

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-07-3290

LINDA S. NEAL

NANCY C. SMITH, et al.

MICHELLE G. DUBBS,
 PLAINTIFF(S)

DEFENDANT(S)

Submitted by: James J. Wegmann, Esquire

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), 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

RECEIVED
 JUN 11 2015
 SC Court of Appeals

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 :

MAY 13 PM 3:52
 CLERK OF COURT
 BEAUFORT 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)
Linda S. Neal Michelle G. Dobbs	Nancy C. Smith, et al.	\$N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:
 R100 031 000 0073 0000
 245 Savannah Highway
 Beaufort, SC 29906

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.

[Handwritten Signature]
 3069 5/17/15
 Page 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
Case No.: 2012-CP-07-3290

LINDA S. NEAL and MICHELLE G.)
DUBBS,)

Plaintiffs,)

vs.)

NANCY C. SMITH, BENJAMIN RAY)
SMITH, III, TARA ANN SMITH,)
the Heirs at Law of BENJAMIN)
RAY SMITH, JR.; If living and if not living)
then the heirs, devisees or successors of all)
such persons named above; and all persons)
unknown having or claiming to have any)
right, title, estate, interest in or lien upon)
the real property described in the Complaint)
herein, being collectively as JOHN DOE)
and MARY ROE, including all persons who)
may be deceased, minors, in the Armed)
Forces of the United States, Non Compos)
Mentis and under any other disability,)

Defendants.)

FINAL ORDER

2015 MAY 13 PM 3:45
CLERK OF COURT
BEAUFORT COUNTY, S.C.

This matter came before me on November 5th, 2014. Present at the appointed place and time were the Plaintiffs, represented by James J. Wegmann, Esquire and the Defendant, Nancy C. Smith ("N. Smith"), represented by her attorney, H. Fred Kuhn, Jr., Esquire.

CLAIMS OF THE PARTIES

Plaintiffs' Amended Summons and Complaint contains four (4) causes of action: (1) Declaratory Judgment in which the Plaintiffs have asked the Court to quiet title to real property

("Property")¹ which is the subject of this action as described on Exhibit "A" attached hereto and incorporated herein; (2) Ejectment/Eviction of the Defendants from the Property; (3) Removal of the Defendants mobile home from the mobile home park along with its contents, etc.; and (4) Removal of the personal property from the former business Smitty's Auto Trim. The Defendant Nancy C. Smith ("N. Smith"), individually and as personal representative for the Estate of Benjamin Ray Smith, Jr., ("Smitty")² Answer and Counterclaim contains 2 counterclaims: (1) Adverse Possession for the property "upon which the mobile home was situated, and also a business which was owned and operated by Benjamin Ray Smith, Jr. ..." "Smitty", her husband; and (2) that the deed dated November 6th, 2001 in which Frances R. Smith conveyed to her daughter, the Plaintiff, Linda S. Neal, the Property in question in Joint Tenancy with Rights of Survivorship was "subject to undue influence, misrepresentation, fraud and questionable signatures."

PROCEDURAL BACKGROUND

This matter originated by the filing Ejectment/Eviction; Removal of Mobile Home; and Removal of Personal Property actions in the Magistrate Court on June 27th, 2012. On August 3rd, 2012, the Defendants Nancy C. Smith and Benjamin Ray Smith, III, filed a Notice of Motion and Motion for Undertaking, To Dismiss and To Continue in the Magistrate Court stating in part that they had an "interest" in the real property in question and therefore pursuant to S.C. Code § 22-3-1110 et. seq. the action should be transferred to the Court of Common Pleas.

On September 20th, 2012, the Plaintiffs filed a Summons and Complaint in the Beaufort County Court of Common Pleas seeking, in addition to the relief requested in

¹ Description of the Property is attached hereto and incorporated herein as Exhibit "A" and contains approximately 5 acres, more or less and is generally known as the Whispering Pines Mobile Home Park near the intersection of Baynard Rd. and Savannah Highway in Beaufort County, South Carolina.

² During the hearing, Benjamin Raymond Smith, Jr. was referred to as "Smitty".

