

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Chester County  
Court of Common Pleas  
Brooks P. Goldsmith, Circuit Court Judge

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2011-CP-12-0291

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SC Court of Appeals

Robert H. Breakfield, as attorney in fact for John D. Hinson,  
John C. Hinson, Jerry Hinson, Kathy Huffstickle, Robert H. Hinson,  
Darrell W. Hinson, Lois Hinson, Tina Jones, George Stanford  
as Personal Representative of the Estate of Linda Stanford,  
William L. Hinson, Elaine H. Hensley, and  
William C. Hinson, Jr. . . . . Respondent,

v.

Mell Woods . . . . . Appellant.

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Respondent's Motion to Dismiss the Appeal; to Strike Appellant's Initial Brief and  
Designations for the Record on Appeal; and to Stay Briefing Schedule

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Motion to Dismiss Appeal for Non-Complying Initial Brief

Respondent has received Appellant's Designation and Initial Brief and moves the Court, pursuant to Rule 260(a), SCACR, to dismiss Appellant's appeal on the ground that the Appellant has again failed to comply with the requirements of the South Carolina Appellate Court Rules. Appellate Court Rules "are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State." Forner v. Butler, 319 S. C. 275, 460 S.E.2d 425 (Ct. App. 1995) citing Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992). The motion is grounded on the following:

Appellant's Initial brief contains no meaningful references to the Record on Appeal and does not comply with Rules 208(b)(1)(D) and 208(b)(4), SCACR. Appellant has left blanks in the text of his Initial Brief with the explanation "blanks left as space to insert Record references." Respondent is unable to respond to an unknown reference to an unknown portion of an unsettled record.. A copy of Appellant's Initial brief is attached.

This is not the first time that Appellant has failed to include references to the Record on Appeal and has put the undersigned and the Court to the time, trouble and expense of making him correct an Initial Brief. In appellate case no. 2011191876 the Appellant, who is the same person as the Appellant herein, in a related case involving the same persons, served a non-complying initial brief. By motion dated April 2, 2012, the undersigned moved the court to dismiss the appeal on several grounds, including that Appellant's Initial Brief "does not make meaningful and particular references to the Record." By Order dated and filed May 17, 2012 this court denied the motion but ordered Appellant to file and serve an amended initial brief "that includes citations to the material that will be contained in the

Record on appeal.”<sup>1</sup> The May 17, 2012 Order set out the specific requirements for proper reference to material in the Record on Appeal. Appellant has already been schooled by the Court on the requirements for proper reference to the Record. Appellant must not be permitted to continue ignoring the rules of court. The interests of the Respondents must be considered and protected.

### Motion to Strike Non-Complying Designations

Please take notice that the Respondent moves the Court for an Order striking certain of Appellant’s designations for the record on appeal. The motion is made pursuant to Rules 209 and 210(c), SCACR, on the ground that Appellant’s designations are irrelevant to the matters to be decided on the appeal, and include matters not presented to the lower courts. A copy of Appellant’s “Designation of Record” is attached and incorporated herein.

It is important to note that there has never been an evidentiary hearing in this matter in a lower court. Everything to this point has involved orders addressing questions of law. The Magistrate heard pre-trial motions on questions of law, and Appellant appealed the Magistrate’s Order on those questions of law to the Circuit Court. More specifically:

1. Appellant has designated the entire probate court and circuit court files in case nos. 2008-ES-12-297 and 2010-CP-12-201. These are cases having no relevance to the questions of law heretofore decided in the above-captioned magistrate’s court ejectment proceeding and appeal to circuit court. A copy of the transcript of the

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<sup>1</sup> The Initial Brief, Motion to Dismiss and the May 17, 2012 Order in appellate case no. 2011191876 are incorporated herein by reference.

January 4, 2012 Circuit Court appeal hearing is attached, and the transcript confirms that nothing in the form of documentary evidence outside of the certified magistrate's court record was presented to the Circuit Court.

2. Appellant has designated that the record on appeal include a certified copy of the plat entitled "Lands of Reba Hinson" stored in the Chester County Courthouse Plat Cabinet D-174, page 3B." This plat was not presented to or filed with the Magistrate's Court for use in its pretrial hearing on pretrial motions, and it was not in the appeal record for the Circuit Court's appeal hearing. The transcript of the January 4, 2012 appeal hearing in circuit court confirms that this plat was not filed with the court or referred to as part of the appeal. This plat has nothing to do with the legal issues identified by Appellant in his Issues on Appeal.
3. The Appellant has designated that the record on appeal include a "Land Sales Agreement between Reba P. Hinson and Mell Woods in the South Carolina Secretary of State Office." This document was not presented to or filed with the Magistrate's Court for use in its pretrial hearing on pretrial motions, and it was not in the appeal record for the Circuit Court's appeal hearing. The transcript of the January 4, 2012 appeal hearing in circuit court confirms that this alleged agreement was not filed with the court or referred to as part of the appeal. This agreement has nothing to do with the legal issues identified by Appellant in his Issues on Appeal.

Appellant's Issues on Appeal appear on p. 1 of his Initial Brief, attached hereto.

The only records or documents that should be included in the Record on Appeal are those contained in the Magistrate's Court's Return to the Circuit Court for use in the appeal

and any evidence submitted to the Circuit Court during the appeal hearing. The transcript of the January 4, 2011 appeal hearing is attached hereto, and it confirms that nothing was filed or submitted outside of the content of the Magistrate's Court's Return.

Appellant is trying to expand the scope of this appeal to include irrelevant evidence and arguments having nothing to do with Appellant's specific Issues on Appeal, all of which involve questions of law.

Motion to Stay Briefing Schedule

Pursuant to Rules 240(b) and 263(b), SCACR, Respondent moves the Court to stay the briefing schedule until the above motions are decided.

Conclusion

Appellant's designations should be stricken to the extent that they designated anything not contained in the Magistrate's Court's Return and not filed or submitted to the Circuit Court during the appeal hearing.



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November 20, 2012

APPEAL HEARING TRANSCRIPT

1 THE COURT: Next apparently is woods vs. Hinson and  
2 others. Motion to establish time for plaintiff's to  
3 receive written order off order.

