State of South Carolina) Court of Common Pleas
) 14th Judicial Circuit
County of Beaufort) No.: 2014-CP-07-426

Taiwan R. Scott,
Plaintiff,
vs.
Ronald E. Ford, et al,
Defendants.

RECEIVED
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SC Court of Appeals

HEARING

October 3, 2014

Hearing reported by Deborah S. Thomas, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina; said hearing held before the Honorable Marvin H. Dukes, III, Beaufort County Master in Equity and Special Circuit Court Judge in accordance with the South Carolina Rules of Civil Procedure, at the Beaufort County Courthouse, 102 Ribaut Road, Room 212, Beaufort, South Carolina, on October 3, 2014, at the hour of 9:34 a.m.

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* * * * *

1 This hearing is taken in accordance
2 with the South Carolina Rules of Civil Procedure.
3 JUDGE DUKES: Good morning. We are
4 here on Case 2014-CP-07-426. This is Scott versus
5 Ford. This matter comes before me pursuant to order
6 of reference heretofore filed August 14th, 2014.
7 The parties were previously before me
8 during one of our motion periods. And I determined
9 from looking at the file that this was not a motion
10 issue. This is a full and final hearing which will
11 be scheduled at that time.
12 Mr. Scott is here. Ma'am, your name is?
13 MS. SCOTT: Lisa. Lisa Scott.
14 JUDGE DUKES: Scott? Okay. I'm
15 sorry. I thought it was a different last name I
16 heard you say earlier. So Mr. And Mrs. Scott are
17 here and Mr. And Mrs. Ford are here.
18 I've had an opportunity to review the
19 complaint. It relates to an easement or purported
20 easement that falls across Lot 4, I believe, on
21 several plats and documents associated with the
22 file. And the Plaintiffs own Lot 3.
23 And Mr. Scott, I'm happy to hear from you
24 sir, or Ms. Scott, whoever wants to --
25 MR. SCOTT: Your Honor, as you

1 stated, it's basically an encroachment into the
2 easement by a vinyl fence that was erected back in
3 December of 2013. And since then we've been
4 actually trying to get the vinyl fence removed.
5 We purchased the property back in
6 December. It was actually never an issue because
7 there was never a fence there. So once we seen that
8 the fence was being erected is when we notified
9 Ms. Ford that there is a legal easement that goes
10 along with Lots 1, 2, 3, and 4, or 4, 3, 2 to access
11 Lot Number 1.
12 And the fence was erected but also
13 protruded about 16 and a half feet into Lot 3 which
14 we own. We basically contacted her actually prior
15 to erecting the fence when I noticed that she was
16 out there with some contractors. And basically let
17 her know that there is an easement, you know. Let's
18 hold off before you proceed with erecting the fence
19 until we get a survey done so we can find out where
20 the stakes are.
21 JUDGE DUKES: All right. Now, let me
22 do this. I was really going to let you give me an
23 opening. You are not under oath yet so nothing you
24 are telling me is testimony. I suppose what I could
25 have done for economy of time is just put everyone

1 under oath and combined everything, but having read
2 your complaint and brief statements I think I
3 understand your position. And so by way of opening
4 I'll let the Defendants respond.
5 MR. SCOTT: Okay.
6 JUDGE DUKES: Mr. or Ms. Ford or
7 both, or whoever wants to tell me your side of this
8 or -- I'm happy to hear it, and then we will begin
9 with the testimony part. So you can -- either one
10 of you or you don't have to say anything if you
11 don't want to, but --
12 MS. FORD: You want my testimony now
13 or you want me to withhold --
14 JUDGE DUKES: Just give me a summary
15 of what you believe the evidence will show.
16 MS. FORD: Okay. Well, my evidence
17 will show that on my -- I contacted the Registrar of
18 Deeds, spoke with the lady in the Registrar of Deeds
19 office. She looked up every easement on my
20 property, gave me a copy of each easement that was
21 on my property.
22 I've also spoken with the owners of Lot 1,
23 Lot 2. I have a statement here from those owners.
24 They've lived there for almost 30 years. And they
25 haven't used the easement through my property ever.

1 They've used the road that is on the side.
2 Also my evidence will show that I left out
3 another 15 feet off of my property on the side of
4 the fence where there is already a road that -- I
5 think it's 17 and a half feet. So combined you have
6 like 32 and a half feet for a road on the side. I
7 also have photos.
8 And as far as the sixteen feet of the
9 fence on his property, that fence has since been
10 moved up and reerected. So that is what my evidence
11 will show.
12 JUDGE DUKES: All right. All right
13 then. Let me do this. Everyone who is planning on
14 testifying, let me get you to hold your right hands
15 up for me, please. Just the two of you? Three of
16 you? Okay. Not you, Mr. Ford; is that correct?
17 MR. FORD: No.
18 JUDGE DUKES: Okay. Got the whole
19 crowd. All right. Do you swear or affirm to tell
20 the truth, the whole truth, and nothing but the
21 truth so help you God? Ms. Ford?
22 MS. FORD: Yes.
23 JUDGE DUKES: Mr. Ford?
24 MR. FORD: I do.
25 JUDGE DUKES: Mr. Scott?

1 MR. SCOTT: Yes.
2 JUDGE DUKES: Ms. Scott?
3 MS. SCOTT: Yes.
4 JUDGE DUKES: Okay. All right. All
5 right then. Mr. Scott, happy to hear from you.
6 MR. SCOTT: Okay. Start over?
7 JUDGE DUKES: Yeah. Probably should
8 have done it a little different, but we have pro se
9 parties, so --
10 MR. SCOTT: Yes. Back in December,
11 we purchased this property here in roughly in that
12 same area of time. Once we purchased the property,
13 we got a call from the tenant that was living at 41
14 Oakview Road stating that Ms. Ford and a gentleman
15 was walking out in front of the property.
16 I actually came down and met with Ms. Ford
17 and the gentleman that was out there. And basically
18 asked them pretty much what they were going to do.
19 She said she was going to put a fence up. I then
20 notified her that there is a 30-foot easement that
21 runs through her property, through our property, Lot
22 three, through Lot two, to access Lot one.
23 So there is a 30-foot consecutive easement
24 that goes from 4, 3, 2, to access 1. She was not
25 aware of it. So I basically said all of -- all of

1 the deeds make reference to that easement. And if
2 she would look at her deed it would basically make
3 reference to Plat Book 28, Page -- Plat Book -- Book
4 28, Page 178.
5 And she said she did not know anything
6 about that easement being there. And I told her I
7 did not have a copy of it, but I would bring a copy
8 back to her if she needed.
9 I guess a week had passed and she started
10 erecting a fence. And I basically told her that I
11 had already ordered a survey, you know. Just hold
12 off until we get a signed sealed survey in hand.
13 At that time the stakes were already there
14 on the site. She basically said that she didn't
15 believe where the stakes were were the property
16 lines. And she just said that she was just going to
17 disregard what the stakes were showing.
18 I then again asked her just wait. It
19 should be less than a week before we have a hard
20 copy signed and sealed from our surveyor. And we
21 can go by what the survey shows. And if she
22 disagrees then then I think it's probably in her
23 best interest to have her surveyor survey the
24 property. And then if there is a difference, let
25 the two of them kind of hash it out.

