

Danny R. Ward
281 Cedar Hill Road
Six Mile, S.C. 29682
864-868-2048

August 29, 2014

73407

Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C. 29211

RE: Town of Six Mile, Respondent
v. Dan Ward, Appellant
Appellant Case No. 2013-001628

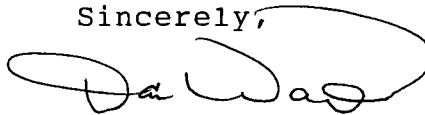
Dear Ms. Kitchings,

Please find enclosed a request to appeal the decision made by the Appeals Court denying my former appeal that was order and filed on August 19, 2014; Also, enclosed find seven (7) copies of our briefing and Designation of Matter Also, enclosed please find my check for Twenty-five (\$25.00) Dollars filing fee.

By copy of this letter, Our Request is being served on the Respondent, Town of Six Mile via Attorney Ken Roper.

Please feel free to contact me if you have any questions concerning this matter.

Sincerely,



Dan Ward

Enclosures
cc. Attorney Ken Roper

RECEIVED
SEP 03 2014
SC Court of Appeals

REQUEST FOR APPEAL

AUGUST 29, 2014

RECEIVED

SEP 03 2014

SC Court of Appeals

REQUEST FOR APPEAL OF THE S.C. Court of appeals decision.

The South Carolina Court of Appeals

Town of Six Mile, South Carolina, Respondent,

v.

Dan Ward, Appellant.

Appellate Case No. 2013-001628

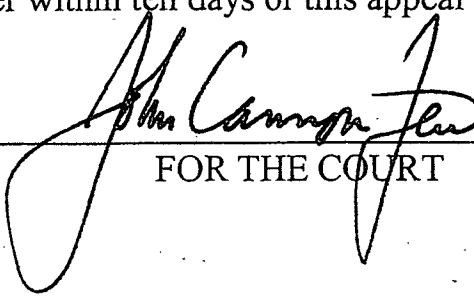
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RECEIVED

SEP 03 2014

SC Court of Appeals

ORDER

Appellant's petition for a supersedeas is denied. Appellant shall serve and file his initial brief and designation of matter within ten days or this appeal may be dismissed.


FOR THE COURT

C.J.

Columbia, South Carolina

cc:

Dan Ward

Kenneth Roper, Esquire

FILED
8/19/14

This is a case that warrants the intervention of this court at this time; so as to assure achievement of the ultimate goal. Appellant is a seventy-one (71) year old small businessman. He is a Ex State Trooper serving appromately five (5) years. He is a Vietnam War Veteran serving our Country for appromately four (4) years and four (4) months in the USA Navy. He has been a Professional House Mover for Forty (40) years. He is an American Citizen who has never broke the Law and has worked hard all of his life providing for his wife, children, and grandchildren. His American Rights have been Violated, by his Ex Attorney and also the courts in not allowing him to be present in the Court surroundings. During his court proceedings he had to sit in the Public seating (not by his Attorney and the Judge actually asked him question while sitting in the Public seating. We had a Jury Trial set for March 11, 2013 but Attorney Ken Roper and my Ex Attorney Jim Meggs cancelled jury trial and had a judge Hearing without any cross Examination nor my permission. Enclosed (b) (Judge Gillespie's Order of Dismissal with Prejuice wherein he dismisses charges against me (Feb.9, 2012) I had filed grievance before the Bar Association without any conclusion. (c) (Copies Enclosed)

FACTS OF CASE

- (1) My property which is located at Belle Shoals Rd. and Hwy 137 in Six Mile (b) (3) Maps enclosed property labeled A, B & C) (Lots B & C shown in White-ALways been in County)
- (2) I have been prevented from using my propery since around 2006. Judge ruled that I had to move structures off or be held in Contempt.
- (3) Intial Ruling of property were a Magistrate Trial which I was found Not Guilty. (enclosed) (1 Copy)
- (4) I was not allowed to use my property from 2006 until the Trial and then the Judge Ruled the Second time. (c) (Enclosed) I was ran off the property several times by the Zoning Officials.
- (5) Court has Ruled that All property was in the city Lots A, B & C using only Affidavits and no cross examing or Witnesses was allowed. Lot A always in City in 1965, but Lots B & C never been in City.