4 MR. WOODS: Can I hand up one page? This is a reply  
5 to it, Your Honor.

6 THE COURT: Okay.

7 MR. BRACKETT: I have not received a copy of that.

8 MR. WOODS: I served him Monday. You want a copy of  
9 it?

10 MR. BRACKETT: Yes, sir, I would.

11 MR. WOODS: I served you a copy by mail, I don't want  
12 you to say I didn't.

13 THE COURT: All right. Mr. Brackett, I will be glad  
14 to hear your motion.

15 MR. BRACKETT: Your Honor --

16 THE COURT: You said there are two motions; is that  
17 right?

18 MR. BRACKETT: The second motion is Mr. Woods' motion  
19 for reconsideration that he filed after having eventually  
20 signed to receive the order that had been in the post  
21 office for awhile. What happened, this Court heard a  
22 motion on November the 9th in this case, that would be my  
23 motion for summary judgment, the Court granted that motion,  
24 I served it by certified mail on the dates mentioned in the  
25 motion. When nothing happened, which is not usually the

1 case with Mr. Woods, we checked with the post office to  
2 find out whether that order had been received. We received  
3 back the report attached to the motion indicating that two

4 notices had been placed in the box and that as of the date  
5 the motion was filed and served it had not been picked up.  
6 Now, the problem is that Rule 59 motions and notices of  
7 appeal are measured from the day of the receipt of the  
8 notice of entry of the order, it's not -- it doesn't run  
9 from the date of service, and so by allowing these sorts of  
10 mailings just simply to remain in the box and to claim that  
11 he didn't actually get written notice simply delays the  
12 resolution of the case, artificially extends the time  
13 within which post-trial motions and appeals can be filed.  
14 And quite frankly for purposes of this case he has already  
15 filed a motion of reconsideration now and in that sense the  
16 motion is moot. But pursuant to Rule 7 I'm moving to amend  
17 the motion to ask that henceforth anything required to be  
18 served on Mr. Woods be deemed served on him and received by  
19 him on the date that it is placed in his box by the  
20 Postmaster. This is not the first time this has happened.  
21 There was another order issued by this Court in another  
22 case that apparently didn't get delivered to Mr. Woods for  
23 quite some period of time, I didn't question him at the  
24 time, this now -- it seems to be repetitive.

25 THE COURT: So make sure I understand what you're

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1 asking for now, that is for the Court to issue a rule  
2 concerning Mr. Woods' service of the papers on him?

3 MR. WOODS: Yes, sir.

4 THE COURT: All right. I've never done that before.  
5 Mr. Woods?

6 MR. WOODS: Can I respond to this, Judge?

7 THE COURT: I want you to.

8 MR. BRACKETT: Mr. Brackett, he wants to rewrite the

9 whole South Carolina Rules of Civil Procedure and  
10 everything else just to suit him. He wants to change Rule  
11 1 around, just throw it out and say, "Mr. Brackett is  
12 always right." He'll tell you, he will tell him -- here is  
13 where he tried to tell the Supreme Court the other day what  
14 to do about one of these cases and they reversed it. Did  
15 you know about this?

16 THE COURT: Yes.

17 MR. WOODS: He's not -- he comes up with all of this  
18 crazy stuff. I'm not required to take certified mail, but  
19 as soon as I found out about it I went down there and  
20 signed for it. In his scenario he wants me to put a cot  
21 down there at the post office and every time the box  
22 rattles I'm supposed to jump and see if Mr. Brackett put  
23 something in there for me, that's what he wants. It's  
24 another one of these hairbrained schemes he's come up with  
25 to take up the Court's time and to spend the Hinson's money

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1 with, that's what it's for. I have responded to everything  
2 he has ever sent me and I generally get regular mail, if he  
3 would have put regular mail in there I would have seen it  
4 just like it says in that affidavit right there. I mean,  
5 we've got a case -- can I read the case into the record?  
6 Culbertson versus Clemons, 322 South Carolina 20, this is  
7 an appeals court ruling, rules of the supreme court says  
8 rule 203B1SCACR in appeals for the court of common pleas a  
9 notice of appeal must be served on respondents within 30  
10 days after receipt of the written notice of the entry of  
11 the order or judgment being appealed from. Now, there's  
12 more than one way to get somebody a notice, you go hand it  
13 to them, you know, that's just his little method of doing

14 it. And he wants to trash me by saying I pull stunts, I  
15 don't pull stunts, I go by the rules, I've got my own rule  
16 book and I've read it 10 or 15 times. He's the one that  
17 needs to read the rule book, not me.

18 THE COURT: I've heard enough on this matter.  
19 Mr. Brackett, I'm going to deny your motion. I can't make  
20 special rules --

21 MR. WOODS: I understand, Judge, that's what he wants,  
22 though. And that other thing, it has not been filed long  
23 enough, it's not on the list today but I talked to the  
24 clerk last week and it's only been filed a week.

25 THE COURT: What other thing?

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1 MR. WOODS: There's something else that he wants  
2 heard, another motion, I think, it's not ripe to be heard  
3 yet.

4 MR. BRACKETT: Mr. Woods filed a motion for  
5 reconsideration of this Court's summary judgment order that  
6 he took out of his post office box on December 8th. He  
7 filed his motion, set out his grounds, I have asked that it  
8 be heard today. It's his motion, he should be ready to  
9 argue his motion.

10 MR. WOODS: It's not supposed to be on the docket  
11 today, Judge, it was not on the docket.

12 THE COURT: It's not on the docket, he's asking that  
13 we hear it anyway.

14 MR. WOODS: Well, I object to it.

15 THE COURT: Okay. I'm not going to hear it.

16 MR. BRACKETT: Or in the alternative, Your Honor, I  
17 would ask that the Court consider -- not consider the oral  
18 argument and consider it on briefs because this estate,

19 Your Honor, remains open. The Hinson estate cannot be  
20 closed so long as Mr. Woods keeps all of these lawsuits  
21 going. All he does is he extracts every possible day and  
22 every possible week he can to keep these proceedings alive,  
23 I'm trying to push them along and get them resolved. And  
24 this is his motion for reconsideration, I would expect that  
25 if he filed it and knew what his arguments were when he

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1 filed it he should be prepared to argue it or else I'm  
2 happy to submit it on briefs.

3 THE COURT: That's actually what I'm going to do, I do  
4 it in most all of the cases, I'm going to make a decision  
5 on the motion to reconsider in this case based on briefs.  
6 Ten days for each side to submit any briefs?

7 MR. BRACKETT: I would ask Your Honor that he file his  
8 brief within ten days and I be given three days thereafter  
9 to respond.

10 MR. WOODS: That's fine with me, Judge. I just didn't  
11 bring my papers with me today because I didn't figure it  
12 was going to be on there.

13 THE COURT: Let's see, briefs on the motion to  
14 reconsider, plaintiff has ten days and the defendant three  
15 after receipt of plaintiff's brief to respond.

16 MR. BRACKETT: Yes, sir.

17 THE COURT: Anything else?

18 MR. WOODS: Your Honor, I had asked earlier about the  
19 possibility of hearing Mr. Woods' appeal from magistrates  
20 court at the end of the morning session, Mr. Woods was not  
21 here in court at that time, you were going to inquire about  
22 it.

