

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

OCT 16 2017

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Mikell R Scaborough, Master-in-Equity

Cause No. 2012CP1006835

Joann S. Reed .....Plaintiff-Appellant,

v.

Harold Salters, Johnnie Salters, Darrel Martin, Sametta Heyward, James Salters, Charles Tyler, 11-18-2016Margerette Brown, Danny Tyler, Joseph Tyler, Calvin Tyler, Willie Washington, David Tyler, George Grant, Olivia Heyward, Lisa Canady, Sylvia Grant Heyward, Janis Magwood, Tatum Grant, Abraham Grant, Ill, Lillian Sanders, Latricia Sanders-Roberts, Mary Sanders, Martha Sanders, Ruthie Mae Sanders Butler, Elizabeth Sanders, Georgiana S. Stone, Sandra S. Brown, Carolyn S. Hissong, George Sanders, Jr., William Sanders, Althea Salters, Sam Wes, Matthew Sanders, Eddie Sanders, JOHN DOE AND MARY ROE fictitious names representing unknown minors, incompetents, persons in the military service within the meaning of Title 50, United States Code, commonly referred to as The Service Members Civil Relief Act of 2003, persons imprisoned, and persons under any other legal disability and RICHARD ROE and JANE DOE, fictitious names representing unknown heirs, devisees, distributees, or personal representatives of the following deceased persons The Estate of John Salters, Viola Salters, Evelina Salters Sanders, Christina Salters, Wesley Salters, Lula Salters, Dorthy Salters, James Salters, Mary Salters-Tyler, Josephine Salters, Vermel Martin, Sam Heyward, Helen Tyler, Henrietta Sanders Grant, Abraham Grant, Abraham Grant, Jr., Eddie Sanders, George Leroy Sanders, Dorothy S. Heyward,

of Whom

Jesse Townsend, Jr. a/k/a Jessie M. Townsend, Jr.....Defendants-Appellees

Appellate Case no. 2016-002344

---

**APPELLANT'S MOTION TO RECALL REMITTITUR OR,  
IN THE ALTERNATIVE MOTION FOR NEW TRIAL**

---

Joann S. Reed  
5263 Salters Hill Rd.  
Hollywood, South Carolina 29449  
843-889-3852  
Pro Se

**MOTION TO RECALL THE REMITTITUR OR, IN THE  
ALTERNATIVE MOTION FOR NEW TRIAL**

TO THE HONORABLE PRESIDING JUSTICE, AND TO THE ASSOCIATE  
JUSTICES OF THE COURT OF APPEAL:

Appellant/petitioner, Joann S. Reed, respectfully moves this court for an  
order recalling the remittitur and permitting her to reinstate her appeal in this case.

This motion is based upon the following background and points and  
authorities.

Dated: 10-11-2017

Respectfully submitted,

Joann S. Reed  
5263 Salters Hill Rd.  
Hollywood, South Carolina 29449  
843-889-3852  
Pro Se

### **BACKGROUND**

On October 19, 2012 this action was brought by Joann S. Reed requesting Lis Pendens (Suit to Quiet Title) to determine who the owners of the property addressed **TMS. NO: 188-00-00-169** (Property Address: 5461 Salters Hill Road, Ravenel, SC 29449)

Due to the fact that when the defendant Jesse M. Townsend Jr. appeared before the court on August 17, 2015 and testified to the fact of how he became a resident on the said above property and his direct testimony, in which on two occasions he testified to the fact that he was directly not qualified and or held no legal grounds or stand for the above said property based on the South Carolina Code of Laws Title 15 - Civil Remedies and Procedures Chapter 67 Recovery of Real Property. The Lower Courts Judge Mikell R Scaborough, Master-in-Equity disregarded the testimony and the law and ruled a final order which is in direct conflict with the above mentioned law section in which court transcripts clearly show the direct conflict and unlawful claim to the property by Jesse M. Townsend Jr.

This action Final Order was appealed on November 18 2016 in order to have justice served and to directly oppose the unjust final order of the Lower Courts Judge Mikell R Scaborough, Master-in-Equity which states the Defendant meets the necessary requirements for valid adverse possession claim to the Property that is the subject of this lawsuit (**TMS # 188-00-00-169**). This also includes negligent infliction of emotional distress on the plaintiff Appellant and family.