1 Based on the -- after we got -- after we
2 had the signed and sealed survey we sent it over to
3 her certified, but she said she never received it.
4 She did say that she seen something in the post
5 office, but she never picked it up.
6 We sent it just regular mail. She said
7 she doesn't receive any mail at the house. So I
8 actually hand-delivered a copy of the survey and
9 along with a letter from an attorney who we had draw
10 up a letter basically as part of the exhibit, a
11 letter from Chuck Wiseman that made reference to the
12 easement -- the access easement with a copy of the
13 survey -- certified survey and also the sixteen
14 feet, encroachment of the vinyl fence onto the
15 property.
16 And basically I haven't heard anything
17 from her since. Now, some time had passed once I
18 filed the complaint. She did have the fence that
19 protruded 16 and a half feet into the property, she
20 did have that moved back, but the stakes are out
21 there. And we can see that she still did not abide
22 by the stakes.
23 And actually when she was repositioning
24 the fence I actually came out and pointed out that
25 the stakes, she still was not abiding by where the

1 stakes were located. She was still off.
2 So that is the complaint. We would like
3 her to remove the fence out of the 30-foot access
4 and out of Lot Number 3 and provide a certified
5 survey showing that the encroachments have been
6 removed.
7 JUDGE DUKES: Okay. Are there any
8 exhibits that you would like to make a part of this
9 record?
10 MR. SCOTT: Yes.
11 JUDGE DUKES: Keep in mind the things
12 that you filed with the clerk aren't necessarily
13 exhibits. So whatever you've got that you wanted to
14 be part of this record.
15 MR. SCOTT: So does that mean I can
16 submit those which I filed as exhibits?
17 JUDGE DUKES: -- have to go through
18 them one by one, but why don't you let me know what
19 it is that you are offering.
20 MR. SCOTT: Okay. The first
21 attachments would be the legal description, a legal
22 showing -- the tax records, actually, of Parcels 1,
23 2, 3, and 4 which all basically makes reference to
24 Plat Book 28, Page 178.
25 JUDGE DUKES: All right. Show

1 Mr. and Mrs. Ford that and see if they have any
2 objection and then we will move on to the next one.
3 MR. SCOTT: Okay. These are the four
4 for Michael and Julie, Lena, ourself, and then for
5 you.
6 JUDGE DUKES: All right.
7 Collectively call those Plaintiff's 1 without
8 objection. Now, hold on one second while we let the
9 court reporter mark everything.
10 MR. SCOTT: Okay.
11 (MARKED PLAINTIFF'S EXHIBIT NO. 1.)
12 MR. SCOTT: This second exhibit would
13 be the plat from Page -- from Book 28, Page 178
14 which is referenced in all four deeds.
15 JUDGE DUKES: All right. Ms. Ford,
16 did you look at that?
17 MS. FORD: Yes, I did.
18 JUDGE DUKES: Okay. All right.
19 Plaintiff's 2 without objection.
20 (MARKED PLAINTIFF'S EXHIBIT NO. 2.)
21 MR. SCOTT: The third would be the
22 letter from Attorney Wiseman.
23 JUDGE DUKES: All right. Without
24 objection.
25 (MARKED PLAINTIFF'S EXHIBIT NO. 3.)

1 MR. SCOTT: Okay. The fourth would
2 be the survey showing the encroachment into the
3 easement and also into Lot 3.
4 JUDGE DUKES: All right. That will
5 be 4 without objection.
6 (MARKED PLAINTIFF'S EXHIBIT NO. 4.)
7 MR. SCOTT: Okay. And the final
8 would be the original deed for Lot 4 which now
9 belongs to Mr. and Mrs. Ford. And that was from her
10 mother's estate.
11 JUDGE DUKES: All right. Plaintiff's
12 5 without objection.
13 (MARKED PLAINTIFF'S EXHIBIT NO. 5.
14 JUDGE DUKES: Anything else,
15 Mr. Scott?
16 MR. SCOTT: I'm not sure if you need
17 a full-sized copy signed and sealed of that survey.
18 JUDGE DUKES: No, I think I'm -- I
19 mean, if you made it for an exhibit might as well
20 accept it. Why don't we make that -- and this is a
21 duplicate of the one I've already got?
22 MR. SCOTT: Yes, sir.
23 JUDGE DUKES: Okay. We'll make that
24 Plaintiff's 6 then.
25 COURT REPORTER: Five?

1 JUDGE DUKES: Is it 5?
2 COURT REPORTER: Six. You are right.
3 You are right.
4 (MARKED PLAINTIFF'S EXHIBIT NO. 6.)
5 JUDGE DUKES: Ms. Ford, this is
6 purported to be a copy of what we've already got as
7 four, so no objection I assume?
8 MS. FORD: No. No, sir.
9 JUDGE DUKES: Okay. All right. Six
10 then. Plaintiff's 6. Does someone at some point
11 have a copy of the deed into the Fords? Is that
12 part of this record somewhere.
13 MS. FORD: The deed into?
14 JUDGE DUKES: Your deed.
15 MS. FORD: Here it is right here.
16 JUDGE DUKES: Okay. Well, just hang
17 onto it. I was just curious if somebody was going
18 to get to it at some point. So all right. Anything
19 else, Mr. Scott?
20 MR. SCOTT: Well, since we last met
21 I've actually had an updated survey of the property.
22 JUDGE DUKES: All right.
23 MR. SCOTT: So I think we need to go
24 ahead and submit that which will be --
25 JUDGE DUKES: Is this before or after

1 the fence was moved?
2 MR. SCOTT: This is after the fence
3 has been moved.
4 JUDGE DUKES: Okay. All right. So
5 that would be --
6 MR. SCOTT: Seven.
7 JUDGE DUKES: Seven. Thanks.
8 MR. SCOTT: And that is signed and
9 sealed.
10 JUDGE DUKES: Seven without
11 objection.
12 (MARKED PLAINTIFF'S EXHIBIT NO. 7.)
13 JUDGE DUKES: All right. What else,
14 if anything?
15 MR. SCOTT: I think that is it.
16 Well, that is it.
17 JUDGE DUKES: Mr. and Mrs. Ford, do
18 you have any questions of Mr. Scott?
19 MS. FORD: I do not.
20 JUDGE DUKES: No questions?
21 MR. FORD: No, sir.
22 JUDGE DUKES: Okay. All right.
23 Mr. Scott, anything else from the Plaintiff?
24 MR. SCOTT: No, sir. As far as?
25 JUDGE DUKES: Anything.

1 MR. SCOTT: The relief we would want?
2 JUDGE DUKES: Well, you can tell me
3 that. It's still your case so, yeah, happy to hear
4 anything else from you.
5 MR. SCOTT: Yes. Well, we would like
6 to have the encroachments all removed and certified,
7 surveyed, stamped and sealed, showing that all the
8 encroachments have been removed from Lot 3 and also
9 out of the access easement. Removal of the vinyl
10 fence, access easement, signed sealed from the
11 surveyor, and any and all costs incurred as a result
12 of this action.
13 JUDGE DUKES: You had mentioned
14 earlier that you could see that the fence had not
15 been moved back to the right line?
16 MR. SCOTT: Yes.
17 JUDGE DUKES: So the concrete markers
18 and -- I see a concrete marker found, an iron pole
19 found.
20 MR. SCOTT: Uh-huh.
21 JUDGE DUKES: Iron pipe found rather.
22 Those are --
23 MR. SCOTT: Those are there.
24 JUDGE DUKES: Those are visible.
25 MR. SCOTT: Yes.

