

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Mikell R. Scarborough,  
Master-in-Equity

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Case No. 2013-CP-10-6560  
Appellate Case No. 2015-000586

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RECEIVED  
MAY 12 2015  
SC Court of Appeals

Jerome C. Harris.....Respondent,

v.

Judy Pinckney Singleton, Gordon Ladson, Charlene Wilson, Andrew Lee, Dorothy Pinckney, Priscilla Johnson, Sandra Pinckney Rahim, Anthony Pinckney, Alexis Lee, Timothy Lee, and Ronald Lee, The Estate of Eloise Pinckney Harris, John Doe, Jane Doe, Richard Roe, and Mary Roe, who are fictitious names representing all unknown persons and the heirs at law or devisees of the following deceased persons known as Simeon B. Pinckney, Isabella Pinckney, Alex Pinckney, Mary Pinckney, Samuel James Pinckney, Rebecca Riley Pinckney, James H. Pinckney, William Brown, Sarah Pinckney, Julia H. Pinckney, Laura Riley Pinckney Heyward, Herbert Pinckney, Ellis Pinckney, Jannie Gathers, Robert Seabrook, Annie Haley Pinckney, Lillian Pinckney Seabrook, Simeon B. Pinckney, Jr., Matthew G. Pinckney, Mary Riley, John Riley, Richard Riley, Daniel McLeod, Isadora A. Pinckney, Hattie Pinckney (wife of Ellis Pinckney), Josiah Pinckney, Annie Pinckney, Julius Pinckney, Sr., Eloise Pinckney Harris, Jerome Harris, Sr., Dorothy Lee, Josiah W. Pinckney, Beatrice Pinckney, Julius Pinckney, Jr. a/k/a Julia Pinckney, Hattie Pinckney (daughter of Josiah Pinckney), Elizabeth Lee, John Lee and all other persons known or unknown, claiming any right, title, estate, interest, or lien upon the real estate tracts described in the Complaint herein,.....Appellants

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**RESPONDENT'S REPLY TO THE APPELLANT'S RETURN**

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Comes now, counsel for the Respondent, Jerome C. Harris, hereby respond to the Appellant's Return as follows:

1. On March 23, 2015, as evidenced by **Exhibit 1** attached hereto, the Clerk's Office of the South Carolina Court of Appeals forwarded a letter to the Appellant, which stated in part, "*Upon reviewing your letter ordering the transcript from the court reporter, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected within ten (10) days of the date of this letter or the appeal will be dismissed.*" (Emphasis added).

2. Again, on March 23, 2015, in another letter, the Clerk's Office of the South Carolina Court of Appeals notified the Appellant, in **Exhibit 2** attached hereto, that, "*Upon reviewing your correspondence received March 9, 2015, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected within ten (10) days of the date of this letter or the appeal will be dismissed:*" (Emphasis added).

*The correspondence received March 9, 2015, does not include the notice of appeal . . .*

*The proof of service received on March 9, 2015, indicates that you are serving and filing an amended notice of appeal. However, this Court has not received a notice of appeal from you. A motion to allow the late filing of the notice of appeal will have to be made." (Emphasis added).*

### **ARGUMENT AND AUTHORITIES**

Included in the Appellant's last set of pleadings filed with this Court is a Motion Requesting Permission to File a Second Amended Notice of Appeal.

As a predicate to filing a Second Amended Notice of Appeal, there must have been a Notice of Appeal and an Amended Notice of Appeal that was filed with this

Court. The Appellant has never filed a Notice of Appeal with this Court. (Emphasis added). The Appellant, on February 24, 2015 as evidenced by **Exhibit 3** attached hereto, did file a Notice of Appeal with the Clerk of the Charleston County Court of Common Pleas.

The same document was received on April 21, 2015 by the South Carolina Court of Appeals. However, the rules clearly mandate that the Notice of Appeal must be filed with the Clerk of the Court of Appeals and the Clerk of the Court of Common Pleas. (Emphasis added).

Rule 203(d)(1) states, in part, "*In all other cases, the notice of appeal shall be filed with the clerk of the lower court and the Clerk of the Court of Appeals.*" (Emphasis added).