The Appellant for hire Attorney at the time known as Maria Kiehling Brees failed to uphold her paid legal duty unto the Plaintiff Appellant during the legal process and during this initial appeal filing. She has yet to respond to the Appeals court and or the Appellant concerning proper proof of paid service to the defendant. Neither has she effectively in any manner met with or communicated with the Appellant in any way and as a direct result of her negligent behavior and mishandling of the cause, she has caused the Appeals court to send a remittitur to the lower courts. The Appellant inquired with the Appeals court clerk named Shelby that informed her of the fact that she has to wait for the court to send her information on the next step of process before filing anything in leu of Maria K Brees absence and negligence of responding to the Appeals Court as the for hire Attorney. The Appellant has not heard from the Appeals court or the Appeals court clerk since September 12, 2017 nor has she heard from the for hire Attorney. And the Appellant has never been sent her proper papers as were stated to her. All of this is also in direct violation of the Appellant Due Process of Law.

**POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

**TO RECALL REMITTITUR**

Following the order and judgment entered on July 14, 2016, in Charleston County No. 2012CP106835, appellant filed a notice of appeal on November 18, 2016.

On August 17, 2015 and May 2, 2016 the lower courts received testimony that showed that the Defendant had zero validity to the adverse possession claim to the Property based on the testimony that he gained permission for access to the subject property over and over again throughout the usage by he and his father to such property

that is the subject of this lawsuit (TMS # 188-00-00-169). And yet it was allowed and ruled upon in the lower courts as if it was a legal valid lawful claim that had met all of the requirement according to South Carolina Code of Laws Unannotated Title 15 Chapter 67 Article 3 which clearly speaks on Possession and Adverse Possession.

As further was indicated in the Plaintiff's proposed Order "...under the majority view, and actual, exclusive, open, and notorious possession without the consent of the title owner is both wrongful and adverse and will ripen into perfect title in the usual way when the status of limitations has run." 688 S.E.2d 852, 386 S.C. 437 (Ct. App. 2009) citing Knox v. Bogan, 472 S.E.2d 43, 322 S.C. 64 (1996). The lower courts ignored that permission was obtained to utilize a portion of the subject property, thus unable to meet the requirements of the Hostility element even under the most open interpretation of the majority view.

The element of exclusivity was never adequately addressed as stated in the Final Order of the lower courts. This is based on the fact that the Defendant father never resided on the property, so the Defendant Mr. Townsend Jr. is unable to tack on to any time relating to actual occupancy. As well as the father consistently asked for permissions to utilize a portion of the property for a junkyard, then the Defendant Mr. Townsend is unable to tack on to that time as it does not qualify as adverse. This is summed up in Butler v Lindsey, 361 S.E.2d 621, 624, 23 S.C. 466 (C App. 1987) and Middleton v Dupuis, 11 S.C.L. (2 Nott & McC.) 310 (1820).

The appellant called the appeals court as pro se, and the appellant is limited and lack literary ability with a feeble intellect along with the appeals court failure to give the proper rules according to South Carolina Code of Laws Section 14-17-260 (b) which

clearly states that the clerk shall issue all processes and sign all judgments. The clerk shall (b) issue all rules and notices ordered in the courts, The Panel should be willing to consider and determine if the clerk failed to comply with the South Carolina Code of Laws. This contributed to the appellant to be unaware of the Process and Rules needed to address this cause properly and in a timely manner after inquiry with the court clerk concerning the rules and next step in the process, no document ruling or order was sent to appellant. The appellant has not received any documents or communication from the for hire attorney Maria K. Brees as to this day. This has led the Appellant to proceeded Pro Se and abandoned by Legal Counsel and to file this motion to recall remittitur

Powell v. Alabama, 287 U.S. 45 (1932), involved the conception of the due process of law clause. "While the question has never been categorically determined by this court, a consideration of the nature of the right and a review of the expressions of this and other courts, makes it clear that the right to the aid of counsel is of this fundamental character. It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment, and that they, together with a legally competent tribunal having jurisdiction of the case, constitute basic elements of the constitutional requirement of due process of law. The words of Webster, so often quoted, that, by "the law of the land" is intended "a law which hears before it condemns" have been repeated in varying forms of expression in a multitude of decisions." The rule that no one shall be personally bound until he has had his day in court was as old as the law, and it meant that he must be cited to appear and afforded an opportunity to be heard.

