THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Case No.: 2011-CP-32-01010
Appellate Case No.: 2013-002056

RECEIVED
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S.C. SUPREME COURT

Glenda Renee Couram

Appellant,

v

Mr. & Mrs. Christopher Hooker, Mr. & Mrs. Carl Riebold, 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., J. Donald "Don" Rawls & Steve Fair in their official and individual capacities, Carolina Water Svc., (CWS), Carolina Trace Utilities, Inc., & Utilities, Inc., Corporate Offices

Defendants,

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

Respondents.

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corrected
FINAL BRIEF OF APPELLANT

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[1] An abuse of discretion occurs when the trial court's decision is clearly erroneous and against the logic and effect of the facts and circumstances before the court. *Id.* at 126-27. Evidence that is erroneously excluded requires reversal only if the error relates to a material matter or substantially affects the rights of the parties. *Id.* at 127.

ACTIONS OF FAIR, RAWLS AND COX AND DINKINS THE APPELLANT WOULD NOT HAVE BEEN HARM?

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PRELIMIARY STATEMENT

Appellant Glenda Couram, Petitioner below, will be referred to in this Initial Brief as "Plaintiff" or Appellant.

Steven Fair, Donald "Don" Rawls and Cox and Dinkins will be referred to as Respondents, Defendants, Fair, Rawls or Cox and Dinkins.

Carl Reibold or Christopher Hooker will be referred to as "Reibold or Reibolds" Hooker or Hookers "Neighbors" "the Neighbors" or Respondents.

Carolina Water Service will be referred to as Carolina Water Service or (CWS).

Lexington County Register of Deeds Office (ROD).

For purposes of this brief, the following abbreviations have the following meanings: (T = Trial Transcript; Record on Appeal = R or ROA, Page = p or pp and L = Lines).

STATEMENT OF THE CASE/FACTS

JURISDICTION

Throughout this Initial Brief, the Appellant shall be referred to as "Appellant" "Plaintiff" or Couram," "The Respondents shall be referred to as "Respondents," "Defendants" or "Neighbors."

Glenda Couram brought suit against the "Neighbors" – Hookers and Reibolds" J. Donald "Don" Rawls in his official and personal capacity, Steven Fair in his official and personal capacity and Cox and Dinkins in suit for intentional and continuous civil/criminal trespass, and nuisance, civil conspiracy, intentional infliction of emotional distress, slander of title, invasion of privacy, etc., in violation of her constitutional rights.

After a protracted procedural history and the Appellant's testimony the court granted directed verdict on all causes of action against Cox and Dinkins, Steven Fair and Donald "Don" Rawls and ultimately granted Directed Verdict in favor of the "Neighbors" except for the charge of Trespass which was allowed to go before the jury; the "Neighbors" were find not guilty by the jury of trespass. The Verdict and Order were filed by the court on or about July 11 and 12th, 2013, respectfully; (R. pp. 25-28).

Appellant filed a Motion to Reconsider which was denied by the Judge McIntosh on or about August 2nd, 2013. (R. pp. 29-30)

Appellant filed Notice of Appeal and served each Respondent on or about September 7th, 2013. Thus this court has Jurisdiction. (R. pp. 173-175)

BACKGROUND

This action arose when "the Neighbors" claimed ownership and made a hostile grab for approximately 20 feet of land running with the Appellant's property based on a commissioned

survey ordered by Steven Fair of Fair Builders/Developers and drawn up by Cox and Dinkins and Donald "Don" Rawls who had the survey signed and filed with the Lexington County Register of Deeds Office in 2004, December 2010. (R. pp. 670-73)

In or about April 1994, the Appellant purchased house and land in Wrenwood Subdivision Phase IV the last house. The house was adjacent to a "neighborhood park" it was on land donated or given to the neighborhood by Hendricks Builders. The seller, Hendricks, told the Appellant the neighborhood park (identified on Wrenwood survey/plat November 16, 1990 (R. p 677) would never be sold or developed a selling point for the Appellant. Draft Surveying was commissioned to perform the survey for the Appellant which he did and had it recorded in the ROD's office of Lexington County. (R. pp. 667, 669, 664 and 678; Appelllant's closing Attorney letter (R. p. 193)

Appellant was obligated to being a subservient owner to the dominant owner Carolina CWS[2] non-exclusive appurtenant easement running with her land. The purpose was to allow access to a landlocked parcel located in the left back corner of her property adjacent to the "park" and natural fence. [3] The deed was created in or about 1985 at the bequest of a common owner August Kohn (See Exhibit Deed Book 725 Page 4-6). (R. p. 205)

Plaintiff and the Association co-existed peacefully with clear boundary lines and *acquiescence*, as to property lines. There were never any issues with the kids using the park, no stories of snakes or any other life threatening wild animals, no loud music or noise. Appellant never saw any snakes when cleaning, mowing or going into the natural fence to remove trash or

[2] An additional 5 feet was at risk due to the Restrictive Covenant requirements (See document dated Bk 1968 pg 176-8)
[3] Appellant had excusive ownership of the back parcel from the day she purchased the house and land. CWS came out once to cut the grass a few months after she purchased and never returned and then came out in or about 2000 a to tear down the well-house because it became an attractive nuisance a child set it on fire. From that date on the Appellant had the land exclusively and the easement was not longer of use and reverted back to according to the lands of this state

any other dangerous animals during the years prior to the development of the "park" that Reibold testified to (R. pp. 300-320).

Sometime in 2004, the County of Lexington sold the park for back taxes it went through several hands before landing in the hands of the person who sold the land to Steve Fair for Five thousand dollars ($5,000). For some reason the Association failed to pay the taxes which totaled appropriately $68.00 (see documents of sale). The property was ultimately sold to Steven Fair of Fair Developers, who developed the land in 2004. (The County never notified the neighborhood that the park was being sold or the Appellant who was directly impacted by the sale). (R. pp. 199-204)

During the construction of the Park and Phase V - Fair Developers in 2004 destroyed plants and shrubs on the Plaintiff's property and via letters he promised to replace the shrubs instead he merely put up a black tarp and refused to replace the shrubs. Plaintiff took Fair to Court for damages, she lost – the Magistrate would not allow the Plaintiff to supply the jury with dates the pictures of damage was taken even through it was made known to the court the damages took place in 2004.[4] This matter ended in Magistrate court in late 2005 in favor of Fair and Fair Developers for damages to the Appellant's land).

Also, as a direct result of the sale to Fair the Appellant also had to file suit against Time Warner Cable who laid claim to the right side of her property after they trespassed and placed a pedestal for the neighbor to have cable access after they were told by the Appellant they could not be on the property or place any objects on it. This suit ended Appellant believes in early

[4] During this same time TWC asked the plaintiff to allow them to place a cable box on her property for the neighbors to her right she denied the request and arrived home one day to learn they put the box on the property anyway, they refused to move the box and plaintiff took them to court and lost but the cable box was removed and she closed up the opening

2008; Appellant did not win as to monetary compensation but she regained possession of her land removal of the pedestal. (R. pp. 215 and 648)

In 2005/6, while working in her yard Reibold stood watching the Appellant, he was on the phone and within minutes Steven Fair showed up and they stood watching the Appellant. (R. p. Appellant called the police there were no more issues with Reibold until December 2010 when he was seen cutting down the natural fence and trespassing on the Appellants property to do so. (R. p.

In or about 2006/2007, there were issues with Hooker trespassing when he would cut grass beyond his property line, Appellant had to remind the Respondent he was over the property line whenever she saw him. Hooker as he testified to (R. pp. 246-248) would spray pesticides and when confronted he stopped but nothing will grow after that to this day in that section except weeds. (Appellant does not recall this incident but Hooker claims I saw this.)

There were no other issues after this until December 2010, exactly three years later the "Neighbors" came as a one to grab Appellant's land (See Counterclaims) which resulted in this lawsuit. After the "Neighbor" told the Appellant the only way they will stop is for her to "sue them". (The "Neighbors" filed a counterclaim alleging Laches and accusing Appellant of abuse towards their children and grandchildren – Appellant prior to this action has never seen any children of the "Neighbors".

Upon research and a need to know why the "Neighbors" would not stop the harassment, invasion of her privacy and attempt to take Appellant's land, etc., the Appellant went to the Register of Deeds Office to have them teach her to read her survey and plat and figure out what was happening and why these people was making a claim to her land. There she learned of the

Respondents Cox and Dinkins[5] along with Steven Fair survey and plat for Phase V and how that survey included approximately 20 feet of her land as a part of the land sold to Steve Fair in 2004. (See plats). (She could not understand why since 2004, she would constantly have to tell these people to stay off her property).

The defendants Reibold and Hooker after plaintiff filed her complaint filed a counter claim, alleging the Appellant had set on her rights for 3 years and the "Neighbors" had a claim to the land based on their survey and that included a motion of declaratory judgment.[6] [7] They also alleged the Appellant went after their children and grandchildren.

The first complaint dated on or about December 30, 2010, was dismissed Judge Keesley because the Appellant was allowed to file indigent by the Court.[8] When the Appellant refiled Judge Keesley recused himself due to conflict of interest when the Plaintiff refiled on or about March 2011, to include the firm of Cox and Dinkins and Steven Fair after a meeting with Donald Rawls who signed the Survey/plant. That meeting took place in or around May 2011. (Letter Exhibit of Meeting sent to Rawls).