1 JUDGE DUKES: So you would be able to
2 tell under your theory if the fence were moved -- I
3 mean, it's pretty obvious --
4 MR. SCOTT: Yes.
5 JUDGE DUKES: -- from where these
6 markers are?
7 MR. SCOTT: And then that is the most
8 recent survey that actually still show that it's
9 still protruding.
10 JUDGE DUKES: Okay. All right. All
11 right. Nothing else from the Plaintiff then?
12 MR. SCOTT: No, sir.
13 JUDGE DUKES: Okay. All right.
14 Mr. and Mrs. Ford, I am happy to hear from you all.
15 MS. FORD: Okay. On about
16 December -- I want to say about December 11th,
17 December 12th, right before Christmas I'm ordering a
18 trampoline and putting down asphalt for a basketball
19 goal for my boy for Christmas.
20 I'm in the house on the telephone. I'm
21 not sure if I was talking to you at that time, my
22 husband at that time, because he was in Afghanistan,
23 or somebody else. I get a knock at my door. I had
24 a guy out with me walking around telling me what he
25 could do and the sizes that he could put the

basketball goal.

I get a knock on my door. It's Mr. Scott and his wife. They come and say that I have contractors out there. It's really not a contractor. It was someone to put down asphalt for a basketball goal, really.

Me, I'm sick and tired of always the bickering and this about property and that about property. So I said, you know what, I'll just put up a fence. I called Home Depot. Home Depot said they would send someone out to measure and put up a fence.

I then call Coastal Surveying to come and set my points so I'll know exactly where my points are. They sent over Laurence Campbell from Coastal Surveying to do -- set the points. He came out. He set the points. He told them where this was, that was.

By the time they came out, you know, kids moved sticks and stuff like that so they moved the little sticks with the orange flag things that he put on there. They came out to do the fence on the 22nd.

Well, before all of this, Taiwan went to my Aunt Evalina's house I guess to fuss about me put

1 being up a fence or whatever because I told him I
2 was going to put up a fence. She told him to leave
3 and not come back.
4 When they came out to put up the fence
5 Home Depot sent an additional guy because every time
6 they came out to measure they were harassing them.
7 Well, he was harassing them. On the day that they
8 was putting up the fence he called the police two
9 our three times.
10 The officer told him if he calls back
11 again, it's not illegal to put up a fence. He
12 called the town of Hilton Head, told them I didn't
13 have a permit. They told hem you don't need a
14 permit to put up a fence.
15 He called the police on me, told them he
16 wanted me arrested for moving something. It was
17 just ongoing, just a whole bunch of calling
18 authorities. And they kept telling him that there
19 is nothing that we can do.
20 So we put the fence up. He filed the
21 paperwork. Sent the paperwork to me. I had the
22 fence removed -- well, the back part moved and moved
23 up to where I had the surveyor come back out again,
24 Coastal Surveying. Mr. Campbell came out again and
25 he came out and talked with the fence guys while

1 they were moving the fence, told them where they
2 could move it to.
3 I have photos. I have my deed. I have my
4 plat. I have a copy of the text from the Registrar
5 of Deeds office, from the lady over there. And I
6 have all of my legal easements to my property all
7 documented here.
8 JUDGE DUKES: If you have Exhibits,
9 just of course as Mr. Scott did, let's one by one
10 show them to Mr. And Mrs. Scott and then we will
11 move forward as to whether or not --
12 MS. FORD: This is the first one that
13 I got on December the 13th. I sent this to the
14 Registrar of Deeds office.
15 JUDGE DUKES: Now, this is letter
16 from you or the Registrar of Deeds office?
17 MS. FORD: This is a text from me to
18 the Registrar of Deeds office and this is Mary J.
19 Lennie.
20 JUDGE DUKES: All right. Any
21 objection to that?
22 MS. FORD: She answered that back.
23 MR. SCOTT: No objection.
24 JUDGE DUKES: Defendant's 1 without
25 objection. And please give her a second.

1 (MARKED DEFENDANT'S EXHIBIT NO. 1.)
2 MS. FORD: A copy of my deed.
3 MR. SCOTT: No objection.
4 MS. FORD: Plat.
5 JUDGE DUKES: Okay. All right.
6 MR. SCOTT: And on it is marked --
7 JUDGE DUKES: Hold on one second.
8 Let's let Deborah mark it. So that would be
9 Defendant's 2 without objection.
10 (MARKED DEFENDANT'S EXHIBIT NO. 2.)
11 MS. FORD: This right here is a copy
12 of my -- these are a copy of the easement that was
13 sent to me -- one second. More than one. These are
14 a copy of all easements on the property that were
15 sent to me from the Registrar of Deeds office, also.
16 That is the first copy of -- the first easement that
17 is on there. This is a copy of the second easement
18 that is on there.
19 JUDGE DUKES: All right. Hold on.
20 Let's take everything one at a time.
21 COURT REPORTER: You want the
22 easements marked together or separate?
23 JUDGE DUKES: Together is fine. No
24 objection I assume?
25 MR. SCOTT: No, sir.

1 (MARKED DEFENDANT'S EXHIBIT NO. 3.)
2 MS. FORD: This is a letter from the
3 owners of Lot 1, Julia Morrell and Michael Morrell.
4 MR. SCOTT: No objection.
5 JUDGE DUKES: All right.
6 (MARKED DEFENDANT'S EXHIBIT NO. 4.)
7 MS. FORD: This is a letter from Lot
8 2, Evalina Frasier.
9 (MARKED DEFENDANT'S EXHIBIT NO. 5.)
10 MS. FORD: And this is the first
11 picture which shows the road access easement that
12 they have been using for close to 30 years which
13 Julia and Michael states in there. And this is
14 where I left out on the side of the fence.
15 This is another photo --
16 JUDGE DUKES: Are we doing them
17 collectively?
18 MS. FORD: I have four.
19 JUDGE DUKES: Okay. All right. We
20 will do them collectively.
21 (MARKED DEFENDANT'S EXHIBIT NO. 6.)
22 MS. FORD: Okay. This is another
23 photo. It shows where the stake and the easement
24 thingy is. I mean the stake thingy still is up.
25 This one is a little bit clearer with the stake, and

1 it shows a little bit of the road where they have
2 the electric posts where he says the 30-foot
3 easement is. I don't know why they put that there
4 because it's an easement. And I just got a closer
5 picture of the stake. And this is just a copy of
6 some information that I got about easements,
7 acquired easements, different kinds of easements
8 because like I said again, that easement that is on
9 the side has been used for almost 30 years. They've
10 never used the easement through the middle of my
11 property, so --
12 JUDGE DUKES: Let me just clarify.
13 So far we've got Defendant's 1 through 6 I'm going
14 to hand over without objection. Is that right?
15 MR. SCOTT: Yes, sir.
16 JUDGE DUKES: Six was the
17 photographs. All right. I'm not sure what 7 is.
18 Whatever it is, it's without objection.
19 (MARKED DEFENDANT'S EXHIBIT NO. 7.)
20 JUDGE DUKES: Ms. Ford, whose
21 property does the dirt road on Defendant's 6 go
22 through?
23 MS. FORD: That property is -- the
24 existing road is the property of Steve Chisolm. He
25 has that property over there, him and his father.