Magistrate Court, a Declaratory Judgment that the Plaintiffs are the rightful owners of the property in question, thereby removing the cloud on title created by the Defendants' allegation/claim of a property interest. On October 24th, 2012, the Defendants filed an Answer and Counterclaim through their attorney at the time, James H. Moss. On March 11th, 2013, the Plaintiffs filed an Amended Summons and Complaint and served the Amended Summons and Complaint on the Defendants' attorney, James H. Moss. The purpose of the Amended Summons and Complaint was to add the additional parties of the Estate of Benjamin Ray Smith Jr., Nancy C. Smith as personal representatives as well as, any unknown persons who may have an interest in the property.

On May 13th, 2013, James H. Moss filed a Notice of Motion and Motion to be Relieved as the Defendants' attorney. A hearing was held on August 12th, 2013 relieving Mr. Moss from further service, however, the order wasn't presented to the Court for signature until February of 2014. On February 26th, 2014, the Court signed the Order relieving Mr. Moss from further service in the case. Prior to the signing and filing of the order relieving Mr. Moss, the Plaintiffs, having never received any responsive pleadings to the Amended Summons and Complaint, through their counsel filed an Affidavit of Default. On March 26th, 2014, H. Fred Kuhn filed a Notice of Appearance on behalf of the Defendant Nancy Smith. On June 12th, 2014 the matter was referred to the Master-in-Equity for Beaufort County, South Carolina for adjudication.

On August 12th, 2014, a Damages Hearing was set at 9:30 a.m., notice of which having been sent to the parties and to H. Fred Kuhn on behalf of Nancy C. Smith, on July 15th, 2014. At the hearing on August 12th, 2014, Mr. Kuhn made a motion to set aside the Notice of Default and to request leave to file an Amended Answer and Counterclaim. The Court granted Mr. Kuhn's motion as it related to the Defendant N. Smith,

individually and as personal representative, but the other Defendants remained in Default. N. Smith filed her Answer and Counterclaim to the Amended Summons and Complaint on August 18, 2014.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Property Chain of Title

The chain of title to the Property in question, as presented at the hearing was uncontroverted. The various deeds in the chain were admitted into evidence without objection. The Plaintiff Linda S. Neal f/k/a Linda R. Geiler, ("L. Neal") originally purchased the Property from James Fred Edgar and Stella Edgar by instrument dated March 8th, 1965 for the sum of \$6,000.00. The deed was recorded in the Beaufort County records in Book 128 at Page 155B. In 1969, L. Neal's parents, Benjamin Raymond Smith³ ("BR") and Frances R. Smith moved on to the property and lived on the property with the permission of L. Neal until their deaths in April of 2000 and September of 2007, respectively. L. Neal's brother, Smitty and his wife, the Defendant N. Smith, moved on to the property with the permission of L. Neal and they continued to reside there until shortly after Smitty's death in January of 2011.⁴

L. Neal was periodically away from the Property as her first husband, Tommy Geiler, was active duty in the Marine Corps and they were required to move from time to time. L. Neal conveyed the Property to her mother, Frances R. Smith, in 1969 for safekeeping when she moved with her first Husband, Mr. Geiler, out of the local area pursuant to his military orders. Frances R. Smith conveyed the Property back to the L.

³ During the hearing, the Plaintiff, Linda S. Neal's father Benjamin Raymond Smith was referred to as "BR".

⁴ The Defendant, Nancy C. Smith, testified that several months after her husband died in January of 2011, she moved out of the mobile home located on the Property and that the business known as Smitty's Auto Trim was shut down and ceased to do business.

Neal in 1981 and in 1982 L. Neal conveyed the Property back to her mother, again for safekeeping. The 1969, 1981, and 1982 deeds all state the consideration as “(\$1.00 Dollar and Love and Affection”. L. Neal permanently moved back on to the Property in 1988 and has lived there ever since. In 2001, Frances R. Smith conveyed the Property to herself and L. Neal as joint tenants with rights of survivorship. After Frances R. Smith’s death in September of 2007 the Property passed, pursuant to Joint Tenancy with Rights of Survivorship, automatically to L. Neal. L. Neal then conveyed the Property to herself and Plaintiff Michelle G. Dubbs in Joint Tenancy with Rights of Survivorship.⁵ All of the deeds mentioned herein were duly recorded in the Office of the Register of Deeds for Beaufort County, South Carolina and the Defendants herein were, at a minimum, on constructive notice of the various conveyances.