- (6) We had a Jury Trial Set and Jurors ready to be selected when Attorney Roper and my Ex Attorney Meggs conspired and used the Courts to have a Ruling without my permission. Another Violation of my Rights. Attorney Meggs said that we could Appeal (Summary Judgement) the Judge decision. But we had enough evidence to proceed with Case. My Ex Attorney Meggs said we had a santiall of Evidence and said we couldn't lose; I still didn't agree to his decision to have Judge Trial. (When we had the Hearing I still was not allowed to sit with my Attorney Meggs; but was told to sit behind him in the Public Seating..) Enclosed ⑤
- (7) Business license-- Eleanor McGuire (Clerk of Town of Six Mile from 1980's til 2006) told me in the 1990's that I didn't have to have a City license (State Law) SC Code Section S-8-23-620 Class E Certificate. (Enclosed) ⑤
- (8) Permits (Pickens County was in charge of all Permits for Town of Six Mile (Since 1988) Before developmnet was started, I contacted Mike Albertson (Inspector for Pickens County Building Codes) and he told me I didn't have to have any Permits for my knee walls and shed erections. ⑦ (Mike Albertson Affidavit Enclosed)
- (9) Zoning: Parcel A of property in City but note I had conforming use since 1994 (Richard Davidson zoning official in Six Mile) never been in City. Respondents no proof in City (claim 1965 map) shows even so statue of limitation has ran out; been 50 years ago ⑧ (Affidavit of Richard Davidson Six Mile zoning official Enclosed).
- (10) The Facts of this case have been clouded by attorney Roper and confused by my ex attorney Jim Meggs and we need a Jury Trial to Cross Examine all witnesses because I no longer have use of my property and can only pay taxes on them. I paid hard earned money to have an attorney to represent me and since he had himself removed as my Council I have tried numerous to attain an attorney. Many know the case and will not help. It has been left for me to represent myself. I'm asking the Courts to be fair and to give me an opportunity to bring all my Witnesses for a FAIR and JUST CONCLUSION.

James S. Meggs - Attorney
803-404-6900
JimMeggs@callisontighe.com

CALLISON  TIGHE

February 9, 2012

Mr. Danny Ray Ward
281 Cedar Hill Road
Six Mile, SC 29682

Re: Town of Six Mile vs. Danny Ray Ward
Our File No: 5532.001

Dear Dan:

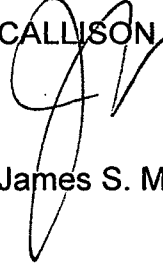
Enclosed please find Judge Gillespie's Order of Dismissal with Prejudice wherein he dismisses the charges brought by Six Mile against you. We were pleased to obtain this result in Magistrate's Court.

I received the photographs of the paint job on one of the houses at Belle Shoals. Please give me a call at your convenience to discuss how we should proceed to continue the paint job or not. Hope all is well in Six Mile and look forward to talking with you very soon.

With kind personal regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC


James S. Meggs

JSM/tdb
Enclosure
Ward.008.wpd

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)
)
The State of South Carolina,)
)
Plaintiff,)
)
v.)
)
Danny Ray Ward,)
)
Defendant.)

IN THE PICKENS COUNTY
SUMMARY COURT

I-688663-CSW

ENTERED

ORDER OF DISMISSAL WITH PREJUDICE

This is a misdemeanor action initiated by the Town of Six Mile against Danny Ray Ward by way of a Courtesy Summons Number I-688663-CSW. The Summons issued on April 1, 2010, alleges that Ward violated the Six Mile Code of Ordinances, §801 of the chapter pertaining to zoning, by failing to "obtain a permit to lawfully place or store structures or signs as described in the Town of Six Mile official zoning ordinance on property within the Town limits of Six Mile...." The Summons further alleges that a total of five structures are not properly permitted.

The action came before the Court for trial on January 20, 2012. Representing the State (Town of Six Mile) was assistant Solicitor Mitchell Byrd, Esquire. James S. Meggs, Esquire and George A. Taylor, Esquire appeared on behalf of the Defendant Danny Ray Ward.

Prior to commencing trial, a conference was held in chambers at which time the attorneys reviewed the facts of the case and the relevant provisions of the Town of Six Mile Zoning Ordinance and the allegations of the Courtesy Summons. Based upon the representations of counsel for the State and for the Defendant and on Motion of the

#1 [Signature]

Defendant to dismiss the charges set forth in the Courtesy Summons, it is clear that the motion must be granted as will more fully appear below.

UNDISPUTED FACTS

The Courtesy Summons was issued on April 1, 2010. It charges Ward with failing to obtain a permit to place or store structures or signs on several parcels alleged to be located within the Town limits¹. A total of five (5) "structures" are alleged to be unpermitted. The charges are based on §801 of the Town of Six Mile Zoning Ordinance.