1 That is their property. He gave permission for the
2 Morrells, everyone that lived back there to use that
3 road. That road has been there for about 30 years
4 as Mr. and Mrs. Morrell stated in there.
5 He made such a -- Mr. Taiwan Scott made
6 such a big deal I left out an additional 15 feet on
7 the side of my fence because he didn't want to use
8 their road. So I left that out if he wants to drive
9 on that part then he will have to get Palmetto
10 Electric and everybody else to move that post so
11 that he can drive there. And he will have to move
12 his house also because it's on the stated easement
13 that he is saying that is there. If it's a 30-foot
14 easement there, is he going to move the house?
15 Because that house is on the easement, if that is an
16 easement.
17 If he doesn't want to use that side road,
18 then he needs to move his house because it's on the
19 easement.
20 JUDGE DUKES: All right. Anything
21 else, Ms. Ford? Is one of these -- I think you said
22 the deed -- your deed is in here somewhere, right?
23 MS. FORD: My deed is in there. My
24 plat is in there, yes. All of that is in there.
25 The letter from the Registrar of Deeds office, all

1 of the easements that are legally on my property is
2 in there from the Registrar of Deeds office. The
3 letters from the owners of Lot 1, Lot 2 because
4 there are four lots. I'm the first lot. He's the
5 third lot. And there are Lots 2 and 1.
6 JUDGE DUKES: I'm not sure if I have
7 your deed. Let's see. One, I've got is a message
8 or e-mail. Two is a plat.
9 MS. FORD: Uh-huh.
10 JUDGE DUKES: Three is a drainage
11 easement agreement with the town?
12 MS. FORD: Uh-huh.
13 JUDGE DUKES: Let's see. Make sure I
14 have everything. The photographs are 6. Where is
15 Number 5?
16 COURT REPORTER: Four and 5 are the
17 letters.
18 JUDGE DUKES: Four and 5 are the
19 letters. Here is 5. So which one is the deed?
20 MS. FORD: I thought I handed deed
21 up.
22 MR. SCOTT: I thought it came before
23 the letters.
24 MS. FORD: Yeah. I handed the deed
25 up somewhere.

JUDGE DUKES: All right. Let me rearrange here. Make sure I have everything. These are clipped together somehow. That is 4. This is 5. These are 6. This is 7. We have a total of seven exhibits; is that right?

COURT REPORTER: That's correct.

JUDGE DUKES: From the Defendants.

COURT REPORTER: Now, we did have a deed Number 5 on the Plaintiff's side, but no other deeds were on my list.

JUDGE DUKES: All right. Yeah, because I've got, Ms. Ford, just so we are clear, Number 1 I have as the correspondence between and you Mary Lamay.

MS. FORD: Uh-huh.

JUDGE DUKES: Number 2 is a copy of a plat, a ditch easement plat. Number 3 is a ditch easement agreement.

MR. SCOTT: From Palmetto Electric?

JUDGE DUKES: I'm sorry?

MR. SCOTT: Also Palmetto Electric?

JUDGE DUKES: Oh, that is true. Yeah, you are right. Two easements collectively. Thank you. Number 4 is a letter from Ms. Morrell. Number 5 is a letter from Ms. Frasier. Number 6 is

1 collectively four photographs. Number 7 is
2 something about easements that you have given me.
3 And that is it. There is no deed in this package.
4 MS. FORD: Okay. I thought there was
5 a deed there.
6 JUDGE DUKES: All right. Is that
7 something that you have with you that you wanted to
8 submit?
9 MS. FORD: That is something that I
10 thought was up there that I wanted to submit. I got
11 that from the same e-mail with the plat. It was all
12 together.
13 JUDGE DUKES: I don't see -- I don't
14 see it in here. And you don't have it. You've got
15 the deed into Ms. Ford's predecessor of title?
16 MR. SCOTT: Yes.
17 JUDGE DUKES: Okay.
18 MR. SCOTT: Yes.
19 JUDGE DUKES: Okay. All right.
20 Anything else, Ms. Ford?
21 MS. FORD: Negative.
22 JUDGE DUKES: Anything, Mr. Ford,
23 from you?
24 MR. FORD: I don't have anything,
25 Your Honor.

1 JUDGE DUKES: All right. Any
2 questions of Ms. Ford, Mr. Scott?
3 MR. SCOTT: Not really. I'm just --
4 I just want to go by the law, you know. What is
5 there, if we have a 30-foot easement. I understand
6 that she left off 15 feet of her property. You
7 know, I guess the question would be why would you
8 leave off 15 feet of your property if you didn't
9 have to?
10 And secondly, I know that there is a road
11 that everyone has been using. And it never became
12 an issue about everyone using that road until she
13 erected the fence. Once she erected the fence, now
14 she's blocking our legal easement to the property.
15 And that is basically our position is everyone --
16 and I agree. No one there has a problem with using
17 the road next door other than the owners next door,
18 if they decided to do something with their property
19 it's their legal right to stop us from using their
20 road across their property especially when we have a
21 legal easement that goes along with our deeds.
22 Each property is deeded with an easement.
23 The burden should not be on the adjacent property
24 owner just because we've been using it and they
25 never stopped us. I understand after a certain

1 amount of time, you know, you can adverse
2 repossession or possession or something like that
3 being that you've been on the property and you've
4 been using that road.
5 Technically, they can stop us in my
6 opinion from using that road for the simple fact
7 that we have a legal access to our property. And
8 that is basically my point. And if she had everyone
9 to agree, including the property owners next door,
10 that it's going to be a shared easement, then that
11 needs to be documented that there is a shared
12 easement there where she's going to give up 15 feet
13 of her. We all, all four lots -- all three lots
14 give up 15 feet of their property, but the adjacent
15 property owner would have to agree. All adjacent
16 property owners, not just Mr. Steve whatever his
17 last name is there.
18 It would have to be everyone's property
19 who that road is encumbered by would have to agree
20 that it's going to be a shared easement. As far as
21 Palmetto Electric's pole being there. They are
22 dropping the lines. It's in the easements. They
23 will drop the lines. We have a letter from Palmetto
24 Electric.
25 I've already had them move one pole that

1 is there already in the existing dirt drive. That
2 pole is currently not there. I think the new survey
3 will show that has already been removed. And the
4 one that is currently sits inside of the 30-foot
5 access easement, they are just waiting on, I think,
6 maybe one more property owner in the area to get the
7 lines buried anyway. So it will be -- continue to
8 be inside the easement, it will just be underground.
9 JUDGE DUKES: What about your mobile
10 home that is asserted -- I think I even saw on the
11 plat --
12 MR. SCOTT: Yes. It's protruded
13 about three feet into the easement.
14 MS. SCOTT: And when we -- no, we no
15 put the --
16 MR. SCOTT: This was there when we
17 purchased the property. It was put there when the
18 property was deeded to Geneva (inaudible).
19 MS. SCOTT: Believe me, my husband
20 never wanted to put something in there.
21 MR. SCOTT: Yeah. This was already
22 there.
23 MS. SCOTT: Exactly. For how many
24 years, 20 or 30 years?
25 MR. SCOTT: This property originally

