

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Master In Equity

Marvin H. Dukes, III, Beaufort County Master-in-Equity

APPELLATE CASE NUMBER 2014-002220

Solomon Johnson, Frank
Johnson, Ruth Green, Dorothy
Jones, Theresa Scott, Erma
Johnson, Kelly Barbara Jean
Ferguson a/k/a Barbara Jean
Albergottie, Alphonzo
Albergottie, David Pringle,
Pauline Lesesne, Marion
Pringle, Jr., Frederick Scott,
Paul K. Scott, Harold Jones,
Sandra, Williamson Powell,
Frederick L. Williamson,
Elvin Bennett, Janie L.
Ganues, Bertha Stafford,
Patrice Stafford, Mary Lee
Gary, Alnethia Gary, Edward
Stanley Stafford, Luerta Gary,
Kenneth Gary, Carlos Gary,
Ron Kenneth Stewart, Mary
Frances Duncan, Debra
Williams, Larry Williams,
Barbara Williams Smith,
Johnie Williams, Terri Elaine
Weaver, Letha G. Rhem,
Patricia Ann White, Sharon
White, Nolen White, Johnny
Washington,

Respondents,

RECEIVED

NOV 06 2015

SC Court of Appeals

The Heirs or Devisees of
Solomon White, Mary Ann
Pinckney White, Edward
White, Jacob White, Mary
White, Carrie White, Ellen
White Gary, Sam Gary, Emma
Gary Johnson, Miller Johnson,
Sr., Oscar Johnson, Eloise
Johnson, Miller Johnson, Jr.,
Leola Johnson, Richard
(Ritchie) Johnson, Sarah H.
Johnson, Mack Coles, Emily
Johnson Albergottie, Robert
albergottie, Louise Johnson
Pringle, Marion Pringle,
Mamie Gary, Thomas Brown,
Carrie Scott, Clarence Scott,
Jessie Mae Scott Smalls,
Williams Smalls, Jr.,
Nathaniel Scott, Camerine
Scott, Hermon V. Scott,
Luther Scott, Earnestine
Steward, Epstein Steward,
Lonny Brown, Gussy Brown,
Charles Brown, Danza Gary,
Victoria Brown, Dorothy
Williams, Joseph Williamson,
Sr., Elijah Williamson, Joseph
Williamson, Jr., Helen
(Sweetie) Brown Bennett,
Ervin Bennett, Janie Bennett
Green, Eloise Bennett Nixs,
Benjamin Nixs, Terry Nixs,
Carrie Gary, Harry Julius,
Richard Gary, Fronnie Gary,
Ella Gary, Francis Gary,
Florence (Nan) Gary, Aletha
(Tiny) Gary Watson, Andrew
Gadsden, Frank Watson,
Elizabeth Gary Stafford, Lee
Stafford, John Lee Stafford,
Joseph Gary, Nehemiah Gary,
Dorothy Gary, Harold Gary,
Cleveland Gary, Henry Gary,
Florrie Gary, Naomi Gary
Stafford, James Stafford, Sr.,

Appellants.

Hattie Mae Stafford, Edna
Brooker, Henry Brooker, Inell
Jones, Raymond Jones, James
Stafford, Jr., Hazel Gary,
Henry Gary, Jr., Henry Gary,
III, Herman Gary, Mary Ellen
Gary Williams, Herbert
Williams, Sr., Herbert
Williams, Jr., Louise Gary
White, Jimmy White, Lou
Ethel Washington, Margaret
Gary Levine, David Levin,
Eddie James Gary,
Wilhelmina Gary Murray,
Ezekiel Murray, Sr., Josephine
Gary Jenkins, Eddie Jenkins,
Joe Louis Gary, Heirs of
David Pringle, Salt Marsh
Partners, L.P., Janice E. Jones
and Ralph E. Johnson, Bobbie
J. Collins, Leroy Norris and
Odis Ann Norris, M. Lane
Morrison, Milles Lane
Morrison and Bank of
America, N.A., as Trustees,
Beaufort County Open Land
Trust, Williams McLean
Mixon and Barbara Hill
Mixon, as Trustees of the
Mixon Recoverable Trust
Agreement dated July 24,
2008, Robert J. Pinckney,
Mamie Brown, Susie
Cordeaux, Dorothy Lesesne,
Ben Pinckney, Etta Pinckney,
Henry Pinckney, Herbert
Pinckney, Ernestine P.
Rogers, Lillie Shell, and Ruth
P. Simmons, Richard Johnson,
Jr., Helen Coles, Jackie
Smalls, Sharon Smalls,
Andrea Smalls, Brooke
Smalls, Allan Scott, Cleon
Scott, Nia Malika Singletary,
Loretta L. Steward, Nathan
Jones, Eric Williamson,

Dwayne Williamson, Audrey
Brown, Joseph Johnson,
Jacqueline Johnson Major,
Robert Lee Green, Kenneth
Green, Juanita Green, Keith
Green, Joseph Green, Ellis
Green, Carl Green, Brown
Bennett, Dorsey Bennett,
William Nixs, Jennifer Nixs,
Jason Nixs, Thaddaus Nixs,
Edward Nixs, Edward Nixs,
Charles Nixs, Althea Nixs,
Clara Gary, Francis Gary, Jr.,
Adelia Gary, Charles Gary,
Albert Gary, Ulysses Gary,
Bernard Gary, David Gary,
Annette Singleton, Lillie Mae
Gifford, Shawndea Stafford,
James Stafford, Beulah
Gadsden, Jordan Harris, Leon
Stafford, Alvin Brooker,
Michael Stafford, Shirley
Stafford White, Gail Stafford
Marquez, Jacqueline Stafford,
Stephanie Jones, Renata
Jones, Ranell Jones, Germaine
Jones, Nathaniel Stafford,
Angela Stafford, Sonya Green,
James Stafford, III, Rasheen
James, Jusean James, Kierra
Stafford, Lena (Evelyn) Gary,
Brenda Patterson, Jeanette
Rutledge, Issac Williams,
Carolyn Achampny,
Antoinette Lewis, Geraldine
Brown, Johnny Washington,
Kurt Washington, Diane Gary,
Tracy Washington, Carren
Washington, Lunetha Gary,
James Stanley Gary, Gerald R.
Gary, if living, and if not
living, then the heirs or
devisees of all such persons
named above, and all persons
unknown having or claiming
to have any right, title, estate,

interest in or lien upon the real
property described in the
Complaint herein, being
designated collectively as
John Doe and Mary Roe,
including all persons who may
be deceased, minors, in the
Armed Forces or the United
States, Non Compos Mentis,
and under any other disability

THE RECORD ON APPEAL

Other Counsel of Record

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Kelvin M. Huger, Esq.
COUNTS & HUGER, LLC
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Charleston, South Carolina 29413
843-573-0143 Ph / 843-573-0153 Fx

J. Thomas Mikell, Esquire
Law Offices of J. Thomas Mikell, PC
14 Professional Village Circle
Post Office Box 1727
Beaufort, South Carolina 29901

ATTORNEY FOR RESPONDENT

ATTORNEYS FOR APPELLANTS

INDEX

| | |
|---|-----|
| Order of Reference dated September 25, 2012 | 1 |
| Order of May 2, 2013..... | 5 |
| Partial Decree dated July 24, 2013 | 10 |
| Order of August 5, 2013 | 29 |
| Supplemental Order of September 18, 2013..... | 34 |
| Order of March 11, 2014 | 35 |
| Final Decree of August 18, 2014 | 41 |
| Order Approving Surveys April 29, 2015..... | 51A |
| Order August 25, 2010..... | 51D |
| Summons, Lis Pendens, Complaint | 52 |
| Amended Answer and Counterclaim of May 17, 2012 | 98 |
| Reply..... | 104 |
| Excerpts from Transcripts Trial of April 22-23, 2013 | |
| Pages 3-8..... | 110 |
| Pages 29-35..... | 116 |
| Pages 40-41 | 123 |
| Pages 72-74..... | 125 |
| Pages 76 | 128 |
| Pages 101 | 129 |
| Pages 109-110..... | 130 |
| Pages 117-119..... | 132 |
| Pages 121-123 | 135 |

| | |
|---------------------|-----|
| Pages 125 | 138 |
| Pages 127-129 | 139 |
| Pages 134-141 | 142 |
| Pages 144-146 | 150 |
| Pages 117-119 | 132 |
| Pages 205-206 | 153 |
| Pages 217-219 | 155 |
| Pages 249-250 | 158 |
| Pages 268-272 | 160 |
| Pages 339 | 164 |
| Pages 348 | 165 |
| Pages 357-358 | 166 |
| Pages 365 | 168 |
| Pages 381 | 169 |
| Pages 383 | 170 |
| Pages 387 | 171 |
| Pages 391 | 172 |
| Pages 407 | 173 |
| Pages 411 | 174 |
| Pages 423 | 175 |
| Pages 443 | 176 |
| Pages 493 | 177 |
| Pages 502-503 | 178 |

| | |
|---|-----|
| Pages 517 | 180 |
| Pages 519 | 181 |
| Pages 532-538..... | 182 |
| Pages 544-548..... | 189 |
| Pages 559 | 194 |
| Pages 569 | 195 |
| Pages 587 | 196 |
| Pages 597 | 197 |
| Pages 599 | 198 |
| Pages 603-608..... | 199 |
| Pages 628-632..... | 205 |
| Pages 634 | 210 |
| Pages 642 | 211 |
| Pages 645 | 212 |
| Pages 654-658..... | 213 |
| Transcript from Hearing of August 5, 2014 | |
| Pages 1-27..... | 218 |
| Plaintiff's Exhibit #1 | 245 |
| Plaintiff's Exhibit #2..... | 246 |
| Plaintiff's Exhibit #19..... | 248 |
| Plaintiff's Exhibit #27..... | 249 |
| Plaintiff's Exhibit #28..... | 250 |
| Plaintiff's Exhibit #29..... | 251 |

Plaintiff's Exhibit #30.....252

Plaintiff's Exhibit #31253

Plaintiff's Exhibit #32.....254

Plaintiff's Exhibit #33.....255

Plaintiff's Exhibit #34.....256

Plaintiff's Exhibit #37.....257

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07-5211

SOLOMON JOHNSON; FRANK JOHNSON,)
RUTH GREEN; DOROTHY JONES;)
THERESA SCOTT; ERMA JOHNSON KELLY;)
BARBARA JEAN FERGUSON a/k/a)
BARBARA JEAN ALBERGOTTIE; ET AL,)

Plaintiffs,)

-versus-)

THE HEIRS OR DEVISEES OF SOLOMON)
WHITE; MARY ANN PINCKNEY WHITE;)
EDWARD WHITE; JACOB WHITE; MARY)
WHITE; CARRIE WHITE; ELLEN WHITE)
GARY; SAM GARY; ET AL,)

Defendants.)

ORDER OF REFERENCE

12 OCT 26 PM 4:51
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Pursuant to the written consent of the parties as set forth below, it is hereby Ordered that this matter is referred to Marvin H. Dukes, III as Master In Equity to include all the legal powers vested in Masters In Equity under the South Carolina rules of Civil Procedure upon the following terms and conditions:

1. The Master in Equity may conduct one or more hearings as he may deem necessary.
2. The decision of the Master in Equity is to be filed upon available scheduling to include his Findings of Fact and Conclusions of Law as well as his Decree/Judgment which will be the final judgment of this Court with appeal directly to the Supreme Court.

Handwritten initials

~~September~~ 25, 2012.

J. Roseneau

Jerri Ann Roseneau
Clerk of Court
Beaufort County, South Carolina

I SO MOVE:

J. Thomas Mikell

J. Thomas Mikell, Esquire
Attorney for the Plaintiffs

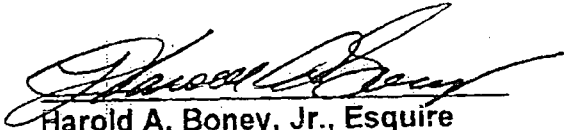
JRM

I CONSENT:

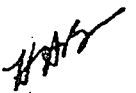
A handwritten signature in black ink, appearing to read "Joseph Dawson, III". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Joseph Dawson, III, Esquire
Attorney for Clara Gary; Francis
Gary, Jr.; David Gary; Adelia Gary;
Charles Gary; Albert Gary; Ulysses
Gary; Bernard Gary; and Annette
Singleton

I CONSENT:



Harold A. Boney, Jr., Esquire
Attorney for Salt Marsh Partners, L.P.



STATE OF SOUTH CAROLINA
 COUNTY OF BEAUFORT
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2011.CP-07-05211

Solomon Johnson, et al.

The Heirs or Devisees of Solomon White, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: HAROLD A. BONEY

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional information for the Clerk :

BEAUFORT COUNTY S.C.
 CLERK OF COURT
 2011 MAY - 8 PM 4:25

INFORMATION FOR THE PUBLIC INDEX

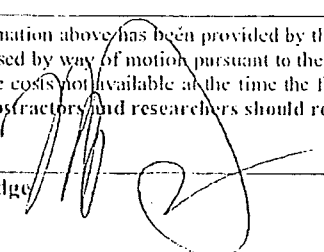
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
|--|--|--|
| N/A | | \$ |
| | | \$ |
| | | \$ |

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge



Judge Code

Date

5/8/11

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 SOLOMON JOHNSON, ET AL.,)
)
 Plaintiff,)
)
 vs.)
)
 THE HEIRS OR DEVISEES OF)
 SOLOMON WHITE, ET AL.,)
)
 Defendant.)
)

IN THE COURT OF COMMON PLEAS
 Case No. 2011-CP-07-5211

ORDER

2013 MAY -8 PM 4:25
 CLERK OF COURT

This case was referred to me pursuant to Rule 53, SCRPC, and came before me for trial on April 22, 2013. Among other issues framed, the pleadings seek resolution of any question as to the location of the common boundary between property of the Heirs of Solomon White, specifically the 30 acres, more or less, identified in the Beaufort County tax records as R700-013-000-0006-0000, and the property of Salt Marsh Partners, L.P. which is identified in the tax records of Beaufort County as R700-014-000-0064-0000. After my having heard testimony and having received evidence regarding that common boundary, the parties advised that they had reached agreement for entry of this order resolving any question regarding that common boundary, and the parties' agreement was put on the record. Now, upon my finding good cause therefor, it is

ORDERED:

I. That Clara Gary, Francis Gary, Jr., David Gary, Adelia Gary, Charles Gary, Albert Gary, Ulysses Gary, Bernard Gary, and Annette Singleton ("the Gary defendants") shall pay to Salt Marsh Partners, L.P. in cash or certified funds the sum of One Thousand Dollars (\$1,000.00), said sum to be paid through Salt Marsh Partners, L.P.'s counsel Harold A. Boney, on or before May 23, 2013;

2. That the common boundary between the property of the Heirs of Solomon White (R700-013-000-0006-0000) and the property of Salt Marsh Partners, L.P. (R700-014-000-0064-0000) is shown by lines AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, and AN, as shown on the Court's Exhibit 1, titled "A Partial Boundary Survey Prepared for Bobby Minis" which survey was made by David S. Youmans, RLS 9765, Beaufort Surveying, Inc., March 5, 1998, and was revised March 15, 2013;

3. That the Court's Exhibit 1 shall be attached to the original of this order and shall be a permanent record in the case file, which shall become a judgment roll file upon entry of final judgment in the case;

4. That Salt Marsh Partners, L.P. shall cause to be replaced and restored the monument shown at the intersection of lines AM and AN as shown on the Court's Exhibit 1;

5. That Salt Marsh Partners, L.P. has the right to build a fence along all or part of the common boundary but is not obligated to do so;

6. That the plaintiffs and all the defendants other than Salt Marsh Partners, L.P. and all their agents, employees, other persons acting for them or under their authority or control, or under the authority or control of any one of them, and all lessees and other persons having or claiming property rights under or through them are hereby permanently enjoined, prohibited and forbidden (a) from disturbing, moving, or removing any of the monuments along the common boundary, (b) from entering upon the lands of Salt Marsh Partners, L.P. at any time or for any purpose, and (c) from throwing or placing any trash, refuse, garbage or any other things or objects upon the lands of Salt Marsh Partners, L.P. at any time or for any purpose;

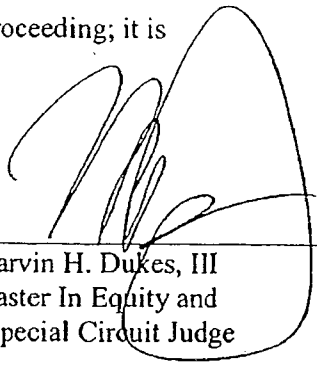
7. That in addition to all rights and remedies which Salt Marsh Partners, L.P. may have at law or in equity for trespass upon its property, encroachment, or any other

violation of its property rights, in the event of any violation of the injunctive provisions of this order, Salt Marsh Partners, L.P. has and shall have the right to petition this court for enforcement of this order through a contempt proceeding and the court shall retain jurisdiction for any such proceeding; it is

SO ORDERED.

Beaufort, S.C.

 5/8, 2013


Marvin H. Dukes, III
Master In Equity and
Special Circuit Judge

STATE OF SOUTH CAROLINA
 COUNTY OF BEAUFORT
 IN THE COURT OF COMMON PLEAS

FORM J

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-07-05211

SOLOMON JOHNSON, et al.

SOLOMON WHITE, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: J. Thomas Mikell

Attorney for: Plaintiff Defendant
 or

Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
|---|---|--|
| The heirs of Solomon White and Mary Ann White per Attachment B and C to the Complaint | The Clara Gary family being Clara Gary, Francis Gary, Jr., Adelia Gary, | S Not Applicable |
| | Charles Gary, Albert Gary, Ulysses Gary, Bernard Gary, David Gary and Annette Singleton | S |
| | | S 000010 |

If applicable, describe the property, including tax map information and address, referenced by the order.

Parcel 1 - R700-013-000-0006.
Parcel 2 - R700-013-000-0024.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Judge Marvin H. Dukes, III
Master In Equity

Judge Code

Date

7/24/13

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of July, 2013 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

J. Thomas Mikell

Post Office Box 1727

Beaufort, SC 29901

ATTORNEY(S) FOR THE PLAINTIFF(S)

Karl H. Smith – Attorney for the Gary Defendants

Harold A. Boney – Attorney for Salt Marsh Partners, L.P.

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CASE NO. 2011-CP-07-5211

SOLOMON JOHNSON, FRANK JOHNSON,)
RUTH GREEN, DOROTHY JONES,)
THERESA SCOTT, ERMA JOHNSON)
KELLY, BARBARA JEAN FERGUSON *alk/a*)
BARBARA JEAN ALBERGOTTIE,)
ALPHONZO ALBERGOTTIE, DAVID)
PRINGLE, PAULINE LESESNE, MARION)
PRINGLE, JR., FREDERICK SCOTT, PAUL)
K. SCOTT, HAROLD JONES, SANDRA)
WILLIAMSON POWELL, FREDERICK L.)
WILLIAMSON, ELVIN BENNETT, JANIE L.)
GANUES, BERTHA STAFFORD, PATRICE)
STAFFORD, MARY LEE GARY, ALNETHIA)
GARY, EDWARD STANLEY STAFFORD,)
LUERTA GARY, KENNETH GARY,)
CARLOS GARY, RON KENNETH)
STEWART, MARY FRANCES DUNCAN,)
DEBRA WILLIAMS, LARRY WILLIAMS,)
BARBARA WILLIAMS SMITH, JOHNNIE)
WILLIAMS, TERRI ELAINE WEAVER,)
LETHA G. RHEM, PATRICIA ANN WHITE,)
SHARON WHITE, NOLEN WHITE, JOHNNY)
WASHINGTON, JR.)

Plaintiffs,)

-versus-)

THE HEIRS OR DEVISEES OF)
SOLOMON WHITE; MARY ANN PINCKNEY)
WHITE; EDWARD WHITE, JACOB WHITE,)
MARY WHITE; CARRIE WHITE; ELLEN)
WHITE GARY; SAM GARY; EMMA GARY)
JOHNSON; MILLER JOHNSON, SR.;)
OSCAR JOHNSON; ELOISE JOHNSON;)
MILLER JOHNSON, JR.; LEOLA)
JOHNSON; RICHARD (RITCHIE))
JOHNSON; SARAH H. JOHNSON; MACK)
COLES; EMILY JOHNSON ALBERGOTTIE;)
ROBERT ALBERGOTTIE; LOUISE)
JOHNSON PRINGLE; MARION PRINGLE;)

PARTIAL
DECREE

RECORDED & INDEXED

000012

MAMIE GARY; THOMAS BROWN; CARRIE)
 SCOTT; CLARENCE SCOTT; JESSIE MAE)
 SCOTT SMALLS; WILLIAMS SMALLS, JR.;)
 NATHANIEL SCOTT; CAMERINE SCOTT;)
 HERMON V. SCOTT; LUTHER SCOTT;)
 EARNESTINE STEWARD; EPSTEIN)
 STEWARD; LONNY BROWN; GUSSY)
 BROWN; CHARLES BROWN; DANZA)
 GARY; VICTORIA BROWN; DOROTHY)
 WILLIAMSON; JOSEPH WILLIAMSON,)
 SR.; ELIJAH WILLIAMSON; JOSEPH)
 WILLIAMSON, JR.; HELEN (SWEETIE))
 BROWN BENNETT; ERVIN BENNETT;)
 JANIE BENNETT GREEN; ELOISE)
 BENNETT NIXS; BENJAMIN NIXS; TERRY)
 NIXS; CARRIE GARY; HARRY JULIUS;)
 RICHARD GARY; FRONNIE GARY; ELLA)
 GARY; FRANCIS GARY; FLORENCE)
 (NANA) GARY; ALETHA (TINY) GARY)
 WATSON; ANDREW GADSDEN; FRANK)
 WATSON; ELIZABETH GARY STAFFORD;)
 LEE STAFFORD; JOHN LEE STAFFORD;)
 JOSEPH GARY; NEHEMIAH GARY;)
 DOROTHY GARY; HAROLD GARY;)
 CLEVELAND GARY; HENRY GARY;)
 FLORRIE GARY; NAOMI GARY)
 STAFFORD; JAMES STAFFORD, SR.;)
 HATTIE MAE STAFFORD; EDNA)
 BROOKER; HENRY BROOKER; INELL)
 JONES; RAYMOND JONES; JAMES)
 STAFFORD, JR.; HAZEL GARY; HENRY)
 GARY, JR.; HENRY GARY, III; HERMAN)
 GARY; MARY ELLEN GARY WILLIAMS;)
 HERBERT WILLIAMS, SR.; HERBERT)
 WILLIAMS, JR.; LOUISE GARY WHITE;)
 JIMMY WHITE; LOU ETHEL)
 WASHINGTON; MARGARET GARY)
 LEVINE; DAVID LEVIN; EDDIE JAMES)
 GARY; WILHELMINA GARY MURRAY;)
 EZEKIEL MURRAY, SR.; JOSEPHINE)
 GARY JENKINS; EDDIE JENKINS; JOE)
 LOUIS GARY; HEIRS OF DAVID PRINGLE;)
 SALT MARSH PARTNERS, L.P.; JANICE E.)
 JONES AND RALPH E. JOHNSON;)
 BOBBIE J. COLLINS; LEORY NORRIS)
 AND ODIS ANN NORRIS; M. LANE)

000013

MORRISON; MILLS LANE MORRISON)
AND BANK OF AMERICA, N.A., AS)
TRUSTEES; BEAUFORT COUNTY OPEN)
LAND TRUST; WILLIAM MCLEAN MIXON)
AND BARBARA HILL MIXON, AS)
TRUSTEES OF THE MIXON REVOCABLE)
TRUST AGREEMENT DATED JULY 24,)
2008; ROBERT J. PINCKNEY; MAMIE)
BROWN, SUSIE CORDEAUX, DOROTHY)
LESESNE, BEN PINCKNEY,)
CHRISTOPHER PINCKNEY, ETTA)
PINCKNEY, HENRY PINCKNEY, HERBERT)
PINCKNEY, ERNESTINE P. ROGERS,)
LILLIE SHELL, AND RUTH P. SIMMONS;)
RICHARD JOHNSON, JR.; HELEN COLES;)
FORESTINE PRINGLE; SANDRA SMALLS;)
JACKIE SMALLS; SHARON SMALLS;)
ANDREA SMALLS; BROOKE SMALLS;)
ALLAN SCOTT; CLEON SCOTT; NIA)
MALIKA SINGLETARY; LORETTA L.)
STEWART; NATHAN JONES; ERIC)
WILLIAMSON; DWAYNE WILLIAMSON;)
AUDREY BROWN; JOSEPH JOHNSON;)
JACQUELINE JOHNSON MAJOR;)
ROBERT LEE GREEN; KENNETH GREEN;)
JUANITA GREEN; KEITH GREEN; JOSEPH)
GREEN; ELLIS GREEN; CARL GREEN;)
BROWN BENNETT; DORSEY BENNETT;)
WILLIAM NIXS; JENNIFER NIXS; JASON)
NIXS; THADDAUS NIXS; EDWARD NIXS;)
CHARLES NIXS; ALTHEA NIXS; CLARA)
GARY; FRANCIS GARY, JR. ; ADELIA)
GARY; CHARLES GARY; ALBERT GARY;)
ULYSSES GARY; BERNARD GARY;)
DAVID GARY; ANNETTE SINGLETON;)
LILLIE MAE GIFFORD; SHAWNDEA)
STAFFORD; JAMES STAFFORD;)
BEAULAH GADSDEN; JORDAN HARRIS;)
LEON STAFFORD; ALVIN BROOKER;)
MICHAEL STAFFORD; SHIRLEY)
STAFFORD WHITE; GAIL STAFFORD)
MARQUEZ; JACQUELINE STAFFORD;)
STEPHANIE JONES; RENATA JONES;)
RANELL JONES; GERMAINE JONES;)
NATHANIEL STAFFORD; ANGELA)
STAFFORD; SONYA GREEN; JAMES)

000014

A plenary family tree of these two persons is set forth on Attachment B to the Complaint and the living heirs of these two persons are set forth on Attachment C to the Complaint.

A portion of those heirs listed on Attachment C designated Solomon Johnson to be their agent to institute suit in their name. Those heirs that join with Solomon Johnson in this suit are set forth in Attachment D to the Complaint.

- B. To determine if there are any boundary disputes with adjacent owners to the two parcels.
 - C. To determine if those heirs set forth on Attachment E to the Complaint have been (i) ousted by the actions of the Plaintiffs or, (ii) lost their rights by their non use and non participation in the upkeep and maintenance of the PROPERTY, or, (iii) are persons whose whereabouts are unknown to the Plaintiff.
 - D. For a partition of the PROPERTY by a judicial sale into six shares in kind.
4. An Amended Answer with Counterclaims dated May 17, 2012, asserts these defenses and claims on behalf of Clara Gary and her eight children (herein the Clara Gary Defendants):
- A. A general denial.
 - B. A lack of sufficient information to form a belief about the family tree.
 - C. A lack of sufficient information to form a belief as to the determination of boundary disputes.
 - D. A lack of sufficient information to form a belief that certain heirs (other than the Clara Gary Defendants) have been ousted.
 - E. A lack of information to form a belief as to the allegations for a partition.
 - F. An affirmative defense entitled adverse possession by the Clara Gary Defendants.
 - G. An affirmative defense of ouster by the Clara Gary Defendants.
 - H. An affirmative defense of unjust enrichment by the Clara Gary Defendants.
 - I. An affirmative defense of betterment by the Clara Gary Defendants.
 - J. A Counterclaim of adverse possession (which the Court has treated as a Counterclaim for ouster against cotenants) by the Clara Gary Defendants.

5. The Plaintiff filed a Reply to the Amended Answer dated May 22, 2012 asserting these matters:

A. A general denial of the defenses and Counterclaims.

B. A partition in kind for each of the six branches of the family of Solomon White and Mary Ann White.

See Paragraph 10 below.

C. A specific denial of adverse possession, ouster, waiver, unjust enrichment, and betterments that were claimed by the Clara Gary Defendants.

6. Another Answer was filed by Salt Marsh Partners, L.P. (herein Salt Marsh) a boundary owner that disputed one of the boundary lines (the eastern end of the 30 acres).

7. The Plaintiff filed a Motion for Summary Judgment on December 12, 2012 as to the boundary dispute with Salt Marsh on the basis of a previous suit in Judgment Roll 111,063 (Case 1998-CP-07-0740) of the Beaufort County, S.C. Court of Common Pleas. The Motion was not heard by agreement of the parties until a new survey was prepared. During the trial (April 22nd and 23, 2013) a settlement was reached after some testimony on this issue which settlement was read into the record. A written Order was entered on May 8, 2013 confirming the settlement so the boundary dispute issue with Salt Marsh is ended. One of the results of that settlement is to amend the eastern boundary line of the 30 acre parcel to be in accord with the plat by David E. Youmans, SCRLS, prepared for Bobby Minis dated March 5, 1998 and revised March 15, 2013 which plat is referred to in and attached to the Order of May 8, 2013. The new eastern boundary line of the 30 acres is set forth in Paragraph 2 of the Order of May 8, 2013.

8. A trial took place on April 22, 2013 and April 23, 2013 in the Beaufort County, S.C. Court House. The Plaintiff appeared at the trial and testified. He also had five witnesses to testify (two non family members and three family members). Clara Gary did not appear or testify at the trial. Four witnesses (all members of her immediate family) testified for her.

9. At the beginning of the two day trial the parties agreed to bifurcate the various causes of action, defenses and counterclaims so that testimony was only presented on these two issues at that date and time:

A. A determination of the heirs of Solomon White and Mary Ann White.

B. If the Clara Gary Defendants have ousted the other heirs of Solomon

White and Mary Ann White from the two parcels of land.

All other issues of fact and law are held in abeyance for future testimony, motions, and/or proceedings, and decisions.

10. In addition, as an opening statement joined in by both of the attorneys for the Plaintiffs and the Clara Gary Defendants, the parties pointed out these matters related to the family trees of Solomon White and Mary Ann White which opening statement enhanced the understanding of the Court as to the facts regarding the issue of ouster claimed by the Clara Gary Defendants.

A. Solomon White and Mary Ann White who acquired the two parcels of land in the 1880's were husband and wife. They had three children. There were two sons (Jacob and Edward) and both of them died without issue. The third child was Ellen White who married Sam Gary. Thus, for all practical purposes, the family name changed from "White" to "Gary".

B. Ellen White Gary and Sam Gary had seven children. One child named Carrie Gary did not have issue but their other six children did have issue and there are still living descendents for each of these issues.

C. The gravamen of the counterclaim of ouster is that the Clara Gary branch of the family originating with Richard Gary (deceased 1967), whose son was Francis Gary (deceased 1994) is now attempting to oust all of the other five branches of the family. Clara Gary is the widow of Francis Gary.

D. The five branches who would be ousted if the claim of the Clara Gary branch should be successful would be the branches originating with the siblings of Richard Gary whose names were (i) Emma Gary Johnson, (ii) Mamie Gary Brown, (iii) Alethia Gary Watson, (iv) Nehemiah Gary, and, (v) Henry Gary.

11. Based on the pleadings, the testimony, and the exhibits in evidence (51 for the Plaintiff and 14 for the Clara Gary Defendants and one for Salt Marsh), I make these Findings of Fact, Conclusions of Law and issue a Partial Decree.

100 - FINDINGS OF FACT

(DETERMINATION OF HEIRS OF SOLOMON WHITE AND MARY ANN WHITE)

101. The Plaintiff (and other witnesses) asserted a family tree that was set forth in the First Cause of Action to the Complaint and by Attachments B and C to the Complaint.

102. To substantiate the allegation of the family tree as asserted in the

000018

Complaint the Plaintiff introduced a family tree for Solomon White and Mary Ann White which had attached to it 7 death certificates of family members, 15 church obituaries of family members, 3 newspaper obituaries of family members, and 1 birth certificate. These documents included the death certificates of Ellen White Gary (1945), Richard Gary (1967), Emma Gary Johnson (1957), Alethia Gary Watson (1967), Henry Gary (1953), Jacob White (1917) and the birth certificate of Solomon Johnson (born 1927). There is information contained in these documentary sources representing family members in all six of the surviving branches of the children of Ellen White Gary and Sam Gary.

103. Specifically, the death certificates and birth certificate introduced by the Plaintiffs regarding the family tree had these facts stated in them:
- a. The parents of Ellen White Gary were Solomon White and Mary Ann Pinckney White. Her spouse was Sam Gary. She died in 1945. The informant to the state official was Richard Gary (the ancestor of the Clara Gary Defendants).
 - b. Henry Gary was a son of Ellen White Gary and Sam Gary. He died in 1953. His spouse was Lorie Gary.
 - c. Richard Gary was a son of Ellen White Gary and Sam Gary. He died in 1967. His spouse was Ella Gary.
 - d. Emma (a/k/a Emily) Gary Johnson was a daughter of Ellen White Gary and Sam Gary. She died in 1957. Her spouse was Miller Johnson, Sr.
 - e. Alethia Gary Watson was a daughter of Ellen White Gary and Sam Gary. She died in 1967. Her spouse was Frank Watson.
 - f. Jacob White was a son of Mary Ann Pinckney White and Solomon White. He died in 1917. He did not have a spouse.
 - g. Solomon Johnson was born in 1927. His parents were Emily Gary Johnson and Miller Johnson.
104. In contrast, the Clara Gary Defendants testified they had no knowledge of the family tree presented by the Plaintiff and that they knew few of the persons named on it. The Defendants did not present a family tree for Solomon White or Mary Ann White nor did they present a family tree for any person. They suggested that their knowledge of a family tree only went back to Richard Gary. They claimed to know nothing about their family before that person. They presented no facts to dispute the family tree presented by the Plaintiff.

105. Manifestly, the credibility of the witnesses and the quality and detail of the documentation and evidence presented by the Plaintiff (without any substantial opposition) convinces the Court of the correctness of the family tree presented by the Plaintiff.

200 – FINDINGS OF FACT

(OUSTER)

201. All of the testimony revealed that the only use made of the 10 acre parcel was some occasional hunting by the Clara Gary Defendants. Also, the timber was cut from this parcel and the money was used to pay the taxes for both parcels of land. Thus, that money benefitted all of the heirs. A dispute took place in the 1993 – 1994 time frame with an adjacent property owner named "Pinckney". The evidence is that both Francis Gary and Solomon Johnson (from different branches of the Mary Ann White family) were involved in representing the family and in hiring a lawyer in that dispute. Solomon Johnson still had with him at the trial the original 1993 survey he had prepared of this 10 acres and an invoice and correspondence from the lawyer he and Frances hired.

202. There was a great deal of disputed testimony about the use and occupation of the 30 acre parcel for residential purposes.

There is a house now lived in by David Gary that was installed in the 1980's. He is in the Clara Gary branch.

There is a house now lived in by Clara Gary that was installed before 1930.

There is a house that is vacant. It was installed before 1930 and lived in by Henry Gary, Henry Gary, Jr., Evalina Gary – the wife of Henry Gary, Jr., and, then Brenda Patterson, the daughter of Henry Gary, Jr. Brenda Patterson testified she left there about 1987 and that she paid and her mother paid part of the taxes to persons in the Clara Gary branch up until about two years ago when the Clara Gary branch first informed her that she was paying rent. They did not agree with the idea that they were paying rent but did not think it worth the fight since both she and her mother had moved away so they stopped making payments.

There is a house built about 1985 by Albert Gary who is a son of Clara Gary. He had a mobile home there for about ten years prior to that.

There was a house built by Naomi Stafford (a daughter of Henry Gary) about 1970 that burned in the 1990's but was not rebuilt.

There was a house built in the 1930's that was lived in by Mamie Gary Brown and after she left the site it was lived in by several of her family members up until sometime in the 1990's when it was torn down.

There was a mobile home of Mary Ellen Williams (a daughter of Henry Gary, Jr.) that was there until about 1978. Solomon Johnson testified that while she was there she paid part of the taxes to him which he delivered to the Treasurer.

There was a mobile home installed by Ernestine (a/k/a Dolly) Stewart in the 1980's that was just torn down about a year ago. She was in the Mamie Brown branch of the family.

There was a mobile home installed about 2000 by Loretta Stewart who was in the Mamie Brown branch. It was repossessed about 2008.

There is a house installed before 1927 by Miller Johnson and Emma Gary Johnson (the mother of Solomon Johnson) where Solomon Johnson was born (maybe in another house right next to the existing one) in 1927 where Solomon still lives today.

There is a mobile home installed about 1992 by Annette Singleton who is in the Clara Gary branch.

The Clara Gary Defendants could not name a single heir of Solomon White and Mary Ann White that they denied access to occupy or use the land. The Clara Gary Defendants disagreed with the dates testified to by the Plaintiff's witnesses about who used various areas on the land and when some of the occupations occurred. I do not believe the exact dates or the location or use on the 30 acres to be that important for the Court is left with the facts that a number of the heirs came and went as they so desired to occupy or use whatever portion of the land they desired without interference by any of the other heirs.

203. Testimony by the Clara Gary Defendants suggested that the houses of Henry Gary and/or Solomon Johnson are only partially situated on the 30 acres and also that these particular heirs used adjacent parcels of land owned by other persons for farm animals or use of cultivation. Proof was not made of this issue because no survey was produced showing encroachments and reading from aerial photographs that do not contain bearings or distances or other specific information does not create sufficient evidence upon which the Court can make a decision about encroachments over the boundary line. This issue, however, is of no import to the determination by the Court as to ouster because no survey was made of the 30 acres until 2007 (by Solomon Johnson) and it does not show any encroachments. Moreover, in the very rural area where these parties live it has clearly been the intent of all to occupy the 30 acres of the

land of their family. There was no evidence to show that any heir did not intend to use or occupy the 30 acres; only that there was some encroachment over the boundary line. I do not see this issue of an occasional encroachment impacting an ouster between cotenant heirs due to the lack of intent being shown in the evidence that any cotenant knew they were crossing the line or that they intended to cross over the boundary line.

There is also evidence of such an encroachment over the east boundary line by the Clara Gary Defendants (Annette Singleton) who were sued in 1998 by the adjacent owner – Salt Marsh. See Paragraph 7 above. This is the subject matter of the settlement stated in Paragraph 7 of the Introduction above. The fact that Annette Singleton crossed over the boundary line does not have any impact on ouster.

What I conclude from these possible encroachments by several heirs is that in the absence of a survey and boundary markers all these years it was difficult for anyone to determine the exact boundary line of a 30 acre tract of land some 2,775 feet long on its north and south lines and some 500 feet long on its east and west lines. Neither the Plaintiff, Henry Gary, nor the Clara Gary Defendants could have had clear knowledge of the exact location of the boundary lines. Thus, they did not intend to build or occupy over the boundary line.

204. Another disputed issue involved the payment of taxes. Solomon Johnson (son of Emma Gary Johnson) and Brenda Patterson (daughter of Henry Gary) testified that it was the family tradition that when the County tax notice arrived each year in the October /November time frame, the oldest heir living on the land would divide the tax amounts for the two parcels by the number of heirs living on the land, collect those amounts from the heirs living there, and deliver the tax amount to the Treasurer. Both of these persons stated they paid their share of the taxes each year to Clara Gary or her children after the death of Francis Gary in 1994. Solomon Johnson also testified that he had collected money from Ernestine Stewart who had a mobile home on the land and delivered it to Clara Gary. In the 1998 to 2001 time period there were filings by Solomon Johnson and also by several members of the Clara Gary family with the County Treasurer/Assessor to have the tax notices sent to one person or another indicating a dispute about who was to be mailed the tax notice as only one notice is sent out by the County on each parcel of land.

The Clara Gary Defendants claimed Solomon Johnson and Brenda Patterson paid rent. They had receipts they introduced for 2011 and 2012 from Solomon Johnson which said "rent" on them, but, he had Postal money orders payable to the Clara Gary Defendants dated prior to those receipts which have "taxes" written on them.

The Clara Gary Defendants introduced 40 tax notices stamped "Paid" dating from 1967 to 2012 (all years except 1972, 1973, 1999, 2006 and 2012) and testified that those documents represented that the County taxes were paid only by them. These paid receipts only reflect that the person who delivered the money to the tax office was given a receipt for the payment and those receipts but do not reflect the source of money from which any payment was made. For example, none of the receipts reflect that any of the money came from an account created when there was a timber sale. Solomon Johnson had two paid receipts for the tax payments and testified he collected the money from all the occupying heirs in accordance with the long standing family tradition.

Solomon Johnson testified that the first time he ever heard anything about the payment of rent was when his deposition was taken (July 2006) in the 2006 case (CA 2006-CP-07-00609) and the Clara Gary Defendants attorney asked him about the payment of rent. This claim of rent was then followed up on August 2006 by the attorney for Clara Gary writing a letter to Solomon Johnson demanding rent to which Solomon Johnson wrote a strong letter of rebuttal to include the family tradition of how the payment of taxes was made. In addition, Solomon Johnson's daughter (Janice Jones) wrote a letter in 2010 to the Clara Gary Defendants disclaiming the payment of rent. If there has been the payment of rent, that implies some form of an agreement in like manner as a lease which agreement would include the size of the area of land leased, the duration of the term of the lease, who is responsible for repairs and insurance on the buildings and who is liable for injuries. The Clara Gary Defendants had no reasonable answers to what the rental agreement was on those specific issues. It is hard for the Court to accept the position that an 86 year old man (Solomon Johnson) born on the land purchased by his great grandfather (Solomon White) and who has lived there all of his life is renting that land from anyone, much less a relative in the same family, in the absence of clear and convincing evidence which was certainly not proven.