Prior to an Order by Judge McMahon the Appellant filed an amended complaint dropping all negligence charges against the Respondents. Without ruling on this Amended complaint Judge McMahon entered an Order dated January 31, 2012, dismissing Appellant's Complaint stating it was based on professional negligence. (R. p. 8). Appellant informed the Court that she had dropped all negligence claims and another Order was written dated April 13, 2012 granting Appellant's Motion to Amend and denying Appellant's Motion for Default against Cox and

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[5] Appellant called and met with Donald Rawls who explained their survey (See letter dated May 11, 2011)

[6] They included a cause of action accusing the plaintiff of child abuse. Plaintiff asked Hooker about this and the trial Judge became upset and accused stated the frivolous claim action to the Plaintiff Brown the Attorney showed the Judge in his cross complaint the allegations. The plaintiff in this Motion for Reconsideration, new trial, etc., ask the court for a ruling on the cross complaint.

[7] Appellant initially filed this lawsuit on or about January 2011, the matter went before Judge Keesley. She was allowed to file indigent – Judge Keesley denied the filing March 1st 2011, (See Order and also see Order dated

[8] Cox and Dinkins, Fair, Fair Developers and J. Donald Rawls were not named until the March 2011 complaint.

Dinkins, Rawls and the "Neighbors" who never responded to the Amended Complaint. (Note: during this hearing the Respondents raised no objection and agreed to the Amended Complaint with Brown asking for 30 days to respond – expect Fair who never showed or answered the Amended Complaint). (R. p. 65) and (R. p. 108 – the "Neighbors" Counterclaim)

Judge McMahon, on April 20, 2012, granted the "Neighbors" request for a court ordered survey however they never complied with the order, if they did they did not inform the Appellant as Ordered by the court. The Court during the trial asked why the non-compliance and Attorney Brown who represented the "Neighbors" stated they contacted two surveyors who would not do the survey for fear of being sued. They were not surveying the Appellant's property so there was no risk of a suit unless Attorney Brown was going to sue them. (R. p 14)

After this the Appellant was never before the same Judge twice.

After the matter was scheduled for Trial CWS decided to finally respond to the Complaint and Default Motions filed against them; this was handed first by a Judge McDonald she told CWS to file a motion for summary judgment against the Appellant.

On March 7, 2013 by Order of Judge Birch Carolina Water Service (CWS)[9] deeded over (vested) to the plaintiff the square parcel of land given to them by Lexington County for the well site. CWS released all rights to the easement running with the Appellants land.

And, under the same Order of Judge Birch he denied Plaintiff's request for Default Judge against Steve Fair who to the date of that Order never responded to the Motions, Complaints, etc., filed by Appellant the only time he responded was to the initial complaint that was dismissed by Judge Keesley where he state "I deny all allegations. I have already been to court

[9] On or about October 31, 2012, when CWS finally decided to answer the complaint the first visiting judge mcdonald (not sure of name) told the attorney to file a motion for summary judgment which they did and it was granted by Judge Birch another visiting judge. (Order March 7, 2013)

all of these allegations, and the jury found in my favor. The case was heard by the Oak Grove Magistrate in or about 2005.

(The Judge denied the plaintiff the right to explain her knowledge stating she was not an expert – this was not a claim for negligence but for trespass, slander of title, civil conspiracy, nuisance, invasion of privacy, etc.)

THE TRIAL

("Neighbor" Reibold's lot is the smallest of the four lots on the Cox and Dinkins Survey and the property line runs with lots C and D. The contractual survey he has with Fair and Cox and Dinkins appear to show that his lot does not extend beyond the Oak tree).

Reibold also testified that in the letters dated December 6 and 8th the Appellant used the words "black" and "stupid" there is no such words in the letters sent to either of the defendants. (Letters Dated Exhibits _____ December 6 and 8, 2010). The court denied plaintiff's request to submit the letters into evidence. (Attachment three letters – addressed to Reibold and To Whom It May Concern – Plaintiff did not know the name of the defendants until her meeting with ROD and Police Reports).

Hooker testified he was never on the plaintiff's property in fact she was on his because when he pointed this out to her she "skedaddle" back over to her side of the property line. The plaintiff has never been on the "Neighbors" property. Testimony that is in direct contradiction to the police report submitted as evidence.

Hooker testified that he and a friend decided to locate the property lines and based on his reliance on the survey done by Cox and Dinkins located the boundary line rebar and upon locating the bar he placed a black hose and this was located at the end of the boundary line based on the survey/plat of Cox and Dinkins and this was done on December 10, 2010. However, the

plaintiff did not see the hose until December 15th, 2010 the reason for calling police. This hose was planted about 20 feet inside the plaintiff's property line and in the 20 foot setback on the front portion of the plaintiff's property. See the pictures taken in front of police officer.

In direct contradiction of Hooker's sworn testimony and his Admissions; Officer Creech in his report memorialized that the *disputed property was an easement* running to CWS service[10] (Attachment Police Report of Officer Creech). In fact Hooker did in fact cross the boundary line, dug up the plaintiff's property and did place a black hose onto the property as testified to by the Officer prior to his dismissal by the Court. (The Court asked the plaintiff if she was done with the witness she said yes and learned the next day of trial the court had dismissed her witnesses from the remainder of the trial and denied plaintiff's request to have them recalled "after taking the request under advisement."(R. pp. 314, 340-342-46) (Exhibit 4 R. p. 670)

APPELLANT'S WITNESS OFFICER CREECH (R. pp. 299-308, pp. 309 L. 18-23, 346)

The officer was reluctant and hostile towards the Appellant he apparently resented being called as a witness by the Appellant – but he admitted that contrary to Hooker's testimony they were on the Appellant's property for a period of time after she went inside on December 16th, 2010, talking and only left after she asked for a report which he admitted 'he told her he would not do but may add to the one from the previous day.' He also stated "GLENDA COURAM stated the property was hers because she lived their longer" a true statement because the plaintiff purchased the land in April 1994, the easement run with Appellant's is part of her deed and survey and she had taken care of the property as outlined in the Restrictive Covenant for Phase IV, the property lines were established in 1986, 1991, 1993 and 1994 and the easement or "disputed" property has continued to run with her land, acquiesced to by the Wrenwood

[10] which was attached and running with the plaintiff 's property an easement that was by law only between the Plaintiff, August Kohn and CWS).

Association and the park and by 2006 she had owned the "disputed" land and or easement for over ten years which reverted back to her in 1991 when CWS moved from the area. And Lexington County Water took over as she testified to in court.

APPELLANT'S WITNESS DRAFT (R. pp. 320-338, 315, 340-3, 360-7

Plaintiff's second witness, Draft of Draft Surveying did two plats of the plaintiff's[11] Property neither of those Plats show a ½ rebar located on or about 20 feet inside the plaintiff's boundary line (in the setback area of the front). Neither does the referenced plats of Cox and Dinkins and Rawls. After his resistance, like the Officer, to answering her questions and speaking only on the issues of the defendants relating to negligence which was not a cause of action and their calculations the plaintiff asked Draft straight out if there was a ½ rebar located on her plat he respond "No, this is not your plat" – the plat was the one he did for Steve Hendricks Builders in 1993 of the plaintiff's property; (Plaintiff's Exhibit 1 – R. p. 648). Plaintiff went and produced her plat with her name on it and asked the question again at which point Draft reluctantly testified that there was no old ½ rebar within the 15/20 feet of the plaintiff's property as depicted by survey/plat, filed and certified in or about September 2004 in ROD office by the Respondents. This final admission was also in harmony with his Admissions and direct contrast with the Respondents Cox and Dinkins Admission were they claim that the ½ rebar was planted by Draft. (R. p. 195)

The testimony of Draft which supported the Respondents was looked for by the court after Plaintiff's objections and attributed to the Respondent Cox and Dinkins and Rawls. Plaintiff objected and was told not to argue with the Reporter or the Court; even though it was the court reporter that showed her the dates that proved her statements to the court. Draft

[11] One for the Appellant and one for Hendricks

testified in support of both the Appellant and Respondent the controversy was according to the rules of court should have been in the favor of the Appellant not the Respondents.

The adjacent homeowner, the plaintiff was not part of Phase V, she had no contractual relationship, nor a third party relationship with either of the Respondents or the "Neighbors" and they did conspire, slander her title, invade her privacy, was a nuisance, and caused emotional and mental distress, etc., as the evidence proved.

LEGAL STANDARD

The general rule in South Carolina is that where a subject is beyond the common knowledge of the jury, expert testimony is required. See Green v. Lilliewood, 272 S.C. 186, 192–93, 249 S.E.2d 910, 913 (1978)

Conversely, where a lay person can comprehend and determine an issue without the assistance of an expert, **expert testimony is not required**. See O'Leary-Payne v. R.R. Hilton *Head, II, Inc.*, 371 S.C. 340, 349, 638 S.E.2d 96, 101 (Ct. App. 2006) ("[E]xpert testimony is not necessary to prove negligence or causation so long as lay persons possess the knowledge and skill to determine the matter at issue;" (quoting F. Patrick Hubbard & Robert L. Felix, The Law of South Carolina Torts 167 (2d ed. 1997))). Deciding what is within the knowledge of a lay jury and what requires expert testimony depends on the particular facts of the case, including the complexity and technical nature of the evidence to be presented and the trial judge's understanding of a lay person's knowledge. See Sharpe v. S.C. Dep't of Mental Health, 292 S.C. 11, 14, 354 S.E.2d 778, 780 (Ct. App. 1987) ("The application of the common knowledge exception to the requirement of expert testimony in proving negligence depends on the particular facts of a case."). " 'The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse

of discretion accompanied by probable prejudice.' " State v. Fripp, 396 S.C. 434, 438, 721 S.E.2d 465, 467 (Ct.App.2012) (quoting State v. Douglas, 369 S.C. 424, 429, 632 S.E.2d 845, 847–48 (2006)).