1 came from Ms. Ford's --
2 MS. FORD: My grandfather.
3 MR. SCOTT: -- grandfather. My
4 grandmother's stepfather deeded the property to four
5 daughters, one being my grandmother, one being her
6 mother, and two other siblings.
7 JUDGE DUKES: So who is Fred Chisolm?
8 MR. SCOTT: That is the original
9 owner.
10 MS. FORD: That is my grandfather.
11 JUDGE DUKES: Your grandfather?
12 Okay.
13 MR. SCOTT: And my grandmother's
14 step-dad.
15 JUDGE DUKES: Okay. All right.
16 MR. SCOTT: But it was done
17 correctly. It was deeded with easements to each
18 lot.
19 JUDGE DUKES: Anything else from
20 anybody?
21 MS. FORD: Yes.
22 JUDGE DUKES: All right.
23 MS. FORD: I'm still trying to figure
24 out why would it matter if I put up a vinyl fence.
25 No one has used that road for 30 years. I put up a

1 vinyl fence. What difference does it make if I put
2 up a fence or not if they aren't going to use that
3 road?
4 They use the road on the side. I left
5 out -- if I have to move my fence, is he going to
6 move his home? I don't care if it's been there for
7 30 years. The road has been there for 30 years.
8 JUDGE DUKES: Okay.
9 MS. FORD: My fence doesn't have
10 anything to do with that.
11 JUDGE DUKES: Anything else?
12 MS. FORD: That is it.
13 JUDGE DUKES: Okay. Nothing from you
14 Ms. Scott or Mr. Ford; is that right?
15 MR. FORD: No, Your Honor.
16 JUDGE DUKES: All right. So
17 Defendant rests as well; is that right? A couple of
18 things. First of all, I'm sure you rent that house,
19 but technically you are neighbors and it would be
20 nice to see you work something out.
21 There is no doubt in my mind looking at
22 the original subdivision plat from Fred Chisolm and
23 the plats associated with it and the deeds after
24 that that it was the intent of Fred Chisolm to have
25 a 30-foot easement.

1 I mean, it exists. I mean, it is a part
2 of the plat. It is a part of the restriction that
3 was the predecessor in title to your deed, Mr. and
4 Mrs. Ford, and therefore you are bound by that. I
5 mean, there is a 30-foot easement.
6 And to the extent that it's being
7 encroached on, you know, that is going to have to be
8 fixed. Now, that being said, I have seen a number
9 of people work things out. Maybe you all can work
10 something out that so long as the -- I certainly
11 understand Mr. Scott's concern which is a valid
12 concern that the next door neighbor could come in at
13 some point, the people whose -- where the road goes
14 across. I can't remember what their names were, but
15 you have mentioned, wherever the access is right
16 now, they could come in and they could take the
17 position that, no, this is not an easement. And we
18 are a going to close the road and put a chain across
19 it.
20 And then it would be not necessarily your
21 burden because I know you are directly on the road,
22 but everyone else's burden up the road to file a
23 lawsuit to try to have that opened back up either by
24 any number of theories having to do with the fact
25 that it's been in use for years, but that litigation

1 could go on for a long time. And it could be very
2 expensive.
3 And the reason that the Town of Hilton
4 Head, and every other municipality and the county,
5 as well, requires access before a subdivision can be
6 done is just to prevent that problem.
7 And so my guess is, without looking at the
8 town regulations, that before Mr. Chisolm was
9 permitted to do that subdivision he was required to
10 show that as a permanent easement and access to Lots
11 3, 2, and 1 which of course was done and which was
12 included on the plat and which has been referenced
13 in deeds ever since. So it exists.
14 The question is what are you going to do
15 about it because as you pointed out they are in the
16 easement a little bit. You are in the easement. I
17 don't know if you all can reach some kind of an
18 agreement that in fact confirms between you the
19 easement and references some sort of agreement that
20 if there is ever any blockage or problem with the
21 current access that within forty eight hours or some
22 short period of time that the Fords would remove
23 whatever obstructions they have that prevents you
24 from getting on your property.
25 Obviously you've got a second problem,

too, because it looks like the fence is still north of the -- it's the orientation, but on the line somewhat. I don't know how hard that fence is to move, if it's just posts and moving it it's not the end of the world to move it, but let me ask. Is there any interest in you all talking and seeing if something like that could be done and you could reach some kind of an agreement?

If not I certainly understand. You all have come here for me to make a decision. It's my job to do so, and I'm happy to do so and come up with whatever is appropriate. And the fact that someone doesn't want to enter into some negotiation, I certainly understand. But if you all would like to try to do something that preserves your concern, because your concern is valid.

Those people next door could put a chain across -- they could be doing it as we sit here. And then it would be your job and everybody else's to hire lawyers and spend tens of thousands of dollars and years in court because the easement that is clearly on the plat is blocked and I don't know whether -- the reason it's 30 feet ordinarily has to do with fire trucks. There is certain regulations on widths of easements to get in having to do with

1 fire trucks being able to turn around and that sort
2 of thing.
3 So the current exiting access may or may
4 not be wide enough. I don't know. I don't know if
5 it is or not. But there are good reasons to have it
6 that wide. I mean, you know, I've certainly heard
7 of situations where, you know, fire insurance and
8 that kind of thing was more expensive because the
9 access was not what it needed to be to get the big
10 trucks back wherever it needed to go. So I don't
11 know whether or not that has been a problem for you
12 all. Hopefully it's not, but I have no idea how
13 wide the current access is and whether or not it
14 meets the requirements to get a big fire truck back
15 in there. No idea, but these are things that you
16 have to worry about.
17 Would you all like to take a break and do
18 you all talk? Has there been cordial conversation?
19 MR. SCOTT: I would.
20 MS. SCOTT: He tries. He tries much.
21 MR. SCOTT: This is almost a year
22 now. There has been many opportunities prior to the
23 fence being erected, as the fence is being erected,
24 as they came back to move the fence. I've always
25 been there, and I've always explained to her the

1 situation.
2 At this point -- and she knows I've
3 already started clearing because that 30-foot
4 easement has trees in it. I've already started
5 clearing out all of the 30-foot easement that is on
6 our property. We are cutting the easement in. We
7 are going to bring it up to the access road, the
8 asphalt.
9 Once her fence is removed we will bring
10 the road from Oakview to our lot. Then it will be
11 up to Lot 2 to take it from their lot back to Lot
12 Number 1. I don't want to take the chance of
13 Mr. Hamilton next door because I've spoken to him.
14 Not the gentleman who lives there. The father.
15 I've spoken to him. And he said, I'll give
16 five feet. I'm not giving 15 feet.
17 Because I asked him, did anybody come and
18 talk to you. No, no one has spoken to me. He has a
19 20-foot easement on the other side of his property.
20 So now he's going to burden a 20-foot easement that
21 is already a legal easement that is on his property
22 and burden the other side of his property with
23 another potential 15 or 20-foot easement. He said
24 he's not going to do that.
25 He's talking about closing the road off to

1 the people behind him which is his family and making
2 them use their legal easement. So I don't want to
3 get into attorneys. I want what is there. It's
4 ours. It's our legal easement to our property. If
5 we decided to sell our property, we need to have
6 legal access to our property.
7 When property exchanges hands whoever we
8 decide to sell that property to they are going to
9 ask us where is your legal easement. If we decided
10 to do a mortgage on the property, we have to have a
11 legal easement. And that is going to be our
12 position.
13 JUDGE DUKES: Well, let me ask you
14 this. What I don't have in front of me is the issue
15 of your encroachment on the easement. All right?
16 But let's assume for the moment that I rule the way
17 that you want me to rule. And I think you are right
18 I mean there is a 30-foot easement --
19 MR. SCOTT: As far as the
20 encroachment, it's a mobile home. It's not
21 permanent.
22 JUDGE DUKES: No, I get it.
23 MR. SCOTT: It's a mobile home but
24 moving a mobile home even six feet is an expensive
25 operation. And, you know, and so I guess I'm --

