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Oct 20 2026

SC Court of Appeals

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
ON POST HEARING MOTIONS**

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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 comes before me on a series of motions filed by Defendant Alexis Calloway (“Defendant Calloway”), *pro se*, and Plaintiff following entry of the quiet title order dated June 29, 2026. The final hearing occurred on May 13, 2026. Defendant Calloway and Plaintiff both agreed to disposition of pending motions on the written record without a hearing. Having reviewed all submissions and conducted independent research, I find as follows:

Defendant Calloway’s Motion to Alter or Amend

On July 20, 2026, Defendant Calloway file a motion to alter or amend judgment pursuant to Rules 59(e) and 52(b), SCRCP. Rule 59(e) states: “A motion to alter or amend the judgment shall be served not later than 20 days after receipt of written notice of the entry of the order.” Further, “a party filing a written motion under this rule shall provide a copy of the motion to the

judge within ten (10) days after the filing of the motion.” Rule 59(g), SCRCP. Defendant Calloway did not provide my office a copy of the motion within ten (10) days after filing. A trial court may deny a motion to alter or amend judgment solely on the basis of failure to comply with Rule 59(g), SCRCP. Smith v. Fedor, 809 S.E.2d 612, 422 S.C. 118 (S.C. App. 2017). “Rule 59(g) would lack any purpose if trial courts committed error by denying the motion for failure to comply with the rule.” Id. “[L]ack of familiarity with legal proceedings is not an acceptable excuse and the court will hold a layman to the same standard as an attorney.” Rouvet v. Rouvet, 388 S.C. 301, 310, 696 S.E.2d 204, 208 (Ct. App. 2010). Therefore, the motion is respectfully denied in its entirety for Defendant Calloway’s failure to follow Rule 59, SCRCP.

Even if the merits were reached regarding posting, Defendant Calloway’s motion would be denied. This case may be somewhat unique because posting was not possible due to access. And it appears no published South Carolina appellate case has squarely addressed the efficacy of a tax sale where posting was not possible. The South Carolina Supreme Court seems to permit non-compliance with tax sale statutory requirements in certain circumstances where facts demonstrate attempted compliance. In re Ryan Inv. Co., Inc., 335 S.C. 392, 517 S.E.2d 692 (S.C. 1999) (stating “We hold attempted compliance with statutory mailing requirements is required before non-compliance can be excused.”). Other jurisdictions have held that where a party claims “due process rights were violated by the County’s failed attempt to post notice, it was [her] burden to prove that posting notice was practicable under the circumstances. See Bhatti, 334 S.W.3d at 446, 448–50. The tax deeds received at the final hearing do, in fact, describe attempted compliance with the posting requirement to satisfy statutory requirements under the circumstances. Again, Defendant Calloway did not present any evidence at the final hearing that posting was practicable.

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Motions for Sanctions and/or Expenses

Plaintiff filed a motion for sanctions. Defendant Calloway filed a “cross-motion for expenses, fees, and other monetary relief.” I agree Defendant Calloway’s “post final hearing” discovery requests – served approximately 1 month after the final hearing – are clearly improper because the record closed at the final hearing. However, I respectfully decline to grant either motion for sanctions at this time. Plaintiff may renew its motion for sanctions should improper filings continue.

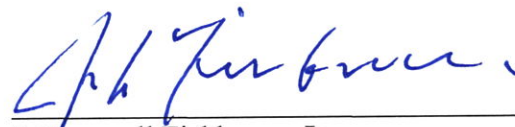
Defendant Calloway’s Motion to Compel and Deem Requests for Admission Admitted

Defendant Calloway’s discovery motion filed July 20, 2026 is respectfully denied as untimely. No motion or request was made at the final hearing to keep the record open for any purpose.

It is therefore,

ORDERED that the Special Referee’s Order filed with the court on June 29, 2026 is affirmed and remains in full force and effect.

AND IT IS SO ORDERED.



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

Dated: 10/6/26
Walterboro, South Carolina



Colleton Common Pleas

Case Caption: Take No Prisoners, Llc VS Frank Simmons , defendant, et al
Case Number: 2025CP1500408
Type: Master/Order/Other

Executive Court Assistant

Polly Ann Riley