Courts have repeatedly recognized that the word "*shall*" denotes mandatory obligations. For example, the Federal Circuit has recognized that use of the word "*shall*" indicates that the language that follows is "mandatory" and does not provide the parties with discretion as to how they should act. Kingdomware Techs., Inc. v. United States, 754 F.3d 923, 935 (Fed. Cir. 2014).

Additionally, in Termnet Merchant Services, Inc. v. Phillips, 588 S.E. 2d 745 (Ga., 2003), the Georgia Supreme Court held in interpreting a Georgia statute that had the word "*shall*" in it, that ". . . *there is nothing in OCGA §13-1-11 that suggests the legislature intended the use of the word "shall" in this subsection (a) to denote a permissive rather than a mandatory meaning.*"

Furthermore, in Krikstan v. Krikstan, 90 Md. App. 462, 471, 601 A.2d 1127 (1992), the Maryland Court of Appeal held that, "*the inclusion of the word "shall"*

*in statutory language “generally denotes an imperative obligation inconsistent with the idea of discretion,”*

There should be no less stringent reading or interpretation given to the hereinabove mentioned South Carolina Rule of Appellate Practice. The Rule does not give the Appellant discretion as to when, how, or in what manner his appeal should be perfected. While admittedly, the Appellant did comply with a part of the Rule in filing a Notice of Appeal with the Clerk of the lower court, that does not suffice to comport with the rules which require the filing of the Notice of Appeal with the Clerk of the Court of Appeals.

Moreover, Rule 203(d)(b) states that, “*the Notice of Appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served.*” As evidenced by **Exhibit 4**, the letter containing the Notice of Appeal, filed only with the Clerk of the lower Court, was not mailed from the Appellant’s office until April 17, 2015.<sup>1</sup> That is fourteen (14) days beyond the time frame that the Notice of Appeal should have been filed with the Court of Appeals.

Furthermore, to this date, the Appellant has not ordered the transcript of the lower court’s proceeding as required by the rules. The Summary Judgment hearing before Judge Mikell R. Scarborough, Master-in-Equity Court, was held on April 17, 2014.<sup>2</sup> The court reporter at the proceeding on April 17, 2014 was Ms. Scoggan. To this date, there is no letter from the Appellant requesting that the trial transcript from Ms. Scoggan be prepared for this appeal.

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<sup>1</sup> See page 2 of Exhibit 4.

<sup>2</sup> The Final Order from the Summary Judgment proceeding is set out in Exhibit 2 of the Respondent’s Motion to Dismiss heretofore filed with this Court.

The Appellant has engaged in a profoundly callous disregard relative to following the Rules of Appellate Practice. The Appellant cannot be rewarded for disregarding the directives set out in the March 23, 2015 letters from this Court. For the Appellant to not follow the Rules and directive of this Court is tantamount to making a mockery of the said rules.

Thus, Respondent submits that the Motion to Dismiss should be granted.

May 7, 2015



Edward M. Brown, Esquire  
Post Office Box 20261  
Charleston, SC 29413  
(843) 559-9224  
(843) 559-9226 (fax)  
Attorney for Respondent



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 23, 2015

Mr. Willie Bruce Heyward, Esquire  
27 Gamecock Ave., Ste. 200  
Charleston SC 29407

Re: Jerome Harris v. Judy Pinckney Singleton  
Appellate Case No. 2015-000586

Dear Counsel:

Upon reviewing your letter ordering the transcript from the court reporter, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected within ten (10) days of the date of this letter or the appeal will be dismissed:

- The letter addressed to Ms. Singletary and dated March 6, 2015, identifies Judge Nicholson as the presiding judge in this matter. However, you have indicated in the proof of service and the order that Judge Scarborough presided over this matter in the lower court.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Edward McKinley Brown, Esquire

EXHIBIT

1



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 23, 2015

Mr. Willie Bruce Heyward, Esquire  
27 Gamecock Ave., Ste. 200  
Charleston SC 29407

Re: Jerome Harris v. Judy Pinckney Singleton  
Appellate Case No. 2015-000586

Dear Counsel:

Upon reviewing your correspondence received March 9, 2015, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected within ten (10) days of the date of this letter or the appeal will be dismissed:

- The correspondence received March 9, 2015, does not include the notice of appeal.
- The signature block on your cover letter shows that you represent Ernest McKnight, a party that is not included in the caption used on the proof of service.
- The proof of service received on March 9, 2015, indicates that you are serving and filing an amended notice of appeal. However, this Court has not received a notice of appeal from you. A motion to allow the late filing of the notice of appeal will have to be made.
- If you have served and filed an amended notice of appeal on the respondent, then you must file a copy of the amended notice with this Court.