205. There was a great deal of testimony about the issue of the use of the 30 acres for (1) planting of corn, watermelons, okra, and other crops used to feed farm animals, (2) family plot type gardens, and (3) the pasturing of cows, pigs, and chickens. This testimony centered upon these activities being conducted mostly by the Clara Gary branch and also the Emma Johnson (Solomon) branch. The testimony was mostly about where these activities were conducted on the land and what size of an area was used by one branch or another branch of the family of these heirs (cotenants).

While the Clara Gary Defendants stated that they controlled these activities, such was denied by both Solomon Johnson and the other witnesses and no other facts were presented to establish any control other than the oral statements. The Clara Gary Defendants stated that they put

up "No Trespassing" signs but upon cross examination admitted that there would be no way that any heir of Solomon White or Mary Ann White would know that such signs were directed at them as the signs only said "No Trespassing". How could anyone reading such a sign not think it was to protect all of the heirs?

The sum total of this disputed testimony about who used what portion of the 30 acres or how much of it was used by one branch or the other of the same family is that these two branches of the family both used substantial portions of the 30 acres for the raising of livestock, and food for themselves, and food for their livestock, and these activities were primarily for their personal family use. These are normal consensual activities of cotenants and I see no ouster created by such uses that was revealed by the testimony.

206. The witnesses for the Clara Gary Defendants were all her children.

For the Plaintiff, Solomon Johnson and his son testified. In addition, in support of the refutation of ouster by the Clara Gary branch, Brenda Patterson (a member of the Henry Gary branch) testified and the deposition of Lillie Mae Gilford (a member of the Clara Gary family branch) was introduced. A witness named Abraham Johnson also testified for the Plaintiff on this issue. He is not in the family of Solomon White, Mary Ann White, nor Solomon Johnson. He is 84 years old. He grew up with Solomon Johnson and lives about 6 miles away from the 30 acre parcel. He is a life long friend of Solomon Johnson and has visited him about once a month all of these years. He is familiar with all the Solomon White family members that have lived on the 30 acres and their use of the land. He stated that he and the persons in the local community and neighborhood know this 30 acres to be the land of the "heirs of Solomon White".

207. Several of the witnesses (both for the Plaintiff and the Clara Gary Defendants) stated that there was not any dispute or disagreement between the family members until several years after the death of Frances Gary in 1994. Those statements are substantiated by the several applications to the County Treasurer's office and the County Assessor's office by Solomon Johnson and several persons in the Clara Gary branch attempting to have the tax notices sent to them or complaining about the value of the land in the 1998 to 2002 time period. Several years later Solomon Johnson brought a suit in 2006 to resolve the dispute. See Civil Action 2006-CP-07-00609. A trial was held which resulted in a decision by this Court that neither party had met any burden of proof and the case was dismissed without prejudice without any holding of either fact or law. This 2006 case is mentioned to illustrate there has been a continuing dispute and when that dispute began and that there has not been any control by anyone over the 30 acres.

208. The most significant facts are not the overt actions taken by the Clara Gary branch of this family to assert their claim of sole ownership (ouster) against the other heirs. The most significant facts are these things that these persons did not do:
- a. They did not enter into evidence a survey of the 30 acres to determine the boundary lines
 - b. They did not develop, or create, or even make an attempt to establish a contradictory family tree or to identify the heirs of Solomon White and Mary Ann White.
 - c. They did not notify the other heirs of Solomon White or Mary Ann White of their claim of sole ownership.
 - d. None of the four witnesses for the Clara Gary Defendants could name any heir of Solomon White or Mary Ann White that they had refused entry to, retarded in an entry, or had terminated the use or the occupation of the land.

CONCLUSIONS OF LAW

301. This Court has jurisdiction of the parties and subject matter to this action.
302. Pursuant to the Statute of Descent and Distribution of South Carolina (Code Section 62-2-101 et. seq.) the persons named in Attachment C to the Complaint are the living heirs of Solomon White and Mary Ann White.

303. Ouster by Family Members

Stronger evidence of adverse possession is required where there is a family relationship between the parties than where no such relationship exists. The existence of a family relationship between the parties will prevent or rebut a presumption of adverse holding 3 AM JUR 2d Adverse Possession Section 202 and Section 226; citing Lynch v. Lynch 236 SC 612, 115 SE 2d 301, Whitaker v. Jeffcoat, 128 SC 404, 122 SE 495, and Metze v. Metze, 231 SC 154, 97 SE 2d 514.

304. Ouster by Cotenants

- a. Possession by one cotenant is possession of all cotenants and for one cotenant to establish title against another cotenant by adverse possession, he must overcome a strong presumption that he holds

in recognition of the cotenancy. Freeman vs. Freeman, 323 SC 95, 99, 473 SE2d 467 (SC App. 1996). Emphasis added

- b. For one cotenant to acquire adverse possession against another cotenant, the possession must be of such an actual, open, notorious, exclusive, and hostile character to amount to an ouster of the other cotenants. 6 SC Jurisprudence, Cotenancies § 24; Bevard vs. Fortune, 221 SC 117, 69 SE2d 355 (1952).
- c. An ouster must be of such unequivocal nature and so distinctively hostile to the rights of the other cotenants that the intention of ouster is clear and unmistakable. 6 SC Jurisprudence, Cotenancies § 24; Brevard vs. Fortune, supra.
- d. The conduct and nature of the possessor's exclusive adverse possession must be sufficiently clear to "bring this home" to the other cotenants. 6 SC Jurisprudence, Cotenancies § 24; Watson vs. Little, 224 SC 359, 79 SE2d 384 (1953); 3 AM JUR 2d Adverse Possession § 226.
- e. Only in rare cases will ouster be implied from exclusive possession, collection of rents, and improvements of the property by one cotenant if such exclusive possession does not exceed 20 years. 6 SC Jurisprudence, Cotenancies § 24; Felder vs. Fleming, 278 SC 327, 295 SE2d 640 (1982); Watson vs. Little, supra. Emphasis added.
- f. There must be clear and unmistakable evidence of hostile, exclusive possession by the possessing cotenant, of which the other cotenants had or should have had actual notice. See 6 SC Jurisprudence, Cotenancies § 24; Watson vs. Little, supra.
- g. The mere exclusive possession, accompanied by no other acts, will not be held to amount to a disseisin of cotenants. 3 AM JUR 2d Adverse Possession § 227.
- h. To terminate the presumption of cotenancy, there must be some hostile act, conduct or declaration on the part of the possessor claiming sole title to amount to a repudiation of the cotenant's rights and assertion of exclusive title in the possessor of which the cotenant have knowledge or notice. 3 ALR 2d Cotenancy § 225.
- i. Adverse possession against one cotenant is not necessarily adverse possession as to all other cotenants. See 6 SC Jurisprudence, Cotenancies § 24; Metz vs. Metz, 48 SC 472, 26 SE 787 (1899).
- j. If one cotenant uses or possesses more than his share of the common property without complaint by this cotenants, the law

presumes that the cotenants consent to the use and possession of more than his share. See 6 SC Jurisprudence, Cotenancies § 53; 20 AM JUR2d Cotenancy § 117.

- k. Because possession by one cotenant is possession by all, then tenants in common can not say they are not in possession if one of their cotenants is in possession of the land. See 6 SC Jurisprudence, Cotenancies § 53; Richardson vs. Day, 20 SC 412 (1884).
 - l. The law presumes that cotenants have equal shares in the common property. See 6 SC Jurisprudence Cotenancies § 53 and § 10.
 - m. Possession in cotenancy is presumed to be permissive, not hostile. Indeed, the presumption is strongly against every claim by a cotenant who seeks to convert the circumstances of an individual possession into an advantage over their cotenants. 3 AM JUR 2d Adverse Possession § 224. Emphasis added.
 - n. The establishment of adverse possession between cotenants depends primarily on the intent and conduct of the possessor, rather than the intent of the other cotenants. 3 AM JUR 2d Adverse Possession § 226. Emphasis added.
 - o. The acts relied on to establish an ouster must be of an unequivocal nature and so distinctly hostile to the rights of the other cotenants that the intention to disseise is clear and unmistakable. Watson vs. Little, supra; 3 AM JUR 2d Adverse Possession § 227.
 - p. Mere knowledge by cotenants out of possession of the obvious fact of possession by one cotenant does not amount to proof of knowledge that the one in possession is claiming adversely. 3 AM JUR 2d Adverse Possession § 228.
 - q. While the payment of taxes on the jointly owned property is strong evidence of a claim of title, it does not suffice to give notice of a cotenant's claim against the other cotenants. 3 AM JUR 2d Adverse Possession § 229.
305. Based on the facts in evidence in this case, the claim of ouster by the Clara Gary Defendants fails due to the above stated legal principles. They claimed possession but possession of one cotenant is presumed possession of all. The requirement was not met that one who claims ouster must prove their ouster or claim of sole ownership by clear and unmistakable intent. Nor was the requirement met that the claimant of ouster bring that message home to the other cotenant/heirs by a clear and

unmistakable message.


DECREE

It is therefore ORDERED and DECREED as follows, to wit:

- A. The heirs of Solomon White and Mary Ann White are those persons set forth on Attachments B and C to the Complaint.
- B. The east boundary line of the 30 acre parcel of land now described on Plat Book 133 at Page 129 shall be amended to be consistent with Paragraph 2 of the Order of May 8, 2013 in this case.
- C. The claims of Adverse Possession and ouster by the Clara Gary Defendants were not proven so that the fee simple title to both the 10 acre parcel and the 30 acre parcel (see paragraph 2 to the Introduction above and Attachment A to the Complaint) is held by the heirs of Solomon White and Mary Ann White according to their interest per the South Carolina Statute of Descent and Distribution in Code Section 62-3-101 et. seq.
- D. All other issues of fact and law are held in abeyance for future testimony, motions, and/or proceedings, and decisions.

May , 2013





Marvin H. Dukes, III
Master In Equity
Beaufort County, South Carolina
Court of Common Pleas

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
SOLOMON JOHNSON, ET AL.,)
Plaintiff,)
vs.)
THE HEIRS OR DEVISEES OF)
SOLOMON WHITE, ET AL.,)
Defendant.)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07-5211

ORDER

2013 AUG -5 PM 4:04
CLERK OF COURT
BEAUFORT COUNTY, S.C.

This matter came before me at 9:30 o'clock a.m., August 1, 2013, at the Beaufort County Courthouse, Beaufort, S.C., upon the motion of defendant Salt Marsh Partners, L.P. for judgment against the Gary defendants and upon the Rule to Show Cause of this court directing defendants David Gary and Bernard Gary to appear and show cause, if any there might be, as to why they should not be held in contempt for violation of the injunctive provisions of this court's order dated and filed May 8, 2013. Defendants David Gary and Bernard Gary were present without counsel. Harold A. Boney of the Beaufort bar was present representing Salt Marsh Partners, L.P. Robert P. Minis of Savannah, GA also appeared on behalf of Salt Marsh Partners, L.P. J. Thomas Mikell, counsel for the plaintiffs, was also present.

At the outset, Salt Marsh Partners' counsel advised the court that after having been served, David Gary, on behalf of the Gary defendants, had paid the \$1,000 which the Gary defendants were ordered to pay by the May 8, 2013, order and that, therefore, Salt Marsh Partners' motion for money judgment against the Gary defendants was moot and was withdrawn by Salt Marsh Partners, L.P.

With regard to the rule to show cause, upon considering the evidence and testimony presented, upon considering the arguments and statements of the parties or their counsel, upon considering the applicable authorities, and after due deliberation, I make the following findings and conclusions.

FINDINGS

1. The motion of Salt Marsh Partners, L.P. for judgment against the Gary defendants has been withdrawn.

2. David Gary and Bernard Gary are in contempt of this court's May 8, 2013, order by reason of their having entered upon and having built a fence on the property of Salt Marsh Partners, L.P. in wilful violation of the May 8, 2013, order.

3. Salt Marsh Partners, L.P. has incurred \$2,500 in attorney fees and costs bringing the matter back before this court.

4. Because the common boundary between the property of Salt Marsh Partners, L.P. and the heirs of Solomon White had already been twice litigated at great expense to Salt Marsh Partners prior to David Gary's and Bernard Gary's violation of the May 8, 2013, order, Salt Marsh Partners, L.P. asserts that the only way Salt Marsh Partners, L.P. can protect its property from encroachment and trespass by certain heirs of Solomon White is to build a substantial fence along the entire common boundary at an expense of \$7,500.

5. Salt Marsh Partners, L.P. asks the court to impose upon David Gary and Bernard Gary the sanction of requiring them to reimburse Salt Marsh Partners, L.P. for the cost of the fence.

CONCLUSIONS

6. The motion of Salt Marsh Partners, L.P. for judgment against the Gary defendants is moot and has been withdrawn.

7. David Gary and Bernard Gary are in contempt of this court's order of May 8, 2013.

8. It is fair and reasonable for this court to provide David Gary and Bernard Gary an opportunity to purge themselves of the contempt, which they can do (a) by removing from the property of Salt Marsh Partners, L.P. the portion of their fence which they erected on property of Salt Marsh Partners, L.P. by 5:00 o'clock pm. on Monday, August 5, 2013, and (b) by reimbursing Salt Marsh Partners, L.P. Two Thousand, Five Hundred Dollars (\$2,500) for

attorney fees and costs incurred by paying that amount in cash or certified funds to Salt Marsh Partners through its attorney, Harold A. Boney, by no later than August 31, 2013.

9. This court should hold in abeyance the issue of sanctions against David Gary and Bernard Gary pending determination of whether they purge themselves of contempt by the method outlined above.

Having made the foregoing findings and conclusions, it is

ORDERED:

a. that Salt Marsh Partners, L.P.'s motion for judgment against the Gary defendants is moot and has been withdrawn;

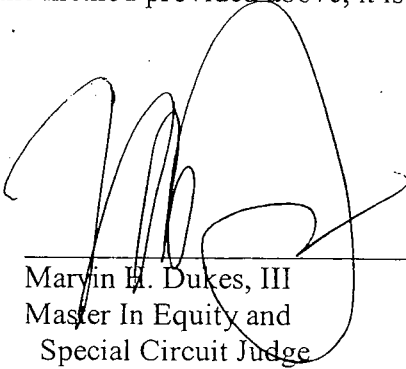
b. that David Gary and Bernard Gary are in contempt of this court's order of May 8, 2013;

c. that David Gary and Bernard Gary can purge themselves of the contempt by removing from the property of Salt Marsh Partners, L.P. that portion of their fence which encroaches on the property of Salt Marsh Partners, L.P. by 5:00 o'clock p.m., August 5, 2013, and by reimbursing Salt Marsh Partners, L.P. for attorney fees and costs by paying to Salt Marsh Partners, L.P. through its attorney Harold A. Boney the sum of Two Thousand, Five Hundred (\$2,500) in cash or certified funds by no later than August 31, 2013;

d. that this court is holding in abeyance the issue of the imposition of sanctions on David Gary and Bernard Gary pending determination of whether they purge themselves of their contempt by the method provided above; it is

SO ORDERED.

Beaufort, S.C., 2013


Maryin H. Dukes, III
Master In Equity and
Special Circuit Judge

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-07-05211

Solomon Johnson, et al.

The Heirs or Devises of Solomon White, et al.

2013 AUG -5
P 4: 01
CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: HAROLD A. BONEY

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
|--|--|--|
| N/A | | \$ |
| | | \$ |
| | | \$ |

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

8/5/12

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

000033

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SOLOMON JOHNSON, ET AL.,

Plaintiff,

vs.

THE HEIRS OR DEVISEES OF
SOLOMON WHITE, ET AL.,

Defendant.

) IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07-5211
2013 SEP 19 PM 3:51

) CLERK OF COURT
BEAUFORT COUNTY, S.C.
) SUPPLEMENTAL ORDER

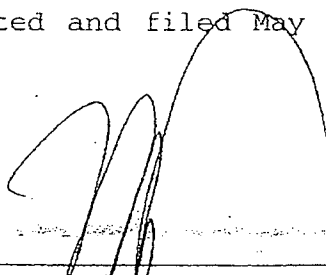
Upon it being made to appear to this court and this court's finding that David Gary and Bernard Gary have purged themselves of contempt by fulfilling the conditions set forth in this court's order dated and filed August 5, 2013, it is

ORDERED that David Gary and Bernard Gary have purged themselves of contempt and the contempt proceeding initiated by the motion of Salt Marsh Partners, L.P. filed July 10, 2013, is therefore dismissed; provided, however, that it is

FURTHER ORDERED that this court retains jurisdiction for enforcement of the court's order dated and filed May 8, 2013; it is

SO ORDERED.

Beaufort, S.C., 2013


Marvin H. Dukes III
Master In Equity and
Special Circuit Judge

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07-5211

SOLOMON JOHNSON, ET AL,)
)
Plaintiffs,)
)
-Vs-)
)
THE HEIRS OR DEVISEES OF SOLOMON)
WHITE; ET AL,)
)
Defendants.)

ORDER
DETERMINING HEIRS

2014 MAR 11 AM 8:35
CLERK OF COURT
BEAUFORT COUNTY, S.C.

This case was tried on April 22 and April 23, 2013 and the Court issued a Partial Decree on July 24, 2013 leaving several issues to later be determined.

Pursuant to a Motion by the Plaintiff of November 5, 2013 for the Court to Determine the heirs in this case that are (1) unknown, (2) have abandoned their interest, (3) are deceased, or (4) whose whereabouts can not be ascertained, a hearing was held on March 5, 2014 at 2:30 P.M. The Motion and Notice of Motion were served on Karl Smith as attorney for the Richard Gary branch of the family. After this Motion was filed and served Mr. Smith made a Motion to be relieved as Counsel for the Richard Gary Defendants. That Motion of Mr. Smith was granted on March 5, 2014. Notice of both Motions was given to the Richard Gary Defendants by Mr. Smith.

At the hearing on March 5, 2014, testimony was presented and exhibits were introduced by a witness (Ralph Johnson) for the Plaintiffs. Based on the testimony and exhibits the Court makes these decisions and issues the following as an ORDER of the Court:

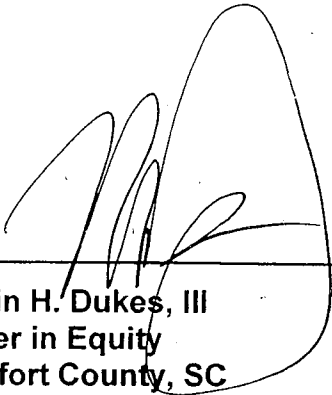
1. The heirs of Soloman White and Mary Ann White who are stated on the Amended Attachment E to the Complaint introduced as Exhibit One at the hearing on March 5, 2014 are heirs who are either (a) unknown, or (b) have abandoned their interest by the lack of participation with the other heirs for more than twenty years, or (c) are persons whose whereabouts have been unknown for more than

twenty years, or (d) are deceased.

2. The persons who are designated on Attachment A hereto are the living heirs of Solomon White and Mary Ann White and in the interest stated thereon.

3. The remaining issue to be decided in this case is the partition of the 40 acres of land (a 10-acre parcel and a 30-acre parcel) and the Court will proceed to complete that issue hereafter.

Executed 7 / 11 , 2014.



Marvin H. Dukes, III
Master in Equity
Beaufort County, SC
Court of Common Pleas

OWNERS OF THE PROPERTY

Exhibit C to Complaint

| <u>Name</u> | <u>Interest</u> | <u>Number</u> |
|--|-----------------|---------------|
| I. Emma Gary Johnson Branch | | |
| a. Frank Johnson | 0.92 | (1) |
| b. Ruth J. Green | 0.93 | (2) |
| c. Dorothy Jones | 0.93 | (3) |
| d. Theresa Scott | 2.78 | (5) |
| e. Erma Johnson Kelly | 2.78 | (7) |
| f. Barbara Jean Ferguson a/k/a Barbara Jean Albergottie | 1.39 | (8) |
| g. Alphonzo Albergottie | 1.39 | (9) |
| h. Solomon Johnson | 2.77 | (10) |
| i. David Pringle | 0.92 | (11) |
| j. Pauline Lesesne | 0.93 | (13) |
| k. Marion Pringle, Jr. | 0.93 | (14) |
| | <hr/> | |
| | 16.67 | |
| II. Mamie Gary Branch | | |
| a. Frederick Scott | 2.78 | (20) |
| b. Paul K. Scott | 2.78 | (22) |
| c. Harold Jones | 1.85 | (27) |
| d. Sandra Williamson Powell | 1.85 | (33) |
| e. Frederick L. Williamson | 1.85 | (34) |
| f. Elvin Bennett | 2.78 | (35) |
| g. Janie L. Ganues | 2.78 | (38) |
| | <hr/> | |
| | 16.67 | |
| III. Carrie Gary Branch | | |
| No living heirs. | | |
| IV. Richard Gary Branch | | |
| Clara Gary | 8.33 | (53) |
| Francis Gary, Jr. | 1.05 | (54) |
| Adelia Gary | 1.05 | (55) |
| Charles Gary | 1.04 | (56) |
| Albert Gary | 1.04 | (57) |
| Ulysses Gary | 1.04 | (58) |

000037

| | | |
|-------------------|------|------|
| Bernard Gary | 1.04 | (59) |
| David Gary | 1.04 | (60) |
| Annette Singleton | 1.04 | (61) |

16.67

V. Aletha (Tiny) Gary Watson Branch

| | | |
|---------------------|------|------|
| a. Bertha Stafford | 8.33 | (63) |
| b. Patrice Stafford | 8.33 | (64) |

16.66

VI. Nehemiah Gary Branch

| | | |
|------------------|------|------|
| a. Mary Lee Gary | 8.33 | (68) |
| b. Alnethia Gary | 8.33 | (69) |

16.66

VII. Henry Gary Branch

| | | |
|----------------------------|------|-------|
| a. Shirley Stafford White | 0.93 | (74) |
| b. Nathaniel Stafford | 0.92 | (81) |
| c. Edward Stanley Stafford | 0.93 | (88) |
| d. Lena (Evelyn) Gary | 1.39 | (89) |
| e. Brenda Patterson | 1.39 | (90) |
| f. Luerta Gary | 0.70 | (91) |
| g. Kenneth Gary | 0.69 | (92) |
| h. Carlos Gary | 0.69 | (93) |
| i. Ron Kenneth Stewart | 0.70 | (94) |
| j. Mary Frances Duncan | 0.56 | (95) |
| k. Debra Williams | 0.56 | (96) |
| l. Larry Williams | 0.55 | (97) |
| m. Barbara Williams Smith | 0.55 | (100) |
| n. Johnnie Williams | 0.56 | (101) |
| o. Terri Elaine Weaver | 0.56 | (104) |
| p. Letha G. Rhem | 0.56 | (105) |
| q. Patricia Ann White | 0.55 | (107) |
| r. Sharon White | 0.55 | (108) |
| s. Nolen White | 0.56 | (109) |
| t. Johnny Washington, Jr. | 2.77 | (113) |

16.67

Total 100.00

000038

STATE OF SOUTH CAROLINA
 COUNTY OF BEAUFORT
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-07-5211

SOLOMON JOHNSON, et al.

HEIRS OR DEVISEES OF SOLOMON WHITE, et al.

PLAINTIFF(S)

DEFENDANT(S)

| | |
|--------------------------------|---|
| Submitted by: J. Thomas Mikell | Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant |
|--------------------------------|---|

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

2011 MAR 11 AM 8:35
 CLERK OF COURT
 BEAUFORT COUNTY, S.C.

| INFORMATION FOR THE JUDGMENT INDEX | | |
|--|--|--|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. | | |
| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
| Solomon Johnson, et al. | Solomon White, et al. | \$N/A |
| See Attached List | See Attached List | \$ |
| | | \$ |
| If applicable, describe the property, including tax map information and address, referenced in the order: 1. R700-013-000-0006-0000. 2. R700-013-000-0024-0000. | | |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Marvin H. Dukes, III
Master In Equity

Judge Code

March 17, 2014
Date

For Clerk of Court Office Use Only

This judgment was entered on the 17th day of March, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 17th day of mm 2014 to attorneys of record or to parties (when appearing pro se) as follows:

J. Thomas Mikell

None at this time.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Ann Breen - STAFF
CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CASE NO. 2011-CP-07-5211

SOLOMON JOHNSON, FRANK JOHNSON,)
RUTH GREEN, DOROTHY JONES,)
THERESA SCOTT, ERMA JOHNSON)
KELLY, BARBARA JEAN FERGUSON *alk/a*)
BARBARA JEAN ALBERGOTTIE,)
ALPHONZO ALBERGOTTIE, DAVID)
PRINGLE, PAULINE LESESNE, MARION)
PRINGLE, JR., FREDERICK SCOTT, PAUL)
K. SCOTT, HAROLD JONES, SANDRA)
WILLIAMSON POWELL, FREDERICK L.)
WILLIAMSON, ELVIN BENNETT, JANIE L.)
GANUES, BERTHA STAFFORD, PATRICE)
STAFFORD, MARY LEE GARY, ALNETHIA)
GARY, EDWARD STANLEY STAFFORD,)
LUERTA GARY, KENNETH GARY,)
CARLOS GARY, RON KENNETH)
STEWART, MARY FRANCES DUNCAN,)
DEBRA WILLIAMS, LARRY WILLIAMS,)
BARBARA WILLIAMS SMITH, JOHNNIE)
WILLIAMS, TERRI ELAINE WEAVER,)
LETHA G. RHEM, PATRICIA ANN WHITE,)
SHARON WHITE, NOLEN WHITE, JOHNNY)
WASHINGTON, JR.)

Plaintiffs,)

-versus-)

THE HEIRS OR DEVISEES OF)
SOLOMON WHITE; MARY ANN PINCKNEY)
WHITE; EDWARD WHITE, JACOB WHITE,)
MARY WHITE; CARRIE WHITE; ELLEN)
WHITE GARY; SAM GARY; EMMA GARY)
JOHNSON; MILLER JOHNSON, SR.;)
OSCAR JOHNSON; ELOISE JOHNSON;)
MILLER JOHNSON, JR.; LEOLA)
JOHNSON; RICHARD (RITCHIE))
JOHNSON; SARAH H. JOHNSON; MACK)
COLES; EMILY JOHNSON ALBERGOTTIE;)
ROBERT ALBERGOTTIE; LOUISE)
JOHNSON PRINGLE; MARION PRINGLE;)

FINAL DECREE

MAMIE GARY; THOMAS BROWN; CARRIE)
SCOTT; CLARENCE SCOTT; JESSIE MAE)
SCOTT SMALLS; WILLIAMS SMALLS, JR.;)
NATHANIEL SCOTT; CAMERINE SCOTT;)
HERMON V. SCOTT; LUTHER SCOTT;)
EARNESTINE STEWARD; EPSTEIN)
STEWARD; LONNY BROWN; GUSSY)
BROWN; CHARLES BROWN; DANZA)
GARY; VICTORIA BROWN; DOROTHY)
WILLIAMSON; JOSEPH WILLIAMSON,)
SR.; ELIJAH WILLIAMSON; JOSEPH)
WILLIAMSON, JR.; HELEN (SWEETIE))
BROWN BENNETT; ERVIN BENNETT;)
JANIE BENNETT GREEN; ELOISE)
BENNETT NIXS; BENJAMIN NIXS; TERRY)
NIXS; CARRIE GARY; HARRY JULIUS;)
RICHARD GARY; FRONNIE GARY; ELLA)
GARY; FRANCIS GARY; FLORENCE)
(NANA) GARY; ALETHA (TINY) GARY)
WATSON; ANDREW GADSDEN; FRANK)
WATSON; ELIZABETH GARY STAFFORD;)
LEE STAFFORD; JOHN LEE STAFFORD;)
JOSEPH GARY; NEHEMIAH GARY;)
DOROTHY GARY; HAROLD GARY;)
CLEVELAND GARY; HENRY GARY;)
FLORRIE GARY; NAOMI GARY)
STAFFORD; JAMES STAFFORD, SR.;)
HATTIE MAE STAFFORD; EDNA)
BROOKER; HENRY BROOKER; INELL)
JONES; RAYMOND JONES; JAMES)
STAFFORD, JR.; HAZEL GARY; HENRY)
GARY, JR.; HENRY GARY, III; HERMAN)
GARY; MARY ELLEN GARY WILLIAMS;)
HERBERT WILLIAMS, SR.; HERBERT)
WILLIAMS, JR.; LOUISE GARY WHITE;)
JIMMY WHITE; LOU ETHEL)
WASHINGTON; MARGARET GARY)
LEVINE; DAVID LEVIN; EDDIE JAMES)
GARY; WILHELMINA GARY MURRAY;)
EZEKIEL MURRAY, SR.; JOSEPHINE)
GARY JENKINS; EDDIE JENKINS; JOE)
LOUIS GARY; HEIRS OF DAVID PRINGLE;)
SALT MARSH PARTNERS, L.P.; JANICE E.)
JONES AND RALPH E. JOHNSON;)
BOBBIE J. COLLINS; LEORY NORRIS)
AND ODIS ANN NORRIS; M. LANE)

A

MORRISON; MILLS LANE MORRISON)
AND BANK OF AMERICA, N.A., AS)
TRUSTEES; BEAUFORT COUNTY OPEN)
LAND TRUST; WILLIAM MCLEAN MIXON)
AND BARBARA HILL MIXON, AS)
TRUSTEES OF THE MIXON REVOCABLE)
TRUST AGREEMENT DATED JULY 24,)
2008; ROBERT J. PINCKNEY; MAMIE)
BROWN, SUSIE CORDEAUX, DOROTHY)
LESESNE, BEN PINCKNEY,)
CHRISTOPHER PINCKNEY, ETTA)
PINCKNEY, HENRY PINCKNEY, HERBERT)
PINCKNEY, ERNESTINE P. ROGERS,)
LILLIE SHELL, AND RUTH P. SIMMONS;)
RICHARD JOHNSON, JR.; HELEN COLES;)
FORESTINE PRINGLE; SANDRA SMALLS;)
JACKIE SMALLS; SHARON SMALLS;)
ANDREA SMALLS; BROOKE SMALLS;)
ALLAN SCOTT; CLEON SCOTT; NIA)
MALIKA SINGLETARY; LORETTA L.)
STEWARD; NATHAN JONES; ERIC)
WILLIAMSON; DWAYNE WILLIAMSON;)
AUDREY BROWN; JOSEPH JOHNSON;)
JACQUELINE JOHNSON MAJOR;)
ROBERT LEE GREEN; KENNETH GREEN;)
JUANITA GREEN; KEITH GREEN; JOSEPH)
GREEN; ELLIS GREEN; CARL GREEN;)
BROWN BENNETT; DORSEY BENNETT;)
WILLIAM NIXS; JENNIFER NIXS; JASON)
NIXS; THADDAUS NIXS; EDWARD NIXS;)
CHARLES NIXS; ALTHEA NIXS; CLARA)
GARY; FRANCIS GARY, JR. ; ADELIA)
GARY; CHARLES GARY; ALBERT GARY;)
ULYSSES GARY; BERNARD GARY;)
DAVID GARY; ANNETTE SINGLETON;)
LILLIE MAE GIFFORD; SHAWNDEA)
STAFFORD; JAMES STAFFORD;)
BEAULAH GADSDEN; JORDAN HARRIS;)
LEON STAFFORD; ALVIN BROOKER;)
MICHAEL STAFFORD; SHIRLEY)
STAFFORD WHITE; GAIL STAFFORD)
MARQUEZ; JACQUELINE STAFFORD;)
STEPHANIE JONES; RENATA JONES;)
RANELL JONES; GERMAINE JONES;)
NATHANIEL STAFFORD; ANGELA)
STAFFORD; SONYA GREEN; JAMES)

M

STAFFORD, III; RASHEEN JAMES;)
 JUSEAN JAMES; KIERRA STAFFORD;)
 LENA (EVELYN) GARY; BRENDA)
 PATTERSON; JEANETTE RUTLEDGE;)
 ISSAC WILLIAMS; CAROLYN)
 ACHAMPONY; ANTOINETTE LEWIS;)
 GERALDINE BROWN; JOHNNY)
 WASHINGTON; KURT WASHINGTON;)
 DIANE GARY; TRACY WASHINGTON;)
 CARREN WASHINGTON; LUNETHA)
 GARY; JAMES STANLEY GARY; GERALD)
 R. GARY; if living, and if not living, then)
 the heirs or devisees of all such persons)
 named above; and all persons unknown)
 having or claiming to have any right, title,)
 estate, interest in or lien upon the real)
 property described in the Complaint)
 herein, being designated collectively as)
 JOHN DOE and MARY ROE, including all)
 persons who may be deceased, minors, in)
 the Armed Forces of the United States,)
 Non Compos Mentis, and under any other)
 disability,)
)
)
 Defendants.)

INTRODUCTION

Due to the fact that there are numerous persons involved in this case, there are several complex issues, and the amount of testimony on each issue was voluminous; there have been several previous hearings in this case. First, there was a trial on April 22 and 23, 2013, from which a Partial Decree was issued in which the claim of ouster by the Richard Gary Defendants was rejected by the Court. Second, there was a Motion by the Plaintiffs to establish the Eastern boundary line of the 30 acre parcel of land heard on April 23, 2013 resulting in an Order of May 2, 2013 stating, inter alia, (a) that the Richard Gary Defendants were to pay \$1,000.00 to Salt Marsh Partners (the boundary owner), (b) the disputed boundary line was stated to be on a plat by David S. Youmans, SCRLS, of March 5, 1998 revised March 15, 2013, (c) all of the heirs of Solomon White were enjoined from moving any survey monuments or entering the land of Salt Marsh Partners, and, (d) it

would be contempt for any violation of the Order. Third, there was a Motion by Salt Marsh Partners against the Richard Gary Defendants for contempt of the Order of May 2, 2013, which resulted in a hearing on August 1, 2013 and an Order of August 5, 2013 holding (a) David Gary and Bernard Gary in contempt, (b) these same two Defendants to pay Salt Marsh Partners \$2,500.00 in 30 days, and (c) these same two Defendants to remove a fence they installed on the land of Salt Marsh Partners by August 5, 2013 at 5:00 p.m. These same two Defendants subsequently purged themselves of the contempt. Next, the Plaintiffs moved to have the Heirs of Solomon White and Mary Ann White determined with a hearing on March 5, 2014 which resulted in an Order of March 11, 2014 that determined the heirs. Lastly, the Plaintiffs have moved for an Order of Partition by Motion served on the Richard Gary Defendants on June 30, 2014. A hearing was held on August 5, 2014 at 9:30 a.m.

Of note in this case has been the representation by attorneys for the Richard Gary Defendants. They were first represented by Joseph Dawson, III, Esquire who moved to be relieved as counsel which motion was granted by Order dated January 17, 2013. At the two-day trial in April of 2013, they were represented by Karl H. Smith, Esquire of Darlington, South Carolina who subsequently moved to be relieved of counsel which motion was granted by Order of March 13, 2014. These Richard Gary Defendants then appeared at the hearing of August 5, 2013 for contempt brought by Salt Marsh Partners, but they did not have an attorney. Notwithstanding proper notice of the hearings on both of the Motions to Determine Heirs and For a Partition, the Richard Gary Defendants did not appear nor did an attorney appear for them.

At the hearing on August 5, 2014 for a Partition, there were six Plaintiffs in attendance with their attorney, J. Thomas Mikell, together with a witness, David Youmans, South Carolina Registered Land Surveyor. Testimony was taken from the surveyor which testimony was agreed to by all of the Plaintiffs in attendance. It was also represented to the Court that the testimony of the surveyor was consented to by all of the branches of the family except the Richard Gary branch. Those in concurrence are all five of the six family branches of (1) Emma Johnson, (2) Mamie Gary, (3) Aletha Watson, (4) Nehemiah Gary, and (5) Henry Gary. There were five exhibits entered into the record consisting of (1) a list of the family branches, (2) a 1993 survey (L-0977) of the ten acre parcel prepared by Niels



Christensen, IV, SCRLS, (3) a survey of the thirty acre parcel dated 2007 (L-6254) prepared by Zyad Khalil, SCRLS, (4) an ariel photograph, and (5) a list of the persons present.

Based on the pleadings, the testimony, and the exhibits presented on August 5, 2014, I render these Findings of Fact, Conclusions of Law, and issue this Final Decree.

FINDINGS OF FACT

1. The real property which is the subject of the Motion to Partition is described on Attachment A to the Complaint and consists of two parcels of real property situate in Beaufort County, South Carolina.

2. The two parcels of land consist of a ten acre parcel described on a plat recorded in Plat Book 53 at Page 82 prepared by Niels Christensen, IV, SCRLS, on December 22, 1993 (L-0977) and a thirty acre parcel described on a plat recorded in Plat Book 133 at Page 129 prepared by Zyad Khalil, SCRLS, on January 22, 2007 (L-6254).

3. The Plaintiffs represent five of the six branches of the family of Solomon White and Mary Ann White or 83.34% of the owners of both parcels of land. The Richard Gary Defendants represent one of the six branches of the family or 16.66% of the owners of both parcels of land. The Richard Gary Defendants are (a) Ulysses Gary, (b) David Gary, (c) Annette Gary Singleton, (d) Clara Gary, (e) Adelia Gary, (f) Charles Gary, (g) Francis Gary, Jr., (h) Albert Gary, and, (i) Barnard Gary.

4. As shown by a Certificate of Mailing and Notice of Motion mailed to all of the Richard Gary Defendants on June 30, 2014, by the Plaintiff's attorney, notice of the Motion to Partition the land as well as the date, time and place of the hearing were given more than thirty days prior to August 5, 2014.



5. Several of the Gary Defendants reside on the thirty acres. Six of them have the same mailing address located on the site and one of them has a separate address that is on the site.

6. The Notice of Hearing was at 9:30 a.m. on August 5, 2014. None of the Richard Gary Defendants appeared at that time. At 9:45 a.m., I had Deputy Sheriff Bobby Edwards call the case in the lobby of the Beaufort County Court House three times. None of the Richard Gary Defendants made an appearance at the hearing, nor did they communicate in any manner with the Court about the hearing, nor did an attorney appear or communicate for them with the Court.

7. As there are six branches of the family and approximately forty acres in total, an equal acreage division as recommended by the surveyor and agreed to by five of the six family branches will be approximately 6.6 acres per family branch. This seemingly easy solution is made more difficult by these factors:

- a. Prescott Road runs across the thirty acre parcel North to South which decreases the usable acreage of thirty acres.
- b. Several members of the Richard Gary branch of the family occupy an area as a group that is separated by Prescott Road on the thirty acre parcel and then another member of that branch (Annette Singleton) occupies another area separate from those in the group, i.e., they are not all together in one area.
- c. There is a large area occupied by Solomon Johnson of the Emma Johnson family branch on the thirty acre parcel.
- d. While not occupied, there is still a house on an area formerly lived in by the Henry Gary branch.

8. The ten acre parcel described on the Christensen plat is all in one parcel without encroachments or occupation. Thus, a partition is without any hindrance. Mr. Youmans and five of the branches of the family recommend that it be divided equally between the three branches of the family that are Aletha Watson, Nehemiah Gary and Mamie Gary with an appropriate access/utility easement.

9. After considering the factors set forth in Paragraph 7 above, Mr. Youmans has created a division of the thirty acre parcel that is drawn on Exhibit Three. The members of the five family branches present on August 5, 2014, concur with the division recommended by Mr. Youmans for this parcel.

10. The recommended division of the thirty acre parcel would allot parcels marked on Exhibit Three in approximately this manner:

- a. Three acres to the family branch of Aletha Watson.
- b. Three acres to the family branch of Nehemiah Gary.
- c. Three acres to the family branch of Mamie Gary.
- d. Six acres to the family branch of Richard Gary.
- e. Six acres to the family branch of Emma Johnson.
- f. Six acres to the family branch of Henry Gary.

11. All of the matters involved in the division of the land as set forth herein is dependent on a new survey of both the ten acre parcel and the thirty acre parcel which shows (a) easements for entry/utilities, (b) the location of Prescott Road, (c) the separate areas of occupation of (i) Solomon Johnson, (ii) the two Richard Gary family areas of occupation, (iii) the Henry Gary area of occupation, and, (d) the correct Eastern Boundary line of the thirty acre parcel.

12. The surveyor is to prepare a new survey of both the ten acre parcel and the thirty acre parcel reflecting those matters in Paragraph 11 above and present it to the Court for final approval and recording.

13. Due to several oral confrontations between the Richard Gary family branch members and the Emma Johnson family branch members (and other heirs), and, the same kind of confrontations (to include a citation for contempt of court) in the boundary disputes with Salt Marsh Partners, all of which is on record in previous hearings in this case, the Plaintiffs moved the Court on August 5, 2014 to enjoin all parties to the action and all occupants of the parcels of land from any interference with any other family branch members at this time or from interfering with the different parcels of land as determined by the new survey hereafter.

The surveyor joined in this Motion citing interference directed at him by the Richard Gary family members when he was conducting the surveys for Salt Marsh Partners in accordance with the previous hearings in this case.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the subject matter and the parties to this action per Section 15-61-50 S.C. Code of Laws, 1976, as amended.

2. While the Richard Gary family members (nor an attorney representing them) were not present on August 5, 2014, the record indicates they were given notice of the Motion to Partition and notice of the date, time and place of the hearing on the Motion.

3. Section 15-61-50 S.C. Code of Laws, 1976, as amended, authorizes this Court to make the partition in kind or by allotment. Due to the desire of five of the six family branches present on August 5, 2014, and based upon the recommendations of the surveyor, I conclude that it is in the best interest of all parties to make a partition by allotment of the land to the six family branches in six shares.

4. The recommendations of the method of partitioning the ten acres and the thirty acres presented by the surveyor on August 5, 2014, which were joined in by five of the six family branches were made after careful consideration of (a) the current locations

of family member occupancy on the different sites, (b) previous locations of occupancy by the family members on different sites, (c) the location of several public roads, (d) the means of access to the various family areas of occupation, and, (e) the desires of the vast majority of the family members as to their choices of how to partition the land.

