

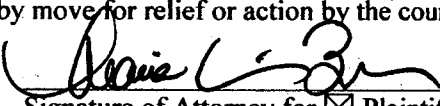
STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 Joanne S. Reed )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Harold Salters, et al. )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 Ninth JUDICIAL CIRCUIT  
 CASE NO.: 2012-CP-10-6835

**MOTION AND ORDER INFORMATION  
 FORM AND COVERSHEET**

**RECEIVED**

NOV 18 2016  
 SC Court of Appeals

Plaintiff's Attorney: Maria Kiehling Brees, Bar No. 76799 Address: 105 Wappoo Creek Drive, Suite 1-B Charleston, SC 29412 Phone: 843-724-7707 Fax 843-762-2333 E-mail: maria@mcgee-lawfirm.com Other: _____	Defendant's Attorney: D. Nathan Davis, Bar No. _____ Address: 12 Carriage Lane, Suite A Charleston, SC 29407 Phone: _____ Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete <b>SECTIONS I and III</b> ) <input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete <b>SECTIONS II and III</b> ) <input type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete <b>SECTIONS II and III</b> )	
<b>SECTION I: Hearing Information</b>	
Nature of Motion: Motion to Reconsider Estimated Time Needed: 30 minutes      Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
<b>SECTION II: Motion/Order Type</b>	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	July 25, 2016 Date submitted
<b>SECTION III: Motion Fee</b>	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
<b>JUDGE'S SECTION</b>	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
<b>CLERK'S VERIFICATION</b>	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
JOANNE S. REED

Plaintiff

VS.

HAROLD SALTERS, JOHNNIE SALTERS,  
DARREL MARTIN, SAMETTA HEYWARD,  
JAMES SALTERS, CHARLES TYLER,  
MARGERETTE BROWN, DANNY TYLER, JOSEPH  
TYLER, CALVIN TYLER, WILLIE WASHINGTON,  
DAVID TYLER, GEORGE GRANT, OLIVIA  
HEYWARD, LISA CANADY, SYLVIA GRANT  
HEYWARD, JANIS MAGWOOD, TATUM GRANT,  
ABRAHAM GRANT, III, LILLIAN SANDERS,  
LATRICIA SANDERS-ROBERTS, MARY  
SANDERS, MARTHA SANDERS, RUTHIE MAE  
SANDERS BUTLER, ELIZABETH SANDERS,  
GEORGIANA S. STONE, SANDRA S. BROWN,  
CAROLYN S. HISSONG, GEORGE SANDERS, JR.,  
WILLIAM SANDERS, ALTHEA SALTERS, SAM  
WES, MATTHEW SANDERS, EDDIE SANDERS  
JOHN DOE AND MARY ROE fictitious names  
representing unknown minors, incompetents, persons in  
the military service within the meaning of Title 50,  
United States Code, commonly referred to as The  
Service Members Civil Relief Act of 2003, persons  
imprisoned, and persons under any other legal  
disability and RICHARD ROE and JANE DOE,  
fictitious names representing unknown heirs, devisees,  
distributes, or personal representatives of the following  
deceased persons THE ESTATE OF JOHN SALTERS,  
VIOLA SALTERS, EVELINA SALTERS SANDERS,  
CHRISTINA SALTERS, WESLEY SALTERS, LULA  
SALTERS, DORTHY SALTERS, JAMES SALTERS,  
MARY SALTERS-TYLER, JOSEPHINE SALTERS,  
VERMEL MARTIN, SAM HEYWARD, HELEN  
TYLER, HENRIETTA SANDERS GRANT,  
ABRAHAM GRANT, ABRAHAM GRANT, JR.,  
EDDIE SANDERS, GEORGE LEROY SANDERS,  
DOROTHY S. HEYWARD

Defendants

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO.: 2012-CP-10-6835

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NOV 18 2016

SC Court of Appeals

**NOTICE OF MOTION AND MOTION TO  
RECONSIDER PURSUANT TO RULE  
59(e) SCRCF**

BY JS

JULIE J. ARMSTRONG  
CLERK OF COURT

2016 JUL 25 PM 4:31

**FILED**

TO: THE HONORABLE MIKELL R. SCARBOROUGH  
MASTER-IN-EQUITY FOR CHARLESTON COUNTY  
AND  
D. NATHAN DAVIS, ESQ.  
ATTORNEY FOR THE PLAINTIFFS

AND  
KELVIN M. HUGER, ESQ.  
GUARDIAN AD LITEM

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, the Plaintiff, Joanne S. Reed, will move before the Honorable Mikell R. Scarborough, Master in Equity for Charleston County, within ten (10) days after service hereof, or as soon thereafter as counsel may be heard, for an Order reversing the Court's Order dated July 14, 2016, filed July 18, 2016, and received on July 20, 2016, by counsel for the Plaintiff. This Motion is based upon the Court's ruling in favor of the Defendant as to the grant of adverse possession to the Defendant, Jesse Townsend, as to the "front portion" of the Property that is the subject of this lawsuit. The Court did not adequately address the elements of adverse possession in regards to the Defendant, Jesse Townsend, Jr. Specifically, the Order does not address the testimony provided by Mr. Townsend himself that permission was gained for access to the subject Property over and over again throughout any usage by he and his father. As indicated in Plaintiff's proposed Order, "...under the majority view, an actual, exclusive, open, and notorious possession without the consent of the title owner is both wrongful and adverse and will ripen into perfect title in the usual way when the status of limitations has run." 688 S.E.2d 852, 386 S.C. 437 (Ct. App. 2009) citing Knox v. Bogan, 472 S.E.2d 43, 322 S.C. 64 (1996). The Court ignores the fact that Mr. Townsend and his father both obtained permission to utilize a portion of the subject Property, thus being unable to meet the requirements of the hostility element even under the most open interpretation of the majority view.