EXHIBIT

2

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Edward McKinley Brown, Esquire

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Honorable Mikell R. Scarborough  
Master-in-Equity

Case No.: 2013-CP-10-6560

FILED  
2015 FEB 24 PM 2:48  
JULIE J. ARMSTRONG  
CLERK OF COURT

Jerome Harris

Respondent,

v.

Judy Pinckney Singleton, Gordon Ladson, Charlene Wilson, Andrew Lee, Dorothy Pinckney, Priscilla Jonson, Sandra Pinckney Rahim, Anthony Pinckney, Alexis Lee, Timothy Lee, and Ronald Lee, The Estate of Eloise Pinckney Harris, John Doe, Jane Doe, Richard Roe, and Mary Roe, who are fictitious names representing all unknown persons and the heirs at law or devisees of the following Deceased person known as Simeon B. Pinckney, Isabella Pinckney, Alex Pinckney, Mary Pinckney, Samuel James Pinckney, Rebecca Riley Pinckney, James H. Pinckney, William Brown, Sarah Pinckney, Julia H. Pinckney, Laura Riley Pinckney Heyward, Herbert Pinckney, Ellis Pinckney, Jannie Gathers, Robert Seabrook, Annie Haley Pinckney, Lillian Pinckney Seabrook, Simeon B. Pinckney, Jr., Matthew G. Pinckney, Mary Riley, John RILEY, Richard Riley, Daniel Mcleod, Isadora A. Pinckney, Hattie Pinckney (wife of Ellis Pinckney), Josiah Pinckney, Annie Pinckney, Julius Pinckney, SR., Eloise Pinckney Harris, Jerome Harris, Sr., Dorothy Lee, Josiah W. Pinckney, Beatrice Pinckney, Julius Pinckney, JR. a/k/a Julia Pinckney, Hattie Pinckney (daughter of Josiah Pinckney, Elizabeth Lee, John Lee and all other persons known or unknown, claiming any right, title, estate, interest, or lien upon the real estate tracts described in the Complaint herein,

Appellants

NOTICE OF APPEAL

RECEIVED

APR 21 2015

SC Court of Appeals

Gordon Ladson appeals the order of the Mikell R. Scarborough, Master in Equity for Charleston County dated January 16, 2015 Appellant received written notice of entry of this order on January 22, 2013.

EXHIBIT

3

**Heirs Property  
Law Center, LLC**

27 Gamecock Ave., Suite 200  
Charleston, SC 29407

April 3, 2015


Court of Appeals  
1015 Sumter St.  
P. O. Box 11629  
Columbia, S.C. 29211

**Re: Jerome Harris vs. Judy Pinckney Singleton, et al.  
Case No.: 2013-CP-10-6560**

Dear Sir/Madam:

Enclosed please find a copy of the Notice of Appeal, Certificate of Service and request for transcript in the above referenced matter. Also enclosed is the filing fee in the amount of \$100.00 and a copy of the order(s) being challenged in this Appeal.

Please file same and return the clocked copy to me in the self-addressed, stamped envelope provided herein.