5. I conclude that the recommended partition is stated in Exhibits Two and Three to the hearing held on August 5, 2014, and that the recommended partition has been done (a) fairly, (b) impartially, (c) with as little injury to any heir as possible, (d) reasonably, and, (e) equitably.

6. The surveyor, David S. Youmans, SCRLS, is to prepare a new survey to reflect all of the details as to footages, bearings, acreages, entry/utility easements, and other matters as set forth on Exhibits Two and Three to the hearing of August 5, 2014, for the ten acre and thirty acre parcels of land. Upon completion of that survey, the surveyor is to present it to the Court for approval.

7. Due to the previous altercations and confrontations on site between some of the parties to this case and the Salt Marsh Partners officials and the surveyor, it will be in the best interest of all parties for the Court to issue an injunction that none of the parties should communicate with each other about the land, nor about this suit, nor about any subjects related thereto.

DECREE

It is hereby ORDERED, ADJUDGED AND DECREED as follows, to-wit:

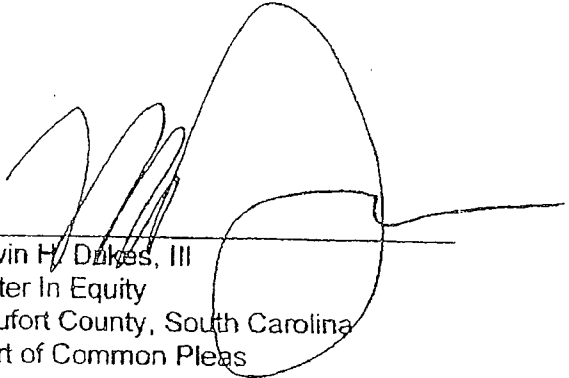
A. The ten acres of land and the thirty acres of land shall be partitioned pursuant to the recommendations of David S. Youmans, SCRLS, to the six family branches as set forth on Exhibits One, Two and Three to the hearing held on August 5, 2014.

B. In order to have the details of the partition set forth on a survey stating the footages, bearings, acreages, and other necessary information to reflect the partition, David S. Youmans, SCRLS shall prepare a new survey at the expense of the six family branches shared equally and present it to the Court for approval prior to recording.

unwelcome communication

C. All of the parties hereto are enjoined and directed, upon penalty of contempt, to abstain, cease and desist from ~~communicating~~ with each other, in writing or orally, about (a) this law suit (even after it is concluded), (b) about the survey to be prepared, or (c) about the partition of the land.

Executed on August 18, 2014.



Marvin H. Dukes, III
Master In Equity
Beaufort County, South Carolina
Court of Common Pleas

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT
) IN THE COURT OF COMMON PLEAS
) CASE NO. 2011-CP-07-05211

SOLOMON JOHNSON, ET AL.,)
)
 Plaintiffs,)
)
 Vs.)
)
 THE HEIRS OR DEVISEES OF)
 SOLOMON WHITE, ET AL.,)
)
 Defendants.)

ORDER APPROVING SURVEYS

2015 APR 30 AM 10:07
 BEAUFORT COUNTY CLERK
 COURT HOUSE
 BEAUFORT, SC 29516

This is a long-standing action. The history of it is set forth in a Final Decree dated August 18, 2014. In that Decree the Court ordered the two parcels of land containing some forty acres to be partitioned into six family branches (see Paragraphs 8, 9, and 10 of the Findings of Fact) and to be divided into six tracts (one for each family branch) in accordance with new surveys to subsequently be prepared by David S. Youmans, SCRLS, which surveys were to be approved by the Court. The new surveys were to adjust minor issues such as the realignment of a line to include a water pump in one parcel. The surveys were prepared, a Motion to Approve them was filed by the Plaintiffs dated November 21, 2014 with notice given to all of the Gary Defendants. A hearing was held on December 1, 2014 at which time the surveyor presented the final surveys. The survey for the ten acre parcel is dated October 29, 2014 and the survey for the thirty acre parcel is dated September 15, 2014.

Upon reviewing the content and details of the two surveys and discussing those matters with the surveyor, I conclude that the two surveys have been prepared in accordance with the testimony received at the hearing held on August 5, 2014 and the decision made by the Court at that time.

Two of the Gary Defendants attended the hearing on December 1, 2014. At that time the attorney for the Plaintiffs (J. Thomas Mikell) called the attention of the Court to the fact that on or about October 16, 2014 he received a Notice of Appeal of the Final Decree of August 18, 2014 from the Gary Defendants. The attorney that filed the Notice (Kelvin M. Huger) has notified Mr. Mikell that he does not represent the Gary Defendants in the circuit court proceeding, but only in the appellant court proceeding. I have verified this representation with Mr. Huger.

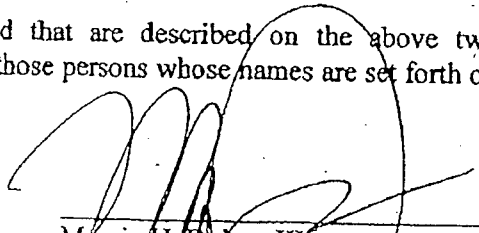
The general rule is that upon the filing and service of a Notice of Appeal there is a stay of proceedings in the Circuit Court. There are some exceptions to this general rule. The attention of the Court is directed to Chapter 6 Sections III A and B of *Appellant*

Practice in South Carolina by Toal, Vafai and Muckenfuss, SC Bar 1999. Rule 225 (b), SCACR, states exceptions to the general stay rule. One exception is for the delivery of documents. In this case the documents are two surveys to be delivered to the Registrar of Deeds and the Order approving the surveys to the Clerk of Court. Another exception is for the execution of conveyances. In this case the document of conveyance that is being executed is the Order approving the surveys. Another exception is for the delivery of possession of real property. In this case the delivery of possession of Tracts A to F as described on the two surveys is being effectuated. Thus, this Court is of the opinion that the exceptions override the general rule to stay the proceedings in this Court and that this Court can execute this Order.

It is therefore ORDERED as follow, to wit:

1. The survey of the thirty acre parcel dated September 15, 2014 by David S. Youmans, SCRLS, is approved and the Registrar of Deeds for Beaufort County, South Carolina is Ordered to record it as the Order of this Court.
2. The survey of the ten acre parcel dated October 29, 2014 by David S. Youmans, SCRLS, is approved and the Registrar of Deeds for Beaufort County, South Carolina is Ordered to record it as the Order of the Court.
3. The owners of the tracts of land that are described on the above two referenced surveys are the heirs of those persons whose names are set forth on Attachment A hereto.

4/29, 2015


Marvin H. Dukes, III
Master-In-Equity
Beaufort County, South Carolina
Court of Common Pleas

Attachment A

Heirs of Solomon White
CA 2011-CP-07-5211

| | <u>Family Branch</u> | | <u>Tract/Acreage</u> | <u>Survey</u> |
|-----|----------------------|-----|----------------------|---------------|
| 1. | Emma Johnson | F | (7.061 acres) | 30 Acres |
| 2A. | Mamie Gary | A | (3.401 acres) | 30 Acres |
| B. | Mamie Gary | A-2 | (3.335 acres) | 10 Acres |
| 3A. | Richard Gary | E-1 | (5.422 acres) | 30 Acres |
| B. | Richard Gary | E-2 | (0.506 acres) | 30 Acres |
| C. | Richard Gary | E-3 | (1.049 acres) | 30 Acres |
| 4A. | Aletha Watson | C | (3.401 acres) | 30 Acres |
| B. | Aletha Watson | C-2 | (3.335 acres) | 10 Acres |
| 5A. | Nehemiah Gary | B | (3.401 acres) | 30 Acres |
| B. | Nehemiah Gary | B-2 | (3.335 acres) | 10 Acres |
| 6A. | Henry Gary | D-1 | (0.549 acres) | 30 Acres |
| B. | Henry Gary | D-2 | (6.185 acres) | 30 Acres |

FORM 4

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF BEAUFORT

CASE NO: 2006CP0700609

IN THE COURT OF COMMON PLEAS

Solomon Johnson vs. Solomon White

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):
 - Rule 12(b), SCRPC;
 - Rule 41(a),
 - SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other:
- ACTION STRICKEN (CHECK REASON):
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):

| | | | |
|------------------------------------|------------------------------------|-------------------------------------|---------------------------------|
| <input type="checkbox"/> Affirmed; | <input type="checkbox"/> Reversed; | <input type="checkbox"/> Remeanded; | <input type="checkbox"/> Other; |
|------------------------------------|------------------------------------|-------------------------------------|---------------------------------|

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order Statement of Judgment by the Court:

Order

Dated at Beaufort, South Carolina, this 25th day of August, 2010.

Court Reporter: s/ M. H. Dukes, III

PRESIDING JUDGE - Marvin H Dukes, III

This judgment was entered on the 25th day of August, 2010, and a copy mailed first class this 26th day of August, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Pro-se

ATTORNEY(S) FOR THE PLAINTIFF(S)

Pro-Se

George M O'holley, Jr

ATTORNEY(S) FOR THE DEFENDANT(S)

Melissa Kilby

SCRPC APP-24/FORM 4

Jerri Ann Roseneau - Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

CASE NO: 2006-CP-07-00609

Solomon Johnson, Johnny Lee Stafford and)
Frederick Williamson,)

Plaintiff(s),)

ORDER

vs.)

The heirs at law and Distributees of the)
following named deceased persons:)

Solomon White; Mary Ann White; Edward)
White; Ellen White; Sam Gary; Emma Gary;)
Mamie Gary; Carrie Gary; Richard Gary;)
Tiny Gary; Nehemiah Gary; Henry Gary;)
Julia Gadson; David Pringle; and the)

following individuals or organizations:)

Sarah Fields; Louise Pringle; Jim C.)
Gooding; Robert Pickney; Lillie Shell;)

Tomotley Plantation c/o Salt Marsh Partners)
and also all other persons having or claiming)

to have any right, title, estate, interest in or)
lien upon the real estate described in the)

Complaint herein, and being designated)
collectively as **JOHN DOE** and **MARY**)

ROE, including all persons who may be)
deceased, minors, persons in the Armed)

Forces of the United States of America, and)
persons non compos mentis or under any)

other disabilities,)

Defendant(s).)

BEAUFORT COUNTY CLERK OF COURT
10 AUG 25 AM 10:28

This matter came before me Monday, November 30, 2009.

Attorney Jim Moss, representing the Plaintiffs, appeared with his clients and the Defendants appeared pro-se.

1 *yg*

00051 E *z*

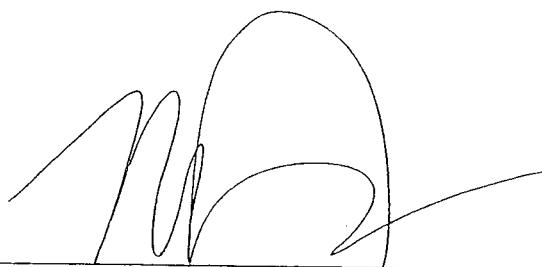
After the hearing, but before any ruling, Plaintiffs released their attorney and proceeded pro-se on certain post-trial proceedings, including several meetings held with all parties and the Court in an effort to facilitate a settlement.

At all meetings, I informed the parties present that I did not believe that either party had proven their cases and that I believed that granting certain part of the relief sought would further complicate the relationship of the parties.

I now believe that I have exhausted all efforts to convince the parties to engage the services of a mediator and/or some method of settlement.

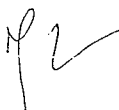
I therefore find that no cause of action in either the Complaint or Counterclaim has been proven and dismiss the same, and this case, without prejudice.

IT IS SO ORDERED:



Honorable Marvin H. Dukes, III
Master in Equity and Special Circuit Court
Judge for Beaufort County

August 25, 2010
Beaufort, South Carolina

2 

00051 F



STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07- 5211

SOLOMON JOHNSON, FRANK JOHNSON,)
RUTH GREEN, DOROTHY JONES,)
THERESA SCOTT, ERMA JOHNSON)
KELLY, BARBARA JEAN FERGUSON a/k/a)
BARBARA JEAN ALBERGOTTIE,)
ALPHONZO ALBERGOTTIE, DAVID)
PRINGLE, PAULINE LESESNE, MARION)
PRINGLE, JR., FREDERICK SCOTT, PAUL)
K. SCOTT, HAROLD JONES, SANDRA)
WILLIAMSON POWELL, FREDERICK L.)
WILLIAMSON, ELVIN BENNETT, JANIE L.)
GANUES, BERTHA STAFFORD, PATRICE)
STAFFORD, MARY LEE GARY, ALNETHIA)
GARY, EDWARD STANLEY STAFFORD,)
LUERTA GARY, KENNETH GARY,)
CARLOS GARY, RON KENNETH)
STEWART, MARY FRANCES DUNCAN,)
DEBRA WILLIAMS, LARRY WILLIAMS,)
BARBARA WILLIAMS SMITH, JOHNI)
WILLIAMS, TERRI ELAINE WEAVER,)
LETHA G. RHEM, PATRICIA ANN WHITE,)
SHARON WHITE, NOLEN WHITE, JOHNNY)
WASHINGTON,)

Plaintiffs,)

vs.)

THE HEIRS OR DEVISEES OF)
SOLOMON WHITE; MARY ANN PINCKNEY)
WHITE; EDWARD WHITE, JACOB WHITE,)
MARY WHITE; CARRIE WHITE; ELLEN)
WHITE GARY; SAM GARY; EMMA GARY)
JOHNSON; MILLER JOHNSON, SR.;)
OSCAR JOHNSON; ELOISE JOHNSON;)
MILLER JOHNSON, JR.; LEOLA)
JOHNSON; RICHARD (RITCHIE))
JOHNSON; SARAH H. JOHNSON; MACK)
COLES; EMILY JOHNSON ALBERGOTTIE;)

11 DEC -8 PM 4:08
BEAUFORT COUNTY, S.C.
CLERK OF COURT

SUMMONS
(NON-JURY)

ROBERT ALBERGOTTIE; LOUISE)
 JOHNSON PRINGLE; MARION PRINGLE;)
 MAMIE GARY; THOMAS BROWN; CARRIE)
 SCOTT; CLARENCE SCOTT; JESSIE MAE)
 SCOTT SMALLS; WILLIAMS SMALLS, JR.;)
 NATHANIEL SCOTT; CAMERINE SCOTT;)
 HERMON V. SCOTT; LUTHER SCOTT;)
 EARNESTINE STEWARD; EPSTEIN)
 STEWARD; LONNY BROWN; GUSSY)
 BROWN; CHALRES BROWN; DANZA)
 GARY; VICTORIA BROWN; DOROTHY)
 WILLIAMSON; JOSEPH WILLIAMSON,)
 SR.; ELIJAH WILLIAMSON; JOSEPH)
 WILLIAMSON, JR.; HELEN (SWEETIE))
 BROWN BENNETT; ERVIN BENNETT;)
 JANIE BENNETT GREEN; ELOISE)
 BENNETT NIXS; BENJAMIN NIXS; TERRY)
 NIXS; CARRIE GARY; HARRY JULIUS;)
 RICHARD GARY; FRONNIE GARY; ELLA)
 GARY; FRANCIS GARY; FLORENCE)
 (NANA) GARY; ALETHA (TINY) GARY)
 WATSON; ANDREW GADSDEN; FRANK)
 WATSON; ELIZABETH GARY STAFFORD;)
 LEE STAFFORD JOHN LEE STAFFORD;)
 JOSEPH GARY; NEHEMIAH GARY;)
 DOROTHY GARY; HAROLD GARY;)
 CLEVELAND GARY; HENRY GARY;)
 FLORRIE GARY; NAOMI GARY)
 STAFFORD; JAMES STAFFORD, SR.;)
 HATTIE MAE STAFFORD; EDNA)
 BROOKER; HENRY BROOKER; INELL)
 JONES; RAYMOND JONES; JAMES)
 STAFFORD, JR.; HAZEL GARY; HENRY)
 GARY, JR.; HENRY GARY, III; HERMAN)
 GARY; MARY ELLEN GARY WILLIAMS;)
 HERBERT WILLIAMS, SR.; HERBERT)
 WILLIAMS, JR.; LOUISE GARY WHITE;)
 JIMMY WHITE; LOU ETHEL)
 WASHINGTON; MARGARET GARY)
 LEVINE; DAVID LEVIN; EDDIE JAMES)
 GARY; WILHELMINA GARY MURRAY;)
 EZEKIEL MURRAY, SR.; JOSEPHINE)
 GARY JENKINS; EDDIE JENKINS; JOE)

LOUIS GARY; HEIRS OF DAVID PRINGLE;)
SALT MARSH PARTNERS, L.P.; JANICE E.)
JONES AND RALPH E. JOHNSON;)
BOBBIE J. COLLINS; LEROY NORRIS)
AND ODIS ANN NORRIS; M. LANE)
MORRISON; MILLS LANE MORRISON)
AND BANK OF AMERICA, N.A., AS)
TRUSTEES; BEAUFORT COUNTY OPEN)
LAND TRUST; WILLIAM MCLEAN MIXON)
AND BARBARA HILL MIXON, AS)
TRUSTEES OF THE MIXON REVOCABLE)
TRUST AGREEMENT DATED JULY 24,)
2008; ROBERT J. PINCKNEY; MAMIE)
BROWN, SUSIE CORDEAUX, DOROTHY)
LESESNE, BEN PINCKNEY,)
CHRISTOPHER PINCKNEY, ETTA)
PINCKNEY, HENRY PINCKNEY, HERBERT)
PINCKNEY, ERNESTINE P. ROGERS,)
LILLIE SHELL, AND RUTH P. SIMMONS;)
RICHARD JOHNSON, JR.; HELEN COLES;)
FORESTINE PRINGLE; SANDRA SMALLS;)
JACKIE SMALLS; SHARON SMALLS;)
ANDREA SMALLS; BROOKE SMALLS;)
ALLAN SCOTT; CLEON SCOTT; NIA)
MALIKA SINGLETARY; LORETTA L.)
STEWART; NATHAN JONES; ERIC)
WILLIAMSON; DWAYNE WILLIAMSON;)
AUDREY BROWN; JOSEPH JOHNSON;)
JACQUELINE JOHNSON MAJOR;)
ROBERT LEE GREEN; KENNETH GREEN;)
JUANITA GREEN; KEITH GREEN; JOSEPH)
GREEN; ELLIS GREEN; CARL GREEN;)
BROWN BENNETT; DORSEY BENNETT;)
WILLIAM NIX; JENNIFER NIXS; JASON)
NIXS; THADDAUS NIXS; EDWARD NIXS;)
CHARLES NIXS; ALTHEA NIXS; CLARA)
GARY; FRANCIS GARY, JR.; ADELIA)
GARY; CHARLES GARY; ALBERT GARY;)
ULYSSES GARY; BERNARD GARY;)
DAVID GARY; ANNETTE SINGLETON;)
LILLIE MAE GIFFORD; SHAWNDEA)
STAFFORD; JAMES STAFFORD;)
BEAULAH GADSDEN; JORDAN HARRIS;)



LEON STAFFORD; ALVIN BROOKER;)
 MICHAEL STAFFORD; SHIRLEY)
 STAFFORD WHITE; GAIL STAFFORD)
 MARQUEZ; JACQUELINE STAFFORD;)
 STEPHANIE JONES; RENATA JONES;)
 RANELL JONES; GERMAINE JONES;)
 NATHANIEL STAFFORD; ANGELA)
 STAFFORD; SONYA GREEN; JAMES)
 STAFFORD, III; RASHEEN JAMES;)
 JUSEAN JAMES; KIERRA STAFFORD;)
 LENA (EVELYN) GARY; BRENDA)
 PATTERSON; JEANETTE RUTLEDGE;)
 ISSAC WILLIAMS; CAROLYN)
 ACHAMPONY; ANTOINETTE LEWIS;)
 GERALDINE BROWN; JOHNNY)
 WASHINGTON; KURT WASHINGTON;)
 DIANE GARY; TRACY WASHINGTON;)
 CARREN WASHINGTON; LUNETHA)
 GARY; JAMES STANLEY GARY; GERALD)
 R. GARY; if living, and if not living, then)
 the heirs or devisees of all such persons)
 named above; and all persons unknown)
 having or claiming to have any right, title,)
 estate, interest in or lien upon the real)
 property described in the Complaint)
 herein, being designated collectively as)
 JOHN DOE and MARY ROE; including all)
 persons who may be deceased, minors, in)
 the Armed Forces of the United States, Non)
 Compos Mentis, and under any other)
 disability,)
)
 Defendants.)

TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned and required to Answer the Complaint in this
 action, a copy of which is herewith served upon you; and to serve a copy of your
 Answer to the Complaint upon the subscriber at his office at Lady's Island
 Professional Village, 14 Professional Village Circle, Beaufort, South Carolina 29907,

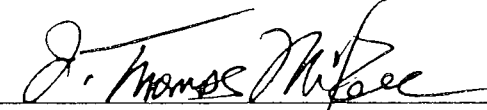
Jm

within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to Answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court and judgment by default will be rendered against you for the relief demanded in the Complaint.

Mikell, Weidner, Wegmann & Harper, LLC

December 6, 2011

By:



J. Thomas Mikell

Attorney for the Plaintiff

Post Office Box 1727
Beaufort, South Carolina 29901
Telephone: 843-524-2110
Fax: 843-524-4995



STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07- 5211
Lis Pendens 2011-LP-07- 2507

SOLOMON JOHNSON, FRANK JOHNSON,)
RUTH GREEN, DOROTHY JONES,)
THERESA SCOTT, ERMA JOHNSON)
KELLY, BARBARA JEAN FERGUSON a/k/a)
BARBARA JEAN ALBERGOTTIE,)
ALPHONZO ALBERGOTTIE, DAVID)
PRINGLE, PAULINE LESESNE, MARION)
PRINGLE, JR., FREDERICK SCOTT, PAUL)
K. SCOTT, HAROLD JONES, SANDRA)
WILLIAMSON POWELL, FREDERICK L.)
WILLIAMSON, ELVIN BENNETT, JANIE L.)
GANUES, BERTHA STAFFORD, PATRICE)
STAFFORD, MARY LEE GARY, ALNETHIA)
GARY, EDWARD STANLEY STAFFORD,)
LUERTA GARY, KENNETH GARY,)
CARLOS GARY, RON KENNETH)
STEWART, MARY FRANCES DUNCAN,)
DEBRA WILLIAMS, LARRY WILLIAMS,)
BARBARA WILLIAMS SMITH, JOHNNIE)
WILLIAMS, TERRI ELAINE WEAVER,)
LETHA G. RHEM, PATRICIA ANN WHITE,)
SHARON WHITE, NOLEN WHITE, JOHNNY)
WASHINGTON,)

Plaintiffs,)

vs.)

THE HEIRS OR DEVISEES OF)
SOLOMON WHITE; MARY ANN PINCKNEY)
WHITE; EDWARD WHITE, JACOB WHITE,)
MARY WHITE; CARRIE WHITE; ELLEN)
WHITE GARY; SAM GARY; EMMA GARY)
JOHNSON; MILLER JOHNSON, SR.;)
OSCAR JOHNSON; ELOISE JOHNSON;)
MILLER JOHNSON, JR.; LEOLA)
JOHNSON; RICHARD (RITCHIE))
JOHNSON; SARAH H. JOHNSON; MACK)
COLES; EMILY JOHNSON ALBERGOTTIE;)
ROBERT ALBERGOTTIE; LOUISE)
JOHNSON PRINGLE; MARION PRINGLE;)

11 DEC -8 PM 4:08
BEAUFORT COUNTY, S.C.
CLERK OF COURT

LIS PENDENS
(NOTICE OF PENDENCY OF ACTION)

MAMIE GARY; THOMAS BROWN; CARRIE)
SCOTT; CLARENCE SCOTT; JESSIE MAE)
SCOTT SMALLS; WILLIAMS SMALLS, JR.;)
NATHANIEL SCOTT; CAMERINE SCOTT;)
HERMON V. SCOTT; LUTHER SCOTT;)
EARNESTINE STEWARD; EPSTEIN)
STEWARD; LONNY BROWN; GUSSY)
BROWN; CHALRES BROWN; DANZA)
GARY; VICTORIA BROWN; DOROTHY)
WILLIAMSON; JOSEPH WILLIAMSON,)
SR.; ELIJAH WILLIAMSON; JOSEPH)
WILLIAMSON, JR.; HELEN (SWEETIE))
BROWN BENNETT; ERVIN BENNETT;)
JANIE BENNETT GREEN; ELOISE)
BENNETT NIXS; BENJAMIN NIXS; TERRY)
NIXS; CARRIE GARY; HARRY JULIUS;)
RICHARD GARY; FRONNIE GARY; ELLA)
GARY; FRANCIS GARY; FLORENCE)
(NANA) GARY; ALETHA (TINY) GARY)
WATSON; ANDREW GADSDEN; FRANK)
WATSON; ELIZABETH GARY STAFFORD;)
LEE STAFFORD JOHN LEE STAFFORD;)
JOSEPH GARY; NEHEMIAH GARY;)
DOROTHY GARY; HAROLD GARY;)
CLEVELAND GARY; HENRY GARY;)
FLORRIE GARY; NAOMI GARY)
STAFFORD; JAMES STAFFORD, SR.;)
HATTIE MAE STAFFORD; EDNA)
BROOKER; HENRY BROOKER; INELL)
JONES; RAYMOND JONES; JAMES)
STAFFORD, JR.; HAZEL GARY; HENRY)
GARY, JR.; HENRY GARY, III; HERMAN)
GARY; MARY ELLEN GARY WILLIAMS;)
HERBERT WILLIAMS, SR.; HERBERT)
WILLIAMS, JR.; LOUISE GARY WHITE;)
JIMMY WHITE; LOU ETHEL)
WASHINGTON; MARGARET GARY)
LEVINE; DAVID LEVIN; EDDIE JAMES)
GARY; WILHELMINA GARY MURRAY;)
EZEKIEL MURRAY, SR.; JOSEPHINE)
GARY JENKINS; EDDIE JENKINS; JOE)
LOUIS GARY; HEIRS OF DAVID PRINGLE;)
SALT MARSH PARTNERS, L.P.; JANICE E.)

JONES AND RALPH E. JOHNSON;)
BOBBIE J. COLLINS; LEROY NORRIS)
AND ODIS ANN NORRIS; M. LANE)
MORRISON; MILLS LANE MORRISON)
AND BANK OF AMERICA, N.A., AS)
TRUSTEES; BEAUFORT COUNTY OPEN)
LAND TRUST; WILLIAM MCLEAN MIXON)
AND BARBARA HILL MIXON, AS)
TRUSTEES OF THE MIXON REVOCABLE)
TRUST AGREEMENT DATED JULY 24,)
2008; ROBERT J. PINCKNEY; MAMIE)
BROWN, SUSIE CORDEAUX, DOROTHY)
LESESNE, BEN PINCKNEY,)
CHRISTOPHER PINCKNEY, ETTA)
PINCKNEY, HENRY PINCKNEY, HERBERT)
PINCKNEY, ERNESTINE P. ROGERS,)
LILLIE SHELL, AND RUTH P. SIMMONS;)
RICHARD JOHNSON, JR.; HELEN COLES;)
FORESTINE PRINGLE; SANDRA SMALLS;)
JACKIE SMALLS; SHARON SMALLS;)
ANDREA SMALLS; BROOKE SMALLS;)
ALLAN SCOTT; CLEON SCOTT; NIA)
MALIKA SINGLETARY; LORETTA L.)
STEWART; NATHAN JONES; ERIC)
WILLIAMSON; DWAYNE WILLIAMSON;)
AUDREY BROWN; JOSEPH JOHNSON;)
JACQUELINE JOHNSON MAJOR;)
ROBERT LEE GREEN; KENNETH GREEN;)
JUANITA GREEN; KEITH GREEN; JOSEPH)
GREEN; ELLIS GREEN; CARL GREEN;)
BROWN BENNETT; DORSEY BENNETT;)
WILLIAM NIX; JENNIFER NIX; JASON)
NIX; THADDAUS NIX; EDWARD NIX;)
CHARLES NIX; ALTHEA NIX; CLARA)
GARY; FRANCIS GARY, JR.; ADELIA)
GARY; CHARLES GARY; ALBERT GARY;)
ULYSSES GARY; BERNARD GARY;)
DAVID GARY; ANNETTE SINGLETON;)
LILLIE MAE GIFFORD; SHAWNDEA)
STAFFORD; JAMES STAFFORD;)
BEAULAH GADSDEN; JORDAN HARRIS;)
LEON STAFFORD; ALVIN BROOKER;)
MICHAEL STAFFORD; SHIRLEY)



STAFFORD WHITE; GAIL STAFFORD)
MARQUEZ; JACQUELINE STAFFORD;)
STEPHANIE JONES; RENATA JONES;)
RANELL JONES; GERMAINE JONES;)
NATHANIEL STAFFORD; ANGELA)
STAFFORD; SONYA GREEN; JAMES)
STAFFORD, III; RASHEEN JAMES;)
JUSEAN JAMES; KIERRA STAFFORD;)
LENA (EVELYN) GARY; BRENDA)
PATTERSON; JEANETTE RUTLEDGE;)
ISSAC WILLIAMS; CAROLYN)
ACHAMPONY; ANTOINETTE LEWIS;)
GERALDINE BROWN; JOHNNY)
WASHINGTON; KURT WASHINGTON;)
DIANE GARY; TRACY WASHINGTON;)
CARREN WASHINGTON; LUNETHA)
GARY; JAMES STANLEY GARY; GERALD)
R. GARY; if living, and if not living, then)
the heirs or devisees of all such persons)
named above; and all persons unknown)
having or claiming to have any right, title,)
estate, interest in or lien upon the real)
property described in the Complaint)
herein, being designated collectively as)
JOHN DOE and MARY ROE; including all)
persons who may be deceased, minors, in)
the Armed Forces of the United States, Non)
Compos Mentis, and under any other)
disability,)
))
Defendants.)

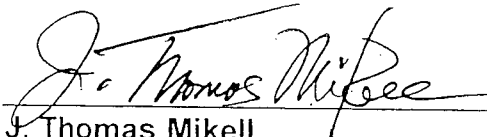
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EMJ
S.C.
BEAUFORT COUNTY
CLERK OF COURT

TO THE DEFENDANTS ABOVE NAMED:

Notice is hereby given that an action has been commenced and is now pending in this Court upon the Complaint of the above Plaintiffs against the Defendants to determine ownership of the real property located in Beaufort County, South Carolina and described on Attachment A hereto.

Mikell, Weidner, Wegmann & Harper, LLC

December 6, 2011

By: 
J. Thomas Mikell
Attorney for the Plaintiff

Post Office Box 1727 (29901)
Beaufort, South Carolina
Telephone: 843-524-2110
Fax: 843-524-4995



ATTACHMENT A – DESCRIPTION OF THE PROPERTY

Parcel One: All that parcel of real property situate in Sheldon Township of Beaufort County, South Carolina being a part of what was formerly known as Prescott Plantation containing twenty nine (29) acres and thirty seven (37) rods, more or less, which is specifically described as 29.965 acres on a plat (L-6254) prepared by Zyad A. Khalil, SCRLS, on January 22, 2007 and recorded in Plat Book 133 at Page 129 in the ROD Office of Beaufort County.

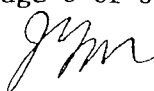
Being the same real property conveyed to Solomon White in Deed Book 12 at Page 2516.

Tax Number: R700-013-000-0006-0000.

Parcel Two: All that parcel of real property situate in Sheldon Township of Beaufort County, South Carolina being a part of what was formerly known as Prescott Plantation containing ten (10) acres, more or less, which is specifically described as the parcel owned by "N/F Pickney" on a plat prepared by David E Gasque, SCRLS, on June 19, 1995 and recorded in Plat Book 53 at Page 82 in the ROD Office of Beaufort County, S.C.

Being the same real property conveyed to Mary Ann White in Deed Book 14 at Page 590.

Tax Number: R700-013-000-0024-0000.



STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CASE NO. 2011-CP-07- 5211

11 DEC -8 PM 4:08
CLERK OF COURT

SOLOMON JOHNSON, FRANK JOHNSON,)
RUTH GREEN, DOROTHY JONES,)
THERESA SCOTT, ERMA JOHNSON)
KELLY, BARBARA JEAN FERGUSON a/k/a)
BARBARA JEAN ALBERGOTTIE,)
ALPHONZO ALBERGOTTIE, DAVID)
PRINGLE, PAULINE LESESNE, MARION)
PRINGLE, JR., FREDERICK SCOTT, PAUL)
K. SCOTT, HAROLD JONES, SANDRA)
WILLIAMSON POWELL, FREDERICK L.)
WILLIAMSON, ELVIN BENNETT, JANIE L.)
GANUES, BERTHA STAFFORD, PATRICE)
STAFFORD, MARY LEE GARY, ALNETHIA)
GARY, EDWARD STANLEY STAFFORD,)
LUERTA GARY, KENNETH GARY,)
CARLOS GARY, RON KENNETH)
STEWART, MARY FRANCES DUNCAN,)
DEBRA WILLIAMS, LARRY WILLIAMS,)
BARBARA WILLIAMS SMITH, JOHNNIE)
WILLIAMS, TERRI ELAINE WEAVER,)
LETHA G. RHEM, PATRICIA ANN WHITE,)
SHARON WHITE, NOLEN WHITE, JOHNNY)
WASHINGTON, JR.)

Plaintiffs,)

-versus-)

THE HEIRS OR DEVISEES OF)
SOLOMON WHITE; MARY ANN PINCKNEY)
WHITE; EDWARD WHITE, JACOB WHITE,)
MARY WHITE; CARRIE WHITE; ELLEN)
WHITE GARY; SAM GARY; EMMA GARY)
JOHNSON; MILLER JOHNSON, SR.;)
OSCAR JOHNSON; ELOISE JOHNSON;)
MILLER JOHNSON, JR.; LEOLA)
JOHNSON; RICHARD (RITCHIE))
JOHNSON; SARAH H. JOHNSON; MACK)
COLES; EMILY JOHNSON ALBERGOTTIE;)
ROBERT ALBERGOTTIE; LOUISE)
JOHNSON PRINGLE; MARION PRINGLE;)

COMPLAINT
(Non-Jury)

MAMIE GARY; THOMAS BROWN; CARRIE)
SCOTT; CLARENCE SCOTT; JESSIE MAE)
SCOTT SMALLS; WILLIAMS SMALLS, JR.;)
NATHANIEL SCOTT; CAMERINE SCOTT;)
HERMON V. SCOTT; LUTHER SCOTT;)
EARNESTINE STEWARD; EPSTEIN)
STEWARD; LONNY BROWN; GUSSY)
BROWN; CHARLES BROWN; DANZA)
GARY; VICTORIA BROWN; DOROTHY)
WILLIAMSON; JOSEPH WILLIAMSON,)
SR.; ELIJAH WILLIAMSON; JOSEPH)
WILLIAMSON, JR.; HELEN (SWEETIE))
BROWN BENNETT; ERVIN BENNETT;)
JANIE BENNETT GREEN; ELOISE)
BENNETT NIXS; BENJAMIN NIXS; TERRY)
NIXS; CARRIE GARY; HARRY JULIUS;)
RICHARD GARY; FRONNIE GARY; ELLA)
GARY; FRANCIS GARY; FLORENCE)
(NANA) GARY; ALETHA (TINY) GARY)
WATSON; ANDREW GADSDEN; FRANK)
WATSON; ELIZABETH GARY STAFFORD;)
LEE STAFFORD; JOHN LEE STAFFORD;)
JOSEPH GARY; NEHEMIAH GARY;)
DOROTHY GARY; HAROLD GARY;)
CLEVELAND GARY; HENRY GARY;)
FLORRIE GARY; NAOMI GARY)
STAFFORD; JAMES STAFFORD, SR.;)
HATTIE MAE STAFFORD; EDNA)
BROOKER; HENRY BROOKER; INELL)
JONES; RAYMOND JONES; JAMES)
STAFFORD, JR.; HAZEL GARY; HENRY)
GARY, JR.; HENRY GARY, III; HERMAN)
GARY; MARY ELLEN GARY WILLIAMS;)
HERBERT WILLIAMS, SR.; HERBERT)
WILLIAMS, JR.; LOUISE GARY WHITE;)
JIMMY WHITE; LOU ETHEL)
WASHINGTON; MARGARET GARY)
LEVINE; DAVID LEVIN; EDDIE JAMES)
GARY; WILHELMINA GARY MURRAY;)
EZEKIEL MURRAY, SR.; JOSEPHINE)
GARY JENKINS; EDDIE JENKINS; JOE)
LOUIS GARY; HEIRS OF DAVID PRINGLE;)
SALT MARSH PARTNERS, L.P.; JANICE E.)
JONES AND RALPH E. JOHNSON;)
BOBBIE J. COLLINS; LEORY NORRIS)
AND ODIS ANN NORRIS; M. LANE)

MORRISON; MILLS LANE MORRISON)
AND BANK OF AMERICA, N.A., AS)
TRUSTEES; BEAUFORT COUNTY OPEN)
LAND TRUST; WILLIAM MCLEAN MIXON)
AND BARBARA HILL MIXON, AS)
TRUSTEES OF THE MIXON REVOCABLE)
TRUST AGREEMENT DATED JULY 24,)
2008; ROBERT J. PINCKNEY; MAMIE)
BROWN, SUSIE CORDEAUX, DOROTHY)
LESESNE, BEN PINCKNEY,)
CHRISTOPHER PINCKNEY, ETTA)
PINCKNEY, HENRY PINCKNEY, HERBERT)
PINCKNEY, ERNESTINE P. ROGERS,)
LILLIE SHELL, AND RUTH P. SIMMONS;)
RICHARD JOHNSON, JR.; HELEN COLES;)
FORESTINE PRINGLE; SANDRA SMALLS;)
JACKIE SMALLS; SHARON SMALLS;)
ANDREA SMALLS; BROOKE SMALLS;)
ALLAN SCOTT; CLEON SCOTT; NIA)
MALIKA SINGLETARY; LORETTA L.)
STEWART; NATHAN JONES; ERIC)
WILLIAMSON; DWAYNE WILLIAMSON;)
AUDREY BROWN; JOSEPH JOHNSON;)
JACQUELINE JOHNSON MAJOR;)
ROBERT LEE GREEN; KENNETH GREEN;)
JUANITA GREEN; KEITH GREEN; JOSEPH)
GREEN; ELLIS GREEN; CARL GREEN;)
BROWN BENNETT; DORSEY BENNETT;)
WILLIAM NIXS; JENNIFER NIXS; JASON)
NIXS; THADDAUS NIXS; EDWARD NIXS;)
CHARLES NIXS; ALTHEA NIXS; CLARA)
GARY; FRANCIS GARY, JR. ; ADELIA)
GARY; CHARLES GARY; ALBERT GARY;)
ULYSSES GARY; BERNARD GARY;)
DAVID GARY; ANNETTE SINGLETON;)
LILLIE MAE GIFFORD; SHAWNDEA)
STAFFORD; JAMES STAFFORD;)
BEAULAH GADSDEN; JORDAN HARRIS;)
LEON STAFFORD; ALVIN BROOKER;)
MICHAEL STAFFORD; SHIRLEY)
STAFFORD WHITE; GAIL STAFFORD)
MARQUEZ; JACQUELINE STAFFORD;)
STEPHANIE JONES; RENATA JONES;)
RANELL JONES; GERMAINE JONES;)
NATHANIEL STAFFORD; ANGELA)
STAFFORD; SONYA GREEN; JAMES)



STAFFORD, III; RASHEEN JAMES;)
 JUSEAN JAMES; KIERRA STAFFORD;)
 LENA (EVELYN) GARY; BRENDA)
 PATTERSON; JEANETTE RUTLEDGE;)
 ISSAC WILLIAMS; CAROLYN)
 ACHAMPONY; ANTOINETTE LEWIS;)
 GERALDINE BROWN; JOHNNY)
 WASHINGTON; KURT WASHINGTON;)
 DIANE GARY; TRACY WASHINGTON;)
 CAREN WASHINGTON; LUNETHA)
 GARY; JAMES STANLEY GARY; GERALD)
 R. GARY; if living, and if not living, then)
 the heirs or devisees of all such persons)
 named above; and all persons unknown)
 having or claiming to have any right, title,)
 estate, interest in or lien upon the real)
 property described in the Complaint)
 herein, being designated collectively as)
 JOHN DOE and MARY ROE, including all)
 persons who may be deceased, minors, in)
 the Armed Forces of the United States,)
 Non Compos Mentis, and under any other)
 disability,)
)
 Defendants.)

TO THE DEFENDANTS:

The Plaintiffs allege unto this Honorable Court the following, to wit:

FOR A FIRST CAUSE OF ACTION
 (Determination of Heirs of Solomon White and Mary Ann White)

101. The real property which is the subject matter of this action is described on Attachment A hereto (herein the PROPERTY) which consists of Parcel One and Parcel Two.

102. Parcel One of the PROPERTY was acquired by Solomon White in Deed Book 12 at Page 256 recorded in 1881 (30 acres, more or less).

103. Parcel Two of the PROPERTY was acquired by Mary Ann White in

Deed Book 14 at Page 590 recorded in 1885 (10 acres, more or less).

104. Solomon White died intestate in 1895 and Mary Ann White died intestate in 1897 and neither of them had a probaton of their estates in Beaufort County, S.C. being survived by those persons named on Attachment B hereto some of which have also died intestate without a probaton of their estates in Beaufort County, S.C.

105. The persons named on Attachment C hereto are the living heirs of Solomon White and Mary Ann White and are the current owners of the PROPERTY.

106. The heirs of Solomon White and Mary Ann White named on Attachment D hereto have designated the Plaintiffs in writing to be their agents to prosecute this action to clear the title to the PROPERTY for all the heirs.