The Appellant is an educated woman with a four year bachelor degree from Columbia College she has an Associate's Degree from Midlands Technical College as a paralegal, she has been a property owner since 1994. She researched, meet with the surveyors, spoke to other surveyors, did title searches and researched her property, located her plat, survey, CWS plat survey, located the Respondents' plat survey and meet several times with knowledgeable people at ROD office and Mr. Rawls she was more than capable of explaining her case with the knowledge of a lay person

STANDARD OF REVIEW

A. ABUSE OF DISCRETION

"In deciding whether to grant or deny a directed verdict motion, the trial court is concerned only with the existence or non-existence of evidence;" Sims v. Giles, 343 S.C. 708, 714, 541 S.E.2d 857, 861 (Ct. App. 2001). The trial court can only be reversed by this Court when there is no evidence to support the ruling below; Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 514 S.E.2d 126 (1999). If the evidence as a whole is susceptible of more than one reasonable inference, the **case should be submitted to the jury**. Gamble v. International Paper Realty Corp. of S.C., 323 S.C. 367, 474 S.E.2d 438 (1996); Yadkin Brick Co. v. Materials Recovery Co., 339 S.C. 640, 529 S.E.2d 764 (Ct. App. 2000); see also Weir v. Citicorp Nat'l Servs., Inc., 312 S.C. 511, 435 S.E.2d 864 (1993) (illustrating an appellate court must apply the same standard when reviewing the trial judge's decision on such motions). "When considering directed verdict and JNOV motions, neither the trial court nor the appellate court has

the authority to decide credibility issues or to resolve conflicts in the testimony or evidence." Boddie-Noell Properties, Inc. v. 42 Magnolia Partnership, 344 S.C. 474, 482, 544 S.E.2d 279, 283 (Ct. App. 2000), cert. granted.

"'An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support.'" Id. (quoting State v. Irick, 344 S.C. 460, 464, 545 S.E.2d 282, 284 (2001)); see also State v. Funderburk, 367 S.C. 236, 239, 625 S.E.2d 248, 249-50 (Ct. App. 2006) ("An abuse of discretion occurs when the trial court's ruling is based on an error of law."). Even if there was no evidentiary support, "'[i]n order for an error to warrant reversal, the error must result in prejudice to the appellant.'" Geer, 391 S.C. at 190, 705 S.E.2d at 447 (quoting State v. Preslar, 364 S.C. 466, 473, 613 S.E.2d 381, 385 (Ct. App. 2005)); see also State v. Wyatt, 317 S.C. 370, 372-73, 453 S.E.2d 890, 891-92 (1995) (stating that error without prejudice does not warrant reversal).

B. MOTION FOR RECONSIDERATION AND NEW TRIAL[12]

Pursuant to South Carolina Rules of Civil Procedure 50, 59 and 60, Appellant *pro se* Glenda Couram moves for reconsideration of the Court' ruling of directed verdict or summary judgment in favor of the Respondents Cox and Dinkins, J. Donald Rawls, Steven A. Fair, Carl Reibold and Christopher Hooker for civil conspiracy, intentional infliction of emotional distress, trespass and slander of title (Cox and Dinkins, Fair and Rawls) and the jury verdict in favor of Respondents' Reibold and Hooker on Trespass July10, 2013. Grounds for reconsideration

[12] Rule 203(b)(1), SCACR, requires that the notice of appeal be served on all respondents within thirty days after receipt of written notice of entry of the order or judgment. The rule further provides, however, that "[w]hen a timely . . . motion to alter or amend the judgment (Rules 52 and 59, SCRCP) . . . has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion." (emphasis added). A motion under Rule 59(e) is timely if it is "served not later than 10 days after receipt of *written notice of the entry of the order*." If a timely motion is made pursuant to Rule 59, the time for appeal runs from the receipt of written notice of entry of the order disposing of the motion. Rule 59(f), SCRCP. See Otten v. Otten, 287 S.C. 166, 167, 337 S.E.2d 207, 208 (1985) (stating that when a party makes a motion for reconsideration, "the time for appeal from the judgment begins to run from the time of the order granting or denying the motion").

include multiple instances of bad faith, perjury (subornation of perjury) and contrary record evidence that were not addressed by the Court.[13] Appellant also requested a new trial.

In Coward Hund Construction Co. v. Ball Corp. & Carolina Glass Contractors" the SC Court of Appeals confirmed: the purpose of Rule 59(e), SCRCP, to alter or amend the judgment[,] is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992) (quoting Budinich v. Becton Dickinson and Co., 486 U.S. 196, 200 (1988)). As one authority has noted, "Once the issue has been properly raised by a Rule 59(e) motion, it appears that it is preserved and a second motion is not required if the trial court does not specifically rule on the issue so raised." James F. Flanagan, South Carolina Civil Procedure 475 (2d ed. 1996). (R. p. 25)

C. STANDARDS FOR DIRECTED VERDICT AND OR SUMMARY JUDGMENT

"When reviewing the denial of a motion for directed verdict or JNOV, this Court applies the same standard as the trial court." Gibson v. Bank of America, N.A., 383 S.C. 399, 405, 680 S.E.2d 778, 781 (Ct.App.2009). "The Court is required to view the evidence and inferences that reasonably can be drawn from the evidence in the light most favorable to the non-moving party." Id. "The motions should be denied when the evidence yields more than one inference or its inference is in doubt." Id. "An appellate court will only reverse the [trial] court's ruling when there is no evidence to support the ruling or when the ruling is controlled by an error of law." This Court will reverse only where there is no evidence to support the trial court's ruling, or where the ruling was controlled by an error of law. Clark v. S.C. Dep't of Public Safety, 362 S.C. 377, 382-83, 608 S.E.2d 573, 576 (2005); Steinke v. S.C. Dep't of Labor, Licensing & Regulation, 336 S.C. 373, 386, 520 S.E.2d 142, 148 (1999); Abu-Shawareb v. S.C. State Univ.,

[13] Fair per the interrogatories answered by Cox and Dinkins and Rawls' Attorney Howser stated that they did two plats for Fair Builders, Inc., one in June 30, 1994 two months after the Appellant purchased the property and they revised that plat in 2004 after Fair Builders purchased the "park"

364 S.C. 358, 613 S.E.2d 757 (Ct. App. 2005); Welch v. Epstein, 342 S.C. 279, 300, 536 S.E.2d 408, 418 (Ct. App. 2000). Harvey v. Strickland, 350 S.C. 303, 309, 566 S.E.2d 529, 532 (2002); Hanahan v. Simpson, 326 S.C. 140, 149, 485 S.E.2d 903, 908 (1997).

"When reviewing the grant of summary judgment, the appellate court applies the same standard applied by the trial court pursuant to Rule 56(c), SCRCP." Fleming v. Rose, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002). "Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law." Baird v. Charleston County, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999). "In determining whether any triable issue of fact exists, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the non-moving party;d" Summer v. Carpenter, 328 S.C. 36, 42, 492 S.E.2d 55, 58 (1997).

D. MOTION FOR DECLARATORY JUDGEMENT (R. pp. 575-84)

"The Declaratory Judgment Act should be liberally construed to accomplish its intended purpose of affording a speedy and inexpensive method of deciding legal disputes and of settling legal rights and relationships, without awaiting a violation of the rights or a disturbance of the relationships." Graham v. State Farm Mut. Auto. Ins. Co., 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995) (citing Williams Furniture Corp. v. Southern Coatings & Chemical Co., 216 S.C. 1, 56 S.E.2d 576 (1949)); S.C. Code Ann. § 15-53-130 (1977).

"To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy." Graham, 319 S.C. at 71, 459 S.E.2d at 845 (citing Brown v. Wingard, 285 S.C. 478, 330 S.E.2d 301 (1985)). "A justiciable controversy exists when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party." Graham, at 71, 459 S.E.2d at 845 (citing Power v. McNair, 255 S.C. 150, 177

S.E.2d 551 (1970)). This requirement is satisfied by "[a]ny person interested under a deed . . . written contract or other writings constituting a contract or whose rights, status or other legal relations are affected by a ... contract or franchise may have determined any question of construction or validity arising under the instrument, ... contract or franchise and obtain a declaration of rights, status or other legal relations thereunder." S.C. Code Ann. § 15-53-30 (1977); see also Rule 57, SCRCP.

The Uniform Declaratory Judgments Act "does not create substantive rights or duties." Felts v. Richland County, 299 S.C. 214, 216, 383 S.E.2d 261, 262-63 (Ct. App. 1989), aff'd, 303 S.C. 354, 400 S.E.2d 781 (1991); see S.C. Code Ann. §§ 15-53-10 to -140 (1977). Rather, it authorizes an action to establish a party's entitlement to a pre-existing right. Noisette v. Ismail, 299 S.C. 243, 247 n.1, 384 S.E.2d 310, 312 n.1 (Ct. App. 1989), rev'd in part by 304 S.C. 56, 403 S.E.2d 122 (1991).

"A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue. An issue essentially one at law will not be transformed into one in equity simply because declaratory relief is sought." Felts v. Richland County, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991). An insurance policy is a contract between the insured and the insurance company. Gordon v. Colonial Ins. Co., 342 S.C. 152, 155, 536 S.E.2d 376, 378 (Ct. App. 2000). Contract actions are actions at law. Hofer v. St. Clair, 298 S.C. 503, 508, 381 S.E.2d 736, 739 (1989). In an action at law, on appeal of a case tried without a jury, we may not disturb a trial court's findings of fact unless those findings are "wholly unsupported by the evidence or controlled by an erroneous conception or application of the law." Maddux Supply Co. v. Safhi, Inc., 316 S.C. 404, 406, 450 S.E.2d 101, 102 (Ct. App. 1994).

STATEMENT OF FACTS AND BACKGROUND

The appellant learned that the Respondents Cox and Dinkins along with Steven Fair in 2004 cut off 20 feet of her property in or about December 2010 and made it apart of the property sold to Fair by the County of Lexington. According to the attorney in their counter claim the Appellant had set on her rights to the 20 feet which made it legal for the "Neighbors" to come in after three years to take the property as their own to build a soccer field for kids and grandkids.

