

THAT STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No.: 2010-CP-10-00250

RECEIVED

MAR 20 2013

SC Court of Appeals

Eugene Gathers Respondent,

v.

Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry Wright, Jr., Ernest McKnight, along with John Doe or Mary Roe, fictitious names to designate minors, infants, person of unsound mind, under disability or incompetent. Person in prison, persons in the military service within meaning of Title 50, United States Code, commonly referred to as The Soldiers and Sailors Civil Service Act of 1940, if any, and Richard Roe and Sarah Roe, fictitious names to designate the unknown heirs, devisees, distributes, issue, executors, administrators, successors or assigns of Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry Wright, Jr., also all other unknown person claiming any right, title, estate of lien upon the real estate which is the subject of this action, Defendants,

of whom Ernest McKnight is the Appellant.

RECORD ON APPEAL

Other Counsel of Record:

Willie B. Heyward, Esq.
Heirs Property Law Center, LLC
27 Gamecock Ave., Ste. 200
Charleston, SC 29407
(843) 225-8754
Attorney for Appellant, Ernest McKnight

Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
PO Box 600
Charleston, SC 29402
Attorney for Respondent

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10- 250

John Wright,)
)
Plaintiff,)
)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)

Defendants.)

FILED
2010 JAN 12 AM 11:08
JULIE J. ARMSTRONG
CLERK OF COURT

LIS PENDENS



TO THE DEFENDANTS ABOVE NAMED:

NOTICE IS HEREBY GIVEN that an action is about to be commenced by the Plaintiff above-named against the Defendants, and that the following real property is affected by this litigation:

ALL that certain lot, parcel, or tract of land situated, lying and being in Adams Run Township, formerly of Colleton County and now of Charleston County, in the State of South Carolina, containing ten and one-fourth acres, more or less, and bounded as follows: North by Jacksonboro Road, East by lands of Abner Young, and on the South and West by lands formerly owned by J. T. Mitchell, now owned by Fitzsimons, as will more fully appear when reference is had to plat of property made by Wm. Horne, Surveyor, and dated March 12, 1875.

BEING the same property conveyed to Ned Wright by Deed of Margaret Singleton and J. William Washington dated January 21, 1908, and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 31, at Page 86 on January 30, 1908, and recorded in the Office of the Register of Deeds for Charleston County in Deed Book N27, at Page 19.

TMS No. 245-00-00-026



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P. O. Box 600
Charleston, SC 29402
(843) 723-9804

Attorneys for the Plaintiff

Date: 11/12/10
Charleston, South Carolina



STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10- 100

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
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Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
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devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
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Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

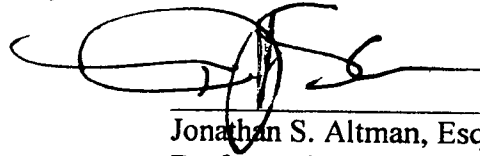
SUMMONS

2010 JAN 12 AM 11:07
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiff's attorney, Jonathan S. Altman, Derfner, Altman, & Wilborn, LLC, 575 King Street, Suite B (29403), P. O. Box 600, Charleston, South Carolina, 29402, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

Date: 11/21/0
Charleston, South Carolina

Attorney for the Plaintiff

4

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
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Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)

Defendants.)

COMPLAINT

Suit to Quiet Title
(Non-Jury)

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2010 JAN 12 AM 10:58
JULIE J. ARMSTRONG
CLERK OF COURT

The Plaintiff would respectfully show unto this honorable court as follows:

1. That the Plaintiff, John Wright (hereinafter "Plaintiff"), is a grandson of Ned Wright (hereinafter referred to as "Decedent") and the sole heir and son of Decedent's daughter, Hattie W. Gaston, who died in 1982.
2. That some of the defendants, including Defendant Ernest McKnight, are residents of Charleston County and the State of South Carolina.
3. By virtue of the subject property being situated in the County of Charleston, State of South Carolina, Plaintiff alleges that this Court possesses subject matter and *in personam* jurisdiction in this action.
4. That the Plaintiff commences this action against the defendants named herein and John Doe; adults and Mary Roe, infants, insane persons, incompetents being fictitious names designating a class of persons, known or unknown, claiming any right, title, estate, interest in or lien upon, the parcel of real estate that is the subject of this action and that it is proper for the Court to appoint a Guardian ad Litem during the pendency of this action to protect any such interests that may exist as to these parties.
5. That joined as Defendants are other persons unknown, claiming any right, title, estate, interest in or lien upon the real estate described in the Complaint herein.
6. That the Plaintiff does not know the true names of all defendants, including persons unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the Complaint adverse to Plaintiff's interest or any cloud on Plaintiff's interest, and therefore sues them by those fictitious names, Plaintiff is informed and believes, and on that basis alleges, that each such defendant claims, or may claim, some interest in the real property described in this Complaint.



7. That any claim of an estate or interest in the real property by the unknown defendants would be adverse to the interest of the Plaintiff.

8. That the real property (hereinafter "the property") that is the subject of this action is located in Charleston County, State of South Carolina, and is more specifically described as follows:

ALL that certain lot, parcel, or tract of land situated, lying and being in Adams Run Township, formerly of Colleton County and now of Charleston County, in the State of South Carolina, containing ten and one-fourth acres, more or less, and bounded as follows: North by Jacksonboro Road, East by lands of Abner Young, and on the South and West by lands formerly owned by J. T. Mitchell, now owned by Fitzsimons, as will more fully appear when reference is had to plat of property made by Wm. Horne, Surveyor, and dated March 12, 1875.

BEING the same property conveyed to Ned Wright by Deed of Margaret Singleton and J. William Washington dated January 21, 1908, and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 31, at Page 86 on January 30, 1908, and recorded in the Office of the Register of Deeds for Charleston County in Deed Book N27, at Page 19.

TMS No. 245-00-00-026

9. That the Decedent acquired the subject property by deed dated January 21, 1908 and recorded in the Colleton County RMC Office on January 30, 1908 and designated as TMS No. 245-00-00-026.

10. That the Plaintiff desires to have this Court determine the parties' respective interests in the property.

11. Defendant Ernest McKnight is named as a defendant herein by virtue of Defendant McKnight's status as an adjacent property owner and Plaintiff's belief that Defendant McKnight may claim an interest in the property.

12. That Decedent died intestate leaving as his heirs and distributees at law, his children, Defendants Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel

Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright and Henry Wright. Upon information and belief, the estates of said children of Decedent have not been probated and they are therefore identified as defendants herein.

13. Defendant Wright died during the 1960's and was survived by three children, Defendants Oscar Wright, Leroy Wright and a third son whose name is unknown. Defendants Oscar Wright and Leroy Wright have since died. Upon information and belief, their estates have not been probated and they are identified as Defendants.

14. Defendant Edward Wright died during the 1970's. Upon information and belief, his estate has not been probated and he is identified as a Defendant. Defendant Edward Wright was survived by two children, Defendants Delores Wright and Carolyn Wright, who, upon information and belief, are the sole heirs of his estate.

15. Defendant Samuel Wright died during the 1960's. Upon information and belief, Defendant Samuel Wright's estate has not been probated and he is identified as a Defendant in this action. Defendant Samuel Wright was survived by three children, Harold Wright, Charles Wright and Samuel Wright, Jr. who have all since died. Upon information and belief, their estates have not been probated and they are identified as Defendants.

16. Defendants James Wright and his wife, Hattie Wright, died during the 1960's. Neither Defendants James Wright or Hattie Wright's estates have been probated and they are identified as Defendants in this action. Upon information and belief, Defendants James Wright and Hattie Wright had no children.

17. Defendant Earline Wright Maxwell is deceased and her estate was not probated. Upon information and belief, Defendant Earline Wright Maxwell was survived by one

child, who has since died. Plaintiff has no information or belief as to whether Defendant Earline Wright Maxwell's child predeceased her or was survived by any heirs.

18. Defendant Wilmenia Wright died during the 1960's. Upon information and belief, her estate was not probated and she is identified as a Defendant in this action. Defendant Wilmenia Wright was predeceased by her spouse and, upon information and belief, was survived by no children.

19. Defendant Henry Wright died in 1982. His estate has not been probated and he is identified as a Defendant herein. Upon information and belief, Defendant Henry Wright was survived by his spouse, Defendant Ernestine Wright, who has since died, along with one child, Defendant Henry Wright, Jr., who died on June 26, 1997. Upon information and belief, the Estates of Ernestine Wright and Henry Wright, Jr. have not been probated and they are identified as Defendants herein.

20. Plaintiff paid taxes and maintained possession of the property for a period of over twenty years and that such possession was open, notorious, hostile and continuous for the stated period of time and as such constituted an ouster of all other heirs and possible claimants of the property. As a result of said acts, title to the subject parcel should vest in Plaintiff because of the ouster of all other claimants through adverse possession of the property.

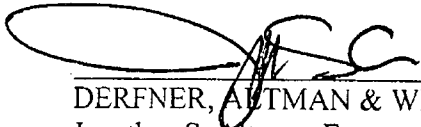
21. Plaintiff possesses no knowledge or belief as to the existence of any other heirs of Decedent, defendants or interested parties other than those individuals identified herein. Plaintiff brings this action for the purpose of having an order issued by the Court recognizing Plaintiff's holding of fee simple title to the property. That unknown Defendants may exist or be deceased with heirs having been undetermined. Therefore, a

Guardian ad Litem should be appointed to represent the interests of said unknown persons.

WHEREFORE, Plaintiff prays that this Court inquire as to the matters herein and adjudge and declare:

1. That Plaintiff is the owner of the subject property holding fee simple title thereto;
2. That Plaintiff has acquired title to the subject property through adverse possession; and
3. That Defendants named and all entities joined as Defendants in this action in the fictitious names of John Doe, adults and Mary Roe, infants, insane persons, incompetents be declared forever barred of and from any claim, right, title, estate, interest and/or lien upon the parcel of real estate above described or any part thereof and that they be barred from claiming any right, title, estate, interest or lien thereon.

Date: Jan 12, 2010
Charleston, South Carolina


DERFNER, ALTMAN & WILBORN, LLC
Jonathan S. Altman, Esq.
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
843-723-9804

Attorney for the Plaintiff

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-260

John Wright,)
)
Plaintiff,)
)
vs.)
)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
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persons in the military service within)
meaning of Title 50, United States)
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Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
)
)
Defendants.)

ORDER FOR GUARDIAN AD LITEM

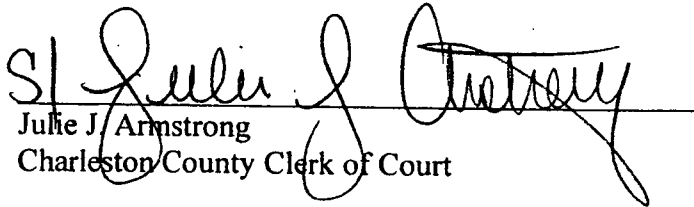
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JULIE J. ARMSTRONG
CLERK OF COURT

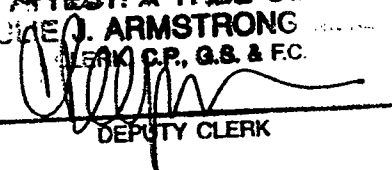
FILED

Marcus W. Meetze, Esquire, a member of the South Carolina Bar, is a qualified and responsible person to be appointed; and it further appears that this action was initiated to quiet title to real property and that there may be minors, imprisoned or incompetent persons or members of the military service, known and unknown, who have or claim an interest in the properties described in the Amended Complaint.

It further appears that Marcus W. Meetze, Esquire, is an attorney licensed to practice in the State of South Carolina and has been in practice for several years and is well versed in probate and real estate law and is fully competent to understand and protect the rights of the persons who he is to represent; that he has no interest adverse to such persons whose interest he is to represent, is not connected or associated with the attorneys or counsel for the adverse parties and is not the attorney for the adverse party.

IT IS THEREFORE ORDERED that Marcus W. Meetze, Esquire, be and he is hereby appointed Guardian ad Litem Nisi.


Julie J. Armstrong
Charleston County Clerk of Court

ATTEST A TRUE COPY
JULIE J. ARMSTRONG
CLERK C.P., G.S. & F.C.
By 
DEPUTY CLERK

January 12, 2010
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-260

John Wright,)
)
Plaintiff,)
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vs.)
)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
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of 1940, if any, and Richard Roe and)
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Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
)
Defendants.)

ORDER OF PUBLICATION

FILED
2010 JAN 12 AM 11:06
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

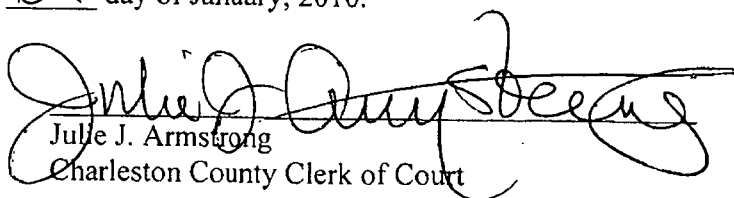
IT APPEARING to my satisfaction from the Complaint of the Plaintiff on file in this action, that the above entitled action has been commenced and is now pending; that the Complaint has been filed with the Clerk of Court of Common Pleas, Ninth Judicial Circuit for Charleston County, and that the Plaintiff has brought a cause of action as is fully set forth in the said Complaint.

IT FURTHER APPEARING that this Court has jurisdiction of the Plaintiff and his cause of action, and as appears from the attached Affidavit, that the attorney for the Plaintiff is unable, with due diligence, to make service of the Summons of the said action upon the said Defendants who may be unknown to the Plaintiff.

NOW, THEREFORE, on motion of Jonathan S. Altman, Attorney for the Plaintiff, it is hereby

ORDERED, ADJUDGED AND DECREED that the service of the Summons upon Defendants be made by publication in The Post & Courier, a newspaper published in the City of Charleston, State of South Carolina, which said newspaper is hereby designated as most likely to give notice to the said Defendants, once a week for three consecutive weeks.

IT IS SO ORDERED this 12 day of January, 2010.


Julie J. Armstrong
Charleston County Clerk of Court

Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-260

John Wright,)
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Plaintiff,)
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vs.)

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Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)

Defendants.)

