendrick, 386 S.C. 437, 444, 688 S.E.2d 852, 856; Young, 286 S.C. at 136, 332 S.E.2d at 774. The record contains no evidence of any disclaimer.

The Order, without support in the record, incorrectly states, “...the [Respondents] mother took possession of Plaintiff’s property without the consent of the other heirs and that she [Respondents’ mother] and [Respondents] have been in possession without permission since 1963.” (Order, P.10, August 22, 2025). In fact, Respondents’ mother resided with permission on the Heirs’ property—not the Plaintiff’s property—and Respondents have continued to reside there pursuant to that same generational permission. Appellants, as some of the heirs of Charity Washington, were aware that Respondents were living on the property, observed their occupancy, and at no time objected or requested that they vacate, thereby continuing and affirming the generational permission. (Tr. P. 62, L. 16–25; P. 63, L. 1–2; P. 65, L. 11–14).

Possession cannot be hostile where it is exercised with the owner’s consent and without a claim of right contrary to the title holder. Knox, 322 S.C. at 70, 472 S.E.2d at 47. While Appellants knew that Respondents were residing on the property, that alone does not constitute notice of an adverse claim. Id.; (Tr. P. 34, L. 19).

The Special Referee’s Order correctly stated that hostility requires proof that Respondents entered without permission. (Order, P.10, August 22, 2025); Knox, 322 S.C. at 70, 472 S.E.2d at 47. While the Special Referee found that Respondents had been in possession “with permission since 1963,” he also found fifty years of hostile possession. (Order, P.10, August 22, 2025). These

findings are contradictory. Because Respondents' occupancy was always permissive, the Court erred in finding that the element of hostility was met.

II. THE TRIAL COURT ERRED IN FINDING THAT RESPONDENTS WERE ENTITLED TO THE ONE (1) ACRE TRACT UNDER A THEORY OF ACQUIESCENCE.

Nothing in the record reflects any intent by Respondents or their predecessors to divest the heirs of their ownership. Likewise, the record includes no evidence of acquiescence. Kirkland v. Gross, 286 S.C. 193, 197, 332 S.E.2d 546, 548-49 (Ct. App. 1985). The record establishes that the parties consistently treated Respondents' occupancy as permissive.

Respondents admitted that no one ever told them they owned the property. Appellants testified that Respondents were permitted to remain on the property, and may continuously remain, but were not owners. (Tr. P. 35, L. 11-14). These facts are inconsistent with any finding that Appellants relinquished ownership or that both parties recognized Respondents as owners. Id. Accordingly, the record does not establish acquiescence under South Carolina law. Any finding based on acquiescence was contrary to the record.

CONCLUSION

Because the record establishes that Respondents' occupancy of the property was permissive, the Court's prior order should be reversed.

Respectfully submitted,

THE LAW OFFICES OF CHARLES S. ALTMAN, LLC

/s/ Charles S. Altman

Charles S. Altman (SC Bar No: 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar No: 106905)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, SC 29403

Tel: 843-853-9907

March 6, 2026

Jun 01 2026**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Benjamin C. P. Sapp, Special Referee