107. The Plaintiffs seek to have this Court determine the heirs of Solomon White and Mary Ann White by and through the equity jurisdiction of the Court as the Plaintiffs have no remedy at law.

FOR A SECOND CAUSE OF ACTION
(To Determine Boundary Disputes)

201. The allegations of the First Cause of Action are realleged herein.

202. The following persons are listed on the Beaufort County Tax records as adjacent owners to Parcel One of the PROPERTY and should any of them claim a boundary dispute with Parcel One of the PROPERTY, they should file an Answer to this Complaint:

- a. Heirs of David Pringle as the owner of Tax Parcel R700-013-000-0032 (Record Book 36 at Page 559).
- b. Salt Marsh Partners, L.P. as the owner of Tax Parcel R700-014-000-0064 (Record Book 930 at Page 513).
- c. Janice E. Jones and Ralph E. Johnson as the owners of Tax Parcel R700-013-000-0009 (Record Book 2821 at Page 1995).
- d. Bobbie J. Collins as the owner of Tax Parcel R700-013-000-0008 (Record Book 1375 at Page 686).
- e. Leroy Norris and Odis Ann Norris as the owners of Tax Parcel R700-013-000-0007 (Record Book 1710 at Page 500).



- f. M. Lane Morrison and Mills Lane Morrison and Bank of America, N.A. as the owner of Tax Parcel R700-013-000-0039 (Record Book 567 at Page 289, Record Book 602 at Page 2157, Record Book 1245 at Page 47, and Record Book 1245 at Page 1085).

203. The Plaintiffs have had Parcel One of the PROPERTY surveyed, the plat recorded in Plat Book 133 at Page 129, and the information on that plat correctly describes Parcel One of the PROPERTY.

204. The following persons are listed on the Beaufort County Tax records as adjacent owners to Parcel Two of the PROPERTY and should any of them claim a boundary dispute with Parcel Two of the PROPERTY, they should file an Answer to this Complaint:

- a. Beaufort County Open Land Trust as the owner of Tax Parcel R700-013-000-0023 (Record Book 2481 at Page 2323).
- b. William McLean Mixon and Barbara Hill Mixon, as Trustees of the Mixon Revocable Trust Agreement Dated July 24, 2008, as the owners of Tax Parcel R700-013-000-0001 (Record Book 2753 at Page 850).
- c. Robert J. Pinckney as the owner of Tax Parcel R700-013-000-025A (Record Book 322 at Page 1130).
- d. Mamie Brown, Susie Cordaux, Dorothy Lesesne, Ben Pinckney, Christopher Pinckney, Etta Pinckney, Henry Pinckney, Herbert Pinckney, Ernestine P. Rogers, Lilly Shell, and Ruth P. Simmons as the owners of Tax Parcel R700-013-000-025B (Judgment Roll 53099).
- e. Beaufort County Open Land Trust as the owner of Tax Parcel R700-013-000-0037 (Record Book 1532 at Page 2058).

205. The Plaintiffs have had Parcel Two of the PROPERTY surveyed, recorded in Plat Book 53 at Page 82, and the information on that plat correctly describes Parcel Two of the PROPERTY.

FOR A THIRD CAUSE OF ACTION
(Ouster and Waiver of Rights)

301. The allegations of the First, Second and Third Causes of Action are realleged herein.



302. The persons named on Attachment C hereto are the living heirs of Solomon White and Mary Ann White.

303. Certain heirs who are named on Attachment D hereto have designated certain persons as their agents to institute this action to quiet title for the purposes stated herein.

304. For a period well in excess of twenty years, those persons named on Attachment E hereto have not paid taxes on the PROPERTY, nor have they used it in any manner, nor occupied it, nor have they made any claim to it, nor have they exercised any attempt to claim ownership of it.

305. By their actions, those persons named on Attachment E hereto have waived their rights to the PROPERTY and they have been ousted from any rights of ownership in the PROPERTY by the persons named on Attachment D hereto.

306. The persons named on Attachment F hereto are the sole owners in fee simple of the PROPERTY.

FOR A FOURTH CAUSE OF ACTION
(Partition)

401. The allegations of the First Cause of Action are realleged herein.

402. The persons set forth on Attachment C hereto are the living heirs of Solomon White and Mary Ann White and in the interests stated on Attachment C.

403. The heirs of Solomon White and Mary Ann White who are named on Attachment F are the fee simple owners of the PROPERTY as co-tenants.

404. The heirs of Solomon White and Mary Ann White named on Attachment D hereto are desirous of partitioning the PROPERTY into equal shares in kind and have appointed the Plaintiffs to accomplish this purpose.

405. The heirs of Richard Gary named on Attachment B hereto (Page 18) refuse to participate with all of the other heirs of Solomon White and Mary Ann White in a partition of the PROPERTY.

406. In as much as all the heirs of Solomon White and Mary Ann White are co-tenants, Section 15-61-10 S.C. Code of Laws, et seq., as amended, provides that the co-tenants set forth on Attachment C hereto are entitled to a partition of the PROPERTY into equal shares, in kind.

407. It is not possible for the PROPERTY to be partitioned into equal



shares in kind so the Plaintiffs (for themselves and the other heirs for whom they are agents) are entitled to a sale of the PROPERTY and a division of the proceeds of the sale according to the statute of Descent and Distribution in the interests set forth on Attachment C hereto.

408. Pursuant to Section 15-61-25 S.C. Code of Laws, 1976, as amended, the Court shall give the Defendants Notice of their right to purchase the PROPERTY up to ten days prior to the trial and that notice is given by this paragraph in this Complaint.

PRAYER

WHEREFORE, the Plaintiffs pray this Honorable Court to inquire into the facts and matters alleged herein and to issue its DECREE as follows:

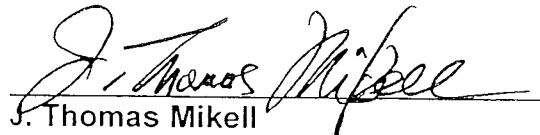
- A. To appoint a Guardian Ad Litem to represent the interest of any minors, persons Non Compos Mentis, persons in the Armed Forces of the United States or under any other disability; and,
- B. To refer this matter to the Master In Equity to inquire into the facts and matters alleged herein and to render a decision; and,
- C. For a Decree removing any clouds as to the family tree as set forth in the First Cause of Action and quieting title to the PROPERTY in the names of the heirs of Solomon White and Mary Ann White; and,
- D. To determine that there are no boundary disputes as set forth in the Second Cause of Action; and,
- E. For a determination that the persons designated on Attachment E hereto have been ousted or have waived their rights in the PROPERTY as set forth in the Third Cause of Action; and,
- F. For a partition of the PROPERTY pursuant to the Fourth Cause of Action; and,
- G. For such other relief as this Court may deem just and equitable.



Mikell, Weidner, Wegmann & Harper, LLC

December 6, 2011

By:



J. Thomas Mikell

Attorney for the Plaintiffs

Post Office Box 1727

Beaufort, South Carolina 29901

Phone: 843-524-2110

Fax: 843-524-4995

JTM File No. 4858.0000



SCHEDULE OF ATTACHMENTS

| <u>Document</u> | <u>Designation</u> |
|--|--------------------|
| Description of PROPERTY | A |
| Family Tree | B |
| Living Heirs Of Solomon White And Mary Ann White | C |
| Heirs Appointing Plaintiffs As Agents | D |
| Heirs Who Are Ousted | E |
| Owners of the PROPERTY | F |

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ATTACHMENT A – DESCRIPTION OF THE PROPERTY

Parcel One: All that parcel of real property situate in Sheldon Township of Beaufort County, South Carolina being a part of what was formerly known as Prescott Plantation containing twenty nine (29) acres and thirty seven (37) rods, more or less, which is specifically described as 29.965 acres on a plat (L-6254) prepared by Ziad A. Khalil, SCRLS, on January 22, 2007 and recorded in Plat Book 133 at Page 129 in the ROD Office of Beaufort County.

Being the same real property conveyed to Solomon White in Deed Book 12 at Page 2516.

Tax Number: R700-013-000-0006-0000.

Parcel Two: All that parcel of real property situate in Sheldon Township of Beaufort County, South Carolina being a part of what was formerly known as Prescott Plantation containing ten (10) acres, more or less, which is specifically described as the parcel owned by "N/F Pickney" on a plat prepared by David E Gasque, SCRLS, on June 19, 1995 and recorded in Plat Book 53 at Page 82 in the ROD Office of Beaufort County, S.C.

Being the same real property conveyed to Mary Ann White in Deed Book 14 at Page 590.

Tax Number: R700-013-000-0024-0000.



ATTACHMENT B – FAMILY TREE OF SOLOMON WHITE AND MARY ANN WHITE

Solomon White D - 1895
Mary Ann Pinckney White D - 1897

Child A. Edward White D - 1940 No spouse - no issue.

Child B. Jacob White D - 1917

W - Mary White D - 1960

Carrie White D - 2006 No issue.

Child C. Ellen White Gary D - 1945

H - Sam Gary D - 1948

ISSUE

1. Emma Gary Johnson D - 1957 (See Pages 12-13)

2. Mamie Gary D - 1932 (See Pages 14-16)

3. Carrie Gary D - 1961 (See Page 17)

4. Richard Gary D - 1967 (See Page 18)

5. Aletha (Tiny) Gary Watson D - 1967 (See Page 19)

6. Nehemiah Gary D - 1958 (See Page 20)

7. Henry Gary D - 1953 (See Pages 21-24)



1. Emma Gary Johnson D - 1957
 - H - Miller Johnson, Sr. D - 1960
 - i. Oscar Johnson D- 1978
 - W - Eloise Johnson D - 1972
 - a. Frank Johnson
 - b. Ruth J. Green
 - c. Dorothy Jones
 - ii. Miller Johnson, Jr. D - 1977
 - W - Leola Johnson D - 1980
 - iii. Richard (Ritchie) Johnson D - 1994
 - W - Sarah H. Johnson D - 1997
 - a. Richard Johnson, Jr.
 - b. Theresa Scott
 - iv. Helen Coles
 - H - Mack Coles D - 1989
 - v. Erma Johnson Kelly
 - vi. Emily Johnson Albergottie D - 1983
 - H - Robert Albergottie D - 1993
 - a. Barbara Jean Ferguson a/k/a Barbara Jean Albergottie
 - b. Alphonzo Albergottie
 - vii. Solomon Johnson
 - viii. Louise Johnson Pringle D - 2004
 - H - Marion Pringle D - 1991



000075

- a. David Pringle
- b. Forestine Pringle
- c. Pauline Lesesne
- d. Marion Pringle, Jr.

A handwritten signature in black ink, appearing to be 'Jm' or similar initials, located at the bottom center of the page.

2. Mamie Gary D - 1932

H - Thomas Brown D - 1934

i. Carrie Scott D - 1951

H - Clarence Scott D - 1962

a. Jessie Mae Scott Smalls D - 2006

(i) Sandra Smalls

(ii) Jackie Smalls

(iii) Sharon Smalls

(iv) Williams Smalls, Jr. D - 1990

W - Andrea Smalls

i. Brooke Smalls

b. Nathaniel Scott D - 1993

W - Camerine Scott D - 2007

(i) Frederick Scott

(ii) Allan Scott

(iii) Paul K. Scott

c. Cleon Scott

d. Hermon V. Scott D - 1974 No spouse.

Nia Malika Singletary

e. Luther Scott D - 1990 No spouse, no issue.

ii. Earnestine Steward D - 1993

H - Epstein Steward D - 1960

a. Loretta L. Steward

- iii. Lonny Brown D - 1973
- iv. Gussy Brown D- 1969 No spouse, no issue.
- v. Charles Brown D – 1975 No spouse, no issue.
- vi. Danza Gary D- 1982 No spouse, no issue.
- vii. Victoria Brown D- 1929 No spouse.
 - a. Dorothy Williamson D - 1998
 - H - Joseph Williamson, Sr. D - 1990
 - (i) Nathan Jones
 - (ii) Harold Jones
 - (iii) Elijah Williamson D - 1999 No spouse.
 - (1) Eric Williamson
 - (2) Dwayne Williamson
 - (iv) Audrey Brown
 - (v) Joseph Williamson, Jr. D – 1970 No spouse.
 - (1) Joseph Johnson
 - (2) Jacqueline Johnson Major
 - (vi) Sandra Williamson Powell
 - (vii) Frederick L. Williamson
- viii. Helen (Sweetie) Brown Bennett D - 1984
 - H - Ervin Bennett D - 1963
 - a. Elvin Bennett

- b. Janie Bennett Green D- 2004
 - (i) Robert Lee Green
 - (ii) Kenneth Green
 - (iii) Janie L. Ganues
 - (iv) Juanita Green
 - (v) Keith Green
 - (vi) Joseph Green
 - (vii) Ellis Green
 - (viii) Carl Green
- c. Brown Bennett
- d. Dorsey Bennett
- e. Eloise Bennett Nixs D- 1969
 - H – William Nixs
 - (i) Benjamin Nixs D - 2011 No spouse.
 - (1) Jennifer Nixs
 - (2) Jason Nixs
 - (ii) Thaddaus Nixs
 - (iii) Edward Nixs
 - (iv) Charles Nixs
 - (v) Terry Nixs D – 1985 No spouse, no issue.
 - (vi) Althea Nixs



3. Carrie Gary D - 1961

No issue.

H - Harry Julius D - 1950

A handwritten signature in cursive script, appearing to be 'Jm'.

4. Richard Gary D - 1967

W 1 - Fronnie Gary D - 1956

W 2 - Ella Gary D - 1966 No issue.

i. Francis Gary D - 1994

W - Clara Gary

a. Francis Gary, Jr.

b. Adelia Gary

c. Charles Gary

d. Albert Gary

e. Ulysses Gary

f. Bernard Gary

g. David Gary

h. Annette Singleton

ii. Florence (Nana) Gary D - 2004

No spouse.

Lillie Mae Gifford



- 5. Aletha (Tiny) Gary Watson D - 1967
 - H 1 - Andrew Gadsden D- 1940
 - H 2 – Frank Watson D – 1977 No issue.
 - i. Elizabeth Gary Stafford D- 1941
 - H- Lee Stafford D - 2002
 - a. John Lee Stafford D 2011
 - W – Bertha Stafford
 - (i) Patrice Stafford
 - (ii) Shawndea Stafford
 - b. James Stafford
 - ii. Joseph Gary D - 1962 No issue.
 - W- Beulah Gadsden



6. Nehemiah Gary D - 1958

W- Dorothy Gary D- 1962

i. Harold Gary D - 1957

W - Mary Lee Gary

Alnethia Gary

ii. Cleveland Gary - D 2005 No spouse. No issue.



7. Henry Gary D - 1953

W- Florrie Gary D- 1959

i. Naomi Gary Stafford D - 1992

H - James Stafford, Sr. D - 1959

a. Hattie Mae Stafford D - 2011 No spouse.

(i) Jordan Harris

(ii) Leon Stafford

b. Edna Brooker D - 1977

H - Henry Brooker D - 1984

(i) Alvin Brooker

(ii) Michael Stafford

c. Shirley Stafford White

d. Gail Stafford Marquez

e. Inell Jones D - 1995

H - Raymond Jones D - 2000

(i) Jacqueline Stafford

(ii) Stephanie Jones

(iii) Renata Jones

(iv) Ranell Jones

(v) Germaine Jones

f. Nathaniel Stafford

g. James Stafford, Jr. D - 2007

W - Divorced

- (i) Angela Stafford
 - (ii) Sonya Green
 - (iii) James Stafford, III
 - (iv) Rasheen James
 - (v) JuSean James
 - (vi) Kierra Stafford
- h. Edward Stanley Stafford
- ii. Hazel Gary D - 1972 No spouse, no issue.
- iii. Henry Gary, Jr. D - 1988
 - W - Lena (Evelyn) Gary
 - a. Brenda Patterson
 - b. Henry Gary, III D - 1999 No spouse, no issue.
- iv. Herman Gary D - 2009
 - W - Luerta Gary
 - a. Kenneth Gary
 - b. Carlos Gary
 - c. Ron Kenneth Stewart
- v. Mary Ellen Gary Williams D - 1978
 - H - Herbert Williams, Sr. D - 1999
 - a. Mary Frances Duncan
 - b. Debra Williams
 - c. Larry Williams
 - d. Herbert Williams, Jr. D - 2011



Jeanette Rutledge

(i) Issac Williams

e. Barbara Williams Smith

f. Johnnie Williams

vi. Louise Gary White D - 1999

H - Jimmy White D - 1983

a. Carolyn Achampong

b. Antoinette Lewis

c. Terri Elaine Weaver

d. Letha G. Rhem

e. Geraldine Brown

f. Patricia Ann White

g. Sharon White

h. Nolen White

vii. Lou Ethel Washington D - 2006

H - Johnny Washington

a. Kurt Washington

b. Diane Gary

c. Johnny Washington, Jr.

d. Tracy Washington

e. Carren Washington

viii. Margaret Gary Levine D - 1967

A handwritten signature in black ink, appearing to be 'Jm', is located at the bottom center of the page.

H – David Levin D - 1991 No issue.

ix. Eddie James Gary D - 1988

W - Lunetha Gary

a. James Stanley Gary

b. Gerald R. Gary

x. Wilhelmina Gary Murray D - 1990

H - Ezekiel Murray, Sr. D - 2000

xi. Josephine Gary Jenkins D - 1996 No issue.

H- Eddie Jenkins D - 2002

xii. Joe Louis Gary D – 1970 No spouse, no issue.



ATTACHMENT C – LIVING HEIRS OF SOLOMON WHITE AND MARY ANN WHITE

| | <u>Name</u> | <u>Interest</u> | <u>Number</u> |
|-------|--------------------------------|-----------------|---------------|
| a. | Heirs of Emma Gary Johnson | | |
| (i) | Frank Johnson | 0.80 | (1) |
| | Ruth J. Green | 0.79 | (2) |
| | Dorothy Jones | 0.79 | (3) |
| (ii) | Richard Johnson, Jr. | 1.19 | (4) |
| | Theresa Scott | 1.19 | (5) |
| (iii) | Helen Coles | 2.38 | (6) |
| (iv) | Erma Johnson Kelly | 2.38 | (7) |
| (v) | Barbara Jean Ferguson | 1.19 | (8) |
| | a/k/a Barbara Jean Albergottie | | |
| | Alphonzo Albergottie | 1.19 | (9) |
| (vi) | Solomon Johnson | 2.39 | (10) |
| (vii) | David Pringle | 0.60 | (11) |
| | Forestine Pringle | 0.60 | (12) |
| | Pauline Lesesne | 0.59 | (13) |
| | Marion Pringle, Jr. | 0.59 | (14) |
| | | <u>16.67</u> | |
| b. | Heirs of Mamie Gary | | |
| (i) | Sandra Smalls | 0.42 | (15) |
| | Jackie Smalls | 0.42 | (16) |
| | Sharon Smalls | 0.42 | (17) |
| | Andrea Smalls | 0.42 | (18) |
| | Brooke Smalls | 0.42 | (19) |
| | Frederick Scott | 0.42 | (20) |
| | Allan Scott | 0.42 | (21) |
| | Paul K. Scott | 0.41 | (22) |
| | Cleon Scott | 0.41 | (23) |
| | Nia Malika Singletary | 0.41 | (24) |
| (ii) | Loretta L. Steward | 4.16 | (25) |
| (iii) | Nathan Jones | 0.47 | (26) |
| | Harold Jones | 0.47 | (27) |
| | Eric Williamson | 0.47 | (28) |
| | Dwayne Williamson | 0.46 | (29) |
| | Audrey Brown | 0.46 | (30) |
| | Joseph Johnson | 0.46 | (31) |
| | Jacqueline Johnson Major | 0.46 | (32) |
| | Sandra Williamson Powell | 0.46 | (33) |
| | Frederick L. Williamson | 0.46 | (34) |

JJM

000088

| | | | |
|------|------------------|-------|------|
| (iv) | Elvin Bennett | 0.24 | (35) |
| | Robert Lee Green | 0.24 | (36) |
| | Kenneth Green | 0.24 | (37) |
| | Janie L. Ganues | 0.23 | (38) |
| | Juanita Green | 0.23 | (39) |
| | Keith Green | 0.23 | (40) |
| | Joseph Green | 0.23 | (41) |
| | Ellis Green | 0.23 | (42) |
| | Carl Green | 0.23 | (43) |
| | Brown Bennett | 0.23 | (44) |
| | Dorsey Bennett | 0.23 | (45) |
| | William Nixs | 0.23 | (46) |
| | Jennifer Nixs | 0.23 | (47) |
| | Jason Nixs | 0.23 | (48) |
| | Thaddaus Nixs | 0.23 | (49) |
| | Edward Nixs | 0.23 | (50) |
| | Charles Nixs | 0.23 | (51) |
| | Althea Nixs | 0.23 | (52) |
| | | 16.67 | |

c. Carrie Gary – No living spouse or issue.

d. Heirs of Richard Gary

| | | | |
|------|--------------------|-------|------|
| (i) | Clara Gary | 0.93 | (53) |
| | Francis Gary, Jr. | 0.93 | (54) |
| | Adelia Gary | 0.93 | (55) |
| | Charles Gary | 0.93 | (56) |
| | Albert Gary | 0.93 | (57) |
| | Ulysses Gary | 0.93 | (58) |
| | Bernard Gary | 0.92 | (59) |
| | David Gary | 0.92 | (60) |
| | Annette Singleton | 0.92 | (61) |
| (ii) | Lillie Mae Gifford | 8.33 | (62) |
| | | 16.67 | |

e. Heirs of Aletha (Tiny) Gary Watson

| | | | |
|------|-------------------|-------|------|
| (i) | Bertha Stafford | 2.09 | (63) |
| | Patrice Stafford | 2.09 | (64) |
| | Shawndea Stafford | 2.08 | (65) |
| | James Stafford | 2.08 | (66) |
| (ii) | Beulah Gadsden | 8.33 | (67) |
| | | 16.67 | |

f. Heirs of Nehemiah Gary

| | | | |
|-----|---------------|-------|------|
| (i) | Mary Lee Gary | 8.33 | (68) |
| | Alnethia Gary | 8.33 | (69) |
| | | 16.66 | |

g. Heirs of Henry Gary

| | | | |
|-------|-------------------------|------|-------|
| (i) | Jordan Harris | 0.13 | (70) |
| | Leon Stafford | 0.13 | (71) |
| | Alvin Brooker | 0.13 | (72) |
| | Michael Stafford | 0.13 | (73) |
| | Shirley Stafford White | 0.13 | (74) |
| | Gail Stafford Marquez | 0.13 | (75) |
| | Jacqueline Stafford | 0.13 | (76) |
| | Stephanie Jones | 0.13 | (77) |
| | Renata Jones | 0.13 | (78) |
| | Ranell Jones | 0.13 | (79) |
| | Germaine Jones | 0.12 | (80) |
| | Nathaniel Stafford | 0.12 | (81) |
| | Angela Stafford | 0.12 | (82) |
| | Sonya Green | 0.12 | (83) |
| | James Stafford, III | 0.12 | (84) |
| | Rasheen James | 0.12 | (85) |
| | JuSean James | 0.12 | (86) |
| | Kierra Stafford | 0.12 | (87) |
| | Edward Stanley Stafford | 0.12 | (88) |
| (ii) | Lena (Evelyn) Gary | 1.19 | (89) |
| | Brenda Patterson | 1.19 | (90) |
| (iii) | Luerta Gary | 0.60 | (91) |
| | Kenneth Gary | 0.60 | (92) |
| | Carlos Gary | 0.59 | (93) |
| | Ron Kenneth Stewart | 0.59 | (94) |
| (iv) | Mary Frances Duncan | 0.34 | (95) |
| | Debra Williams | 0.34 | (96) |
| | Larry Williams | 0.34 | (97) |
| | Jeanette Rutledge | 0.34 | (98) |
| | Issac Williams | 0.34 | (99) |
| | Barbara Williams Smith | 0.34 | (100) |
| | Johnnie Williams | 0.34 | (101) |
| (v) | Carolyn Achampony | 0.30 | (102) |
| | Antoinette Lewis | 0.30 | (103) |
| | Terri Elaine Weaver | 0.30 | (104) |
| | Letha G. Rhem | 0.30 | (105) |

Jym

| | | | |
|-------|------------------------|------|-------|
| | Geraldine Brown | 0.30 | (106) |
| | Patricia Ann White | 0.30 | (107) |
| | Sharon White | 0.29 | (108) |
| | Nolen White | 0.29 | (109) |
| (vi) | Johnny Washington | 0.40 | (110) |
| | Kurt Washington | 0.40 | (111) |
| | Diane Gary | 0.40 | (112) |
| | Johnny Washington, Jr. | 0.40 | (113) |
| | Tracy Washington | 0.39 | (114) |
| | Carren Washington | 0.39 | (115) |
| (vii) | Lunetha Gary | 0.80 | (116) |
| | James Stanley Gary | 0.79 | (117) |
| | Gerald R. Gary | 0.79 | (118) |

16.66

ATTACHMENT D – HEIRS APPOINTING PLAINTIFFS AS AGENTS

| <u>Name</u> | <u>Interest</u> | <u>Number</u> |
|---|-----------------|---------------|
| I. Emma Gary Johnson Branch | | |
| a. Frank Johnson | 0.80 | (1) |
| b. Ruth J. Green | 0.79 | (2) |
| c. Dorothy Jones | 0.79 | (3) |
| d. Theresa Scott | 1.19 | (5) |
| e. Erma Johnson Kelly | 2.38 | (7) |
| f. Barbara Jean Ferguson a/k/a/ Barbara Jean Albergottie | 1.19 | (8) |
| g. Alphonzo Albergottie | 1.19 | (9) |
| h. Solomon Johnson | 2.39 | (10) |
| i. David Pringle | 0.60 | (11) |
| j. Pauline Lesesne | 0.59 | (13) |
| k. Marion Pringle, Jr. | 0.59 | (14) |
| II. Mamie Gary Branch | | |
| a. Frederick Scott | 0.42 | (20) |
| b. Paul K. Scott | 0.41 | (22) |
| c. Harold Jones | 0.47 | (27) |
| d. Sandra Williamson Powell | 0.46 | (33) |
| e. Frederick L. Williamson | 0.46 | (34) |
| f. Elvin Bennett | 0.24 | (35) |
| g. Janie L. Ganues | 0.23 | (38) |
| III. Carrie Gary Branch | | |
| No living heirs. | | |
| IV. Richard Gary Branch | | |
| None. | | |
| V. Aletha (Tiny) Gary Watson Branch | | |
| a. Bertha Stafford | 2.09 | (63) |
| b. Patrice Stafford | 2.09 | (64) |
| VI. Nehemiah Gary Branch | | |
| a. Mary Lee Gary | 8.33 | (68) |



000092

b. Alnethia Gary 8.33 (69)

VII. Henry Gary Branch

| | | | |
|----|-------------------------|-------------|-------|
| a. | Edward Stanley Stafford | 0.12 | (88) |
| b. | Luerta Gary | 0.60 | (91) |
| c. | Kenneth Gary | 0.60 | (92) |
| d. | Carlos Gary | 0.59 | (93) |
| e. | Ron Kenneth Stewart | 0.59 | (94) |
| f. | Mary Frances Duncan | 0.34 | (95) |
| g. | Debra Williams | 0.34 | (96) |
| h. | Larry Williams | 0.34 | (97) |
| i. | Barbara Williams Smith | 0.34 | (100) |
| j. | Johnnie Williams | 0.34 | (101) |
| k. | Terri Elaine Weaver | 0.30 | (104) |
| l. | Letha G. Rhem | 0.30 | (105) |
| m. | Patricia Ann White | 0.30 | (107) |
| n. | Sharon White | 0.29 | (108) |
| o. | Nolen White | 0.29 | (109) |
| p. | Johnny Washington, Jr. | <u>0.40</u> | (113) |

Total: 40.92



ATTACHMENT E – HEIRS WHO ARE OUSTED

| | <u>Name</u> | <u>Interest</u> | <u>Number</u> |
|-----|--------------------------|-----------------|---------------|
| a. | Richard Johnson, Jr. | 1.19 | (4) |
| b. | Helen Coles | 2.38 | (6) |
| c. | Forestine Pringle | 0.60 | (12) |
| d. | Sandra Smalls | 0.42 | (15) |
| e. | Jackie Smalls | 0.42 | (16) |
| f. | Sharon Smalls | 0.42 | (17) |
| g. | Andrea Smalls | 0.42 | (18) |
| h. | Brooke Smalls | 0.42 | (19) |
| i. | Allan Scott | 0.42 | (21) |
| j. | Cleon Scott | 0.41 | (23) |
| k. | Nia Malika Singletary | 0.41 | (24) |
| l. | Loretta L. Steward | 4.16 | (25) |
| m. | Nathan Jones | 0.47 | (26) |
| n. | Eric Williamson | 0.47 | (28) |
| o. | Dwayne Williamson | 0.46 | (29) |
| p. | Audrey Brown | 0.46 | (30) |
| q. | Joseph Johnson | 0.46 | (31) |
| r. | Jacqueline Johnson Major | 0.46 | (32) |
| s. | Robert Lee Green | 0.24 | (36) |
| t. | Kenneth Green | 0.24 | (37) |
| u. | Juanita Green | 0.23 | (39) |
| v. | Keith Green | 0.23 | (40) |
| w. | Joseph Green | 0.23 | (41) |
| x. | Ellis Green | 0.23 | (42) |
| y. | Carl Green | 0.23 | (43) |
| z. | Brown Bennett | 0.23 | (44) |
| aa. | Dorsey Bennett | 0.23 | (45) |
| bb. | William Nixs | 0.23 | (46) |
| cc. | Jennifer Nixs | 0.23 | (47) |
| dd. | Jason Nixs | 0.23 | (48) |
| ee. | Thaddaus Nixs | 0.23 | (49) |
| ff. | Edward Nixs | 0.23 | (50) |
| gg. | Charles Nixs | 0.23 | (51) |
| hh. | Althea Nixs | 0.23 | (52) |
| ii. | Clara Gary | 0.93 | (53) |
| jj. | Francis Gary, Jr. | 0.93 | (54) |
| kk. | Adelia Gary | 0.93 | (55) |
| ll. | Charles Gary | 0.93 | (56) |
| mm. | Albert Gary | 0.93 | (47) |

Jm

000094

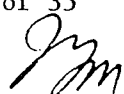
| | | | |
|-------|------------------------|-------------|-------|
| nn. | Ulysses Gary | 0.93 | (58) |
| oo. | Bernard Gary | 0.92 | (59) |
| pp. | David Gary | 0.92 | (60) |
| qq. | Annette Singleton | 0.92 | (61) |
| rr. | Lillie Mae Gifford | 8.33 | (62) |
| ss. | Shawndea Stafford | 2.08 | (65) |
| tt. | James Stafford | 2.08 | (66) |
| uu. | Beulah Gadsden | 8.33 | (67) |
| vv. | Jordan Harris | 0.13 | (70) |
| ww. | Leon Stafford | 0.13 | (71) |
| xx. | Alvin Brooker | 0.13 | (72) |
| yy. | Michael Stafford | 0.13 | (73) |
| zz. | Shirley Stafford White | 0.13 | (74) |
| aaa. | Gail Stafford Marquez | 0.13 | (75) |
| bbb. | Jacqueline Stafford | 0.13 | (76) |
| ccc. | Stephanie Jones | 0.13 | (77) |
| ddd. | Renata Jones | 0.13 | (75) |
| eee. | Ranell Jones | 0.13 | (79) |
| fff. | Germaine Jones | 0.12 | (80) |
| ggg. | Nathaniel Stafford | 0.12 | (81) |
| hhh. | Angela Stafford | 0.12 | (82) |
| iii. | Sonya Green | 0.12 | (83) |
| jjj. | James Stafford, III | 0.12 | (84) |
| kkk. | Rasheen James | 0.12 | (85) |
| lll. | JuSean James | 0.12 | (86) |
| mmm. | Kierra Stafford | 0.12 | (87) |
| nnn. | Lena (Evelyn) Gary | 1.19 | (89) |
| ooo. | Brenda Patterson | 1.19 | (90) |
| ppp. | Jeanette Rutledge | 0.34 | (98) |
| qqq. | Issac Williams | 0.34 | (99) |
| rrr. | Carolyn Achampony | 0.30 | (102) |
| sss. | Antoinette Lewis | 0.30 | (103) |
| ttt. | Geraldine Brown | 0.30 | (106) |
| uuu. | Johnny Washington | 0.40 | (110) |
| vvv. | Kurt Washington | 0.40 | (111) |
| www. | Diane Gary | 0.40 | (112) |
| xxx. | Tracy Washington | 0.39 | (114) |
| yyy. | Carren Washington | 0.39 | (115) |
| zzz. | Lunetha Gary | 0.80 | (116) |
| aaaa. | James Stanley Gary | 0.79 | (117) |
| bbbb. | Gerald R. Gary | <u>0.79</u> | (118) |

Total: 57.89



ATTACHMENT F – OWNERS OF THE PROPERTY

| <u>Name</u> | <u>Interest</u> | <u>Number</u> |
|--|-----------------|---------------|
| I. Emma Gary Johnson Branch | | |
| a. Frank Johnson | 1.11 | (1) |
| b. Ruth J. Green | 1.11 | (2) |
| c. Dorothy Jones | 1.11 | (3) |
| d. Theresa Scott | 3.33 | (5) |
| e. Erma Johnson Kelly | 3.33 | (7) |
| f. Barbara Jean Ferguson a/k/a Barbara Jean Albergottie | 1.67 | |
| g. Alphonzo Albergottie | 1.67 | (9) |
| h. Solomon Johnson | 3.34 | (10) |
| i. David Pringle | 1.11 | (11) |
| j. Pauline Lesesne | 1.11 | (13) |
| k. Marion Pringle, Jr. | 1.11 | (14) |
| II. Mamie Gary Branch | | |
| a. Frederick Scott | 3.34 | (20) |
| b. Paul K. Scott | 3.33 | (22) |
| c. Harold Jones | 2.23 | (27) |
| d. Sandra Williamson Powell | 2.22 | (33) |
| e. Frederick L. Williamson | 2.22 | (34) |
| f. Elvin Bennett | 3.33 | (35) |
| g. Janie L. Ganues | 3.33 | (38) |
| III. Carrie Gary Branch | | |
| No living heirs. | | |
| IV. Richard Gary Branch | | |
| None. | | |
| V. Aletha (Tiny) Gary Watson Branch | | |
| a. Bertha Stafford | 10.0 | (63) |
| b. Patrice Stafford | 10.0 | (64) |
| VI. Nehemiah Gary Branch | | |
| a. Mary Lee Gary | 10.0 | (68) |



b. Alnethia Gary 10.0 (69)

VII. Henry Gary Branch

| | | |
|----------------------------|------------|-------|
| a. Edward Stanley Stafford | 4.0 | (88) |
| b. Luerta Gary | 1.0 | (91) |
| c. Kenneth Gary | 1.0 | (92) |
| d. Carlos Gary | 1.0 | (93) |
| e. Ron Kenneth Stewart | 1.0 | (94) |
| f. Mary Frances Duncan | 0.8 | (95) |
| g. Debra Williams | 0.8 | (96) |
| h. Larry Williams | 0.8 | (97) |
| i. Barbara Williams Smith | 0.8 | (100) |
| j. Johnnie Williams | 0.8 | (101) |
| k. Terri Elaine Weaver | 0.8 | (104) |
| l. Letha G. Rhem | 0.8 | (105) |
| m. Patricia Ann White | 0.8 | (107) |
| n. Sharon White | 0.8 | (108) |
| o. Nolen White | 0.8 | (109) |
| p. Johnny Washington, Jr. | <u>4.0</u> | (113) |

Total: 100.00

Jim

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 COUNTY OF BEAUFORT 1210Y18) 7/13/18 CASE NO. 2011-CP-07-5211

SOLOMON JOHNSON, et al.) AMENDED
) ANSWER OF DEFENDANTS:
 Plaintiffs,) CLARA GARY, FRANCIS GARY, JR.,
) DAVID GARY, ADELIA GARY,
 vs.) CHARLES GARY, ALBERT GARY,
) ULYSSES GARY, BERNARD GARY,
 THE HEIRS OR DEVISEES OF) AND ANNETTE SINGLETON
 SOLOMON WHITE, ET AL.,) AND COUNTER CLAIM
 Defendants)
)
)
)

The Defendants, CLARA GARY, FRANCIS GARY, JR., DAVID GARY, ADELIA GARY, CHARLES GARY, ALBERT GARY, ULYSSES GARY, BERNARD GARY, AND ANNETTE SINGLETON (hereinafter "Defendants") answering the Complaint of the Plaintiffs, allege and state as follows:

1. The Defendants deny each and every allegation of the Complaint of the Plaintiffs that is not specifically admitted herein.
2. Upon information and belief, the Defendants admit the allegations contained in Paragraphs 101 through 103.
3. The Defendants lack sufficient information to form a belief as to the allegations contained in Paragraphs 104 through 107; and therefore, deny the same and demand strict proof thereof.

FOR A DEFENSE TO PLAINTIFFS'
SECOND CAUSE OF ACTION TO DETERMINE BOUNDARY DISPUTES

4. The Defendants respond to the allegations contained in Paragraph 201 by restating the foregoing paragraphs of this Answer to the Complaint as fully and

completely as if repeated verbatim.

5. The Defendants lack sufficient information to form a belief as to the allegations contained in Paragraphs 202 through 205 including subparts; and therefore, deny the same and demand strict proof thereof.

FOR A DEFENSE TO PLAINTIFFS'
THIRD CAUSE OF ACTION OUSTER AND WAIVER OF RIGHTS

6. The Defendants respond to the allegations contained in Paragraph 301 by restating the foregoing paragraphs of this answer as if repeated verbatim.

7. The Defendants lack sufficient information to form a belief as to the allegations contained in Paragraphs 302 and 303; and therefore, deny the same and demand strict proof thereof.

8. The Defendants deny the allegations contained in Paragraphs 304 through 306.

FOR A DEFENSE TO PLAINTIFFS'
FOURTH CAUSE OF ACTION PARTITION

9. The Defendants respond to the allegations contained in Paragraph 401 by restating the foregoing paragraphs of this answer as if repeated verbatim.

10. The Defendants lack sufficient information to form a belief as to the allegations contained in Paragraphs 402 and 407; and therefore, deny the same and demand strict proof thereof.

11. Paragraph 408 is a conclusion of law requiring no answer.

BY WAY OF FURTHER ANSWER AND AS AN AFFIRMATIVE DEFENSE
ADVERSE POSSESSION

12. The Defendants' possession of property containing approximately 30-acres identified as Parcel Identification Number R700-013-000-0006-000 (hereinafter "Parcel One"), and property containing approximately 10-acres identified as Parcel Identification

Number R700-013-000-0024-000 (hereinafter "Parcel Two") has been continuous, hostile, open, actual, notorious, and exclusive for more than forty years; and therefore, this Court should issue an order vesting them with title to Parcel One and Two.

**BY WAY OF FURTHER ANSWER TO THE COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE OUSTER AND WAIVER OF RIGHTS**

13. The Defendants are heirs of Solomon White and Mary Ann Pinckney White and therefore are entitled to an interest in the property.

**BY WAY OF FURTHER ANSWER TO THE COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE-UNJUST ENRICHMENT**

14. The Defendants reassert, re-allege, and reiterate all of the allegations contained in Paragraphs 1 through 13 above and Paragraphs 15 through 22, as if fully set forth herein. The Plaintiffs will be unjustly enriched if they are adjudicated owners of Property One and/or Property Two, because the Defendants have constructed homes and other structures, and have paid expenses, to include but not limited to, taxes and other costs for improvements to maintain Property One and Property Two for more than forty years. The Plaintiffs have not made equitable contributions to the cost of these structures, payments, and/or improvements. Therefore, it would be inequitable for the Plaintiffs to receive ownership of Parcel One and Two without paying and/or reimbursing the Defendants for the value of those expenses, if the Plaintiffs are determined to be the owners in any capacity.

**BY WAY OF FURTHER ANSWER TO THE COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE-BETTERMENT**

15. The Defendants reassert, re-allege, and reiterate all of the allegations contained in Paragraphs 1 through 14 above and Paragraphs 16 through 22, as if fully set forth herein. The Defendants have constructed homes and other structures, and paid other

expenses, to include but not limited to, taxes and improvements to maintain and improve Property One and Property Two for more than forty years. The Defendants have made these improvements under the belief that they were the owners of the properties. The Plaintiffs have not made equitable contributions to offset the costs of these structures, payments, and/or improvements. Therefore, if this Court determines that the Plaintiffs are the owners of the properties in any capacity, then the Defendants should be compensated and/or reimbursed for costs and/or the increase in value resulting from the improvements and/or betterments made.

**BY WAY OF FURTHER ANSWER TO THE COMPLAINT AND AS A COUNTER
CLAIM ADVERSE POSSESSION**

16. The Defendants reassert, re-allege, and reiterate all of the allegations contained in Paragraphs 1 through 15 above as if fully set forth herein.
17. The Defendants are the descendants of the late Richard Gary and his son, the late Francis Gary (the deceased spouse of Clara Gary).
18. Richard Gary, Francis Gary, and the Defendants own property located in Yemassee, South Carolina, situated on Parcel One-Parcel Identification Number R700-013-0000-0024 in Beaufort County, where several homes have been built by the Defendants (jointly and/or separately) since the 1940s and they have lived on, farmed, paid taxes, and maintained Parcel One for more than forty years.
19. Richard Gary, Francis Gary, and the Defendants also own property located in Yemassee, South Carolina, situated on Parcel Two-Parcel Identification Number R700-013-0000-0006 in Beaufort County, where they have used the property for agriculture, timbering, and other investment purposes (jointly and/or separately) and paid the taxes for more than forty years.

