

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM EDGEFIELD COUNTY  
Special Referee for Common Pleas

John F. Byrd, Jr., Special Referee

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Case No. 2014-CP-19-097  
Appellate Case # 2017-000997

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Beverly Ann Gilchrist,

Appellant,

v.

Florence Miles, Jimmy Glover, Albert Glover, Tommy Glover, Mary M. Bibbs, Annie Jefferson, Barry Shedrick, Myra S. Padgett, Wade Shedrick, Randy Glover, Genie Miles, Freddie Glover, Jr. Aaron Glover, Steven R. Glover, Terrie G. Frazier, Odell Glover, Doretha Sander, Michael Holmes, Jackie James, Donnell Hampton, Yvonne Forrest...Including any children and heirs at law or distributees and devisees and all persons entitled to claim under or through them, and all other persons unknown claiming any right, title or interest in a lien upon the real estate described in the Complaint herein, any unknown adults being a class designated as John Doe; and any unknown infants, minors or persons under a legal disability including those in the military service of the United States of America, being a class designated as Richard Roe,

Respondents,

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DEC 06 2017  
SC Court of Appeals

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INITIAL BRIEF OF RESPONDENT  
Odell Glover

---

Jennifer P. Sumner  
Post Office Box 502  
Edgefield, South Carolina 29824  
(803) 637-7034  
Attorney for Respondent  
Odell Glover

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*While finding it extremely difficult to interpret the specific issues raised by the Appellant, an interpretation of those matters as described under heading Appellant's "First" Cause of Action" section on pages 14 and 15 of Appellant's Initial Brief yields the following assumed issues:*

1. That the Court erred in not ordering a partition of the subject parcels, however, this is contradicted on page 15 #4 wherein Appellant requests the property be found incapable of partition in kind.
2. That the Court erred in not ordering the right for each of the Defendants to purchase the interest of the Appellant and other Defendants at a price determined by the Court.
3. That the Court erred in not awarding Appellant attorney fees and costs.
4. That the Court erred in not awarding the Appellant an equitable lien in the amount of property taxes paid on portions of the subject property.

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TABLE OF AUTHORITIES

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## STATEMENT OF THE CASE

On April 7, 2014 the Appellant brought this action petitioning the Court for a Partition of certain real property and the granting of an equitable lien in return for property taxes paid thereon. On August 20, 2014 an Amended Complaint was filed adding previously omitted necessary parties, one of which was Respondent herein. On September 30, 2014, Respondent herein answered and counterclaimed asking that the Court determine the issues at hand and claiming attorney fees and costs.

On January 22, 2015, an Order of Reference was filed referring the action to Special Referee John F. Byrd, Jr. and a Hearing was scheduled for April 13, 2015. At the commencement of the hearing it was discovered that additional necessary parties had been omitted from the Appellant's Amended Summons and Complaint and a request for a continuance was granted to the Appellant in order to properly serve those known omitted parties as well as service by publication for any unknown parties.

A hearing on the matter was held on February 5, 2016 at which the Court found in its order dated June 23, 2016 that the properties could not be partitioned equitably in kind and as such should be sold at public sale by the Special Referee with certain costs deducted therefrom and the balance of the proceeds being divided among the titleholders in proportion to their ownership interests. The Appellant's request for an equitable lien was specifically denied. Attorney fees and costs for the Appellant were granted in the amount of \$3,500.00 and for Respondent in the amount of \$1,500.00. The Appellant filed a Motion for Reconsideration on July 12, 2016 which was denied by the Court in its order dated August 4, 2016.

The Appellant filed on September 6, 2016 a Notice of Appeal through her attorney, and

subsequently a Motion for Extension of Time for Filing of Initial Brief which was granted through January 3, 2017. Subsequently the Appellant was granted a request to dismiss said appeal by that Order filed January 9, 2017, with said Remittitur being dated January 26, 2017.