Three of the "structures" are houses which were transported to the several properties on metal I-Beams, upon which they continue to rest pending relocation to other sites. None of these three houses are affixed to a foundation or is otherwise more or less permanently located on the ground.

CONCLUSIONS OF LAW

The charge contained in Warrant I-688663-CSW for failure to obtain a permit pursuant to §801 of the Ordinance must be dismissed with prejudice.

1. Three Houses Resting On I-Beams

The charge with respect to the Defendant's houses situated on I-beams does not fall within the Ordinance's definition of building, sign or structure and, therefore do not require permits. The terms "building," "sign," and "structure" are defined terms within the Ordinance. A building is defined as:

A structure which is completely enclosed by a roof and by solid exterior walls along whose outside faces can be traced an unbroken line for the

¹ The Defendant contends that not all of the parcels are within the Town limits. In light of my findings concerning the Ordinance, I need not reach that issue.

complete circumference of the structure, which is *permanently affixed* to a lot or lots, and used or intended for the shelter, support or enclosure of persons, animals, or property of any kind. (Emphasis added.) Zoning Ordinance § 1200.7.

By definition, a building must be “permanently affixed” to a piece of property. It is undisputed that the Defendant’s houses are, and have been, resting on I-beams on the subject property and can be readily removed at any time. Therefore, as a matter of law, the Defendant’s three houses are not buildings as defined in the Ordinance.

A structure is defined as:

Anything constructed or erected, the use of which *requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground*. A “building” as defined in 1100.7 [sic], is a structure. (Emphasis added.) Zoning Ordinance § 1200.61.

By definition, a structure requires some permanent location on the ground or attachment to something with permanent location. In fact, the homes are resting on I-beams without any fixation whatsoever to the ground. Therefore, as a matter of law, the Defendant’s three houses are not structures as defined in the Ordinance.

A sign is defined as:

[E]very sign, billboard, poster panel, free-standing ground sign, roof sign, projecting sign, pylon sign, illuminated sign, sign painted on a wall, window, marquee, awning or canopy, and shall include any announcement, declaration, demonstration, display, ribbon, banner illustration, or insignia used to advertise or promote the interests of any person when the same is placed in view of the general public, traveling along a public street right-of-way. Zoning Ordinance § 1200.55.

A plain reading of the Ordinance indicates that the three houses are not signs, and the State does not argue to the contrary.

Based on the following, with regard to the three houses resting on I-beams, the State cannot show that the Defendant violated §801 of the Ordinance for failure to obtain a permit because the houses do not fall within the Ordinance's express definitions of building, structure, or sign.

2. Two Carports

The other two items in issue are metal roofed carport style facilities with short concrete block knee walls on three sides. The charge with respect to Defendant's carports is dismissed because the language of §801 of the Ordinance is ambiguous. §801 of the Ordinance provides:

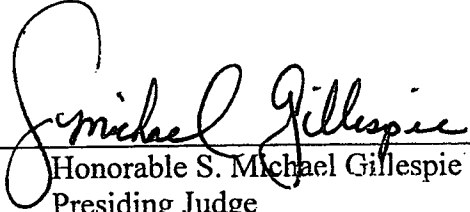
[n]o building, sign, or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Pickens County.

The Ordinance does not define "the Pickens County." A reasonable person would believe that contacting the Pickens County Building Official to obtain a permit and being told by the Official that no permit was required would be sufficient to comply with the Ordinance. Under the Solicitor's interpretation of the Ordinance, an individual who contacts the Pickens County Building Official and is instructed that no permit is required is nonetheless criminally liable because the Pickens County Building Official is not "the Pickens County." However, a reasonable person would believe that the Pickens County Building Official is the proper representative of Pickens County to contact for a permit. To the extent that the Ordinance fails to identify "the Pickens County," the Ordinance is ambiguous as a law abiding citizen would reasonably believe that contacting a duly-

authorized representative of Pickens County to obtain a permit would be in full compliance with the Ordinance. Therefore, the charge with respect to the carports is dismissed.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Summons and the charges set forth therein be **DISMISSED**, with prejudice.

AND IT IS SO ORDERED.


Honorable S. Michael Gillespie
Presiding Judge
Pickens County Magistrate's Court

February 6, 2012
Central, South Carolina

TRUE COPY

Pickens Co. Summary Court

ROPER LAW FIRM, LLC

18 South Commerce Street
Post Office Box 330
Liberty, South Carolina 29657
Telephone (864) 843-0004
Fax (864) 843-4555
www.roperlawfirm.com

Karen S. Roper

Kenneth S. Roper

March 6, 2013

BY EMAIL TO ghillj@sccourts.org AND BY FAX TO (864) 467-8484

The Honorable D. Garrison Hill
Chief Administrative Judge
Thirteenth Judicial Circuit
305 E. North Street, Suite 213
Greenville, SC 29601

RE: Town of Six Mile, South Carolina v. Dan Ward
C.A. No. 2011-CP-39-1108

Dear Judge Hill,

I represent the Town of Six Mile in the above-caption case, which is on the Pickens civil docket for the week of March 11, 2013. This is the first appearance of this case on the docket, and for reasons outlined below, I am writing to request a continuance.