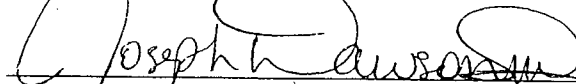
20. The Defendants use of these properties, situated on Parcel One-Parcel Identification Numbers R700-013-0000-0006 and Parcel Two-R700-013-0000-0024, has been continuous, hostile, open, actual, notorious, and exclusive since Richard Gary (and Francis Gary his successor) took possession of properties prior to the 1940s.

21. The Defendants have continuously relied upon their ownership of the properties situated on Parcel One (R700-013-0000-0006) and Parcel Two (R700-013-0000-0024).

22. The Defendants have possessed the real estate constituting the subject matter of this action in excess of forty (40) years; and therefore, the Defendants believe that they should be declared the owners, in fee simple, of the properties by virtue of their adverse possession of the same.

WHEREFORE, having fully answered the Complaint of Plaintiffs' and set forth a Counter Claim, the Defendants pray that this Court issue an order vesting title in the Defendants for the property that they have possessed for more than forty years and for such other and further relief as the Court may deem just and proper.

**CLARA GARY, FRANCIS GARY, JR., DAVID
GARY, ADELIA GARY, CHARLES GARY, ALBERT
GARY, ULYSSES GARY, BERNARD GARY, AND
ANNETTE SINGLETON**



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May 17, 2012
Charleston S.C.

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CERTIFICATE OF SERVICE

I CERTIFY THAT ON THIS DATE A COPY OF THE FOREGOING WAS SERVED ON
OPPOSING COUNSEL BY MAILING OR HAND-DELIVERY IN THE MANNER PRESCRIBED
BY THE APPLICABLE RULES OF CIVIL PROCEDURE.

THIS 17th DAY OF May, 2012:

Paulette D. Dawson

SECTION 18
MAY 18 PM 3:29
SECTION OF COURT

000103

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-07-5211

SOLOMON JOHNSON, FRANK JOHNSON,)
RUTH GREEN, DOROTHY JONES,)
THERESA SCOTT, ERMA JOHNSON)
KELLY, BARBARA JEAN FERGUSON a/k/a)
BARBARA JEAN ALBERGOTTIE, ET AL,)

Plaintiffs,)

vs.)

THE HEIRS OR DEVISEES OF)
SOLOMON WHITE; MARY ANN PINCKNEY)
WHITE; EDWARD WHITE, JACOB WHITE,)
MARY WHITE; CARRIE WHITE; ELLEN)
WHITE GARY; SAM GARY; ET AL,)

Defendants.)

REPLY

SEAL OF THE COURT OF COMMON PLEAS
BEAUFORT COUNTY, S.C.

2012 MAY 24 AM 10:56

To Clara Gary;
Francis Gary, Jr.;
David Gary;
Adelia Gary;
Charles Gary;
Albert Gary;
Ulysses Gary;
Bernard Gary;
and Annette Singleton; (all designated herein as
the ANSWERING DEFENDANTS);
c/o Joseph Dawson, III
Attorney at Law:

The Plaintiffs hereby REPLY and respond to the Amended Answer and Counterclaim of the ANSWERING DEFENDANTS dated May 17, 2012 in the following manner, to wit:

1. All allegations of the Amended Answer and Counterclaim are specifically denied unless specifically admitted herein.

000104

2. As to the allegations of the Third Cause of Action to the Complaint wherein certain heirs of Solomon White and Mary Ann White either have not been heard from for many years, or their whereabouts are unknown, or they have not responded to communications from the Plaintiffs about the PROPERTY, the Plaintiffs acknowledge and recognize that the ANSWERING DEFENDANTS have an interest in the PROPERTY but only that interest allowable to them by the South Carolina Statute of Descent and Distribution.
3. As to the allegations of the Fourth Cause of Action to the Complaint wherein the Plaintiffs seek a partition in kind of the PROPERTY pursuant to S.C. Code Section 15-61-10 S.C. Code of Laws, 1976, et seq. as amended, the Plaintiffs only seek that the PROPERTY shall be divided in kind among the six different branches of the family, but should the Court not be able to reach such a result, then the Plaintiffs recognize that the only remedy for all the heirs of Solomon White and Mary Ann White will be for the sale of the entire PROPERTY and a distribution of the proceeds into six portions (one portion for each family branch).
4. As to the Counterclaim set forth in Paragraph 12 of the Amended Answer and Counterclaim (misnamed as the Affirmative Defense of Adverse Possession), the Plaintiffs deny those allegations and assert (a) that the ANSWERING DEFENDANTS have only used and occupied a portion of the PROPERTY, (b) that all the heirs of Solomon White and Mary Ann White are cotenants and cotenants can not adversely possess against each other, i.e., they can only oust one another, and, (c) no specific allegations of fact are made as to any ouster.
5. As to the Counterclaim set forth in Paragraph 13 of the Amended Answer and Counterclaim (misnamed as the Affirmative Defense of Ouster), the Plaintiffs deny those allegations and assert that the ANSWERING DEFENDANTS (a) have failed to allege any facts to establish Ouster as provided by Rule 8(b), SCRPC, and, (b) while these Defendants have occupied a portion of Parcel One of the PROPERTY, their occupation and use has been limited to small areas, and, (c) other heirs of Solomon White and Mary Ann White have simultaneously occupied and used other portions of the PROPERTY.

6. As to the Counterclaim set forth in Paragraph 13 of the Amended Answer and Counterclaim (misnamed as the Affirmative Defense of Waiver), the Plaintiffs deny the same and assert that the ANSWERING DEFENDANTS (a) have failed to allege any facts to establish Waiver as provided by Rule 8(b), SCRCP, and, (b) while they have occupied a portion of Parcel One of the PROPERTY, their occupation and use has been limited to small areas, and, (c) other heirs of Solomon White and Mary Ann White have simultaneously occupied and used other portions of the PROPERTY.
7. As to the Counterclaim set forth in Paragraph 14 of the Amended Answer and Counterclaim (misnamed as the Affirmative Defense of Unjust Enrichment), the Plaintiffs deny the same and assert that the Plaintiffs would only be unjustly enriched to the extent that the activities of constructing homes and making improvements to the PROPERTIES exceed the share to which the ANSWERING DEFENDANTS would be entitled as heirs of Solomon White and Mary Ann White which matters are denied by the Plaintiffs.

Furthermore, the Plaintiffs do not seek to take the homes and improvements of the ANSWERING DEFENDANTS unless those improvements exceed the share to which the ANSWERING DEFENDANTS are entitled as heirs of Solomon White and Mary Ann White.

8. As to the Counterclaim set forth in Paragraph 15 of the Amended Answer and Counterclaim (misnamed as the Affirmative Defense of Betterments), the Plaintiffs deny the same and assert that the activities of the ANSWERING DEFENDANTS upon the PROPERTY were conducted by them as tenants in common (i.e., as heirs of Solomon White and Mary Ann White) so that there is no obligation of the Plaintiffs for Betterments.

Furthermore, the Plaintiffs do not seek to take the homes and improvements of the ANSWERING DEFENDANTS unless those improvements exceed the share to which the ANSWERING DEFENDANTS are entitled as heirs of Solomon White and Mary Ann White.

9. As to the Counterclaim of Adverse Possession set forth in Paragraph 16 to 22 of the Amended Answer and Counterclaim, the Plaintiffs deny the same and assert (a) that the Plaintiffs and ANSWERING DEFENDANTS are heirs at law and tenants in



common so that a cause of action for adverse possession can not lie by one cotenant against another (only an ouster claim applies between cotenants); (b) no event nor factual claim of an ouster has been plead, (c) to the contrary, several of the Plaintiffs have used and occupied the PROPERTY in the past and still do so at this time and they have paid taxes on the PROPERTY as well, and, (d) any claim to the PROPERTY by the ANSWERING DEFENDANTS is by them in their capacity as tenants in common with the other heirs of Solomon White and Mary Ann White so that their claim of ownership should be limited to their share as heirs.

Prayer

Wherefore, the Plaintiffs pray the Court to inquire into the facts and matters alleged herein and to grant the following relief, to wit:

- A. To dismiss the misnamed Defenses of the ANSWERING DEFENDANTS; and,
- B. To dismiss the Counterclaims of the ANSWERING DEFENDANTS; and,
- C. To determine the heirs of Solomon White and Mary Ann White; and,
- D. To determine that the persons designated on Attachment E to the Complaint (less the ANSWERING DEFENDANTS) have been ousted of their rights in the PROPERTY or that they have waived and/or abandoned their rights; and,
- E. To issue a Decree that the persons named in Attachment F to the Complaint, plus the ANSWERING DEFENDANTS, are the current owners of the PROPERTY; and,
- F. To partition the PROPERTIES into six equal shares in kind, i.e., one for each of the resulting family branches of (1) Emma Johnson, (2) Mamie Gary, (3) Richard Gary, (4) Aletha Gary Watson, (5) Nehemiah Gary, and, (6) Henry Gary; and,
- G. For such other and further relief as the Court shall deem fair and equitable.

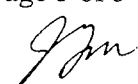


May 22, 2012

J. Thomas Mikell, P.C.

By: 
J. Thomas Mikell

Attorney for the Plaintiffs
P.O. Box 1727
Beaufort, SC 29901
843-524-2110



INDEX TO EXAMINATIONS

| | | |
|----|---|-----|
| 1 | | |
| 2 | <u>MARIA ERNESTINE:</u> | |
| 3 | Direct Examination by Mr. Mikell | 40 |
| 4 | Cross Examination by Mr. Smith | 77 |
| 5 | Redirect Examination by Mr. Mikell | 101 |
| 6 | <u>SOLOMON JOHNSON:</u> | |
| 7 | Direct Examination by Mr. Mikell | 109 |
| 8 | Cross Examination by Mr. Smith | 146 |
| 9 | Redirect Examination by Mr. Mikell | 196 |
| 10 | Recross Examination by Mr. Smith | 199 |
| 11 | <u>ABRAHAM JOHNSON:</u> | |
| 12 | Direct Examination by Mr. Mikell | 205 |
| 13 | Cross Examination by Mr. Smith | 209 |
| 14 | Redirect Examination by Mr. Mikell | 214 |
| 15 | <u>BRENDA PATERSON:</u> | |
| 16 | Direct Examination by Mr. Mikell | 215 |
| 17 | Cross Examination by Mr. Smith | 220 |
| 18 | Redirect Examination by Mr. Mikell | 234 |
| 19 | <u>RALPH JOHNSON:</u> | |
| 20 | Direct Examination by Mr. Mikell | 235 |
| 21 | Cross Examination by Mr. Smith | 284 |
| 22 | Redirect Examination by Mr. Mikell | 316 |
| 23 | <u>DAVID GARY:</u> | |
| 24 | Direct Examination by Mr. Smith | 334 |
| 25 | Direct Examination by Mr. Smith (continued) | 492 |

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000110

| | | |
|----|-----------------------------------|-----|
| 1 | Cross Examination by Mr. Mikell | 507 |
| 2 | Redirect Examination by Mr. Smith | 548 |
| 3 | Recross Examination by Mr. Mikell | 559 |
| 4 | <u>DAVID YOUMANS:</u> | |
| 5 | Direct Examination by Mr. Boney | 443 |
| 6 | Cross Examination by Mr. Mikell | 450 |
| 7 | Cross Examination by Mr. Smith | 452 |
| 8 | Recross Examination by Mr. Mikell | 477 |
| 9 | Recross Examination by Mr. Smith | 479 |
| 10 | <u>ANNETTE SINGLETON:</u> | |
| 11 | Direct Examination by Mr. Smith | 563 |
| 12 | Cross Examination by Mr. Mikell | 597 |
| 13 | Redirect Examination by Mr. Smith | 607 |
| 14 | Recross Examination by Mr. Mikell | 607 |
| 15 | <u>ALBERT GARY:</u> | |
| 16 | Direct Examination by Mr. Smith | 609 |
| 17 | Cross Examination by Mr. Mikell | 629 |
| 18 | <u>ULYSSES GARY:</u> | |
| 19 | Direct Examination by Mr. Smith | 636 |
| 20 | Cross Examination by Mr. Mikell | 653 |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |

INDEX TO EXHIBITS

Plaintiff's Exhibits Marked For Identification:

| | | |
|----|--|----|
| 1 | | |
| 2 | | |
| 3 | 1. Deed to Solomon White Book 12 Page 256 | 43 |
| 4 | 2. Deed to Mary Ann White Book 14 Page 590 | 45 |
| 5 | 3. Plat "30 Acres/Book 133 Page 129 L-6254 | 46 |
| 6 | 4. Plat 10 Acres/Book 53 Page 82 | 47 |
| 7 | 5. Objection to Appraisal Assessment | 49 |
| 8 | 6. Special Ratio Application Dated 12/2/98 | 51 |
| 9 | 7. Real Property Protest Form Dated 4/6/99 | 53 |
| 10 | 8. Change of Address Form Dated 9/29/99 | 54 |
| 11 | 9. Change of Address Form Dated 11/17/99 | 55 |
| 12 | 10. Request for Change of Address 11/30/2000 | 56 |
| 13 | 11. Request for Change of Address 1/8/09 | 58 |
| 14 | 12. Request for Change of Address 1/27/09 | 59 |
| 15 | 13. Property Search 2/11/13 | 60 |
| 16 | 14. Tax Bill/Earnestine Steward (2003-2011) | 62 |
| 17 | 15. Tax Bill/Loretta Steward and Albert Gary | |
| 18 | 1999 Masterpiece Mobile Home (2pgs) | 63 |
| 19 | 16. Tax Bill/Heirs of Solomon White and | |
| | Francis Gary (5pgs) | 64 |
| 20 | 17. Printout of Parcel 700-13-6 | 66 |
| 21 | 18. 1955 Aerial | 69 |
| 22 | 19. 1978 Aerial | 70 |
| 23 | 20. 1998 Aerial | 71 |
| 24 | 21. 2012 Aerial | 71 |
| 25 | 22. Title/Book 2821 Pages 1995-2004 (8pgs) | 73 |

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000112

| | | |
|----|---|-----|
| 1 | 23. Letter Dated 3/29/94 (2pgs) | 115 |
| 2 | 24. Plat/10 Acres L-0977 | 116 |
| 3 | 25. Tax Bill/Heirs of Solomon White, Francis Gary, Albert Gary 12/18/2002 (2pgs) | 126 |
| 4 | | |
| 5 | 26. Order Case No: 2006-CP-07-00609 | 127 |
| 6 | 27. Letter from Moss Dated 7/22/09 | 136 |
| 7 | 28. Letter to Moss Dated 8/3/09 | 136 |
| 8 | 29. Letter to Gary Family Dated 3/1/2010 | 137 |
| 9 | 30. Postal Money Order Receipt For Taxes Albert Gary and Solomon White | 139 |
| 10 | 31. Rent Receipt/ Solomon Johnson and David Gary Dated 1/8/11 | 139 |
| 11 | | |
| 12 | 32. Money Order Receipt/Solomon Johnson and Albert Gary | 140 |
| 13 | 33. Rent Receipt/Solomon Johnson 1/23/12 | 140 |
| 14 | 34. Money Order Receipt/Solomon Johnson and Albert Gary Dated 12/27/2012 | 141 |
| 15 | | |
| 16 | 35. Heirs Appointing Plaintiffs as Agents | 144 |
| 17 | 36. Deposition of Lillie Mae Gilford | 205 |
| 18 | 37. Family Tree of Solomon White and Mary Ann White | 239 |
| 19 | 38. Color Coded Documents of Obituaries, Death Certificates | 241 |
| 20 | | |
| 21 | 39. Plat 30 Acres L-6254 | 264 |
| 22 | 40. Color Photograph of Path and Corn Fields Dated 1990 | 275 |
| 23 | 41. Color Photograph of House Dated 2004 | 275 |
| 24 | 42. Color Photograph of Chicken Yard | 277 |
| 25 | 43. Color Photograph of Two People | 278 |

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000113

| | | |
|----|---|-----|
| 1 | 44. Color Photograph of Hog Pen Dated 1990 | 278 |
| 2 | 45. Color Photograph of Corn Field in Back With Five People | 279 |
| 3 | | |
| 4 | 46. Color Photograph of Solomon Johnson Planting Field and Shed Dated 1988 | 280 |
| 5 | 47. Color Photograph of Naomi Stafford's House with Two People and Car | 280 |
| 6 | | |
| 7 | 48. Color Photograph of Five People by Corn Field in Back Dated 1989 | 281 |
| 8 | 49. Color Photograph of Five People with Tractor and Shed Dated 1988 | 281 |
| 9 | | |
| 10 | 50. Color Photograph of Solomon Johnson, Wife and Corn Field Dated 1992 | 282 |
| 11 | 51. Color Photograph of Tractor Shed with Mobile Home in Back Dated 1999 | 283 |
| 12 | | |

Defendant's Exhibits Marked For Identification:

| | | |
|----|---|-----|
| 13 | 1. Aerial Photograph of 30 Acres | 90 |
| 14 | 2. Color Photograph of Patterson House | 184 |
| 15 | | |
| 16 | 3. Color Photograph of Solomon Johnson's House | 297 |
| 17 | 4. Color Photograph of Corn Shed | 299 |
| 18 | 5. Color Photograph of Driveway Leading to Annette Singleton's House | 300 |
| 19 | | |
| 20 | 6. Photocopy of House with Sticky-Notes Identifications | 323 |
| 21 | 7. Color Photograph of House | 352 |
| 22 | 8. Color Photograph of Tractor Shed | 354 |
| 23 | 9. Color Photograph of Two Houses, Shed, Carport | 355 |
| 24 | | |
| 25 | 10. Color Photograph of Driveway and White House | 357 |

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000114

| | | |
|---|---|-----|
| 1 | 11. Photograph Board with 35 Photographs of the Property | 387 |
| 2 | | |
| 3 | 12. Tax Bills (Two-sided) (20pgs) | 424 |
| 4 | 13. Order Dated 6/15/2000 In Case No: 98-CP-07-740 | 581 |
| 5 | 14. Order Dated 1/14/2000 In Case No: 98-CP-07-740 | 581 |
| 6 | | |

Bifurcation Exhibits Marked For Identification:

| | | |
|----|---|-----|
| 7 | | |
| 8 | 1. Salt Marsh (SM) Defendant's Exhibit No. 1 /Plat | 445 |
| 9 | 2. Defendant's Exhibit A Photograph | 472 |
| 10 | 3. Court's Exhibit No. 1 /Youmans Plat | 485 |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | | |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |

1 road would be the new boundary. It wasn't
2 our duty, it was the Defendants who were
3 counterclaiming, their duty to show what they
4 claimed and they didn't show it by a metes
5 and bounds description.

6 THE COURT: Well, let's do this, we need
7 at some point to get started. I think I
8 understand everyone's position. So, the only
9 question is: Do we bifurcate this and save
10 all boundary issues for part two, which could
11 happen as early as tomorrow, or could happen
12 some other time depending on how long the
13 Heir testimony takes.

14 MR. SMITH: I agree with bifurcation.

15 THE COURT: It makes some efficiency
16 sense just to proceed with that, and
17 obviously hold all testimony with regard to
18 the line itself until part two. So I guess,
19 I'm wondering about your position about that,
20 Mr. Boney, because if you don't want to do
21 it --

22 MR. BONEY: Well, it's a separate issue,
23 Judge.

24 MR. SMITH: Pardon me?

25 THE COURT: Well, I agree with that.

1 MR. BONEY: The only thing we would need
2 to do, and I think we need to get the red
3 line that Judge Kemmerlin referred to in his
4 order that was affirmed on appeal, we need to
5 get that incorporated into the monumentation
6 and the sketch. I don't know that I can get
7 that done today; I will try to get it done
8 today, or David Youmans will have to go back
9 out there.

10 THE COURT: You mean before we launch
11 into part two? So, so as I understand what
12 you're saying we could bifurcate?

13 MR. BONEY: I mean, I think if there's
14 going to be an issue -- if there's going to
15 be an issue we going to -- you know, if we're
16 going to have to fight, we're going to fight
17 about the whole thing, I mean all of it.

18 THE COURT: Well, you don't mean the
19 Heirs part, you mean the boundary part?

20 MR. BONEY: Yeah, right. We don't even
21 know what that dispute is, but I understand
22 it's --

23 THE COURT: Well, why don't we do this,
24 why don't we -- we bifurcate it then. You
25 look like you've decided you're going to

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000117

1 bifurcate, so I think that makes a lot of
2 sense.

3 MR. BONEY: I thought you had decided
4 that.

5 THE COURT: Well, if you were going to
6 object to it, I was going to say you're
7 welcome to stick around and be a part of it,
8 but honestly I can't imagine what issue you
9 would have as far as who's across the line.
10 The issue, your issue is the line, not who's
11 on the other side of it. So.

12 MR. BONEY: We didn't raise the issue we
13 were named as a Defendant in this lawsuit.

14 THE COURT: No, no, I get it. I get it.
15 All right. Let's do this then, I'll grant
16 the bifurcation. We'll proceed first with
17 the determination of the Heirs, and then we
18 will get into as part two, this line issue
19 and --

20 MR. BONEY: I will -- I will report back
21 to you sometime today as to whether or not I
22 can get David Youmans to run out there and
23 re-monument, to cut it off right behind the
24 garage, as Judge Kemmerlin did.

25 THE COURT: All right. Let me ask you

1 this, Mr. Smith, your belief is that the --

2 MR. BONEY: We don't want anybody
3 shooting at the surveyor or anything.

4 THE COURT: No, no, no. Yeah, everyone
5 make sure who has any control over anyone on
6 the property, let's not shoot at any
7 surveyors, or you know, do anything bad to
8 surveyors out there. I guess I was trying to
9 pin you down on this, the red line, it's your
10 belief is the order says what it says. So
11 you're not prepared to say if the red line
12 were marked, that's the line.

13 MR. SMITH: Judge Kemmerkin's order
14 refers to a driveway that goes behind the
15 property, and I have photographs of that for
16 today, and that's where it was left.

17 THE COURT: All right. Well, let's do
18 this, I don't have a problem with getting
19 whatever the line -- you're talking about
20 marking the red line; is that right, Mr.
21 Boney?

22 MR. BONEY: Correct.

23 THE COURT: Okay. I don't have a
24 problem with marking it. And let's mark it,
25 and whatever it's worth, it's worth. So,

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000119

1 yeah, if you can do that, great. If you
2 can't, fine. And what we'll do is get back
3 with you as soon as we know something on when
4 the part two might start. Because, I, again,
5 there are a lot of people in here, and there
6 may be more in the hallway, I don't know how
7 long this will take. But I'll try to give
8 you as much time as possible as far as a
9 heads-up for part two. All right. Anything
10 else we can put on the record before we
11 proceed with the determination of Heirs?

12 MR. MIKELL: Yes, sir. There's a couple
13 of things that Mr. Smith and I have talked
14 about.

15 THE COURT: Well, let me ask you this,
16 is Mr. Boney required for any of the other
17 things?

18 MR. MIKELL: No.

19 THE COURT: Okay. All right. Thank
20 you.

21 MR. BONEY: If I may be excused, I will
22 be excused.

23 THE COURT: Yes, sir. Thank you very
24 much.

25 MR. SMITH: May I -- may I ask him, Mr.

1 Boney for 30 seconds?

2 THE COURT: Yeah. Why don't you, and
3 we'll go off the record for a second and
4 y'all talk for 30 seconds or as long as you
5 need.

6 (Discussion held off the record.)

7 THE COURT: All right. You had a couple
8 of other issues you wanted to take up?

9 MR. MIKELL: Yes, sir. There are four
10 issues involved in the case.

11 THE COURT: All right.

12 MR. MIKELL: The first one is to
13 determine the Heirs of some folks named
14 Solomon White and Mary Ann White. There are
15 six different branches of that family and
16 I'll give you some more information on that
17 later. The second issue is to determine if
18 there has been an ouster. They used the
19 words adverse possession, but between
20 co-tenants it's ouster, between certain
21 branches of that family.

22 THE COURT: Okay.

23 MR. MIKELL: The third issue would be to
24 determine if there are some of the family
25 members in all of the branches, who have

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000121

1 waived, abandoned their rights, disappeared,
2 et cetera, as is typical in these quiet title
3 actions where there are unknown Defendants
4 and so forth. And the result is, this is a
5 large family, so there's a large number of
6 those people. And then the fourth issue
7 that's been pled is partition. Mr. Smith and
8 I have agreed to undertake here today and
9 tomorrow the first two of those issues, and
10 to leave those other ones because of the
11 complexity of dealing with unknown
12 defendants, and who, and how they were served
13 and all that, when you have a large number of
14 them, as you know because we've been down
15 this road before, it could get very time
16 consuming, and so we want to put that off,
17 later. Is that right, Mr. Smith?

18 MR. SMITH: I believe so.

19 MR. MIKELL: Now, to go back then to the
20 first issue about determination of Heirs. We
21 need to educate you a little bit. And I
22 guess this is somewhat of an opening
23 statement to some degree. There were two,
24 the testimony will show that there were --
25 are two pieces of land. There's a 30 acre

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000122

1 MR. SMITH: Yeah.

2 THE COURT: Do we have a guardian in
3 this case?

4 MR. MIKELL: Yes, Bruce Marshall.

5 THE COURT: Bruce Marshall.

6 MR. MIKELL: And He's on board with all
7 of this.

8 THE COURT: All right.

9 MR. MIKELL: Okay. With all of that
10 manned, then I would call Ms. Ernestine,
11 Maria Ernestine to the witness stand.

12 THE COURT: How are you today. Let's
13 see, now here's the question, can you -- is
14 that going to work?

15 COURT REPORTER: I'll move it there.

16 THE COURT: Better here, okay. Yeah, if
17 you don't mind come around? Raise your right
18 hand for me.

19 (MARIA ERNESTINE, having been duly sworn,
20 testifies as follows:)

21 DIRECT EXAMINATION BY MR. MIKELL:

22 Q Please give us your name please ma'am.

23 A My name is Maria Ernestine.

24 Q And you live here in Beaufort County?

25 A Yes, sir.

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000123

1 Q And you work here in Beaufort County?

2 A Yes, sir.

3 Q Tell me what your work is and how long you've
4 been doing it and that kind of thing?

5 A I'm an abstractor. I've been doing it for over
6 20 years and the name of the business is Carolina
7 Abstract Services Company.

8 Q And how many abstracts do you do in the course of
9 a year?

10 A Probably over a thousand.

11 Q Okay. And your company does over a thousand in a
12 year?

13 A Uh-huh.

14 Q And how many of them do you personally review and
15 participate in?

16 A Over a thousand.

17 Q All of them?

18 A Yes, sir.

19 Q Okay. And you've been doing that over 20 years
20 now?

21 A Yes, sir.

22 Q Did you do a search on tax parcel R700-13-0006?

23 A Yes, sir.

24 Q And did you find a deed for that parcel?

25 A Yes, I did.

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000124

1 Q And when was that?

2 A 1954.

3 Q And we call that the Honeycutt System?

4 A Correct.

5 Q Because that was the name of the company from
6 Atlanta that came down here and set it up?

7 A Right.

8 Q All right. And have you looked at the tax
9 notices on the ten acre parcel and the 30 acre parcel
10 from 1954 when that system was started through the
11 current and looked at the names of the tax payers on
12 it? /

13 A Yes. Along with, you know, the tax notices and
14 property record cards.

15 Q Okay. And what's the name on both of those
16 properties as the tax payer?

17 A The ten acres is Heirs of Mary White and the 30
18 acres are Heirs of Solomon White.

19 Q Okay. Did you find any evidence any place in any
20 of the public records that either the ten acre parcel
21 or the 30 acre parcel was owned by someone whose last
22 name was Gary?

23 A No, sir.

24 Q Okay. One of the boundary owners to the 30 acres
25 was a tax parcel with the last four numbers in 0009.

1 Did you find a deed on that parcel?

2 A Yes, sir.

3 Q And is that the deed to it?

4 A Yes, it is.

5 Q And give me the deed reference?

6 A The Deed Book is 2821, Page 1995. It was
7 recorded March 17, 2009.

8 Q And who is the owner designated on that?

9 A Janice E. Jones and Ralph E. Johnson.

10 Q Okay. And is there a plat attached to that deed?

11 A It's Plat, yes, 120, Page 43.

12 Q Is that plat attached to the document you've got?

13 A Yes, it is.

14 Q Okay.

15 MR. MIKELL: I'd like to introduce that.

16 MR. SMITH: No objection.

17 (Plaintiff's Exhibit No. 22 was marked for
18 identification.)

19 Q Now, you've said you've done about 1000 searches
20 a year for the last 20 years. Could you give me some
21 idea of how many of those searches might involve heirs
22 property?

23 A A year?

24 Q Yes?

25 A Probably 30 a year.

1 Q Okay. So, you've done this before?

2 A Yeah. Yes, sir.

3 Q And have you ever testified in a quiet title
4 action before?

5 A Yes, sir.

6 Q How many times?

7 A Lots. I couldn't tell you. Probably at least
8 four, five a year.

9 Q Okay. And have you ever testified in one before
10 where the payment of taxes has been an issue?

11 A Yes, sir.

12 Q Does the county have a practice, a custom, a
13 rule, whatever you want to call it, about how many tax
14 notices they send out per parcel?

15 A One.

16 Q And is that a standard policy of the county?

17 A Yes, sir.

18 Q And is that in writing some place?

19 A Yes, sir.

20 Q In other words if you go to the website of the
21 county and pull it up it's got a policy statement by
22 the county government that says they only issue one
23 tax notice per parcel?

24 A Yes, sir.

25 Q Okay. So, with regard to each of the parcels

1 and practice in a community about real
2 property. It is Rule 8103, Number 20, which
3 I'm handing you. And she's testified that
4 she knows what the custom and the practice is
5 because she has experience in this area.

6 MR. SMITH: I don't believe that's what
7 she testified to. I believe she said she had
8 heard.

9 MR. MIKELL: Well, but I had previously
10 asked her --

11 THE COURT: Tell you what, why don't you
12 rephrase the question.

13 Q Okay. The question is, based on your experience
14 and researching heirs property titles, and in
15 testifying in court about heirs property problems, is
16 there a custom and practice in the Beaufort area where
17 there are a large number of heirs properties about how
18 the taxes are paid?

19 A Yes, sir.

20 Q And what is that custom?

21 A They represent one person to get the tax bill and
22 then everybody who is one of the heirs, they pay a
23 portion of the property, and they pay it to the one
24 person, and the one person goes in and pays the taxes
25 for the whole.

1 A And that 100 is (indicating) 100.

2 Q Okay. So, this is 100 this yellow dot we tried
3 to make stronger?

4 A Right.

5 Q Okay. All right. Okay. Again, Plaintiff's
6 Exhibit 15?

7 A Uh-huh.

8 Q Owner of record is on Pringle Lane; is that
9 correct?

10 A That's where their tax bills was sent to, yes.

11 Q All right. Okay. Thank you.

12 A Uh-huh.

13 MR. SMITH: That's all I have at this
14 point.

15 THE COURT: All right. Anything else.
16 Mr. Mikell?

17 REDIRECT EXAMINATION BY MR. MIKELL:

18 Q Maria, I believe you testified that all of the
19 tax records on the 30 acres from 1954 to the present
20 are in the name of the Heirs of Solomon White; is that
21 correct?

22 A Right.

23 Q Now, if Mr. Minus, or Salt Marsh Partners, or
24 someone who was about to institute a suit against some
25 of the folks that were located on that 30 acres, would

1 see you tomorrow at 11:00 o'clock then.

2 MR. BONEY: Thank you.

3 THE COURT: All right, then.

4 MR. MIKELL: Mr. Johnson?

5 THE COURT: Mr. Johnson, can you come
6 sit right here for me. Oh, whoever is Mr.
7 Johnson. I'm looking at the wrong person.
8 Mr. Johnson, come on up here and take that
9 chair if you would. Watch out for wires, and
10 files, and who knows what kind of trip
11 hazards there might be down there. How are
12 you today, sir.

13 THE WITNESS: Just fine and you?

14 THE COURT: Can you hold your right hand
15 up for me please.

16 (SOLOMON JOHNSON, having been duly sworn,
17 testifies as follows:)

18 THE COURT: All right. You can put your
19 hand down. Please answer any questions Mr.
20 Mikell may have.

21 DIRECT EXAMINATION BY MR. MIKELL:

22 Q Mr. Johnson, you need to speak up so this lady
23 over here can hear you?

24 A Yeah, okay.

25 Q And if I am correct, you're a little bit hard of

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000130

1 hearing; is that right?

2 A Yeah.

3 Q Okay. And instead of nodding your head if you
4 would please answer orally; okay? What is your name?

5 A Solomon Johnson.

6 Q And your age?

7 A 86.

8 Q And so, that meant you would have been born in
9 what year? Help me with the numbers. What year was
10 that you were born?

11 A Oh, 1927.

12 Q Okay. And where were you born?

13 A On -- on -- on the 40 acres.

14 Q Okay. Which part of the 40 acres, the ten or the
15 30?

16 A On the 30.

17 Q Okay. And whose house were you born in?

18 A My mother and father's.

19 Q And is that the same house you live in today?

20 A Same house.

21 Q You raised your family in that location?

22 A Yeah, same location.

23 Q When you were employed in the past where were you
24 employed?

25 A At the steel plant in Charleston.

- 1 it or raise farm animals on it?
- 2 A No. No.
- 3 Q All right. Did anybody in the family that you
4 know of ever use the ten acre parcel?
- 5 A No, nobody.
- 6 Q Okay. On the 30 acre parcel, did you ever raise
7 any farm animals on that parcel?
- 8 A Yes.
- 9 Q How many years did you raise farm animals?
- 10 A 70.
- 11 Q 70 years?
- 12 A Yeah, 70.
- 13 Q And did you raise cows?
- 14 A Yes.
- 15 Q How many cows would you say you had?
- 16 A About 12, 12 cows.
- 17 Q Yes, sir. And did you raise hogs?
- 18 A Yeah.
- 19 Q How many hogs?
- 20 A About -- about, about 30.
- 21 Q And did you raise chickens?
- 22 A Yeah, about 20.
- 23 Q All right. And what did you feed these hogs and
24 cows and chickens?
- 25 A With corn.

- 1 Q So, where did you get the corn from?
- 2 A Plant, farm.
- 3 Q And where did you plant it?
- 4 A On the -- on the 30 acres.
- 5 Q And how many acres would you say that you planted
- 6 the corn on the 30 acres?
- 7 A From seven to eight.
- 8 Q Seven to eight?
- 9 A Eight acres.
- 10 Q Eight acres, okay.
- 11 A Uh-huh.
- 12 Q Did you, when you did this planting of the corn,
- 13 did you have a tractor?
- 14 A No, a mule.
- 15 Q Yes, sir.
- 16 A I got a tractor afterward.
- 17 Q You got a --
- 18 A I got in 1967.
- 19 Q You got a tractor in 1967?
- 20 A 1967.
- 21 Q Okay. And you've still got the tractor?
- 22 A Still got it.
- 23 Q How big is the tractor?
- 24 A 3000.
- 25 Q Okay. I'm going to have to show you a photograph

1 later because I don't know that much about farming to
2 tell you what a 3000 is?

3 A Yeah. Yeah, that's a good, pretty good size.

4 Q Okay. I believe Ralph's got a picture of it?

5 A Yeah.

6 Q Okay. Did any of the other folks on the 30 acres
7 have a tractor?

8 A No.

9 Q Did you use your tractor to assist them in
10 planting parts of the 30 acres?

11 A Yeah. Yes, I helped them out.

12 Q Okay. Did you have other crops that you grew
13 besides the corn?

14 A Watermelon and okra.

15 Q Did you sell any of the crops that you raised?

16 A Yes.

17 Q What was that?

18 A Watermelon and the okra.

19 Q Okay. And how did you sell it? I guess, what I
20 mean, did you truck it off?

21 A No. No. Everybody just want it could come to the
22 house and pick it up.

23 Q So, people just come to your house because they
24 knew you had watermelons and okra for sale?

25 A Yes.

1 Q And who takes care of your business activities
2 now?

3 A I do.

4 Q Does anybody help you with the checking account
5 and all that kind of stuff?

6 A Checking account?

7 Q Yes, sir?

8 A Yeah, my son does.

9 Q Okay. He helps you with your business activities
10 now?

11 A Yeah, my business activities.

12 Q And which son is that?

13 A Ralph.

14 Q Okay. Have you, in addition to the farming of
15 the corn and watermelons and the okra and all over
16 these years, did you have a little garden around your
17 house in addition to that?

18 A Yeah. Yeah.

19 Q And what did you grow in your garden?

20 A Greens, collards, rutabaga.

21 Q Okay. That was just for your family use?

22 A Just for the family use.

23 Q When did your mother pass away?

24 A '57.

25 Q And you were living in her house --

1 A Yes.

2 Q -- all those years before she passed away?

3 A Yes.

4 Q Okay. Is there any kind of tradition in your
5 family about who paid the taxes on the 30 acres and
6 the ten acres?

7 A Tell me that again now.

8 Q Is there any kind of tradition in your family
9 about who paid the taxes to the county on the ten
10 acres and the 30 acres? How was it done? How was the
11 taxes paid?

12 A Oh. The oldest heirs on the property is suppose
13 to pay the taxes.

14 Q I don't want to put words in your mouth but this
15 gentleman is not from around here? You said, say that
16 again?

17 A I said the oldest heir is supposed to pay the
18 taxes.

19 Q Okay. The oldest heir is supposed to pay it?

20 A The oldest heir is.

21 Q Okay. So, when you were a little boy who was the
22 oldest heir?

23 A When I was a boy?

24 Q Yes, sir?

25 A My mother.

1 Q Okay. And so she paid the taxes?

2 A Yeah. Yeah, my mother paid, Emily. Emily Gary.

3 Q Okay. Did you ever pay part of the money to your
4 mother to help her pay the taxes?

5 A Yes.

6 Q Now, at some point in time a dispute has arisen
7 with these folks over here, the Clara Gary group --

8 A Uh-huh.

9 Q -- about the payment of the taxes; is that right?

10 A That's right.

11 Q Tell me about that event?

12 A Well, I tried to reason with them. But after I
13 couldn't reason with them, then I went and well, I
14 call up, but I was mistaken. I tried to reason with
15 them, but I couldn't reason with them, so they tried
16 to -- they tried to take the property.

17 Q Okay. About when did this start?

18 A After I went and changed it in my name, changed
19 the tax in my name.

20 Q Okay. So, the lady who was here before testified
21 that you went up there in 1998 --

22 A Yeah.

23 Q -- to change it in your name?

24 A In my name.

25 Q So, it was after that that these folks started

1 Q No, sir. But how about, did any of Henry's, your
2 brother Henry, or your Uncle Henry, did any of his
3 heirs pay part of the tax?

4 A Yes.

5 Q Okay. And were any of the other branches of the
6 family contributing money?

7 A No, and a few of them, but I couldn't name all
8 them, because that's only who live on the property.

9 Q So, it's the ones that live on the property that
10 contribute the tax?

11 A Contribute to tax.

12 Q Okay. Now, if then one of the Heirs of Solomon
13 White or Mary Ann White does not live on the land, and
14 they don't pay part of the taxes, does that mean
15 they're not entitled to part of the land?

16 A Yes, they're entitled to it.

17 Q Okay. You said that you paid the taxes for a
18 couple of years?

19 A Yeah.

20 Q Are those the receipts for the two years you
21 paid?

22 A Yeah, these it right here (indicating).

23 Q Okay.

24 MR. MIKELL: I'd like to introduce these
25 two.

1 notices?

2 A Yeah, after I changed it that's when they start.

3 Q Did that then result in you and Ms. Patterson
4 back here, and a bunch of the other heirs, going to
5 get a lawyer and going to court?

6 A Yes.

7 Q Okay. And that was in 2006?

8 A Yes.

9 Q Okay. And did you actually come up here? I
10 don't know if it was in this room or not, but had a
11 trial sometime in 2009?

12 A Yes.

13 Q Before this same Judge?

14 A That's right.

15 Q And he dismissed everything?

16 A Everything.

17 Q Okay. And is this the final Order that he
18 issued?

19 A Okay.

20 MR. SMITH: Mr. Mikell?

21 MR. MIKELL: I'm sorry.

22 (Plaintiff's Exhibit No. 26 was marked for
23 identification.)

24 Q Did, at some point in time, Clara and her
25 children start telling you that you weren't paying

1 taxes, that you were paying rent?

2 A Yes.

3 Q And when did that first occur? When did you
4 first hear about the rent?

5 A When -- when they had get Moss for their lawyer,
6 Jim Moss.

7 Q Okay. Did Mr. Moss write your lawyer a letter
8 and say that the money you were paying --

9 MR. SMITH: Objection. Objection.

10 THE COURT: What's the objection?

11 A Yes.

12 THE COURT: Well, hold on one second,
13 please sir.

14 MR. SMITH: Well, I've let Mr. Mikell
15 testify a good bit in leading. If there's a
16 letter, let's let Mr. Johnson testify to what
17 the letter says.

18 THE COURT: Yeah, why don't you see if
19 he can do it that way.

20 Q Did Mr. Moss write your lawyer a letter?

21 A Yes.

22 Q And your lawyer gave you the letter?

23 A Yes.

24 Q And that's the letter?

25 A That's the letter.

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000140

1 Q Okay.

2 A That's it.

3 Q And what does the letter say?

4 A What did the lawyer say?

5 Q Yes, sir. What does the letter say?

6 A Oh, oh. It said I pay \$87.00 dollars a year.

7 Q Does it say anything about you paying taxes, I
8 mean, rent in there?

9 A No. No.. No rent.

10 Q No, sir. I know you're not paying rent, does the
11 letter say anything about you're supposed to pay rent?

12 A Yeah. Yeah, that's what it says on there.

13 Q Okay.

14 A Right.

15 MR. SMITH: If I could for
16 clarification, Mr. Moss represented who?

17 MR. MIKELL: Your folks.

18 MR. SMITH: Okay. I thought the order
19 of the judge said that the defendants were
20 pro se. I thought Exhibit 27 says pro se.