A Supplemental Meeting as contemplated in the Order of June 23, 2017 was convened by the Special Referee on February 28, 2017 for logistical and clarification purposes to determine which properties were to be sold at Public Sale and the percentages of ownership possessed by each heir. An Order dated March 23, 2017 was issued by the Special Referee and with the mutual consent of all attorneys present, specifying the tracts to be included in the sale and the percentage of ownership by heir.

A Notice of Appeal was again filed on April 21, 2017 by the Appellant through her attorney and on April 24, 2017 by the Appellant pro se, as to the original order dated August 4, 2016 and the Supplemental Order dated March 23, 2017. Thereafter, Appellant's attorney filed a Motion to Be Relieved as Counsel which was granted in that Order filed May 30, 2017. The Appellant in a pro se capacity, subsequently made attempts at filing an Initial Brief with documents filed on August 7, 2017, August 25, 2017, September 21, 2017, September 29, 2017 and October 19, 2017.

After receiving a copy of a letter from the Court to the Appellant stating the Respondent had not filed a response brief, Respondent filed a Motion for Extension of Time to File the Respondent's Brief which was granted through December 6, 2017.

#### ARGUMENTS

1. That the Court erred in not ordering a partition of the subject parcels (however, this is contradicted on page 15 #4 wherein Appellant requests the property be found incapable of partition in kind).

The Court ruled properly based on the evidence presented that there was no practical or

equitable manner in which to partition the 3.14 acres of property as between the nineteen titleholders and their varying percentages of interest held. When the court determines a partition cannot be fairly and equally made, the court may order a sale of the property and a division of the proceeds according to the rights of the parties. S.C. Code Ann. 15-61-100 (2005) & 15-61-50 (2005). The partition action must be fair and equitable to all parties of the action. Pruitt v. Pruitt, 298 S.C. 411, 380 S.E.2d 862 (Ct. App. 1989).

Under the particular facts of this case, it would be impractical to attempt to divide this small amount of acreage between nineteen titleholders, each holding their interest through inheritance of a family member, leaving each titleholder with as much sentimental attachment as the others.

The Court specifically stated in its order that from “both direct and cross examination of all witnesses a partition in kind of the properties would not be feasible, nor equitable to the parties involved. (See Order of June 23, 2016.)

Further, the appellant failed to follow the instructions of Rule 208 (b)(1)(B) SCACR which require a concise and direct statement as to each issue of the appeal, leaving the appellate court with the right to disregard broad general statements, therefore the Respondent would ask for the herein stated issue to be disregarded based thereon.

2. That the Court erred in not ordering the right for each of the Defendants to purchase the interest of the Appellant and other Defendants at a price determined by the Court.

This issue was not presented at the hearing during the Appellant’s case and therefore not addressed in the Order of June 23, 2016 and therefore not a proper ground for appeal.

Further, the appellant failed to follow the instructions of Rule 208 (b)(1)(B) SCACR which require a concise and direct statement as to each issue of the appeal, leaving the appellate court with

the right to disregard broad general statements, therefore the Respondent would ask for the herein stated issue to be disregarded based thereon.

3. That the Court erred in not awarding Appellant attorney fees and costs.

The Court did in fact award Appellant attorney fees as to those fees and costs related to the partition action in the amount of \$3,500.00 payable to Herbert E. Buhl, III, and payable from the proceeds of the ultimate public sale of the property. (Rule 71(d)(3) SCRCPP). The Court properly held that while there were allegations of other legal expenses paid by the Appellant, there was no substantiation as to who rendered these legal services and for what purpose.

Further, the appellant failed to follow the instructions of Rule 208 (b)(1)(B) SCACR which require a concise and direct statement as to each issue of the appeal, leaving the appellate court with the right to disregard broad general statements, therefore the Respondent would ask for the herein stated issue to be disregarded based thereon.

4. That the Court erred in not awarding the Appellant an equitable lien in the amount of property taxes paid on portions of the subject property.