We completed all of our anticipated discovery this past week, and after conferring with opposing counsel, I believe that mutual summary judgment motions are needed to focus the issues before trial. I also believe that briefs may be necessary in support of those motions.

If it meets with the court's approval, I would suggest that the clerk's office schedule this case for the April 15th non-jury term, and then for the next successive jury term (if needed).

Thank you for your consideration. By copy of this letter I am notifying opposing counsel and the clerk's office of my request.

Sincerely,

Ken Roper

Cc: Jim Meggs, attorney for Defendant, Dan Ward
Cheryl Watson, Deputy Clerk of Court

② Copy
of grievances
Before Bar
Association

Dan Ward
281 Cedar Hill Road
Six Mile, S.C. 29682
September 30, 2013

Commission of Lawyer Conduct
and Office of Disciplinary Counsel
P.O. Box 12159
Columbia, S.C. 29211

Dear Sirs:

This complaint concerns Attorney Ken Roper from Liberty, South Carolina. He has tampered with one of my witnesses and my Attorney Jim Meggs from Columbia, S.C. was also involved. It concerns an affidavit of Mike Albertson. Mike Albertson is an official with Pickens County Codes Department; Attorney Ken Roper is the County Attorney for Pickens County. He also took the case against me for the Town of Six Mile, South Carolina when attorney Pam Deal resigned. I think this was a conflict of interest.

I had contacted Mike Albertson before I did anything in my case regarding permits. Mike Albertson informed me that I did not have to have permits (a copy of his affidavit is attached).

We initially had a jury trial set the week of March 11th 2013 and Attorney Ken Roper pulled strings and got a Summary Judgment after we had a juror list and my Attorney Jim Meggs went along with it. (A copy of the Letter and list of jurors is also attached). Attorney Jim Meggs told me in regards to the Summary Judgment that we had a *scintilla* of evidence and also there was a Judge (whom name I can't remember) had ruled that was no such thing as a Summary Judgment in South Carolina.

I feel that these Attorney's (Attorney Ken Roper and Attorney Jim Meggs) have conspired against me to destroy me.

A previous official with the Town of Six Mile (Eleanor McGuire) who was previous the Town Clerk had told me I didn't need a business license also the previous Zoning Administer for the Town of Six Mile (Richard Davidson) said the same thing. (An affidavit on Richard Davidson is attached). My Attorney Jim Meggs would not do an affidavit on Eleanor McGuire although she said she would be glad to do one.

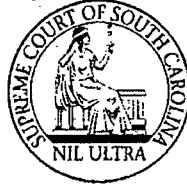
I have numerous witnesses from the Town of Six Mile and Pickens County such as the Planning Boards, etc. and none of these was brought out in the Summary Judgment but we had them for the jury trial.

It is a sad day in America when our Juridical System allows this to take place. I am a 70 year old man who served my Country in the Vietnam War and served my State of South Carolina as a State Trooper and now I have owned and operated my House Moving Business for over 40 years (moving and recyding structures all over the State of South Carolina). I feel that I deserve **SOMEBODY** to look into my case and Help me. This case is too complex to try to fill you in on all the evidence; but I feel that the TRUTH has been DISTORTED from Day One.

Also, my Attorney Jim Meggs told me when he first took my case that the cost would be around \$ 18,000.000 but it has sky rocketed to nearly \$ 40,000.000. And now he is in the process of firing me because I ask him to ask the Judge the Honorable Letitia H. Verdin for a hearing to clarify her Court Order on moving structures off my property. And as of up to that time I had done everything he ask me to do. The Honorable Letitia H. Verdin did not put a time frame for moving the structure and now I have a hearing on Wednesday Oct. 2, 2013 for contempt. I think it is unfair for an Attorney to fire his client on these terms and unethical. Therefore, I also have a complaint against my Attorney Jim Meggs.