21 MR. MIKELL: It -- that, I think at the
22 time of the trial they were, but at the time
23 of that letter Mr. Moss represented them.

24 MR. SMITH: And for clarification again,
25 who did Ms. Meng represent? Represented him?

1 continues because this is not from his lawyer
2 but from him, so it's self-serving.

3 MR. MIKELL: So, are you saying that he
4 can't write a letter?

5 MR. SMITH: He can testify to it.

6 MR. MIKELL: He just did.

7 MR. SMITH: But he -- you're wanting to
8 put it in as evidence, when the other letter
9 was addressed to his attorney.

10 MR. MIKELL: Okay. Well, let's keep
11 talking about it and build a record.

12 THE COURT: Well, let's, why don't we do
13 this -- I will -- basically, this is the
14 situation where I think what you're trying to
15 establish is there was conflict over this
16 issue.

17 MR. MIKELL: Yes, sir. Yes, sir.

18 THE COURT: I don't think we need the
19 letters. I think that's abundantly clear
20 that there was conflict, which is why we're
21 all here, so why don't we leave those out for
22 now. And I'm trying to verify, to see in my
23 system what the letters were.

24 Q But you, you wrote a letter back to Mr. Moss
25 objecting to his claim --

1 A Yes.

2 Q -- that you were paying rent?

3 A Yes.

4 Q Okay. And did your daughter then, in addition,
5 write another letter in 2010 on your behalf?

6 MR. SMITH: Objection. Only if he has
7 personal knowledge, because that's a letter
8 offered by the daughter.

9 MR. MIKELL: It's not offered by the
10 daughter. I asked him if it was in his
11 behalf and he hadn't answered yet.

12 THE COURT: Well, let me ask you this --

13 MR. SMITH: Yeah?

14 THE COURT: Is this a situation where
15 the other side is going to assert that he was
16 paying rent?

17 MR. MIKELL: Yeah.

18 MR. SMITH: Yes.

19 THE COURT: Okay. I'm going to let it
20 all in then. Let's -- I reverse my ruling on
21 the lawyer's letters.

22 COURT REPORTER: Next exhibit is 27.

23 MR. SMITH: The order was 27.

24 THE COURT: The order is 26.

25 MR. SMITH: All right.

1 THE COURT: Yeah, 25 was the tax bill.

2 MR. SMITH: The order is 26?

3 THE COURT: Yeah, 26. And 27 is --

4 MR. SMITH: 27 is the Moss letter?

5 THE COURT: 27 and 28 are -- yeah. 27
6 is the Moss letter.

7 MR. SMITH: Right.

8 THE COURT: 28 is the Solomon Johnson
9 letter.

10 MR. SMITH: Okay.

11 (Plaintiff's Exhibits No. 27 and No. 28 was
12 marked for identification.)

13 Q And then we have a letter that your daughter
14 wrote on your behalf at your request; is that right?

15 A Yes.

16 Q And to the Gary family?

17 A Yes.

18 Q And it objects to the fact that you're paying
19 taxes?

20 A Yes.

21 Q Or paying rent, I'm sorry?

22 THE COURT: What case number was that
23 under?

24 MR. MIKELL: You ought to be able to
25 look up on there and see about Moss

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000144

1 representing them.

2 THE COURT: That's what I'm trying to
3 do, it's just the computer is painfully slow.

4 MR. SMITH: I'm going to continue my
5 objection on that. The court may allow it,
6 but I'm going to continue my objection.

7 THE COURT: I understand, it's noted.
8 Thank you.

9 COURT REPORTER: Plaintiff's Exhibit 29.
10 (Plaintiff's Exhibit No. 29 was marked for
11 identification.)

12 THE COURT: Yes. All right. In the '06
13 case, just so y'all know, I'm looking on the
14 CMS system in the 06-CP-07-609 case, in which
15 the Plaintiff is listed as Solomon Johnson
16 among others. The Plaintiff's attorney is
17 listed as Brantley Harvey, Carolyn Meng. The
18 Defendant's attorney is listed as Barr,
19 Unger, and McIntosh in Walterboro, and Jim
20 Moss. So, I don't know if that clears
21 anything up. But that makes it, I believe
22 that means that the Order in that case filed
23 August 25, 2010 has a clerical error that
24 reverses the attorneys or there's only one
25 attorney listed, but actually Jim Moss should

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000145

1 appear as representing the Defendants. The
2 Plaintiff's at that point would have been pro
3 se apparently. All right. Thank you.

4 MR. SMITH: Go ahead.

5 Q Now, you said that the payments in old days were
6 paid by cash. At some point and time, because of this
7 dispute, did you start paying in money order?

8 A Yeah, money order.

9 Q And is this one of the money orders that you paid
10 by?

11 A Yes.

12 Q And how much is it for?

13 A 105.

14 Q Okay. And I must tell you, I get confused about
15 the way the postal service does the dates on these
16 things, cause they don't do it the -- but it looks
17 like this is January 8, 2011; is that right? The date
18 is right up here, but it's backwards the way I write
19 it?

20 A Okay. That's what it is. All right.

21 Q Okay. And does it say --

22 A Yes, it look like --

23 Q Go ahead. I'm sorry.

24 A Yeah, that's that. Now, it look like that, but I
25 can't see it good myself.

1 Q Okay. Does it say "taxes" down here in the left
2 hand corner?

3 A Yeah, that's what it says "taxes".

4 MR. SMITH: No objection.

5 MR. MIKELL: I'd like to introduce this,
6 a copy of the money order.

7 (Plaintiff's Exhibit No. 30 was marked for
8 identification.)

9 Q And then on the same day did you get a receipt
10 back from one of the Clara Gary family members saying
11 that you were paying rent?

12 A That been David. David.

13 Q Yes, sir. And this is the receipt?

14 A That's the receipt.

15 THE COURT: The original? You want to
16 substitute a copy?

17 MR. MIKELL: Yes. Not really, put it
18 in.

19 (Plaintiff's Exhibit No. 31 was marked for
20 identification.)

21 Q And then the next year when you paid by money
22 order again, is that a copy of the money order?

23 A Yes.

24 Q And how much is that one for?

25 A 125.

1 Q Yes, sir. And again, with the post office
2 numbers, I read this as 12/28/2011 and does it say
3 "taxes" down here in the corner?

4 A Yes, that's what it says, "taxes".

5 MR. SMITH: This is a copy.

6 MR. MIKELL: Uh-huh.

7 MR. SMITH: I'm not going to have any
8 objection to that as long as my copies are
9 allowed too.

10 MR. MIKELL: Yeah.

11 THE COURT: All right.

12 (Plaintiff's Exhibit No. 32 was marked for
13 identification.)

14 Q And then the next year, January 23, '12 -- no,
15 I'm sorry, I'm getting ahead of myself. And then on
16 the same, or for the same payment about a month later,
17 on January 23, '12 you got a receipt from the Clara
18 Gary branch saying that that was for rent?

19 A Yes.

20 Q And that's the receipt there?

21 A Yeah, that's this receipt.

22 (Plaintiff's Exhibit No. 33 was marked for
23 identification.)

24 Q And then for the 2012 taxes you gave a money
25 order for \$127.00; is that it?

1 A Yeah, that's it.

2 Q Okay. And it's dated, let's see, December 27,
3 '12 and does it say "paid taxes" down here in the left
4 corner?

5 A Yeah, "paid taxes".

6 Q And I don't have the receipt from them about that
7 but I'm sure Mr. Smith's got it?

8 (Plaintiff's Exhibit No. 34 was marked for
9 identification.)

10 MR. SMITH: Excuse me, can I grab those
11 Exhibit's for a second, please?

12 Q Those amounts that were on there, on those money
13 orders, they were \$105.00 dollars, \$125.00 dollars,
14 and \$127.00 dollars. Do you know how those amounts
15 were determined? How did they come up with those
16 amounts?

17 A Maybe the tax.

18 Q Sir?

19 A I didn't understand what you said.

20 Q These three payments that you made in the money
21 orders are different amounts?

22 A Uh-huh.

23 Q One of them is 105, one is 125, and one of them
24 is 127. Why are they different?

25 A Because the tax be different every year.

1 A Yes.

2 Q Did you go out and get letters from a bunch of
3 the heirs authorizing you to bring this lawsuit?

4 A Yes.

5 Q Okay. And is that these documents here?

6 MR. MIKELL: Let me give this
7 gentlemen -- I think I've given to him
8 before, give him a copy.

9 Q Are these those letters from all those other
10 heirs authorizing you to be --

11 A Yes.

12 Q -- their agent for this?

13 A Yes.

14 Q Okay.

15 MR. MIKELL: I want to introduce all of
16 these 38, I believe it is, letters.

17 THE COURT: Collectively, I assume.

18 MR. MIKELL: Sir?

19 THE COURT: Collectively, as one
20 exhibit.

21 MR. MIKELL: Yeah.

22 (Plaintiff's Exhibit No. 35 was marked for
23 identification.)

24 Q Did you and Clara Gary or any of her children
25 ever sit down and discuss the fact that you have a

1 lease on the house that you live in?

2 A No.

3 Q Do you have any agreement with or have you ever
4 had any discussion with Clara Gary or any of the
5 members of her family about the size, or shape, or the
6 number of acres of the land that you occupy on the 30
7 acres?

8 A No.

9 Q Have you ever had any discussion or made any
10 agreement with Clara Gary or any of her children about
11 what would happen if your house were to burn down, who
12 would be responsible for that house?

13 A No.

14 Q Have you ever had any discussion or agreement
15 with Clara Gary or her children about what would
16 happened if somebody fell down and got hurt in your
17 house or on the property you occupy, who would be
18 responsible for that?

19 A I would.

20 Q How about insurance, have you ever had any
21 discussion with Clara or any of her children --

22 A No.

23 Q -- about insurance on that?

24 A No.

25 Q Have you ever had any discussion or made an

1 agreement with Clara or her children about who is
2 supposed to pay the utilities on the property you
3 occupy, like the telephone bill, or the water bill,
4 and the electric bill, and all those things?

5 A No.

6 Q Now, they claim that you lease the land from
7 them, do you know when the lease is up?

8 A No.

9 Q Thank you, sir.

10 MR. MIKELL: I don't have any more
11 questions?

12 A Okay.

13 THE COURT: Please, answer any questions
14 Mr. Smith may have.

15 MR. MIKELL: Wait a minute, this
16 gentleman is going to ask you some.

17 CROSS EXAMINATION BY MR. SMITH:

18 Q Mr. Johnson, thank you, sir. Now, you testified
19 that you were actually born on the property?

20 A Yes.

21 Q Okay. And just for identification purposes is
22 that a photograph of the house you were born in?

23 A Yes. No, I ain't born in that house, but I live
24 there. I live in it now.

25 Q Okay. But that's not the house you were born in?

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000152

1 THE COURT: -- appropriately special
2 emphasis from your perspective. Okay. All
3 right, then. So, I have the original of the
4 deposition of Lillie Mae Gilford to add to
5 the record. We can make that?

6 COURT REPORTER: Plaintiff's 36.

7 THE COURT: That'll work.

8 (Plaintiff's Exhibit No. 36 was marked for
9 identification.)

10 THE COURT: Thank you. All right. What
11 next, sir?

12 MR. MIKELL: All right. We have a
13 gentlemen named Abraham Johnson, who's
14 sitting in the witness chair.

15 THE COURT: How are you Mr. Johnson?

16 THE WITNESS: I'm fine.

17 THE COURT: Could you hold your right
18 hand up for me, please.

19 (ABRAHAM JOHNSON, having been duly sworn,
20 testifies as follows:)

21 THE COURT: Please answer any questions
22 Mr. Mikell may have.

23 DIRECT EXAMINATION BY MR. MIKELL:

24 Q Please give us your name Mr. Johnson?

25 A Abraham Johnson.

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000153

1 Q And are you related to Solomon Johnson --

2 A No.

3 Q -- or any of these other Johnson's that are in
4 this room?

5 A No.

6 Q Different family?

7 A Different. Different family all together.

8 Q All right, sir. And how old are you?

9 A 82.

10 Q And where do you live?

11 A I live right now in Jenkins or close on the other
12 side of Gardner's Corner.

13 Q All right.

14 A Well, Prescott is where my original home,
15 Prescott was, next right not far from Solomon.

16 Q All right. And how long did you live in
17 Prescott?

18 A Until I -- I live in Prescott until about '50,
19 1950. I leave home then and went up in Ohio and
20 stayed there for about 25 years.

21 Q And then came back?

22 A Uh-huh.

23 Q All right. And where you live now is about how
24 far from Prescott, as we call it?

25 A About six miles.

1 Q 20 years ago, that'd be about 2000. No, no, let
2 me back up. About 1993 or 1994?

3 A Either '94 or '93, yeah.

4 Q Okay. And --

5 A Longer than that because it wasn't 20 years. I
6 thought she was gone 20 now, cause she was like 75 or
7 76 when she left Prescott.

8 Q Okay. And do you know what the family tradition
9 was and custom was about the payment of the taxes on
10 the property?

11 A Yes.

12 Q Tell me what it was?

13 A The fact was whoever was the oldest, or the
14 designated person would take the money for taxes to
15 that person, and they would pay the taxes.

16 Q Okay.

17 A That was the custom.

18 Q And did you ever participate in that process?

19 A Yes.

20 Q Tell me about that?

21 A Well, my mother, at the time she was there, she
22 paid. And then she left, I would take the money
23 sometime to my Aunt Clara, and give her the money for
24 the taxes. And that's how we did it.

25 Q Okay. How many times did you personally do that?

1 A A lot of times after my mother got older. Clara
2 would call her and tell her what the amount was, and
3 then we would send money over. And I personally took
4 some money to her myself, to Clara's house.

5 Q Okay.

6 MR. SMITH: I'm sorry, did she give a
7 number?

8 Q How many times would you say that you did that?

9 A That I had to run it out, to take it?

10 Q Yes, ma'am?

11 A Maybe about four or five times.

12 Q And do you know that your -- because you were
13 living there with your mother, do you know that your
14 mother did it times when you didn't participate?

15 A Yes.

16 Q All right. And how, when was the last time that
17 your mother paid the taxes?

18 A Up until last year.

19 Q And why -- she didn't pay last year?

20 A No, she didn't.

21 Q Why not?

22 A Because when she paid, by the time she done sent
23 the money order for paying her taxes, so David brought
24 her a receipt saying that she was paying rent, instead
25 of taxes and she said, "well, I'm not going to". My

1 mother's rather ill, so that's why she is not here.

2 Q Yes, ma'am. Well, this thing about David
3 bringing the receipt saying it was rent, had you ever
4 heard of that before last year?

5 A Never heard of that.

6 MR. SMITH: Objection. This is all
7 hearsay.

8 THE COURT: The question is: Has she
9 heard before someone call it rent?

10 MR. MIKELL: Yes.

11 THE COURT: Is that the question?

12 MR. MIKELL: That was the question.

13 A Uh-huh.

14 MR. SMITH: She was talking about in
15 reference to her mother who is alive.

16 MR. MIKELL: I'm asking her if she had
17 ever heard --

18 THE COURT: Of your own knowledge?

19 A Of my own knowledge.

20 Q Of your own knowledge about the payment of rent
21 prior to last year?

22 A Well, not prior to last year, no, it was always
23 taxes.

24 Q And how old is your mom?

25 A She's 83.

1 A Yes, sir.

2 Q Tell me about it?

3 A They claimed a piece of my property that's in
4 this. That's David Gary and Bernard Gary and I've
5 sent them a plat. I sent a plat around there to them.
6 I've had a sheriff deliver it to them and show them.
7 They still disregard it.

8 Q So, let's see, they have a dispute with you about
9 your land?

10 A Yes, sir.

11 Q And having a dispute with your father about the
12 heirs land.

13 A Yes, sir.

14 Q They're having a dispute with Mr. Minis in the
15 Salt Marsh Partners --

16 A Yes, sir.

17 Q -- who was in here this morning about his land?

18 A Yes, sir.

19 Q How old is your father?

20 A 86.

21 Q And I believe he said you had been handling his
22 business affairs for some years?

23 A Yes, sir.

24 Q Tell me about that a little bit?

25 A Well, in the last six, seven years I've been

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000158

1 handling most of his affairs so far as paying through
2 my checking account. He give me the money and I pay
3 the bills and take care of business for him, most of
4 them.

5 Q Okay. I'm going to hand you a copy of Plat Book
6 133 at Page 129, which has already been introduced
7 into evidence.

8 MR. MIKELL: I'm letting Mr. Smith look
9 at it here to make sure it's the same as the
10 one that's over here.

11 A Yeah, no problem. I just have to make some room
12 on.

13 Q Sir, that's not a question. That's not a
14 question?

15 MR. SMITH: This is the same already in
16 evidence; right?

17 MR. MIKELL: Right.

18 MR. SMITH: Yeah, okay.

19 MR. MIKELL: I just want to ask him some
20 questions about it.

21 MR. SMITH: Okay.

22 MR. MIKELL: Without messing with the
23 one that's in evidence.

24 Q What I'd like for you to do --

25 MR. SMITH: Can we make reference to the

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000159

1 A Oh, it's decreased.

2 Q -- as it was ten years ago?

3 A No, it's not the same as ten.

4 Q And what about the use of farm animals, the cows
5 and the hogs, and all, is that the same level today as
6 it was --

7 A No, sir.

8 Q -- five or ten years?

9 A No, sir.

10 Q Is that true of everyone, or is somebody still
11 doing it more than others, or how does that work?

12 A To the best of my knowledge nobody really owns
13 any more cows now. That's just to the best of my
14 knowledge. Hogs, I don't think nobody has any. And
15 the only thing my father still raises are the
16 chickens.

17 Q Okay. You are familiar, because you and your
18 father have both testified that at some point in time
19 as your father has decreased in age and activities,
20 that you've been taking over his business activities?

21 A Yes, sir.

22 Q Tell me about this issue that has come up about
23 your father and some of the other heirs paying rent to
24 Clara Gary. Tell me, when did that first come up?

25 A Well, it came up in the case with Moss, when

1 Attorney Moss took that case.

2 Q And that was about when?

3 A That was like in 2006. 2006, right before we
4 went to court the first time.

5 Q Okay. And how did it come up?

6 A I guess, Moss, just one of the tricks of Moss, I
7 guess. I don't know how it come up.

8 Q Well, I mean --

9 A They were using just a strategy just, you know,
10 coming up with it like that, or maybe you need to ask
11 the question differently.

12 Q Okay. When do you recall it coming up the first
13 time?

14 A Like I said, in that first case with Moss,
15 Attorney Moss.

16 Q Okay. Did it come up in a deposition?

17 A Yes. Yes, that's when it did.

18 Q And is that the first time that it came up.

19 A First time it came up was in the deposition.
20 That's where you want to go at; right?

21 Q And after the deposition, Mr. Moss wrote your
22 father the letter --

23 A Yes, sir.

24 Q -- that was introduced earlier?

25 A Yes, sir. Yes, sir. I was their at the

1 deposition.

2 Q And had you heard anything about anybody paying
3 rent before that time?

4 A Never did.

5 Q In as much as you handle your father's business
6 activities, have you had any discussion or made any
7 agreement with any of Clara Gary's family members
8 about the payment of rent?

9 A No, sir.

10 Q Have they ever told you that because your father
11 was paying rent that his lease might be up some day?

12 A No, sir.

13 Q Have they ever told you because he was paying
14 rent that he would have to pay insurance on the house?

15 A No, sir.

16 Q Now, were you ever present when your father gave
17 money for taxes to Clara or any of her children?

18 A Yes, sir.

19 Q Tell me about it?

20 A I, when the taxes come Clara and Dean came by the
21 house, brought the tax paper, showed my father, and
22 told him his amount he need to pay. He would go in
23 the room and get his money, give it to them, cash, and
24 that was the end of story.

25 Q Do you know how the amount that was paid was

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000161

1 determined?

2 A The money charged was the tradition of the way it
3 used to go. There was always the number of houses
4 that's on the property that was divided into the tax
5 money and that's how everybody paid their share.

6 Q The people that did not live on the property that
7 are in the family, and did not pay any of the taxes
8 because they didn't live on the family, are they
9 entitled to some of the land in your mind?

10 A Yes, sir, I think they are. And the reason why I
11 say that, because if you live on the property, if the
12 people live on the property have problems paying the
13 taxes, which they never did, they would seek outside
14 help from the family, would notify the family. But
15 the old tradition was always that the people that live
16 on it take care of it in case if the family want to
17 come back home. When the family decide anybody want
18 to move back on heirs property, was put into the taxes
19 to be divided as payment.

20 Q All right. Did that mean that the number of
21 people that paid taxes each year might change as to
22 the number of people that were actually living on the
23 land?

24 A Exactly.

25 Q Did that mean that the amount of the taxes then

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000162

1 would change --

2 A Would vary.

3 Q -- from year to year?

4 A Sure, it would.

5 Q Now, have you taken some photographs --

6 A Yes, sir.

7 Q -- out there in the past around the 30 acres?

8 A Yes, sir.

9 Q All right. Tell me what number one is there?

10 A Number one is my handsome son on a go-cart.

11 Q Okay.

12 A Corn field to the right, Solomon Johnson.

13 Q All right. And what road is he on?

14 A Solomon White Lane.

15 Q All right. And you say the corn field on the
16 right of that photograph --

17 A Right up to the right of the photograph.

18 Q -- was planted by your father?

19 A Yes, sir.

20 MR. SMITH: When was this photograph
21 taken?

22 A Back in 1990, on the back, look on the back.

23 MR. SMITH: I was just seeing it says
24 printed.

25 A No, I made copies of it from my original

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000163

1 can cross examine him about, I'm going to
2 let him testify to that. If we get into
3 things people told him so, we'll have a whole
4 another conversation, so. So, if you could
5 ask the question again just because I forgot
6 what the question was at this point.

7 Q Things that he observed while he was growing up
8 on the farm.

9 THE COURT: Okay. Go ahead, Mr. Gary.

10 A Okay.

11 MR. MIKELL: Note my continued objection.

12 THE COURT: Thank you. Okay, it's noted.

13 A Yes, sir. As I was growing up I was old enough
14 to know my granddaddy. He, I observed him, he farmed
15 the land. He, he farmed the land. He put fences up on
16 the land. He cut the timber. He cut -- cut the
17 timber. My granddaddy, just like I said, farmed the
18 farm, would take care of the land. He controlled the
19 land. He controlled the land, nobody could come in
20 there.

21 MR. MIKELL: Now, see there, he's
22 giving an opinion there.

23 A Right.

24 MR. MIKELL: "Controlling the land".

25 MR. SMITH: He can do that.

1 Q Okay.

2 A But he had his cows and his hogs on the Pringle
3 property over on the other side of the road.

4 Q Okay.

5 A Just like it was in the picture there.

6 Q Okay.

7 A And --

8 Q All right. And he did some -- did he do any
9 little farming other than a garden?

10 A Yeah. The garden, he just, he built, had a little
11 more space there about like a acre. Well, he had about
12 two acres or something like that he'd plant.

13 Q Right. Okay. And did you notice that there
14 being a field or anything behind his house?

15 A Yes, sir. He used to plant the Salt Marsh, all
16 the Salt Marsh land in the back of his -- back of our,
17 back of the -- back of the -- oh, man -- the land we
18 used, the Salt Marsh area.

19 Q Okay. Now, as you became an adult post high
20 school, what did you do for a living?

21 A I drove trucks. I came out and I started driving
22 trucks.

23 Q Okay.

24 A And I been driving since -- since then.

25 Q Okay. And who are you driving trucks for?

1 COURT REPORTER: Ten.

2 THE COURT: Ten, okay. Hold on a second
3 while we mark it.

4 (Defendant's Exhibit No. 10 was marked for
5 identification.)

6 Q Now, did you ever go over to the ten acre tract
7 of land?

8 A Yes, sir.

9 Q Tell me about that?

10 A Well, we'd go over there and we'd put a -- we
11 posted a "no trespassing" on the -- on the land.

12 MR. MIKELL: Who is we?

13 A Me and my brothers.

14 Q You answer my questions, all right?

15 A Yeah.

16 Q Quit paying attention to him.

17 A Me and my brothers.

18 THE COURT: Yeah, just go ahead and.

19 A Me and my brothers usually put the post stuff on
20 the land out there, my youngest brother and Albert.

21 Q All right. How long ago did you do that?

22 A We did that for about, been did that for at least
23 about ten years ago.

24 Q Okay. Now, when you were growing up as a child,
25 did you ever go over to the ten acres?

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000166

1 A Yes, sir, I went over there. We hunt the ten
2 acres.

3 Q Okay.

4 A We went over there and hunt the ten acres.

5 Q Who is we?

6 A Me, my brother Charles, Albert. We went over
7 there hunt the ten acres. We always went over there
8 hunt the ten acres.

9 Q Okay.

10 A We hunt the ten acres, go over there and shoot
11 coon.

12 Q Okay.

13 A Hunt deer, squirrel.

14 Q Right.. Did you, did y'all let other people hunt
15 out there?

16 A No, not by our permission. We don't let nobody
17 unless they asked us.

18 Q Okay.

19 A That's the only way we'd let them hunt, they had
20 come to us.

21 Q All right. Now, how about, did you do any
22 hunting on the back part of the 30 acres?

23 A Yes, sir.

24 Q Okay. And was that when you were growing up?

25 A Yes.

1 A No, sir. No, sir.

2 Q Okay. And did you maintain that property?

3 A Yes, sir, we maintained that property.

4 Q Do you recall as a young man there being no
5 trespassing signs up on that property?

6 A Yes, sir.

7 Q Do you know of any other person in your family
8 that put those up?

9 A Anybody in my family?

10 THE COURT: That you observed?

11 Q That you observed?

12 A I observed? Yes, sir.

13 Q Okay. And let me clarify the question for you.
14 Who maintained the no trespassing signs on the
15 property?

16 A We did.

17 Q "We" being who?

18 A My family.

19 Q All right. Now, did you have any livestock on
20 the property?

21 A Yes, sir.

22 Q All right. Where did that take place?

23 A It take place on the 30 acres.

24 Q Okay. And looking at -- well, I'm going to go
25 back to Plaintiff's Exhibit No. 19, okay.

1 | photograph?

2 | A That's the fence line. That's my fence.

3 | Q Okay.

4 | A That's the fence line right there go up beside
5 | the road there.

6 | Q Okay. Who put that there?

7 | A Our whole family.

8 | Q Okay. Do you maintain that fence line?

9 | A Yes, sir.

10 | Q Okay. And I noticed there appear to be some
11 | signs on the property?

12 | A Yes, sir. No trespassing signs right there
13 | (indicating).

14 | Q All right. And who put those there?

15 | A Our family.

16 | Q All right. And if you could tell me what this
17 | photograph is?

18 | A Okay. That's Twickenham Road. That's a dirt
19 | road, that's Twickenham Road. That's -- that's a road
20 | goes from -- from Old Sheldon Church Road and go all
21 | the way to Twickenham Plantation.

22 | Q Okay. So, if I'm looking that way, am I looking
23 | towards your property or looking back toward the road,
24 | if you can tell?

25 | A Right now if I look to the left?

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000169

1 Q Okay. Do you know whether or not an easement was
2 signed allowing that road to be paved or any type of
3 document was signed?

4 A Yeah, an easement was signed. And also we went
5 down there -- I went down there and signed some things
6 to try to get the road paved too.

7 Q Okay.

8 A Yeah.

9 Q All right. Do you know of anyone else who did
10 that?

11 A None that I know of.

12 Q Okay. All right. And again, this is the current
13 picture of how the property is; correct?

14 A Yes, sir.

15 Q Okay. Now, how do you get water out there?

16 A Water?

17 Q Yes? Do you have a well?

18 A Yeah, we got a well.

19 Q You have a well?

20 A Yes, sir.

21 Q Has the well always been there?

22 A Always been there.

23 Q Okay. Is the well on your property?

24 A Yes, sir.

25 Q How about located near your house or anywhere

1 Q Well, now before electricity came on the property
2 somebody had to grant an easement to the power
3 company. Do you know who did that?

4 A My -- my -- my people.

5 Q Okay. Your people being who, your family?

6 A My family.

7 Q Okay. All right. Okay. I believe that's all I
8 have on this at this point.

9 MR. SMITH: Your Honor, we would move to
10 introduce this as one exhibit?

11 THE COURT: Mr. Mikell?

12 MR. MIKELL: It is what it is.

13 THE COURT: All right. That sounds like
14 no objection so that would be 20 maybe?

15 COURT REPORTER: 11.

16 THE COURT: 11. Oh, I flipped back a
17 page. Okay.

18 COURT REPORTER: Defendant's 11.

19 THE COURT: I'm looking at the
20 Plaintiff's Exhibits, sorry.

21 (Defendant's Exhibit No. 11 was marked for
22 identification.)

23 Q Now, your father, again, is who?

24 A Francis Gary.

25 Q Okay. And your mother is?

1 Q Yes, sir?

2 A The tax notice, it's saying Richard Gary.

3 Q Okay. At the top?

4 A The top says "Solomon".

5 Q "White Heirs"?

6 A "Solomon White Heirs", right.

7 Q Okay. And it looks like there's another name on
8 there and who is that?

9 A Another name there on the bottom, down there, say
10 "Richard Gary".

11 Q All right. Who is Richard Gary?

12 A Richard Gary is my grandfather.

13 Q Okay. And this is in 1966, do you recall whether
14 or not your grandfather was alive at that time?

15 A Yes, sir.

16 Q Okay. Now, all right, and the next document
17 there after is dated what year?

18 A I don't know where year is. Where is year?

19 Q Up in the right corner?

20 A Right corner?

21 Q Well, your copy didn't come out as good as mine.

22 A Yeah.

23 Q Let's see. Here?

24 A Oh, yeah, '68. '68. January '68 right there
25 (indicating).

1 paying too much --

2 MR. MIKELL: But, but, but "they were
3 saying".

4 THE COURT: Well, let me ask you this:
5 Did you go with your mother every time?

6 A Sir?

7 THE COURT: How do you know your mother
8 did these things?

9 A Yeah, because I know my mother take care of it.
10 My mother and my -- my older sister, they most likely
11 take care all the business on that.

12 THE COURT: And you know that how
13 exactly?

14 A How exactly? Because we have communication, we
15 talk all the time.

16 THE COURT: All right. Yeah, I'm going
17 to assign little, little credit to this
18 testimony, but anyway go ahead and continue
19 on.

20 MR. SMITH: All right.

21 Q In 19 -- the next -- so, there was some, that
22 stamp means some type of refund; correct?

23 A Yes, sir.

24 Q All right. And the next one that we have?

25 A That's in 1997?

1 A It's paid.

2 Q All right. And then the next document we have,
3 it goes back to the Manatron document?

4 A Yes, sir.

5 Q What year is that?

6 A 2002.

7 Q All right. And who was it mailed to?

8 A Solomon White, Francis Gary, and Albert Gary 100
9 Prescott Road, Yemassee.

10 Q And what was the gross tax amount?

11 A \$865.61.

12 Q All right, sir. And that document you just
13 identified was 2002, and on the back side there,
14 apparently you have the receipt for paid; is that
15 correct? For 2002? This document right here?

16 A Okay.

17 Q Flip next.

18 A Flip next.

19 Q Is that correct?

20 A Yes, sir.

21 Q Okay. And who is that addressed to?

22 A Solomon White, Francis Gary, Albert Gary, 100
23 Prescott Road, Yemassee.

24 Q Okay. And then continuing on, what's the next
25 bill, tax bill you have? I believe it's also a

1 to be property tax bills that go back for
2 most of the time period. So, I mean for that
3 purpose I'll allow it with the understanding
4 that I think these Manatron things -- I know
5 these Manatron things are not tax bills.
6 These are simply something anyone can get on
7 the computer right now and print out. I don't
8 know whether or not owner of record as
9 reflected on the Manatron system reflects
10 owner of record as of the date of the query
11 of the Manatron system, or whether it's the
12 owner of record as of the date of the bill.
13 Honestly, I don't know that, and we'll
14 disregard that completely because that
15 confuses me. Additionally, the receipt
16 numbers in many cases from the receipt that's
17 attached and the Manatron system don't match.
18 Nevertheless, these appear to be some match,
19 some don't, but it's pretty confusing. So,
20 but it's in one package and for the fact that
21 there are tax bills, and at some point in any
22 case like this it's important to determine
23 what taxes were due, maybe to determine who
24 paid them and who's entitled to some credit
25 or not. I'll allow them because they're tax

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000175

1 THE COURT: All right. Come around, Mr.
2 Youmans.

3 MR. BONEY: -- what Judge Kemmerlin said
4 the boundary was.

5 THE COURT: All right. Let's get Mr.
6 Youmans up here and we'll see if we can
7 figure it all out.

8 (DAVID YOUMANS, having been duly sworn,
9 testifies as follows:)

10 DIRECT EXAMINATION BY MR. BONEY:

11 Q Mr. Youmans, you're a surveyor here in Beaufort
12 County?

13 A Yes, sir.

14 Q How long have you been doing survey work in
15 Beaufort County?

16 A Since 1969, was registered in 1983.

17 Q Okay. And you heard me making my open remarks to
18 the Court a few minutes ago and referencing a plat
19 that you had prepared for James F. Shocker(ph) and
20 David Devane (ph) that had some encroachment detail on
21 it or a plat that had some encroachment detail on it?

22 A Yes.

23 Q The plat that was referred to in Judge
24 Kemmerlin's order?

25 A Yes.

1 Q And was it -- how, what was done in that
2 particular incidence?

3 A Well, we cut the timber. And after we cut the
4 timber my brother, Albert, he was there we cut the
5 timber. We cut the timber about three times.

6 Q Okay.

7 A And we put the -- the checks in his name and he
8 put them in the bank to pay the tax on the property.

9 Q Okay. So when you say "you cut the timber" are
10 you talking about you sold the timber from the land?

11 A Sold the timber. Sold the timber from the land.

12 Q Some type of lumber company came in and cut it
13 themselves?

14 A Yes, sir.

15 Q And paid y'all for that right?

16 A Yes, sir.

17 Q And dealt with y'all?

18 A Yes, sir.

19 Q Any other parties they dealt with?

20 A No, sir.

21 Q How long ago did that take -- you say three times
22 that happened?

23 A Three times it happened.

24 Q How long, over what period of years did that
25 happen?

1 Q Okay. All right. And is that still part of being
2 farm land now?

3 A Farm land, right.

4 Q All right. And who's been farming that land?

5 A We do.

6 Q "We" being who?

7 A Gary.

8 Q Okay. If you'd have a seat, please, sir. Now,
9 have you at any time had to go to any type of
10 Magistrate's Court or other type of court dealing with
11 evictions or issues dealing with the property? Have
12 you ever had to evict anyone from the property?

13 A No, sir.

14 Q Have you ever been involved, other than the
15 litigation that took place with Salt Marsh and these
16 parties about five or six years ago, have you ever
17 been involved in any other type of litigation
18 involving possession of this property?

19 A We had a -- we had a litigation with -- with
20 Solomon Johnson and Solomon Johnson's sister.

21 Q Okay. How long ago was that?

22 A That was about -- that was about six, seven,
23 eight years ago.

24 Q Okay?

25 A They was trying to -- they didn't have a plat for

1 their land. They didn't have no deed for their land,
2 so they were trying to come over on our land to make a
3 deed. And we told them, "no, they ain't coming on our
4 land like that". And also Solomon's house, Ms. Lisa
5 Pringle's house and Mr. Marion Pringle's house is on
6 the property.

7 Q Okay.

8 A So they was trying to take our property, trying
9 to take the property to make a deed for -- for the
10 land, for the land, see because they ain't had no deed
11 and they ain't had no property because their house is
12 on our, on that property right there.

13 Q All right. When you're talking about Pringle
14 house or land, I'm going to refer to Plaintiff's
15 Exhibit No. 20; okay. Where are we talking about when
16 we're talking about the Pringle's?

17 A Wait a second. Right here in Twickenham Road.

18 Q Okay?

19 A So, see they didn't had no deed for their -- for
20 no land. They ain't had no land so they was trying to
21 make up a deed.

22 Q All right.

23 A So, they was tried to come over on this property
24 here (indicating) and take part of the property to
25 make a deed.

1 because he give it to Albert anyway.

2 Q Okay. This other one, that's Exhibit Number 30,
3 is made out to Albert, did you see that one?

4 A No, because he give them to Albert.

5 Q And this one is made out to Albert, that's
6 Exhibit Number 32, that says, "taxes" on it. Did you
7 see that one?

8 A I never ever saw that one.

9 Q So, a lot of these tax notices you never really
10 saw, did you?

11 A Not them kind right there. Not that one, no,
12 sir.

13 Q Have you or anybody in your family ever had the
14 30 acres surveyed?

15 A Let me see.

16 Q The only survey in the record it the one in 2007
17 that was done by Mr. Solomon Johnson. I'm asking you
18 if you've ever had a survey done of the 30 acres?

19 A No. No, sir.

20 Q Then how do you know where the boundaries are?

21 A Boundaries?

22 Q Yes, sir? How do you know where the boundaries
23 are if you've never had it surveyed?

24 A Well, we had some people to survey around us and
25 they put these markers around and my daddy knew' --

1 door to testimony, hearsay testimony, or --

2 Q My question was:

3 MR. SMITH: With the exception --

4 Q -- how do you know where the boundary lines are
5 if you've never had a survey done?

6 A Well, I had some -- well, my family, my family
7 back in the days, they knew where all of the boundary
8 lines were at. My brother knew where the boundary
9 lines were at. I knew where the boundary lines was at
10 and so my --

11 Q But you -- but they knew where the boundary line
12 was without a survey; right?

13 A Yes, sir.

14 Q Because there ain't no survey?

15 A Yes, sir.

16 Q Did you ever spend the night in Solomon Johnson's
17 house?

18 A No, sir.

19 Q Never spent the night in Solomon Johnson's?

20 A No, sir.

21 Q Did you ever spend the night in Ralph Johnson's
22 house?

23 A No, sir.

24 MR. MIKELL: What did you do with those
25 photographs in there?

1 that be the conclusion from reading those documents?

2 A (Witness shakes head.)

3 Q Brenda Patterson is the granddaughter of Henry
4 Gary, Jr. or Henry Gary, I'm sorry, Senior. She's the
5 daughter of Henry Gary, Jr.? Brenda Patterson, the
6 lady that's in a red jacket down here?

7 A Yeah. Henry, Henry Gary was a junior?

8 Q Yes, sir. That's her father?

9 A That's her father?

10 Q Yes.

11 A Yeah.

12 Q She'd lived on the land didn't she?

13 A Yes, sir.

14 Q And her momma?

15 A Yes, sir.

16 Q Evalena --

17 A Evalena, yes.

18 Q -- lives on the land?

19 A Right.

20 Q Now some of these receipts that are in evidence
21 indicate that Solomon Johnson was paying rent. Do you
22 know anything about that?

23 A Yeah, he was paying rent.

24 Q He paid rent?

25 A Yes, sir.

1 Q Well, if he paid rent wouldn't that indicate
2 there was some agreement about that?

3 A Yes.

4 Q Okay.

5 A To my father.

6 Q I didn't ask you. I said was there an agreement?

7 A Yes, sir.

8 Q All right. And then my question was: Did you or
9 your mother ever make an agreement with Solomon
10 Johnson about the rent?

11 A Yes, sir.

12 Q You did?

13 A Yes, sir.

14 Q Which one of you?

15 A My mother.

16 Q Your mother?

17 A Yes, sir.

18 Q But she's not here, I can't talk to her. You
19 didn't bring her did you?

20 A No, sir, she didn't come here.

21 Q Okay. Well, do you know what the agreement was?

22 A Yeah. They paid. They pay as they collect money.

23 Q They paid as they collect the money?

24 A Yes, sir.

25 Q What does that mean, collect what money?

1 A The rent money.

2 Q And when is the rent money due?

3 A When the time says for the -- the time for them
4 to go to select the rent. Whenever they want to the
5 select the rent.

6 Q I'm sorry. I'm not -- you're speaking softly, I'm
7 not hearing you.

8 A I said when their time, when they want to go and
9 select the rent they go to select the rent.

10 Q So, when they want to go and select a rent they
11 just go and select the rent?

12 A Right.

13 Q There's no time. Is it once a month, once a
14 year, or just whenever that pops in their mind? I
15 don't understand. When is the rent due?

16 A They had an agreement to, just like I said, for
17 soon as they get -- once a year they go and select the
18 rent.

19 Q So, it's once a year?

20 A Yes, sir.

21 Q So, these receipts that I showed you a while ago
22 for the \$105.00 dollars and the \$125.00 dollars and
23 the \$127.00 dollars, that's the annual rent?

24 A That's the annual rent.

25 Q That's about \$9.00 dollars or \$10.00 dollars a

1 month; is that right?

2 A I guess so.

3 Q How big is Mr. Johnson's house? You got some
4 photographs you introduced in here. Exhibit Number
5 Three, Defendant's is that Mr. Johnson's house?

6 A Yes, sir.

7 Q Is that the house you rent for \$9.00 dollars a
8 month?

9 A I guess so.

10 Q Well, in this agreement for Mr. Johnson to rent
11 that house, who is supposed to pay the insurance on
12 the house there, nice house, good looking house;
13 right?

14 A Well, he pays, he pay his own insurance.

15 Q He'd pay his own insurance?

16 A Own insurance.

17 Q That's an agreement you and he had?

18 A Yes.

19 Q That's part of the rent agreement?

20 A That's part of the rent, pay your own insurance.

21 Q And if somebody is to fall down and get hurt, and
22 is there any agreement about the as to who carries the
23 insurance on the house?