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2010 JAN 12 AM 11:06
JULIE J. ARMSTRONG
CLERK OF COURT

AFFIDAVIT OF PUBLICATION

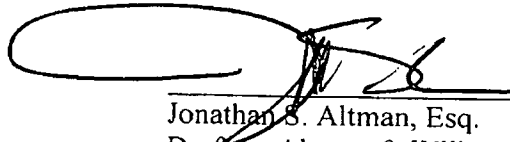
I, Jonathan S. Altman, represent Plaintiff John Wright (hereinafter "Plaintiff"), in the above matter. Upon information and belief, the below named Defendants are deceased and their estates have not been probated:

1. Hattie Wright Gaston;
2. Annie M. Wright;
3. Edward Wright;
4. Samuel Wright;
5. James Wright;
6. Earline Wright Maxwell;
7. Wilmenia Wright;
8. Henry Wright;
9. Oscar Wright;
10. Leroy Wright;
11. Delores Wright;
12. Carolyn Wright;
13. Harold Wright;
14. Charles Wright;
15. Samuel Wright, Jr.;
16. Ernestine Wright; and
17. Henry Wright, Jr.

While the known heirs of these Defendants have been named as Defendants, their whereabouts are unknown. A Petition for Guardian ad Litem has been filed to protect the interest of the above named Defendants, as well as their known and unknown heirs. I hereby request said Order of Publication allowing me to serve the above named Defendants and their heirs by Publication.

FURTHER AFFIANT SAYETH NOTHING.

Date: 1/12/10

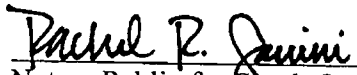


Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
(843) 723-9804

Attorney for the Plaintiff

Sworn to and subscribed before me

this 12th day of January, 2010.



Notary Public for South Carolina

My Commission Expires: 05.13.19

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NUMBER 2010-CP-10-0250

John Wright,)
Plaintiff,)

-versus-

ANSWER
and
COUNTERCLAIM

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, Henry)
Wright, Jr., Ernest McKnight, along)
with John Doe or Mary Roe, fictitious)
names to designate minors, infants,)
persons of unsound mind, under)
disability or incompetent persons in)
prison, persons in the military service)
within meaning of Title 50, United)
States Code, commonly referred to as)
The Soldiers and Sailors Civil Service)
Act of 1940, if any, and Richard Roe)
and Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributes, issue, executors,)
administrators, successors or assigns)
of Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright, Wilmenia Wright,)
Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright and Henry Wright,)
Jr., also all other unknown persons)
claiming any right, title, estate or lien)
upon the real estate which is the)

BY
JULIE J. ARMSTRONG
CLERK OF COURT

2010 MAR 18 PM 12:37

FILED

subject of this action,)
)
Defendants.)
_____)

COMES NOW THE DEFENDANT, ERNESTINE McKNIGHT,
answering the Summons and Complaint of the Plaintiff above named, who would
show unto this Honorable Court as follows:

- 1.) **THAT** each and every allegation contained in the Plaintiff's Complaint which is not hereinafter specifically admitted, qualified and explained is hereby denied.
- 2.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph One (1) of the Plaintiff's Complaint and therefore demands strict proof thereof.
- 3.) **THAT** the Defendant admits paragraph Three (3) of the Plaintiff's Complaint.
- 4.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraphs Three (3) through Seven (7) of the Plaintiff's Complaint and therefore demands strict proof thereof.
- 5.) **THAT** the Defendant admits paragraph Eight (8) of the Plaintiff's Complaint.
- 6.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraphs Nine (9) through Ten (10) of the Plaintiff's Complaint and therefore demands strict proof thereof.

7.) **THAT** the Defendant admits paragraph Eleven (11) of the Plaintiff's Complaint.

8.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraphs Twelve (12) through Nineteen (19) of the Plaintiff's Complaint and therefore demands strict proof thereof.

9.) **THAT** the Defendant denies paragraph Twenty (20) of the Plaintiff's Complaint and therefore demands strict proof thereof.

10.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph Twenty-one (21) of the Plaintiff's Complaint and therefore demands strict proof thereof.

**FURTHER ANSWERING THE ALLEGATIONS CONTAINED IN THE
PLAINTIFF'S COMPLAINT THE DEFENDANT WOULD SAY AND
SHOW THE FOLLOWING:**

11.) **THAT** the Defendant has paid the taxes and maintain continuous, open, notorious, hostile, unbroken and adverse possession of the subject premises for a period of ten years prior to the initiation of this action.

12.) **THAT** the Defendant is informed and believes that the Defendant has an equitable interest in the subject property and he therefore claims ownership of the same by adverse possession.

13.) **THAT** on September 25, 2003, John Wright, Anna Michelle Porcher and Harold L. Wright executed a Note in the amount of \$6,187.52 in favor of the Defendant Ernest McKnight.

14.) THAT on September 25, 2003, John Wright, Anna Michelle Porcher and Harold L. Wright executed a Mortgage in the principal amount of \$6,187.52 in favor of the Defendant Ernest McKnight and said mortgage was filed on September 29, 2003 in the Charleston County R.M.C. Office in Book M-469, at page 341.

**COUNTERCLAIM
(Adverse Possession)**

15.) THAT the Defendant realleges the allegations contained in paragraphs One (1) through Fourteen (14) above as if full setforth fully herein.

16.) THAT the Defendant is informed and believes that he should be awarded ownership of the subject property and that he should be given title there by deed of the Master.

**COUNTERCLAIM
(Reimbursement of Taxes)**

17.) THAT the Defendant realleges the allegations contained in paragraphs One (1) through Sixteen (16) above as if full setforth fully herein.

18.) THAT the Defendant is informed and believes that he should be reimbursed for the taxes he paid on the subject property.

**COUNTERCLAIM
(Foreclosure of Mortgage)**

19.) THAT the Defendant realleges the allegations contained in paragraphs One (1) through Eighteen (18) above as if full setforth fully herein.

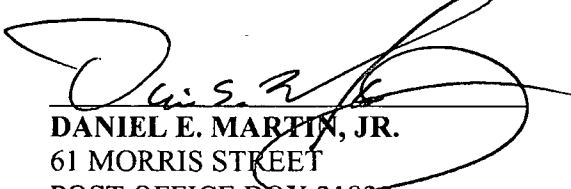
20.) **THAT** according to the terms and conditions of the said note and mortgage, it is provided that in the event the mortgagors failed to pay the taxes, the entire amount of the debt shall become due at the option of the mortgagee.

21.) **THAT** the Defendant is informed and believes that the mortgagors failed to pay taxes for 2003, 2004, 2005, 2006, 2007, 2008 and 2009 and that all of the taxes for those years were paid by the Defendant, Ernest McKnight.

22.) **THAT** the Defendant is further informed and believes that the mortgagors are in default of their obligations under the aforesaid note and mortgage and that he is entitled to have judgment of foreclosure for all amounts due and owing thereon, together with any taxes which may be due, or which have already been paid on behalf of the mortgagors, with a reasonable sum as attorney fees and for the costs incurred in this action.

WHEREFORE, the Defendant having set forth the above, prays that the Plaintiff's Complaint be dismissed and that he be granted the relief sought in his Counterclaim and for such other and further relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED,



DANIEL E. MARTIN, JR.
61 MORRIS STREET
POST OFFICE BOX 21830
CHARLESTON, S.C. 29403
(843) 723-1686

**ATTORNEY FOR
ERNEST McKNIGHT**

Charleston, South Carolina

March 16, 2010

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-10-250

John Wright,

Plaintiff,

v.

AFFIDAVIT OF DEFAULT

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar
Wright, Leroy Wright, Harold
Wright, Charles Wright, Samuel
Wright, Jr., Ernestine Wright,
Henry Wright, Jr., Ernest
McKnight, along with John Doe or
Mary Roe, fictitious names to
designate minors, infants, persons
of unsound mind, under disability
or incompetent, persons in prison,
persons in the military service
within meaning of Title 50, United
States Code, commonly referred to
as The Soldiers and Sailors Civil
Service Act) of 1940, if any, and
Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees,
distributees, issue, executors,
administrators, successors or
assigns of Ned Wright, Hattie,

Defendant.

FILED
2010 MAR 30 PM 2:35
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

PERSONALLY appeared before me, JONATHAN S. ALTMAN, who, being
sworn, states that he is the attorney for the Plaintiff and that more than thirty (30) days
have elapsed since the date of service of the Summons and Complaint, and that the
below-named Defendants have failed to file an Answer or otherwise defend as allowed
by the rules, that these Defendants are not members of the armed forces as contemplated

by the Soldiers and Sailor Civil Relief Act and that the following Defendants are in default.

1. Ned Wright,
2. Hattie Wright Gaston,
3. Annie M. Wright,
4. Edward Wright,
5. Samuel Wright,
6. James Wright,
7. Earline Wright Maxwell,
8. Wilmenia Wright,
9. Henry Wright,
10. Oscar Wright,
11. Leroy Wright,
12. Harold Wright,
13. Charles Wright,
14. Samuel Wright, Jr.,
15. Ernestine Wright,
16. Henry Wright, Jr.

FURTHER AFFIANT SAYETH NOTHING.

DERFNER, ALTMAN & WILBORN, LLC



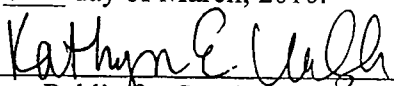
Jonathan S. Altman
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
Tel: (843) 723-9804

Attorney for Plaintiff

March 3, 2010
Charleston, South Carolina

Sworn to and Subscribed before me

this 3rd day of March, 2010.



Notary Public for South Carolina
My Commission Expires: 7/25/17

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-10-250

John Wright,

Plaintiff,

v.

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar
Wright, Leroy Wright, Harold
Wright, Charles Wright, Samuel
Wright, Jr., Ernestine Wright,
Henry Wright, Jr., Ernest
McKnight, along with John Doe or
Mary Roe, fictitious names to
designate minors, infants, persons
of unsound mind, under disability
or incompetent, persons in prison,
persons in the military service
within meaning of Title 50, United
States Code, commonly referred to
as The Soldiers and Sailors Civil
Service Act) of 1940, if any, and
Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees,
distributees, issue, executors,
administrators, successors or
assigns of Ned Wright, Hattie,

Defendant.

ORDER OF DEFAULT

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2010 APR - 1 AM 10:27

FILED

2010-5381

IT appearing from the Affidavit of Publication, dated February 17, 2010, and the Affidavit of Default of Jonathan S. Altman, attorney for the Plaintiff, that the below-named Defendants have been duly served with the Summons and Complaint and more than thirty days have elapsed since said service during which no responsive pleadings were filed by said Defendants.

(Handwritten signature)

(Handwritten number 210)

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the following

Defendants are hereby declared to be in default:

1. Ned Wright,
2. Hattie Wright Gaston,
3. Annie M. Wright,
4. Edward Wright,
5. Samuel Wright,
6. James Wright,
7. Earline Wright Maxwell,
8. Wilmenia Wright,
9. Henry Wright,
10. Oscar Wright,
11. Leroy Wright,
12. Harold Wright,
13. Charles Wright,
14. Samuel Wright, Jr.,
15. Ernestine Wright,
16. Henry Wright, Jr.

Date:

3/3/14

Presiding Judge, Ninth Judicial Circuit

2010-5381

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-0250

FILED
2010 MAY 19 PM 1:52
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

**MOTION FOR JUDGMENT ON
THE PLEADINGS PURSUANT TO
SCRCP RULE 12(c) OR IN THE
ALTERNATIVE MOTION FOR SUMMARY
JUDGMENT AS PROVIDED FOR IN
SCRCP RULE 56 AS TO
DEFENDANT ERNEST MCKNIGHT'S
COUNTERCLAIM FOR
ADVERSE POSSESSION**

10-8509

TO: DANIEL E. MARTIN, JR., ESQ.: Attorney for Defendant Ernest McKnight

Please take notice that ten days after service hereof, or as soon thereafter as counsel may be heard the Plaintiff, by and through his undersigned attorney, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County for an Order granting Plaintiff judgment on the pleadings pursuant to S.C.R.C.P. Rule 12 (c) or in the alternative, summary judgment as provided for in S.C.R.C.P. Rule 56 as to Defendant Ernest McKnight's Counterclaim for adverse possession. Plaintiff's motion is based upon the allegations set forth in Defendant McKnight's answer and counterclaim, including Defendant McKnight's allegation that he is the holder of a note and mortgage on the subject property dated September 25, 2003. Defendant McKnight claims this note is due and asserts a counterclaim seeking foreclosure of the mortgage securing said note. In so much as Defendant McKnight alleges that he holds a security interest in the subject property and seeks recognition of this lien, Defendant McKnight can not support a claim for adverse possession.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

Date: May 3, 2010
Charleston, South Carolina

Attorney for the Plaintiff

D · A · W

DERFNER
ALTMAN &
WILBORN

May ¹⁸/₂, 2010

Charleston County Clerk of Court
100 Broad Street
Charleston, SC 29401

RE: *John Wright v. The Estate of Ned Wright, et al.*
Case No.: 2010-CP-10-250

Dear Madam Clerk:

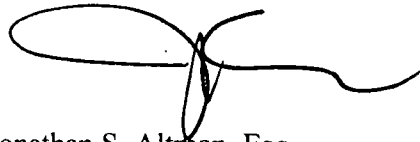
Please find enclosed an original and one copy of each of the following documents relative to the above referenced matter:

1. Motion Cover Sheet;
2. Plaintiff's Motion for Judgment on the Pleadings pursuant to SCRCP Rule 12(c) or in the Alternative, Motion for Summary judgment as provided for in SCRCP 56 as to Defendant Ernest McKnight's Counterclaim for Adverse Possession; and
3. My firm's check in the amount of \$25.00 relative to the filing fee.

Please file the originals and return clocked-in copies to me in the enclosed self-addressed stamped envelope. Please contact me if you have any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman, Esq.

JSA/rs

Enclosures

30

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

FILED
2010 AUG -2 AM 9:50
JULIE J. ARMSTRONG
CLERK OF COURT

CONSENT ORDER OF DISMISSAL

10-012799

This matter comes before the court on Plaintiff's Motion for Summary Judgment on the Pleadings Pursuant to SCRPC Rule 12(c) or in the Alternative Motion for Summary Judgment as provided for in SCRPC 56 as to Defendant Ernest McKnight's Counterclaim for Adverse Possession. Prior to said motion being heard, the parties advised the court that Defendant McKnight had agreed to the dismissal of his counterclaim for adverse possession with prejudice. All other counterclaims set forth in Defendant McKnight's Answer and Counterclaim survive this order and remain pending.

WE SO MOVE.