The discovery of the magnitude of the conspiracy came to light when the Appellant discovered the injury done in 2004 by Fair Developers and the surveying company he contracted to plat the "park" for development. (Complaint Dated March 11, 2011, R. p. 31 and Letter Dated R. p. 182)

To this day, the natural fence has not recovered and all the Appellant now sees when she is out back is the fence the Reibolds' put up after their destruction of the Appellant's property. The Hookers moved away.[14] (Photos Exhibits R. pp. 652, 656-8, 660-4)

The Appellant has replanted some of the shrubs that were destroyed but not one of them has taken root the damage is extremely noticeable in the weather time.[15] The Respondents do not

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[14] The "Neighbors" filed a counterclaim claiming ownership of the property based on the law of laches "Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." Mid-State Trust, II v. Wright, 323 S.C. 303, 474 S.E.2d 421 (1996); Hallums v. Hallums, 296 S.C. 195, 371 S.E.2d 525 (1988); Muir v. C.R. Bard, Inc., 336 S.C. 266, 519 S.E.2d 583 (Ct. App. 1999). Laches is an equitable doctrine, which arises upon the failure to assert a known right. All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of S.C., 253 S.C. 209, 235, 595 S.E.2d 253, 267 (Ct. App. 2004). Under the doctrine of laches, if a party, knowing his rights does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights. Muir at 296, 519 S.E.2d at 599. The party seeking to establish laches must show (1) delay, (2) unreasonable delay, and (3) prejudice. Hallums at 199, 371 S.E.2d at 528; All Saints at 235, 595 S.E.2d at 267. "Importantly, delay alone in assertion of a right does not, in and of itself, constitute laches. Rather, so long as there is no knowledge of the wrong committed and no refusal to embrace an opportunity to ascertain facts, there can be no laches." Muir at 296, 519 S.E.2d at 599 (citations omitted); see Brown v. Butler 347 S.C. 259, 265, 554 S.E.2d 431, 434 (Ct. App. 2001); compare Wall v. Huguenin 305 S.C. 199, 406 S.E.2d 347 (1991) (holding the failure to exercise an option to purchase land for thirteen years was not unreasonable and laches did not apply) with Chambers of S.C., Inc. v. County Council for Lee County, 315 S.C. 418, 434 S.E.2d 279 (1993) (finding contractor's six-month delay in taking action on its objection to a contract awarded by county to another contractor was barred by laches). The inquiry into the applicability of laches is highly fact-specific and each case must be judged by its own merits. Muir at 297, 519 S.E.2d at 599. Thus, the determination of whether laches has been established is largely within the discretion of the trial court. Brown v. Butler, 347 S.C. at 265, 554 S.E.2d at 434 (Ct. App. 2001); Gibbs v. Kimbrell, 311 S.C. 261, 269, 428 S.E.2d 725, 730 (Ct. App 1993). The burden of proof is on the party asserting laches. Muir, 336 S.C. at 297, 519 S.E.2d at 599. Finally, laches is an affirmative defense and must be pled. Rule 8(c), SCRCP; Mack v. Edens, 306 S.C. 433, 412 S.E.2d 431 (Ct. App. 1991).

see their "destruction" because as stated the Reibolds put up a fence that now surrounds their property and the Hookers has moved away.

Appellant initially filed this action on or about December 20, 2010, against the Hookers and Reibolds for trespass, invasion of privacy, etc., and Carolina Water Service for adverse possession of the well site and the releasing of the 15 foot easement granted by a common owner between the Appellant and CWS. The Respondents Reibold and Hooker after Appellant filed her complaint filed a cross complaint, including a motion of declaratory judgment after a filed suit and damages had already occurred.[16] (R. p. 1)

Judge Keesley dismissed the complaint because the Appellant was allowed to file indigent by the Court. (R. p. 3). When the Appellant refiled Judge Keesley recused himself due to conflict of interest when the Appellant refiled to include the firm of Cox and Dinkins.

Appellant refiled in or about March 2011. She refiled adding additional Respondents after meeting with J. Donald Rawls and realizing the extent of the conspiracy to deprive her of her property and named Cox and Dinkins, J. Donald "Don" Rawls, Steven Fair, Hooker and Reibold (see caption). The Respondents refiled their cross complaint. (R. p. 182)

Prior to an Order by Judge McMahon the Appellant had refiled an amended complaint dropping all negligence charges against the Respondents and the amended complaint was accepted by the court in or around June 2011 and both defense attorneys. (R. p. 8)

Carolina Water Service (CWS) deeded over (vested) to the Appellant the square parcel of land given to them by Lexington County located in the back rear left of Appellant's property.

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[15] Appellant has purchased Japanese yews and privets to attempt again to replant what was destroyed.

[16] They included a cause of action accusing the Appellant of child abuse. Appellant asked Hooker about this and the trial Judge became upset and accused stated the frivolous claim action to the Appellant Brown the Attorney showed the Judge in his cross complaint the allegations. The Appellant in this Motion for Reconsideration, new trial, etc., ask the court for a ruling on the cross complaint.

(See Deed filed with the ROD Office on or about 1985). CWS[17] relinquished all rights to the easement due to their leaving the area and water has been supplied by Lexington County since on or about 1991. Order signed by Judge Birch. The common owner was August Kohn – which made the Appellant's land subservient to the dominant owner CWS; (R. p. 205). Judge Birch also denied Appellant's request for Default Judgement against Steve Fair.[18] (R. p. 20) (R. p. 18)

Appellant purchased her property in April 1994 – Phase IV. A selling point for the Appellant was on reliance on the Hendrix Builders word that the "Neighborhood Park" would never be sold/developed. The deed is located in Book 475 Page 5, dated on or about 1985 RMC Office for Lexington count May 3, 1985 Plat Book 200-G Page 887. Firsthand knowledge of the Appellant with the evidence submitted into the court record. (R. p. 209).

At some point around 2001 or 2002 the County of Lexington sold the donated Wrenwood Subdivision neighborhood park for back taxes to a Mr. Hawkins who eventually sold the land to Steve Fair of Fair Developers. (R. p. 199 and Exhibits R. pp. 683-687)

During the construction of the Park and Phase V - Fair Developers in 2004 destroyed plants and shrubs on the Appellant's property and via letters he promised to replace the shrubs instead he merely put up a black tarp and refused to replace the shrubs. Appellant took Fair to Court for damages, she lost – the Magistrate would not allow the Appellant to supply the jury with dates the pictures were taken even through it was made known to the court the damages took place in 2004.[19] (R. p. 161, Exhibit R. p. 648). This was not a legal conclusion but a ruling

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[17] On the property at the time of purchase was CWS "well site" consisting of housing and a pump. The housing was taken down and the pump cut done in or about 1996 due to fires being set. The Appellant's property was the last to be sold in Phase IV construction in Wrenwood Subdivision had been completed.

[18] Per this Judges Request the Appellant filed an Affidavit of Service and Diligence and Proof of Service with the Court testifying that Fair never responded to any Orders, Complaints, Requests after his response to the initial complaint dismissed by Judge Keesley. (See Answer and Affidavit).

[19] During this same time TWC asked the Appellant to allow them to place a cable box on her property for the neighbors to her right she denied the request and arrived home one day to learn they put the box on the property anyway, they refused to move the box and Appellant took them to court and lost but the cable box was removed she got her land back and closed the opening.

by the Magistrate Judge. When the Jury asked the Court for the dates – the magistrate Judge denied the request. Even after this legal action case concluded, Fair continued the behavior. (R. pp. 161-163). There was *no contractual* relationship between the Appellant and Respondents Fair. At no time did he ask or was he given the right to enter Appellant's property nor his contracted surveyors.

After the 2005 trial the purchasers of Fair's homes begin their harassment of the Appellant was out in her yard working she looked up and saw Reibold watching her (he purchased the smallest lot in Phase V) talking on the phone shortly thereafter Fair showed up and they watched her the entire time (phoned the police who talked to Reibold apparently via his testimony) this was in or around 2006. Appellant testified to this incident on or about July 9th, 2013. (R. pp. 211) (R. pp 516)

The next incident per Hooker's testimony, he was out cutting his grass Appellant informed him he was cutting across the boundary line and the activity stopped and apparently per the Respondent the Appellant saw him spraying trees and shrubs in the vicinity of the natural fence and around her crepe myrtles and asked him to be careful. (R. pp. 464-80)

At no time did the Appellant fail to exert her rights over the 20 feet that is the subject of this lawsuit as has been testified to by the "Neighbors."

On or about December 6, 2010, as the Appellant testified to (ROA 217-646) the Appellant arrived at the house per her testimony and saw the Respondents out cutting down the natural fence and across the boundary lines she went over and spoke with Reibold, (Hooker left); took pictures of him describing his property line (submitted into the record – the picture show Reibold standing on his property line with all the stakes they had been removed beside him. (Exhibit R. p. 661-648). He was in line with a large oak tree depicted on their survey done by

Cox and Dinkins in 2004. Appellant explained to him he was harming her trees and shrubs with what he was doing. He asked her if she wanted him to trim her trees and plants, Appellant denied the request and wrote a letter to clarify what she said (Attachment)[20], she also sent a letter to Mr. and Mrs. Hooker to explain the property lines after speaking with Rawls and meeting with ROD to have her plat explained. (It appears Reibold's lot is the smallest of the four lots on the Cox and Dinkins Survey and the property line runs with lots C and D). The contractual survey he has with Fair and Cox and Dinkins clearly show that his lot does not extend beyond the Oak tree and there is a 1/2 rebars which prove this as well.

(The Judge denied the Appellant the right to explain her knowledge stating she was not an expert – this was not a claim for negligence but for trespass, slander of title, civil conspiracy, continuous trespass and nuisance, invasion of privacy, trespass, etc., Appellant explanation was in harmony with Rule 701 and 702 (R. pp. 356-376).