The Court found that while testimony was presented by the Appellant as to her payment of certain years of property taxes, there was also contradictory testimony presented by other Defendants of their payment of certain years of property taxes. (Transcript page 95-99). There was also evidence presented of certain of the subject tracts being sold at tax sales to later be redeemed, however, it was unclear as to who contributed funds and how much. (See Order dated June 23, 2016.) Therefore, the Court properly ruled that there being no clear and uncontradicted evidence or testimony of what amounts were paid by which titleholders, there was no equitable means by which to attribute certain

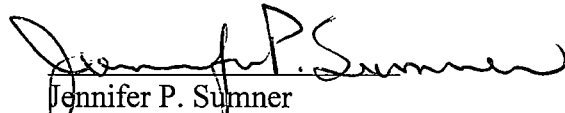
amounts to certain titleholders for any reimbursements or equitable liens therefor.

Further, the appellant failed to follow the instructions of Rule 208 (b)(1)(B) SCACR which require a concise and direct statement as to each issue of the appeal, leaving the appellate court with the right to disregard broad general statements, therefore the Respondent would ask for the herein stated issue to be disregarded based thereon.

#### CONCLUSION

For the reasons stated, the Respondent respectfully requests this Court affirm the judgment of the probate court.

Respectfully submitted,



Jennifer P. Sumner  
Post Office Box 502  
Edgefield, South Carolina 29824  
803-637-7034  
Attorney for Respondent  
Odell Glover

December 5, 2017

**PROOF OF SERVICE OF RESPONDENT'S BRIEF & DESIGNATION OF  
MATTERS**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM EDGEFIELD COUNTY  
Special Referee for Common Pleas

John F. Byrd, Jr., Special Referee

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Case No. 2014-CP-19-097  
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Annie Jefferson, Barry Shedrick, Myra S.  
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Genie Miles, Freddie Glover, Jr. Aaron  
Glover, Steven R. Glover, Terrie G. Frazier,  
Odell Glover, Doretha Sander, Michael  
Holmes, Jackie James, Donnell Hampton,  
Yvonne Forrest...Including any children and  
heirs at law or distributees and devisees and  
all persons entitled to claim under or through  
them, and all other persons unknown  
claiming any right, title or interest in a lien  
upon the real estate described in the  
Complaint herein, any unknown adults being  
a class designated as John Doe; and any  
unknown infants, minors or persons under a  
legal disability including those in the military  
service of the United States of America,  
being a class designated as Richard Roe,

Respondents

Respondent.

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SC Court of Appeals

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PROOF OF SERVICE

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I certify that I have served the Respondent's Initial Reply Brief and Designation of Matters dated December 5, 2017 on the attached list of Respondents by depositing a copy of it in the United States Mail, postage prepaid, on December 5, 2017 addressed to the addresses as they appear on the attached list.



Jennifer R. Sumner

Post Office Box 502

Edgefield, South Carolina 29824

(803) 637-7034

Attorney for Respondent Odell Glover

December 5, 2017  
Edgefield, SC

**PROOF OF SERVICE  
RESPONDENTS**

Mary M. Bibbs  
127 SE Diggs Road  
Trenton, SC 29847

Aaron Glover  
3312 Highway 19  
Trenton, SC 29847

Annie Jefferson  
3350 Highway 19  
Trenton, SC 29847

Terrie Frazier  
3312 Highway 19  
Trenton, SC 29847

Barry Shedrick  
1131 Watson Road  
Trenton, SC 29847

Albert Glover  
123 Diggs Rd.  
Trenton, SC 29847

Myra S. Padgett  
1131 Watson Road  
Trenton, SC 29847

Tommy Glover  
200 Greenland Drive  
North Augusta, SC 29841

Wade Shedrick  
1131 Watson Road  
Trenton, SC 29847

Patrick A. McWilliams, Esquire  
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Aiken, SC 29802

Randy Glover  
325 Parker Street  
Johnston, SC 29832

Freddie Glover, Jr.  
325 Parker Street  
Johnston, SC 29832

Florence Miles  
31 Carrie Lane  
North Augusta, SC 29860

Jimmy Glover  
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Trenton, SC 29847

