

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

TAKE NO PRISONERS, LLC,

Plaintiff,

-vs-

FRANK SIMMONS,
ESTATE OF FRANK SIMMONS,
PHOBIE SIMMONS,
ESTATE OF PHOBIE SIMMONS,
PHOEBY SIMMONS,
ESTATE OF PHOEBY SIMMONS,
F. SIMMONS,
ESTATE OF F. SIMMONS,
R. SIMMONS,
ESTATE OF R. SIMMONS,
PAUL SANDERS,
ESTATE OF PAUL SANDERS,
E.L. LEMACKS,
ESTATE OF E.L. LEMACKS,
SANDERS & LEMACKS,
LOTTIE FIELD,
ESTATE OF LOTTIE FIELD,
CALVIN SIMMONS,
ESTATE OF CALVIN SIMMONS,
LAVENIA TOBIAS
ESTATE OF LAVENIA TOBIAS,
LEVINIA TOBIAS,
ESTATE OF LEVINIA TOBIAS,
ALFRED CALLOWAY, SR.,
ESTATE OF ALFRED CALLOWAY, SR.,
MARY MALLET,
ESTATE OF MARY MALLET,
DORIS S. CALLOWAY,
ALFRED CALLOWAY, JR.,
ALEXIS M. CALLOWAY,
DONTÉ CALLOWAY,
JOHN H. WASHINGTON,
John Doe and Jane Doe, whose true names
are unknown and fictitious names
designating unknown owners, heirs,
devisees, distributees, issue, executors,

IN THE COURT OF COMMON PLEAS

CASE NUMBER: 2025-CP-15-00408

SPECIAL REFEREE'S ORDER

RECEIVED

Oct 20 2026

SC Court of Appeals

administrators, successors, or assigns of the)
 above named defendants, if they or any of)
 them be dead, and all persons claiming any)
 right, title or interest in the real estate)
 described as TMS#248-00-00-019,)
 TMS# 248-00-00-020, TMS# 248-00-00-021)
 TMS# 248-00-00-022, TMS# 248-00-00-023)
 Mary Roe and Richard Roe, whose true)
 names are unknown and fictitious names)
 designating infants, persons under disability,)
 or incompetent, if any, including those)
 persons whom might be in the Military)
 Service within the meaning of Title 50,)
 United States Code, commonly referred to)
 as the Soldiers and Sailors Relief Act of)
 1940; 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,)
)
)

THIS MATTER came before me on May 13, 2026 pursuant to the Order of Reference filed with the Court on December 2, 2025 for a final hearing on Plaintiff's Complaint for an Action to Quiet Title, Easement by Necessity, Easement Implied by Prior Use and Prescriptive Easement regarding three tracts of land located in Colleton County. Present and participating at the hearing were Darren Thompson, on behalf of the Plaintiff, along with his counsel, Benjamin C.P. Sapp, and Defendant Alexis Calloway. At the outset of the hearing, the Plaintiff dismissed its Second Cause of Action (Easement by Necessity), Third Cause of Action (Easement Implied by Prior Use), and Fourth Cause of Action (Prescriptive Easement). Accordingly, Plaintiff's remaining cause of action for adjudication was Plaintiff's First Cause of Action for Action to Quiet Title. For the reasons herein, the court **GRANTS** the relief sought by Plaintiff.

PROPERTY BACKGROUND

The real property which is the subject of this lawsuit is more fully described as follows:

All that certain piece, parcel or lot of land, situate, lying and being near Walterboro, South Carolina, containing four (4) acres, more or less, and being bounded as follows: on the Northeast by lands, now or formerly, of W. Gene Whetsell and Gerard Paladis; on the Northwest lands, now or formerly, of the Estate of Lottie Field; on the Southeast by Ashepoo River; and on the Southwest by lands, now or formerly, or the Estate of Mary Mallett.

TMS#: 248-00-00-021

The said tract is hereinafter referred to as "Parcel One".

Also

All that certain piece, parcel or lot of land, situate, lying and being near Walterboro, South Carolina, containing four (4) acres, more or less, and being bounded as follows: on the Northeast by lands, now or formerly, of W. Gene Whetsell and Gerard Paladis; on the Northwest by lands, now or formerly, of the Estate of Calvin Simmons; on the Southeast by Ashepoo River; and on the Southwest by lands, now or formerly, of the Estate of Phobie Simmons.

TMS#: 248-00-00-022

The said tract is hereinafter referred to as "Parcel Two".