WE CONSENT:



Jonathan S. Altman, Esq.
DERFNER, ALTMAN & WILBORN, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
(843) 723-9804
Fax: (843) 723-7446

Attorney for the Plaintiff

WE CONSENT:

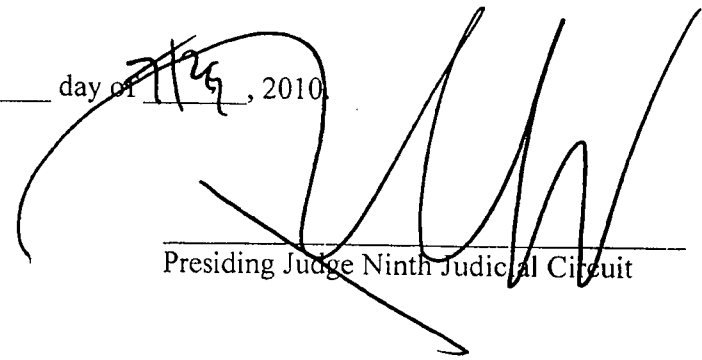


Willie B. Heyward, Esq.
Heirs' Property Law Center, LLC
2148 Dorchester Rd.
North Charleston, SC 29405

Attorney for the Defendant Ernest McKnight

IT IS SO ORDERED, this _____ day of July, 2010.

Date: _____



Presiding Judge Ninth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-0250

John Wright,

Plaintiff,

vs.

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar Wright,
Leroy Wright, Harold Wright,
Charles Wright, Samuel Wright, Jr.,
Ernestine Wright, Henry Wright, Jr.,
Ernest McKnight, along with John
Doe or Mary Roe, fictitious names to
designate minors, infants, persons of
unsound mind, under disability or
incompetent, persons in prison,
persons in the military service within
meaning of Title 50, United States
Code, commonly referred to as The
Soldiers and Sailors Act of 1940, if
any, Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees, distributees,
issue, executors, administrators,
successors or assigns of Ned Wright,
Hattie Wright Gaston, Annie M.
Wright, Edward Wright, Samuel
Wright, James Wright, Earline
Wright, Wilmenia Wright, Henry
Wright, Oscar Wright, Leroy Wright,
Harold Wright, Charles Wright,
Samuel Wright, Jr., Ernestine Wright
and Henry Wright, Jr., also all other
unknown persons claiming any right,
title, estate or lien upon the real estate
which is the subject of this action,

Defendants.

**Motion for Summary Judgment as to
Defendants Ned Wright, Hattie Wright,
Gaston, Annie M. Wright, Edward
Wright, Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar Wright,
Leroy Wright, Harold Wright, Charles
Wright, Samuel Wright, Jr., Ernestine
Wright, Henry Wright, Jr., along with
John Doe or Mary Roe, fictitious names to
designate minors, infants, persons of
unsound mind, under disability or
incompetent, persons in prison, persons in
the military service within meaning of
Title 50, United States Code, commonly
referred to as The Soldiers and Sailors Act
of 1940, if any, Richard Roe and Sarah
Roe, fictitious names to designate the
unknown heirs, devisees, distributees,
issue, executors, administrators,
successors or assigns of Ned Wright,
Hattie Wright Gaston, Annie M. Wright,
Edward Wright, Samuel Wright, James
Wright, Earline Wright, Wilmenia
Wright, Henry Wright, Oscar Wright,
Leroy Wright, Harold Wright, Charles
Wright, Samuel Wright, Jr., Ernestine
Wright and Henry Wright, Jr., also all
other unknown persons claiming any
right, title, estate or lien upon the real
estate which is the subject of this action**

2010 OCT -8 PM 1:08
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

10-17467

TO: Defendants above named and Marcus W. Meetze, Esquire, as Guardian ad Litem:

PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as counsel may be heard, the Plaintiff, by and through his undersigned attorney, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County for an Order granting Plaintiff Summary Judgment on all matters and causes set forth in Plaintiff's Complaint pursuant to the *South Carolina Rules of Civil Procedure*, Rule 56, as to all Defendants except Ernest McKnight on the grounds that an Order of Default was issued as to these Defendants a copy of which is attached hereto, and as such there are no genuine issues as to any material fact with regard to the causes of action set forth in Plaintiff's Complaint against these Defendants, and therefore, the Plaintiff is entitled to Summary Judgment as a matter of law.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

Date: Oct. 4, 2010
Charleston, South Carolina

Attorney for the Plaintiff

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

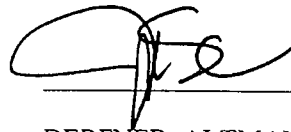
NOTICE OF HEARING

FILED
2011 APR -7 PM 1:26
JULIE J. ARMSTRONG
CLERK OF COURT

TO: The above named Defendants, Willie B. Heyward, Esq. as attorney for Defendant Ernest McKnight and Marcus W. Meetze, Esq. as Guardian Ad Litem

YOU WILL PLEASE TAKE NOTICE that Plaintiff's Motion for Summary Judgment will be heard on April 21, 2011 @ 11:30 a.m. at the Charleston County Courthouse located at 100 Broad Street, Courtroom 3E, Charleston, SC 29401.

Date: 4.6.11



DERFNER, ALTMAN & WILBORN, LLC
Jonathan S. Altman, Esq.
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

April 6, 2011

Charleston County Clerk of Court
100 Broad Street
Charleston, SC 29401

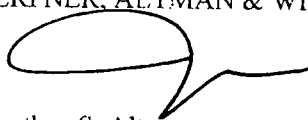
RE: *John Wright v. The Estate of Ned Wright, et al.*
Case No.: 2010-CP-10-250

Dear Madam Clerk:

Please find enclosed an original and one copy of a Notice of Hearing relative to the above referenced case. Please file the original and return a filed copy to me in the enclosed self-addressed stamped envelope. Please contact me with any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

cc: Willie B. Heyward, Esq.
Marcus W. Meetze, Esq.

ALTMAN & COKER, LLC

Attorneys and Counselors at Law

575 King Street, Suite A
Charleston, South Carolina 29403

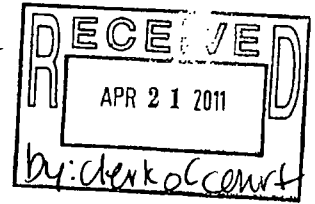
Telephone: (843) 853-9907

Facsimile: (843) 853-9838

Mailing Address:
Post Office Box 265
Charleston, SC 29402

April 20, 2011

Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B
Charleston, SC 29403



RE: John Wright v. The Estate of Ned Wright, et al.
Case No.: 2010-CP-10-250

Dear Jonathan:

I am in receipt of the Notice of Hearing relative to Plaintiff's Motion for Summary Judgment as to All Defendants except Defendant Ernest McKnight in the above referenced case. Please be advised that I have had no contact or communication with any of the named Defendants. As Guardian ad Litem, I have no objection to the relief sought in Plaintiff's Motion for Summary Judgment.

If you have any additional questions or require any additional information, please contact me.

Very Truly Yours,

ALTMAN & COKER, LLC

A handwritten signature in dark ink, appearing to be "M. W. Meetze".

Marcus W. Meetze, Esq.

MWM/rs

38

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

ORDER

FILED
2011 APR 21 PM 12:19
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This matter came before the Court on Plaintiff's Motion for Summary Judgment as to all Defendants except Defendant Ernest McKnight. Plaintiff's motion was filed on October 8, 2010. Present was Jonathan S. Altman, attorney for Plaintiff. No Defendants were present. Marcus W. Meetze, Esq., in his capacity as Guardian ad Litem was not present but provided a letter to the Court advising that he had been timely served with the Notice of Hearing and had received no communication or contact from any of the Defendants since his appointment on January 12, 2010.

The record in this case reflects Plaintiff's Suit to Quiet Title was filed on January 12, 2010. On that date, Marcus W. Meetze was appointed Guardian ad Litem for minors, imprisoned or incompetent persons, members of the military and unknown persons who may have claim or interest in the subject property. An Order for Publication was issued on January 12, 2010. An Affidavit of Publication was filed on February 17, 2010. No answers were filed by any of the Defendants other than Ernest McKnight and an Affidavit of Default was filed on March 30, 2010. An Order of Default was issued on March 31, 2010 and filed on April 1, 2010. Plaintiff's Motion for Summary Judgment was filed on October 8, 2010.

The real property that is the subject of this action is located in the County of Charleston, State of South Carolina and is more specifically described as follows:

ALL that certain lot, parcel, or tract of land situated, lying and being in Adams Run Township, formerly of Colleton County and now of Charleston County, in the State of South Carolina, containing ten and one-fourth acres, more or less, and bounded as follows: North by Jacksonboro Road, East by lands of Abner Young, and on the South and West by lands formerly owned by J. T. Mitchell, now owned by Fitzsimons, as will more fully appear when reference is had to plat of property made by Wm. Horne, Surveyor, and dated March 12, 1875.

BEING the same property conveyed to Ned Wright by Deed of Margaret Singleton and J. William Washington dated January 21, 1908, and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 31, at Page 86 on January 30, 1908, and recorded in the Office of the Register of Deeds for Charleston County in Deed Book N27, at Page 19.

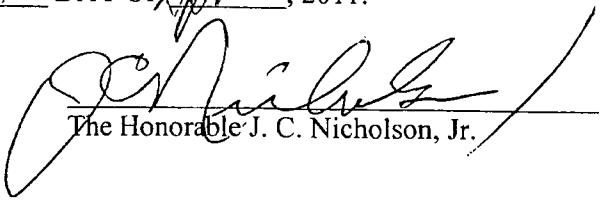
TMS No. 245-00-00-026

As alleged in his Complaint, Plaintiff paid taxes and maintained possession of the property for a period of over twenty years. Plaintiff's possession was open, notorious, hostile and continuous for this period. As such, Plaintiff's actions constitute an ouster of all other heirs and possible claimants. As a result of Plaintiff's acts, title to the subject property has vested in Plaintiff. The record reflects that the Defendants were properly served and an Order of Default has been entered against them.

WHEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff is the owner of the property holding fee simple title thereto by virtue of the ouster of all others who may claim an ownership interest in the property; and
2. All Defendants, except Defendant Ernest McKnight, and all entities joined as Defendants in this action and the fictitious names of John Doe, adults and Mary Roe, infants, insane persons, incompetents are forever barred of and from any claim, right, title, estate, interest and/or lien upon the parcel of real estate above described or any part thereof from claiming any right title, estate, interest or lien in the property.

IT IS SO ORDERED THIS 21 DAY OF April, 2011.


The Honorable J. C. Nicholson, Jr.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.: 2010-CP-10-250

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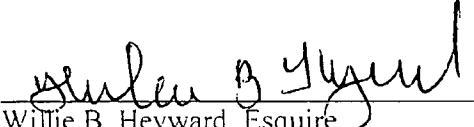
FILED
2011 SEP 27 PM 4:51
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

**MOTION TO SET ASIDE
SUMMARY JUDGEMENT**

OTHER UNKNOWN PERSONS)
CLAIMING ANY RIGHT TITLE, ESTATE)
OR LIEN UPON THE REAL ESTATE)
WHICH IS THE SUBJECT OF THIS)
ACTION.)
)
DEFENDANTS)
)
_____)

TO Defendants above-named and Marcus W. Meetze, Esquire, as Guardian *ad Litem*:

PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as counsel may be heard, the Plaintiff, Ernest McKnight by and through his undersigned attorney, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County for an Order to Set-Aside Summary Judgement as set forth in Plaintiffs Memorandum in support of this Motion pursuant to the South Carolina Rules of Civil Procedure, Rule 59e.


Willie B. Heyward, Esquire
Heirs Property Law Center, LLC
27 Gamecock Ave., Suite 200
Charleston, SC 29407
Telephone: (843) 225-8754

Charleston, SC
Dated: September 19, 2011

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case Number 2010-CP-10-250

Defendants.

AFFIDAVIT OF EARNEST MCKNIGHT

FILED
2011 SEP 27 PM 4:52
CLERK OF COURT
T MCKNIGHT
BY _____

6. I ask that this case be referred to Master in Equity of Charleston County for a full adjudication of this matter



ERNEST MCKNIGHT

763 Seaman Lane
Johns Island, SC 29455

Sworn to before me this

8th Day of September, 2011

Edward S. Worthington

Notary Public of South Carolina

My Commission Expires: 5-14-2020



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

JOHN WRIGHT

Plaintiff,

vs.

NED WRIGHT ET AL.

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case Number 2010-CP-10-250

AFFIDAVIT OF
ANNA MICHELLE PORCHER

2011 SEP 27 PM 4:52
JULIE J. ARMSTRONG
CLERK OF COURT
FILED

PERSONALLY appeared before me the undersigned who, under oath, deposes and says:

1. I am the daughter of Henry Wright, Sr. a Defendant in the above-referenced action and I am the sister of the Defendant, Henry Wright, Jr. I also have another bother, Edward Wright, who also has snot received any pleadings in this matter.

2. I also live in a mobile home located on the subject property. My father also built a the single-family-home-located-at-4777-Savannah-Highway, Ravenel, South-Carolina: this building-is- also located on the subject property.

3. My father and I have paid the property taxes on the subject property for over Twenty (20) years.

4. I have not received any pleadings in this matter after repeated requests to the Plaintiff's attorney to provide same.

5. I have also not received the Notice of Motion for a hearing in which I have been divested of any possible interest I may have had in the subject property.

6. I ask that I be served with all pleadings in this matter so as to ascertain my rights in the subject property and defend my rights to continue my possession of same.

416

Anna Michelle Porcher

ANNA MICHELLE PORCHER

4789 Savannah Highway, Ravenel SC

Sworn to before me this

9 Day of September, 2011

[Signature]

Notary Public of South Carolina

My Commission Expires: 3-12-2019

PAMELA PORCHER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES MARCH 12, 2019

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-0250

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

**MEMORANDUM IN OPPOSITION
TO DEFENDANT MCKNIGHT'S
MOTION TO SET ASIDE
SUMMARY JUDGMENT**

2012 JAN 11 PM 2:05
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

FILED

Based on the following, Plaintiff John Wright (hereinafter "Plaintiff") respectfully requests that Defendant Ernest McKnight's (hereinafter "Defendant McKnight") motion to set aside summary judgment be denied.

PROCEDURAL HISTORY

On January 12, 2010, Plaintiff filed his Complaint (Ex. 1) seeking an order quieting title to certain real property and declaring Plaintiff to hold fee simple title thereto.