24 A That's right, he would carry insurance on the
25 house.

1 Q I'm sorry, who carries the insurance?

2 A He would carry insurance on the house.

3 Q He was supposed to pay the insurance on the
4 house?

5 A Yes. Yes. Yes, sir.

6 Q And how about fire, if the house was to catch on
7 fire, who was supposed to pay for that?

8 A He's supposed to pay for that too.

9 Q That's part of the agreement that you and your
10 family, the Clara Gary --

11 A That's right.

12 Q -- and Sam Gary had reached with Solomon Johnson?

13 A Yes, sir.

14 Q When was that agreement entered into?

15 A Back in the -- back in the, I think in the 60's,
16 or 70's somewhere in there.

17 Q For the \$9.00 dollars or \$10.00 dollars a month?

18 A Yes, sir. That's right.

19 Q Well, how does Mr. Johnson know when -- Solomon
20 Johnson, how does he know when he gets outside of the
21 area that you say you rented to him? Where's the
22 boundary line?

23 A The boundary line?

24 Q Yes, sir. If you rent something to somebody it's
25 supposed to be defined?

1 A Uh-huh.

2 Q What's the boundary line that he can't cross
3 over?

4 A Well, we -- he got a piece there in his yard.

5 Q Just his yard?

6 A Yard, yeah.

7 Q Well, how many feet is it?

8 A 100 feet on each side --

9 Q 100 feet on each side?

10 A -- 200 feet on each side, something like that.

11 Q Well, I'm -- I'm -- you said two different
12 things there, so I don't understand. There's 100
13 feet on each side or 200 feet on each side?

14 A 200 feet on each side.

15 Q 200 hundred feet on each side?

16 A Yeah.

17 Q Something like that?

18 A Something like that.

19 Q Okay. And that's part of the agreement that
20 Clara Gary and you, her children have with Solomon
21 Johnson, that's 200 feet?

22 A Something like that.

23 Q Or something like that?

24 A Yeah.

25 Q Or 200 feet, something like that?

1 A Yeah.

2 Q That's the agreement?

3 A Yes, sir.

4 Q Is there some drawing or some plat or --

5 A No, sir.

6 Q -- something that I can look at --

7 A No, sir.

8 Q -- so that I would understand --

9 A No, sir, ain't no plat

10 Q -- where that --

11 A No, sir. There ain't no plat.

12 Q Now, some tax receipts were introduced here as
13 Defendant's Number 12 .

14 A Uh-huh.

15 Q Show me which one of those tax receipts for
16 either the 10 acres or 30 acres that does not have the
17 name Heirs of Solomon White or the Heirs of Mary Ann
18 White on it, show me one of them?

19 A I think all of that, I think all them had Mary
20 Ann White Solomon White on it.

21 Q Every one of them?

22 A Yeah.

23 Q And where does it say on those receipts that you,
24 David Gary, delivered that money to the county and
25 paid the money to the county? Does it say that on

1 maintain the property.

2 Q Okay.

3 A Because and then still he help us, help us on the
4 land and everything else, even put up fences and all
5 too. But Ulysses and Charles, I mean, they got their
6 own thing, so I don't think they are able to come back
7 again.

8 Q They're not coming back?

9 A They ain't going to come back again.

10 Q But my question was: Why are they entitled to be
11 included in the class of people that are going to be
12 owners when these other people who are heirs that
13 don't live on the property are also excluded, or not,
14 are excluded? I don't understand the difference.
15 And you haven't given me an answer.

16 MR. MIKELL: Please note the record that
17 I don't think we got an answer for that
18 question.

19 Q Now, there's been some testimony about you
20 posting some no trespassing signs?

21 A Yes, sir.

22 Q Okay. Are there some photographs around here of
23 some no trespassing signs?

24 A Yes, sir.

25 Q Show it to me.

1 MR. MIKELL: So many exhibits here, the
2 Judge is going to have to spend four days to
3 get through the exhibits.

4 THE COURT: I've done it before. There
5 was some small prints taken from Twickenham.
6 You know what, that might have been on the
7 big fold-out exhibit, wherever that is.

8 MR. MIKELL: That's right here.

9 Q Show me on there, and this is Exhibit Number 11.

10 A Right here.

11 Q That's a no trespassing sign?

12 A That's a no trespassing sign.

13 Q Uh-huh. And you you put that no trespassing sign
14 up?

15 A Yes, sir.

16 Q Well, if I was an Heir of Mary Ann white or
17 Solomon White, whose name is on all those tax
18 receipts, how would I know that that was intended to
19 keep me off the property? It doesn't have keep off
20 Heirs of Solomon White, keep off Heirs of Mary Ann
21 White on it. All it says is no trespassing; right?

22 A Yes, sir.

23 Q How would those people in the Solomon White and
24 Mary Ann White family know that that wasn't for their
25 benefit?

1 A Come back with that question again.

2 Q Who, if I'm an Heir of Solomon White --

3 A Uh-huh.

4 Q -- or Mary Ann White, and there's a sign that
5 says no trespassing, how am I supposed to know that
6 sign is intended to keep me off the property? How
7 would I read that sign and know that? I couldn't do
8 it, could I?

9 A You couldn't do it, no. You couldn't do it.

10 Q The tax notices, again, Exhibit Number 12,
11 Defendant's Exhibit No. 12, do you think that these
12 documents present the correct name of the owner of the
13 property on them?

14 A Mary Ann White and Solomon White? Yeah, they're
15 supposed to be an owner of the property.

16 Q Okay. But it doesn't just say Mary Ann White and
17 Solomon White. It says "Heirs of Mary Ann White and
18 Solomon White" on every one of them, doesn't it?

19 A Yes, sir.

20 Q Now, when did you go out and try to find out who
21 the Heirs of Solomon White are? When did you do --
22 Mr. Ralph Johnson and Mr. Solomon Johnson put together
23 this list of heirs. Where is your list of heirs? Did
24 you ever do something like this?

25 A I tell you the truth I never have did it.

1 Q You never did?

2 A No, sir.

3 Q Did anybody in the Clara Gary branch of the
4 family, to your knowledge, put together a list of the
5 Heirs of Solomon White and Mary Ann White like this?

6 A No, sir.

7 Q Well, if you didn't put together a list of all of
8 the Heirs, when did you tell all of those people that
9 you, the Clara Gary Family were the only owners of the
10 property? How were you going to tell them if you
11 didn't make a list of their names?

12 A Well.

13 Q Well, what?

14 A I don't have that question. I don't --

15 Q I'm sorry.

16 A -- have that answer. I don't have an answer for
17 that.

18 Q You don't have an answer for that question? I
19 don't think you do have an answer for that question.
20 I agree with you. So, you never notified the Heirs or
21 Solomon White or the Heirs of Mary Ann White that you
22 and the Clara Gary branch of the family were, and only
23 those people, were claiming the property, did you?

24 A No, sir. I never did.

25 Q You already told me that if I was one of the

1 heirs and I read that no trespassing sign that
2 wouldn't tell me, would it?

3 A No, sir.

4 Q Thank you, sir.

5 THE COURT: Anything else for this
6 witness?

7 MR. SMITH: Yes, sir, briefly.

8 REDIRECT EXAMINATION BY MR. SMITH:

9 Q Mr. Gary, you've already testified that you
10 don't know all the Heirs of Solomon White, do you?

11 A No, sir

12 Q Okay. So, if anyone was on that property would
13 you go over there and tell them to get off?

14 A Yes, sir.

15 Q Okay. And have you done that?

16 A Yes, sir.

17 Q So , if it was one of the Heirs, you didn't know
18 whether it was or not, you still made them get off the
19 property?

20 A I made them get off the property.

21 Q Okay. And you've done that all over this 30
22 acres?

23 A All over the 30 acres.

24 Q Have you done it in the 10 acres?

25 A All in the 10 acres too, yes, sir.

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000193

1 THE COURT: Mr. Mikell?

2 RE-CROSS EXAMINATION BY MR. MIKELL:

3 Q This, this death certificate for Ellen Gary,
4 let's look at it one more time. Down here where it
5 says, "informant" it doesn't say that's Richard Gary's
6 signature does it? It just says Richard Gary is the
7 person that's the informant, meaning he gave the
8 information on this document; correct?

9 A That's what you say.

10 Q That's what I say?

11 A That's what you say.

12 Q You don't know is the bottom line?

13 A Right, sir.

14 Q Now, we talked about -- Mr. Smith talked about
15 the fact that we had a title researcher come in here
16 and testify. Where is your title researcher? Did you
17 have anybody research the title?

18 A We ain't had one.

19 Q Sir?

20 A No, sir.

21 Q Okay. And we talked about your mother, does she
22 go to the grocery store?

23 A Yeah, she go to the grocery store.

24 Q Is there other people that could watch your
25 brother besides your mother?

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000194

1 A Yeah, but -- okay.

2 THE COURT: Just tell us what you've
3 observed.

4 A Well, my mother --

5 Q What you've observed?

6 A Well, my mother plant, my brother plant and
7 everyone plant.

8 Q All right. Did you observe your dad plant?

9 A Yes. Uh-huh. Uh-huh.

10 Q And when you talk about observing your dad plant,
11 did he plant the field out in front of your home --

12 A Yes, sir.

13 Q -- and in front of your mother's home?

14 A Yes, sir. And he even plant where I live at too
15 before I moved there.

16 Q Okay.

17 A Yeah, watermelon potato, cotton, cane, corn,
18 everything.

19 Q Okay. All right. Did you ever observe Mr. Solomon
20 Johnson planting that field where you live?

21 A In the front of me?

22 Q Yes?

23 A No, sir. No, sir. Not as I remember, no, sir.

24 Q Okay. Did you ever observe him planting the field
25 behind, back where Salt Marsh is?

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000195

1 A No, sir, I don't. You know, I'd been going to
2 school and stuff like that, so I don't really --

3 Q So, you don't have any knowledge about it?

4 A No, sir.

5 Q Okay. Now, out on the property now who kind of is
6 the -- controls how things go on the property now?

7 A Well, I control my area. God knows I do.

8 Q Okay.

9 A I don't let anybody come in there telling me what
10 to do.

11 Q Okay.

12 A You know, cause I -- I live there and I own,
13 ownership.

14 Q Okay.

15 A And my mom --

16 Q Right.

17 A -- and David --

18 Q Right.

19 A -- they're on that side.

20 Q Right.

21 A They own ownership.

22 Q Right.

23 A So, yeah, we all do.

24 Q Okay. Now, how about Solomon Johnson, how do
25 y'all deal with them?

1 Q Johnny Washington?

2 A I don't know him.

3 Q Now, the Plaintiffs are alleging that these are
4 your family, your relatives?

5 A I never met them.

6 Q Okay. Did they ever work the land that you're
7 aware of?

8 A No, sir.

9 Q Did they ever participate in doing anything with
10 the land itself?

11 A Nothing. Nothing.

12 Q Ten acres or 30 acres?

13 A Nothing.

14 Q If one of these people you don't know who have
15 come on the property, what would you have done?

16 A To be honest, I hit the dead gage bolt, but I'll
17 run them off.

18 MR. SMITH: Your Honor, that's all I
19 have at this time.

20 THE COURT: Mr. Mikell?

21 CROSS EXAMINATION BY MR. MIKELL:

22 Q We spent some time yesterday in this room with
23 the fellow from Savannah, Mr. Minus and his lawyer,
24 Mr. Boney. Were you here yesterday?

25 A No, sir.

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000197

1 I come short.

2 Q Now, who, you said "the family", who is "the
3 family"?

4 A The Gary family.

5 Q Okay. Meaning the Clara Gary family?

6 A Yes, sir.

7 Q Is Solomon Johnson supposed to pay any of that
8 money?

9 A No, sir. They didn't even call his name.

10 Q Right.

11 A So, it leave up to me and my husband and whoever.

12 Q All right. So, the real dispute between whatever
13 was going on there was between the Clara Gary family
14 and Salt Marsh, wasn't it?

15 A Yes, sir. That's what they was saying.

16 Q Okay. Is your mother an Heir of Solomon White?

17 A No, my dad is.

18 Q I didn't ask you that. I said is your mother an
19 Heir of Solomon White?

20 A No -- I mean inlaw.

21 Q An inlaw?

22 A Yes, sir.

23 Q Is your mother an Heir of Mary Ann White?

24 A An inlaw.

25 Q An inlaw. You said that there was a dispute

1 Q -- the point is did Mister -- you said Mr.
2 Solomon White did not contribute any money to the
3 defense --

4 A No.

5 Q -- of the suit with Salt Marsh; is that right?

6 A No, he didn't.

7 Q Did you ask him for any money?

8 A Well, if he see the man all up in his house
9 putting flags all under his car garage and his --
10 right close to his door; any common sense will say
11 click. Would you come over there and say Ms.
12 Singleton, Annette, could you -- you need some help
13 with finance or anything? I would do it. If -- if I
14 was a neighbor I would give my offering.

15 Q You know, I didn't ask you what you would do.
16 What I asked you is: Did you ask him to contribute any
17 money?

18 A No.

19 Q Okay. You saw me ask your brother about this
20 family tree that Solomon White and his son Ralph put
21 together, this Plaintiff's Exhibit 38, let me hand it
22 to you?

23 A Uh-huh.

24 Q My question is: When did you put together a
25 family tree like that?

1 A Well, you know what? I don't have to figure out
2 my family tree because all I know, all these old
3 people are dead. I don't know anything about it
4 because I'm a little too young for knowing about these
5 old people here already done passed away. Only thing
6 I know about this family tree is my brother Ulysses
7 Gary, David Gary, Bernard Gary, Albert Gary, Francis
8 Junior Gary, Charles Gary, and Adelia Gary. Them
9 other rest of the old people who done passed away, I'm
10 a little too young to know these family tree here. So
11 really, I don't have a family tree.

12 Q Okay.

13 A Only those.

14 Q So, you're not curious about the fact that the
15 tax notices, ever single one of them, say the Heirs of
16 Solomon White and the Heirs of Mary Ann White on them.
17 That didn't mean anything to you?

18 A Well, Solomon White family is all passed away.
19 You know, like the kids and stuff, they didn't -- I --
20 well, I'm not going by hearing [sic] because I don't
21 know them. I never know them. So that means that
22 their family probably done deceased. All back then,
23 those people is done rotten up and done gone. So, why
24 should I spend time to find out about Solomon White
25 any ancestors?

1 Q Well, the answer to your question as to why you
2 should do it is you could notify them that you were
3 claiming the land and nobody was claiming the land but
4 you, that's why. And you didn't do that, did you?

5 A Well, I don't know them.

6 Q But Mr. Solomon White and Mr. Ralph -- or Johnson
7 and Mr. Ralph Johnson found out who all those people
8 were. They went and dug up all these death
9 certificates and all that?

10 MR. SMITH: Objection, argumentative.

11 MR. MIKELL: Well, she's the one that's
12 asking --

13 A They're -- they're argumentative.

14 THE COURT: Woe, everybody quiet a
15 second. Yeah, just try to lay off a little
16 bit on the argumentative part. But go ahead
17 and ask another question.

18 Q The bottom line is you never notified the Heirs
19 of Solomon White nor the Heirs of Mary Ann White
20 because you --

21 A I don't know them, sir.

22 Q I didn't ask you who you knew. The question is:
23 Did you notify them that you did not -- that you
24 claimed this property and they did not have any
25 interest in the property?

1 A I don't know them, sir.

2 Q But if they could find out who they were you
3 could find out who they were?

4 A Well, they're much older than I am, sir, so they
5 ought to have all the information and all the things.
6 I don't know.

7 Q And you never made any effort to do that, did
8 you?

9 A Well, sir, I don't know them. So, if I don't
10 know something why should I really get interested. And
11 that's good that they did it. So they maybe could come
12 in and share it with me to see what who is who,
13 because I don't know them. And you can't make me feel
14 like I have to know somebody that I don't know these
15 people. I don't.

16 Q But the law requires you --

17 MR. SMITH: Objection.

18 Q -- to notify the people --

19 MR. SMITH: Argumentative.

20 THE COURT: Well, that's argumentative.
21 Just, I think we've got it nailed down that
22 she did not do her own family tree, and
23 didn't see a need to.

24 MR. MIKELL: And she didn't notify the
25 people, that's the important part, Your

1 Honor.

2 THE COURT: I understand.

3 MR. MIKELL: I think we're probably
4 beating a dead horse. Thank you.

5 THE COURT: Anything else?

6 REDIRECT EXAMINATION BY MR. SMITH:

7 Q Ms. Singleton, notification? You live on the
8 property don't you?

9 A Yes, sir.

10 Q You stop people from coming on the property --

11 A Yes, sir.

12 Q -- don't you?

13 A Yes, sir.

14 Q You and your family control that property didn't
15 you?

16 A Yes, sir.

17 Q Has anybody ever come on there challenging your
18 authority to that property?

19 A Well, when they do, we take force.

20 Q Okay. Y'all act?

21 A Yes.

22 Q And you've done that all your life?

23 A Yes, we did.

24 Q Thank you.

25 RECROSS EXAMINATION BY MR. MIKELL:

1 Q All right. Tell me who these people were that
2 you ran off? Give me some names of the people you ran
3 off?

4 A Well, I tell Salt Marsh that you don't come over
5 here, and run a line, and try to move my trailer out
6 the way. So, I told him he had to move.

7 Q Okay. Who else? Who else?

8 A That's the only conflict I had, but if anybody
9 else they will get run --

10 Q I want to know who those anybody else's are?

11 A I said if anyone else, that I didn't have no
12 conflict but only one person I had conflict with.
13 But I said I never had to run nobody else off, but I
14 said, if somebody come to my territory they will get
15 run off.

16 Q Okay. So, the only people you have ever run off
17 then and had a conflict with is the Salt Marsh people?

18 A Yeah, because they want to take -- take what
19 belongs to me.

20 Q Okay. Thank you.

21 THE COURT: Anything else?

22 MR. SMITH: No.

23 THE COURT: I don't have any questions.
24 Thank you very much. Call your next witness,
25 please.

1 up here. Can you tell me any name of those
2 Plaintiffs, other than --

3 A Solomon Johnson.

4 Q -- Mr. Solomon Johnson that you know has lived on
5 that property?

6 A Stafford's momma and Brenda Patterson's momma.

7 Q Okay. What was their names?

8 A Lena Gary and Naomi Stafford.

9 Q Okay. And how long ago did they live on the
10 property?

11 A Lena lived on there for about going now --

12 Q Going backwards?

13 A -- going backwards about 20 years now. Naomi
14 done -- I don't know if Naomi gone a little longer
15 than Lena.

16 Q Okay.

17 A About 22 years.

18 Q Okay. And how long did they stay of the
19 property?

20 A Well, they been -- when -- when I was born they
21 been been on the property.

22 Q Okay. Look through, if any other names on there.
23 Any of those other people ever stay on the property or
24 help with the property?

25 A No , sir.

1 Q None of those other Plaintiffs?

2 A No other Plaintiffs.

3 Q Okay. Thank you.

4 MR. SMITH: Answer any questions that
5 Mr. Mikell has, please.

6 CROSS EXAMINATION BY MR. MIKELL:

7 Q You testified that none of the other family
8 members except Solomon paid any money to help with
9 the taxes?

10 A Yes, sir.

11 Q Is that what you said?

12 A Yes, sir.

13 Q Were you here yesterday?

14 A No, sir.

15 Q Would it surprise you to know that your cousin,
16 Brenda Patterson, testified yesterday that she paid
17 some of the money for the taxes? Would that surprise
18 you?

19 A No, sir.

20 Q It wouldn't surprise you?

21 A No, sir. I -- I can -- I can tell you personally
22 about that. I mean, if you want to hear it, if I can
23 answer it.

24 Q Sure?

25 A She paid taxes for that, she paid rent and

1 really, if you go back -- if you go back when they
2 paid that, she daddy owed 20 and \$50.00 dollars still
3 yet for rent a long time ago. She tell you that?

4 Q No.

5 A Okay.

6 Q How about, she testified that her mother paid
7 taxes also?

8 A Ms. Evalena Gary?

9 Q Yeah.

10 A How long? Over ten years ago? Rent.

11 Q I -- I --

12 A Rent. Rent.

13 Q Rent.

14 A Yes, sir.

15 Q You're saying it's rent?

16 A Well, that's like come from always, always come
17 back. So that's why I tell you I'm telling you what
18 give to me I'm giving it to you.

19 Q How about Earnestine Steward?

20 A Earnestine Steward? She paying that and she go
21 to New York I been paying the tax for that -- that
22 trailer that she had, I pay the tax for them for
23 Earnestine Steward for like eight years. Me, for that
24 trailer to stay there. I paid.

25 Q Okay.

1 A She can't answer for it now. If she'd been here
2 for answer it she would tell you I paid the tax for
3 that trailer for eight years and all of them know that
4 too. Ask them. I paid the tax for that trailer.

5 Q I did ask them and Ms. Patterson told me that she
6 she paid taxes.

7 MR. SMITH: Objection, argumentative.

8 THE COURT: Well, yeah.

9 MR. MIKELL: He's the one asking the
10 questions..

11 THE COURT: Well, still, sustained.

12 A I did though.

13 Q Okay.

14 A I paid taxes for each year for Earnestine
15 Steward, or a little longer than that for that trailer
16 sit until they tore it down. And know what make me
17 tore it down? They tore it down. A couple of years
18 they make the payment a \$1,000.00 dollars. Make me pay
19 \$1,000.00 dollars for somebody else's trailer. I paid
20 \$1,000.00 dollars to get them tear down.

21 Q Every one of them tax notices got Heirs of
22 Solomon White and Heirs of Mary Ann White on them
23 don't they?

24 A Yes, sir.

25 Q Do you know who those people are or were?

1 A I heard the name of them. I heard of them.

2 Q You heard the name of them?

3 A Yes, sir.

4 Q When did you, you?

5 A Yes, sir.

6 Q Albert Gary?

7 A Yes, sir.

8 Q Notify the Heirs of Solomon White and Mary Ann
9 White that you and your family, the Clara Gary family,
10 only, were claiming this land? When did you do that?

11 A When Richard Gary told them.

12 Q I didn't ask you what Richard Gary told anybody?

13 A Well --

14 Q I asked you what you did?

15 A What I did?

16 Q Yes, sir?

17 A I just paid the tax on them. Now like he -- like
18 they leave them for we.

19 Q Tell me how many of those people you ran off?

20 A Talking about who I run? I never run nary one
21 off.

22 Q Never run a nary one off?

23 A I never run one them people off the land since I
24 been there. I'm not. My brother and them did. They
25 come in and going through the thing like they us. Some

1 A It looked like a deed.

2 Q It looked like a deed?

3 A It looked like a deed. It had Ralph Johnson,
4 Solomon Johnson name on it. And the surveyor said she
5 been surveying it off for Solomon Johnson and Ralph
6 Johnson. That's what he tell me standing up right in
7 the front of Prescott Road.

8 Q Okay.

9 A I said that ain't Solomon Johnson and that ain't
10 Ralph Johnson property. I said you got the right --
11 you want the right thing, we can show you the right
12 deed for the land.

13 Q Well, let's talk about that. Show me the right
14 deed for the land?

15 A I don't have it, I come from work.

16 Q Oh, I see. Well, how long --

17 A It's in Solomon White name, he in that thing.

18 Q It's in Solomon White's name?

19 A Yes.

20 Q Yes, sir. And that's the question I asked you
21 before, when did you notify all the Heirs of Solomon
22 White that only you were claiming the land?

23 A I -- I --

24 Q You didn't do it?

25 A No.

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000210

1 have churches here. As a matter of fact I just visited
2 a church in Charleston.

3 Q Right.

4 A It's under our Covenant Connection. We have a
5 church in Augusta, Georgia. We also have a church in
6 Columbia, Sumter, South Carolina, which I preach at
7 those churches as well. And I do have friends around
8 here that are in Ridgeland, I come back to and I
9 preach to those churches as well.

10 Q Okay.

11 A Uh-huh.

12 Q All right. And how often do you communicate with
13 your mother?

14 A Like every day. Me and my mother, look that's the
15 queen of my honey, man.

16 Q Okay.

17 A Don't mess with my momma; okay?

18 Q All right. Has your family been residing on this
19 property all your life?

20 A All my life. All my life my family was there.

21 Q All right. Have you assisted financially in the
22 maintenance or the taxes on this property?

23 A Sure. I mean I dump big, money I send my mother
24 big money. I mean, you know, I'm a charity. The money
25 I give away is over some people's salary.

1 A Yes, sir.

2 Q And did he spend money on building that home?

3 A He spent his own money building that house.

4 Q Okay. Now, how about the house that Mr. Solomon
5 Johnson's in, was it a home there when you were there?

6 A Yes, sir. Mr. Solomon Johnson's.

7 Q How long has he lived there?

8 A Since I've known him.

9 Q Okay.

10 A All the years I lived, Solomon Johnson live in
11 that area.

12 Q Okay. All right. And any other people live for
13 any length of time out there, other than your family
14 and Mr. Johnson?

15 A Well, yes there was some other people that lived
16 in certain areas.

17 Q Okay. Who?

18 A Evelyn Gary, which is my aunt, with her husband,
19 Henry Gary.

20 Q Okay.

21 A Brenda. The Stafford's.

22 Q The Stafford's?

23 A Right.

24 Q Okay. How long did they live out there?

25 A They lived out there approximately -- now,

1 A Yes, sir. I have been gone for a long time.

2 Q And Solomon Johnson has been there, on that
3 property, all of his life, even all of your life that
4 you know of?

5 A Well, far as I know, yes, sir.

6 Q You said that Brenda Patterson had lived there?

7 A Yes, sir.

8 Q Did you run her off?

9 A Did I run her off? Like I said, I was gone
10 since--

11 Q Did anybody in the Clara Gary family run her off?

12 A I didn't. I'm not -- I can't answer that
13 question, sir. I mean I don't think I can.

14 Q How about her mother Evalena, did y'all run her
15 off?

16 A What do you mean? No, I don't have no -- no
17 knowledge of that.

18 Q Okay. And what about Earnestine Steward, did
19 y'all run her off?

20 A Earnestine Steward? Like again, I probably been
21 some place in the world when she was there.

22 Q Tell me somebody your family ran off from the
23 property?

24 A I don't have that knowledge, sir. And I'm not
25 going to sit here and lie to you.

1 Q Now, you, you really impressed me with all this
2 talk about genetics and genealogy and whatever. But
3 then you said that you thought maybe Debra Williams
4 father was Francis Mouldre; is that what you said?

5 A That's what I said.

6 Q Tell me what proof you have of that?

7 A Well, I don't have the full proof, but I know
8 one thing, Herbert Williams is not her father.

9 Q How do you know that? Were you there when she was
10 conceived?

11 A Okay.

12 Q I'm sorry, I didn't get your answer?

13 A No, sir. I was not there when she was conceived.

14 Q Isn't it a fact, since you seem to know so much
15 about all this DNA stuff, that the DNA is carried by
16 the mother?

17 A I'm sure, sir.

18 Q Pardon?

19 A Yes, sir.

20 Q Okay. So, that every one of these people that are
21 on this list, this family tree list, is a descendant
22 from these death certificates information of Mary Ann
23 Pinckney White, wouldn't that be true?

24 A According to the records, sir, I guess so,
25 according to the records.

1 Q And if you dispute that and you think DNA is the
2 way to find that out, did you request a DNA test on
3 any of these people to see if that was true?

4 A No, sir. I mean, that is -- that is irrelevant.

5 Q It's irrelevant?

6 A Yes, sir.

7 Q Well, let's talk irrelevancy. Doesn't every one
8 of these tax notices you claim that within your
9 family, the Clara Gary family, claim have the name
10 Heirs of Solomon Johnson and Heirs of Pinckney --

11 A As I saw --

12 Q -- Mary Ann Pinckney White on them?

13 A -- it, yes. Yes, sir.

14 Q Okay. I'm sorry I said Solomon Johnson, I meant
15 Solomon White. They all have that name on them?

16 A Yes, sir.

17 Q And Ralph Johnson and his father put together
18 this family tree, didn't they? Or so they testified?

19 A So they testified, sir.

20 Q Right.

21 A Yes, sir.

22 Q Now, did it appear to you to be a real
23 extraordinary process for them to do that?

24 A I mean, you can do some research, but that don't
25 mean it's pure form. When you're talking about molds

1 and means, you got to have checks and balance. You
2 know, you got to have checks and balance. I mean when
3 you're doing the research.

4 Q Right.

5 A There are all sorts of checks and balance. Who
6 you checked that? Who did that? What did they run by?
7 It's only to their satisfaction, but if someone else
8 checked it out, and ran the research, who knows what
9 the -- the end results is going to be. That's what
10 I'm talking about.

11 Q Well, what did you do to find out --

12 A I didn't do --

13 Q -- if that information that they compiled was
14 true?

15 A I didn't do anything, sir.

16 Q And what did anybody that you know of in the
17 Clara Gary family do to challenge --

18 A I have no --

19 Q -- that family tree?

20 A I have no knowledge of that. I have no knowledge
21 of that.

22 Q You have no knowledge of it?

23 A Yes, sir.

24 Q All right. Then what, since Solomon White's name
25 and Mary Ann White's name was on all of those tax

1 notices, what did you do to tell all those people that
2 were Heirs that only the Clara Gary family was
3 claiming this land, what did you do?

4 A Me, personally.

5 Q Yes, sir?

6 A I didn't really do nothing.

7 Q So, none of those people really got notified by
8 you did they?

9 A Not me, no, sir.

10 Q You were here yesterday when Brenda testified?

11 A Yes, sir.

12 Q I believe she testified that she's a doctor of
13 theology, too, didn't she?

14 A I guess so.

15 Q So that, that would put you and her on the same
16 ranking with this religious thing?

17 A Sir, I'm not going to even get into that. That's,
18 we need to keep that out of here, sir.

19 Q Okay.

20 A It's not in accordance with the property.

21 Q Thank you.

22 MR. MIKELL: I don't have any further
23 questions.

24 THE COURT: Any more questions of this
25 witness?

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State of South Carolina) Court of Common Pleas
County of Beaufort) 14th Judicial Circuit
No.: 2011-CP-07-5211

Solomon Johnson, et al,)
Plaintiffs,)
vs.) HEARING
The Heirs or Divisees)
of Solomon White, et al,)
Defendants.) August 5, 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 August 5, 2014, at the hour of 9:41 a.m.

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Appearances

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CONTENTS

Hearing

Page

Exhibit Index

4

Certificate of Reporter

28

Word Index

* * * * *

000220

EXHIBIT INDEX

Exhibits: Marked at Page

(All exhibits retained by the Clerk of Court.)

| | | |
|---|-----------------|----|
| 1 | Heirs List | 11 |
| 2 | Plat | 11 |
| 3 | Plat | 11 |
| 4 | Plat | 13 |
| 5 | Aerial Photo | 17 |
| 6 | List of Present | 26 |

* * * * *

000221

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 2011-CP-07-5211. This is Solomon
5 Johnson, et al, versus Heirs of White, et al. This
6 matter has been before the court already on a
7 variety of issues. I believe today would be the
8 final hearing involving the final partition. Is
9 that correct, Mr. Mikell?

10 MR. MIKELL: Yes, sir.

11 JUDGE DUKES: The case was scheduled
12 for 9:30 a.m. It is now 9:44, a.m., August 5th,
13 2014. And the name of the case has been called
14 three times in the lobby of the courthouse without
15 result. So I'm assuming those that we have here are
16 those that are appearing today.

17 Mr. Mikell, I'm happy to hear from you,
18 sir.

19 MR. MIKELL: Yes, sir. Just to
20 refresh your memory because this has been a lengthy
21 case, there was an original complaint about 40 acres
22 of land out in the Prescott area of Beaufort County
23 which is on the Old Sheldon Road between Yemassee
24 and Gardens Corner. There are two parcels. There
25 is a 30-acre tract and a 10-acre tract.

1 One of the causes of action, the fourth
2 cause of action in the complaint, was for a
3 partition. We had a trial for two days here on
4 April 22nd and 23rd, 2013. And the court issued a
5 partial decree. And by agreement of the parties at
6 that trial the issue of partition and several other
7 issues were held in abeyance. And only the issue of
8 ouster was tried at that time.

9 And the court issued a decree determining
10 that ouster had not occurred by the Gary -- Richard
11 Gary defendants who had claimed it. Subsequent to
12 that trial we've been here two additional times upon
13 motion by a boundary owner, Salt Marsh Partners, the
14 general partner of which was Bobby Manos, who
15 alleged trespass by some of the Gary -- Richard Gary
16 Defendants, particularly Annette Singleton.

17 And the second hearing was on contempt
18 because they did not follow the court's order of the
19 first order of trespass. I would call your
20 attention to the fact that the Gary -- Richard Gary
21 Defendants have been through three attorneys, all of
22 whom have been relieved as counsel.

23 And at those hearings with the Salt Marsh
24 Partners they did not appear with counsel. We then
25 had another hearing in the major part of the case on

1 March the 5th of 2014,, upon motion to determine the
 2 heirs. And an order was issued on March 11th
 3 determining the heirs. And in that order, which you
 4 have a copy of there, in Paragraph 3 it says that
 5 the remaining issue is a partition of the land.

6 Upon motion then sent to the Gary
 7 Defendants on June the 30th of this year, this
 8 hearing was established by date, time, and place.
 9 And so we are here as you stated earlier to
 10 determine a partition of the land.

11 Again, to refresh your memory, there are
 12 six -- there were originally seven branches of the
 13 family. One of those branches did not have a
 14 surviving heir, so there are six branches of the
 15 family remaining.

16 Five of those six branches have gotten
 17 together and have agreed amongst themselves on a
 18 partition. Only the Richard Gary branch who is not
 19 here by their choice today, has not voluntarily
 20 agreed with that partition.

21 We have retained Mr. Yeomans, a licensed
 22 surveyor who has participated in this proceeding
 23 several times before. So he knows the land. He
 24 knows the distances and so forth and so on, to
 25 assist us in this partition action.

1 And he has come up with a partition scheme
2 if you will that the family, except for the Richard
3 Gary branch, agrees with. So I don't know if you
4 want to hear from Mr. Yeomans or how we will
5 proceed.

6 JUDGE DUKES: I guess I would love to
7 hear whatever he would like to tell me focusing on
8 how the Gary family members are being treated in
9 this since, of course, they are not here.

10 MR. MIKELL: Right.

11 JUDGE DUKES: It sounds like everyone
12 else here agrees with what is on the plat. So I
13 guess I'm -- my primary focus would be despite the
14 fact that they have not appeared, I just want to
15 make sure they are treated fairly in this division.

16 MR. MIKELL: Yes, sir.

17 JUDGE DUKES: So if you would raise
18 your right hand. Do you swear or affirm to tell the
19 truth, the whole truth, and nothing but the truth so
20 help you God?

21 MR. YEOMANS: I do.

22 JUDGE DUKES: All right. I know who
23 you are. Can you identify yourself for the record?

24 MR. YEOMANS: David Yeomans,
25 registered land surveyor in the State of South

1 Carolina. President and owner of Beaufort
2 Surveying, Incorporated.

3 JUDGE DUKES: Thank you very much.
4 And, Mr. Mikell, did you want to question him on
5 that or do you --

6 MR. MIKELL: Yes, sir. Not me. Just
7 for the record.

8 WHEREUPON:

9 DAVID YEOMANS, being duly sworn and
10 cautioned to speak the truth, the whole truth and
11 nothing but the truth, testifies as follows:

12 DIRECT EXAMINATION

13 BY MR. MIKELL:

14 Q. You've been a surveyor -- licensed
15 surveyor since 1983, I believe?

16 A. Correct.

17 MR. MIKELL: How is that for memory?

18 JUDGE DUKES: That is pretty good.

19 BY MR. MIKELL:

20 Q. And you worked for Mr. Trogden who was a
21 licensed surveyor for many years before that?

22 A. Yes, that's correct.

23 Q. Okay. And you've been in this courtroom I
24 know dozens of times, correct?

25 A. Yes, sir.

1 Q. Okay. And you've looked at these two
2 parcels of land?

3 A. I have.

4 Q. The 30 acres and the 10 acres?

5 A. Right.

6 Q. Okay. And let me show you a plat on the
7 10-acre parcel. First, is this a plat that we found
8 up at the courthouse?

9 A. It is.

10 Q. Okay. And is it divided into three equal
11 shares on that plat or drawing?

12 A. It is. Yes. Right.

13 Q. And the highway is on that end?

14 A. Right.

15 Q. And it shows an easement, whatever the
16 County would require, to get to the second and the
17 third parcels?

18 A. Correct.

19 Q. And there are numbers on there. A five, a
20 two, and a six. Can you tell me what those numbers
21 mean?

22 A. That is in relation to the family's -- the
23 heirs of Solomon White.

24 Q. Okay. And since we are going to use those
25 numbers, let's identify this document which is taken

1 out of the previous court decree of March the 11th
2 of this year which identifies the families. And
3 those numbers are consistent with the ones on this
4 plat?

5 A. Yes.

6 Q. Okay.

7 A. Yes.

8 MR. MIKELL: Let's introduce this
9 document with the numbers on it as Exhibit 1,
10 please. It would be Plaintiff's.

11 JUDGE DUKES: Plaintiff's. And while
12 we are putting stickers on things, do we want to do
13 the plats as well?

14 MR. MIKELL: Yes.

15 JUDGE DUKES: Is it just the two
16 plats?

17 MR. MIKELL: Yes.

18 JUDGE DUKES: So maybe we can do a
19 two and a three while you are at it, Deborah.

20 (MARKED PLAINTIFF'S EXHIBIT NO. 1.)

21 (MARKED PLAINTIFF'S EXHIBIT NO. 2.)

22 (MARKED PLAINTIFF'S EXHIBIT NO. 3.)

23 MR. MIKELL: Now, with this one --

24 JUDGE DUKES: Hold on one second.

25 Let's let her get all --

1 MR. MIKELL: Okay.

2 BY MR. MIKELL:

3 Q. Okay. So we have looked at the 10-acre
4 piece. Now look at the 30-acre piece which you have
5 identified as -- the court reporter has identified
6 as Exhibit 3, I believe. Yeah. Correct?

7 JUDGE DUKES: Yeah. And let's just
8 for the record, I'm not sure if we actually got
9 this. Your list of heirs who was --

10 MR. MIKELL: One.

11 JUDGE DUKES: -- Plaintiff's 1. The
12 plat of the 10-acre parcel was Plaintiff's 2. And
13 the larger portion plat was Number 3, Plaintiff's 3;
14 is that right?

15 MR. MIKELL: Yes, sir.

16 JUDGE DUKES: All right.

17 BY MR. MIKELL:

18 Q. Okay. Mr. Yeomans, you studied this
19 family dynamics and the parcels that are involved
20 and how it should be divided. And have you
21 consulted with these folks? There is, I don't know
22 how many, a dozen or so sitting in the room here?

23 A. We did just before court.

24 Q. Okay.

25 A. If I may drop back just a minute to this

1 plat?

2 Q. Okay.

3 A. This is the one that I created to bring in
4 to talk to Mr. Johnson and family members.

5 MR. MIKELL: Let's mark that one as
6 number four.

7 JUDGE DUKES: Yeah. Let's pause one
8 second. That will be Plaintiff's 4.

9 (MARKED PLAINTIFF'S EXHIBIT NO. 4.)

10 BY MR. MIKELL:

11 Q. Okay. Number 4 is the one you actually
12 created?

13 A. Correct.

14 Q. Okay.

15 A. And then modified slightly this morning,
16 but with the six families what we have is this plat
17 is 29.965 acres or 1,305,291 square feet plus the
18 10 acres is 435,600. We subtracted the road which
19 gave us 1,715,805 square feet divided by six would
20 give this number of 6.565 acres per family.

21 Three of the families are going to take a
22 third interest in the 10-acre piece which is 145,200
23 square feet. So if you subtracted that from the
24 285,968 to come up with 147,068 which is these three
25 parcels right here which are not quite 1/12th of the

1 total, but these three combined with these three
2 will make three parcels that will be a third of the
3 whole if I've complained that correctly.

4 Q. I think so.

5 A. Okay.

6 Q. So just to be clear, the three that are on
7 the 10-acre plat, which is Exhibit 2, match the
8 three which are on the left-hand end of the 30 acres
9 on Exhibits 3 and 4. These three are the same as
10 these three?

11 A. All right. Two, five, and six, same
12 families.

13 A. Now, explain the rest of it because it
14 gets a little more complicated.

15 Q. It does. This piece -- we took this
16 corner out because one of the family members of the
17 Gary family occupies this and wants to stay there.
18 So we've squared that off. That acreage figure
19 figures into the acreage of these two parcels right
20 here on either side of the road.

21 The reason they are here is because
22 they occupied here and some over here, too, but I
23 got corrected on that a little bit. That leaves the
24 other parcel here split because of the road doesn't
25 make it convenient and because of the way of

1 ownership and occupancy is there is no other way to
2 split it.

3 To show --

4 Q. What you are saying, and I'm sorry I'm
5 interrupting, is you are trying to leave the Richard
6 Gary family where they've been occupying?

7 A. Correct. Yes. Exactly.

8 Q. To address the judge's --

9 A. On the G.I.S. aerial is -- that is the
10 piece down in the corner here. And their houses and
11 homes up in here on that side of the road and a
12 piece they were occupying over here. So I just made
13 their piece close to the center of the road so to
14 speak.

15 JUDGE DUKES: Okay. I understand.
16 It makes sense.

17 THE WITNESS: Now, with that being
18 said, talking with the family members this morning,
19 what they would rather have is rather than this
20 whole piece on this side, the Gary family was
21 occupying this one corner. They had a well and they
22 had a mobile home here at one time. So what they
23 want to do is cut this piece off to add to this and
24 move this line over to give them enough acreage for
25 their 1/6th.

