THE STATE OF SOUTH CAROLINA
In The Court of Appeals

v

APPEAL FROM LEXINGTON COUNTY
R. Lawton McIntosh, Circuit Court Judge

Appellate Case No.: 2013-002056

Glenda Renee Couram, Appellant

v

Mr. & Mrs. Christopher Hooker, Mr. & Mrs. Carl Riebold, All Legal or Equitable Right, Title, state, Lien or interest in the Property Described in the Complaint Adverse to the Plaintiff's; Cox & Dinkins, Inc., Fair Builders/Developers, Inc. , Donald "Don" Rawls & Steve Fair in their individual capacities, Carolina Water Svc., (CWS), Carolina Trace Utilities, Inc., & Utilities, Inc., Corporate Offices Defendants

Of whom Mr. & Mrs. Christopher Hooker, Mr. & Mrs. Carl Reibold, Cox and Dinkins, Inc., Fair Builders/Developers, Inc., and Donald "Don" Rawls and Steve Fair, in their official and individual capacities, are the Respondents

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PRO SE APPELLANT MOTION FOR REHEARING AND REHEARING EN BANC

Glenda Couram
104 Macaw Lane
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(803) 896-7509
Pro se Appellant

PRO SE REQUEST FOR REHEARING AND REHEARING EN BANC

NOW COMES, the pro se Appellant, pursuant to Rule 31 if the South Carolina rules of Appellate Procedure and the Federal Rules of Appellate Procedure, who respectfully petitions this court for a rehearing and rehearing en banc of its cases for the following reasons:

1. The Court of appeals affirmed the trial court's decision granting Defendants' Motion for Directed Verdict and Motions for Declaratory Judgment. The ultimate reasoning in direct conflict with this Court rulings, your sister courts, the State Supreme Courts and the US Supreme Court.

2. The affirmation was also granted based on failure of this pro se to object for appellant review. The pro se did not fail to object to the lower courts' rulings in fact the court itself preserved her objections therefore there was no failure to preserve.

3. The ruling by this court is out of harmony with its own case law and how it reviews cases such as this one the pro se has attached case law.

4. The matter is also in need of this courts attention due to the status of this pro se as the decision were not made based on the record but based solely on her pro se status which if so denies her equal protection and due process which places this court out of uniformity with the other courts of the United States to include the US Supreme Court.

I. RULE 35 STATEMENTS OF REASONS FOR EN BANC REVIEW[1]

Pro se Appellant requests the Court to address, *this request for rehearing or rehearing en banc,* issues of exceptional importance regarding constitutional rights of this pro se litigant, rights denied under color of law, the courts seemly failure or unwillingness to provide this pro se with the same protection as it provides to similar situated individuals of the United States and of the State of South Carolina under 4th Amendment the court appears to determine that the pro se

[1] Judge McIntosh on the day of trial stated "let me tell you I haven't read the file yet." ROA p 223

has not had her home and property invaded by the Defendants because she has "heightened sensibilities or is not normal" it has ignored the evidence submitted via objections in the court and the filing of Motion to Reconsider that reserved the evidence for appellant review this court also has severely mistreated this pro se in its Order filed on April 24, 2016, the pro se has attached similar cases and the extensive research and consideration the court has granted those with attorneys as compared to the almost uncaring Order presented to the pro se were they failed to review any evidence instead continuously quoted case law such as Malloy v Thompson, 409 S.C. 557, 561, 762 S.E.2d 690, 692 (2014); Abba Equip., Inc. 335 S.C. at 486m 517 S.E.2d at 240; Burnett v Family Kingdom, Inc., 387 S.C. 183, 188, 691 S.E. 2d 170, 173 (Ct. App. 2010).

The Court also granted Mr. Fair safety under the SC Code Ann §15-3-530(3) for trespass. The court apparently took Mr. Fair's word that the matter of his Trespass was settled in Magistrate court when the pro se had to file suit due to damage his construction caused. The record as the pro se attempt to object in the trial court she was cut off by the judge (See ROA pgs 446-496) were she repeatedly objected and attempted to object and the court stated after repeatedly attempts to object to the granting of the directed verdicts and the hostility the court displayed the pro se gave up objecting but it does not change the fact that she objected to the directed verdicts and the court on pg 446 ROA

> lines 20-21 stated "Now, I will note to the record that you object to my rulings on all accounts, okay. To which the pro se responded "okay."