Auto Trim Business

The auto trim business was originally started and owned by the L. Neal’s and Smitty’s father, BR. The business had several locations but was moved on to the Property in question with the permission of L. Neal. The testimony consistently showed that BR, with the help of both L. Neal and Smitty ran the business up until BR’s death in April of 2000. Sometime shortly after the death of BR in April of 2000, Frances R. Smith transferred the business assets of the auto trim shop known as Smitty’s Auto Trim to her son, Smitty.⁶ Smitty operated and managed the business as his own until he took

⁵ The Plaintiff, Michelle G. Dubbs is the daughter of the Plaintiff L. Neal.

⁶ The transfer of the business to Raymond, Jr. (“Smitty”) was near the time that Frances R. Smith conveyed the Property to herself and L. Neal in Joint Tenancy with Rights of Survivorship. L. Neal testified that Property was always hers, she merely transferred control of the Property over to her mother while she was out of the local area due to her first husband’s military commitments, for safekeeping. Defendant N. Smith argued that the deed into JTROS effectively disinherited her husband Smitty. I find that argument to be without merit in light of the fact the property was originally purchased by L. Neal and that the land was only placed into Francis R. Smith’s name for safekeeping. Furthermore, Smitty was clearly not disinherited, as he received the Auto Trim Business and his parent’s mobile home. Arguably, L. Neal could have argued she was disinherited, she received none of the auto trim business despite the fact she



ill in 2009. At that time, Smitty's friend and employee from approximately 2004, Charles Warren, took over the management of the business in 2009 until its closure in the spring of 2011 after Smitty's death. There is no controversy that BR's auto trim business was run out of a building on the Property in question, however there is also no controversy that the auto trim business never owned the Property it was located on. As discussed below, occupying and running a business out of a location with the permission of the real property owner does not and cannot rise to ownership of the Property the business sits on by adverse possession.

Defendant N. Smith's Claim for Adverse Possession

The Defendant, N. Smith's pleadings allege that she owns the real property that is under her mobile home and the real property under the business known as Smitty's Auto Trim and that her ownership ripened as a result of adverse possession.⁷ The Defendant N. Smith must show by clear and convincing evidence that her possession was continuous, hostile, open, actual, notorious, and exclusive for a period of ten years in order to make a claim for adverse possession. *Jones v. Leagan*, 384 S.C. 1, 681 S.E.2d 6, 11 (Ct. App. 2009). *See Also*, Ralph King Anderson, Jr., *South Carolina Requests to Charge – Civil*, 2002, § 4.7. The Defendant N. Smith's claim fails on multiple levels.

First, the possession must be exclusive, that is, "the person must hold the land for himself and not for another." *Id.* The testimony was clear that there were two "owners" of the property from 1965 through Frances R. Smith's death in 2007, the Plaintiff, L.

worked in the auto trim business from 1980 until 2003 and she did not receive any interest in her parents' mobile home.

⁷ At the hearing, Mr. Kuhn argued that what the Defendant, Nancy C. Smith, adversely possessed was a ½ undivided interest in the entire Property and not just the land under which the business and land under which the mobile home resided. There is clearly nothing in the long history of adverse possession law that would allow a party to adversely possess any undivided interest in a property in conjunction with an original owner or co-owner, it would violate several of the required elements of adverse possession and therefore I reject such an argument.

Neal and her mother, Frances R. Smith. It is also clear that L. Neal resided, except for intermittent periods in which she lived off the property due to her first husband's military service, on the property from 1965 to present day. Frances R. Smith moved on the property in 1969 and lived continuously on the property from 1969 until her death in September 2007. "The requirement for exclusive possession is not met if occupancy is shared with the owner or agents of the owner. Claimant's possession must be such as to indicate his exclusive ownership of the property." *Id. See also, Glymph v. Smith et. al.*, 185 S.E. 911, 913 (S.C. 1936), "... to constitute the basis of title by adverse possession, [possession] must not be held in common with the rightful owner. In such a case there can be no disseisin unless the rightful owner is altogether deprived of possession." [Emphasis Added] *See also, Butler v. Lindsey*, 293 S.C. 466, 472, 361 S.E.2d 621, 624 (Ct. App. 1987), "[t]he general rule is that where an owner of property and an occupier are both in possession, the possession of the legal owner prevails to the exclusion of the other." In the case at hand, the Defendant N. Smith resided on the property with both L. Neal and Frances R. Smith. Since Defendant N. Smith moved on to the Property in 1969 until she left the Property in 2011, Defendant N. Smith occupied the property with either L. Neal and/or Francis R. Smith the entire time. There was never a period of time that Defendant N. Smith occupied the Property to the exclusion of either L. Neal and/or Francis R. Smith. Consequently, I find the Defendant N. Smith cannot meet the requirement of "exclusive possession" for a period in excess of ten (10) years.