  
Consuela Reese  
Legal Assist to  
Willie B. Heyward  
Attorney for Appellant, Gordon Ladson

Enclosures

cc: Edward M. Brown, Esq.  
PO Box 20261  
Charleston, SC 29403

**RECEIVED**  
APR 21 2015  
SC Court of Appeals

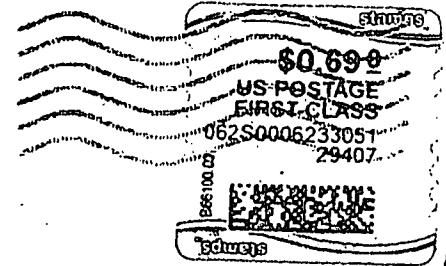
EYHI

EXHIBIT

4

The Heirs Property Law Center, LLC  
27 Gamecock Avenue  
Suite 200  
Charleston, SC 29407

CHARLESTON SC 294  
17 APR 2015 PM 1 L



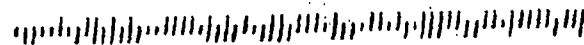
**RECEIVED**

APR 21 2015

SC Court of Appeals

Court of Appeals  
1015 Sumter St.  
PO Box 11029  
Columbia, SC 29211

29211+1629



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMONS  
NINTH JUDICIAL CIRCUIT  
CASE NUMBER: 2013-CP-10-6560

JEROME C. HARRIS, )  
 )  
Plaintiff, )  
 )  
vs. )

RECEIVED

APR 21 2015

SC Court of Appeals

CERTIFICATE OF SERVICE

Judy Pinckney Singleton, Gordon Ladson, )  
Charlene Wilson, Andrew Lee, Dorothy )  
Pinckney, Priscilla Jonson, Sandra Pinckney )  
Rahim, Anthony Pinckney, Alexis Lee, Timothy )  
Timothy Lee, and Ronald Lee, )  
The Estate of Eloise Pinckney Harris, John Doe, )  
Jane Doe, Richard Roe, and Mary Roe, who are )  
fictitious names representing all unknown persons )  
And the heirs at law or devisees of the following )  
Deceased person known as Simeon B. Pinckney, )  
Isabella Pinckney, Alex Pinckney, Mary Pinckney, )  
Samuel James Pinckney, Rebecca Riley Pinckney, )  
James H. Pinckney, William Brown, Sarah )  
Pinckney, Julia H. Pinckney, Laura Riley Pinckney )  
Heyward, Herbert Pinckney, Ellis Pinckney, )  
Jannie Gathers, Robert Seabrook, Annie Haley )  
Pinckney, Lillian Pinckney Seabrook, Simeon B. )  
Pinckney, Jr., Matthew G. Pinckney, Mary Riley, )  
John RILEY, Richard Riley, Daniel Mcleod, )  
Isadora A. Pinckney, Hattie Pinckney (wife of Ellis )  
Pinckney), Josiah Pinckney, Annie Pinckney, Julius )  
Pinckney, SR., Eloise Pinckney Harris, Jerome )  
Harris, Sr., Dorothy Lee, Josiah W. Pinckney, )  
Beatrice Pinckney, Julius Pinckney, JR. a/k/a Julia )  
Pinckney, Hattie Pinckney (daughter of Josiah )  
Pinckney), Elizabeth Lee, John Lee and all other )  
persons known) or unknown, claiming any right, )  
title, estate, interest, or lien upon the real estate tracts )  
described in the Complaint herein, )

Defendants. )

FILED  
2015 FEB 24 PM 2:48  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

The undersigned hereby certifies that she is the Legal Assistant for Attorney Willie B. Heyward, Heirs Property Law Center, LLC for the above-named Plaintiffs and that she is a person of such age and discretion as to be competent to serve papers.

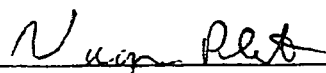
That on February 23, 2015, she served a copy of the following document(s) in the above-entitled case by faxing and placing said copy in a post-paid envelope addressed to the person hereinafter named, at the place, address and fax number stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail in Charleston, South Carolina.

DOCUMENTS:

NOTICE OF APPEAL  
CERTIFICATE OF SERVICE

ADDRESSEE(s)

Edward M. Brown, Esq.  
P.O. Box 20261  
Charleston, SC 29403

  
\_\_\_\_\_  
Virginia Plitnik  
Office Assistant  
Heirs Property Law Center, LLC

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Mikell R. Scarborough,  
Master-in-Equity

---

Case No. 2013-CP-10-6560  
Appellate Case No. 2015-000586

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**RECEIVED**  
MAY 12 2015  
**SC Court of Appeals**

Jerome C. Harris.....Respondent,

v.