> RULE 701 - If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which (a) are (a) rationally based on the perception of the witness, (b) are (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) do not, based on scientific, technical, or other specialized knowledge within the scope of Rule 702, require special knowledge, skill, experience or training.
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> RULE 702 - TESTIMONY BY EXPERTS If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

[20] Appellant after this letter was brought into the record by Mr. Reibold and the Jury asking to see a copy, the court searched and could not find the letter the Appellant brought the letter in the next day July 10, 2013 the court and defense denied placing it into evidence but did allow Appellant to reference the letter after it was introduced by the defense. Appellant placed the letter into the record via the Motion to Reconsideration – this also the letter Reibold claim the Appellant used words such as "stupid and black"

Reibold also testified that in the letters dated December 6 and 8th the Appellant used the words "black" and "stupid" there is no such words in the letters sent to either of the Respondents. After that she wrote an addressed letter to Reibold that did not contain those words testified to by sworn testimony of Reibold. The court denied Appellant's request to submit the letters into evidence. (Attachment three letters – addressed to Reibold and To Whom It May Concern – Appellant did not know the name of the Respondents until her meeting with ROD and Police Reports). (R. p. 178)

Hooker (R. pp. 464) testified he was never on the Appellant's property in fact she was on his because when he pointed this out to her she "skedaddle" back over to her side of the property line. The Appellant has never been on the Hookers or Reibold' property except when she dropped of the letter in his front door.

Hooker testified that he and a friend decided to locate the property lines and based on his survey done by Cox and Dinkins and located the boundary line rebar and upon locating the bar he placed a black hose and this was located at the end of the boundary line based on the survey/plat of Cox and Dinkins and this was done on December 10, 2010. However, the Appellant did not see the hose until December 15th, the reason for calling police. This hose was planted about 20 feet inside the Appellant's property line and in the 20 foot setback on the front portion of the Appellant's property.

In direct contradiction of Hooker's sworn testimony and his Admissions; Officer Creech in his report memorialized that the *disputed property was an easement* running to CWS service[21] (Exhibit R. p. 670). (R. pp. 299 and 340-8). In fact Hooker did in fact cross the boundary line of Phase IV and V, dug up the Appellant's property and did place a black hose onto the property as

[21] Which was attached and running with the Appellant 's property an easement that was by law only between the Appellant, August Kohn and CWS).

testified to by the Officer prior to his dismissal by the Court. (The asked the Appellant if she was done with the witness stepping from the stand she said yes and learned the next day of trial the court had dismissed her witnesses for the remainder of the trial and denied Appellant's request to have them resumed).

The officer was reluctant to testify (his testimony bordered on hostility) if not hostile – but he admitted that contrary to Hooker's testimony they were on the Appellant's property for a period of time after she went inside on December 16th, 2010, talking and only left after she asked for a report which he admitted he told her he would not do but may add to the one from the previous day. He also stated "GLENDA COURAM stated the property was hers because she lived their longer" a true statement because the Appellant purchased the land in April 1994, the easement is part of her deed and survey and she had taken care of the property as outlined in the restrictive covenant for Phase IV, the property lines were established in 1986, 1991, 1993 and 1994 and the easement or "disputed" property has continued to run with her land, acquiesced to by the Wrenwood Association and the park and by 2006 she had owned the "disputed" land and or easement for over ten years which reverted back to her in 1991 when CWS moved from the area. And Lexington County Water took over as she testified to in court.

Appellant's second witness, Draft of Draft Surveying did two plats of the Appellant's Property neither of those Plats show a ½ rebar located on or about 20 feet inside the Appellant's boundary line (in the setback area of the front). Neither does the referenced plats of Cox and Dinkins and Rawls. After his resistance, like the Officer, to answering her questions and speaking only on the issues of the Respondents relating to negligence which was not a cause of action and their calculations the Appellant asked Draft straight out if there was a ½ rebar located on her plat he responded "No and then stated this is not your plat" -- the plat was the one he did

for Steve Hendricks Builders in 1993 of the Appellant's property. Appellant went and produced her plat with her name on it and asked the question again at which point Draft reluctantly testified that there was no (o)ld ½ rebar within the 15/20 feet of the Appellant's property as depicted by survey/plat, filed and certified in or about September 2004 in ROD office by Fair, Rawls and Cox and Dinkins. This final admission was also in harmony with his Admissions and direct contrast with the Respondents Cox and Dinkins Admission were they appear to state that the ½ rebar was planted by Draft. (R. pp. 316). Depending on who was questioning him he changed his story even though he was the Appellants witness. Appellants asked if he had spoken with the Respondents after we went over his testimony he denied he had.[22]

The testimony of Draft was looked for by the court after Appellant's objections, to the contradictory testimony of Draft but the court attributed the testimony that sided with the Respondents to make his decisions in ruling against the Appellant. Appellant objected and was told not to argue with the Reporter or the Court; even though it was the court reporter that showed her the dates that proved her statements to the court. (R. pp. 316-117).

The Appellant had no say what the Respondents' put on their property unless it was harming others. If the Respondents as proven by Reibold in 2012, wanted to put up a fence to protect his grandchildren that was on him it had no bearing on the Appellant's property the fence was put up on his boundary line in front of the Oak tree monument as described on his survey/plat by Cox and Dinkins, Fair and Rawls and directly on his boundary line. Except per the Restrictive covenant he could not place his fence inside an easement which was running with the Appellant land.

The adjacent homeowner, the Appellant was not part of Phase V, she had no contractual relationship, nor a third party relationship with either of the Respondents and they did conspire,

[22] In his Admissions he stated he had spoken to the Respondents (See Admissions)

slander her title, invade her privacy, was a nuisance, and caused emotional and mental distress, etc., as the evidence proved.

C. PHASE IV RESTRICTIVE COVENANT FILED IN THE ROD OFFICE

The courts have stated "A restrictive covenant runs with the land, and is thus enforceable by a successor-in-interest, if the covenanting parties intended that the covenant run with the land, and the covenant touches and concerns the land." Marathon Fin. Co. v. HHC Liquidation Corp., 325 S.C. 589, 604, 483 S.E.2d 757, 765 (Ct. App. 1997) (citations omitted). "[A] party seeking to enforce a covenant must show the covenant applies to the property either by its express language or by a plain and unmistakable implication." Charping v. J.P. Scurry & Co., Inc., 296 S.C. 312, 314, 372 S.E.2d 120, 121 (Ct. App. 1988) (citations omitted).

The Covenant states page 33-35 that paragraph 6 that "easements for the installation of utilities and drainage facilities are reserved by W.J.S., Inc., their successors and assigns, as shown on the recorded Plat and over five (5) along each side line of each lot and /front and rear ten (10) feet of each lot. Within these easements, no structure, planting of other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water..... to the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvement for which a public authority or utility company is responsible."

The Appellant from 1994 to date had complied with that covenant. She had maintained the natural fence which runs her 5 foot utility easement and she has maintained the 15 ft easement granted CWS access to their well site that runs with the "the dispute land."

The fact that Cox and Dinkins, Fair and Rawls did not identify the two easements, failed to record the two easements was a malicious and willful violation of the Appellant's rights that resulted in continual trespass, continual nuisance, civil conspiracy, mental anguish and invasion of privacy and a violation of their state sanction duty as surveyors. (See survey dated June 30, 2004; revisions August 9, 2004 and October 13, 2004, also Admissions of Cox and Dinkins and Donald Rawls).

D. COX AND DINKINS, FAIR AND RAWLS (R. pp. 560-4)

The Respondents Cox and Dinkins nor the other Respondents offered any testimony or proof that they did not trespassed on the Appellant's property, locate a ½ rebar located 15 to 20 feet inside her property line. They did not supply any evidence except in their Admissions, of where the rebar came from except to say it was placed by Draft Surveying who denied placing the rebar but admitted to placing one rebar in the back of Appellant's property (IPF iron) near the CWS site. After the Appellant completed her testimony the court removed the Jury and granted the Respondents motions for direct verdict except as to the trespass by Hooker and Reibold. (R. pp. 325 – 338).

The Appellant never questioned the Respondents' expertise in surveying that was not the issues before the court the questions that was before the court was whether or not the Respondents trespassed, invaded Appellant's privacy, caused her emotional distress or mental anguish, conspired to take her land with a fraudulent survey that slandered her title, etc. The Appellant's property was not included in the survey contract. She had owned her land for over 10, 12. 13 years prior to either of the Respondents. (See Walker v Lindsey, 2005-UP-207).

LEGAL ANALYSIS

I. DID THE TRIAL COURT ABUSE ITS DISCRETION AND PREJUDICE THE APPELLANT WHEN HE GRANTED RESPONDENTS REIBOLD AND HOOKERS' MOTION FOR DECLARATORY JUDGMENT?

The Respondents requested and were granted a motion to have a court ordered survey done by Judge McMahon. They were ordered to inform the Appellant of the time and place. They never had the survey. The defense counsel stated told Judge McIntosh that they did not comply with the order because the two surveyors they contacted were afraid of being sued.[23] The Appellant's property was not being surveyed just the Respondents so any threat of suit would have been by the Respondents not the Appellant's.[24] [25] The Appellant also never had a doubt about the location of her property thus the action with CWS that was part of this action to ensure CWS no longer had a claim to the 15 foot easement. The only ones who were in doubt about their property were the Respondents as a result of their survey done by Cox and Dinkins. Also, Officer Creech memorialized the fact that the property in dispute was the easement running with the Appellant's property and the location that Hooker placed the hose 15 to 20 feet across the boundary line at approximately this was done while the Appellant was a work and waiting for upon her return so was Hooker who showed up at the same time.