With Sincere Regards,



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

C. Tex Davis Jr.
Senior Assistant Disciplinary Counsel

Telephone: (803) 734-2038
Fax: (803) 734-1964

March 12, 2014

PERSONAL AND CONFIDENTIAL

Mr. Dan Ward
281 Cedar Hill Road
Six Mile, SC 29682

RE: Lawyer: James S. Meggs, Esquire
Matter Number: 13-DE-L-1314

Dear Mr. Ward:

We have received your complaint against James S. Meggs, Esquire. We will conduct an investigation into the matters you have reported. You will not necessarily be contacted prior to a decision regarding your complaint; therefore, you should submit any additional information or documentation to support your allegations at this time.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer is subject to discipline pursuant to the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Where misconduct is found, sanctions may be imposed ranging from a confidential letter of caution or admonition, public reprimand, suspension, or disbarment. If our investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

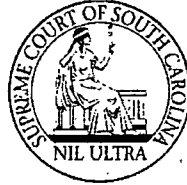
We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with assistance or advice. You should promptly seek assistance or advice that you might need from legal counsel or other sources. If you do not have an attorney and believe that you need one, you should contact the South Carolina Bar Lawyer Referral Service at 1(800) 868-2284.

You will be notified of the final disposition of your complaint. It is often many months after receipt of a complaint before a final decision is made. Feel free to contact me if you have any questions or concerns.

Sincerely,

C. Tex Davis Jr.

CTD/clg



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

C. Tex Davis Jr.
Senior Assistant Disciplinary Counsel

Telephone: (803) 734-2038
Fax: (803) 734-1964

June 24, 2014

PERSONAL AND CONFIDENTIAL

Mr. Dan Ward
281 Cedar Hill Road
Six Mile, SC 29682

RE: Lawyer: James S. Meggs, Esquire
Matter Number: 14-DE-L-0801

Dear Mr. Ward:

We have received your complaint against James S. Meggs, Esquire. We will conduct an investigation into the matters you have reported. You will not necessarily be contacted prior to a decision regarding your complaint; therefore, you should submit any additional information or documentation to support your allegations at this time.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer is subject to discipline pursuant to the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Where misconduct is found, sanctions may be imposed ranging from a confidential letter of caution or admonition, public reprimand, suspension, or disbarment. If our investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with assistance or advice. You should promptly seek assistance or advice that you might need from legal counsel or other sources. If you do not have an attorney and believe that you need one, you should contact the South Carolina Bar Lawyer Referral Service at 1(800) 868-2284.

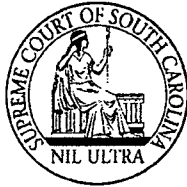
You will be notified of the final disposition of your complaint. It is often many months after receipt of a complaint before a final decision is made. Feel free to contact me if you have any questions or concerns.

Sincerely,

C. Tex Davis Jr.

CTD/clg

Copy



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Tiffany N. Richardson
Staff Attorney

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Facsimile: (803) 734-1964

January 23, 2014

PERSONAL AND CONFIDENTIAL

Dan Ward
281 Cedar Hill Road
Six Mile, SC 29682

RE: Lawyer: Kenneth Scott Roper, Esquire
File Number: 13-DE-L-1313

Dear Mr. Ward:

This will acknowledge your letter received on October 1, 2013. From reading your letter, I need additional information from you. You stated that it was a conflict of interest for Mr. Roper to take the case. Please provide more details regarding why a conflict existed. If you wish to file a complaint against this lawyer, you will need to provide us with more specific details of what the lawyer did or did not do to cause you to file your complaint.

Please keep in mind that the authority of this office is limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines set out in Rules 413, SCACR. This office does not have the authority to determine whether the outcome of a case was fair or to intervene in a legal matter.

Without the requested information, we will be unable to proceed with an investigation. If we do not receive it within thirty days, we will close this matter without further notice to you. Feel free to contact me if you have any questions or concerns.

Sincerely,

Tiffany Richardson
Tiffany N. Richardson

TNR/clg

B+C IN white always in County not City

[illegible]

FORM 4

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

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2011CP3901849

Town of Six Mile

2013 MAY 29 P 12

Dan Ward
51

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **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:

This matter is before the Court on Plaintiff's Motion for Summary Judgment. Plaintiff asks this Court to grant Summary Judgment on the issue of the Defendant's property being within the town of Six Mile and issue a Declaratory Judgment requiring the Defendant to obtain a business license and permit. The Plaintiff also asks this Court to enjoin the Defendant from operating his business until such time. The Defendant argues that a genuine issue of material fact exists as to the town limits. The Defendant also argues that his use of the property constitutes a valid non-conforming use and that his use of the property has been "grandfathered" in by the Town Council, exempting him from the business license requirement.. The Defendant opposes any injunction.