Also

All that certain piece, parcel or lot of land, situate, lying and being near Jacksonboro, South Carolina, containing four (4) acres, more or less, and being bounded as follows: on the Northeast by lands, now or formerly, of W. Gene Whetsell and Gerald Paradis; on the Northeast by lands, now or formerly, of Tobias James; on the Southwest by Ashepoo River; and on the Northwest by lands, now or formerly, of the Estate of Lottie Field.

TMS#: 248-00-00-023

The said tract is hereinafter referred to as "Parcel Three".

The three tracts are hereinafter referred to collectively as the "Property".

PROCEDURAL BACKGROUND

The record reflects Plaintiff filed a Summons and Complaint on April 3, 2025. An Answer was filed by Pamela Washington Reese on behalf of the Defendant John H. Washington on May 21, 2025. An Answer of Defendants Calloway (Doris S. Calloway, Alfred Calloway, Jr., Alexis M. Calloway, and Donte Calloway) was filed on June 11, 2025.

A Petition for Publication was filed on May 23, 2025 and the Order for Publication was signed by the Clerk of Court and filed on May 27, 2025. The Summons was published in The Press and Standard on June 12, 2025, June 19, 2025 and June 26, 2025 as reflected by an Affidavit of Publication filed on July 18, 2025. A Petition for Guardian ad Litem was filed on July 28, 2025, and the Order Appointing Guardian ad Litem was signed by the Clerk of Court and filed on July 29, 2026.

The record further reflects the Defendant Alexis Calloway filed a Motion to Amend Answer and Counterclaim on February 24, 2026. Plaintiff filed a Response in Opposition to Defendant's Motion to Amend Answer and Counterclaim on March 18, 2026. Defendant Alexis M. Calloway filed a Motion to recuse Special Referee, to vacate or modify Order of Reference, to prohibit future hearings in private office, to require all future hearings to be held in the Courthouse and on the record and for related relief, a Memorandum of Law in Support and a Declaration of Alexis Calloway on April 9, 2026. A hearing was held on Defendant Alexis Calloway's motions on May 6, 2026, and an order was issued by the Honorable Jocelyn Newman on May 7, 2026 denying the relief sought.

An Answer of Guardian ad Litem was filed on May 9, 2026.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the pleadings, the record, the evidence offered by Plaintiff in the form of tax sale documents, and having taken the testimony of the parties present at the hearing, I make the following findings of fact and conclusions of law.

1. The Court has both personal and subject matter jurisdiction, and venue is proper in Colleton County, South Carolina
2. Phobie Simmons neglected to pay the real property taxes duly levied and assessed against Parcel One by the County of Colleton which is legally authorized to assess real property taxes against the said Property.
3. The Delinquent Tax Collector for Colleton County sent a copy of the tax execution to the Defendant, Phobie Simmons (Estate) c/o John H. Washington, on March 17, 2016 and further sent on April 12, 2016 a delinquent tax notice and on June 7, 2016, via certified mail, a notice of delinquent taxes, assessments, penalties and costs to Defendant, Phobie Simmons (Estate) c/o John H. Washington, which notice was not received by the Defendant.
4. Parcel One was not posted by the delinquent tax collector as he could not access the property.
5. At the public auction sales day on December 8, 2016, during the usual hours of sale, the Delinquent Tax Collector for Colleton County, after due advertisement, did sell Parcel One to the Plaintiff, which was the highest bidder at such sale, for the sum of One Thousand Sixty-four and 71/100 (\$1,064.71) Dollars.



6. On November 11, 2017, the Delinquent Tax Collector for Colleton County sent via certified mail a final notice before redemption to the Defendant, Phobie Simmons (Estate) c/o John H. Washington, such notice being unclaimed by Defendant.
7. No one redeemed the Parcel One during the twelve (12) month redemption period as provided in Section 12-51-90, Code of Laws of South Carolina, 1976, as amended.
8. The aforementioned execution and sale of Parcel One was proper in that it complied with Sections 12-49-10 through 300 and 12-51-10 through 170, Code of Laws of South Carolina, 1976, as amended, in all material respects.
9. The Delinquent Tax Collector for Colleton County conveyed Parcel One to the Plaintiff by Tax Deed dated July 27, 2018 and recorded August 3, 2018 in the Colleton County Register of Deeds Office in Book 2664 at Page 224.
10. Lottie Field (Estate) neglected to pay the real property taxes duly levied and assessed against Parcel Two by the County of Colleton which is legally authorized to assess real property taxes against the said Property.
11. The Delinquent Tax Collector for Colleton County sent a copy of the tax execution to the Defendant, Lottie Field (Estate) c/o John H. Washington, on March 17, 2016 and further sent on April 12, 2016 a delinquent tax notice and on June 7, 2016, via certified mail, a notice of delinquent taxes, assessments, penalties and costs to Defendant, Lottie Field (Estate) c/o John H. Washington, which notice was not received by the Defendant.
12. Parcel Two was not posted by the delinquent tax collector as he could not access the property.
13. At the public auction sales day on December 8, 2016, during the usual hours of sale, the Delinquent Tax Collector for Colleton County, after due advertisement, did sell Parcel Two