Appellate Case No: 2025-002580

Common Pleas Case No: 2021-CP-15-00210

Rehabilitation Consultants of Charleston, LLC., William Arnold Kellman, Priscilla Judge, Rhonda B. Winfield, Samuel Cox, Jr., Jimmy Cox, Lavorge Cox, Deshawn Rambert-Cox, Vanessa Cox a/Wa Vanessa Cox-Rickenbacker, Toni Cox a/k/a Tonya Piercy, Felicia Cox, Andrew Walker, Selena Walker, individually and as Personal Representative of the Estate of Earl Walker, Sonya Teresa White, Raymond Walker, Ardelia Stokes a/k/a Della Stokes, Leroy Smalls, Jr. a/Wa Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Micah Frasier, Zelemenia Walker a/k/a Sellemenia Walker, Terrance Walker, George Walker, Jr., Cherise Walker Turner, Naomi Walker, Richard Cox, Richard Wilton Washington a/k/a Weldon Washington, Donna Mitchell and Curtis Mitchell, if they be alive, and John Doe and Jane Doe, whose true names are unknown and fictitious names designating the unknown heirs, devisees, distributees, issue, executors, administrators, successors, or assigns of the above-named Defendants, if they or any of them be dead, and of Charity Washington, Centrilla Washington, Andrew Washington, Priscilla Washington, a/k/a Persella Washington, Oscar Washington, Gertie Washington, Margaret Kellman, Horace Heyward, Delores Washington a/Wa Delores Williams, Johnny Washington a/Wa Johnnie Washington, Ruthie Mae Washington, Eugene Washington a/k/a Sam Washington, Geneva Washington, Maybel Walker a/k/a Maybelle Washington, Lilla Mae a/k/a Lucille Cox Smalls, Leroy Smalls, Stanley Smalls a/k/a Ronnie Smalls, Willie Hayden Smalls, George Walker, Samuel Cox, Lucille Chisolm a/k/a Loucille Chisolm, Earl Walker, Pearl Hamilton, James Hamilton, Joseph Hamilton, Elise Simmons, James Washington, Victoria Johnson Green, David Washington, Sr., Carrier Washington a/k/a Carrie Washington Williams, Carrie Washington Lee, Joseph Lee, Norris Lee, Israel Washington, David Washington, Golden Washington, Minnie Brantley Johnson a/k/a Minnie Brantley, Mabel Simmons, William Washington a/k/a Billy Washington, Millie Washington, Phoebe Ann Washington, and Margaret Rovenia Kellman, all deceased; and Mary Roe and Richard Roe, whose true names are unknown and fictitious names designation infants, persons under disability, incompetents, imprisoned, or those persons in the military, if any; South Carolina Department of Revenue, and also all other persons, known or whose true names are unknown, claiming any right, title, interest in, or lien upon the real estate described in the Complaint herein, Defendants.

of which Donna Mitchell and Curtis Mitchell are the Respondents.

vs.

Christopher Hamilton, Cleo Hamilton, Janie Nelson a/k/a Jannie Nelson, Juanita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, David Washington, Jr., Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri, Arthur Lee, Miranda Clark a/k/a Aranda Clark, Catherine Dent, Joseph Holmes, Gwendolyn Miller, Jan Elizabeth Burton, Brenda Brown, and Guy Ackerman, Plaintiffs,

of whom Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, Cherise Walker Turner are the Appellants.

INITIAL BRIEF OF RESPONDENTS

OBERMAN & OBERMAN, LLC

s/Harold A. Oberman
SC Bar No. 15254
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843)577-7010
Obermanlaw@bellsouth.net

BRUSH LAW FIRM

s/Thomas H. Brush
SC Bar No. 974
s/J. Christopher Lanning
SC Bar No. 73957
12 Carriage Lane
Charleston, SC 29407
(843)766-5576
Tommy@Brushlawfirm.com
Clanning@brushlawfirm.com

June 1, 2026

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STATEMENT OF ISSUES ON APPEAL

- I. DID THE TRIAL COURT ERR IN FINDING THAT THE MITCHELLS ACQUIRED THEIR ONE ACRE TRACT BY ADVERSE POSSESSION WHERE THERE IS AMPLE EVIDENCE IN THE RECORD TO SUPPORT THE FACTUAL FINDING THAT THEIR POSSESSION WAS NOT PERMISSIVE?
- II. DID THE TRIAL COURT ERR IN FINDING THAT THE MITCHELLS ACQUIRED THEIR ONE ACRE TRACT BY ACQUIESCENCE WHERE THERE IS AMPLE EVIDENCE IN THE RECORD TO SUPPORT THIS THEORY?

STATEMENT OF THE CASE

A concise history of these proceedings, necessary for an understanding of this appeal, is set forth below.

A complaint was originally filed on April 12, 2021, and an Amended Complaint filed on June 15, 2022, which in part of a larger action, sought a partition of a one acre parcel for the benefit of Donna Mitchell and Curtis Mitchell. Appellants denied that the Mitchells were entitled to this one acre parcel.

Thereafter, Donna and Curtis Mitchell, on December 16, 2022, cross-claimed against the Appellants on, among other things, the theories of adverse possession and acquiescence. Appellants again denied the Mitchells were entitled to the one acre parcel by an answer filed January 16, 2023. A hearing was held before a special referee on this issue on May 25, 2023.