1 JUDGE DUKES: To give the Garys
2 justify acreage for their 1/6th?

3 MR. MIKELL: Yes, sir.

4 THE WITNESS: Correct.

5 JUDGE DUKES: What does that do to --
6 what does that leave here?

7 MR. MIKELL: It makes a smaller piece
8 there. Because -- and another factor involved here
9 if I may interject is that this family here, the
10 blue, has a house right there. And so to do it the
11 way David had first designed it would have given
12 that house piece to the Garys.

13 THE WITNESS: Right.

14 MR. MIKELL: So we are trying to
15 eliminate -- be fair to everybody here.

16 JUDGE DUKES: I understand. And it's
17 difficult without the Garys here, but we will do the
18 best we can to try to protect their rights as well.
19 So the line -- this line -- I guess what I'm
20 concerned about is what is the acreage here and who
21 ends up with that?

22 THE WITNESS: The same family that is
23 going to get this piece here.

24 JUDGE DUKES: Okay. And they are
25 happy with that sliver?

1 MR. MIKELL: They are here and they
2 are happy with it. Right.

3 JUDGE DUKES: Okay.

4 MR. MIKELL: This gentleman and this
5 lady over here are --

6 JUDGE DUKES: That will be what, an
7 acre, one acre?

8 MR. MIKELL: Whatever it comes out
9 to.

10 JUDGE DUKES: And that is not going
11 to be in common ownership with this then?

12 MR. MIKELL: No.

13 THE WITNESS: No.

14 JUDGE DUKES: It's too bad there
15 can't be, but anyway, that is all right. As long as
16 the family is happy, I'm happy. Okay. So Exhibit 3
17 that I'm looking at, and of course do we want to
18 make the plat -- the aerial photo that you referred
19 to an exhibit as well?

20 MR. MIKELL: I think we probably
21 should.

22 JUDGE DUKES: Make that 5.

23 (MARKED PLAINTIFF'S EXHIBIT NO. 5.)

24 MR. MIKELL: Let's do that also,
25 David. Let's cross out the blue here because that

1 no longer applies to this piece.

2 THE WITNESS: Right.

3 MR. MIKELL: And make it blue here.
4 Do we have a blue pen or blue something or other?

5 JUDGE DUKES: I don't have a Magic
6 Marker, but I've got a pen.

7 MR. MIKELL: All right. Here we go.

8 JUDGE DUKES: Well, that is yellow.

9 MR. MIKELL: And then we are going to
10 have to put the blue across there because it now
11 connects with that piece, right?

12 THE WITNESS: This line will go away.

13 MR. MIKELL: That's right. It will
14 make it go away. And put a zig-zag or whatever you
15 call that thing there. Yeah, there you go. So is
16 that clear now, Your Honor?

17 JUDGE DUKES: Yeah, I think so. Just
18 to summarize that -- because everyone at the table
19 here knows what they are getting. Everyone who --
20 but the occupied portion to the -- where is the
21 compass on this thing?

22 MR. MIKELL: This is north and south.

23 JUDGE DUKES: North is up. Okay.
24 All right. So the eastern portion, the northeastern
25 portion there is Gary property. That is .794 acres.

1 The additional parts of the Gary property, do we
2 know the acreage here?

3 MR. MIKELL: No, we don't.

4 JUDGE DUKES: Okay.

5 MR. MIKELL: We just penciled that in
6 this morning talking with family members.

7 JUDGE DUKES: So how are we going
8 to -- how are we going to measure that?

9 MR. MIKELL: They are going to wind
10 up with the six acres -- 6.5 because we are going to
11 move this line over.

12 JUDGE DUKES: No. No. I understand
13 that. I'm just curious how -- and I understand this
14 line is going to move dependent on what the acreage
15 here is?

16 MR. MIKELL: That's right. That's
17 right.

18 JUDGE DUKES: But I guess I'm
19 curious. I just -- obviously is that Point B drawn
20 such that it will meet setbacks and whatnot? How is
21 that line going to be drawn.

22 THE WITNESS: The instructions I was
23 given, there is a ditch here that shows on the
24 aerial?

25 JUDGE DUKES: Okay.

1 THE WITNESS: And there is a well
2 here that used to service a mobile home that was
3 here. We are going to go beyond the well 20 or
4 25 feet and back down to the ditch. That will be
5 that parcel, whatever size it is.

6 MR. MIKELL: It's a good distance
7 because this is -- how long is this line, 900 feet
8 or something?

9 THE WITNESS: 461.

10 JUDGE DUKES: Oh, okay. So it will
11 be --

12 MR. MIKELL: There is a lot of
13 distance there?

14 JUDGE DUKES: -- more than a football
15 field there it looks like.

16 MR. MIKELL: Oh, yeah.

17 JUDGE DUKES: All right. So in
18 summary the Gary properties will be comprised of
19 really three different measureable pieces. The one
20 on the northeastern part of the plat is the
21 .794 acres. The mobile home site that is currently
22 within the 2.685 acres but will be maybe an acre
23 more or less, maybe less, cut out of that. And then
24 the balance of their property needed to make their
25 total will be an expansion of what is currently

1 3.086 acres. Is that right?

2 MR. MIKELL: That's correct.

3 JUDGE DUKES: Okay.

4 THE WITNESS: Expanding into the
5 3.104 acres.

6 JUDGE DUKES: Okay.

7 THE WITNESS: To make the balance.

8 JUDGE DUKES: And that will make
9 their acreage equivalent. And that will include
10 their houses that they have right now?

11 THE WITNESS: That's correct..

12 JUDGE DUKES: All right.

13 MR. MIKELL: One other point of
14 clarification.

15 JUDGE DUKES: Hold on one second.
16 Did that -- that aerial photo. Let's pause a second
17 and let Deborah -- you can just put it on the front
18 there. All right. I'm sorry.

19 MR. MIKELL: That's all right. One
20 point of clarification. All the way at the east end
21 down there and beyond that .7 acres, if you recall
22 from the two hearings we had with Mr. Bony and the
23 Salt Marsh people --

24 JUDGE DUKES: Right.

25 MR. MIKELL: Mr. Manos or Salt Marsh

1 as it were partners, actually gave up, I don't know
2 the acreage, but a parcel beyond the 30-acre
3 boundary line in order to have this lady Annette
4 Singleton who is down there get access.

5 JUDGE DUKES: Got you. Now, there
6 is -- is there the road -- okay. I see the road.

7 THE WITNESS: They actually go out
8 there.

9 JUDGE DUKES: Right. Okay.

10 MR. MIKELL: That is why Mr. Manos
11 just threw up his hands and went away.

12 JUDGE DUKES: I remember. Okay. And
13 so I see an easement there for some of it. And I
14 see there is the road. How does one access this
15 property?

16 THE WITNESS: We are going to have to
17 extend this easement up to that line.

18 JUDGE DUKES: All right.

19 MR. MIKELL: Could I suggest that Mr.
20 Yeomans go back and do the final thing and come and
21 get you to bless it before we --

22 JUDGE DUKES: That is probably a
23 great idea although I'm sure Mr. Yeomans will do a
24 much better job than I could do drawing on this
25 plat, but I -- because basically it looks like,

1 yeah, what you just said there. There has to be
2 access there.

3 THE WITNESS: Yes, sir.

4 JUDGE DUKES: These are obviously
5 accessed by the road here.

6 THE WITNESS: We have an access
7 coming in here off of Prescott Road.

8 JUDGE DUKES: Okay.

9 MR. MIKELL: That can be accomplished
10 because this gentleman over here, Ralph Johnson,
11 owns that property to give them access. Remember we
12 talked about that?

13 JUDGE DUKES: All right.

14 THE WITNESS: And these two will have
15 access virtue of the -- this parcel down here
16 obtained from Salt Marsh Partners.

17 JUDGE DUKES: Right. Okay. I
18 remember that.

19 THE WITNESS: They can access here
20 and here.

21 MR. MIKELL: It works out.

22 JUDGE DUKES: All right. It does
23 work out. And you represent everyone here; is that
24 right.

25 MR. MIKELL: Yes, sir.

1 JUDGE DUKES: So I won't go around
2 the room and ask questions. So everyone here is
3 happy with it obviously.

4 MR. MIKELL: Let me ask, is there
5 anybody here that has heard all of this and you
6 disagree with anything that we've talked about up
7 here?

8 JUDGE DUKES: And do we have a list
9 of everybody here?

10 JUDGE DUKES: Yeah. I was thinking
11 that everybody that was interested in being.

12 MR. MIKELL: There is nine of them.

13 JUDGE DUKES: Did the people against
14 the back wall didn't sign it?

15 MR. MIKELL: That's right. Let's put
16 their names down.

17 JUDGE DUKES: Put them down. They
18 came all the way here. Might as well get recognized
19 as being here. Well, so okay. Happy to here
20 anything else you got, Mr. Mikell.

21 MR. MIKELL: No, sir. That was the
22 whole purpose here was to divide this thing up. And
23 get Mr. Yeomans to finish that up and give us a
24 plat. And, again, he and I'll come back up here and
25 see you one day and bless it.

1 JUDGE DUKES: All right. It's
2 unfortunate we couldn't include the Gary heirs, but
3 it certainly appears to me that they've been treated
4 as fairly as they possibly could be in this
5 situation. And, Mr. Mikell, thank you for your hard
6 work. I know this one has been very difficult.

7 MR. MIKELL: If I may interject, Your
8 Honor, there have been some, how should I say this
9 and you should remember from the trial and from the
10 things with Salt Marsh, the hearings, some physical
11 and horrendous verbal confrontations between the
12 people that live out there and this Gary family.

13 Could I get you to issue some kind of
14 injunction that they should all stay off of each
15 other's parcels?

16 JUDGE DUKES: Of course, I guess that
17 is sort of inherent in the law in the world of
18 trespass.

19 MR. MIKELL: Well, every time it
20 happens they call the Sheriff and the Sheriff sends
21 a Deputy out there who smiles and pats everybody on
22 the back and goes back home. And the hostility and
23 the physical fear still remains.

24 JUDGE DUKES: Yes, please include
25 that in the order. What exactly did you have in

1 mind? Just that based on --

2 MR. MIKELL: Just something that says
3 everybody should stay on their parcel of land and
4 not interfere with anybody else.

5 JUDGE DUKES: I think that is --
6 certainly I think there is enough testimony on the
7 record through the course of this to support that.
8 So, yes, sir, you can include that.

9 THE WITNESS: And tell them don't
10 shoot the surveyor, too.

11 JUDGE DUKES: All right.

12 MR. MIKELL: There's evidence of it,
13 too. They don't like anybody.

14 JUDGE DUKES: All right. We are
15 going to make that list of people that is here. Why
16 don't we just make that Plaintiff's 6 or however you
17 want to do that.

18 MR. MIKELL: That is fine.

19 JUDGE DUKES: Okay. Let's just make
20 that Plaintiff's 6.

21 (MARKED PLAINTIFF'S EXHIBIT NO. 6.)

22 JUDGE DUKES: And, of course,
23 Plaintiff's 6 then is the list that was passed
24 around for those that wanted to be recognized as
25 being here. And that all but three are Mr. Mikell's

1 clients. And the last three names on the list, did
2 all of you write your names down?

3 UNIDENTIFIED: Yes, sir.

4 JUDGE DUKES: All right. And the
5 last three names on the list are here for support.
6 All right. So that is --

7 MR. MIKELL: Thank you.

8 JUDGE DUKES: -- that then. All
9 right. That will conclude the record then. Thank
10 you so much.

11 (Whereupon, the hearing was concluded
12 at 10:04 a.m.)

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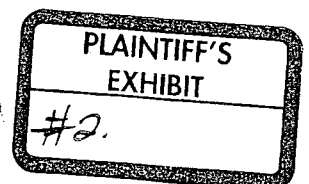
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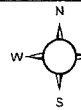
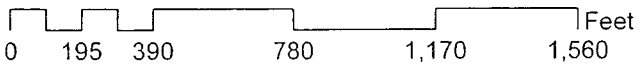
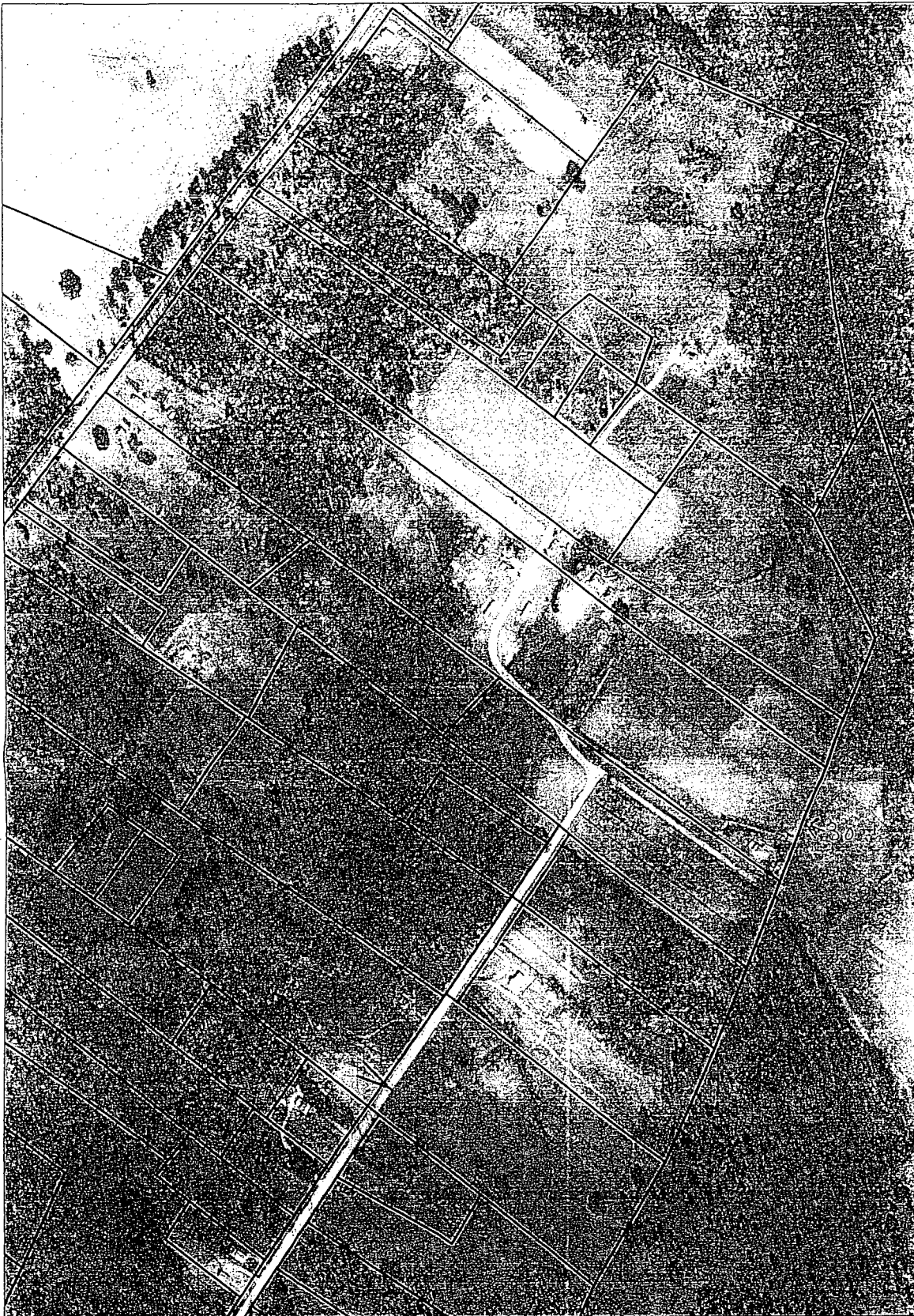
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10
Jacob Pickney Jr. _____ The state of South Carolina
To _____ Know All Men By These Presents
Mary A. White _____ That I Jacob Pickney Senior in
the State aforesaid former in consideration of his natural love and
affection for his daughter Mary Ann White in the state aforesaid for
me have granted, bargained, sold, aliened, released, and by these Pres-
ents do Grant bargain, sell and release unto the said Mary Ann
White ten (10) acres of the piece or parcel of land bought by me
of H. M. Fuller Executor of the late Dr. H. M. Fuller and part of
the plantation known as Pleasant situated in Beaufort County State
aforesaid. The said ten (10) acres of land is bounded on the East by lands
owned to my own use North by the public road known as Sheldon
road and South by a piece of land of the Estate of Dr. H. M. Fuller
together with all and singular the rights, franchises, hereditaments and
appurtenances to the said premises belonging or in anywise incident
or appertaining To Her and To Her heirs and assigns the said
premises hereunto unto the said Mary Ann White her heirs

14 p 590

000248

B-21





000228

PLAINTIFF'S
EXHIBIT
19

LAW OFFICES

MOSS, KUHN & FLEMING, P.A.

JAMES H. MOSS

H. FRED KUHN, JR.

CORY H. FLEMING*

KIMBERLY L. SMITH

1501 North Street P.O. Drawer 507 - Beaufort, South Carolina 29901-0507

TELEPHONE 843-524-3373

FAX 843-524-1302

*ALSO MEMBER OF GA BAR

July 22, 2009

Caroline Meng, Esquire
Attorney at Law
710 Boundary Street, Suite 1B
Beaufort, South Carolina 29902

Re: Solomon Johnson, et al. v. The Heirs of Solomon White
Case Number: 2006-CP-07-609

Dear Caroline:

My clients have discussed with me the leased property on which your client is living. Your client has been paying \$87.00 a year since 1967, when these individuals' grandfather died. My clients allowed him to stay on this property, continuing to pay them \$87.00 a year.

Needless to say, since 1967, substantial inflation has occurred and, because of your client's position, my clients are immediately requesting him to sign a lease paying \$500.00 per month for the period of time he needs to lease the property. That would have to be paid on the first day of each month, and he would be required to pay all utilities, repairs, and to maintain the premises as he presently does. In any event, I would appreciate your taking this up with your client, and I have advised my clients that an eviction action would be their next step.

With kindest regards, I am

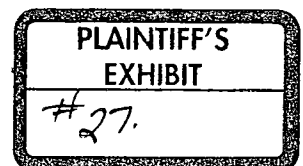
Very truly yours,

MOSS, KUHN & FLEMING, P.A.

James H. Moss

JHM/jc

000229



August 3, 2009

Moss, Kuhn & Fleming, P.A.
Attention: Attorney James H. Moss
1501 North Street
P. O. Drawer 507
Beaufort, South Carolina 29901-0507

Dear Attorney Moss:

This letter is a rebuttal to the letter sent to me from your clients. As a direct descendent (fourth generation) and an heir of Solomon and Mary Ann White, why would I pay rent on a property in which I already have shares? I have lived on this property for over eighty two years, far longer than any of your clients. Evidently your clients lack an understanding of the term "Heirs Property".

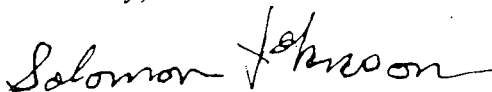
As I stated to you during my deposition, it has been a custom for our family to have the taxes sent to one of the oldest heirs. They in turn told us the amount of the taxes and it was equally divided among those living on the property. This contract is binding based on ancestral heritage. Down through the years, African American people have had what is called a "**Gentleman's Agreement**" by the shaking of hands which for our people coming out of slavery was binding. Each household paid their share of money to the entrusted individual to pay the taxes. This has been a practice for over one hundred years. Because of the family's trust in one another, receipts were not given. Your clients have betrayed the family's trust (not only me, but all of the heirs of Solomon & Mary Ann White) by claiming to be "**sole owners**" of the property due to their misunderstanding.

The heirs of Solomon and Mary Ann White will be handling our part of this case. I am requesting any and all correspondence, court appointments, hearing, meetings or anything pertaining to this case are sent to my son, Ralph E. Johnson at:

29 Prescott Road
Yemassee, S.C. 29945
(843) 846-4437
rook2243@embarqmail.com

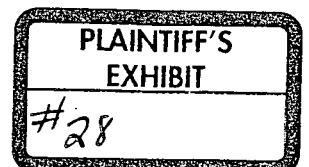
Therefore, I will **not** sign a lease. Their claim as "sole owner" of this property is false and out right perjury, therefore their claim is null and void.

Sincerely,



Solomon Johnson

000250



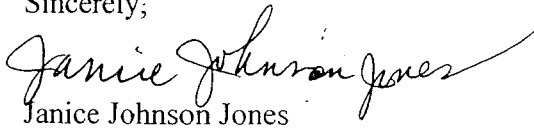
March 1, 2010

The Gary Family
100 Prescott Rd.
Yemassee, SC 29945

Dear Gary Family:

This letter is to inform you that in the future do not ask my father, Solomon Johnson, for any money on property taxes. He is up in age and do not have time to deal with people that mean him no good. After reading you alls depositions, and what was said in the court room, I do not trust you anymore. He paid you \$92.00 in cash toward the property taxes on Feb. 26, 2010. He needs a receipt. From now on, I want you to know that I handle his financial affairs and if you have any request about property taxes, you will need to contact me. My telephone number is (843)-784-5980 where I am readily available.

Sincerely;


Janice Johnson Jones

000251





POSTAL MONEY ORDER

Serial Number
50465833885

Year, Month, Day
10 10 08
Post Office
2474
U.S. Dollars and Cents
* 405 * 00

AS

Pay to
Albert Gary

Address
100 Prescott Rd
Yemassee S.C

From
Solomon Johnson

Address
17 Solomon White Ln

Amount
Taxes payment 523598523785

⑆00000800⑆

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS
50465833885⑆

750
PLAINTIFF'S
EXHIBIT

0000259

PLAINTIFF'S
EXHIBIT
#31

0333308

Customer's
Order No.

Date 1-8 20 11

Name

Solomon Johnson

Address

17 Purple Lane

SOLD BY CASH E.O.D. CHARGE ON ACCT. MDSE. RETD. PAID OUT

QUAN. DESCRIPTION PRICE AMOUNT

Receipt \$105.00

Day Rent
✓
Sick
by David Garry

\$105.00

ALL claims and returned goods MUST be accompanied by this bill.

Rec'd by

000253

CUSTOMER'S RECEIPT DO NOT SEND THIS RECEIPT FOR PAYMENT
KEEP IT FOR YOUR RECORDS

Serial Number Year, Month, Day Post Office U.S. Dollars and Cents

50804024218 111228 299460 *125*00

Pay to *Mrs. G. W. ...*

Address *...*



From *...*

Address *...*

Memo *...*

This receipt is your guarantee for a refund of your money order if it is lost or stolen, provided you fill in the Pay To and From information on the money order in the space provided. No claim for improper payment permitted 2 years after payment. If your money order is lost or stolen, present this receipt and file a claim for a refund at your Post Office.

An inquiry Form 6401 may be filed at any time for a fee. A replacement will not be issued until 60 days after the money order purchase date, provided the money order has not been paid.

000254

PLAINTIFF'S EXHIBIT
#32

| | | | | | | | | | |
|---------------------------------------|---------------|------|--------|--------|----------|-------------------|----------|-----------------------|--|
| | | | | | | DATE | 1-23-12 | | |
| NAME | | | | | | | | Mr. Solomon Johnson | |
| ADDRESS | | | | | | ORDER NO. | | 17 Solomon White Lane | |
| CITY, STATE, ZIP | | | | | | | | Yemassee SC 29945 | |
| PAID BY | | CASH | C.O.D. | CHARGE | ON ACCT. | MDSE. RETD. | PAID OUT | | |
| — | | | — | — | — | — | — | | |
| QUAN. | DESCRIPTION | | | | | PRICE | AMOUNT | | |
| 1 | 2011 Land Tax | | | | | | 125 00 | | |
| 2 | rental of | | | | | | | | |
| 3 | property. | | | | | | | | |
| 4 | | | | | | | | | |
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| 14 | | | | | | | | | |
| RECEIVED BY | | | | | | 125 00 | 125 00 | | |
| Albert Gray | | | | | | TOTAL | 125 00 | | |
| 720 Prescott Rd. Yemassee SC 29945 | | | | | | | | | |

000255

PLAINTIFF'S
EXHIBIT
33

000256



CUSTOMER'S RECEIPT

DATE PAID OF THIS RECEIPT
BY THE CUSTOMER OR THE
POST OFFICE

Albert Gary
166 Broad River Rd
Taxes paid

POST OFFICE
USPS PER
FORM RECORDS

20535673274

2012-12-27 299023 \$127.00 0003



POSTAL MONEY ORDER

Serial number

20535673274

Date Month, Day Post Office U.S. Dollars and Cents

2012-12-27 299023 \$127.00

ONE HUNDRED TWENTY SEVEN DOLLARS & 00¢ *****

Pay to
Albert Gary
166 Broad River Rd
Barton, S.C 29902

Pay to
Solomon Johnson
17 Solomon White Ln

Pay taxes 523598 + 523785

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

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PLAINTIFF'S
EXHIBIT
34

ATTACHMENT B – FAMILY TREE OF SOLOMON WHITE AND MARY ANN WHITE

Solomon White D - 1895
Mary Ann Pinckney White D - 1897

Child A. Edward White D - 1940 No spouse - no issue.

Child B. Jacob White D - 1917

W - Mary White D - 1960

Carrie White D - 2006 No issue.

Child C. Ellen White Gary D - 1945

H - Sam Gary D - 1948

ISSUE

1. Emma Gary Johnson D - 1957 (See Pages 12-13)

2. Mamie Gary D - 1932 (See Pages 14-16)

3. Carrie Gary D - 1961 (See Page 17)

4. Richard Gary D - 1967 (See Page 18)

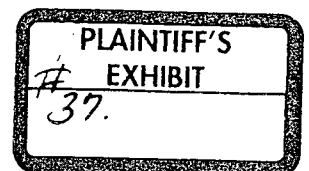
5. Aletha (Tiny) Gary Watson D - 1967 (See Page 19)

6. Nehemiah Gary D - 1958 (See Page 20)

7. Henry Gary D - 1953 (See Pages 21-24)



000257



1. Emma Gary Johnson D - 1957
 - H - Miller Johnson, Sr. D - 1960
 - i. Oscar Johnson D- 1978
 - W - Eloise Johnson D - 1972
 - a. Frank Johnson
 - b. Ruth J. Green
 - c. Dorothy Jones
 - ii. Miller Johnson, Jr. D - 1977
 - W - Leola Johnson D - 1980
 - iii. Richard (Ritchie) Johnson D - 1994
 - W - Sarah H. Johnson D - 1997
 - a. Richard Johnson, Jr.
 - b. Theresa Scott
 - iv. Helen Coles
 - H - Mack Coles D - 1989
 - v. Erma Johnson Kelly
 - vi. Emily Johnson Albergottie D - 1983
 - H - Robert Albergottie D - 1993
 - a. Barbara Jean Ferguson a/k/a Barbara Jean Albergottie
 - b. Alphonzo Albergottie
 - vii. Solomon Johnson
 - viii. Louise Johnson Pringle D - 2004
 - H - Marion Pringle D - 1991



- a. David Pringle
- b. Forestine Pringle
- c. Pauline Lesesne
- d. Marion Pringle, Jr.

A handwritten signature in cursive script, appearing to be "J. M.", located at the bottom center of the page.

2. Mamie Gary D - 1932

H - Thomas Brown D - 1934

i. Carrie Scott D - 1951

H - Clarence Scott D - 1962

a. Jessie Mae Scott Smalls D - 2006

(i) Sandra Smalls

(ii) Jackie Smalls

(iii) Sharon Smalls

(iv) Williams Smalls, Jr. D - 1990

W - Andrea Smalls

i. Brooke Smalls

b. Nathaniel Scott D - 1993

W - Camerine Scott D - 2007

(i) Frederick Scott

(ii) Allan Scott

(iii) Paul K. Scott

c. Cleon Scott

d. Hermon V. Scott D - 1974 No spouse.

Nia Malika Singletary

e. Luther Scott D - 1990 No spouse, no issue.

ii. Earnestine Steward D - 1993

H - Epstein Steward D - 1960

a. Loretta L. Steward

- iii. Lonny Brown D - 1973
- iv. Gussy Brown D- 1969 No spouse, no issue.
- v. Charles Brown D – 1975 No spouse, no issue.
- vi. Danza Gary D- 1982 No spouse, no issue.
- vii. Victoria Brown D- 1929 No spouse.
 - a. Dorothy Williamson D - 1998
 - H - Joseph Williamson, Sr. D - 1990
 - (i) Nathan Jones
 - (ii) Harold Jones
 - (iii) Elijah Williamson D - 1999 No spouse.
 - (1) Eric Williamson
 - (2) Dwayne Williamson
 - (iv) Audrey Brown
 - (v) Joseph Williamson, Jr. D – 1970 No spouse.
 - (1) Joseph Johnson.
 - (2) Jacqueline Johnson Major
 - (vi) Sandra Williamson Powell
 - (vii) Frederick L. Williamson
- viii. Helen (Sweetie) Brown Bennett D - 1984
 - H - Ervin Bennett D - 1963
 - a. Elvin Bennett



- b. Janie Bennett Green D- 2004
 - (i) Robert Lee Green
 - (ii) Kenneth Green
 - (iii) Janie L. Ganues
 - (iv) Juanita Green
 - (v) Keith Green
 - (vi) Joseph Green
 - (vii) Ellis Green
 - (viii) Carl Green
- c. Brown Bennett
- d. Dorsey Bennett
- e. Eloise Bennett Nixs D- 1969
 - H – William Nixs
 - (i) Benjamin Nixs D - 2011 No spouse.
 - (1) Jennifer Nixs
 - (2) Jason Nixs
 - (ii) Thaddaus Nixs
 - (iii) Edward Nixs
 - (iv) Charles Nixs
 - (v) Terry Nixs D – 1985 No spouse, no issue.
 - (vi) Althea Nixs



3. Carrie Gary D - 1961

No issue.

H - Harry Julius D - 1950



4. Richard Gary D - 1967

W 1 - Fronnie Gary D - 1956

W 2 – Ella Gary D – 1966 No issue.

i. Francis Gary D - 1994

W - Clara Gary

- a. Francis Gary, Jr.
- b. Adelia Gary
- c. Charles Gary
- d. Albert Gary
- e. Ulysses Gary
- f. Bernard Gary
- g. David Gary
- h. Annette Singleton

ii. Florence (Nana) Gary D – 2004 No spouse.

Lillie Mae Gifford



5. Aletha (Tiny) Gary Watson D - 1967

H 1 - Andrew Gadsden D- 1940

H 2 – Frank Watson D – 1977

No issue.

i. Elizabeth Gary Stafford D- 1941

H- Lee Stafford D - 2002

a. John Lee Stafford D 2011

W – Bertha Stafford

(i) Patrice Stafford

(ii) Shawndea Stafford

b. James Stafford

ii. Joseph Gary D - 1962

No issue.

W- Beulah Gadsden



6. Nehemiah Gary D - 1958

W- Dorothy Gary D- 1962

i. Harold Gary D - 1957

W - Mary Lee Gary

Alnethia Gary

ii. Cleveland Gary - D 2005 No spouse. No issue.



7. Henry Gary D - 1953

W- Florrie Gary D- 1959

i. Naomi Gary Stafford D - 1992

H - James Stafford, Sr. D - 1959

a. Hattie Mae Stafford D – 2011 No spouse.

(i) Jordan Harris

(ii) Leon Stafford

b. Edna Brooker D - 1977

H – Henry Brooker D - 1984

(i) Alvin Brooker

(ii) Michael Stafford

c. Shirley Stafford White

d. Gail Stafford Marquez

e. Inell Jones D - 1995

H – Raymond Jones D - 2000

(i) Jacqueline Stafford

(ii) Stephanie Jones

(iii) Renata Jones

(iv) Ranell Jones

(v) Germaine Jones

f. Nathaniel Stafford

g. James Stafford, Jr. D - 2007

W - Divorced

- (i) Angela Stafford
- (ii) Sonya Green
- (iii) James Stafford, III
- (iv) Rasheen James
- (v) JuSean James
- (vi) Kierra Stafford
- h. Edward Stanley Stafford
- ii. Hazel Gary D - 1972 No spouse, no issue.
- iii. Henry Gary, Jr. D - 1988
 - W - Lena (Evelyn) Gary
 - a. Brenda Patterson
 - b. Henry Gary, III D - 1999 No spouse, no issue.
- iv. Herman Gary D - 2009
 - W - Luerta Gary
 - a. Kenneth Gary
 - b. Carlos Gary
 - c. Ron Kenneth Stewart
- v. Mary Ellen Gary Williams D - 1978
 - H - Herbert Williams, Sr. D - 1999
 - a. Mary Frances Duncan
 - b. Debra Williams
 - c. Larry Williams
 - d. Herbert Williams, Jr. D - 2011

Jeanette Rutledge

(i) Issac Williams

e. Barbara Williams Smith

f. Johnnie Williams

vi. Louise Gary White D - 1999

H - Jimmy White D - 1983

a. Carolyn Achampong

b. Antoinette Lewis

c. Terri Elaine Weaver

d. Letha G. Rhem

e. Geraldine Brown

f. Patricia Ann White

g. Sharon White

h. Nolen White

vii. Lou Ethel Washington D - 2006

H - Johnny Washington

a. Kurt Washington

b. Diane Gary

c. Johnny Washington, Jr.

d. Tracy Washington

e. Carren Washington

viii. Margaret Gary Levine D - 1967



- H – David Levin D - 1991 No issue.
- ix. Eddie James Gary D - 1988
W - Lunetha Gary
a. James Stanley Gary
b. Gerald R. Gary
- x. Wilhelmina Gary Murray D - 1990
H - Ezekiel Murray, Sr. D - 2000
- xi. Josephine Gary Jenkins D - 1996 No issue.
H- Eddie Jenkins D - 2002
- xii. Joe Louis Gary D – 1970 No spouse, no issue.



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Master In Equity

Marvin H. Dukes, III, Beaufort County Master-in-Equity

APPELLATE CASE NUMBER 2014-002220

| | |
|---|--------------|
| Solomon Johnson, Frank Johnson, Ruth Green, Dorothy Jones, Theresa Scott, Erma Johnson, Kelly Barbara Jean Ferguson a/k/a Barbara Jean Albergottie, Alphonzo Albergottie, David Pringle, Pauline Lesesne, Marion Pringle, Jr., Frederick Scott, Paul K. Scott, Harold Jones, Sandra, Williamson Powell, Frederick L. Williamson, Elvin Bennett, Janie L. Ganues, Bertha Stafford, Patrice Stafford, Mary Lee Gary, Alnethia Gary, Edward Stanley Stafford, Luerta Gary, Kenneth Gary, Carlos Gary, Ron Kenneth Stewart, Mary Frances Duncan, Debra Williams, Larry Williams, Barbara Williams Smith, Johnie Williams, Terri Elaine Weaver, Letha G. Rhem, Patricia Ann White, Sharon White, Nolen White, Johnny Washington, | Respondents, |
|---|--------------|

The Heirs or Devisees of
Solomon White, Mary Ann
Pinckney White, Edward
White, Jacob White, Mary
White, Carrie White, Ellen
White Gary, Sam Gary, Emma
Gary Johnson, Miller Johnson,
Sr., Oscar Johnson, Eloise
Johnson, Miller Johnson, Jr.,
Leola Johnson, Richard
(Ritchie) Johnson, Sarah H.
Johnson, Mack Coles, Emily
Johnson Albergottie, Robert
albergottie, Louise Johnson
Pringle, Marion Pringle,
Mamie Gary, Thomas Brown,
Carrie Scott, Clarence Scott,
Jessie Mae Scott Smalls,
Williams Smalls, Jr.,
Nathaniel Scott, Camerine
Scott, Hermon V. Scott,
Luther Scott, Earnestine
Steward, Epstein Steward,
Lonny Brown, Gussy Brown,
Charles Brown, Danza Gary,
Victoria Brown, Dorothy
Williams, Joseph Williamson,
Sr., Elijah Williamson, Joseph
Williamson, Jr., Helen
(Sweetie) Brown Bennett,
Ervin Bennett, Janie Bennett
Green, Eloise Bennett Nixs,
Benjamin Nixs, Terry Nixs,
Carrie Gary, Harry Julius,
Richard Gary, Fronnie Gary,
Ella Gary, Francis Gary,
Florence (Nan) Gary, Aletha
(Tiny) Gary Watson, Andrew
Gadsden, Frank Watson,
Elizabeth Gary Stafford, Lee
Stafford, John Lee Stafford,
Joseph Gary, Nehemiah Gary,
Dorothy Gary, Harold Gary,
Cleveland Gary, Henry Gary,
Florrie Gary, Naomi Gary
Stafford, James Stafford, Sr.,

Appellants.

Hattie Mae Stafford, Edna
Brooker, Henry Brooker, Inell
Jones, Raymond Jones, James
Stafford, Jr., Hazel Gary,
Henry Gary, Jr., Henry Gary,
III, Herman Gary, Mary Ellen
Gary Williams, Herbert
Williams, Sr., Herbert
Williams, Jr., Louise Gary
White, Jimmy White, Lou
Ethel Washington, Margaret
Gary Levine, David Levin,
Eddie James Gary,
Wilhelmina Gary Murray,
Ezekiel Murray, Sr., Josephine
Gary Jenkins, Eddie Jenkins,
Joe Louis Gary, Heirs of
David Pringle, Salt Marsh
Partners, L.P., Janice E. Jones
and Ralph E. Johnson, Bobbie
J. Collins, Leroy Norris and
Odis Ann Norris, M. Lane
Morrison, Milles Lane
Morrison and Bank of
America, N.A., as Trustees,
Beaufort County Open Land
Trust, Williams McLean
Mixon and Barbara Hill
Mixon, as Trustees of the
Mixon Recoverable Trust
Agreement dated July 24,
1998, Robert J. Pinckney,
Mamie Brown, Susie
Cordeaux, Dorothy Lesesne,
Ben Pinckney, Etta Pinckney,
Henry Pinckney, Herbert
Pinckney, Ernestine P.
Rogers, Lillie Shell, and Ruth
P. Simmons, Richard Johnson,
Jr., Helen Coles, Jackie
Smalls, Sharon Smalls,
Andrea Smalls, Brooke
Smalls, Allan Scott, Cleon
Scott, Nia Malika Singletary,
Loretta L. Steward, Nathan
Jones, Eric Williamson,

Dwayne Williamson, Audrey
Brown, Joseph Johnson,
Jacqueline Johnson Major,
Robert Lee Green, Kenneth
Green, Juanita Green, Keith
Green, Joseph Green, Ellis
Green, Carl Green, Brown
Bennett, Dorsey Bennett,
William Nixs, Jennifer Nixs,
Jason Nixs, Thaddaus Nixs,
Edward Nixs, Edward Nixs,
Charles Nixs, Althea Nixs,
Clara Gary, Francis Gary, Jr.,
Adelia Gary, Charles Gary,
Albert Gary, Ulysses Gary,
Bernard Gary, David Gary,
Annette Singleton, Lillie Mae
Gifford, Shawndea Stafford,
James Stafford, Beulah
Gadsden, Jordan Harris, Leon
Stafford, Alvin Brooker,
Michael Stafford, Shirley
Stafford White, Gail Stafford
Marquez, Jacqueline Stafford,
Stephanie Jones, Renata
Jones, Ranell Jones, Germaine
Jones, Nathaniel Stafford,
Angela Stafford, Sonya Green,
James Stafford, III, Rasheen
James, Jusean James, Kierra
Stafford, Lena (Evelyn) Gary,
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Carolyn Achampny,
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Brown, Johnny Washington,
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interest in or lien upon the real property described in the Complaint herein, being designated collectively as John Doe and Mary Roe, including all persons who may be deceased, minors, in the Armed Forces or the United States, Non Compos Mentis, and under any other disability

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SC Court of Appeals

CERTIFICATE OF COUNSEL

Other Counsel of Record

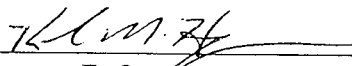
George E. Counts, Esq.
Kelvin M. Huger, Esq.
COUNTS & HUGER, LLC
27 Gamecock Avenue, Suite 200
Post Office Box 20669
Charleston, South Carolina 29413
843-573-0143 Ph / 843-573-0153 Fx

J. Thomas Mikell, Esquire
Law Offices of J. Thomas Mikell, PC
14 Professional Village Circle
Post Office Box 1727
Beaufort, South Carolina 29901

ATTORNEY FOR RESPONDENT

ATTORNEYS FOR APPELLANTS

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by the parties and not any other material under Rule 210 SCACR.



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ATTORNEYS FOR APPELLANTS

October 16, 2015

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Tracy Washington, Carren
Washington, Lunetha Gary,
James Stanley Gary, Gerald R.
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SC Court of Appeals

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is the Legal Assistant for Counts & Huger, LLC for the above-named Appellants and that she is a person of such age and discretion as to be competent to serve papers.

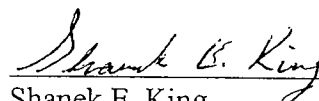
That on October 17, 2015, she served a copy of the following document(s) in the above-entitled case by placing said copy in a post-paid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United State Mail in Charleston, South Carolina.

DOCUMENTS:

Record on Appeal

ADDRESSESS(S):

J. Thomas Mikell, Esquire
Law Offices of J. Thomas Mikell, PC
14 Professional Village Circle
Post Office Box 1727
Beaufort, South Carolina 29901



Shanek E. King
Legal Assistant

George E. Counts, Esq.
Kelvin M. Huger, Esq.
COUNTS & HUGER, LLC
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Charleston, South Carolina 29413
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Other Counsel of Record

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Beaufort, South Carolina 29901

ATTORNEY FOR RESPONDENT