Upon review of the pleadings, documents presented, case law, and statutes, this Court grants Plaintiff's Motion for Summary Judgment, Motion for a Declaratory Judgment, and Motion to Enjoin. Defendant's property (Parcels A & B), is within Six Mile's town limits. Defendant has admitted that Parcel A is within the town limits. Parcel B was annexed in 1965. At some point, the town's maps and tax records erroneously reported Parcel B as being outside of the town limits. However, no de-annexation has ever occurred. In 2009, the town corrected the maps to reflect the correct designation. As such, this Court grants Plaintiff's Motion for Summary Judgment as to Parcel B being within the town of Six Mile.

Regarding the declaratory judgment sought, the Defendant argues that because he has a State-issued Class E Permit (allowing

[Handwritten signature]

him to transport homes on roadways) the Town of Six Mile is preempted from requiring him to obtain a business license. The Defendant relies on S.C. Code Ann. Sections 56-3-661 which exempts Class E permit holders from having to obtain a business license in any other jurisdiction other than their principal place of business. The Defendant further asserts that his principal place of business is Parcel B, which he claims to be an unincorporated area of Pickens County. This Court has found Parcel B to be within the town limits; however, Parcel B was zoned in 2009 as "low-density residential." The Defendant argues that because the Town Council found him to have a "valid non-conforming use" he should be exempted from the business license requirement. The business license requirement and the zoning variance are two separate issues. The Defendant's right to use the land for a business purpose does not exempt him from complying with the Town's safety and licensing regulations. Section 56-3-661 exempts Class E permit holders from having to pay taxes or fees in their principal place of business, but not from being required to obtain a business license. As such, this Court grants Plaintiff's Motion for a Declaratory Judgment requiring the Defendant to apply for a business license. Plaintiff's Motion to Enjoin is granted.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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

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

[Signature]
Circuit Court Judge

2162
Judge Code

5/23/13
Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on 5/29/13, to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth Roper

ATTORNEY(S) FOR THE PLAINTIFF(S)

Jim Meggs

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Watson - Deputy
County Clerk Of Court - Clerk of Court

Court Reporter

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2011CP3901849

2013 JUL 12 PM 4 23
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Town of Six Mile	Dan Ward
PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: ☒ Plaintiff ☒ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **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: _____
- ☐ **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:
This matter is before the Court on Defendant's Motion to Alter or Amend. This Court respectfully denies Defendant's Motion but issues this order clarifying its previous order. First, this Court corrects its previous order to find that Defendant's Principal Place of Business is not within Six Mile. However, with regards to the parcel at issue, this Court reaffirms its finding that the Defendant failed to provide any evidence that the parcel was not within town limits. Further, this Court clarifies its previous order by requiring Defendant to remove offending structures from the land until he is granted a business license by the Town of Six Mile.

Handwritten signature/initials

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk:

2013 JUL 12 PM 4 23
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

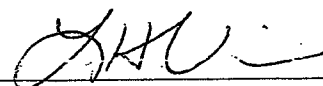
INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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

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


Circuit Court Judge

2162
Judge Code

7/10/13
Date

For Clerk of Court Office Use Only

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

Kenneth Roper

✓

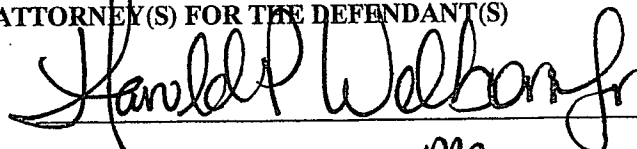
us mail

✓ Jim Meggs

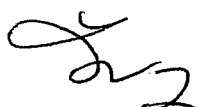
ATTORNEY(S) FOR THE PLAINTIFF(S)

MB

ATTORNEY(S) FOR THE DEFENDANT(S)



MB



TRUE COPY



⑤ Jury Trial Set

Copy

James S. Meggs - Attorney
803-404-6900
JimMeggs@callisontighe.com

CALLISON  TIGHE

March 1, 2013

Mr. Danny Ray Ward
281 Cedar Hill Road
Six Mile, SC 29682

Re: Town of Six Mile vs. Danny Ray Ward
Our File No: 5532.001

Dear Dan:

Enclosed please find our interim statement for professional services in the above-referenced matter. If this meets with your approval, kindly remit payment at your earliest opportunity.

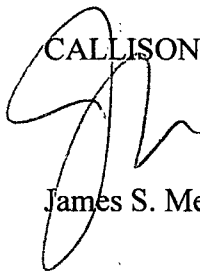
Should you have any questions regarding the foregoing, please do not hesitate to contact me.