to the Plaintiff, which was the highest bidder at such sale, for the sum of Three Thousand and 00/100 (\$3,000.00) Dollars.

14. On November 11, 2017, the Delinquent Tax Collector for Colleton County sent via certified mail a final notice before redemption to the Defendant, Lottie Field (Estate) c/o John H. Washington, such notice being unclaimed by Defendant.
15. No one redeemed the Parcel Two during the twelve (12) month redemption period as provided in Section 12-51-90, Code of Laws of South Carolina, 1976, as amended.
16. The aforementioned execution and sale of Parcel Two was proper in that it complied with Sections 12-49-10 through 300 and 12-51-10 through 170, Code of Laws of South Carolina, 1976, as amended, in all material respects.
17. The Delinquent Tax Collector for Colleton County conveyed Parcel Two to the Plaintiff by Tax Deed dated July 27, 2018 and recorded August 3, 2018 in the Colleton County Register of Deeds Office in Book 2664 at Page 229.
18. Calvin Simmons neglected to pay the real property taxes duly levied and assessed against Parcel Three by the County of Colleton which is legally authorized to assess real property taxes against the said Property.
19. The Delinquent Tax Collector for Colleton County sent a copy of the tax execution to the Defendant, Calvin Simmons (Estate) c/o John H. Washington, on March 17, 2016 and further sent on April 12, 2016 a delinquent tax notice and on June 7, 2016, via certified mail, a notice of delinquent taxes, assessments, penalties and costs to Defendant, Calvin Simmons (Estate) c/o John H. Washington, which notice was not received by the Defendant.



20. Parcel Three was not posted by the delinquent tax collector as he could not access the property.
21. At the public auction sales day on December 8, 2016, during the usual hours of sale, the Delinquent Tax Collector for Colleton County, after due advertisement, did sell Parcel Three to the Plaintiff, which was the highest bidder at such sale, for the sum of One Thousand Seven Hundred and 00/100 (\$1,700.00) Dollars.
22. On November 11, 2017, the Delinquent Tax Collector for Colleton County sent via certified mail a final notice before redemption to the Defendant, Calvin Simmons (Estate) c/o John H. Washington, such notice being unclaimed by Defendant.
23. No one redeemed the Parcel Three during the twelve (12) month redemption period as provided in Section 12-51-90, Code of Laws of South Carolina, 1976, as amended.
24. The aforementioned execution and sale of Parcel Three was proper in that it complied with Sections 12-49-10 through 300 and 12-51-10 through 170, Code of Laws of South Carolina, 1976, as amended, in all material respects.
25. The Delinquent Tax Collector for Colleton County conveyed Parcel Three to the Plaintiff by Tax Deed dated July 27, 2018 and recorded August 3, 2018 in the Colleton County Register of Deeds Office in Book 2664 at Page 234.
26. By virtue of the failure of the Defendants to pay the taxes on the Property, by virtue of the Plaintiff's successful bid at the delinquent tax sale on December 8, 2016, by virtue of the failure of the Defendants to redeem the Property, and by virtue of the conveyance of the Property to the Plaintiff by the Delinquent Tax Collector for Colleton County, any and all interest that the Defendants had in and to the Property has been extinguished.



27. Plaintiff is entitled to a judgment terminating any and all interest of the Defendants, their spouses, heirs, devisees, successors or assigns claiming under them, irrespective of the nature of that interest and barring any future claims they may assert to the Property.
28. None of the Defendants, including but not limited to the unknown owners, heirs, devisees, distributees, issue, executors, administrators, successors, or assigns of the above named Defendants, if they or any of them be dead, and all persons claiming any right, title or interest in the real estate described as TMS#248-00-00-021, 248-00-00-022 and 248-00-00-023 together with John Doe and Jane Doe, fictitious names representing adults whose true names are unknown, and Richard Roe and Mary Roe, fictitious names representing infants, incompetents, and persons under disability or in the military services, if any, who might be unknown heirs, devisees, distributees, issue, executors, administrators, or personal representatives, successors or assigns of the Defendants herein and also all other persons unknown claiming any right, title, estate, interest in or lien upon the real estate described herein have any right, title, interest or lien upon the subject property.
29. Finally, I heard from Defendant Alexis Calloway regarding her position on the Property's history, her family, and the tax sale referenced herein. I inquired whether Defendant Calloway wished to offer documentary evidence or witnesses to support any defenses and/or claims; however, no documents or witnesses were offered.