As such, comma the pro se did in fact object and preserve her argument for review by this appellate court as well as she preserved by filing the Motion to Reconsider which the Supreme court has repeatedly ruled is necessary to ensure preservation for appellate review. See Elam v SC Department of Transportation (2004)

> Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical. Neither contains any provision for a motion for "reconsideration." However, federal courts consider it appropriate for a party to make a "motion for reconsideration" under Rule 59(e) even though the rule mentions only a "motion to alter or amend a judgment." This view holds true even when a party mislabels a post-trial motion. See Blair v. Equifax Check Services, Inc., 181 F.3d 832, 837 (7th Cir. 1999) (Rule 4(a)(4), FRAP, restates long-accepted practice of considering motions for reconsideration, a practice independent of any appellate rule); 12 Moore's Federal Practice § 59.30[2][a] and[7]; 11 Wright, Miller & Kane § 2810.1; 20 Moore's Federal Practice §§ 304.13[2] and 304.13[4][b] (3d ed. 2003). "[T]he wisdom of giving district courts the opportunity promptly to correct their own alleged errors is all the justification needed" for the practice of freely allowing a motion for reconsideration. Blair, 181 F.3d at 837.
>
> In fact, the United States Supreme Court explicitly has described a motion under federal Rule 59(e) as one which "involves *reconsideration* of matters properly encompassed in a decision on the merits." Osterneck v. Ernst & Whinney, 489 U.S. 169, 174, 109 S.Ct. 987, 990, 103 L.Ed.2d 146, 154 (1989) (a request relating to discretionary prejudgment interest is a part of the plaintiff's compensation and thus a part of the decision on the merits, which means a Rule 59(e) motion raising prejudgment interest tolled the time for appeal; Court cited precedent in which Rule 59(e) motions relating to attorney's fees and case costs are deemed collateral issues, thus such motions did not toll the time for appeal) (emphasis added). The Court explained its decision furthered the goals of avoiding piecemeal appeals and fostering informed appellate review. Osterneck, 489 U.S. at 177-178, 109 S.Ct. at 992, 103 L.Ed.2d at 156.

The court failed to apply its own case law that is uniform with its sister courts, the US Supreme Court and its Supreme Court that state clearly the standard for a court to grant a directed verdict in the "evidence" while the court prefers to see this pro se as a liar it cannot ignore the "evidence" that supports her claims. Such as her length of and continuous ownership of her property since 1994 (expect when Mr. Fair purchased her property in 2004[2] during his construction, in fact the bank had sold the property to him unknowing to the pro se until she called the Bank to find out why they refused her payments and was told she was no longer the

[2] The pro se was having financial issues with loss of her job and a car accident and she had to not only contend those issues but Mr. Fair and his development but maintain working three jobs two full time and one part time on the weekends.

owner, a house she was sitting in when she was given this notice, then when the pro se was approved for bankruptcy the bank refused the payments, she had to go back to the court and to the SC Housing Authority for help).

Per well established law a failure to respond or "abide" by the rules of court places the Defendant in Default and failure to respond to Discovery and admission deem them accepted the court refused to grant pro se Motion for Default and refused to accept the Admissions of Fair as admitted; the court failed to "abide" by its own well established law in this regard and the law accepted and applied by all courts of the United States to include the US Supreme Court and its State Supreme Court. Given these rules and the Discovery Rule and the fact this pro se can provide evidence that she was not aware of Mr. Fairs' trespass prior to 2010 the court appears to have applied the wrong standard and erred in granting SOL to Mr. Fair.

II. DIRECTED VERDICT

This court and all superior courts and sister courts have ruled that a directed verdict is inappropriate when there is a scintilla or the slightest bit of evidence a directed verdict should be denied. The lower court and this court are not in uniformity or harmony with all other courts in allowing this ruling to stand.

The pro se provided deeds, surveys, she proved the defendants survey that was relied on by the "Neighbors"[3] to invade her existence. She had rulings from four other judges that confirmed the location of the property that was on trial yet the trial court ignored all of the evidence and granted a directed verdict with the over abundance of evidence that did not all such.

[3] The question is why didn't the neighbors have the court ordered survey done it would have proven their position of their claim of ownership and standing they fought hard for the Order and did not comply

She had testimony from a police officer, testimony of the defendants and the judge himself when he acknowledged the location of the property but despite this granted a directed verdict.

The question becomes did the courts treat the pro se equally as it did the defendants, as it did the attorneys and those who has attorneys or did the court discriminate in failing to protect this pro se as it has others who are not pro se and did race and prominence play a rule in their discrimination.