23 THE COURT: There is a hearing on this afternoons

24 docket for --

25 MR. WOODS: Your Honor, can I -- there is other people

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1 here that needs their business attended to.

2 THE COURT: You're right, I wasn't going to hear that  
3 ahead of them. But I guess the next question is do y'all  
4 want to hear that magistrates court when we will finish the  
5 other matters this morning?

6 MR. WOODS: Well, I would rather wait until this  
7 afternoon, that's when I was expecting it to be on there,  
8 that's what it said on the docket sheet.

9 MR. BRACKETT: Well, the notice of hearing I sent him  
10 said it was subject to being moved up to the morning  
11 session.

12 MR. WOODS: The docket sheet in Columbia at court  
13 administration it says 2:00 p.m.

14 MR. BRACKETT: Yes, sir. But again, can we not  
15 hear --

16 MR. WOODS: Here again we're making rules.

17 MR. BRACKETT: He was given the notice of that on the  
18 notice of hearing.

19 THE COURT: Well, if I read this correctly, I'm  
20 looking at the afternoon docket, there are several cases to  
21 be heard but this case is the first case. I will hear it  
22 at 2:00 as scheduled.

23 MR. BRACKETT: One final matter, Your Honor, while  
24 we're here on the record, I am hereby serving Mr. Woods  
25 today, handing him the written order in case number

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1 2011-CP-12-323, that is a summary judgment order in that  
2 case dated December 29, 2011 filed December 30, 2011, he

3 has written notice of that order today.

4 THE COURT: All right. Thank you so much.

5 (End of the hearing.)

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2 (Afternoon hearing.)

3 THE COURT: All right. Breakfield vs. Woods, appeal  
4 from the magistrate court?

5 MR. WOODS: Yes, sir.

6 THE COURT: This is your appeal.

7 MR. WOODS: I guess I go first since I'm the one that  
Page 7

8 brought it, right?

9 THE COURT: Your appeal.

10 MR. WOODS: What the case is doing here is primarily I  
11 filed some counterclaims in magistrate court that exceeded  
12 the jurisdiction of that court and the law says it's  
13 supposed to be transferred to the circuit court at that  
14 time. And he made it -- it was raised in the pleading and  
15 he ruled on it and said that he was not -- that the  
16 magistrate judge said that he was not going to get involved  
17 in that, he was just going to dismiss the counterclaims. I  
18 had to say something about it because I feel like they are  
19 compulsive counterclaims and they needed to be brought at  
20 that time or transferred to the circuit court which he said  
21 he was not going to do. And then he wrote out a order I  
22 think it's in the record -- one thing I want to say before  
23 I go on, it is not an original order sent up from the --  
24 there is not an original record from the magistrate court  
25 on this, they sent an original transcript but the rest of

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1 it is photocopies and the rule on it says you're supposed  
2 to have the original record so we don't know if we got all  
3 of the record or not. Because my experience has been that  
4 the lady out there -- the secretary made me a copy one day,  
5 it was supposed to be the entire record, there was about  
6 three pages of it left out and I had to look and find -- in  
7 other words, whenever they put things in a copy machine it  
8 doesn't always come out. I know it's not going to do any  
9 good to object to it but I object to going on without the  
10 original record being here.

11 THE COURT: I got that. You're saying -- now, the  
12 magistrate filed a return but you're talking about a

13 transcript?

14 MR. WOODS: No, the transcript is original. But I'm  
15 talking about the pleadings and everything else from out  
16 there is not -- it's just copies from what I saw. What  
17 does it look like to you up there? I can't see it from out  
18 here.

19 THE COURT: Here is what I have got, I've got a copy  
20 of the notice of appeal filed by Mell Woods and I've got a  
21 copy of -- I've got an order signed by the magistrate.  
22 What do I not have?

23 MR. WOODS: What my objection is is the statute says  
24 that they're supposed to take and bring -- or send over  
25 here to the circuit court the entire record, and then when

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1 the circuit court gets finished with it it goes back to  
2 magistrates court. What you have here in front of you is  
3 copies, we don't know if it's original or not, we don't  
4 know if pages are left out. I would like to have the  
5 original record before the Court before we proceed.

6 THE COURT: Okay. Yes, sir?

7 MR. WOODS: Can you rule on it one way or the other?

8 THE COURT: Well, I'm going to hear all of your  
9 arguments first.

10 MR. WOODS: Okay. In the pleadings I raised the  
11 defense of questionable title, there's a South Carolina  
12 statute about it, it applies to magistrates court, it is  
13 section 22-3-1150, and 22-3-1160 about the questionable  
14 title. I'm aware that the Court has ruled against me on  
15 the land clearing action, Mr. Brackett gave me the paper  
16 this morning. But there's still a question about the title  
17 because the case is not over yet and it certainly was not

18 back in the spring when it was heard in the magistrates  
19 court.

20 THE COURT: You're saying the magistrate didn't have  
21 jurisdiction because you raised the issue of title?

22 MR. WOODS: I did but he doesn't go along with that.  
23 He says he talked to somebody at court administration who  
24 was not an attorney but who advised him as to what to do.  
25 And -- it's Judge Zamore, I know he's a licensed attorney

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1 but yet he consults non-attorneys about what to do, I don't  
2 know. He said that as long as they allege that I was a  
3 tenant that's all he was going to do is just that one  
4 issue. But my position is as soon as I filed counterclaims  
5 that exceeded the jurisdiction which is \$7,500, I think it  
6 should have been transferred over here at that point. If  
7 it's ever is done that way we can settle everything at one  
8 place, it's in too many places at one time.

9 THE COURT: Say that part again.

10 MR. WOODS: I said I feel like pieces of the  
11 litigation are in too many courts, if we would go by the  
12 rules it would all end up here. It doesn't mean I would  
13 win, lose or what but we would be in one place.

14 THE COURT: All right.

15 MR. WOODS: But I feel like he's committed error by  
16 dismissing the counterclaims instead of transferring them.

17 THE COURT: I've got that, you've already told me that  
18 was one of your arguments.

19 MR. WOODS: Yes, sir. Those statutes are pretty  
20 clear, it says if there's a question of title -- it doesn't  
21 say anything about it's got to be proven one way or the  
22 other, and it's a cost bond, if you deposit a cost bond

23 with the magistrate he doesn't have anymore jurisdiction at  
24 that point. And I gave them -- it doesn't sound like a  
25 whole lot but it's written in the statute, the most the

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1 cash bond would be is \$100, so I gave them a money order  
2 for \$100 and just said, "Here it is, make your bond with  
3 this." But he used it for something else and it didn't get  
4 applied like I asked him to do it.