On August 22, 2025, the Special Referee issued an Order finding the Respondents were entitled to the one (1) acre tract of land under theories of acquiescence and adverse possession. On August 29, 2025, Appellants filed a Motion for Reconsideration. On December 2, 2025, the Special Referee entered an Order denying Appellants' Motion for Reconsideration.

On December 22, 2025, the Appellants served their Notice of Appeal, appealing the Orders

of August 22, 2025, and December 2, 2025.

STANDARD OF REVIEW

An adverse possession claim is an action at law. Miller v. Leaird, 307 S.C. 56, 61, 413 S.E.2d 841, 843 (1992). In an action at law tried without a jury, this court will not disturb the trial court's findings unless they are wholly unsupported by the record or controlled by an error of law. Coakley v. Horace Mann Ins. Co., 376 S.C. 2, 6, 656 S.E.2d 17, 19 (2007).

In an action at law tried before a master [special referee], the appellate court "will affirm the master's factual findings if there is any evidence in the record which reasonably supports them." Estate of Tenney v. S.C. Dep't of Health & Envtl. Control, 393 S.C. 100, 105, 712 S.E.2d 395, 397 (2011) (quoting Query v. Burgess, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006)).

FACTS

The Respondents Donna Mitchell and Curtis Mitchell (The Mitchells) have lived on a one acre tract of land (Mitchells' Exhibit 1 to hearing of 5/25/23) their entire lives. Donna Mitchell was born in 1964 and Curtis Mitchell was born in 1955 (Transcript of May 25, 2023, Hearing, p.20 line 6 - p.23 line 11).

In 1953, Millie Washington built the original house on that tract and raised the Mitchells' mother in that house. The Mitchells' mother raised Donna and Curtis in that house. Upon the death of their mother in 1996, the Mitchells have continued to reside and occupy the property as their residence (Transcript p.20 line 6-p.23 line 11). Noone else has resided on that tract.

The Mitchells have paid the property taxes on the one acre tract every year (Transcript p.24 lines 8-10). They have maintained and remodeled the original residence (Transcript p.25 lines 16-25,

p.31 line 22 - p.32 line 23). They have added an additional structure for Curtis Mitchell to live (Transcript p.20 line 6-p.21 line 13).

The Mitchells have lived on the property for over 60 years and as adults for over 50 years. Since 1953, nobody took any action to stop or remove the Mitchells from the property. This evidence was uncontested and overwhelming. The Mitchells cultivated and maintained this one acre tract (Transcript p.34 line 22-p.35 line 5).

There is overwhelming evidence that the Mitchells' possession was not permissive. Donna Mitchell states directly and succinctly "It wasn't permission." (Transcript p. 27, line 8) Other heirs upon seeing her keeping the property clean and trees cut would attack her and tell her this was not her property (Transcript p.34, line 19; p. 35, line 5). She continued to clean the property her entire life (Transcript p. 35, lines 2-5).

Felicia Cox, Appellants' own witness, doesn't know of anyone who gave the Mitchells permission (Transcript p. 63, lines 8-15) and she doesn't know if they had permission (Transcript p. 63, lines 14-18). She states directly, in reference to the Mitchells improving the one acre tract, "They never had permission for it." (Transcript p. 64, lines 4-6)

Appellants' other witness, Gwendolyn Bright testifies similarly. She didn't give the Mitchells permission to be there (Transcript page 68, lines 5-6). There is no evidence of anyone granting the Mitchells or their predecessors a permissive use.

ARGUMENTS

- I. THE TRIAL COURT DID NOT ERR IN FINDING THAT THE MITCHELLS ACQUIRED THEIR ONE ACRE TRACT BY ADVERSE POSSESSION AS THERE IS EVIDENCE IN THE RECORD THAT THEIR POSSESSION WAS NOT PERMISSIVE.**

Appellants' sole basis for urging the reversal of the lower court is its factual finding of hostile non-permissive use. Without contradiction, the trial court found:

The testimony does not show that any previous owner of the property gave them permission to be on the property. But upon the death of an heir of Charity Washington, the Mitchells' mother took possession of Plaintiffs' property without the consent of the other heirs and that she and Donna Mitchell and Curtis Mitchell have been in possession without permission since 1963. (8/22/25 Order, p.10)

The Appellants seem to have misread this portion of the trial judge's order (Appellants' Initial Brief pp. 6-7, last paragraph). For the Mitchells to demonstrate that their possession of the Plaintiffs' property was hostile, they must prove that they entered the property without the Plaintiffs' or the previous owners' permission. See Knox v. Bogan, 322 S.C. 64, 472 S.E.2d 43 (Ct. App. 1996), All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of S.C., 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004) and McDaniel v. Kendrick, 386 S.C. 437, 688 S.E.2d 852 (S.C. Ct. App. 2009). In order for the Mitchells' possession to be hostile, it must be without the consent of the title owner. See Knox.