We will be in Pickens on Monday, March 11, 2013, to look at jurors and see where we are on the roster.

With kind personal regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC



James S. Meggs

JSM/lbm
Enclosure
Ward.014

Copy

James S. Meggs - Attorney
803-404-6900
JimMeggs@callisontighe.com

CALLISON  TIGHE

March 4, 2013

Mr. Danny Ray Ward
281 Cedar Hill Road
Six Mile, SC 29682

Re: Town of Six Mile vs. Danny Ray Ward
Our File No: 5532.001

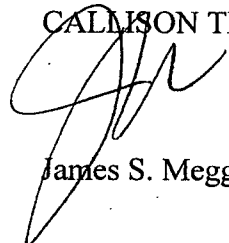
Dear Dan:

Enclosed please find a roster of potential jurors for the term of court next week in Pickens. Please look these over and let us know if you know of any of these folks. Do not attempt to contact any one of these individuals, as such would be deemed possible jury tampering.

Please give me a call when you have had a chance to review this roster.

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC



James S. Meggs

JSM/lbm
Enclosure
Ward.015

REQUIREMENT FOR TOWN BUSINESS LICENSE

At the hearing in this matter the Town finally conceded that it cannot charge Ward a fee or tax to operate his business and retreated to the position that S.C. Code § 58-23-620 should be narrowly construed to limit all local governments to impose only the burden of obtaining applicable licenses, but not to impose a minimal license fee. The statutory purpose of S.C. Code Section 58-23-620 was to allow Class E license holders to avoid having to deal with the burden of obtaining licenses in every jurisdiction they pass, not simply to prevent cities, towns and counties from obtaining minimal license fees.

The Trial Court requires the Appellant to obtain a Town of Six Mile business license. In order to even have a business license application processed, the Town requires that the Appellant surrender the fruits that he seeks to preserve in this appeal. It is clear that the Town's position is that the Appellant's property, purportedly zoned residential by the Town, has lost its grandfathered nonconforming status forever. The requirement that the Appellant obtain a Town business license is illusory and an unobtainable result.

Furthermore, once the so-called "offending structures" are removed and bull dozed, it is clear that the Town will not issue a business license because the Town takes the position that just as in the case of temporary removal after a sale, vacancy even for a moment in time causes the loss of protected nonconforming use status under its zoning ordinance. By analogy, one would suppose that a mobile home sales business would lose its protected nonconforming status if it momentarily was sold out of inventory and its lot became momentarily vacant.

South Carolina law affords protection to existing land uses when local authorities change the rules. Here, the Town authorities, by their own admission, "have no idea" concerning fundamental zoning principles, e.g. treatment of nonconforming uses. In the absence of Supersedeas the Appellant will suffer the consequences of the actions of those who "have no idea".

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)
Town of Six Mile, South Carolina,)
Plaintiff,)
v.)
Dan Ward,)
Defendant.)

THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL DISTRICT
CIVIL ACTION NO. 2011-CP-39-1849
2013 MAY -6 A 10:12

AFFIDAVIT OF MIKE ALBERTSON

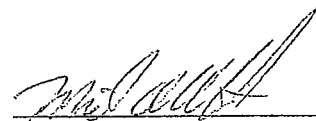
PERSONALLY APPEARED before me this 22-day of April, 2013, Mike Albertson, being first duly sworn, deposes and states as follows:

1. My name is Mike Albertson. I am over the age of eighteen (18) years old and am competent to make this Affidavit.
2. I have personal knowledge of the facts set forth in this Affidavit.
3. I am currently employed as the Building Inspector for Pickens County, South Carolina and have been so employed for approximately 15 years.
4. Prior to and during 2009, the Pickens County Code Administration Staff performed the permitting functions for the Town of Six Mile, as is contemplated by provisions in the Town of Six Mile Zoning Ordinance.
5. In the Summer of 2009, I received a telephone inquiry concerning the need (or lack there of) for building permits for concrete block knee walls proposed to be placed on tax parcel number 4058-07-69-3858. I informed the caller that no permits were required for the proposed work.
6. Subsequent to the phone call summarized in paragraph 6 above, I accompanied my supervisor to the scene of the work. It then became apparent to me that the person who had called to the office concerning permits was Dan Ward, as the property that we were viewing was owned by Mr. Ward.

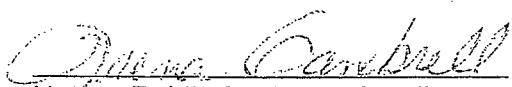
7. There are a number of professional house movers who operate in Pickens County. I believe that we (the County Building and Codes Administration Staff) do not require house movers to get permits for moving or renovating salvaged houses until the house is moved to its final destination.