5 THE COURT: All right.

6 MR. WOODS: That's another error. But my major point  
7 is he should not have proceeded on. He wanted to have a  
8 jury trial and this and that and the other and the case is  
9 sort of in between, and it's supposed to be final before  
10 we're here but he has never adjudicated the case. I think  
11 you've got a copy of his order there, it says -- it's dated  
12 June 22nd from Judge Zamore. Did you see it up there?

13 THE COURT: I do.

14 MR. WOODS: But that more or less explains his  
15 position on it if you have time to pan it.

16 THE COURT: Anything else?

17 MR. WOODS: Well, the case was filed before, it has  
18 been filed a year before in the magistrate court here in  
19 Chester and Judge Moore didn't have any trouble dismissing  
20 the case because she said there was no clear title in this  
21 thing and she says until it was decided she didn't want  
22 anything to do with it. So I don't know if it should be  
23 sent back to the magistrate court or -- I think it should  
24 be sent back with instructions as to what he needs to do, I  
25 guess.

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1 THE COURT: Well, but that's a good question. What is  
2 that you are asking the Court to do?

3 MR. WOODS: Well, I want it transferred to circuit  
4 court, that's what I asked for out there.

5 THE COURT: Because of jurisdictional issues.

6 MR. WOODS: Yes, sir. I think that's what he should  
7 have done to start with and he just said he was not going  
8 to do it like that. I reckon he wants the circuit court to  
9 decide what I get out of it.

10 THE COURT: Okay.

11 MR. WOODS: But if I can respond to whatever  
12 Mr. Brackett has to say, which will be a lot, that's about  
13 all I'm going to say right now.

14 THE COURT: All right. Let's hear what Mr. Brackett  
15 has to say. I suspect he's going to disagree with some of  
16 what you've been telling me.

17 MR. WOODS: I'm sure he will, Judge.

18 MR. BRACKETT: Your Honor, I have passed up to the  
19 Court and given a copy to Mr. Woods my memorandum of law  
20 from the November term of court, I previously provided this  
21 to the Court back on November 9th, and it has the status of  
22 all of the various pieces of litigation including this  
23 appeal which starts -- the material starts on page eight of  
24 that memorandum. This was a summary eviction or ejection  
25 action filed in the magistrates court and a preliminary

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1 proceeding where the magistrate undertook to resolve  
2 pretrial matters including some of the motions to dismiss  
3 in Mr. Woods' answer. As a result of that proceeding the  
4 Court issued the order that you've referenced dated  
5 June 2nd, and Mr. Woods took an appeal from that order up

6 to this court. In other words the eviction trial has not  
7 taken place, there have been no proceedings down there  
8 other than the pretrial motion or status conference from  
9 which that order was the result. Now, my clients, claiming  
10 to be the owners of the land as the remainder unto Reba  
11 Hinson, filed the eviction proceedings to have Mr. Woods be  
12 required to vacate this particular lot on which he resides.  
13 It was a verified complaint, very standard in form for  
14 eviction proceedings. Mr. Woods filed and served the  
15 answer, and within the answer it appears to be a couple of  
16 motions related to procedural matters, and there was a  
17 counterclaim alleged in the original answer alleging a sham  
18 legal proceeding. I then filed a 12B6 motion to dismiss  
19 that counterclaim because there is no such cause of action.  
20 The relief, if any or such, would be the frivolous  
21 proceeding sanctions act where he would be entitled to ask  
22 for some relief if he could prevail at trial, at the  
23 conclusion at trial. As a result of my rule 12B6 motion  
24 Mr. Woods went ahead and filed an amended -- what he  
25 nominated an amendment of counterclaim, and in there he

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1 explained that the sham legal proceeding was really abuse  
2 of process is what he intended and so he changed the name  
3 if you will of that counterclaim. And then he went on to  
4 plead a new counterclaim in the amendment for civil  
5 conspiracy claiming that Danny Hinson, Mr. Breakfield and  
6 me conspired in the filing of the eviction, that's the  
7 situation that existed at the time of the pretrial hearing.  
8 All of this is set out on page eight --

9 THE COURT: I'm following you.

10 MR. BRACKETT: -- that is sort of the procedural

11 backdrop. The judge heard all of the arguments that day  
12 and he issued the order, and as I read Mr. Woods' appeal to  
13 this court he has set out five separate grounds, admittedly  
14 they aren't clearly stated but as best I can determine from  
15 those. He first complains about the fact that his  
16 counterclaims from the amended claim, abuse of process and  
17 conspiracy, he complains because the magistrate dismissed  
18 those saying they were not permitted in an eviction case.  
19 In a summary eviction proceeding there is no statutory  
20 authority for filing affirmative defenses or counterclaims,  
21 those are pursued if at all in separate proceedings. And  
22 if you look on page nine of my memo I've set out the law on  
23 summary proceedings and why counterclaims and affirmative  
24 defenses are not allowed. The only defense allowed in an  
25 eviction case for nonpayment of rent is payment of rent,

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1 that you actually paid the rent, that is the only defense  
2 permitted under South Carolina law as best I can tell, so  
3 those counterclaims were dismissed. I have set out there  
4 also on page nine an additional ground that appears in the  
5 record but was not specifically mentioned in Judge Zamore's  
6 order, and that is civil conspiracy should have been  
7 dismissed anyway because neither Mr. Breakfield nor I were  
8 parties to the case, he can't counterclaim against us  
9 because we aren't named parties and the allegations were  
10 far insufficient to plead a civil conspiracy. It was a  
11 very abbreviated, conclusory allegation and so for those  
12 reasons the civil conspiracy could have been dismissed  
13 separately. Appeal number two -- and I would also call to  
14 the Court's attention the fact that these counterclaims are  
15 for money damages, he doesn't claim title, he doesn't claim

16 superior title, he is suing for use of process damages and  
17 civil conspiracy damages which makes it even more  
18 inappropriate for an eviction case. Ground number two,  
19 although he hasn't mentioned that today in his oral  
20 argument, ground number two had to do with the fact that  
21 the eviction proceedings were served without a summons, he  
22 claims you can't commence an eviction case without also  
23 serving a summons. The magistrates disagreed. I have put  
24 in the bottom of page ten the law in this particular issue,  
25 SC code annotated 27-37-20 sets out the procedure for