Likewise, I find the Defendant N. Smith cannot show "open and notorious possession" by clear and convincing evidence. "To demonstrate open and notorious possession, it is not necessary that there be actual knowledge of the party's claim. It is

sufficient that possession is so open, visible and notorious that the party against whom adverse possession is asserted should, in the exercise of ordinary diligence, have had knowledge of the adverse character of the claim.” Ralph King Anderson, Jr., *South Carolina Requests to Charge – Civil*, 2002, § 4.7. *See also, Jones v. Leagan*, 384 S.C. 1, 681 S.E.2d 6, 13 (Ct. App. 2009), “... the hostile possession should be so notorious that the legal owner by ordinary diligence should have known of it.” There was no testimony elicited that the N. Smith’s possession of the property was anything other than possession by “permission” of the owner. The Defendant N. Smith’s own witnesses testified either they didn’t know who owned the property or they assumed it was owned by the Plaintiff’s father, BR. L. Neal testified she wasn’t aware that the Defendant N. Smith was making such a claim until she filed the Ejectment/Eviction action in the Magistrate Court and the Defendant N. Smith answered claiming she had an “interest” in the Property. Furthermore, Defendant N. Smith acknowledged she and Smitty moved on the property with permission. I therefore find that Defendant N. Smith’s “possession” of the portion of the Property where her mobile home sat and where the business sat was by permission of the owner(s).

Likewise, the Defendant N. Smith has, by her own testimony, failed to demonstrate the “hostile element” of her adverse possession claim. The “hostile” element requires the person claiming adverse possession to show that she possessed the property “... with the intention to dispossess the owner of the property.” Ralph King Anderson, Jr., *South Carolina Requests to Charge – Civil*, 2002, § 4.7. The Defendant N. Smith testified that she never intended to take possession of the property away from Frances R. Smith, nor did she testify that she ever intended to dispossess L. Neal from the property. The chain of title indicates that Frances R. Smith was at least one of the record

owners of the property from 1969, the year the Defendant N. Smith first moved on to the property, until her death in April of 2007⁸. Consequently, I find the Defendant N. Smith has failed to also meet the “hostility” requirement of adverse possession.

Finally, the Defendant N. Smith testified that she and her husband Smitty entered upon the land with permission in 1969. As the case of *All Saints Parish, Waccamaw v. The Protestant Episcopal Church*, 358 S.C. 209, 232, 595 S.E.2d 253, 265 (Ct. App. 2004), states, “... a party cannot adversely possess property used with the permission of the owner...” unless there is a “clear disclaimer of the owner’s title.” Again, there was no evidence that the Defendant N. Smith ever made any type of claim to the property contrary to either Frances R. Smith’s ownership or the ownership of L. Neal. As stated earlier, the Defendant N. Smith testified that she never intended to dispossess Frances R. Smith of her ownership nor did she testify or put forth any evidence that she intended to dispossess L. Neal from the Property.

Defendant N. Smith’s Claim of a Fraudulent Deed

The deed in question is dated November 6th, 2001, nearly 3 years prior to Frances R. Smith taking ill. The deed was prepared by the Law Office of J. Thomas Mikell, PC, was signed at the law offices and witnessed by 2 witnesses and a notary from the law office. The deed was then filed in the Beaufort County Register of Deeds Office on November 13th, 2001 in Book 1496 at Page 1598. The deed is valid on its face and therefore carries with it a presumption of validity. The Supreme Court of South Carolina stated in *Hudson v. Leopold*, 288 S.C. 194, 196, 341 S.E.2d 137, 138 (S.C. 1986), “[a] deed regular and valid on its face raises a presumption of validity Generally, the party

⁸ There was only a short period of time, October 1981 to February 1982, that Francis R. Smith did not have some form of ownership in and to the Property. It was at this time that Frances R. Smith conveyed the property back to L. Neal, as the sole owner, in October of 1981. In February 1982, L. Neal conveyed the Property back to her mother, Francis R. Smith.

attacking the deed has the burden of proof.” The Defendant N. Smith argued that the Plaintiff L. Neal had a “confidential relationship” with her mother Francis R. Smith and therefore, the 2001 deed is presumed invalid and the burden is shifted to the Plaintiff L. Neal to establish the absence of undue influence.