8. In my experience, it is the common practice in Pickens County and in most jurisdictions in Upstate South Carolina that house movers such as Dan Ward, are not required to procure permits from local governments in order to move houses, except to the final destination of the structure at which time a foundation is affixed and utilities are attached. Until that transit takes place the only permit that is required is that which is issued by the State of South Carolina.

Further Deponent Sayeth Not


Mike Albertson

Sworn to and Subscribed before me
This 23rd day of April, 2013.


Notary Public for South Carolina
My Commission Expires: 1-24-23

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

Town of Six Mile, South Carolina,)

Plaintiff,)

v.)

Dan Ward,)

Defendant.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL DISTRICT
CIVIL ACTION NO. 2011-CP-39-1849**AFFIDAVIT OF RICHARD W. DAVIDSON**

PERSONALLY APPEARED before me this 10 day of April, 2013, Richard W. Davidson, being first duly sworn, deposes and states as follows:

1. My name is Richard W. Davidson. I am over the age of eighteen (18) years old and am competent to make this Affidavit.
2. I have personal knowledge of the facts set forth in this Affidavit.
3. I am currently employed as the Zoning Administrator and Codes Administration Officer for the towns of Liberty and Central in Pickens County, South Carolina.
4. I have been employed in the local zoning and building codes area for more than thirty (30) years and have received extensive training and experience in these fields.
5. I served as the Zoning Administrator for the Town of Six Mile from 2004 until my resignation on October 30, 2009.
6. I have personal knowledge of and have personally observed the activity of Dan Ward and the conduct of his house moving business in and around the Town of Six Mile and other areas of Pickens County for many years.
7. In 2006 during my tenure as Zoning Administrator for the Town of Six Mile, complaints were made to town officials concerning Mr. Ward's business activity on property at the corner of Bell Shoals Road and Main Street on a parcel designated as Parcel A on the attached Exhibit A.

8. In light of the complaints, I conducted an inquiry into the nature and history of Mr. Ward's business activities on Parcel A.

9. As a consequence of my investigation of the nature and history of Mr. Ward's business use of Parcel A, I concluded that Ward's use of the property constituted a valid nonconforming use subject to the grandfathering provision of the Town of Six Mile Zoning Ordinance.

10. Concurrent with my determination, Six Mile Town Council discussed the matter in public session on August 1, 2006. The minutes of that meeting reveal that council was fully apprised of the fact that Ward's use of Parcel A was a valid grandfathered nonconforming use.

11. During my tenure as Zoning Administrator for the Town of Six Mile, the Pickens County Code Administration Staff performed the permitting functions for the town, as is contemplated by provisions in the Town of Six Mile Zoning Ordinance.

12. Notwithstanding the fact that the Pickens staff was vested with the code administration function for the town, in 2009 newly elected Mayor John Wade unilaterally determined that he would impose his will and personal agenda on zoning and land use permitting decisions for the town.

13. Mayor Wade repeatedly pressured me to "take action" against Dan Ward to deprive him of his grandfathered use of Parcel A. This included pressure to bring criminal charges against Mr. Ward in Magistrate's Court. Largely as a result of Wade's demands, I elected to resign from my post as Zoning Administrator for the Town of Six Mile.

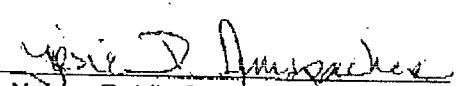
14. During my tenure as Zoning Administrator for the Town of Six Mile, the town's official maps, adopted by ordinance on a number of occasions over a period of many years, established that Parcels B and C are outside of the corporate limits of the Town of Six Mile and the town accordingly has no regulatory or other jurisdiction over those parcels.

15. In my experience, in the building codes and zoning administration fields it is the common practice in Pickens County and in most jurisdictions in Upstate South Carolina that house movers such as Dan Ward, are not required to procure permits from local governments in order to move houses, except to the final destination of the structure at which time a foundation is affixed and utilities are attached. Until that transit takes place the only permit that is required is that which is issued by the State of South Carolina. Until a structure is to be permanently affixed to its permanent location, it is no more than a large oversized trailer.

Further Deponent Sayeth Not


Richard W. Davidson

Sworn to and Subscribed before me
This 10th day of January, 2013


Notary Public for South Carolina
My Commission Expires: 12/13/21

Dan R. Ward
281 Cedar Hill Rd.
Six Mile, S.C. 29682

RECEIVED

SEP 03 2014

SC Court of Appeals

The South Carolina Court of Appeals
Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina

29211