III. GRANTING DECLARATORY JUDGMENT

Did the court properly grant declaratory judgment in favor of the defendants and provide the pro se the same equal protection as it did other similar situated litigants and apply well established law. The request for declaratory Judgment was granted after damages, after pro se filed the legal action and three years after it was requested. The defendants did not have standing and there was no controversy (justifiable) which is a requirement to granting a declaratory judgment. Pursuant to well establish law in federal and state court as well as the US Supreme Court. The court abused it power in granting the judgment and in doing so it disrespected the ruling of 4 other judges who had established the property and its location. The lower court abused its discretion and erred in granting a motion were well established law requires a controversy if the defendant had no standing and no ownership then there was no controversy to be decided by a court. The pro se also ask the court to review the record on appeal and the testimony of all the witness they themselves placed themselves on the pro se property, the police report place them on the property and they were on the property as a result of the survey and deeds published by the defendants who were commissioned by Steve Fair Developers.

The trial Judge himself was unable to justify his reason for a declaratory Judgment and his rulings by stating he was going to place in the record the pro se objects to those rulings.

In all the pro se alleges a continuing trespass by the defendants to this day there remains on her property rebars planted by the defendants who were commissioned by Mr. Fair that cuts off 20 feet of her land as she has a continuing trespass and continuing nuisance to this day of this Request for Rehearing and it is the pro se understanding that as long as those items are on her property there continues to be a trespass and invasion of privacy and possible the defendants continued desire to conspire to take the land. As long as the trespass continues she has a cause of action against the defendants.

It is also very interesting that once the defendants was given an order to have the survey done the Reibolds put up a fence they no longer see the damage they did to the pro se property and as Mr. Hooker testified he moved away so they no longer have to contend with the damage they left behind.

This pro se did everything she could possibly do to prevent this matter from going into the court, she called the police, she met with Lexington County ROD personnel, she met with the surveyor, she sent letters to the defendants, she asked them and reminded them on several occasions they were trespassing. There response was to sue them to make them stop

And, do not forget she lost access to her own home due to their continued invasion. She had to stay at a Walmart until after dark and when the time changed she had to remain at the library until after dark and sneak out in early morning to cut her grass to avoid the "neighbors." All the while she was walking around with a blood clot and did not find out until February 2011.

And the court should also keep in mind that the pro se never went onto the defendants' property they came onto hers and refused to leave which goes against well established law. The

pro se refer the court to Mr. Hooker's testimony of his invasion ROA pgs 492 and continued in the second Volume.

IV. PREJUDICE ATTACHED

1.a material factual or legal matter was overlooked in the decision;

2.a change in the law occurred after the case was submitted and was overlooked by the panel;

the opinion is in conflict with a decision of the U.S. Supreme Court, this court, or another court

3.of appeals and the conflict is not addressed in the opinion; or

4.the proceeding involves one or more questions of exceptional importance.

The petition must state with particularity the points of law or fact that the petitioner believes the court has overlooked or misapprehended and must argue in support of the petition. Fed. R. App. P. 40; Loc. R. 40(a) & (b).

V. OVERLOOKING OF EVIDENCE PERSEVED FOR REVIEW DE NOVO

The court overlooked the evidence and negligent to review the trial court's decision under the well established standard as in viewing the evidence and all reasonable inferences in the light most favorable to the non moving party as in this case the defendant did not produce any evidence but was presented by this pro se certainly should have been enough to allow the evidence to testify and the fact that the evidence should have gone to the jury as there was more than one inference or reference that caused doubt which a jury could have decided the court based its decision on Burnett, 387 SC at 188. 691 S.E. 2d at 173; id at 188-189, 691 S.E.2d at 173; Graves 391 S.C at 7, 704S.E.2d at 354 the evidence did in fact support the pro se opposition to the direct verdict

In a North Carolina ruling in McFetters v. McFetters, 98 N.C. App. 187, 390 S.E.2d 348 (1990). In deciding the motion, "the trial court must treat non-movant's evidence as true,

considering the evidence in the light most favorable to the non-movant, and resolving all inconsistencies, contradictions and conflicts for non-movant, giving non-movant the benefit of all reasonable inferences drawn from the evidence."