As set forth in the facts above, there is clear and convincing evidence of hostile possession without permission. "It wasn't permission." (Transcript p. 27, line 8). Other heirs would attack Donna Mitchell for cutting the trees and cleaning the property (Transcript p. 34, line 19; p. 35, line 5). Any conclusory statement cited by Appellants in support of permissive use is then directly contradicted by their own witnesses. "They never had permission for it.", says Felicia Cox (Transcript p. 64, lines 4-6, emphasis added) She knows of no one who gave the Mitchells permission and doesn't know if they had permission (Transcript p. 63, lines 8-15; p. 63, lines 14-18). Gwendolyn Bright didn't give the Mitchells permission to be there (Transcript p. 68, lines 5-6).

There is no testimony that the Mitchells' possession originated as permissive or ever became permissive.

There is overwhelming clear and convincing evidence to support this factual finding by the trial judge. Therefore the trial judge must be affirmed.

II. THE TRIAL JUDGE DID NOT ERR IN FINDING THAT THE MITCHELLS ACQUIRED THEIR ONE ACRE TRACT BY ACQUIESCENCE.

Again, Appellants only rely on alleged permissive use to undermine the Mitchells' ownership of the property through acquiescence. Acquiescence, however, does not require hostility.

The South Carolina Court of Appeals recently restated acquiescence applies to non-boundary disputes in Griffin v. Giovino, 446 S.C. 553, 920 S.E. 2d 418 (Ct. App. 2025):

Acquiescence is a question of fact determined by the intent of the parties. Kirkland v. Gross 286 S.C. 193, 332 S.E.2d 546, 549 (Ct. App. 1985) receded from on other grounds by Boyd v. Hyatt, 294 S.C. 360, 364 S. E.2d 478 (Ct. App. 1988).

If a party stands by, and sees another dealing with the property in a manner inconsistent with his rights, and makes no objection, he cannot afterwards have relief. His silence permits and encourages others to part with their money or property, and he cannot complain that his interest(s) are affected. His silence is acquiescence and it estopps him.

Griffin at 569-570.

In Griffin, the fact that Griffon and his uncle were allowed to exclusively use a roof terrace for thirty-six years provided enough evidence for an acquiescence cause of action. Here, the facts mirror the facts in Griffin.

In order for the Mitchells to establish title by acquiescence they must prove that the other Defendants stood by, saw the Mitchells dealing with the property in a manner inconsistent with their rights, and made no objection. The evidence is clear from the testimony of Johnny Smalls, Felicia

Cox and Gwendolyn Bright that they allowed the Mitchells to live and maintain the property for more than fifty (50) years and took no action to stop the Mitchells or claim an interest until this litigation was filed. Their silence permitted and encouraged the Mitchells to part with their money and pay taxes (Transcript p. 24 lines 8-10) and improve the property (Transcript p. 25 lines 16-25, p.31 line 22-p.32 line 23). As a result, they cannot complain that their interests are affected because, over the last fifty (50) years, they acted as if they had no interest. The Defendants neglected for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Jones v. Leagan, 384 S.C. 1, 384 S.E.2d 6 (Ct. App. 2009) quoting Hallums v. Hallums, 296 S.C. 195, 378 S.E.2d 525 (1998). They have failed to assert a known right under circumstances indicating they abandoned or surrender the right. The Mitchells have gained title through the acquiescence of all of the Plaintiffs and Defendants in this case.

The issue of permissive use is discussed extensively elsewhere in this brief if applicable.

CONCLUSION

Because there is ample evidence to support the factual finding that the Mitchells' occupancy of the property was not permissive, the trial court's order must be affirmed.