On March 18, 2010, Defendant McKnight answered Plaintiff's Complaint (Ex. 2) and asserted three counterclaims including claims for adverse possession, reimbursement of taxes and foreclosure of mortgage.

On May 19, 2010, Plaintiff filed a motion for judgment on the pleadings pursuant to Rule 12(c) or in the alternative motion for summary judgment as to Defendant McKnight's counterclaim for adverse possession (Ex. 3). On August 2, 2010, a consent order of dismissal (Ex. 4) was issued by the Honorable Roger Young under which the parties consented to Defendant McKnight's counterclaim for adverse possession being dismissed. Defendant McKnight's remaining counterclaims for reimbursement of taxes and foreclosure of mortgage were unaffected by this consent order.

On October 8, 2010, Plaintiff filed a motion for summary judgment as to all defendants *except* Defendant McKnight (Ex. 5). An order of default (Ex. 6) had been issued as to all other Defendants. On April 6, 2011, Plaintiff served a notice of hearing (Ex. 7) on Defendant McKnight and the Guardian ad Litem. On April 21, 2011, this motion was heard by the Honorable J. C. Nicholson, Jr. Defendant McKnight nor his counsel appeared. The Guardian ad Litem advised the Court that he had been timely

served but had received no communication from any of the Defendants since his appointment. No Defendants appeared or contested Plaintiff's motion. Judge Nicholson granted Plaintiff's motion for summary judgment (Ex. 8) and expressly preserved Defendant McKnight's counterclaims in his order.

On or about August 17, 2011, Plaintiff's counsel spoke with Defendant McKnight's counsel regarding Defendant McKnight's claims. On August 17, 2011, Plaintiff's counsel forwarded Defendant McKnight's counsel a copy of the order issued by Judge Nicholson (Ex. 9).

On September 27, 2011, Defendant McKnight filed a motion to set aside summary judgment (Ex. 10). Defendant McKnight failed to provide Plaintiff's counsel with notice of this filing. Upon information and belief, Judge Nicholson nor the Guardian ad Litem have been served with a copy of Defendant McKnight's motion.

ARGUMENT

A. Defendant McKnight does not have standing to assert a claim under S.C. Code Ann. § 15-61-25.

In his answer and counterclaim, Defendant McKnight seeks reimbursement for taxes he purportedly paid on the subject property and asserts a claim under a mortgage. Plaintiff does not dispute that monies are owed to Defendant McKnight, but contests the amount of that debt. Judge Nicholson preserved Defendant McKnight's claims in his order.

In his affidavit filed in support of his motion, Defendant McKnight affirms his status as a creditor but contends Judge Nicholson's order violates S.C. Code. Ann. § 15-61-25 entitled "*Right of First Refusal of Joint Tenants or Tenants in Common.*" He is incorrect. As acknowledged by Defendant McKnight, he is neither a joint tenant or

tenant in common. As a creditor, Defendant McKnight has no statutory right of first refusal under S.C. Code. Ann. § 15-61-25.

Judge Nicholson went to great lengths to confirm the survival of Defendant McKnight's creditor's claim. S.C. Code. Ann. § 15-61-25 provides no basis for the setting aside of Judge Nicholson's order.

B. Defendant McKnight's motion is improper and untimely.

Rule 59(e) requires a motion to alter or amend judgment to be served no later than ten days after receipt of written notice of the entry of the order. The record in this case reflects that Defendant McKnight was properly served with notice of the hearing of Plaintiff's motion for summary judgment which was heard and granted on April 21, 2011. Defendant McKnight nor his counsel appeared to contest Plaintiff's motion which preserved Defendant McKnight's counterclaims. On August 17, 2011, Plaintiff's counsel forwarded a copy of Judge Nicholson's order to Defendant McKnight's counsel. On September 27, 2011, Defendant McKnight's motion was filed. Defendant McKnight failed to serve a copy of his motion on Plaintiff or Plaintiff's counsel.

Defendant McKnight's motion is untimely and should be denied. In addition, Rule 59(g) requires a moving party filing a written motion under Rule 59 to provide a copy of the motion to the Presiding Judge within ten days after the filing of the motion. Upon information and belief, Defendant McKnight has failed to provide a copy of his motion to Judge Nicholson.

CONCLUSION

For the reasons set forth herein, Plaintiff respectfully requests that Defendant McKnight's motion to set aside Judge Nicholson's order be denied.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

Date: January 10, 2012
Charleston, South Carolina

Attorney for the Plaintiff

EXHIBIT 1

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-260

FILED
2010 JAN 12 AM 11:07
JULIE J. ARMSTRONG
CLERK OF COURT

COMPLAINT

Suit to Quiet Title
(Non-Jury)

The Plaintiff would respectfully show unto this honorable court as follows:

1. That the Plaintiff, John Wright (hereinafter "Plaintiff"), is a grandson of Ned Wright (hereinafter referred to as "Decedent") and the sole heir and son of Decedent's daughter, Hattie W. Gaston, who died in 1982.
2. That some of the defendants, including Defendant Ernest McKnight, are residents of Charleston County and the State of South Carolina.
3. By virtue of the subject property being situated in the County of Charleston, State of South Carolina, Plaintiff alleges that this Court possesses subject matter and *in personam* jurisdiction in this action.
4. That the Plaintiff commences this action against the defendants named herein and John Doe; adults and Mary Roe, infants, insane persons, incompetents being fictitious names designating a class of persons, known or unknown, claiming any right, title, estate, interest in or lien upon, the parcel of real estate that is the subject of this action and that it is proper for the Court to appoint a Guardian ad Litem during the pendency of this action to protect any such interests that may exist as to these parties.
5. That joined as Defendants are other persons unknown, claiming any right, title, estate, interest in or lien upon the real estate described in the Complaint herein.
6. That the Plaintiff does not know the true names of all defendants, including persons unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the Complaint adverse to Plaintiff's interest or any cloud on Plaintiff's interest, and therefore sues them by those fictitious names, Plaintiff is informed and believes, and on that basis alleges, that each such defendant claims, or may claim, some interest in the real property described in this Complaint.

7. That any claim of an estate or interest in the real property by the unknown defendants would be adverse to the interest of the Plaintiff.

8. That the real property (hereinafter "the property") that is the subject of this action is located in Charleston County, State of South Carolina, and is more specifically described as follows:

ALL that certain lot, parcel, or tract of land situated, lying and being in Adams Run Township, formerly of Colleton County and now of Charleston County, in the State of South Carolina, containing ten and one-fourth acres, more or less, and bounded as follows: North by Jacksonboro Road, East by lands of Abner Young, and on the South and West by lands formerly owned by J. T. Mitchell, now owned by Fitzsimons, as will more fully appear when reference is had to plat of property made by Wm. Horne, Surveyor, and dated March 12, 1875.

BEING the same property conveyed to Ned Wright by Deed of Margaret Singleton and J. William Washington dated January 21, 1908, and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 31, at Page 86 on January 30, 1908, and recorded in the Office of the Register of Deeds for Charleston County in Deed Book N27, at Page 19.

TMS No. 245-00-00-026

9. That the Decedent acquired the subject property by deed dated January 21, 1908 and recorded in the Colleton County RMC Office on January 30, 1908 and designated as TMS No. 245-00-00-026.

10. That the Plaintiff desires to have this Court determine the parties' respective interests in the property.

11. Defendant Ernest McKnight is named as a defendant herein by virtue of Defendant McKnight's status as an adjacent property owner and Plaintiff's belief that Defendant McKnight may claim an interest in the property.

12. That Decedent died intestate leaving as his heirs and distributees at law, his children, Defendants Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel

Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright and Henry Wright. Upon information and belief, the estates of said children of Decedent have not been probated and they are therefore identified as defendants herein.

13. Defendant Wright died during the 1960's and was survived by three children, Defendants Oscar Wright, Leroy Wright and a third son whose name is unknown. Defendants Oscar Wright and Leroy Wright have since died. Upon information and belief, their estates have not been probated and they are identified as Defendants.

14. Defendant Edward Wright died during the 1970's. Upon information and belief, his estate has not been probated and he is identified as a Defendant. Defendant Edward Wright was survived by two children, Defendants Delores Wright and Carolyn Wright, who, upon information and belief, are the sole heirs of his estate.

15. Defendant Samuel Wright died during the 1960's. Upon information and belief, Defendant Samuel Wright's estate has not been probated and he is identified as a Defendant in this action. Defendant Samuel Wright was survived by three children, Harold Wright, Charles Wright and Samuel Wright, Jr. who have all since died. Upon information and belief, their estates have not been probated and they are identified as Defendants.

16. Defendants James Wright and his wife, Hattie Wright, died during the 1960's. Neither Defendants James Wright or Hattie Wright's estates have been probated and they are identified as Defendants in this action. Upon information and belief, Defendants James Wright and Hattie Wright had no children.

17. Defendant Earline Wright Maxwell is deceased and her estate was not probated. Upon information and belief, Defendant Earline Wright Maxwell was survived by one

child, who has since died. Plaintiff has no information or belief as to whether Defendant Earline Wright Maxwell's child predeceased her or was survived by any heirs.

18. Defendant Wilmenia Wright died during the 1960's. Upon information and belief, her estate was not probated and she is identified as a Defendant in this action. Defendant Wilmenia Wright was predeceased by her spouse and, upon information and belief, was survived by no children.

19. Defendant Henry Wright died in 1982. His estate has not been probated and he is identified as a Defendant herein. Upon information and belief, Defendant Henry Wright was survived by his spouse, Defendant Ernestine Wright, who has since died, along with one child, Defendant Henry Wright, Jr., who died on June 26, 1997. Upon information and belief, the Estates of Ernestine Wright and Henry Wright, Jr. have not been probated and they are identified as Defendants herein.

20. Plaintiff paid taxes and maintained possession of the property for a period of over twenty years and that such possession was open, notorious, hostile and continuous for the stated period of time and as such constituted an ouster of all other heirs and possible claimants of the property. As a result of said acts, title to the subject parcel should vest in Plaintiff because of the ouster of all other claimants through adverse possession of the property.

21. Plaintiff possesses no knowledge or belief as to the existence of any other heirs of Decedent, defendants or interested parties other than those individuals identified herein. Plaintiff brings this action for the purpose of having an order issued by the Court recognizing Plaintiff's holding of fee simple title to the property. That unknown Defendants may exist or be deceased with heirs having been undetermined. Therefore, a

Guardian ad Litem should be appointed to represent the interests of said unknown persons.

WHEREFORE, Plaintiff prays that this Court inquire as to the matters herein and adjudge and declare:

1. That Plaintiff is the owner of the subject property holding fee simple title thereto;
2. That Plaintiff has acquired title to the subject property through adverse possession; and
3. That Defendants named and all entities joined as Defendants in this action in the fictitious names of John Doe, adults and Mary Roe, infants, insane persons, incompetents be declared forever barred of and from any claim, right, title, estate, interest and/or lien upon the parcel of real estate above described or any part thereof and that they be barred from claiming any right, title, estate, interest or lien thereon.

Date: Jan 12, 2010
Charleston, South Carolina


DERFNER, ALTMAN & WILBORN, LLC
Jonathan S. Altman, Esq.
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
843-723-9804

Attorney for the Plaintiff

EXHIBIT 2

60

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NUMBER 2010-CP-10-0250

John Wright,)
Plaintiff,)

-versus-

**ANSWER
and
COUNTERCLAIM**

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, Henry)
Wright, Jr., Ernest McKnight, along)
with John Doe or Mary Roe, fictitious)
names to designate minors, infants,)
persons of unsound mind, under)
disability or incompetent persons in)
prison, persons in the military service)
within meaning of Title 50, United)
States Code, commonly referred to as)
The Soldiers and Sailors Civil Service)
Act of 1940, if any, and Richard Roe)
and Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributes, issue, executors,)
administrators, successors or assigns)
of Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright, Wilmenia Wright,)
Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright and Henry Wright,)
Jr., also all other unknown persons)
claiming any right, title, estate or lien)
upon the real estate which is the)

FILED
2010 MAR 18 PM 12:37
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

subject of this action,

Defendants.

COMES NOW THE DEFENDANT, ERNESTINE McKNIGHT,
answering the Summons and Complaint of the Plaintiff above named, who would
show unto this Honorable Court as follows:

- 1.) **THAT** each and every allegation contained in the Plaintiff's Complaint which is not hereinafter specifically admitted, qualified and explained is hereby denied.
- 2.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph One (1) of the Plaintiff's Complaint and therefore demands strict proof thereof.
- 3.) **THAT** the Defendant admits paragraph Three (3) of the Plaintiff's Complaint.
- 4.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraphs Three (3) through Seven (7) of the Plaintiff's Complaint and therefore demands strict proof thereof.
- 5.) **THAT** the Defendant admits paragraph Eight (8) of the Plaintiff's Complaint.
- 6.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraphs Nine (9) through Ten (10) of the Plaintiff's Complaint and therefore demands strict proof thereof.

7.) **THAT** the Defendant admits paragraph Eleven (11) of the Plaintiff's Complaint.

8.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraphs Twelve (12) through Nineteen (19) of the Plaintiff's Complaint and therefore demands strict proof thereof.

9.) **THAT** the Defendant denies paragraph Twenty (20) of the Plaintiff's Complaint and therefore demands strict proof thereof.

10.) **THAT** the Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph Twenty-one (21) of the Plaintiff's Complaint and therefore demands strict proof thereof.

**FURTHER ANSWERING THE ALLEGATIONS CONTAINED IN THE
PLAINTIFF'S COMPLAINT THE DEFENDANT WOULD SAY AND
SHOW THE FOLLOWING:**

11.) **THAT** the Defendant has paid the taxes and maintain continuous, open, notorious, hostile, unbroken and adverse possession of the subject premises for a period of ten years prior to the initiation of this action.

12.) **THAT** the Defendant is informed and believes that the Defendant has an equitable interest in the subject property and he therefore claims ownership of the same by adverse possession.

13.) **THAT** on September 25, 2003, John Wright, Anna Michelle Porcher and Harold L. Wright executed a Note in the amount of \$6,187.52 in favor of the Defendant Ernest McKnight.

14.) **THAT** on September 25, 2003, John Wright, Anna Michelle Porcher and Harold L. Wright executed a Mortgage in the principal amount of \$6,187.52 in favor of the Defendant Ernest McKnight and said mortgage was filed on September 29, 2003 in the Charleston County R.M.C. Office in Book M-469, at page 341.

**COUNTERCLAIM
(Adverse Possession)**

15.) **THAT** the Defendant realleges the allegations contained in paragraphs One (1) through Fourteen (14) above as if full setforth fully herein.