Bute v. Illinois, 333 U.S. 640 (1948), involved the due process of law clause "The

right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect."

The Panel should consider the Pro Se Context, federal courts overlooked the nonprofessional in a professional system and the limited literary ability of appellant along with the denial of a jury trial puts the decision in direct conflict with the decision of other circuits.

The appellant reserves the right to submit a petition for panel rehearing or rehearing en banc as pro se, to the best of her ability considering appellant is limited and lack literary ability with a feeble intellect. Appellant desires to submit the petition in a timely manner by certified mail. Which the opportunity was denied based on the court clerk misinformation and lack of information thereof.

The practical implications of the panel's decision further support granting review. By opening the door to suits against officials challenging official government actions, the

panel's decision potentially creates jurisdiction in this Circuit over every human rights case in the world—an outcome that, is very needed in the legal system. Indeed, if a Pro Se litigant with limited literary abilities could be heard and obtain judicial review of virtually any official government action simply “by (the) artful pleading” of suing the responsible officer (person in their official capacity), the statute would become “optional.” And the flood of potential suits allowed by the panel decision may well include challenges to the actions of important allies of the Official persons. See *Belhas v. Ya'alon*, 515 F.3d 1279 (D.C. Cir. 2008).

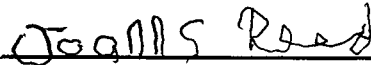
If the Due Process Law Clause applies to Pro Se litigants that have been denied the right to equal time in the court of law to present argument and the right to be given the proper rules and documents along with being limited and or lack the literary abilities and if such application is unconstitutional, rehearing should be granted to determine the proper remedy. If the Due Process Law Clause does apply than the appellant should be granted the opportunity to properly submit what is needed and be allowed to resubmit the appeals: See US Constitution Amendment Article Fourteen.

Appellant immediately telephoned the South Carolina Court of Appeals to ask for assistance in reinstating his appeal. Appellant, a layperson of the law, should not be penalized for being ignorant of appellate procedures. (*People v. Davis* (1965) 62 Cal.2d 806.) Moreover, the court must consider appellant's state of health and the bewilderment she must have felt in attempting to provide the court with the proper filings. Appellant sincerely believed that she had proceeded properly and that she had done her best as legal representation on appeal. (*People v. Hickok* (1949) 92 Cal.App.2d 539.)]

Appellant respectfully requests this court to consider her filings in light of the standards announced in *People v. Ribero* (1971) 4 Cal.3d 55, 65, that the power of appellate courts to grant relief from default ". . . is to be liberally construed to protect the right to appeal."

Dated: 10-11-2017

Respectfully submitted,

A handwritten signature in cursive script that reads "Joann S. Reed". The signature is written in black ink and is positioned above a horizontal line.

Joann S. Reed

5263 Salters Hill Rd.

Hollywood, South Carolina 29449

843-889-3852

Pro Se

**RECEIVED**

OCT 16 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Mikell R Scaborough, Master-in- Equity

Cause No. 2012CP1006835

Joann S. Reed.....Plaintiff-Appellant,

v.

Harold Salters, Johnnie Salters, Darrel Martin, Sametta Heyward, James Salters, Charles Tyler, 11-18-2016.Margerette Brown, Danny Tyler, Joseph Tyler, Calvin Tyler, Willie Washington, David Tyler, George Grant, Olivia Heyward, Lisa Canady, Sylvia Grant Heyward, Janis Magwood, Tatum Grant, Abraham Grant, Ill, Lillian Sanders, Latricia Sanders-Roberts, Mary Sanders, Martha Sanders, Ruthie Mae Sanders Butler, Elizabeth Sanders, Georgiana S. Stone, Sandra S. Brown, Carolyn S. Hissong, George Sanders, Jr., William Sanders, Althea Salters, Sam Wes, Matthew Sanders, Eddie Sanders, JOHN DOE AND MARY ROE fictitious names representing unknown minors, incompetents, persons in the military service within the meaning of Title 50, United States Code, commonly referred to as The Service Members Civil Relief Act of 2003, persons imprisoned, and persons under any other legal disability and RICHARD ROE and JANE DOE, fictitious names representing unknown heirs, devisees, distributes, or personal representatives of the following deceased persons The Estate of John Salters, Viola Salters, Evelina Salters Sanders, Christina Salters, Wesley Salters, Lula Salters, Dorthy Salters, James Salters, Mary Salters-Tyler, Josephine Salters, Vermel Martin, Sam Heyward, Helen Tyler,