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1 eviction cases. Nowhere does it say you've got to file a  
2 summons. Also the summary court judge's bench book  
3 published by I guess court administration in Columbia  
4 telling magistrates how these things are supposed to work,  
5 the bench book doesn't require summons either. So there is  
6 no requirement in the law for a special statutory summary  
7 eviction proceeding, that is a special statutory proceeding  
8 and that it can be commenced without a summons. Grounds of  
9 appeal three and four are somewhat jumbled as I read them,  
10 but they appear to be -- to claim that the magistrate  
11 committed error by not either staying or dismissing the  
12 eviction complaint because of Mr. woods' allegations of  
13 superior title and possession, what he termed today  
14 questionable title. That matter was primarily addressed on  
15 page 11 of my memorandum, 11 and 12 actually. And what the  
16 law says is that the only title the magistrate is  
17 interested in initially is whether or not there is a  
18 landlord/tenant relationship between these parties. If the  
19 magistrate finds there's a landlord tenant relationship  
20 then he moves onto the eviction case. If he finds there's

21 not a landlord/tenant relationship then he dismisses the  
22 case, and that's the standard laid out in the cases so we  
23 really haven't gotten to that point yet. But Mr. Woods  
24 comes in and claims he has superior title, and I will call  
25 the Court's attention to page 11, the third paragraph, A

19

1 tenant cannot oust the magistrate in jurisdictional cases  
2 by simply asserting a superior title in himself, citing the  
3 Metropolitan Life Insurance Company case, a 1940 case of  
4 our supreme court. Otherwise we never would have an  
5 eviction case go forward because tenants would always  
6 allege superior title and that would automatically shut  
7 down the eviction case, and the supreme court has said you  
8 can't do that, that's not what the eviction case is for.  
9 So the fact that he claims possession of superior title  
10 does not serve as a road block, if you will, proceeding on  
11 with the eviction case. His ground number four has to do  
12 with the jurisdictional limit and the fact that he has sued  
13 for damages that would exceed \$7,500. Page 11 of the  
14 memorandum, paragraph three, cites the statutory language  
15 from section 22-3-10 subsection 12, magistrates court has  
16 jurisdiction over a counterclaim that involves a sum not to  
17 exceed \$7,500 except that this limitation does not apply in  
18 counterclaims for matters between landlord and tenant. So  
19 if it is a landlord and tenant dispute, whether it's an  
20 eviction or not, if it's a landlord/tenant dispute and  
21 there is a counterclaim that exceeds \$7,500 it stays in  
22 magistrates court. That is not beyond the jurisdictional  
23 limit pursuant to the statute. And then finally, his last  
24 ground for appeal, he asks for a jury trial which I think  
25 he is entitled to, but his beef is that the magistrate was

1 only going to give him a six member jury, Mr. Woods seems  
2 to think he's entitled to a 12 member jury. And I have  
3 cited on page 13 of the memorandum the statute about six  
4 member juries in magistrates Court. So he's entitled to a  
5 jury then the magistrate got it right, he gets a six member  
6 jury trial. I submit, Your Honor, that the magistrate got  
7 all of these correct and the appeal should be dismissed and  
8 the matter remanded to the magistrate for further action.

9 THE COURT: Let me ask you something, before I hear a  
10 reply from Mr. Woods, one thing that he says is that this  
11 Court doesn't have jurisdiction because we don't have the  
12 record from the magistrates court.

13 MR. WOODS: I didn't say you don't have jurisdiction,  
14 it's just that there's a statute that says that the  
15 original record must be present before the case is heard.

16 MR. BRACKETT: I don't know if the original is  
17 required or not. It was my understanding that the  
18 magistrate sent a certification with that letter. I have  
19 not checked that myself but I thought he had -- somewhere I  
20 had heard --

21 MR. WOODS: We've been over this before, Judge, it's  
22 been on the statute books since at least 1954 and before  
23 that time when they didn't have copy machines.

24 MR. BRACKETT: Well, if Mr. Woods can cite to anything  
25 that is missing, any way he is prejudiced by having a copy

1 rather than an original he might have an argument. If his  
2 beef is you got a xerox copy instead of an original, no big  
3 deal with it, nothing is missing, everything is there  
4 there's no prejudice, no reason to belabor this any

5 further.

6 MR. WOODS: It is prejudice because I was held out of  
7 seeing the file -- the parts of it, I did not see all of it  
8 for several months because the magistrate judge called over  
9 here and told this man in the red sweater here -- he told  
10 this clerk not to let me see that part of the record so I'm  
11 prejudiced at that point.

12 THE COURT: How long have you had access to the  
13 record?

14 MR. WOODS: A month or two months, whatever, you  
15 opened it the last time.

16 THE COURT: So two months.

17 MR. WOODS: But for a long time I couldn't see it so I  
18 just got tired of asking. I could prove I'm prejudiced  
19 better than just talk about it.

20 THE COURT: Well, Mr. Brackett has raised the issue  
21 that you haven't shown yet how you're prejudiced by having  
22 the original of the clerk's file.

23 MR. WOODS: The point is I would have to have the  
24 original sitting on one side of the table and I could see  
25 if there is anything missing out of it or changed when it

22

1 went through the copy machine. But I'm telling you from my  
2 own personal experience, I went out there and they gave me  
3 the record one day and there was three or four pages  
4 missing out of it and I finally found them in my file and I  
5 went over there and asked them, "Do y'all have these or did  
6 it get missing over there in Chester?" Because they filed  
7 it over here first. So it's been in two or three courts  
8 and nobody really knows what the record is.

9 THE COURT: Well, let me ask you this: Do you not

10 have copies of everything from the magistrates file  
11 yourself?

12 MR. WOODS: I have what I filed and what  
13 Mr. Breakfield has sent -- not Mr. Breakfield but what  
14 Mr. Brackett has sent me.

15 THE COURT: And you've got the court orders from the  
16 magistrate.

17 MR. WOODS: But there's a statute that says that  
18 you're entitled to have the original record for review in  
19 the circuit court before the case is heard, and it's an old  
20 statute. And my experience with the copies has not been so  
21 good, the record is not numbered, it's not -- you don't  
22 really know.

23 THE COURT: All right. Anything else in reply then to  
24 what Mr. Brackett has been saying about your appeal?

25 MR. WOODS: Well, a couple of things. He wants to

23

1 talk about the magistrate bench book, that's something --  
2 it's a training manual they write up there, it's not really  
3 the law citing that. And he cited that older statute, I  
4 didn't get the number of it. But I mean, the South  
5 Carolina Rules of Civil Procedure superceded those older  
6 statutes and everybody nowadays is entitled to a 30 day  
7 notice of anything and a summons. But he's claiming that  
8 this annotated law is still the law in South Carolina and  
9 it's not, under the Rules of Civil Procedure they have to  
10 go by it. I'm not trying to reform everything but it may  
11 be time to get the bench book rewritten. The Rules of  
12 Civil Procedures controls all cases even in the magistrates  
13 court. And all the stuff we're talking about are all jury  
14 issues, if we can ever get in here in front of a jury we

15 can get things straightened out but it's never going to get  
16 over the way we're going. And the root cause of this  
17 problem is they've probated the wrong will instead of  
18 Ms. Hinson's will and they swore to a lie to get into  
19 court, that's what the main root of all of this problem is.  
20 If you ever get this --

21 THE COURT: You're talking about the probate court.

22 MR. WOODS: I'm talking about probate court.

23 MR. BRACKETT: Your Honor, that's been heard and  
24 decided by you previously in a summary judgment order when  
25 you affirmed to Judge Gettys' probate court order.