1 what I'm hoping is the neighborhood could reach some
2 resolution because the fact is the two of you could
3 agree and agree that upon demand you would have to
4 move the mobile home or whatever, but you wouldn't
5 have to move it right away.
6 Unfortunately, the two people who signed
7 the statements could come in at any time and say,
8 no, you are six feet into our easement. And you are
9 the one that asserted there was an easement so you
10 can't take a position that there is not in court and
11 you are six feet into it. So get that mobile home
12 out of there.
13 So I mean it's sort of a what is good for
14 the goose situation. I mean, if the easement needs
15 to be clear, it's got to be clear, you know.
16 MR. SCOTT: I don't have any problem
17 with that.
18 JUDGE DUKES: Okay. All right. Yes,
19 ma'am?
20 MS. FORD: I've spoken with these
21 parties on this side. They don't have a problem
22 with the easement. They said that they put the
23 easement there to get back to their property.
24 Mr. Hamilton, Mr. Chisolm -- or Steve Chisolm is
25 there now. His father is here in Beaufort. I've

1 spoken with all of the parties. Back here on the
2 four lots or the three lots -- Lot 1, Lot 2, and the
3 ones on this side, no one over there has a problem
4 with the easement that has been existing for 30
5 years. No one has a problem with that.
6 JUDGE DUKES: Well, unfortunately,
7 until the people next door -- tell me their names
8 again. Who is --
9 MR. SCOTT: Hamilton.
10 JUDGE DUKES: The Hamiltons.
11 MS. FORD: Hamilton and Chisolm.
12 JUDGE DUKES: Yes. If Hamilton and
13 Chisolm, even if they did that I don't know if it
14 takes away the right. This is a platted easement.
15 It's a part of the subdivision. I mean, it's just
16 there. It's right there in the deed. I mean,
17 it's -- I mean, if they felt like giving up some
18 property that they might not have to give up sobeit,
19 but as we sit here today, which is the way I have to
20 take this case --
21 MS. FORD: Yes. It isn't in my deed.
22 JUDGE DUKES: Well, you are on the
23 main road though.
24 MS. FORD: I'm on the main road, but
25 that easement, if you look on my plat, my deed, it's

1 not there.
2 JUDGE DUKES: I don't have your deed.
3 What I have is the deed that is asserted to be the
4 deed into you from your predecessor in title. And
5 it is there. So if it's not on your deed it's just
6 a mistake.
7 I mean, you can't take better title than
8 the person ahead of you. And so the title that you
9 got included reference to that. And so it's -- you
10 know, it's definitely part of the plat. There is no
11 question in my mind. I mean, it's crystal clear.
12 The question is now it sounds like I'm not going to
13 be able to get you all to reach an agreement.
14 I don't have before me the issue of the
15 six-foot encroachment into the mobile home into the
16 easement, although, I mean, it exists.
17 MS. FORD: It's shown.
18 JUDGE DUKES: I mean, if that comes
19 back before the court it's, you know, you are going
20 to lose.
21 MR. SCOTT: Yes. I know where it is.
22 JUDGE DUKES: So I mean, you can go
23 ahead and plan on moving that, but by the same token
24 you are going to have to get out of it, too. And so
25 what is a reasonable period of time to both get out

1 of the easement and also that encroachment on the
2 plat where the fence is not too far over, but it's
3 over.
4 MS. FORD: Then that will mean I have
5 to move it over another 15 feet.
6 JUDGE DUKES: Well, you have two
7 problems. It's in the easement and it's also on the
8 north side of the line, the fence. The plat --
9 MR. SCOTT: Yeah. I don't have
10 another copy. I'll submit it.
11 JUDGE DUKES: Well, maybe I can make
12 a copy of the small one. But the plat which is
13 Plaintiff's 7 is the big one. In addition to the
14 fence being in the easement which we've talked to
15 death, it's pretty darn close to the iron pipe found
16 although it appears to be on the Scott's side of
17 that, but I can't tell from this. But then it
18 angles at an angle that is different from that of
19 the property line and ends up 5.7 feet into the
20 Scotts' property at his easternmost end. So it
21 doesn't track the property line. And maybe after
22 this we can --
23 MS. FORD: Okay. Well, I'm have to
24 call my surveyor back out because where he put the
25 stake for our property line, that is not it.

1 JUDGE DUKES: Well, you didn't bring
2 me a survey. So I don't know what -- did he do a
3 survey?
4 MS. FORD: He put out the points,
5 where we put the fence. He put out the points.
6 JUDGE DUKES: Okay. Well, there is a
7 concrete marker found is a, you know, pretty solid
8 indication of where the edge of this property is.
9 And there is one marked here by Sea Island Survey.
10 There is an iron pipe and a concrete marker. I
11 can't imagine this surveyor messed those up although
12 it does happen, but without a plat to the contrary,
13 you know, I've got to go with this plat. And this
14 plat shows that you are north of the line on part of
15 this fence. And it needs to be brought back down to
16 the property line or your side of it, and it also
17 needs to be brought in from the west where it
18 encroaches on the easement.
19 So if you have your own surveyor, perhaps
20 he or she could communicate with this surveyor and
21 they can figure it out or as Mr. Scott said, if
22 there where some minor issues, let the surveyors try
23 to figure it out and mark it.
24 MR. SCOTT: I've never seen a
25 surveyor -- a survey from her surveyor. I mean,

1 that was kind of my argument from the beginning.
2 You know, if the lines are wrong, survey it. Have
3 them stamp it, seal it. And then let the surveyors
4 thrash it out. That is what we are paying them for,
5 I mean, but we can't be off --
6 JUDGE DUKES: Well, this ought to be
7 pretty -- I mean, everything now is with G.P.S. and
8 it's pretty solid. I mean -- so it ought to be
9 where it is without a lot of change, but Ms. Ford,
10 what is a reasonable period of time for you to move
11 these items back onto your property?
12 MS. FORD: For me to move the fence
13 five feet?
14 JUDGE DUKES: Well, I think it's more
15 than five feet on the -- I mean, it's on the
16 north -- well, turning this around, this is
17 Plaintiff's 7, you've seen this haven't you? Do you
18 have one of these?
19 MS. FORD: I don't one of those, no.
20 JUDGE DUKES: All right. Let's see.
21 Do you have an extra copy?
22 MR. SCOTT: Of that? No. Actually
23 we just submitted some plans to the town. So that
24 is the only copy that I have.
25 JUDGE DUKES: Let's take a quick

1 break. I don't know how to make a copy of this.
2 Let me see if Heather is in there.
3 MR. SCOTT: But that is the most
4 recent survey. I mean, we just had that survey
5 done.
6 JUDGE DUKES: All right. Let's go
7 off the record for a second.
8 (Discussion off the record.)
9 JUDGE DUKES: Let's go back on the
10 record. All right. So we were off the record
11 briefly while we got a copy of Plaintiff's 7. And I
12 was just going through basically the ruling. And we
13 had not yet gotten to the period of time that
14 Ms. Ford might need to comply with this.
15 And so now Ms. Ford has a copy of the
16 plat. Take a quick look at it and you can see there
17 is an iron pipe found and a concrete marker found
18 there on the line. That should be pretty good
19 indications of the line there.
20 Back to you, Ms. Ford, what -- now that
21 you've had an opportunity to look at a copy of
22 Plaintiff's Exhibit 7, what is -- is this a fence
23 that you had someone -- I think you said that you
24 had Home Depot put it in.
25 MS. FORD: Yes.