Judy Pinckney Singleton, Gordon Ladson, Charlene Wilson, Andrew Lee, Dorothy Pinckney, Priscilla Johnson, Sandra Pinckney Rahim, Anthony Pinckney, Alexis Lee, Timothy Lee, and Ronald Lee, The Estate of Eloise Pinckney Harris, John Doe, Jane Doe, Richard Roe, and Mary Roe, who are fictitious names representing all unknown persons and the heirs at law or devisees of the following deceased persons known as Simeon B. Pinckney, Isabella Pinckney, Alex Pinckney, Mary Pinckney, Samuel James Pinckney, Rebecca Riley Pinckney, James H. Pinckney, William Brown, Sarah Pinckney, Julia H. Pinckney, Laura Riley Pinckney Heyward, Herbert Pinckney, Ellis Pinckney, Jannie Gathers, Robert Seabrook, Annie Haley Pinckney, Lillian Pinckney Seabrook, Simeon B. Pinckney, Jr., Matthew G. Pinckney, Mary Riley, John Riley, Richard Riley, Daniel McLeod, Isadora A. Pinckney, Hattie Pinckney (wife of Ellis Pinckney), Josiah Pinckney, Annie Pinckney, Julius Pinckney, Sr., Eloise Pinckney Harris, Jerome Harris, Sr., Dorothy Lee, Josiah W. Pinckney, Beatrice Pinckney, Julius Pinckney, Jr. a/k/a Julia Pinckney, Hattie Pinckney (daughter of Josiah Pinckney), Elizabeth Lee, John Lee and all other persons known or unknown, claiming any right, title, estate, interest, or lien upon the real estate tracts described in the Complaint herein,.....Appellants

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**PROOF OF SERVICE**

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I certify that I have served the Respondent's Reply to Appellant's Return, on the Appellants by depositing a copy of it in the United States Mail, postage prepaid, on May

7, 2015, addressed to their attorney of record as listed below.

Willie B. Heyward, Esquire  
27 Gamecock Avenue  
Suite 200  
Charleston, South Carolina 29407  
Attorney for Appellants

May 7, 2015

A handwritten signature in cursive script, appearing to read "Edward M. Brown", written over a horizontal line.

Edward M. Brown, Esquire  
Post Office Box 20261  
Charleston, South Carolina 29413  
Telephone No.: (843) 559-9224  
Facsimile No.: (843) 559-9226

# EDWARD M. BROWN

---

ATTORNEY AT LAW  
OFFICE: (843) 559-9224 ~ FACSIMILE: (843) 559-9226

EDWARD M. BROWN

**PLEASE REPLY TO:**  
P. O. BOX 20261  
CHARLESTON, SC 29413-0261  
E-Mail: edbrownlawfirm@att.net

May 7, 2015

The Honorable Jenny Abbott Kitchings  
Clerk  
S.C. Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211

**RE: Jerome Harris**  
**vs.**  
**Judy Pinckney Singleton, et al.**  
**Appellate Case No. 2015-000586**

**RECEIVED**  
MAY 12 2015  
SC Court of Appeals

Dear Ms. Kitchings:

You will find enclosed herein for filing, the original and six (6) copies of Respondent's Reply to the Appellant's Return together with a Proof of Service and a check in the amount of \$25.00 relative to the above-referenced matter.

Subsequent to filing the enclosed documents, kindly return a stamped copy of said Reply to this writer's office by way of the self-addressed enclosed envelope.

Yours very truly,

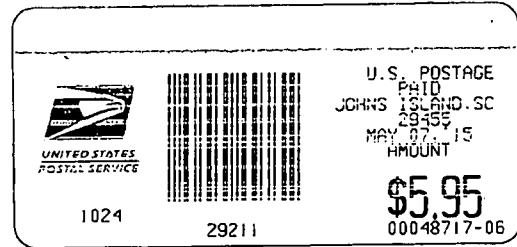


Edward M. Brown

EMB/

Enclosures

cc: Willie B. Heyward, Esquire



**EDWARD M. BROWN**  
ATTORNEY AT LAW  
P. O. BOX 20261  
CHARLESTON, SC 29413-0261

**RECEIVED**  
MAY 12 2015  
**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk  
S.C. Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211