24

1 MR. WOODS: It is. The case ain't over yet, none of  
2 these cases are over with. You can say that all you want,  
3 it's not over yet. I'm just saying if you want to talk  
4 about judicial economy, if we can get everything over here  
5 at one time and get one ruling by one jury, because it's  
6 sure to be jury issues -- and I'm not going to come up here  
7 and try the case, I will get a competent trial attorney if  
8 you will get me a jury. It already has been -- I would  
9 have to get a Brinks truck every time I would have to come  
10 up here and respond to some of these motions like we had  
11 here this morning, that's all I am asking for.

12 MR. BRACKETT: Your Honor, I would point out Rule 81  
13 of the Rules of Civil Procedure says --

14 MR. WOODS: Which one?

15 MR. BRACKETT: 81. Provides that the rules of civil  
16 procedures will apply in other courts within the state and  
17 the procedures shall conform in those rules insofar as  
18 practicable. In any case where no provision is made by  
19 statute for these rules the procedure shall be according to

20 the practice as has therefore existed. So eviction  
21 procedural statutes fall outside of the scope of these  
22 rules of civil procedure. With respect to the bench book  
23 that is in essence, Your Honor, that is a manual that is  
24 compiled under the supervision of the chief justice, court  
25 administration is an arm of the Chief Justice and that's

25

1 the Chief Justice telling magistrates how to do their work,  
2 it is on the website today if a magistrate wanted to check  
3 it. That's just like the Chief Justice having put it on  
4 there and saying this is how you do it and I would defer to  
5 Chief Justice's interpretation of the rules.

6 MR. WOODS: Your Honor, can I respond?

7 THE COURT: Go ahead.

8 MR. WOODS: I've got a case I want to cite along those  
9 lines. The South Carolina Supreme Court has ruled that any  
10 court can acquire jurisdiction of a defendant only after a  
11 summons and complaint was filed, BB&T vs. Taylor, 369 South  
12 Carolina 548, this is 2006. That's what they rule says,  
13 that you can't bring somebody into court unless you give  
14 them a summons and complaint and give them 30 days to  
15 answer.

16 MR. BRACKETT: Your Honor, one final order. This  
17 Court by its order in a related case, 2011-393, which was  
18 the title case filed by Mr. Woods but it also had the  
19 character of the York Construction case, this Court issued  
20 an order on December 29th granting summary judgment to my  
21 clients and judgment against Mr. Woods on the question of  
22 whether Reba Hinson had a life estate or whether she had a  
23 superior title. That order -- I understand Mr. Woods is  
24 likely to appeal it but that order in and of itself takes

25 care of the claims of questionable entitlement or under

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1 superior title and this eviction case and I would ask the  
2 Court to take judicial notice today of that order and its  
3 holdings and what affect that would have on the eviction  
4 case.

5 MR. WOODS: One more thing, I think this is the  
6 statute he was citing earlier but I'm not sure, 27-37-20.  
7 The way it speaks -- it's an old statute -- it purports to  
8 sanction summary eviction, but in the pleadings and the  
9 answer I filed I'm saying it's not legal under federal  
10 constitutional grounds. I would like to get a ruling from  
11 the Court on that if it is or not. Because if it's being  
12 served with a summons -- and here he goes again, I'm not  
13 being served with a summons and given 30 days, it's just on  
14 the count they use a term label tenant which is about the  
15 lowest class person you can be in South Carolina with no  
16 rights and I get throwed off the place, that's what  
17 Brackett wants to do.

18 THE COURT: Hang on a minute. Mr. Brackett was  
19 getting ready to say something about your appeal, notice of  
20 appeal, I think he is going to say he does not mention  
21 anything about those constitutional grounds. But let me  
22 hear you on those anyway.

23 MR. WOODS: Well, I raised it in magistrates court and  
24 he ruled on it. And I'm sorry --

25 THE COURT: That's fine, I understand. But listen to

27

1 me --

2 MR. WOODS: And the rule did say --

3 THE COURT: Listen to me. What I want you to do is  
4 tell me this: What federal constitutional rights do you  
5 claim are violated by you not getting a summons and  
6 complaint?

7 MR. WOODS: Because that's what the South Carolina  
8 Rules of Procedure require me.

9 THE COURT: I understand that argument.

10 MR. WOODS: The statute is old and it's not up to  
11 standard, it doesn't give you enough time to respond and  
12 it's just -- it's under the 14th Amendment.

13 THE COURT: What rights does the 14th Amendment give  
14 you?

15 MR. WOODS: Rights like everybody else.

16 THE COURT: Doesn't that statute apply to everybody?

17 MR. WOODS: Well, I guess the eviction statute applies  
18 to everybody if you want to use it on them, it doesn't  
19 comply with the Rules of Civil Procedure is my point. But  
20 could I get the Court to rule one way or another? I'll  
21 admit you don't have to rule right now.

22 THE COURT: I can rule right now. No. I don't think  
23 that the South Carolina Eviction Statute, it's failure for  
24 a summons and complaint 30 day notice is any violation of  
25 any federal constitutional rights that you have. I think

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1 the statute is constitutional while under the South  
2 Carolina statute constitutional also. I agree with you  
3 that the statute does -- or the magistrates court rules do  
4 require the record to be here but I think we have copies of  
5 everything and I've asked you if you believe you suffered  
6 any prejudice by not having that and I cannot find any  
7 substantial prejudice that you asserted that would cause

8 you to lose any rights in this court. I find that the  
9 order of the magistrate, though, relating to the striking  
10 of your counterclaims was appropriate and that the lower  
11 court does have jurisdiction and continues to have  
12 jurisdiction, that you are entitled to a jury trial but you  
13 apparently -- that was affirmed in the magistrates order as  
14 well as confirmed by Mr. Brackett as well, but under the  
15 rules you're not entitled to a 12 person jury. I think I  
16 have addressed the issues raised in your appeal and I'm  
17 going to dismiss the appeal and remand it to the  
18 magistrates court for further proceedings which I guess  
19 means he's going to set up a jury trial, that's what I  
20 think it means. Mr. Breakfield sic) will you prepare a  
21 short order consistent with these rulings?