16.) **THAT** the Defendant is informed and believes that he should be awarded ownership of the subject property and that he should be given title there by deed of the Master.

**COUNTERCLAIM
(Reimbursement of Taxes)**

17.) **THAT** the Defendant realleges the allegations contained in paragraphs One (1) through Sixteen (16) above as if full setforth fully herein.

18.) **THAT** the Defendant is informed and believes that he should be reimbursed for the taxes he paid on the subject property.

**COUNTERCLAIM
(Foreclosure of Mortgage)**

19.) **THAT** the Defendant realleges the allegations contained in paragraphs One (1) through Eighteen (18) above as if full setforth fully herein.

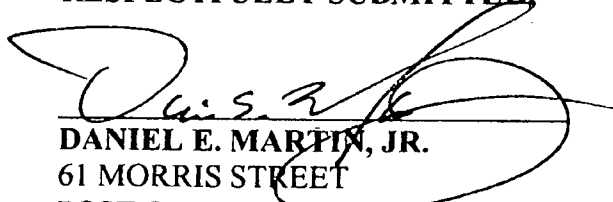
20.) **THAT** according to the terms and conditions of the said note and mortgage, it is provided that in the event the mortgagors failed to pay the taxes, the entire amount of the debt shall become due at the option of the mortgagee.

21.) **THAT** the Defendant is informed and believes that the mortgagors failed to pay taxes for 2003, 2004, 2005, 2006, 2007, 2008 and 2009 and that all of the taxes for those years were paid by the Defendant, Ernest McKnight.

22.) **THAT** the Defendant is further informed and believes that the mortgagors are in default of their obligations under the aforesaid note and mortgage and that he is entitled to have judgment of foreclosure for all amounts due and owing thereon, together with any taxes which may be due, or which have already been paid on behalf of the mortgagors, with a reasonable sum as attorney fees and for the costs incurred in this action.

WHEREFORE, the Defendant having set forth the above, prays that the Plaintiff's Complaint be dismissed and that he be granted the relief sought in his Counterclaim and for such other and further relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED,


DANIEL E. MARTIN, JR.
61 MORRIS STREET
POST OFFICE BOX 21830
CHARLESTON, S.C. 29403
(843) 723-1686

**ATTORNEY FOR
ERNEST McKNIGHT**

Charleston, South Carolina

March 16, 2010

66

EXHIBIT 3

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-0250

FILED
2010 MAY 19 PM 1:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

**MOTION FOR JUDGMENT ON
THE PLEADINGS PURSUANT TO
SCRCP RULE 12(c) OR IN THE
ALTERNATIVE MOTION FOR SUMMARY
JUDGMENT AS PROVIDED FOR IN
SCRCP RULE 56 AS TO
DEFENDANT ERNEST MCKNIGHT'S
COUNTERCLAIM FOR
ADVERSE POSSESSION**

TO: DANIEL E. MARTIN, JR., ESQ.: Attorney for Defendant Ernest McKnight

Please take notice that ten days after service hereof, or as soon thereafter as counsel may be heard the Plaintiff, by and through his undersigned attorney, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County for an Order granting Plaintiff judgment on the pleadings pursuant to S.C.R.C.P. Rule 12 (c) or in the alternative, summary judgment as provided for in S.C.R.C.P. Rule 56 as to Defendant Ernest McKnight's Counterclaim for adverse possession. Plaintiff's motion is based upon the allegations set forth in Defendant McKnight's answer and counterclaim, including Defendant McKnight's allegation that he is the holder of a note and mortgage on the subject property dated September 25, 2003. Defendant McKnight claims this note is due and asserts a counterclaim seeking foreclosure of the mortgage securing said note. In so much as Defendant McKnight alleges that he holds a security interest in the subject property and seeks recognition of this lien, Defendant McKnight can not support a claim for adverse possession.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

Date: May 3, 2010
Charleston, South Carolina

Attorney for the Plaintiff

69

EXHIBIT 4

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

2010 AUG -2 AM 9:50
JULIE J. ARMSTRONG
CLERK OF COURT

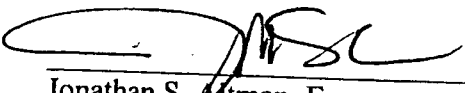
FILED

CONSENT ORDER OF DISMISSAL

This matter comes before the court on Plaintiff's Motion for Summary Judgment on the Pleadings Pursuant to SCRPC Rule 12(c) or in the Alternative Motion for Summary Judgment as provided for in SCRPC 56 as to Defendant Ernest McKnight's Counterclaim for Adverse Possession. Prior to said motion being heard, the parties advised the court that Defendant McKnight had agreed to the dismissal of his counterclaim for adverse possession with prejudice. All other counterclaims set forth in Defendant McKnight's Answer and Counterclaim survive this order and remain pending.

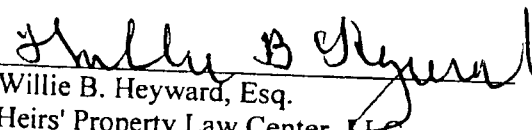
WE SO MOVE.

WE CONSENT:


Jonathan S. Altman, Esq.
DERFNER, ALTMAN & WILBORN, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
(843) 723-9804
Fax: (843) 723-7446

Attorney for the Plaintiff

WE CONSENT:


Willie B. Heyward, Esq.
Heirs' Property Law Center, LLC
2148 Dorchester Rd.
North Charleston, SC 29405

Attorney for the Defendant Ernest McKnight

IT IS SO ORDERED, this _____ day of 7/29, 2010.

Date: _____

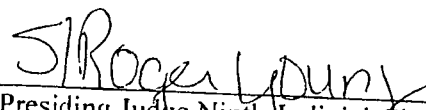
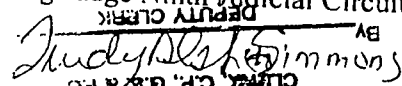

Presiding Judge Ninth Judicial Circuit
BY 
JULIE J. ARMSTRONG
CLERK, C.P., G.S. & F.C.
JULIE J. ARMSTRONG
CLERK, C.P., G.S. & F.C.

EXHIBIT 5

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

John Wright,

Plaintiff,

vs.

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar Wright,
Leroy Wright, Harold Wright,
Charles Wright, Samuel Wright, Jr.,
Ernestine Wright, Henry Wright, Jr.,
Ernest McKnight, along with John
Doe or Mary Roe, fictitious names to
designate minors, infants, persons of
unsound mind, under disability or
incompetent, persons in prison,
persons in the military service within
meaning of Title 50, United States
Code, commonly referred to as The
Soldiers and Sailors Act of 1940, if
any, Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees, distributees,
issue, executors, administrators,
successors or assigns of Ned Wright,
Hattie Wright Gaston. Annie M.
Wright, Edward Wright, Samuel
Wright, James Wright, Earline
Wright, Wilmenia Wright, Henry
Wright, Oscar Wright, Leroy Wright,
Harold Wright, Charles Wright,
Samuel Wright, Jr., Ernestine Wright
and Henry Wright, Jr., also all other
unknown persons claiming any right,
title, estate or lien upon the real estate
which is the subject of this action,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-02502

JULIE J. ARMSTRONG
CLERK OF COURT

2010 OCT -8 PM 4: 08

FILED

**Motion for Summary Judgment as to
Defendants Ned Wright, Hattie Wright
Gaston, Annie M. Wright, Edward
Wright, Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar Wright,
Leroy Wright, Harold Wright, Charles
Wright, Samuel Wright, Jr., Ernestine
Wright, Henry Wright, Jr., along with
John Doe or Mary Roe, fictitious names to
designate minors, infants, persons of
unsound mind, under disability or
incompetent, persons in prison, persons in
the military service within meaning of
Title 50, United States Code, commonly
referred to as The Soldiers and Sailors Act
of 1940, if any, Richard Roe and Sarah
Roe, fictitious names to designate the
unknown heirs, devisees, distributees,
issue, executors, administrators,
successors or assigns of Ned Wright,
Hattie Wright Gaston, Annie M. Wright,
Edward Wright, Samuel Wright, James
Wright, Earline Wright, Wilmenia
Wright, Henry Wright, Oscar Wright,
Leroy Wright, Harold Wright, Charles
Wright, Samuel Wright, Jr., Ernestine
Wright and Henry Wright, Jr., also all
other unknown persons claiming any
right, title, estate or lien upon the real
estate which is the subject of this action**

TO: Defendants above named and Marcus W. Meetze, Esquire, as Guardian ad Litem:

PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as counsel may be heard, the Plaintiff, by and through his undersigned attorney, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County for an Order granting Plaintiff Summary Judgment on all matters and causes set forth in Plaintiff's Complaint pursuant to the *South Carolina Rules of Civil Procedure*, Rule 56, as to all Defendants except Ernest McKnight on the grounds that an Order of Default was issued as to these Defendants, a copy of which is attached hereto, and as such there are no genuine issues as to any material fact with regard to the causes of action set forth in Plaintiff's Complaint against these Defendants, and therefore, the Plaintiff is entitled to Summary Judgment as a matter of law.



Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

Date: Oct 6, 2010
Charleston, South Carolina

Attorney for the Plaintiff

EXHIBIT 6

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

John Wright,)

Plaintiff,)

v.)

Ned Wright, Hattie Wright Gaston,)

Annie M. Wright, Edward Wright,)

Samuel Wright, James Wright,)

Earline Wright Maxwell, Wilmenia)

Wright, Henry Wright, Oscar)

Wright, Leroy Wright, Harold)

Wright, Charles Wright, Samuel)

Wright, Jr., Ernestine Wright,)

Henry Wright, Jr., Ernest)

McKnight, along with John Doe or)

Mary Roe, fictitious names to)

designate minors, infants, persons)

of unsound mind, under disability)

or incompetent, persons in prison,)

persons in the military service)

within meaning of Title 50, United)

States Code, commonly referred to)

as The Soldiers and Sailors Civil)

Service Act) of 1940, if any, and)

Richard Roe and Sarah Roe,)

fictitious names to designate the)

unknown heirs, devisees,)

distributees, issue, executors,)

administrators, successors or)

assigns of Ned Wright, Hattie,)

Defendant.)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO. 2010-CP-10-250

ORDER OF DEFAULT

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2010 APR -1 AM 10:32

FILED

IT appearing from the Affidavit of Publication, dated February 17, 2010, and the Affidavit of Default of Jonathan S. Altman, attorney for the Plaintiff, that the below-named Defendants have been duly served with the Summons and Complaint and more than thirty days have elapsed since said service during which no responsive pleadings were filed by said Defendants.

77

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the following

Defendants are hereby declared to be in default:

1. Ned Wright,
2. Hattie Wright Gaston,
3. Annie M. Wright,
4. Edward Wright,
5. Samuel Wright,
6. James Wright,
7. Earline Wright Maxwell,
8. Wilmenia Wright,
9. Henry Wright,
10. Oscar Wright,
11. Leroy Wright,
12. Harold Wright,
13. Charles Wright,
14. Samuel Wright, Jr.,
15. Ernestine Wright,
16. Henry Wright, Jr.

Date:

3/3/11

Presiding Judge, Ninth Judicial Circuit

2010-5381

EXHIBIT 7

D · A · W

DERFNER
ALTMAN &
WILBORN

April 6, 2011

Willie B. Heyward, Esq.
Heirs' Property Law Center, LLC
2148 Dorchester Rd.
North Charleston, SC 29405

Marcus W. Meetze, Esq.
P.O. Box 265
Charleston, SC 29402

RE: *John Wright v. The Estate of Ned Wright, et al.*
Case No.: 2010-CP-10-250

Dear Willie and Wes:

Please find enclosed a Notice of Hearing relative to the above referenced case scheduling Plaintiff's Motion for Summary Judgment for April 21, 2011 at 11:30 a.m. Please contact me with any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright.)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

NOTICE OF HEARING

FILED
2011 APR -7 PM 1:26
JULIE J. ARMSTRONG
CLERK OF COURT

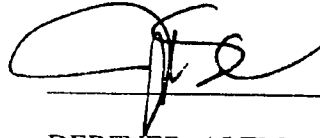
81

TO: The above named Defendants, Willie B. Heyward, Esq. as attorney for Defendant Ernest McKnight and Marcus W. Meetze, Esq. as Guardian Ad Litem

YOU WILL PLEASE TAKE NOTICE that Plaintiff's Motion for Summary Judgment will be heard on April 21, 2011 @ 11:30 a.m. at the Charleston County Courthouse located at 100 Broad Street, Courtroom 3E, Charleston, SC 29401.

Date:

4.6.11



DERFNER, ALTMAN & WILBORN, LLC
Jonathan S. Altman, Esq.
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29403
Telephone: (843) 723-9804

EXHIBIT 8

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

John Wright,)

Plaintiff,)

vs.)

Ned Wright, Hattie Wright Gaston,)

Annie M. Wright, Edward Wright,)

Samuel Wright, James Wright,)

Earline Wright Maxwell, Wilmenia)

Wright, Henry Wright, Oscar Wright,)

Leroy Wright, Harold Wright,)

Charles Wright, Samuel Wright, Jr.,)

Ernestine Wright, Henry Wright, Jr.,)

Ernest McKnight, along with John)

Doe or Mary Roe, fictitious names to)

designate minors, infants, persons of)

unsound mind, under disability or)

incompetent, persons in prison,)

persons in the military service within)

meaning of Title 50, United States)

Code, commonly referred to as The)

Soldiers and Sailors Civil Service Act)

of 1940, if any, and Richard Roe and)

Sarah Roe, fictitious names to)

designate the unknown heirs,)

devisees, distributees, issue,)

executors, administrators, successors)

or assigns of Ned Wright, Hattie)

Wright Gaston, Annie M. Wright,)

Edward Wright, Samuel Wright,)

James Wright, Earline Wright,)

Wilmenia Wright, Henry Wright,)

Oscar Wright, Leroy Wright, Harold)

Wright, Charles Wright, Samuel)

Wright, Jr., Ernestine Wright, and)

Henry Wright, Jr., also all other)

unknown persons claiming any right,)

title, estate or lien upon the real estate)

which is the subject of this action,)

Defendants.)

