

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF CHARLESTON</p> <p>BAYVIEW ACRES CIVIC CLUB,</p> <p style="text-align: center;">Plaintiffs</p> <p style="text-align: center;">v.</p> <p>GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE,</p> <p style="text-align: center;">Defendants</p>	<p>IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95</p> <p style="text-align: center;"><b>ORDER ON MOTION FOR RULE TO SHOW CAUSE</b></p> <p style="text-align: right;">FILED 2015 MAR 24 AM 10:28 JULIE J. ARISTARONG CLERK OF COURT</p> <p style="text-align: right;">BY _____</p>
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This matter is before me on the Plaintiff's November 20<sup>th</sup>, 2014 motion for Rule to Show Cause why the Defendants are not in violation of orders in this case issued on April 6<sup>th</sup>, 1984, November 5<sup>th</sup>, 2013, and June 25<sup>th</sup>, 2014, concerning the Plaintiff's fifty (50) foot strip of land ("subject property" or "Plaintiff's property") which lies immediately adjacent to the Defendants' property, all as more specifically described in the prior filings in this matter. Having considered the parties' submissions, and having conducted an evidentiary hearing and heard oral arguments of counsel on March 4<sup>th</sup>, 2015, I make the following findings of fact and conclusions of law.

1. I find that the Defendants are in violation of my order of June 25<sup>th</sup>, 2014, in the following particulars: they have failed to pay the \$1,000.00 that I ordered them to pay to the Plaintiff within thirty days of that order; they have utilized the Plaintiff's property for storage of their personal belongings and parking of their vehicles, in violation of my order that they utilize it solely for ingress and egress; they have kept more than a single vehicle in the lefthand or Eastern bay of the carport (the bay furthest from the house), in violation of my order.



2. I find that the long history of this matter establishes that the Defendants have impeded and interfered with the Plaintiff's use and enjoyment of the property regularly and frequently. I find that this ongoing interference with the Plaintiff's rights has triggered the portion of the 1984 Order which asserts that this Court "shall forthwith issue such an order as may be appropriate," (1984 Order, p. 7, item 2(c)), and that this triggering—along with the repeated violations of my orders—justifies a modification of rights allocated under prior orders on this matter.

3. I find that the Defendants' conduct does not yet support the imposition of jail time as a sanction for their contempt of Court, nor that their repeated interference with the Plaintiffs' use and enjoyment of their property justifies the relief requested by the Plaintiff: the removal of the carport. However, I find that any further violation by the Plaintiff of this or any of the Court's other orders in this matter will justify jail time as a contempt sanction, and I find that any further interference with the Plaintiff's use and enjoyment of the subject property will justify an order that the carport be removed ~~altogether~~.

Having so found, and so concluded, I order as follows:

4. As I indicated from the bench on March 4<sup>th</sup>, 2015, the Defendants shall have paid the \$1,000.00 payment required by my June 25<sup>th</sup>, 2014 order no later than the close of business on March 5<sup>th</sup>, 2015. As a sanction for their contempt, I order the Defendants to pay the Plaintiff a further \$1,000.00 within thirty (30) days of this order.

5. I reiterate the Court's finding that "good fences make good neighbors." Per my June 25<sup>th</sup>, 2014 order, a consequence of the Defendants' violations of that order is that the Plaintiff now is entitled to erect a fence along the length of the subject property line, from Bayview Drive back to the marsh. I order that this fence is to terminate no less than fifteen (15) feet from the



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paved portion of Bayview Drive, and no less than ~~fifteen~~ *(15)* feet from the perpendicular marsh line.

6. The Defendants' rights to use the righthand or Western bay of the carport (i.e., the bay nearest their house) continues at their discretion. However—with the exception of any rights the Defendants have to the subject property by virtue of their residency in the neighborhood, or of their membership in the Bayview Acres Civic Club—the Defendants' rights or other authorizations to utilize the Plaintiffs' property are hereby terminated. In the interest of clarity only, I note that this ruling terminates the Defendants' right or authority to utilize the Eastern bay of the carport (the bay furthest from the house), and it terminates the Defendants' right or authorization to utilize any part of the Plaintiff's property for ingress or egress to any part of the Defendants' property.

7. ~~Instruct the Plaintiff that~~ *(4)* upon entry of this order, *IT* shall file this Order with the Charleston County Register of Mesne Conveyance, in order that the Defendants' successors in interest to their property be notified of this and the Court's previous rulings concerning rights to use the subject property and concerning the carport.

AND IT IS SO ORDERED

*Mikell R. Scarborough*  
Hon. Mikell R. Scarborough

*3/18/15*  
Date

*Mikell R. Scarborough*  
Charleston, SC