Steven Glover  
3312 Highway 19  
Trenton, SC 29847

**PROOF OF SERVICE OF RESPONDENT'S REPLY BRIEF &  
DESIGNATION OF MATTERS**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM EDGEFIELD COUNTY  
Special Referee for Common Pleas

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Case No. 2014-CP-19-097  
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Holmes, Jackie James, Donnell Hampton,  
Yvonne Forrest...Including any children and  
heirs at law or distributees and devisees and  
all persons entitled to claim under or through  
them, and all other persons unknown  
claiming any right, title or interest in a lien  
upon the real estate described in the  
Complaint herein, any unknown adults being  
a class designated as John Doe; and any  
unknown infants, minors or persons under a  
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service of the United States of America,  
being a class designated as Richard Roe,

Respondents

Respondent.

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PROOF OF SERVICE

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I certify that I have served the Respondent's Initial Reply Brief and Designation of Matters dated December 5, 2017 on Beverly Ann Gilchrist by depositing a copy of it in the United States Mail, postage prepaid, on December 5, 2017 addressed to her address of record 132 Samuel E. Diggs Rd., Trenton, SC 29847.



Jennifer P. Sumner  
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Attorney for Respondent Odell Glover

December 5, 2017  
Edgefield, SC

SUMNER LAW FIRM, LLC  
ATTORNEY AT LAW

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Jennifer P. Sumner  
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December 5, 2017

**VIA REGULAR USPS MAIL**

(See attached list of Respondents)

Re: Beverly Gilchrist v. Florence Miles, et al.  
Appellate Case No. 2017-000997

Dear Ladies and Gentlemen:


Please find enclosed on behalf of Respondent Odell Glover the following:

- Motion to Dismiss & Proof of Service thereof
- Respondent's Initial Brief and Designation of Matters, and Proof of Service thereof

Please note you are receiving copies of these documents because you are named respondents in Ms. Gilchrist's appeal.

Sincerely,

SUMNER LAW FIRM, LLC



Jennifer P. Sumner

JPS/hpk

cc: Odell Glover

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DEC 06 2017

SC Court of Appeals

**SUMNER LAW FIRM, LLC**  
ATTORNEY AT LAW

300 Main Street  
Post Office Box 502  
Edgefield, South Carolina 29824

Jennifer P. Sumner  
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Telephone (803) 637-7034  
Facsimile (803) 637-7117

December 5, 2017

**VIA UPS OVERNIGHT**

Jenny Abbott Kitchings  
Clerk  
SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

Re: Beverly Gilchrist v. Florence Miles, et al.  
Appellate Case No. 2017-000997

Dear Ms. Kitchings:

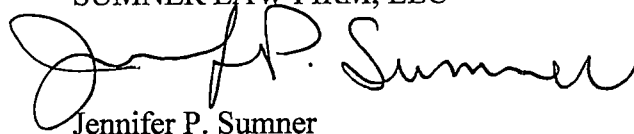
Please find enclosed on behalf of Respondent Odell Glover the following:

- Motion to Dismiss (original with 6 copies), Proof of Service thereof, filing fee
- Respondent's Initial Brief and Designation of Matters, and Proof of Service for other parties.

Please let me know if you need anything further at this time.

Sincerely,

SUMNER LAW FIRM, LLC



Jennifer P. Sumner

JPS/hpk

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SC Court of Appeals

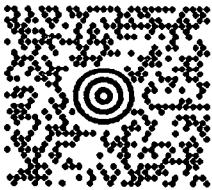
JENNIFER P. SUMNER  
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1 OF 1

**SHIP TO:**

JENNY ABBOTT KITCHINGS, CLERK  
SC COURT OF APPEAL  
1220 SENATE STREET  
**COLUMBIA SC 29201**



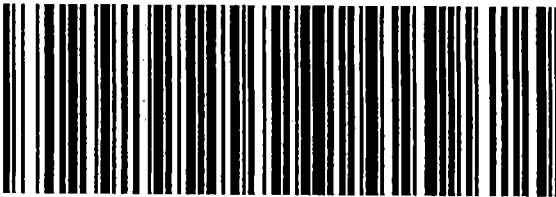
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