22 MR. BRACKETT: Your Honor, one related matter that we  
23 talked about in the morning session, case number 2010-595,  
24 that is the case in which Mr. Woods' motion for  
25 reconsideration was addressed and you gave him ten days to

29

1 submit a brief and you gave me three days thereafter. Over  
2 the lunch break I was checking with my office just to see  
3 what was going on in my absence and I learned that I  
4 received in today's mail a notice of appeal from Mr. Woods  
5 in case number 595, I would like to pass it up, please,  
6 sir. This arrived today. According to Rule 205 in the  
7 appellate court rules the service of a notice of appeal  
8 automatically transfers jurisdiction of the matter to the  
9 court of appeals. It seems to me that renders his motion  
10 for reconsideration moot, this Court has no jurisdiction  
11 over that order anymore and so I think there was no need to  
12 be submitting anything to the court. You can't reconsider

13 an order that's now before the court of appeals.

14 THE COURT: What do you say, Mr. Woods?

15 MR. WOODS: I had already filed the -- there's several  
16 cases where this happens, he had a motion to try to get you  
17 to set the date of the receipt of the order, just to  
18 protect myself I filed that but that's -- since there's  
19 still a motion pending in the trial court it has to be  
20 heard first, the motions to reconsider, is my position.

21 THE COURT: I understand it. I'll be glad for you to  
22 submit a brief on that issue if you want to, on that  
23 separate issue. It's my understanding that once the appeal  
24 is filed, motions of appeal --

25 MR. WOODS: I served the thing, I've not filed it.

30

1 THE COURT: Don't interrupt me. I said once the  
2 appeal is filed I think the Court loses jurisdiction, but I  
3 will be glad -- if you want to submit a brief to me on that  
4 issue I will be glad to review it.

5 MR. WOODS: I can, Judge.

6 MR. BRACKETT: Actually, Your Honor, according to the  
7 rule once the notice is served, filing is a separate  
8 matter. The rule says if you serve it the jurisdiction  
9 transfers. I think it gives you -- the rules give you  
10 something like five days to file it after it has been  
11 served, so anyway, that's --

12 THE COURT: Okay. Were you going to say something,  
13 Mr. Woods?

14 MR. WOODS: Can you make a ruling that you're either  
15 going to hear the motion to reconsider or not while we're  
16 on the record?

17 THE COURT: While we're on the record I'm not going to

18 hear it but if you disagree and think I should hear it  
19 submit me a brief on that issue and I will consider your  
20 brief.

21 MR. WOODS: Okay. There's plenty of case law in there  
22 that says as long as the motion is pending then --

23 THE COURT: Then you don't have to file the appeal.

24 MR. WOODS: That thing, I'm going to withdraw is what  
25 I'm going to do.

31

1 THE COURT: Say that again.

2 MR. WOODS: The rules say as long as a post-trial  
3 motion is pending then everything is tolled until that is  
4 decided.

5 THE COURT: I think it says the time for filing an  
6 appeal is filed; isn't that right?

7 MR. WOODS: I'll get up a brief.

8 THE COURT: Submit me a brief and if I change my  
9 mind -- I will let you know if I change my mind.

10 (End of the hearing.)

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APPELLANT'S INITIAL BRIEF

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Chester County  
Court of Common Pleas  
Brooks P. Goldsmith, Circuit Court Judge

---

Case Number 2011-CP-12-0291

---

Robert H. Breakfield, as attorney-in-fact . . . . Respondent,

v.

Mell Woods . . . . . Appellant.

---

INITIAL BRIEF OF APPELLANT

---

Mell Woods  
P.O. Box 2603  
Lancaster, SC 29721

Counsel of Record for Respondent follows:

Moses Koon & Brackett, PC  
B. Michael Brackett  
Attorney for Respondent  
Post Office Box 100261  
Columbia, S.C. 29202

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OTHER AUTHORITIES

- §22-3-1110
- §22-3-1120
- §22-3-1130
- §27-37-20
- §27-37-40

Rule 208(b)(1)(c), SCACR

ISSUES PRESENTED

1. Is it lawful for a magistrate to proceed with an eviction action where the defendant pleads SC Statutes §22-3-1110 (Defense of Questionable Title), §22-3-1120, and also §22-3-1130, which requires discontinuance of the action where the cost bond required by SC Statute §22-3-1130 is filed?

2. Is it lawful for a magistrate to issue a "10 day Notice to Show Cause" on the mere word of someone claiming to be a landlord, in secret, and without a summons and complaint and 30 days to answer, as is required for all other classes of litigants in South Carolina?

3. Is it constitutional to have two classes of litigants in South Carolina, those who claim to be landowners and landlords, as opposed to those who are unfortunate enough to be labeled tenants?

STATEMENT OF THE CASE

This case is about respondent trying to evict appellant Mell Woods, where respondent has no legal right to proceed. The case has roots in a probate proceeding where appellant should have been a party to the proceeding but was never notified, and as a result extrinsic fraud was practiced upon the probate court. Appellant is not a tenant as is falsely claimed by respondent. This eviction case is for revenge because appellant Mell Woods is in litigation over the Will of Mrs. Hinson. Appellant purchased some land from the decedent, Mrs. Hinson. The land was purchased in good faith, for value, and without notice of any infirmity, =====. Mrs. Hinson died and Ned Gregory, II, a licensed South Carolina attorney prepared a standard probate form, or petition, #300, =====. In Section II of the form the direct question is asked: "Are you aware of any instrument or document amending or revoking the Will?" The answer was, "No." ===== Ned Gregory, II is known to the South Carolina Courts, and is the same person as, In the Matter of Ned Gregory, II., Respondent, 306 S.C. 270, 411 S.E.2d 43 (1991), where Gregory was disciplined for forging documents. Gregory filled out the probate form for the

probate court, and then obtained the signature under oath of Mr. Breakfield, the Respondent herein, knowing full well that another will existed which revoked the will that Gregory wanted probated, =====. (blanks left as space to insert Record references)

Other Information Required by Rule 208(b)(1)(c) SCACR:

The action is an appeal from magistrate court, filed June 13, 2011; the Notice of Appeal is in the Record, =====. Issue Number three, about the two classes of litigants in South Carolina, was raised in the pleadings in the magistrate court, carried forward in the Record, and ruled on by the circuit court, a Rule 59(e) Motion was filed regarding some points not ruled on, and summarily denied by the circuit court, the Honorable Brooks P. Goldsmith, presiding. The Notice of Appeal was filed on June 21, 2012, =====.