Respectfully submitted,

OBERMAN & OBERMAN, LLC

s/Harold A. Oberman
SC Bar No. 15254
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843)577-7010
Obermanlaw@bellsouth.net

BRUSH LAW FIRM

s/Thomas H. Brush
SC Bar No. 974
s/J. Christopher Lanning
SC Bar No. 73957
12 Carriage Lane
Charleston, SC 29407
(843)766-5576
Tommy@Brushlawfirm.com
Clanning@brushlawfirm.com

June 1, 2026

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Jun 10 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Civil Action No. 2021-CP-15-00210
Appellate Case No. 2025-002580

Christopher Hamilton, Cleo Hamilton, Janie Nelson a/k/a Jannie Nelson, Juanita Williams, Elvira Memminger, Clarence Washington, Delinda W. Dawson, David Washington, Jr., Elizabeth Ann Lee a/k/a Elizabeth Ann Cherri, Arthur Lee, Miranda Clark a/k/a Aranda Clark, Catherine Dent, Joseph Holmes, Gwendolyn Miller, Jan Elizabeth Burton, Brenda Brown, and Guy Ackerman, Plaintiffs, v. Rehabilitation Consultants of Charleston, LLC., William Arnold Kellman, Priscilla Judge, Rhonda B. Winfield, Samuel Cox, Jr., Jimmy Cox, Lavorge Cox, Deshawn Rambert-Cox, Vanessa Cox a/k/a Vanessa Cox-Rickenbacker, Toni Cox a/k/a Tonya Piercy, Felicia Cox, Andrew Walker, Selena Walker, individually and as Personal Representative of the Estate of Earl Walker, Sonya Teresa White, Raymond Walker, Ardelia Stokes a/k/a Della Stokes, Leroy Smalls, Jr. a/k/a Leroy H. Smalls, Gwendolyn Bright, Elizabeth Sawyer, Johnny J. Smalls, Micah Frasier, Zelemenia Walker a/k/a Sellemenia Walker, Terrance Walker, George Walker, Jr., Cherise Walker Turner, Naomi Walker, Richard Cox, Richard Wilton Washington a/k/a Weldon Washington, Donna Mitchell and Curtis Mitchell, if they be alive, and John Doe and Jane Doe, whose true names are unknown and fictitious names designating the unknown heirs, devisees, distributees, issue, executors, administrators, successors, or assigns of the above-named Defendants, if they or any of them be dead, and of Charity Washington, Centrilla Washington, Andrew Washington, Priscilla Washington, a/k/a Persella Washington, Oscar Washington, Gertie Washington, Margaret Kellman, Horace Heyward, Delores Washington a/k/a Delores Williams, Johnny Washington a/k/a Johnnie Washington, Ruthie Mae Washington, Eugene Washington a/k/a Sam Washington, Geneva Washington, Maybel Walker a/k/a Maybelle Washington, Lilla Mae a/k/a Lucille Cox Smalls, Leroy Smalls, Stanley Smalls a/k/a Ronnie Smalls, Willie Hayden Smalls, George Walker, Samuel Cox, Lucille Chisolm a/k/a Loucille Chisolm, Earl Walker, Pearl Hamilton, James Hamilton, Joseph Hamilton, Elise Simmons, James Washington, Victoria Johnson Green, David Washington, Sr., Carrier Washington a/k/a Carrie Washington Williams, Carrie Washington Lee, Joseph Lee, Norris Lee, Israel Washington, David Washington, Golden Washington, Minnie Brantley Johnson

a/k/a Minnie Brantley, Mabel Simmons, William Washington a/k/a Billy Washington, Millie Washington, Phoebe Ann Washington, and Margaret Rovenka Kellman, all deceased; and Mary Roe and Richard Roe, whose true names are unknown and fictitious names designation infants, persons under disability, incompetents, imprisoned, or those persons in the military, if any; South Carolina Department of Revenue, and also all other persons, known or whose true names are unknown, claiming any right, title, interest in, or lien upon the real estate described in the Complaint herein, Defendants.

of which Gwendolyn Bright, Felicia Cox, Micah Frasier, Elizabeth Sawyer, Donald R. Smalls, Johnny J. Smalls, Leroy Smalls, Ralph B. Smalls, Cherise Walker Turner are the Appellants,

and

Donna Mitchell and Curtis Mitchell are the Respondents.