Henrietta Sanders Grant, Abraham Grant, Abraham Grant, Jr., Eddie Sanders, George Leroy Sanders, Dorothy S. Heyward,

of Whom

Jesse Townsend, Jr. a/k/a Jessie M. Townsend, Jr.....Defendants-Appellees

Appellate Case no. 2016-002344

RECEIVED

OCT 16 2017

**PROOF OF SERVICE**

~~SC Court of Appeals~~

The undersigned hereby certifies that true copy of the Motion to Recall Remittitur has been served upon **D. Nathan Davis, Esq., Davis Law SC, 12 Carriage Lane, Suite A, Charleston, South Carolina, 29407**, and **Kelvin M. Huger, Esq., Counts & Huger, 27 Gamecock Avenue #200 Charleston, South Carolina 29407**, by Unites States Certified Mail, prepaid on the 10-10-2017.

*Joann S. Reed*

Joann S. Reed  
5263 Salters Hill Rd.  
Hollywood, South Carolina 29449  
843-889-3852  
Pro Se

10/11/2017

Joann S. Reed  
5263 Salters Hill Rd.  
Hollywood, South Carolina 29449  
843-889-3852  
Pro Se

RECEIVED

OCT 16 2017

~~SC Court of Appeals~~

**CAUSE NO: 2012 CP 106835**

SC Court of Appeals  
Po Box 11629  
Columbia, SC 29211  
1220 Senate St.  
Columbia, SC 29201

RE: Appeal Recall Remittitur, Motion and Affidavit to Proceed Forma Pauperis,

Dear Court of Appeals

I Joann S. Reed is requesting an Appeal Recall Remittitur, Motion and Affidavit to Proceed Forma Pauperis, and in the above mentioned case here, I am giving a timely notice of intention to appeal to this court and is serving it to the opposing party (s) in a timely manner and according to the statutes. It is the duty of the circuit Judge to not dismiss the appeal and or any other action at this time,

Thanks for your time and cooperation in this sensitive matter that is before the courts.

Sincerely yours,

Joann S Reed

Joann S. Reed

Joann S. Reed  
5263 Salters Hill Rd.  
Hollywood, South Carolina 29449  
843-889-3852  
Pro Se

7016 2070 0000 4294 7151

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

CHARLESTON SC 29407  
**OFFICIAL USE**

Certified Mail Fee	\$3.35	0470
\$	\$0.00	10
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$6.65	10/12/2017
Total Postage and Fees	\$10.00	
Sent To: <i>Kevin Huger Esq., County Clerk</i>		
Street and Apt. No., or PO Box No. <i>21 Gamecock Avenue #206</i>		
City, State, ZIP+4® <i>Charleston S.C. 29407</i>		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 2070 0000 4294 7151

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

CHARLESTON SC 29407  
**OFFICIAL USE**

Certified Mail Fee	\$3.35	0470
\$	\$0.00	10
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	Postmark Here
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$6.65	10/12/2017
Total Postage and Fees	\$10.00	
Sent to <i>D. Nathan Davis Esq. Davis</i>		
Street and Apt. No., or PO Box No. <i>12 Carriage Lane Suite A Low SC</i>		
City, State, ZIP+4® <i>Charleston S.C. 29407</i>		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**RECEIVED**

OCT 16 2017

SC Court of Appeals

7016 2070 0000 4294 7175

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

**CERTIFIED MAIL**<sup>®</sup>



7016 2070 0000 4294 7175



1024



29201

U.S. POSTAGE  
PAID  
RAVENEL, SC  
29470  
OCT 12 17  
AMOUNT

**\$4.50**

R2305K136773-10



RECEIVED

OCT 16 2017

SC Court of Appeals

FROM:

JOAnn S. Reed  
5263 Salters Hill Road  
Hollywood S.C. 29449

TO:

SC Court of Appeals  
P.O. Box 11629  
1220 Senate St.  
Columbia SC 29201