1 JUDGE DUKES: So what -- do you have
2 any idea -- I understand you can't sit here today
3 and tell me what their timeframe is, but based on
4 your installing it already, how long did they take
5 to show up?
6 MS. FORD: The last time I had to
7 move the fence it took them -- once I called them,
8 they had to put me on the schedule. I just have to
9 see what their schedule is. I'm not sure.
10 JUDGE DUKES: Would it be safe to say
11 they should be able to get it done in 30 days?
12 MS. FORD: They may be able to. It
13 depends on how busy they are because they get a
14 contractor to come out and get it out.
15 JUDGE DUKES: I mean, well, I suppose
16 what we could do is go out as far as 45 days and
17 just issue an order saying to bring it back in --
18 MS. FORD: I have a question.
19 JUDGE DUKES: Yes, ma'am.
20 MS. FORD: If I have to move my fence
21 over, is he going to move his house over in the same
22 period of time?
23 JUDGE DUKES: As I said, that is not
24 before me. There is no counterclaim. There is no
25 issue with regard to his house. As you heard me

1 tell him a minute ago, if he doesn't, certainly
2 somebody can come back in here, the issues in that
3 case would be the establishment of the 30-foot
4 easement. I think that is pretty clear. And of
5 course he's taken the position there is one, so he
6 can't now take a position other than that. But --
7 so you heard Mr. Scott say it's a mobile home and
8 it's mobile, so --
9 MS. FORD: And there is no statute 20
10 years, that road hasn't been used in 30 years, that
11 that road -- I mean, the other road has been used
12 for 30 years.
13 JUDGE DUKES: Well, what you are
14 bringing up is whether or not you have the right to
15 continue to use a road on someone else's property
16 who is not here today. That is not a case before me
17 today. If Mr. Hamilton blocked his road then
18 certainly you could come in and bring an action as
19 to why you should be allowed to drive across his
20 property or someone else could drive across his
21 property, but that is not before me. Mr. Hamilton
22 isn't a part of this case.
23 And what I know is he owns the property
24 and some people have been driving across it. Does
25 that change the fact that there is a platted

1 easement across your property? It doesn't. And
2 so -- I mean, that easement exists, the 30-foot
3 easement we are talking about here today. It needs
4 to be cleared by everybody, but there is nothing
5 before me as far as by way of counterclaim or claim
6 by anyone else about the six feet, but I think you
7 heard Mr. Scott and Ms. Scott say they were going to
8 move it.
9 And, you know, again, it does need to be
10 moved. I mean if someone comes in and asks that it
11 be moved, it's going to -- it's going to get moved.
12 So you might as well just go ahead and do it, but
13 why don't I do this, Ms. Ford. Why don't I give you
14 45 days to move your obstruction, fence, whatever it
15 is out of the 30-foot easement and back to or on
16 your side of the northern property line. And that
17 certainly should be enough time. I can't imagine
18 they would need more than 45 days to do that. This
19 is, I assume, a fence where there where there are
20 four by fours or something in the ground it looks
21 like and the fence panels are attached to those. Is
22 that what kind of fence it is?
23 MS. FORD: Yes. It's concrete in the
24 ground.
25 JUDGE DUKES: Okay. Well, I mean

1 I've built, moved, and taken those back down. And
2 it's not the easiest thing in the world, but it's
3 certainly doable. So do you have any questions at
4 all about the ruling?
5 All right. Mr. Scott, you had asked for
6 costs and fees as a result of this action. Costs
7 and attorneys fees. Of course, there are no
8 attorneys involved so there are no attorneys fees
9 that could be awarded. And I think you are entitled
10 to the costs of this action for bringing this. The
11 cost would be the filing and reference fees as far
12 as I know. Do you have any idea what the filing
13 fee, which I know has changed when you filed this
14 action?
15 MR. SCOTT: Actually I have the
16 actual filing fee, survey, doing the surveys, and
17 updated survey fees. I have the letter from the
18 attorney fee. And I served her. Every time I filed
19 something I served her, the paperwork. And the
20 motion for not complying within the 30 days and then
21 the referring fee to have to be here today this
22 totals $1,341.47. Of that $1,341.47, 300 of that is
23 the updated survey, the recent -- the most recent
24 survey. And the initial survey was $650.
25 JUDGE DUKES: All right. Well, the

1 cost of this action that I can award in an action
2 like this absent a contract or something that
3 permits the transfer of fees are the clerk's filing
4 fee. How much was that?
5 MR. SCOTT: The initial fee was a
6 hundred and $50. The referring fee was $50.
7 JUDGE DUKES: All right.
8 MR. SCOTT: The motion fee was 30.
9 JUDGE DUKES: Thirty even?
10 MR. FORD: Yes.
11 JUDGE DUKES: Okay. All right. So
12 that is --
13 MR. SCOTT: Then service.
14 JUDGE DUKES: How much was the
15 service?
16 MR. SCOTT: Twice at 30, so 60.
17 JUDGE DUKES: 290. So okay. The
18 balance of those things that you have done I don't
19 think are awardable under a case like this. So also
20 within the 45 days, I'll order Mr. and Mrs. Ford --
21 MR. SCOTT: Now, will she provide us
22 within the 45 days an updated survey showing the
23 encroachments have been removed?
24 JUDGE DUKES: Well, I think you told
25 me it's pretty obvious when you look at it. So if

1 it isn't --
2 MR. SCOTT: But as far as the
3 encroachment in the 30-foot easement, she removed
4 those stakes.
5 JUDGE DUKES: What do you mean? Who
6 removed what stakes?
7 MR. FORD: Ms. Ford removed the
8 stakes that went from lot -- between Lot 3 and Lot 4
9 up to the road, the main road.
10 MS. FORD: That is untrue. The stake
11 is in the picture. It's still there. I didn't
12 remove any stakes.
13 MR. SCOTT: That is one stake, but
14 the other stake that is actually inside of where it
15 says 135 feet to the right-of-way of Oakview Road if
16 you are looking at the bottom?
17 JUDGE DUKES: Uh-huh.
18 MR. SCOTT: This stake has currently
19 been removed and also the two stakes that are at
20 Oakview Road. They have been removed.
21 JUDGE DUKES: Now, your plat shows
22 the iron pipe found actually on as though the fence
23 were built on your side of that pipe. So you might
24 not even be able to see it.
25 MR. SCOTT: Because it's been

removed. The fence is in it now so you can't see it.

JUDGE DUKES: But you are saying the pipe is gone?

MR. SCOTT: No. The stake, the markers.

JUDGE DUKES: I know, but I.P.F. means iron pipe found. That would have been a marker.

MR. SCOTT: Okay. Where -- I.P.F.

JUDGE DUKES: I.P.F. is right there on the bottom of the plat at the -- near the corner or right there on the edge of the 30-foot easement.