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

ORDER

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2011 APR 21 PM 12:19

FILED

This matter came before the Court on Plaintiff's Motion for Summary Judgment as to all Defendants except Defendant Ernest McKnight. Plaintiff's motion was filed on October 8, 2010. Present was Jonathan S. Altman, attorney for Plaintiff. No Defendants were present. Marcus W. Meetze, Esq., in his capacity as Guardian ad Litem was not present but provided a letter to the Court advising that he had been timely served with the Notice of Hearing and had received no communication or contact from any of the Defendants since his appointment on January 12, 2010.

The record in this case reflects Plaintiff's Suit to Quiet Title was filed on January 12, 2010. On that date, Marcus W. Meetze was appointed Guardian ad Litem for minors, imprisoned or incompetent persons, members of the military and unknown persons who may have claim or interest in the subject property. An Order for Publication was issued on January 12, 2010. An Affidavit of Publication was filed on February 17, 2010. No answers were filed by any of the Defendants other than Ernest McKnight and an Affidavit of Default was filed on March 30, 2010. An Order of Default was issued on March 31, 2010 and filed on April 1, 2010. Plaintiff's Motion for Summary Judgment was filed on October 8, 2010.

The real property that is the subject of this action is located in the County of Charleston, State of South Carolina and is more specifically described as follows:

ALL that certain lot, parcel, or tract of land situated, lying and being in Adams Run Township, formerly of Colleton County and now of Charleston County, in the State of South Carolina, containing ten and one-fourth acres, more or less, and bounded as follows: North by Jacksonboro Road, East by lands of Abner Young, and on the South and West by lands formerly owned by J. T. Mitchell, now owned by Fitzsimons, as will more fully appear when reference is had to plat of property made by Wm. Horne, Surveyor, and dated March 12, 1875.

BEING the same property conveyed to Ned Wright by Deed of Margaret Singleton and J. William Washington dated January 21, 1908, and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 31, at Page 86 on January 30, 1908, and recorded in the Office of the Register of Deeds for Charleston County in Deed Book N27, at Page 19.

TMS No. 245-00-00-026

As alleged in his Complaint, Plaintiff paid taxes and maintained possession of the property for a period of over twenty years. Plaintiff's possession was open, notorious, hostile and continuous for this period. As such, Plaintiff's actions constitute an ouster of all other heirs and possible claimants. As a result of Plaintiff's acts, title to the subject property has vested in Plaintiff. The record reflects that the Defendants were properly served and an Order of Default has been entered against them.

WHEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff is the owner of the property holding fee simple title thereto by virtue of the ouster of all others who may claim an ownership interest in the property; and
2. All Defendants, except Defendant Ernest McKnight, and all entities joined as Defendants in this action and the fictitious names of John Doe, adults and Mary Roe, infants, insane persons, incompetents are forever barred of and from any claim, right, title, estate, interest and/or lien upon the parcel of real estate above described or any part thereof from claiming any right title, estate, interest or lien in the property.

IT IS SO ORDERED THIS 21 DAY OF April, 2011.

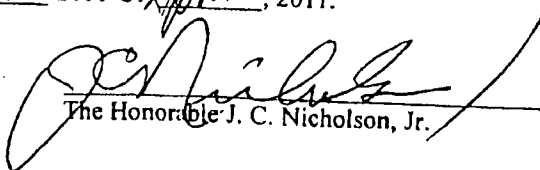

The Honorable J. C. Nicholson, Jr.

EXHIBIT 9

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

August 17, 2011

Willie B. Heyward, Esq.
Heirs' Property Law Center, LLC
2148 Dorchester Rd.
North Charleston, SC 29405

RE: *John Wright v. The Estate of Ned Wright, et al.*
Case No.: 2010-CP-10-250

Dear Willie:

I received your voicemail. Please find enclosed a copy of the Order issued by Judge Nicholson for your records. Please contact me after you have had an opportunity to review it.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC

Jonathan Altman / vs
Jonathan S. Altman

JSA/rs

Enclosures

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-250

John Wright,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)

Defendants.)

ORDER

FILED
2011 APR 21 PM 12:19
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This matter came before the Court on Plaintiff's Motion for Summary Judgment as to all Defendants except Defendant Ernest McKnight. Plaintiff's motion was filed on October 8, 2010. Present was Jonathan S. Altman, attorney for Plaintiff. No Defendants were present. Marcus W. Meetze, Esq., in his capacity as Guardian ad Litem was not present but provided a letter to the Court advising that he had been timely served with the Notice of Hearing and had received no communication or contact from any of the Defendants since his appointment on January 12, 2010.

The record in this case reflects Plaintiff's Suit to Quiet Title was filed on January 12, 2010. On that date, Marcus W. Meetze was appointed Guardian ad Litem for minors, imprisoned or incompetent persons, members of the military and unknown persons who may have claim or interest in the subject property. An Order for Publication was issued on January 12, 2010. An Affidavit of Publication was filed on February 17, 2010. No answers were filed by any of the Defendants other than Ernest McKnight and an Affidavit of Default was filed on March 30, 2010. An Order of Default was issued on March 31, 2010 and filed on April 1, 2010. Plaintiff's Motion for Summary Judgment was filed on October 8, 2010.

The real property that is the subject of this action is located in the County of Charleston, State of South Carolina and is more specifically described as follows:

ALL that certain lot, parcel, or tract of land situated, lying and being in Adams Run Township, formerly of Colleton County and now of Charleston County, in the State of South Carolina, containing ten and one-fourth acres, more or less, and bounded as follows: North by Jacksonboro Road, East by lands of Abner Young, and on the South and West by lands formerly owned by J. T. Mitchell, now owned by Fitzsimons, as will more fully appear when reference is had to plat of property made by Wm. Horne, Surveyor, and dated March 12, 1875.

BEING the same property conveyed to Ned Wright by Deed of Margaret Singleton and J. William Washington dated January 21, 1908, and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 31, at Page 86 on January 30, 1908, and recorded in the Office of the Register of Deeds for Charleston County in Deed Book N27, at Page 19.

TMS No. 245-00-00-026

As alleged in his Complaint, Plaintiff paid taxes and maintained possession of the property for a period of over twenty years. Plaintiff's possession was open, notorious, hostile and continuous for this period. As such, Plaintiff's actions constitute an ouster of all other heirs and possible claimants. As a result of Plaintiff's acts, title to the subject property has vested in Plaintiff. The record reflects that the Defendants were properly served and an Order of Default has been entered against them.

WHEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff is the owner of the property holding fee simple title thereto by virtue of the ouster of all others who may claim an ownership interest in the property; and
2. All Defendants, except Defendant Ernest McKnight, and all entities joined as Defendants in this action and the fictitious names of John Doe, adults and Mary Roe, infants, insane persons, incompetents are forever barred of and from any claim, right, title, estate, interest and/or lien upon the parcel of real estate above described or any part thereof from claiming any right title, estate, interest or lien in the property.

IT IS SO ORDERED THIS 21 DAY OF April, 2011.

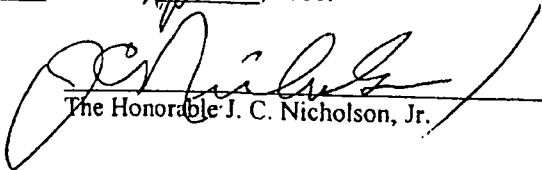

The Honorable J. C. Nicholson, Jr.

EXHIBIT 10

NED WRIGHT. HATTIE WRIGHT. GASTON. ANNIE M. WRIGHT. EDWARD WRIGHT. SAMUEL WRIGHT. JAMES WRIGHT. WARLINE WRIGHT. MAXWELL. WILMENIA WRIGHT, HENRY WRIGHT. OSCAR WRIGHT. LEROY WRIGHT. HAROLD WRIGHT, CHARLES WRIGHT. SAMUEL WRIGHT, JR. ERNESTINE WRIGHT. HENRY WRIGHT. JR., ERNEST MCKNIGHT. along with JOHN DOE OR MARY ROE. FICTITIOUS NAMES TO DESIGNATE MINORS, INFANTS, PERSON OF UNSOUND MIND. UNDER DISABILITY OR INCOMPETENT. PERSONS IN PRINSON, PERSONS IN THE MILITARY SERVICE WITHIN MEANING OF TITLE 20, UNITED STATES CODE, COMMONLY REFERRED TO AS THE SOLDIERS AND SAILORS CIVIL SERVICE ACT OF 1940. IF ANY. AND RICHARD ROE AND SARAH ROE, FICTITIOUS NAME TO DESIGNATE THE UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES, ISSUE, EXECUTORS. ADMINISTRATORS. SUCCESSORS OR ASSIGNS OF NED WRIGHT. HATTIE WRIGHT GASTON. ANNIE M. WRIGHT. EDWARD WRIGHT. SAMUEL WRIGHT, JAMES WRIGHT. EARLINE WRIGHT. WILMENIA WRIGHT. HENRY WRIGHT, OSCAR WRIGHT. LEROY WRIGHT. HAROLD WRIGHT. CHARLES WRIGHT. SAMUEL WRIGHT. JR., ERNESTINE WRIGHT. AND HENRY WRIGHT, JR.. ALSO ALL

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.: 2010-CP-10-250

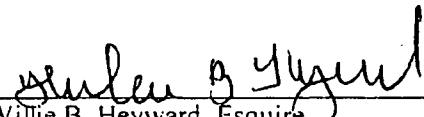
FILED
2011 SEP 27 PM 4:51
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

**MOTION TO SET ASIDE
SUMMARY JUDGEMENT**

OTHER UNKNOWN PERSONS)
CLAIMING ANY RIGHT TITLE, ESTATE)
OR LIEN UPON THE REAL ESTATE)
WHICH IS THE SUBJECT OF THIS)
ACTION.)
DEFENDANTS)
_____)

TO Defendants above-named and Marcus W. Meetze, Esquire, as Guardian *ad Litem*:

PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as counsel may be heard, the Plaintiff, Ernest McKnight by and through his undersigned attorney, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County for an Order to Set-Aside Summary Judgement as set forth in Plaintiffs Memorandum in support of this Motion pursuant to the South Carolina Rules of Civil Procedure, Rule 59e.


Willie B. Heyward, Esquire
Heirs Property Law Center, LLC
27 Gamecock Ave., Suite 200
Charleston, SC 29407
Telephone: (843) 225-8754

Charleston, SC
Dated: September 19, 2011

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JOHN WRIGHT

Plaintiff,

vs.

NED WRIGHT ET AL.

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case Number 2010-CP-10-250

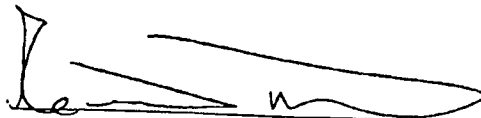
AFFIDAVIT OF EARNEST MCKNIGHT

2011 SEP 27 PM 4:52
FILED
CLERK OF COURT
BY

PERSONALLY appeared before me the undersigned who, under oath, deposes and says:

1. I am a Defendant in the above-referenced action and a creditor of the Estate of Ned Wright.
2. I am the secured creditor of a mortgage executed by some of the heirs of the Estate of Ned Wright.
3. The mortgage is secured by their interest in the property that is the subject of the present action.
4. The Order, granted as a result of a Motion for Summary Judgement, that grants the Plaintiff fee simple interest in the subject property and divests all of the other heirs of Ned Wright violates my statutory Right of First Refusal under Section 15-61-25 (A), as a non-petitioning co-tenant.
5. The heirs that are signatories to the mortgage are John Wright, Anna Michelle Procher and Harold L. Wright
6. I ask that this case be referred to Master in Equity of Charleston County for a full adjudication of this matter

95



ERNEST MCKNIGHT
763 Seaman Lane
Johns Island, SC 29455

Sworn to before me this
8th Day of September, 2011
Edward S. Worthington
Notary Public of South Carolina
My Commission Expires: 5-14-2020



Defendants.

AFFIDAVIT OF
ANNA MICHELLE PORCHER

2011 SEP 27 PM 4:52
JULIE J. ARMSTRONG
CLERK OF COURT

6. I ask that I be served with all pleadings in this matter so as to ascertain my rights in the subject property and defend my rights to continue my possession of same.

Anna Michelle Porcher
ANNA MICHELLE PORCHER
4789 Savannah Highway, Ravenel SC

Sworn to before me this
9 Day of September, 2011

[Signature]
Notary Public of South Carolina

My Commission Expires: 3-12-2019

PAMELA PORCHER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES MARCH 12, 2019

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.: 2010-CP-10-250

John Wright,

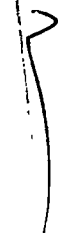
Plaintiff,

vs.

Ned Wright, Hattie Green Wright, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry, Wright, Jr., Ernest McKnight, along with John Doe or Mary Roe, fictitious names to designate minors, infants, persons of unsound mind, under disability or incompetent, persons in prison, persons in the military service within the meaning of Title 50, United States Code, commonly referred to as The Soldiers and Sailors Civil Service Act of 1940, if any, and Richard Roe and Sarah Roe fictitious names to designate unknown heirs, devisees, distributees, issue, executors, administrators, successors, or assigns of Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, and Henry Wright, Jr., and also all other unknown persons claiming any right, title estate or lien upon the real estate which is the subject of this action,

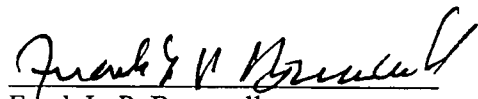
Defendants.

MOTION TO INTERVENE AND
JOIN IN THE MOTION TO SET
ASIDE ORDER

FILED
2017 JAN 11 PM 3:11
JULIE J. ARMSTRONG
CLERK OF COURT
BY 

TO THE PARTIES ABOVE NAMED:

Anna Michelle Porcher, who upon information and belief, is a tenant-in-common of the real property that is the subject of this action, who was not named as a Defendant in the action and was not served within any pleadings or motions herein, and who resides adjacent to the property which is the subject of this action, and who is an heir (granddaughter) of the former owner of the said property, Ned Wright, who died intestate in 1953, and who had acquired the property by deed in 1908, and also the daughter of decedent, Henry Wright, Sr., son of Ned Wright, hereby moves to intervene in this action pursuant to Rule 24(a) of the SCRCF on the grounds that she claims an interest relating to the property which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede her ability to protect her interest. She further moves to join in the pending motion to set aside the Order of the Honorable J. C. Nicholson, Jr., dated and filed April 21, 2011, granting summary judgment.



Frank L. P. Barnwell
23 Broad St.
Charleston, SC 29401
Ph.: 843-722-1789
Fax: 843-577-2241
Email: frankbarnwell@yahoo.com
SC Bar # 537
Attorney for Intervenor, Anna Michelle
Porcher

January 11, 2012

100

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-10-250

John Wright,

Plaintiff,

v.