Based on the foregoing, it is hereby,

ORDERED that all Defendants that claim or may claim, some estate, right, title, interest in or lien upon said property adverse to the Plaintiff are without any right whatsoever and the said Defendants have no right, title, estate, lien or interest in or to the Property, or any part thereof. It is further,



ORDERED, that the subject tracts of land identified hereinabove are owned in fee simple by Take No Prisoners, LLC. It is further,

ORDERED that a confirmatory deed shall be issued to Take No Prisoners, LLC for the subject property.

AND IT IS SO ORDERED.



J. Barnwell Fishburne, Jr.
Colleton County Special Referee
S.C. Bar # 102026

Dated: 6/29/26
Walterboro, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-15-00408

TAKE NO PRISONERS LLC

FRANK SIMMONS, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: J. Barnwell Fishburne, Jr., Special Referee

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
TAKE NO PRISONERS LLC	FRANK SIMMONS, ESTATE OF FRANK SIMMONS, PHOBIE SIMMONS, ESTATE OF PHOBIE SIMMONS, PHOEBY SIMMONS, ESTATE OF PHOEBY SIMMONS, F. SIMMONS,	ACTION TO QUIET TITLE

ESTATE OF F. SIMMONS,
R. SIMMONS, ESTATE OF R.
SIMMONS, PAUL SANDERS,
ESTATE OF PAUL SANDERS,
E.L. LEMACKS, ESTATE OF
E.L. LEMACKS, SANDERS &
LEMACKS, LOTTIE FIELD,
ESTATE OF LOTTIE FIELD,
CALVIN SIMMONS, ESTATE
OF CALVIN SIMMONS,
LAVENIA TOBIAS, ESTATE
OF LAVENIA TOBIAS,
LEVINIA TOBIAS, ESTATE
OF LEVINIA TOBIAS,
ALFRED CALLOWAY, SR.,
ESTATE OF ALFRED
CALLOWAY, SR., MARY
MALLET, ESTATE OF
MARY MALLET, DORIS S.
CALLOWAY, ALFRED
CALLOWAY, JR., ALEXIS M.
CALLOWAY, DONTE
CALLOWAY, JOHN H.
WASHINGTON

If applicable, describe the property, including tax map information and address, referenced in the order

All that certain piece, parcel or lot of land, situate, lying and being near Walterboro, South Carolina, containing four (4) acres, more or less, and being bounded as follows: on the Northeast by lands, now or formerly, of W. Gene Whetsell and Gerard Paladis; on the Northwest lands, now or formerly, of the Estate of Lottie Field; on the Southeast by Ashepoo River; and on the Southwest by lands, now or formerly, or the Estate of Mary Mallett.

TMS#: 248-00-00-021

Also

All that certain piece, parcel or lot of land, situate, lying and being near Walterboro, South Carolina, containing four (4) acres, more or less, and being bounded as follows: on the Northeast by lands, now or formerly, of W. Gene Whetsell and Gerard Paladis; on the Northwest by lands, now or formerly, of the Estate of Calvin Simmons; on the Southeast by Ashepoo River; and on the Southwest by lands, now or formerly, of the Estate of Phobie Simmons.

TMS#: 248-00-00-022

Also

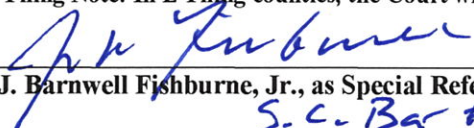
All that certain piece, parcel or lot of land, situate, lying and being near Jacksonboro, South Carolina, containing four (4) acres, more or less, and being bounded as follows: on the Northeast by lands, now or formerly, of W. Gene Whetsell and Gerald Paradis; on the Northeast by lands, now or formerly, of Tobias James; on the Southwest by Ashepoo River; and on the Northwest by lands, now or formerly, of the Estate of Lottie Field.

TMS#: 248-00-00-023

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


J. Barnwell Fishburne, Jr., as Special Referee

S.C. Bar #102026

Judge Code

Date

6/29/26

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE

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

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

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

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