The Supreme Court of South Carolina in *Middleton v. Suber*, 300 S.C. 402, 405, 388 S.E.2d 639, 641 (S.C. 1989) stated, “[a] confidential relationship arises when the grantor places trust and confidence in the grantee, and the grantee exerts dominion over the grantor.” The testimony of all the various witnesses was consistent that Frances R. Smith loved both her children, L. Neal and Smitty, and that both her children helped their mother, checked up on their mother, and stayed with their mother when she took ill in 2004. It is significant that Frances R. Smith did not take physically ill until 2004 nearly 3 years after she conveyed the Property to herself and Plaintiff L. Neal in JTROS.

After Francis R. Smith took ill she had a daily caretaker, Atavia Brown, who testified that Francis R. Smith physically needed some day to day assistance, but that mentally, she was sharp as a tack and knew exactly what she was doing. Miss Brown’s physical and mental description of Francis R. Smith was consistent with other witnesses’ testimony of her physical and mental condition after she took ill. There was no evidence elicited by Defendant N. Smith from any witness that Frances R. Smith was not mentally or physically capable of transferring ownership in the Property in November of 2001 nor was there any evidence elicited that the Plaintiff L. Neal “exercised dominion” over her mother, Francis R. Smith at any time, but more importantly at the time of the conveyance in November of 2001. There was no testimony elicited that the Plaintiff L. Neal ever had a power of attorney for her mother or that her relationship with her mother was any different than Francis R. Smith’s relationship with her son, Smitty. I therefore do not



find that a "confidential relationship" existed between the Plaintiff L. Neal and Francis R. Smith. Consequently, Defendant N. Smith bears the burden of proof to overcome the presumption of a valid deed on its face.

What was elicited was that Francis R. Smith loved both her children and that both her children, L. Neal and Smitty cared for their mother and looked after their mother. Defendant N. Smith put forth no evidence that the 2001 deed from Frances R. Smith to L. Neal, as joint tenants with rights of survivorship, was procured by undue influence, misrepresentation, fraud, or otherwise. Defendant N. Smith may have thought that her husband, Raymond, Jr. "Smitty" should have been given a partial ownership in the Property by his parents. But, that belief does not rise to the level of an "adverse possession" nor does it show that the 2001 Joint Tenancy with Rights of Survivorship Deed was procured by undue influence, misrepresentation, fraud, or otherwise.

Additionally, the property was not necessarily Francis R. Smiths to leave to anyone else. The Plaintiff L. Neal originally purchased the Property for \$6,000.00 and she allowed her parents and her brother and his family to reside and work on the Property. They all participated in some form or other in the auto trim business that was eventually given to the Defendant N. Smith's husband, Smitty, in 2001 by Francis R. Smith after the death of BR. I specifically find that L. Neal conveyed the Property to her mother for safe keeping while she "deployed" with her first husband during his Marine Corps career and that she and her mother conveyed the property back and forth several times for purposes of safekeeping.

Ejectment/Eviction

The Property is used as a mobile home park in which the Plaintiffs lease "space" or "pads" for tenants to park their mobile homes/campers, etc. upon. The Plaintiffs charge "lot rent" to the tenants on a monthly basis. The Defendant N. Smith was asked back in the fall of 2011 to vacate the mobile home park and to remove her mobile home and personal items from the mobile home and the personal items that she stored in the former business spaces. The Plaintiffs have been unable to rent either the "pad" where the Defendant N. Smith's mobile home sits nor have they been able to rent or use the business spaces where Defendant N. Smith stored items. Given the previous finding that the Defendants do not have any right, title or interest in or to the Property, the Plaintiffs are entitled to an order of ejectment/eviction of the Defendants personally and for an order requiring Defendant N. Smith to remove the mobile home and contents and the personal property formerly owned by the business.

Conclusion

Therefore, based on the preceding, I find that title to the Property in question resides in the name of the Plaintiffs as Joint Tenants with Rights of Survivorship and the Defendants herein have no right, title or interest in and/or to the Property and they are entitled to an order quieting title to the Property in their names. I further find that the Plaintiffs are entitled to ejectment/eviction of the Defendants from the Property as they have no right, title, or interest in or to the Property and for the removal of the mobile home and contents and the personal property from the business from the property.