MR. SCOTT: I have I.P.S. where it says, dirt drive, Oakview. Is that what you are referring to?

JUDGE DUKES: Well, let's -- let me turn this around. This is Plaintiff 7 which I think we all have in one form or another. Down here in this lower left-hand corner --

MR. SCOTT: Yes.

JUDGE DUKES: There is I.P.F. Now, yours isn't blown up as much as mine, so it may look like an S, but --

MR. SCOTT: Okay. Yes. Well, I was

1 looking at the first one. Now I'm looking at that
2 one.
3 JUDGE DUKES: Okay.
4 MR. SCOTT: It said set and now it
5 says F.
6 JUDGE DUKES: Okay. So it was set
7 then. So you are saying it was removed after it was
8 set?
9 MR. SCOTT: Yes. And then there were
10 two more that would go to the beginning of her
11 property which is not shown on that plat.
12 JUDGE DUKES: Is the iron pipe found
13 still here?
14 MR. SCOTT: Yes.
15 JUDGE DUKES: Okay.
16 MR. SCOTT: But the other one --
17 JUDGE DUKES: The iron pipe that was
18 set when you did the first plat and it was then
19 found on this one you are saying is now gone?
20 MR. SCOTT: That is gone and then
21 there are two more 30 feet across from each other.
22 MS. FORD: Well, I didn't remove
23 them.
24 MR. SCOTT: On Oakview Road.
25 MS. FORD: There was a stake here,

1 but people drive -- it's a driveway through here.
2 They drive here -- up here, they drive through here
3 to get back here to get to the property. So it's
4 not going to be a stake that sits here if they drive
5 through there. He can't say that I moved it. I
6 didn't move it.
7 MR. SCOTT: I watched her. I watched
8 her move it. It's when I called Beaufort County.
9 MS. SCOTT: The children removed it.
10 MR. SCOTT: No. No. This particular
11 day I watched her move it.
12 MS. SCOTT: Okay.
13 JUDGE DUKES: All right.
14 MR. SCOTT: So they need to be reset
15 in order for the 30-foot easement to be shown.
16 JUDGE DUKES: Where do people drive,
17 Ms. Ford? I'm not following you.
18 MR. SCOTT: Do you see Spanish Wells
19 Road?
20 MS. FORD: Here in the front. My lot
21 is Lot 4 in the front. The town -- you know, they
22 took their portion because they had to make a road.
23 It comes straight across like this. There is a tree
24 that sits in the middle here. You can go this way
25 right up across my driveway like this and go on that

road on the side or you can go around the tree and go on there.

JUDGE DUKES: But which of these metal pipes did you say people were driving across?

MS. FORD: He's talking about --

MR. SCOTT: If you look at the vicinity map up in the top left.

MS. FORD: He's talking about here where it's Oakview Road right here. I live on the curve. So they drive here across here and turn up here to go to their property.

JUDGE DUKES: I'm still confused as too why one of these pipes would need to be moved.

MS. FORD: The concrete monument, the C.M.F. is still there. I can go and dig it up today because I know exactly where it is. It's still here. No, not dig it up like that. I mean, show you -- take a picture of it like the orange thing in the ground. Right here. This is where they drive and go right here to their property. This is my lot right here. They drive across here. They turn here and go here.

JUDGE DUKES: All right. But I'm system concerned about iron pipes that were set by -- marking these corners being moved.

1 MS. FORD: There is no iron pipe that
2 got moved. He's talking about a stick with an
3 orange flag on it.
4 JUDGE DUKES: Okay. So is there an
5 iron pipe still there?
6 MS. FORD: Oh, I don't know. It was
7 a stick with an orange flag on it. And the kids
8 were playing sword fighter with it. They didn't --
9 I didn't move an orange stick. So if he said he saw
10 me move an original stick, that is an untruth.
11 JUDGE DUKES: Well --
12 MS. SCOTT: Because the children play
13 so much, Judge, we need it black-and-white to prove
14 because she move it in the right position because --
15 MR. SCOTT: Yeah. That is why I'm
16 asking for a survey.
17 MS. SCOTT: -- the children play so
18 much.
19 MR. SCOTT: Once the fence has been
20 removed we want a survey to show that it's removed.
21 JUDGE DUKES: What did you ask for in
22 your complaint?
23 MR. SCOTT: I believe that would be
24 Page 5. I'm sorry. Page 4 of the complaint.
25 JUDGE DUKES: Yeah, you did ask for

1 that. In fact, you asked for three things. Removal
2 of the fence from the lot, removal of the
3 encroachment into the 30-foot easement and
4 verification by a certified land surveyor that those
5 things had been done.
6 So Mr. and Mrs. Ford, I think it's
7 appropriate to award that. I mean, there is no
8 question in my mind that you encroached on both the
9 easement and his property. And so I think it's
10 incumbent upon you and it sounds like you've already
11 got a relationship with the surveyor to have a
12 survey done by a licensed registered land surveyor
13 showing that the vinyl fence has been moved back
14 onto your property.
15 And it needs to show -- it needs to
16 reference this plat that is Exhibit 7. So I want to
17 make sure you've got a copy of that so your land
18 surveyor will have it. Do you have any questions
19 about that?
20 MS. FORD: No, I don't have a problem
21 with that.
22 JUDGE DUKES: All right. Because the
23 fence has to be moved in 45 days, I can understand
24 how it may take a little bit longer to prepare the
25 survey, so I'll give you 60 days to comply with that

1 portion. And 60 days to comply with the monetary
2 portion which is going to by 290. All right.
3 Anything else?
4 All right. So here is what I'm going to
5 order which I'll reduce to writing is going to be I
6 find for the Plaintiff in his three causes of
7 action. I'll require the Fords to move the vinyl
8 fence both out of the easement and off the property
9 line and back onto their property within 45 days.
10 To provide a survey at their cost that both
11 references this survey and indicates the clearance
12 of the easement and the property line. Do that
13 within 60 days. And then pay to the Scotts the sum
14 of $290 within 60 days. All right. Does anyone
15 have any questions about any of that? Okay.
16 MR. SCOTT: Can you repeat that? I'm
17 sorry.
18 JUDGE DUKES: Move the fence back
19 onto or their property within 45. Provide a survey
20 which references this survey within 60. And pay to
21 you or the two of you, the Plaintiffs, $290 within
22 60 days. All right. Any questions at all? Okay.
23 All right. Thank you all very much.
24 (Whereupon, the hearing was concluded
25 at 10:53 a.m.)

1 Certificate of Reporter

2

3 I, Deborah S. Thomas, Certified Verbatim Reporter and Notary Public in and for the State of
4 South Carolina, do hereby certify that I reported the hearing of Scott vs. Ford, on the 3rd day of
5 October, 2014: and that the foregoing 59 pages constitute a true and correct transcription of the
6 said hearing.

7

8 I further certify that I am neither attorney nor counsel for, nor related to or employed
9 by, any of the parties connected with this action, nor am I financially interested in said cause.

10

11

12 I further certify that the original of said transcript shall be hereafter delivered to
13 Sonya M. Ford, Pro-se, 49 Oakview Road, Hilton Head, South Carolina 29926.

14

15 In witness whereof I set my hand and seal this 14th day of June, 2016.

16

17

18 Deborah S. Thomas, CVRM
19 My Commission expires 1/4/18 and Notary Public for the State of South Carolina

20

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