ARGUMENT

As to Issue Number 1:

South Carolina Statute §22-3-1130 makes it very clear that where there is a Question of title, that the matter be left alone as far as a magistrate court is concerned. The Record will show that appellant Mell Woods filed a verified answer which denied that respondents had any title whatsoever in the land, =====. And in addition, filed the bond and cash deposit as required to discontinue the action, Record, =====. This should have been the end of the magistrate case, but no. Here is the case in the South Carolina Court of Appeals. Clear statutes do not mean anything where revenge is involved, and where the person seeking revenge wants to get even.

As to Issue Number 2:

In South Carolina to be labeled a tenant is to be treated worse than a dog -- perhaps not a dog, because dogs do have rights, maybe a rattlesnake is a better example. The label "tenant" is nearly synonymous with sharecropper, and the South Carolina summary eviction procedure is from the old days, and is part and parcel of the sharecropper system. The "10 day Notice to Show Cause," SC Statute §27-37-20, and its counterpart SC Statute §27-37-40 fail to meet constitutional muster. If everyone else is allowed 30 days to answer, then it cannot be fair to label, and then create another class of persons with less rights.

As to Issue Number 3:

"A defendant has thirty days from the date of service of the complaint to serve his answer." Bowers v. Robinson, 311 S.C. 412, \_\_\_\_\_ (1993).

"A summons requiring an appearance in less than the statutory time is fatally and jurisdictionally defective." Rule 12 entitles a defendant to thirty days to respond. Board of Medical Examiners v. Fenwick Hall, 300 S.C. 274, \_\_\_\_\_ (1990).

An issue affecting title to land is a substantial right and should be tried in front of a jury in common pleas court, Creed v. Stokes, 285 S.C. 542, \_\_\_\_\_.

CONCLUSION

Appellant asks that the South Carolina summary eviction practice be declared unconstitutional; asks further that the magistrate action be dismissed.

Respectfully submitted,

this 29 day of October, 2012.



---

Mell Woods

P.O. Box 2603  
Lancaster, S.C. 29721

Certificate of Service follows:

APPELLANT'S DESIGNATION FOR RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Chester County  
Court of Common Pleas  
Brooks P. Goldsmith, Circuit Court Judge

---

Case Number 2011-CP-12-0291

---

Robert H. Breakfield, as attorney-in-fact . . . . Respondent,

v.

Mell Woods . . . . . Appellant.

---

DESIGNATION OF RECORD

---

Mell Woods, appellant above named hereby designates the following items to be included in the Record on Appeal: Entire circuit court Record and entire magistrate court Record in the above-styled case; probate and circuit court Record from case #'s 2008-ES-12-297, 2010-CP-12-201, certified copy of the plat entitled "Lands of Reba Hinson" stored in the Chester County Courthouse Plat Cabinet D - 174, page 3B; Land Sales Agreement between Reba P. Hinson and Mell Woods in the South Carolina Secretary of State Office.

This 29 day of October, 2012.



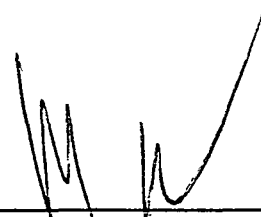
---

Mell Woods  
P.O. Box 2603  
Lancaster, SC 29721

CERTIFICATE UNDER RULE 209(c) SCACR:

The undersigned hereby certifies that no matter designated in the above Designation of Record is irrelevant to Appeal Number 2011-CP-12-0291.

This 29 day of October, 2012.



---

Mell Woods

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED  
NOV 20 2012  
SC Court of Appeals

Appeal from Chester County  
Court of Common Pleas  
Brooks P. Goldsmith, Circuit Court Judge

Case Number 2011-CP-12-0291

Robert H. Breakfield, as attorney-in-fact . . . . Respondent,

v.

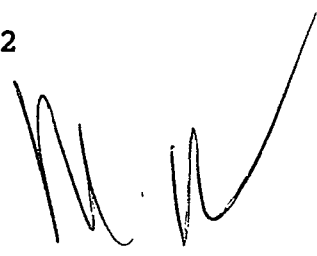
Mell Woods . . . . . Appellant.

CERTIFICATE OF SERVICE

Mell Woods hereby certifies that the within and foregoing Initial Brief, Designation of Record, and Certificate under Rule 209(c), SCACR has been served on respondent by method of placing copies in the U.S. Mail with sufficient postage addressed to:

Moses Koon & Brackett, PC  
C/O B. Michael Brackett  
P.O. Box 100261  
Columbia, SC 29202

This 29 day of October, 2012.



Mell Woods

P.O. Box 2603  
Lancaster, SC 29721

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

66307

COUNTY OF CHESTER

C/A No.: 2011-CP-12-0291

Robert H. Breakfield, as attorney-in-fact,

Plaintiff,

v.

CERTIFICATE OF SERVICE

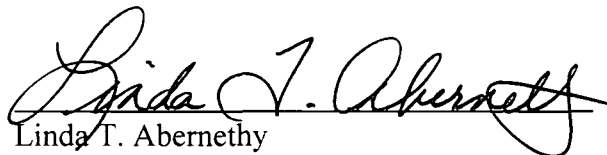
Mell Woods,

Defendant.

---

I, Linda T. Abernethy, Legal Assistant to B. Michael Brackett, Esquire, attorney for the Plaintiff in the above-captioned matter, do hereby certify that I have served the pro se Defendant, Mell Woods, with a copy of Respondent's Motion to Dismiss Appeal; to Strike Appellant's Initial Brief and Designation for the Record; and to Stay Briefing Schedule, postage prepaid and return address clearly indicated on said envelope, on this 20<sup>th</sup> day of November, 2012 at the following address:

Mell Woods  
P. O. Box 2603  
Lancaster, SC 29721  
*Defendant, pro se*

  
Linda T. Abernethy

**RECEIVED**  
NOV 20 2012  
SC Court of Appeals

# MOSES & BRACKETT, PC

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November 20, 2012

The Honorable Jenny Abbot Kitchings  
Clerk of Court, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RECEIVED

NOV 20 2012

SC Court of Appeals

Re: Breakfield, as Attorney-in-Fact v. Woods  
2011-CP-12-0291  
Appellate Case No. 2012-212318  
Our File No. 12085.3

Dear Ms. Kitchings:


Enclosed for filing please find the original and six copies of Respondent's Motion to Dismiss Appeal; to Strike Appellant's Initial Brief and Designation for the Record; and to Stay Briefing Schedule.

Enclosed is my check in the amount of \$25.00 for the required motion fee.

By copy of this letter, a copy of the enclosed Motion (s) is being served upon the Appellant.

Please return a clocked copy of the face page of the motion using the envelope provided.

Very truly yours,



B. Michael Brackett

BMB/lta  
Enclosures

cc. Robert H. Breakfield, Esquire  
Mell Woods