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar
Wright, Leroy Wright, Harold
Wright, Charles Wright, Samuel
Wright, Jr., Ernestine Wright,
Henry Wright, Jr., Ernest
McKnight, along with John Doe or
Mary Roe, fictitious names to
designate minors, infants, persons
of unsound mind, under disability
or incompetent, persons in prison,
persons in the military service
within meaning of Title 50, United
States Code, commonly referred to
as The Soldiers and Sailors Civil
Service Act) of 1940, if any, and
Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees,
distributees, issue, executors,
administrators, successors or
assigns of Ned Wright, Hattie,

Defendant.

AFFIDAVIT OF EUGENE D. GATHERS

2012 FEB -9 AM 11:44
JULIE J. ARMSTRONG
CLERK OF COURT
BY *AB*

FILED

Personally appeared before me, Eugene D. Gathers, who being duly sworn, states
as follows:

1. I, Eugene D. Gathers, am the son of John Wright and am providing this affidavit
in response to the Motion to Intervene and Join in the Motion to Set Aside Order that was
filed by Anna Porcher.

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2. In October 2009, I was advised by Anna Porcher that Ernest McKnight was preparing to file a lawsuit to acquire ownership of my father's property. Ms. Porcher also advised that Mr. McKnight had cut down trees on the property and was planning to build on the family land. I spoke with my father regarding these developments and assisted my father in obtaining legal counsel.

3. My father passed away in August 2010. Ms. Porcher attended the visitation and spoke to me regarding Mr. McKnight and my father's property. She advised that she had spoken with Mr. McKnight and told him to stop what he was doing. She also advised that she would let us know if Mr. McKnight tried to do anything else with the property.

4. On August 27, 2010, Ms. Porcher attended my father's funeral and burial. After the burial, we spoke about this lawsuit and Mr. McKnight's claims. Ms. Porcher was well aware of the lawsuit and knew that we had hired an attorney to address Mr. McKnight's claim and to secure and protect my father's property.

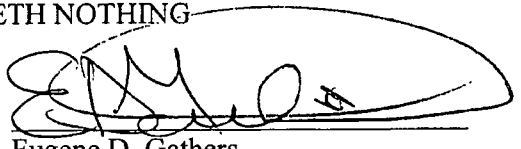
5. In April 2011, my wife and I visited Charleston and were cleaning the property. Ms. Porcher, who lives next door, saw us and came over to visit. We spent thirty to forty-five minutes together and she asked what our plans were for the property. My wife and I told her that we were considering constructing a retirement home on the land. Ms. Porcher advised that it would be great if we did so.

6. Anna Porcher is the daughter of Henry Wright. Henry Wright was my father's uncle. In the 1980s, Henry Wright's portion of the family property was cutoff. After that date, the tax bill was sent to my father's residence at 114 Nassau Street. Accordingly, Henry Wright, nor any of his heirs, including Anna Porcher, have any interest in my father's property. Furthermore, Ms. Porcher knew of the pending litigation, both through

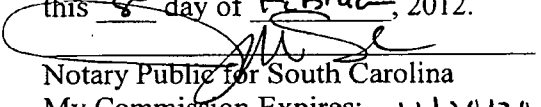
myself and Ernest McKnight. I did not learn of Ms. Porcher's recent claims until receiving notification from my legal counsel. As Ms. Porcher has already received her interest in the family property through the Deed of Distribution issued relative to her father's estate (a copy of which is attached hereto as Exhibit "A"), I do not believe that she or her siblings have any interest whatsoever in my father's property.

FURTHER AFFIANT SAYETH NOTHING

Date: February 8, 2012
Charleston, South Carolina


Eugene D. Gathers

Sworn to and Subscribed before me
this 8 day of February, 2012.


Notary Public for South Carolina

My Commission Expires: 11/20/2013

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

UK B

665PG187

PROBATE COURT

IN THE MATTER OF HENRY WILLIAM WRIGHT, SR.

CASE NUMBER 1997-ES-10-0095720

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 26TH day of June 1997 and,

WHEREAS, the estate of the decedent is being administered in the Probate Court for Charleston County, South Carolina in File # 1997-ES-10-009572; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, Ned Wright who died intestate in 1953 was the owner of a parcel of land containing approximately 10.25 acres. The Decedent was one of eight children who were the heirs at law of Ned Wright. Said heirs agreed among themselves as to a partition of the land and the below described lots are a portion of Ned Wright's Estate that was allotted to the Decedent, and,

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted bargained, sold and released, and by these Presents does grant, bargain, sell and release to:

Anna Michelle Wright Porcher
4789 Savannah Hwy.
Ravenel, SC 29470

the following described property:

All that certain lot, piece, parcel or lot of land, situate, lying and being in St. Paul's Parish, County of Charleston, State of South Carolina, known and designated as Lot 2, on a plat thereof entitled "PLAT OF LANDS OF THE SUBDIVISION OF THE ESTATE OF NED WRIGHT" said plat being dated Nov. 26, 1986 was made by James G. Pennington RLS and recorded in the RMC Office for Charleston County on January 14, 1987 in plat Book BL, at page 150. The aforesaid plat is made a part and parcel of this description by reference.

TMS: 245-00-00-169

ALSO

All that certain lot, piece, parcel or lot of land, situate, lying and being in St. Paul's Parish, County of Charleston, State of South Carolina, known and designated as Lot 1, on a plat thereof entitled "PLAT OF LANDS OF NED WRIGHT ESTATE" said plat being dated June 7, 1983 was made by George D. Sample, PE & LS and recorded in the RMC Office for Charleston County on September 6, 1983 in plat Book AY, at page 35. The aforesaid plat is made a part and parcel of this description by reference.

104

Being the same property conveyed to Ned Wright by deed dated January 2, 1908 and recorded in Book N27at Page 19 in the RMC Office for Charleston County.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises/Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said **Anna Michelle Wright Porcher** her heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as Personal Representative of the estate of the decedent, has executed this Deed, this ~~10th~~ day of ~~June~~ ^{July} 2008.

SIGNED, SEALED AND DELIVERED Estate of: **HENRY WILLIAM WRIGHT, SR**
IN THE PRESENCE OF

by Signature: Anna Michelle Wright Porcher
Name: Anna Michelle Wright Porcher
Personal Representative
Address: 4789 Savannah Hwy.
Ravenel, SC 29470
Telephone :843-556-8301

Witness: Janice L. Carrell

Notary: [Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that he/she saw the within named Personal Representative(s) sign, seal, and as their act and deed, deliver the within written Deed, and that he/she with the other witness witnessed the execution thereof.

SWORN to before me this
~~10th~~ day of ~~June~~ ^{July} 2008.

Witness Signature: Janice L. Carrell

[Signature]
Notary Public for South Carolina
My Commission Expires: 02/12/11

J. TED KIENE

Notary Public

State of South Carolina

ommission Expires Feb. 22, 2011

BELOW, PLEASE SPECIFY THE EXACT NAME AND ADDRESS
OF THE PERSON(S) TO WHOM TAX BILL SHALL BE SENT:

Anna Michelle Wright Porcher
4789 Savannah Hwy.
Ravenel, SC 29470

3KB

665PG189

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT

Date of Transfer of Title

7/10/2008

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred BY The Estate of Henry William Wright, Sr.
TO Anna Michelle Wright Porcher ON July 10, 2008
3. Check one of the following: The DEED is
 - (A) subject to the deed recording fee as a transfer for consideration paid or to be paid in Money or money's worth.
 - (B) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
 - (C) X EXEMPT from the deed recording fee because. (Exemption # 1)
(Explanation if required) Less than \$100.00
(If Exempt, please skip items 4-6, and go to item 7 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (A) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$.
 - (B) The fee is computed on the fair market value of the realty which is \$.
 - (C) The fee is computed on the fair market value of the realty as established for property Tax purposes which is \$.
5. Check YES or NO to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES" the amount of the outstanding balance of this lien or encumbrance is \$.
6. The DEED Recording Fee is computed as follows:
 - (A) the amount listed in item 4 above.
 - (B) the amount listed in item 5 above. (no amount place zero)
 - (C) subtract line 6(b) from line 6(a) and place the result.
7. As required by Code Section '12-24-70. I state that I am a responsible person who was connected with the transaction as:
Attorney
8. Check if Property other than Real Property is being transferred on this Deed.
 - (A) Mobile Home
 - (B) Other
9. X DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT: Estate of Henry William Wright, Sr. deceased CASE NUMBER 1997-ES-10-0095720. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Rep. in the Estate of Henry William Wright, Sr. deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.
10. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Sworn to before me this 10th
day of July, 2008.

James L. Carrell
Notary Public for South Carolina
My Commission Expires: 11/13/13

Signed

J. Ted Kiene
Grantor, Grantee, or Attorney that prepared this form
J. Ted Kiene, Attorney
Type or Print Name here

J. TED KIENE
ATTORNEY AT LAW
P.O. BOX 40176
NORTH CHARLESTON, SC

106

dkB

665PG190

RECORDER'S PAGE

NOTE: This page MUST remain with the original document



FILED

July 21, 2008

9:08:59 AM

dkB

665PG187

Charlie Lybrand, Register
Charleston County, SC

Filed By:

J. Ted Kiene

PO Box 40176

N. Charleston

SC 29423

Number of Pages:

4

AMOUNT

DESCRIPTION

Deed/Dist

Recording Fee \$ 10.00

State Fee <Exempt>

County Fee <Exempt>

Postage

TOTAL

\$ 10.00

\$ Amount (In thousands):

DRAWER:

B - ECP

AUDITOR STAMP HERE

RECEIVED FROM RMC

JUL 25 2008

PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP

DATE

MKD
7/25/08

DO NOT STAMP BELOW THIS LINE

107

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-0250

John Wright,)
Plaintiff,)
vs.)

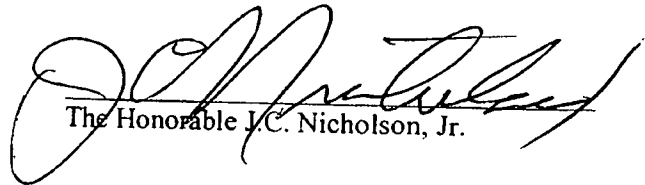
Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
meaning of Title 50, United States)
Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
Sarah Roe, fictitious names to)
designate the unknown heirs,)
devisees, distributees, issue,)
executors, administrators, successors)
or assigns of Ned Wright, Hattie)
Wright Gaston, Annie M. Wright,)
Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

ORDER

FILED
2012 FEB 29 AM 10:25
JULIE J. HARRINGTON
CLERK OF COURT
BY _____

Upon motion of Jonathan S. Altman, Esq., attorney for Plaintiffs John Wright and Eugene Gathers and in accordance with SCRCP Rule 25(c), Eugene Gathers is hereby substituted as party Plaintiff for John Wright.

IT IS SO ORDERED THIS 24 day of Feb., 2012.


The Honorable J.C. Nicholson, Jr.

WE SO MOVE:

Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC
P.O. Box 600
Charleston, SC 29402

Attorney for Plaintiff

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-0250

Eugene Gathers,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
Ernestine Wright, Henry Wright, Jr.,)
Ernest McKnight, along with John)
Doe or Mary Roe, fictitious names to)
designate minors, infants, persons of)
unsound mind, under disability or)
incompetent, persons in prison,)
persons in the military service within)
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or assigns of Ned Wright, Hattie)
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Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
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Defendants.)

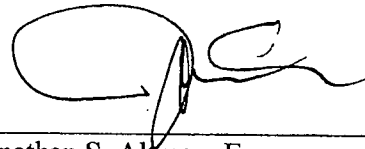
2012 MAR -8 PM 3:32
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

FILED

OFFER OF JUDGMENT

Pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, Plaintiff hereby offers to allow judgment to be entered against him in this action in the amount of \$6,187.00 as to all of Defendant Ernest McKnight's claims. This offer of judgment is made for the purposes specified in SCRCR Rule 68 and is not to be construed as either an admission that Plaintiff is liable in this action or that Defendant Ernest McKnight has suffered any damages.

Respectfully submitted,



Date: March 7, 2012

Jonathan S. Altman, Esq.
DERFNER, ALTMAN & WILBORN, LLC
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402

Attorney for Plaintiff

111

D · A · W

D E R F N E R
A L T M A N &
W I L B O R N

March 7, 2011

Charleston County Clerk of Court
100 Broad Street
Charleston, SC 29401

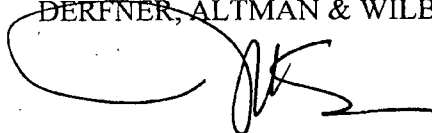
RE: *Eugene Gathers v. The Estate of Ned Wright, et al.*
Case No.: 2010-CP-10-250

Dear Madam Clerk:

Please find enclosed an original and one copy of an Offer of Judgment relative to the above referenced case. Please file the original and return a filed copy to me in the enclosed self-addressed stamped envelope. Please contact me with any questions regarding the above.

Yours Very Truly,

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman

JSA/rs

Enclosures

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-10-250

Eugene Gathers,

Plaintiff,

v.

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar
Wright, Leroy Wright, Harold
Wright, Charles Wright, Samuel
Wright, Jr., Ernestine Wright,
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or incompetent, persons in prison,
persons in the military service
within meaning of Title 50, United
States Code, commonly referred to
as The Soldiers and Sailors Civil
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Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees,
distributees, issue, executors,
administrators, successors or
assigns of Ned Wright, Hattie,

Defendant.

ORDER

FILED
2012 MAR 15 AM 11:36
JULIE J. STRONG
CLERK OF COURT
BY

This matter came before the Court on February 13, 2012 on Anna Porcher's (hereinafter "Porcher") motion to intervene. Present at the hearing were Jonathan S. Altman, attorney for the Plaintiff, and Frank L. P. Barnwell, attorney for Anna Porcher. Prior to the hearing of Porcher's motion, counsel for both parties advised the Court that

an agreement had been reached as to Porcher's motion which was placed on the record.

The terms of this agreement are as follows:

1) Porcher shall be allowed to intervene in this action for the limited purpose of asserting claims ^{as a creditor} arising from Porcher's purported payment of real property taxes for the property which is the subject of this action;

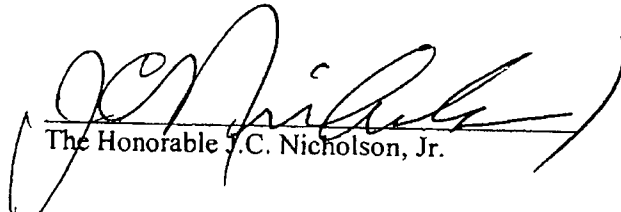
2) Porcher claims no ownership interest in the real property which is the subject of this action.