APPELLANTS' REPLY

LAW OFFICES OF CHARLES S. ALTMAN, LLC

/s/ Charles S. Altman

Charles S. Altman (SC Bar No. 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar No. 106905)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, SC 29403

T: (843) 853-9907

F: (843) 722-5702

Attorneys for Appellants

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STATEMENT OF ISSUES ON APPEAL

- I. THE TRIAL COURT ERRED IN FINDING THAT THE RESPONDENTS ACQUIRED OWNERSHIP BY ADVERSE POSSESSION BECAUSE THEIR POSSESSION WAS PERMISSIVE, NOT HOSTILE.
- II. THE TRIAL COURT ERRED IN FINDING THAT RESPONDENTS ACQUIRED OWNERSHIP OF THE PARCEL UNDER A THEORY OF ACQUIESCENCE.

ARGUMENTS IN RESPONSE TO RESPONDENTS' INITIAL BRIEF

This matter is subject to the Clementa C. Pinckney Uniform Partition of Heirs Property Act, S.C. Code § 15-61-310 *et seq.*, involving the partition and potential sale of the subject heirs' property.

- I. **THE TRIAL COURT ERRED IN FINDING THAT THE RESPONDENTS WERE ENTITLED TO THE ONE (1) ACRE TRACT OF LAND BY ADVERSE POSSESSION BECAUSE THEIR POSSESSION WAS PERMISSIVE, NOT HOSTILE.**

Respondents lose sight of the strict requirements of adverse possession. As discussed in Appellants' Initial Brief, "[t]he party asserting adverse possession must show continuous, hostile, open, actual, notorious, and exclusive possession for a certain period of time," and must establish those elements by clear and convincing evidence. Taylor v. Heirs of William Taylor, 419 S.C. 639, 649; 651, 799 S.E.2d 919, 924–25 (Ct. App. 2017). The dispositive issue here is hostility.

As the record reflects, Donna Mitchell and Curtis Mitchell are not Heirs of Charity Washington, also admitted by Donna Mitchell, when she testified at the May 25, 2023 hearing ("Hearing") that **Respondents are not blood relatives of Charity Washington**. (Tr. p. 33, lines 9-10, emphasis added).

Additionally, during the Hearing, Donna Mitchell testified that Respondents' mother, Daisy Bell Mitchell was taken in by Millie Washington, who was an Heir of Charity Washington (Tr. p.

22, lines 4-7). Daisy Bell Mitchell then had two children, Donna Mitchell and Curtis Mitchell, and continued to live with Mille Washington. When Daisy Bell Mitchell passed away, and as Appellants testified, they permitted Respondents to continue to live on the property (Tr. p. 62, lines 24-25; p. 63, lines 1-2). Because the Mitchells' mother entered and remained with permission, and because the Heirs of Charity Washington continued that permission, Respondents cannot establish hostile possession. *See Knox v. Bogan*, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App.1996) (recognizing that hostile possession requires occupancy without the owner's permission).

Moreover, possession that begins permissively is presumed to remain permissive absent a clear and communicated repudiation of the owner's title. *McDaniel v. Kendrick*, 386 S.C. 437, 444, 688 S.E.2d 852, 856 (2010); *Young v. Young*, 286 S.C. 134, 136, 332 S.E.2d 773, 774 (Ct. App. 1985). The record contains no evidence of any such repudiation.

Respondents rely heavily on Donna Mitchell's statement that "it wasn't permission," but that phrase is taken out of context. During the Hearing, Donna Mitchell was asked and answered the following:

Q: You've lived there with permission from Aunt Millie, the person you referred to as Aunt Millie and your mother all lived there with permission, didn't you?

A: I don't think it was permission. I was born into that. It wasn't permission. At the time, when my mom was raised by Millie, it was like handshakes and thank you, because back in those days, those people could not read nor write. So I was born into that. (Tr. p. 27, ll. 8–11).

When read in its entirety, the testimony describes an informal arrangement based on "handshakes and thank you" – evidence of permission, not hostility. Respondents cannot establish adverse possession by isolating a single phrase while disregarding the remainder of the testimony.

Respondents likewise mischaracterize the testimony of Appellant Felicia Cox, an Heir of Charity Washington. Although Respondents contend Felicia Bright did not know of anyone who gave the Mitchells permission, Felicia Cox was asked and answered the following:

Q: ...But to your knowledge, they were living there with permission of the family?