This Court nor the trial court bothered to consider any of the evidence that was on record, presented to the other four judges, in the ROA in fact the Order by this court does not even resemble other Orders written by this court or the SC Supreme court or the US Supreme Court and the trial judge did not even bother to explain his granting of the directed verdict or any of his rulings. The Orders and non orders are wholly different from the De Novo decision in this type of compliant were it is clear the court appeared to not treat this pro se in the same manner as similarly situation litigants that have attorneys. In fact the ruling was all in favor of the defendants and nothing presented to the court by the pro se was seen as true. The trial court and this court appear to not even respect the ruling of the previous four judges.

This court without oral argument affirmed the lower court granting a directed verdict , declaratory judgment, statute of limitations for Steven Fair and Fair Builders/Developers and affirming the jury verdict on the only issue presented to them by the judge not guilty verdict for trespass to the "Neighbors." The claims were slander of title, trespass (continuing), nuisance and invasion of privacy (continuing), civil conspiracy

The court granted the affirmation on or about March 25, 2016 via Order which the pro se received on or about March 28, 2016. According to the caption the court filed an unpublished Opinion No. 2016-UP-137 – filed March 23, 2016.

I am requesting a re-hearing pursuant to Rule 240, 221 (a)(c). This Motion for Rehearing is being filed within 15 days from the date of the filing of the judgment or order. The reasons I

am requesting a rehearing are the court misapprehended and overlooked crucial facts in affirming the trial court. *Fomco, Inc. v. Joe Maggio, Inc.* (1961) 55 Cal.2d 162.

VI. JUDGE SHOPPING DID PREJUDICE ATTACH

The court states that the pro se did not preserve this question but the pro se believes she did but perhaps failed to use the correct terminology.

Was the pro se prejudiced by the lower trial court as a result of the many different judges portioning off her claims to the last judge who did not respect the rulings of those Judges perhaps were the Full Faith Clause may apply and at his own admission had not read the record prior to the trial.

> The first Judge Keesley who initially was assigned the case who dismissed the initial compliant after the pro se was approved to file indigent by the Court and after his putting the pro se with Attorney Brown to try and settle "case never filed" because of non-payment Order dated January 31, 2011. The pro se refiled March 11, 2011 and paid the cost Judge Keesley recused stating conflict of interest due to his daughter working for the firm representing Donald Rawls and Cox and Dinkins. (ROA pgs 1 and 2)
>
> The case then went to Judge McMahon who ruled on the case were all claims of negligence was removed by the pro se. See Orders dated January 31, 2012, February 2012, April 12 and 17, 2012 with affirmation by the Defendants. This judge also granted the Reibolds and Hookers request "Neighbors" request for a survey granting limited immunity to the surveyor hired by the "Neighbors." Neither the attorney Brown nor the defendants had the survey done they claimed the surveyors were afraid of being sued. (ROA pgs 8, 12 and 14)
>
> The case then went to former Circuit Court Judge now on the Court of Appeals (COA) Judge McDonald #2163; again evidence ROA ii and iii and Exhibits iv and v was submitted to the court with corresponding ROA page numbers. (ROA p. 18)
>
> The case then went to Judge Birch #2048 were he again accepted the evidence of deeds, survey, location of the property at issue which was different from the property judged by Judge McIntosh (ROA p 20 and 23)
>
> The final Judge McIntosh #2155 (ROA pgs. 25 and 29) were he accepted a change of property at issues provided by the defendant that was not before the court or the four previous Judges.

VII. PRO SE STANDARD OF REVIEW

Because the Plaintiff is pro se, the Court has a higher standard when faced with a motion to dismiss, White v. Bloom, 621 F.2d 276 makes this point clear and states: A court faced with a motion to dismiss a pro se complaint must read the complaint's allegations expansively, Haines v. Kerner, 404 U.S. 519, 520-21, 92 S. Ct. 594, 596, 30 L. Ed. 2d 652 (1972), and take them as true for purposes of deciding whether they state a claim. Cruz v. Beto, 405 U.S. 319, 322, 92 S. Ct. 1079, 1081, 31 L. Ed. 2d 263 (1972).

1. The pro se cannot see how any of her claims with the evidence submitted was subject to dismissal under directed verdict or declaratory judgment nuisance, invasion of privacy and intentional infliction of emotion distress, slander of title and she preserved these claims via objection and via a Rule 59 Motion timely filed and ruled on.
2. The civil conspiracy claims could be proven, a question of fact for jury, by circumstantial or direct evidence and she provided the elements of two or more person who set out to cause her harm and she plead special damages. Objects thru out record

IN CONCLUSION

In filing these requests as she filed the Motion to Reconsider the pro se has complied with this court's rules and respectfully ask the court for a quick ruling so that she may file a Writ to the SC Supreme Court and then to the US Supreme Court and the pro se respectfully thank this court for its time. As advised by the US Supreme Court she has to file to the SC Supreme Court of last resort prior to filing for their review if they accept a writ to them.