There was no controversy except on the part of the Respondents and the plat/survey they had with Cox and Dinkins commissioned by Fair. There was no relationship whatsoever between the Appellant and either one of the Respondents. When the Respondents filed the survey they placed a cloud on the Appellant's property which resulted in the slander of her title and this lawsuit. The lower court ruling granting the Declaratory Judgment forced the Appellant

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[23] Stated to Judge McIntosh on July 8, 2013

[24] The Appellant in this Motion for Reconsideration, new trial, etc., ask the court for a ruling on the cross complaint.

[25] The Appellant did not discovery or suffer injury as a result of the survey until 2010; per the discovery rule. The Appellant was never at any time in a contractual relationship with either of the defendants and did not file a negligence cause of action nor could she do not by law. None of the defendants had a legal basis for being on her property for any purpose. The Appellant had no idea or reason to believe her property had been slander or was in jeopardy until 2010.

into a contractual relationship that does not exist and it continues the cloud on the Appellant title leaving the door open for others to make claim to the Appellant's land. The ruling was not just nor was it based on the evidence that was before the Judge, the jury or the court.

a. Doctrine of Acquiescence "A boundary dispute is an action at law, and the location of a disputed boundary line is a question of fact." Bodiford v. Spanish Oak Farms, Inc., 317 S.C. 539, 544, 455 S.E.2d 194, 197 (Ct. App. 1995) (citations omitted). "A disputed boundary line can be established by acquiescence of the parties." Kirkland v. Gross, 286 S.C. 193, 197, 332 S.E.2d 546, 548-49 (Ct. App. 1985), receded from on other grounds by Boyd v. Hyatt, 294 S.C. 360, 364 S.E.2d 478 (Ct. App. 1988). "[A]cquiescence is a question of fact determined by the intent of the parties." Id. at 198, 332 S.E.2d at 549.

[I]f a party stands by, and sees another dealing with property in a manner inconsistent with his rights, and makes no objection, he cannot afterwards have relief. His silence permits or encourages others to part with their money or property, and he cannot complain that his interest[s] are affected. His silence is acquiescence and it estops him."

"If adjoining landowners occupy their respective premises up to a certain line, which they mutually recognize and acquiesce in for a long period of time, they are precluded from claiming the boundary line thus recognized and acquiesced in is not the true one." Gardner v. Mozingo, 293 S.C. 23, 26, 358 S.E.2d 390, 392 (1987). "In other words, such recognition of, and acquiescence in, a line as the true boundary line, if continued for a sufficient length of time, will afford a conclusive presumption that the line thus acquiesced in is the true boundary line." Knox v. Bogan, 322 S.C. 64, 72, 472 S.E.2d 43, 48 (Ct. App. 1996). The length of time required is usually that prescribed by the statute of limitations. Id. However, acquiescence can be established even if the period of time is very short; acquiescence need not continue for the period

necessary to establish adverse possession. McClintic, 228 S.C. at 384, 90 S.E.2d at 366. For a new boundary to be established by acquiescence, both parties must recognize a particular line constituted the true property line. See Croft v. Sanders, 283 S.C. 507, 510, 323 S.E.2d 791, 793 (Ct. App. 1984).

Additionally, when boundary lines have "been located and designated by monuments and there is a discrepancy between the calls for these monuments and courses and distances shown by a plan referred to in the conveyance, the normal rule as to the controlling effect of calls for monuments will be followed." Klapman v. Hook, 206 S.C. 51, __, 32 S.E.2d 882, 883 (1945). "[U]nder the rules for determining disputed boundaries 'the quantity of land named in the deed is ordinarily one of the lowest in the scale of importance.'" Id. at __, 32 S.E.2d at 883 (quoting Holden v. Cantrell, 100 S.C. 265, 84 S.E. 828 (1915)).

The Appellant purchased her property in 1994. She lived in harmony with the Wrenwood Subdivision Association cutting the grass up to the known boundary line located near the fire hydrant and she maintained the CWS well site and the two easements along with the section of natural woods. Both the Appellant and the subdivision lived this way up and until 2004. After that the Appellant marked the area clearly showing that she was marking that the section of the natural woods was inclusive as it had been with the subdivision. The Respondents at each time the Appellant informed them they were trespassing stayed away from property until December 2010 when they both made an aggressive attempt to cut down the natural woods and then laid claim the two easements running with the Appellant's land based on the 2004 plat of Cox and Dinkins, done for Fair and filed by Rawls.

The Appellant put into evidence plats dated from 1983, 1986, 1990, 1991, 1994 as proof of easements and property lines. The Appellant's provided evidence of ownership of the property

and land for over 17 years; ten years before the development of the park and eight years after that development. See Coker v. Cummings, No. 4471, December 18, 2008 - SC Court of Appeals

In Uxbridge Co. v. Poppenheim, 135 S.C. 26, 30-31, 133 S.E. 461, 462 (1926) the court held (when the Appellant cannot prove with certainty where a boundary line is to show the Respondent has overstepped it, ordinary remedies at law are inadequate and such a circumstance requires the interposition of equity).

In granting the Respondents' declaratory judgment the Court prevented the Appellant from telling the jury about the easement and to show them were the easement was located, the jury was only allowed to review the survey of Cox and Dinkins and the Respondents in their deliberations.

II. DID THE TRIAL COURT PREJUDICE THE APPELLANT WITH THE JURY WHEN HE DISMISSED ALL CAUSES OF ACTION LEAVING ONLY TRESPASS AGAINST "NEIGHBORS?

There was no question but that the "Neighbors" and the other Respondents trespassed onto the Appellant's property and that the trespass was an intentional invasion of the Appellants privacy and exclusive possession of her property." See Hawkins v. City of Greenville, 358 S.C. 280, 293, 594 S.E.2d 557, 564 (Ct. App. 2004) (quoting Hedgepath v Am. Tel. & Tel. Co.) In Green Tree Servicing v Williams filed in 2008 in SC Court of Appeals ruled if a Appellant establishes a willful trespass, the damages from invasion of the Appellant's legal right will be presumed sufficient to sustain the action even though such damages may be only nominal and not capable of measurement; Hinson v. A. T. Sistare Construction Co., 236 S.C. 125, 113 S.E. 2d 341, 344 (1960).

The trespass law recognizes that owners of property have inherent rights, perhaps the most important being the right to the "exclusive" use of their property. The Respondents are

liable for their invasion of the Appellant's property without permission and or consent and their interference with the exclusive use of my land as a homeowner. The trespass occurred when the Respondents Fair, Cox and Dinkins and Rawls, intentionally invaded Appellant's my property after purchase in June1994 (two months after Appellant's purchase and twice in 2004 by their own admission and records placed into evidence. They invaded Appellant's property when they located a ½ rebar that they could not have known about and fraudulently recorded the illegal rebar[26] with the ROD office. "But for" their trespass the "Neighbors" would not have criminally remained and interfered with the Appellant's enjoyment and use of her property by cutting down shrubs and removing trees from the property. Appellant called the police as a good citizen would do instead of taking the law into their own hands.

The trial court erred in dismissing Rawls, Fair and Cox and Dinkins from the Trespass cause of action "but for" their actions the trespass by Reibold and Hooker would not have occurred according to the "Neighbors" they relied on that survey to take the Appellant's land. The jury erred in failing to review documented evidence of the trespass were it was clear by the preponderance of the evidence that a trespass had taken place and the "Neighbor's" lied throughout their testimony. (The court would not allow the Appellants plat and Deed to be review by the Jury) Reibold acknowledged destruction of trees and shrubs and Hooker acknowledged placing the black hose on the Appellant's property and refusing to remove it, he stated 'the Appellant *removed the hose that was still on her property and threw it back on his property.*' (This was also testified to by the Officer and read into to the record).

A trespass is any intentional invasion of the Appellant's internet in the exclusive possession of his property;" Hawkins v. City of Greenville, 358 S.C. 280, 293, 594 S.E.2d 557, 564 (Ct. App. 2004) (quoting Hedgepath v Am. Tel. & Tel. Co.) In Green Tree Servicing v

[26] The trespass either on the front end or the side of the property was a trespass by the Respondents

Williams filed in 2008 in SC Court of Appeals the ruled if an Appellant establishes a willful trespass, the damages from invasion of the Appellant's legal right will be presumed sufficient to sustain the action even though such damages may be only nominal and not capable of measurement; Hinson v. A. T. Sistare Construction Co., 236 S.C. 125, 113 S.E. 2d 341, 344 (1960).

III. DID THE TRIAL COURT ERR OR ABUSE ITS DISCRETION[27] WHEN IT GRANTED THE RESPONDENTS' SUMMARY JUDGMENT AND/OR DIRECTED VERDICT IN REGARDS THE APPELLANT'S CIVIL CONSPIRACY CLAIMS?

In Pye v Fox the South Carolina Supreme Court stated: The elements of a civil conspiracy in South Carolina are (1) the combination of two or more people, (2) for the purpose of injuring the Appellant, (3) which causes special damages. LaMotte v. Punch Line of Columbia, Inc., 296 S.C. 66, 370 S.E.2d 711 (1988); Cowburn v. Leventis, 366 S.C. 20, 49, 619 S.E.2d 437, 453 (Ct. App. 2005); Ellis v. Davidson, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004); see also Peoples Federal Savings & Loan Ass'n of S. Carolina v. Resources Planning Corp., 358 S.C. 460, 470, 596 S.E.2d 51, 56-57 (2004) ("A civil conspiracy is a combination of two or more parties joined for the purpose of injuring the Appellant and thereby causing special damage.") (Citation omitted). It is essential that the Appellant prove all of these elements in order to recover. Lyon v. Sinclair Refining Co., 189 S.C. 136, 200 S.E. 78 (1938).