A: To my knowledge, yes. (Tr. p. 65, ll. 11–14).

Similarly, Appellant Gwendolyn Bright, an Heir of Charity Washington, acknowledged that the family allowed Respondents to remain on the property, and was asked and answered the following:

Q: So they have been there all their lives, and you just **let them** stay?

A: Yes. (Tr. p. 68, lines 10-12, emphasis added).

This testimony directly contradicts the trial court's finding that Respondents and their mother had been in possession "without permission since 1963." (Order, p. 10, Aug. 22, 2025). As Gwendolyn Bright testified that she "let" the Respondents stay, further indicating that the Respondents were living on the one-acre tract with Appellants' permission, and with the permission of the additional Heirs of Charity Washington.

The Heirs of Charity Washington, who have now sold their interest in the land, are the title owners, and the **Respondents, as they admitted, are not heirs.** (Tr. p. 33, lines 9-10, emphasis added). The record reflects that Respondents' mother resided on the property with permission and that Respondents continued residing there pursuant to that same generational permission. Appellants and the additional Heirs of Charity Washington, were aware of Respondents' occupancy, observed them living on the property, allowed them to remain, and never asked them to leave. (Tr. p. 62, ll. 16–25; p. 63, ll. 1–2; p. 65, ll. 11–14).

Respondents also rely on testimony that "[t]hey never had permission for it." Again, the statement is taken out of context. Appellant, Felicia Cox was asked and answered the following:

Q: Did you go over and tell them to quit improving the property?

A: They never had permission for it.

Thus, the testimony addresses improvements to the property only. Appellants have consistently stated that they have continued the generational permission for Respondents to live on the one-acre tract.

Accordingly, Respondents failed to prove hostility by clear and convincing evidence. The evidence shows that Respondents' occupancy originated with permission, and the record contains no evidence that permission was ever repudiated. Because Respondents failed to establish the hostility element, the record does not support a finding of adverse possession.

II. THE TRIAL COURT ERRED IN FINDING THAT THE RESPONDENTS ACQUIRED THE ONE ACRE TRACT OF LAND BY ACQUIESCENCE.

Respondents contend that Appellants rely on permissive use to defeat ownership by acquiescence and argue that acquiescence does not require hostility. (Respondents' Initial Brief, p. 5, June 1, 2026). This misstates Appellants' position. Appellants do not argue that acquiescence fails for lack of hostility; rather, the longstanding permission granted by the Heirs of Charity Washington demonstrates that Appellants never acquiesced in Respondents' ownership of the one-acre tract but simply allowed Respondents to reside on the one-acre tract.

Nor does the record establish acquiescence. Kirkland v. Gross, 286 S.C. 193, 197, 332 S.E.2d 546, 548–49 (Ct. App. 1985). Respondents admitted that **no one has ever told them they owned the property**, (Tr. p. 35, lines 11-14, emphasis added) and Appellants testified that

Respondents were permitted to remain on the property but were not owners. *Id.*; (Tr. p. 35, ll. 11–14).

Likewise, Respondents' payment of a portion of the taxes does not establish ownership where an heir brought them the amount to pay, making the arrangement more akin to rent than ownership. (Tr. p. 24, lines 8-17; p. 29, lines 3-15). The record reflects that Respondents, like their mother, Daisy Bell Mithcell, lived on the one-acre tract with permission – no facts state otherwise.

Accordingly, the record contains no evidence that Appellants relinquished ownership or mutually recognized Respondents as owners. Instead, the evidence shows only permissive occupancy. Therefore, Respondents failed to prove acquiescence.

CONCLUSION

Accordingly, the record supports neither adverse possession nor acquiescence. The evidence shows only that Respondents occupied the property pursuant to generational permission. Because Respondents failed to establish the required elements of either claim, the trial court's Order should be reversed.

Respectfully submitted,

THE LAW OFFICES OF CHARLES S. ALTMAN, LLC

/s/ Natalia Flores

Charles S. Altman (SC Bar No: 351)

caltman@caltmanlaw.com

Natalia Flores (SC Bar No: 106905)

nflores@caltmanlaw.com

575 King Street, Suite A

Charleston, SC 29403

Tel:843-853-9907

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