Respectfully submitted by;

Glenda R. Couram
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Lexington, SC 29073
803 358-0127
grcouram@hotmail.com

Dated this 7th Day of April 2016
Lexington County South Carolina

CERTIFICATE OF INTERESTED PERSONS

The undersigned pro se of record certifies that the following listed persons and entities have an interest in the outcome of this case as they are the Attorneys for the Defendants and pro se Defendants.[4]

1. *Counsel for Cox and Dinkins and J. Donald "Don" Rawls*

   R. Davis Howser, Esq.
   Howser, Newman and Besley, LLC
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   rdhowser@hnblaw.com

2. *Counsel for the "Neighbors"(Mr. and Mrs. Carl Reibold and Mr. and Mrs. Christopher Hooker*

   L.A. Smokey Brown, Jr., Esq.
   Law Offices of Smokey Brown, PC
   P.O. Box 1545
   Irmo, SC 29063
   (803) 732-3797
   smokeybrown@smokeybrownlawfirm.com

3. *Pro Se Defendant for Steve Fair and Fair Builders/Developers*

   Steven A Fair (at last known address)
   Registered Agent Fair Builders/Developers
   153 Shirway Road
   Lexington, SC 29073
   (803) 957-29073

[4] ***Standards and Contents*** 37 FRAP 35(a). 38 FRAP 35(b). Petitions for hearing en banc will only be granted when it is necessary to secure or maintain uniformity of the court's decisions or when the case involves a question of exceptional importance

ADDENDUM - CASE LAW SIMILAR TO THIS PRO SE CASE

The pro se is providing the falling cases to show how much the court has deviated from treating her compared to those who are represented by an attorney and how the rulings are not in any way in harmony or unified there is no equal justice or due process or De Novo research or review of evidence as compared to these case.

1. Coker v Cummings Case No. 4471 filed on November 18, 2008
   Judges Anderson and JJ Williams

2. Jordan, Tolson and Lewis Respondents v Judy, Case No., 2013-002129
   filed July 22, 2015; Judges Thomas and Geathers

3. Pond Place Partners, Inc v Poole Op. 3521 filed June 17, 2002
   Judges Cureton and Connor

4. Greene v Griffith, Case No 2004-UP 056, filed January 29, 2004
   Judges Hearn, Howrd and Kittredge

5. Williams, Cotton, Ancrum, Middleton and White v Moore, et.al.
   Appellate No. 2010-15191, Judges Williams and Thomas

DECLARATION

I declare under penalty of perjury the foregoing is true and correct. Executed this 6th day of April 2016 in Lexington, South Carolina

Respectfully Submitted,

Glenda R Couram, *pro se*
104 Macaw Lane
Lexington, SC 29073
(803) 896-7509
Pro se Appellant

CERTIFICATE OF SERVICE

I CERTIFY, I Glenda Couram, pro se, served upon each Respondent a copy of the Petition for Rehearing and Rehearing En Banc via their counsel on this 6th day of April 2016 at the addresses as listed below by placing a true copy thereof, enclosed in a sealed envelope with sufficient postage fully prepaid, in the United States mail box:

R. Davis Howser, Esq.
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L.A. Smokey Brown, Jr., Esq.
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Steven A Fair (at last known address)
Registered Agent Fair Builders/Developers
153 Shirway Road
Lexington, SC 29073

Respectfully Submitted,

Glenda R Couram, *pro se*
104 Macaw Lane
Lexington, SC 29073
(803) 896-7509
Pro se Appellant

Dated this 6th day of April 2016
Lexington South Carolina

April 6, 2016

Jenny Abbott Kitchings
Clerk of Court
1220 Senate Street
Columbia, SC 29201

RE: Glenda Renee Couram v Of whom Mr. & Mrs. Christopher Hooker, Mr. & Mrs. Carl Riebold, Cox & Dinkins, Inc., Fair Builders/Developers, Inc., Donald Don" Rawls & Steve Fair in their official and individual capacities
Appellant Case No.: 2013-002056

Dear Ms. Kitchings:

Please find enclosed the pro se litigant's Motion to Rehear and Rehear En Banc in the above referenced matter.

Sincerely,

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