The "essential consideration" in civil conspiracy "is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the Appellant." Lee v. Chesterfield General Hosp., Inc., 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct. App. 1986). "[I]n order to establish a conspiracy, evidence, direct or circumstantial, must be produced from which a party may reasonably infer the joint assent of

[27] An abuse of discretion occurs when the trial court's decision is clearly erroneous and against the logic and effect of the facts and circumstances before the court. *Id.* at 126-27. Evidence that is erroneously excluded requires reversal only if the error relates to a material matter or substantially affects the rights of the parties. *Id.* at 127.

the minds of two or more parties to the prosecution of the unlawful enterprise." Island Car Wash, Inc. v. Norris, 292 S.C. 595, 601, 358 S.E.2d 150, 153 (Ct. App. 1987); accord Cowburn, 366 S.C. at 49, 619 S.E.2d at 453. This Court has observed:

Conspiracy may be inferred from the very nature of the acts done, the relationship of the parties, the interests of the alleged conspirators, and other circumstances. Island Car Wash, Inc., v. Norris, 292 S.C. 595, 358 S.E.2d 150 (Ct. App. 1987). "Civil conspiracy is an act which is by its very nature covert and clandestine and usually not susceptible of proof by direct evidence. . ." Id. at 601, 358 S.E.2d at 153. An action for civil conspiracy is an action at law; the trial judge's findings will be upheld on appeal unless they are without evidentiary support. Gynecology Clinic v. Cloer, 334 S.C. 555, 514 S.E.2d 592 (1999). Peoples Federal, 358 S.C. at 470, 596 S.E.2d at 57.

The gravamen of the tort of civil conspiracy is the damage resulting to the Appellant from an overt act done pursuant to the combination, not the agreement or combination per se. Lee, 289 S.C. 6, 344 S.E.2d 379. "[A]n unlawful act is not a necessary element of the tort." Id. at 11, 344 S.E.2d at 382. Because the quiddity of a civil conspiracy claim is the damage resulting to the Appellant, the damages alleged must go beyond the damages alleged in other causes of action. Vaught v. Waites, 300 S.C. 201, 387 S.E.2d 91 (Ct. App. 1989).

The Appellant provided the court with document evidence of the conspiracy of the Respondents in setting up and conspiracy to take the Appellant property: they certified a surveyed and filed a survey that clearly cut off at least 20 feet of the Appellant land with ½ rebar that had never been document prior to their survey. The failed to list anywhere on the survey done for Fair that they are required by Article 3 of the SC Code of Regulations – Professional Standard of Conduct to list; they failed to reference the Appellant's plat and deed or the deed of

Carolina Water Service that clearly shows the easements running with the Appellant land that was the subject of this legal action.

Cox and Dinkins and Don Rawls was required to show all and Mr. Fair is charged as show on the Plat to verify all information and they both failed resulting in damages to the Appellant and slander of her title:

> (s) All visible items across the property line shall be indicated with their extent shown or noted on the survey plat/map. The use of the words projection or encroachment shall be at the discretion of the surveyor.
>
> (r) Where a boundary is formed by a curved line, the curve will be defined by curve data to include the radius, delta arc length and the long chord, by course and distance. The curve may also be defined as a traverse of chords around curve. Chord shall be defined by course and distance.
>
> (t) Visible indications of easements and rights-of-way on the site (i.e. power lines, etc.), obvious and apparent at the time of the survey or known to the surveyor, shall be shown and shall include their widths, if known.

The Respondents (Cox and Dinkins, J Don Rawls and Steven Fair) were able to locate the plat of lot 46 identified a wood deck, concrete driveway, sewer, split rail fence but when it came to the Appellant's property lot 31 they only identified the fact that there was a dwelling.. They failed to identify the clear markings of an easement on the plat they themselves identified on the Boundary and topgraphic Map Final Plat filed in Tax Map Box N 48-22-25-34-36 #006628-05-001 dated June 30, 2004, July 12, 2004 and September 30, 2004[28]

The reference materials they identified on the plat certified and registered with the ROD office clearly shows that there is a 15 foot easement running with the Appellant's land that was not identified and nothing they referenced shows a ½ rebar prior to their plat/survey of 2004. There was an abundance of evidence not only at the summary judgment stage but also in regards to a directed verdict enough circumstantial evidence that was presented to the jury and to the court that would have nullified a motion for summary judgment and a directed verdict.

[28] November 12, 2004Book R9707: 55.1

Special damages were identified by the Appellant cost of bringing this action, costs of gas, lost wages, and cost of eating out, lost of use. This information is clearly showing on the Deed and Plat of the Appellant. (R. p. 360 to 369).

IV. DID THE TRIAL COURT ERR WHEN IT GRANTED THE RESPONDENTS' SUMMARY JUDGMENT AND/OR DIRECTED VERDICT IN REGARDS THE APPELLANT'S SLANDER OF TITLE CLAIM?

c. Slander of Title In Green v Griffith the South Carolina Appeals Court says that slander of title has been recognized as a common law cause of action. See Huff v. Jennings, 319 S.C. 142, 148, 459 S.E.2d 886, 890 (Ct. App. 1995) (holding that, although the court was directly addressing a claim for slander of title for the first time in South Carolina jurisprudence, "South Carolina law, through its incorporation of the common law of England, recognizes a cause of action for slander of title"). To maintain a claim for slander of title, our courts have held "the Appellant must establish (1) the publication (2) with malice (3) of a false statement (4) that is derogatory to Appellant's title and (5) causes special damages (6) as a result of diminished value in the eyes of third parties." Id. at 149, 459 S.E.2d at 891 (adopting the elements of slander of title outlined in the Restatement (Second) of Torts § 623A (1977)).

d. Malice The court held in Huff v. Jennings that "[i]n slander of title actions, the malice requirement may be satisfied by showing the publication was made in reckless or wanton disregard of the rights of another, or without legal justification." Huff, 319 S.C. at 150, 459 S.E.2d at 891. (R. p. 676)

The Appellant provided sufficient evidence that supports the finding that the Respondents acted in reckless or wanton disregard of her' rights to the disputed strip and that they acted without legal justification. Rawls, who was identified as an expert by the court, admitted that the ½ rebar identified on their plat should not have given the Respondents Reibold and Hooker the

right to invade the Appellant's property and claim the "disputed" land as theirs. Both Reibold and Hooker despite evidence and testimony denied ever being on the property which is an admission that they had no right to the property (Reibold even put up a fence before this matter when to court). Each action clearly indicating they had no right never thought they had rights to the property except to take the land as it clearly indicate on their survey that the property was not owned by the Appellant which is the purpose of a rebar to show property lines.

The Respondents Rawls and Mr. Dinkins along with Fair signed off and recorded the false documents to the ROD office. By doing so the Respondents acted with malice and they willfully ignored the Appellant's rights and had the plat prepared and recorded with no legal justification.

Therefore the Respondents published with malice a fraudulent statement that slandered the Appellants title in the eyes of a third party, they never even looked at the Appellants survey or deed nor the deed apparently of CWS prior to published the false information; there actions called into questions the Appellant's legal title and right to her property resulting in her having to file a legal action to keep the "Neighbors" off her land and to gain title back to that land and to this day because of the ruling of the lower court anyone can still come a make claims to the Appellant's property because the court declared her title null and void and inferior to the Survey done by Cox and Dinkins, Rawls and Fair. (R. pp. 676)

V. DID THE TRIAL COURT ERR WHEN IT DENIED THE APPELLANT AN OPPORTUNITY TO SHOW/PROVE DAMAGES

The Appellant will incur cost to correct her title, remove the illegal rebar to make her property whole once again. She incurred cost in legal research and consultation with surveyors, expenses incurred for attorney consultation and other litigation costs. Huff, 319 S.C. at 151, 459 S.E.2d at 892 (stating that special damages recoverable in a slander of title action include "the

expense of measures reasonably necessary to counteract the publication [of slanderous statements of title], including litigation" (quoting 50 Am.Jur.2d Libel & Slander § 560)).

The court stated the Appellant after her testimony did not prove damages, the Appellant assured the court she had documents to prove damages, the Appellant during her testimony also stated the damage to her title, damages to her property, the court ruled she was supposed to show damages before she rested her case.

VI. DID THE TRIAL COURT ERR AND PREJUDICE THE APPELLANT WHEN IT DISMISSED APPELLANT'S WITNESSES FROM THE COURT PROCEEDINGS AFTER ASKING HER IF SHE WAS DONE WITH THEIR TESTIMONY ON THE FIRST DAY OF TRIAL?

The Appellant had difficulty with her witnesses in that they did not want to testify and claimed faulty memories. Officer Creech stated it had been three years and he did not remember much. When the Appellant showed him her plat and asked him where he saw the black hose he said he did not remember but if the Appellant showed him a picture he could show her. Upon her return the following day of trial the Appellant asked to recall Officer Creech and was told by the court he and Draft had been dismissed with her approval the only thing the court asked the Appellant is if she done with the witness as far as the testimony that day was concerned.

When the Appellant asked for them to be resummoned to court the court took it under advisement and then denied her request.

VII. DID THE TRIAL COURT ERR OR ABUSE ITS DISCRETION WHEN IT GRANTED SUMMARY JUDGMENT OR DIRECTED VERDICT AS TO THE APPELLANT'S NUSIANCE CAUSE OF ACTION?

In South Carolina the traditional concept of a nuisance requires a landowner to demonstrate that the Respondent unreasonably interfered with his ownership or possession of the land. See Ravan v. Greenville County, 315 S.C. 447, 464, 434 S.E.2d 296, 306 (Ct. App. 1993). The distinction between trespass and nuisance is that trespass is any intentional invasion of the

Appellant's interest in the exclusive possession of his property, whereas nuisance is a substantial and unreasonable interference with the Appellant's use and enjoyment of his property. Id.