The Order also does not adequately address the element of exclusivity, as Mr. Townsend also provided testimony that he and his father believed that multiple individuals held ownership rights in the subject Property, including the aforementioned Mr. Townsend himself. Mr.

Townsend's father never resided on the Property, so Mr. Townsend is unable to tack on to any time relating to actual occupancy. Further, Mr. Townsend's father, based on Mr. Townsend's own testimony, consistently asked for permission to utilize any portion of the subject Property. If no hostility existed at the time that Mr. Townsend's father utilized a portion of the Property for a junkyard, then Mr. Townsend is unable to tack on to that time as it does not qualify as adverse. The Order does not address the fact that other occupants of the subject Property were title owners to the Property, thus negating the exclusivity element of adverse possession. "The general rule is that where an owner of property and an occupier are both in possession, the possession of the legal owner prevails to the exclusion of the other." the possession of the legal owner prevails to the exclusion of the other." *Butler v. Lindsey*, 361 S.E.2d 621, 624, 293 S.C. 466 (Ct. App. 1987) citing *Middleton v. Dupuis*, 11 S.C.L. (2 Nott & McC.) 310 (1820).

The Court rules that the "...Property shall be surveyed and the Court will issue its deed to Jesse Townsend, Jr. as the owner of the front property of the Property up to and abutting the wetlands..." but makes no designation of an estimated acreage or size of the "front portion". The Order does not adequately clarify the designated "front portion" of the subject Property, and it does not include any procedure for the approval of a proposed survey/plat by all Parties.

The Order makes reference to testimony about the planting of trees on the back end of the Property. However, this testimony was hearsay, and no documentation including any receipt from the timber company, or documentation as to the payment of disbursements from the sale of timber has been provided to the Court. These allegations were improperly applied to the Court's decision as there is no documented proof that the sale of harvested timber was used to pay property taxes and that any remainder was divided up between the Plaintiff's family members.

Further, the Order grants that the remaining Property shall be vested in the heirs of Grandfather Salters. As decided by this Court at the Partition and Quiet Title hearing on March 21, 2016, the Plaintiff, along with her cousins, Charles Tyler and Danny Tyler, as well as the incarcerated Defendant, Sametta Heyward, represented by the Guardian ad Litem, are the only Parties to the suit providing any sort of response as to the claims made under Partition. As such, these are the only individuals who may obtain title to the Property through Partition. The Court did not address these matters in this Order, and the Plaintiff would ask that the Court address the designation of interest acquired through the Partition and Suit to Quiet Title under separate Order.

The Motion will be supported by all memoranda, briefs, and other documentation to be submitted to the Court prior to the hearing.

Pursuant to Rule 11 SCRPC, counsel certifies that consultation would serve no useful purpose.

Please be present to defend if so minded.

MCGEE LAW FIRM, LLC



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S.C. Bar No. 76799  
105 Wappoo Creek Drive, Suite 1-B  
Charleston, SC 29412  
(843) 724-7707  
maria@mcgee-lawfirm.com

Charleston, South Carolina  
7/25, 2016

2012-CP-10-6835

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was served on the following by depositing the same in the U.S. Mail, postage prepaid, at the following address on this the 25<sup>th</sup> day of July, 2016.

The Honorable Mikell R. Scarborough  
Master in Equity for Charleston County  
100 Broad Street, Suite 266  
Charleston, SC 29401

D. Nathan Davis, Esq.  
Davis Law SC  
12 Carriage Lane, Suite A  
Charleston, SC 29407

Kelvin M. Huger, Esq.  
Counts & Huger  
27 Gamecock Avenue #200  
Charleston, SC 29407

  
Maria Kiehling Brees

BY \_\_\_\_\_

JULIE J. ARMSTRONG  
CLERK OF COURT

2016 JUL 25 PM 4:31

FILED



## McGEE LAW FIRM

Justin M. McGee  
Partner

Lindsay F. McGee  
Partner

Attorneys and Counselors at Law  
105 Wappoo Creek Drive, Suite 1-B  
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Maria Kiehling Brees

July 25, 2016

[maria@mcgee-lawfirm.com](mailto:maria@mcgee-lawfirm.com)

Via Hand Delivery  
Charleston County Clerk of Court  
100 Broad Street, Suite 106  
Charleston, SC 29401

RE: CA No. 2012-CP-10-6835  
Reed v. Salters

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NOV 18 2016

SC Court of Appeals

To Whom It May Concern:

Please find enclosed herewith an original and one (1) copy of the Plaintiff's Motion to Reconsider in the above-referenced matter along with the applicable motion coversheet and our firm's check in the amount of \$25.00 for the motion filing fee. Please file the original and return the file-stamped copy to my office.

By copy of this letter, I am serving the same upon the Honorable Mikell R. Scarborough, as well as D. Nathan Davis, Esq. and Kelvin M. Huger, Esq. Please do not hesitate to contact me with any questions. With kind regards, I remain

Sincerely,



Maria Kiehling Brees

/mkb

Encls

cc: (w/encls) The Hon. Mikell R. Scarborough  
D. Nathan Davis, Esq.  
Kelvin M. Huger, Esq.