IT IS THEREFORE, ORDERED that judgment shall be entered in favor of the Plaintiffs and against the Defendants as follows:

A. Title to the Property in question is confirmed in the names of Linda S. Neal and Michelle G. Dubbs as Joint Tenants with Rights of Survivorship and not as Tenants in Common as evidenced by that certain deed recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 2687 at Page 1933;

B. All the Defendants are hereby enjoined and restrained from entering the Property in question without the permission of the Plaintiffs.

C. The Defendant N. Smith has sixty (60) days from the date of this Order in which to remove the mobile home from the Property. Defendant N. Smith shall coordinate with L. Neal for access to the Property for the purpose of removing the mobile home. In the event the Defendant N. Smith does not remove the mobile home from the Property, then pursuant to S.C. Code § 6-1-150(B)(1), the mobile home shall be removed and sold, to include its contents, and the Plaintiffs shall be entitled to claim any proceeds of sale as fair rental value for the space occupied by the mobile home in the Plaintiffs' mobile home park which could have been rented to a third party;

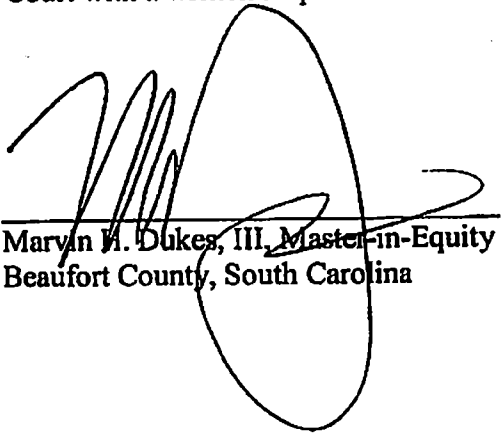
D. The Defendant N. Smith has sixty (60) days from the date of this Order in which to remove any personal property of the former business, Smitty's Auto Trim, from the Property. Defendant N. Smith shall coordinate with L. Neal for access to the Property for the purpose of removing the personal property of the former business. In the event the Defendant N. Smith does not remove the personal property of the former business, the Plaintiffs shall be entitled to claim the personal property as their own or to sell the personal property and claim the proceeds of sale in compensation for the fair rental value of the building which could have been rented to a third party; and

E. The Plaintiffs have ten (10) days from the date the order is filed and served upon them in which to file any post-trial motions to include a motion for

attorney's fees and costs. The Defendant N. Smith has ten (10) days from the service of the motion(s), if any, in which to provide the Court with a written response.

AND IT IS SO ORDERED.

May 11, 2015



Marvin H. Dukes, III, Master-in-Equity
Beaufort County, South Carolina

EXHIBIT "A"

ALL that certain piece, parcel or lot of land with improvements thereon, situate, lying and being on Port Royal Island, Beaufort County, South Carolina and being shown and designated at Lot 20 in Section 21, Township 1 South and Range 2 West, according to the survey of the United States Direct Tax Commissioners for the District of South Carolina, and more particularly bounded and described as follows, to wit: On the NORTH by lands now or formerly of Lottie Glover; on the EAST by lands now or formerly of Agnes Polite; on the SOUTH by property now or formerly belonging to the heirs of Ishmael Holmes and on the WEST by lands now or formerly of Scipio Stuart.

SAVE AND EXCEPT from this conveyance the following: 1. That portion of said property comprising the right of way of the new road leading from Broad River to Parris Island. 2. The SOUTHEASTER corner of the above described lot bounded on the NORTH, NORTHWEST and WEST by the remaining portion of said property conveyed to Grantor herein and measuring thereon in the aggregate for a distance of Two Hundred Seventy and 12/100 (270.12') feet; EAST by property now or formerly belonging to Etta Mae and Edith Paterson and measuring thereon for a distance of Ninety (90') feet; SOUTH by property now or formerly belonging to Ishmael Holmes and measuring thereon for a distance of Two Hundred Thirty Eight and 5/10s (238.5') feet.

This is the same real property conveyed to the within Plaintiffs by deed of Linda S. Neal f/k/a Linda S. Geiler dated February 25th, 2008 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 2687 at Page 1933.