A nuisance may be classified as permanent or continuing in nature. A continuing nuisance is defined as a nuisance that is intermittent or periodical and is described as one which occurs so often that it is said to be continuing although it is not necessarily constant or unceasing. 58 Am. Jur. 2d Nuisances § 28 (1989). A permanent nuisance may be expected to continue but is presumed to continue permanently, with no possibility of abatement. Id. § 27. As to a permanent nuisance, such as a building or a railroad encroaching on a party's land, the injury is fixed and goes to the whole value of the land. Id.

When the nuisance is continuing and the injury is abatable, the statute of limitations does not run merely from the original intrusion on the property and cannot be a complete bar. Id. Rather, a new statute of limitations begins to run after each separate invasion of the property. Id.; see Cutchin v. South Carolina Dep't of Highways & Pub. Transp., 301 S.C. 35, 37, 389 S.E.2d 646, 648 (1990) (citing Webb v. Greenwood County, 229 S.C. 267, 277, 92 S.E.2d 688, 692 (1956) (stating if the injury is permanent, the Appellant has a single cause of action which cannot be split; however if the cause of the injury is abatable, each injury gives rise to a new cause of action)). A nuisance is continuing if abatement is reasonably and practicably possible. 58 Am. Jur. 2d Nuisances § 29 (1989).

In discussing the limitations period applicable in a continuing nuisance action, our supreme court has stated: Since every continuance of a nuisance is a new nuisance, authorizing a fresh action, an action may be brought, for the recovery of all damages, resulting from the continuance of a nuisance, within the statutory period of the statute of limitations, for which no previous recovery has been had, even though the original cause of action is barred, unless the

nuisance has been so long continued, as to raise the presumption of a grant, or in case of injury to real property, unless the Appellant's right of entry is barred. But when the injury is of such a nature, that all the damages resulting therefrom, whether past or prospective, are recoverable in one action, and the statute of limitations begins to run, from the time of the completed erection of the nuisance. This rule, however, is subject to the modification, that when the cause of action is the consequential injury, from an act of erection which is not, in itself, an actionable nuisance, the statute does not begin to run, until the injury is actually inflicted. See Sutton v. Catawba Power Co., 104 S.C. 405, 408, 89 S.E. 353, 353 (1916).

There is exist genuine issues of material fact making summary judgment inappropriate in this case and a directed verdict. The Appellant has described a continuing nuisance and interference of the Respondents starting in 2004 with the destruction of property from Steve Fair during their construction, interference from Reibold and Fair in 2006, continuing with Hooker in 2007 and beginning again in 2010. It appears to the Appellant that this is a continuing nuisance as the defense Attorney Brown stated in his closing "to let his people go and described the Appellant as pharaoh."

The Appellant entrance and exist is well to the right of her property she would not see the Respondents unless they make their presence known, she worked three jobs from 2004 to around 2006, she is rarely outside except to mow the grass or walking early morning when she felt safe to walk prior to 2004. Appellant in 2010 was runaway from her own home as a result of the actions of the Respondents, she called the police, she wrote letters, and she stayed away from her own house until after dark most of 2011, the trial court erred in applying saying that the nuisance case of action was not proven and the decision of the court in favor of the Respondents should be reversed.

VIII. DID THE TRIAL COURT ERR WHEN IT GRANTED THE RESPONDENTS' MOTION FOR SUMMARY JUDGMENT OR DIRECTED VERDICT AS TO APPELLANT'S INVASION OF PRIVACY CLAIMS?

Appellant alleges the Respondents "trespassed onto her property represents a wrongful intrusion on Appellant's privacy rights."

During the Respondents aggression and efforts to take the property due to the survey done by Cox and Dinkins, Fair and Rawls, the Respondents were always around when the Appellant returned from work after the first time the Appellant spoke to Reibold on or about December 7, 2010, he was waiting for her return walked across Appellant's property and told her as he testified that he did not have leave him a letter she could have just spoken to him; they were always present during this time. Once the Appellant understood they were not going to help (police – Offer Creech told her he could not read a plat it was "Greek" to him but memorialized that Hooker showed him his survey and he determined the Appellant after over ten years did not know her own property.

The Respondents continuously invaded the Appellant's property and privacy; they were always there when the police were called and upon arrival; the day the black hose was seen Hooker came from around back of the Appellant's house, when asked several times to leave he refused; on the final day Reibold, Hooker and another man was standing on the property there was no peace or privacy until the Appellant started not returning to her property until after dark.

The right of privacy is "the right to be let alone; the right of a person to be free from unwarranted publicity." Swinton Creek Nursery v. Edisto Farm Credit, ACA, 514 S.E.2d 126, 130 (S.C. 1999) (quoting Holloman v. Life Ins. Co. of Virginia, 7 S.E.2d 169, 171 (S.C. 1940)). South Carolina defines tortious invasion of privacy as "[t]he unwarranted appropriation or exploitation of one's personality, *the publicizing of one's private affairs* with which the public has no legitimate concern, or *the wrongful intrusion into one's private activities, in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities.*" Meetze v.

Associated Press, 95 S.E.2d 606, 608 (S.C. 1956). This definition gives rise to *three* separate but related causes of action: "(1) wrongful appropriation of personality; (2) wrongful publicizing of private affairs; and (3) *wrongful intrusion into private affairs*." Snakenberg v. Hartford Cas. Ins. Co., 383 S.E.2d 2, 5 (S.C. App. 1989).

By Fair, Cox and Dinkins and Rawls illegal entrance into the Appellant 's property locating a nonexistent rebar 15/20 onto her land they wrongfully intruded into her privacy and made her private affairs known to the public. The wrongful intrusion by Reibold and Hooker in their third party reliance on the previous Respondents' action continued that invasion over a five year period.

XI. DID THE TRIAL COURT ERR IN GRANTING RESPONDENTS DIRECTED VERDICT OR SUMMARY JUDGMENT AS TO THE APPELLANT'S INTENTIONAL INFLICTION OF EMOTION DISTRESS/MENTAL ANGUISH CAUSE OF ACTION?

The Appellant provided the court with an over abundance of evidence that proved the Respondents continuously and repeatedly caused her mental anguish that could prove a cause of intentional infliction of emotional distress the Appellant was continually intruded upon to the point where she had to leave her own home to gain peace once she realized the police was not going to do anything or help. She had to leave her home with a medically diagnosed blood clot in her leg that could have moved and caused her death (on coumadin/blood thinner and injections).

She was unable to go outside on the weekends unless it was very early morning in fear of running into the Respondents to maintain her land. At times, when the Appellant did come outside the Defendants would show up shortly thereafter.

The Appellant went to the ROD office and sent a letter to the Respondents of their wrong actions they did not stop, she called the police they did not stop and repeatedly entered her property while she was away and present despite her constant and repeatedly asking them to cease.

To state a claim for outrage, or intentional infliction of emotional distress, a Appellant must show that: (1) the Respondent intentionally or recklessly inflicted severe emotional distress, or was certain or substantially certain that such distress would result from his conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community; (3) the actions of the Respondent caused the Appellant's emotional distress; and (4) the emotional distress suffered by the Appellant was so severe that no reasonable person could be expected to endure it. Bergstrom v. Palmetto Health Alliance, 358 S.C. 388, 401, 596 S.E.2d 42, 48 (2004); Talamantes v. Berkeley County Sch. Dist., 340 F. Supp. 2d 684, 691 (D.S.C. 2004).

CONCLUSION

The Appellant request the court to grant a new trial and reconsider its directed verdict judgment as to the Appellant claims of trespass against Hooker and Reibold for civil conspiracy, slander of title, invasion of privacy, nuisance and intentional infliction of emotional distress and against Cox and Dinkins, Fair and Rawls as there is clear proof of their trespass onto the Appellant's property, claims of slander of title, invasion of privacy, nuisance and civil conspiracy.

The Appellant ask that the court also overturn the verdict of the jury as the evidence did not support a not guilty verdict against the Respondents Reibold and Hooker. All in the interest of justice, the court granted the Respondents motions based on claims of negligence which had been dismissed when the court granted the Appellant's motion to amend and accepted by both defense attorneys.

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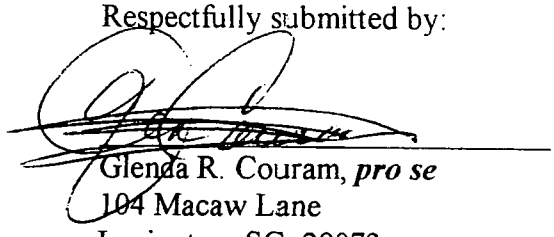
Couram "Appellant" ask if the court remand that she be granted cost for needing to file this appeal, if applicable by law of the court.

Respectfully submitted by:



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Dated this 8th, day of September 2014
Lexington County, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Case No.: 2011-CP-32-01010
Appellate Case No.: 2013-002056

Glenda Renee Couram

Appellant,

v

Mr. & Mrs. Christopher Hooker, Mr. & Mrs. Carl Riebold, 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., J. Donald "Don" Rawls & Steve Fair in their official and individual capacities, Carolina Water Svc., (CWS), Carolina Trace Utilities, Inc., & Utilities, Inc., Corporate Offices

Defendants,

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

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Final Brief is in substantial compliance with Rule 211(b) SCACR.

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Dated this 10th day of September, 2014.

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Respondents.

PROOF OF SERVICE

I, the undersigned *pro se* Appellant, do hereby certify that I have served a copy of the FINAL BRIEF OF APPELLANT by causing a copy of the same to be hand delivered or deposited in the United States mail, first class postage prepaid, addressed to the *pro se* Respondent Steve A. Fair in his individual and official capacity and Fair Builders/Developers, and Counsel of Record for the

Respondents the Hookers and Reibolds, Cox and Dinkins, and J. Donald "Don" Rawls in his individual and official capacity on this 10th, day of September, 2014.

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September 10th, 2014
Lexington, South Carolina