Plaintiff has consented to Porcher's intervention for this limited purpose.

THEREFORE, IT IS SO ORDERED this 12 day of March, 2012, that Anna Porcher be allowed to intervene in this action for the limited purpose of 1) pursuing recovery of monies purportedly paid by Porcher relative to real property taxes on the subject property and 2) that Porcher holds no ownership interest in the real property which is the subject of this action.

Date:

3/12/12


The Honorable J.C. Nicholson, Jr.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2010-CP-10-00250

Eugene Gathers,)
Plaintiff,)
vs.)

Ned Wright, Hattie Wright Gaston,)
Annie M. Wright, Edward Wright,)
Samuel Wright, James Wright,)
Earline Wright Maxwell, Wilmenia)
Wright, Henry Wright, Oscar Wright,)
Leroy Wright, Harold Wright,)
Charles Wright, Samuel Wright, Jr.,)
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Code, commonly referred to as The)
Soldiers and Sailors Civil Service Act)
of 1940, if any, and Richard Roe and)
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Edward Wright, Samuel Wright,)
James Wright, Earline Wright,)
Wilmenia Wright, Henry Wright,)
Oscar Wright, Leroy Wright, Harold)
Wright, Charles Wright, Samuel)
Wright, Jr., Ernestine Wright, and)
Henry Wright, Jr., also all other)
unknown persons claiming any right,)
title, estate or lien upon the real estate)
which is the subject of this action,)
Defendants.)

ORDER

FILED
2012 MAY -4 AM 9:27
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This matter came before the Court on February 13, 2012 on Defendant Ernest McKnight's (hereinafter "Defendant McKnight") motion to set aside summary judgment. Present at the hearing were Willie B. Heyward, attorney for Defendant McKnight and Jonathan S. Altman, attorney for Plaintiff Eugene Gathers (hereinafter "Plaintiff").

The record in this case reflects that Plaintiff's suit to quiet title was filed on January 12, 2010. On March 18, 2010, Defendant McKnight answered Plaintiff's complaint and asserted three (3) counterclaims including claims for adverse possession, reimbursement of taxes and foreclosure of mortgage.

On May 19, 2010, Plaintiff filed a motion for judgment on the pleadings pursuant to rule 12(c) or in the alternative motion for summary judgment as to Defendant McKnight's counterclaim for adverse possession. On August 2, 2010, a Consent Order of Dismissal was issued by the Honorable Roger Young under which the parties consented to the dismissal of Defendant McKnight's counterclaim for adverse possession. Defendant McKnight's remaining counterclaims for reimbursement of taxes and foreclosure of mortgage were unaffected by this order.

On October 8, 2010, Plaintiff filed a motion for summary judgment as to all Defendants except Defendant McKnight. An order of default had been issued as to all other Defendants. Plaintiff served a notice of hearing on Defendant McKnight.

On April 21, 2011, I heard Plaintiff's motion for summary judgment. Defendant McKnight nor his counsel appeared. The Guardian ad Litem advised the Court that he had been timely served and had received no communication from any of the Defendants since his appointment. No parties appeared to contest Plaintiff's motion which was granted. My order expressly preserved Defendant McKnight's remaining counterclaims.

On September 27, 2011, Defendant McKnight filed a motion to set aside summary judgment. It does not appear that Defendant McKnight provided Plaintiff's counsel with notice of this filing. The Court was not served with a copy of this motion until several months after its filing.

FINDINGS

Defendant McKnight contends that he has standing to assert claims under S.C. Code Ann. § 15-61-25 entitled "Right of First Refusal of Joint Tenants or Tenants in Common" and that the granting of Plaintiff's motion jeopardizes this claim. In his answer and counterclaim, Defendant McKnight seeks reimbursement for taxes he purportedly paid on the subject property and asserts a claim under a mortgage. Plaintiff does not dispute that monies are owed to Defendant McKnight but contests the amount of that debt. Defendant McKnight's claims were expressly preserved in this Court's prior order. Under S.C. Code Ann. § 15-61-25, joint tenants or tenants in common are provided certain rights. Defendant McKnight is neither a joint tenant nor a tenant in common. As a creditor, he has no statutory right of first refusal under S.C. Code Ann. § 15-61-25 which provides no basis for the setting aside of this Court's prior order.

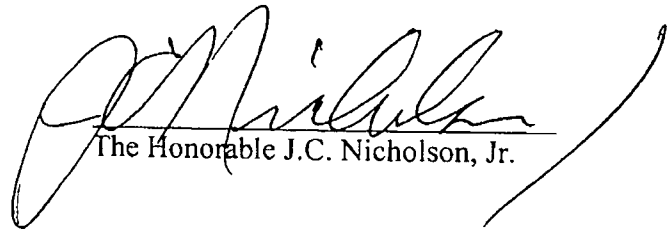
Defendant McKnight's motion is also untimely and improper. SCRCP 59(e) requires a motion to alter or amend judgment be served no later than ten (10) days after receipt of written notice. Defendant McKnight was properly served with notice of the hearing for Plaintiff's motion for summary judgment which was heard and granted on April 21, 2011. Defendant McKnight nor his counsel appeared to contest Plaintiff's motion. The record reflects that Plaintiff McKnight received a copy of this Court's prior order no later than August 2011. Defendant McKnight's motion was not filed until



September 27, 2011. In addition, Defendant McKnight failed to serve a copy of his motion on Plaintiff's counsel or the Court within ten (10) days as required by Rule 59(e). For the reasons set forth herein, Defendant McKnight's motion to set aside summary judgment and/or motion for reconsideration is hereby DENIED.

Date:

5/2/12


The Honorable J.C. Nicholson, Jr.

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable J. C. Nicholson, Jr.

Case No.: 2010-CP-10-250

Eugene Gathers

Respondent,

v.

NED WRIGHT, HATTIE WRIGHT GASTON,
ANNIE M. WRIGHT, EDWARD WRIGHT,
SAMUEL WRIGHT, JAMES WRIGHT, WARLINE
WRIGHT MAXWELL, WILMENIA WRIGHT,
HENRY WRIGHT, OSCAR WRIGHT, LEROY
WRIGHT, HAROLD WRIGHT, CHARLES
WRIGHT, SAMUEL WRIGHT, JR., ERNESTINE
WRIGHT, HENRY WRIGHT, JR., ERNEST
MCKNIGHT, along with JOHN DOE OR MARY
ROE, FICTITIOUS NAMES TO DESIGNATE
MINORS, INFANTS, PERSON OF UNSOUND
MIND, UNDER DISABILITY OR INCOMPETENT,
PERSONS IN PRINSON, PERSONS IN THE
MILITARY SERVICE WITHIN MEANING OF
TITLE 20, UNITED STATES CODE, COMMONLY
REFERRED TO AS THE SOLDIERS AND
SAILORS CIVIL SERVICE ACT OF 1940, IF ANY,
AND RICHARD ROE AND SARAH ROE,
FICTITIOUS NAME TO DESIGNATE THE
UNKNOWN HEIRS, DEVISEES, DISTRIBUTEES,
ISSUE, EXECUTORS, ADMINISTRATORS,
SUCCESSORS OR ASSIGNS OF NED WRIGHT,
HATTIE WRIGHT GASTON, ANNIE M. WRIGHT,
EDWARD WRIGHT, SAMUEL WRIGHT, JAMES
WRIGHT, WARLINE WRIGHT, WILMENIA
WRIGHT, HENRY WRIGHT, OSCAR WRIGHT,
LEROY WRIGHT, HAROLD WRIGHT, CHARLES

BY

JULIE J. ARMSTRONG
CLERK OF COURT

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WRIGHT, SAMUEL WRIGHT, JR., ERNESTINE
WRIGHT, AND HENRY WRIGHT, JR.. ALSO ALL
OTHER UNKNOWN PERSONS CLAIMING ANY
RIGHT TITLE, ESTATE OR LIEN UPON THE
REAL ESTATE WHICH IS THE SUBJECT OF
THIS ACTION,

Appellants

NOTICE OF APPEAL

Ernest McKnight appeals the order of the Honorable J. C. Nicholson dated March 12, 2012.
Appellant received written notice of entry of this order on May 10, 2012.

May 17, 2012

Willie B. Heyward
Willie B. Heyward

Willie B. Heyward

27 Gamecock Ave., Ste. 200

Charleston, SC 29407

(843) 225-8754

Attorney for Appellant, Ernest McKnight

Other Counsel of Record:

Jonathan Scott Altman

Defner Altman & Wilborn, LLC

PO Box 600

Charleston, SC 29407

Bar No.: 65400

Attorney for Respondent

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr. – Circuit Court Judge

APPELLATE CASE NUMBER 2012-212010

RECEIVED
JUN 25 2012
SC Court of App.

Eugene Gathers, Respondent,

v.

Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry Wright, Jr., Ernest McKnight,, along with John Doe or Mary Roe, fictitious names to designate minors, infants person of unsound mind, under disability or incompetent. Person in prison, persons in the military service within meaning of Title 50, United States Code, commonly referred to as the Soldiers and Sailors Civil Service Act of 1940, if any, and Richard Roe and Sarah Roe, fictitious names to designate the unknown heirs, devisees, distributees, issue, executors, administrators, successors or assigns of Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Earnestine Wright, and henry Wright, Jr., also all other unknown person claiming any right, title, estate of lien upon the real estate which is the subject of this action, Defendants,

of whom Ernest McKnight is the Appellant.

MEMORANDUM ADDRESSING APPEALABILITY

Willie B. Heyward, Esq.
Heir's Property Law Center
27 Gamecock Ave, Suite 200
Charleston, SC 29407
Tel: 843-225-8754
Fax: 843-225-8765
Email: heywarddwighth@live.com
Attorney for Appellant

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INTRODUCTION

Appellant-Defendant's ("McKnight's") Notice of Appeal challenges a trial court order dated May 2, 2012, and filed May 4, 2012, (the "4th Order"). McKnight received written notice of the entry of this 4th Order on May 10, 2012. Below is a chronological listing of all Trial Court's orders of record in the case below (2010-CP-10-00250):

#	Description	Date	Filed	Received
1 st	Consent Order of Dismissal - Dismissing with prejudice McKnight's Counter-Claim for Adverse Possession	July 26, 2010	August 2, 2010	N/A
2 nd	Order Granting John Wright's Motion for Summary Judgment and Quieting Title in John Wright (as to All Defendants except McKnight)	April 21, 2011	April 21, 2011	N/A
3 rd	Order on Anna Porcher's Motion to Intervene (as a creditor only)	March 12, 2012	March 15, 2012	N/A
4 th	Order Denying Motion to Set Aside Summary Judgment (2 nd Order)	May 2, 2012	May 4, 2012	May 10, 2012

The Notice of Appeal mistakenly describes the order appealed from as one dated March 12, 2012. (instead of being one dated May 2, 2012). McKnight will serve and file an Amended Notice of Appeal to correct the date of the 4th Order if such an amendment is warranted.

McKnight *timely served* his Notice of Appeal from the Trial Court's 4th Order on May 22, 2012, in accordance with Rule 203(b)(1), SCACR, which allows for service "within thirty (30) days (after receipt of written notice of entry of the order or judgment). McKnight then *timely filed* this Notice of Appeal on the same day, May 22, 2012, in accordance with Rule 203(d)(1)(B), SCACR, which allows for filing within ten (10) days (after the notice of appeal is served).

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Although this memorandum is focused on the narrow issue of appealability of the Trial Court's 4th Order, a brief overview of McKnight's equitable interests and foreclosure of mortgage claim will give context to the appealability issues involved in this case.

MCKNIGHT'S EQUITABLE CLAIMS

McKnight seeks to foreclose and protect his equitable interest in the subject property. McKnight holds a mortgage dated September 25, 2003, in the principal amount of \$6,187.52, which was filed on September 29, 2003, in the Charleston County RMC Office in book M-469, at Page 341. This Mortgage was given to McKnight by three of the named defendants: John Wright, Anna Michelle Porcher, and Harold L. Wright ("Mortgagors").

With the exception of McKnight's claim for adverse possession, the Trial Court's 2nd Order purportedly preserved all of McKnight's allegations and claims in this matter. However, by vesting the Plaintiff with fee simple title to the subject property, the court summarily stripped McKnight of certain rights and interests in the property, as is further explained below. As this 2nd Order was a final judgment as to the issue of ownership of the property, it is an appealable order under Rule 72, SCRCP and Rule 201, SCACR.

The referenced mortgage has all the usual elements of a South Carolina mortgage instrument. The mortgagors granted a security interest to McKnight for the better securing the payment of the \$6,187.52, a Habendum Clause and General Warranties of Mortgagors (Title, Possession Further Assurances, etc.). Accordingly, when the mortgagors conveyed a mortgage to McKnight in September of 2003, they asserted the following:

a) LEGAL TITLE / OWNERSHIP - They owned the property (as of the date of the mortgage, September 29, 2003) and had the legal right to convey a mortgage interest therein to McKnight.

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b) CLEAR TITLE - Their title to the property was free of any liens and encumbrances, except those that may be specifically noted in the mortgage.

c) SUPERIOR TITLE - Their title was superior to any other title that may exist on the property.

d) FURTHER ASSURANCES - They would provide further assurances to get any required legal documents that may be needed to make the grantee's mortgage interest good.

e) GENERAL WARRANTIES - They and will defend the grantee's title against all legal claims that may be made against it, including compensating the grantee for any loss should the title prove faulty.

The mortgage further states that the Mortgagors "do grant, bargain, sell and release unto the said Earnest McKnight ...[the subject property]... TOGETHER with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in anywise incident and appertaining." The only such right with respect to the property not conveyed by the mortgage to McKnight was possession and use of the property as indicated by the provision stating that "...the mortgagor is to hold and enjoy the same premises until default of payment shall be made."

4th ORDER CONSTITUTED DENIAL OF MOTION
FOR RELIEF FROM 2nd ORDER UNDER RULE 60(b)

Although McKnight's Motion to Set Aside the Summary Judgment Order (2nd Order) refers to Rule 59(e), it is better styled and treated as one under SCRPC, Rule 60(b), and disposed of as provided therein, and not under SCRPC, Rule 59. The "mistake" provision of Rule 60(b)(1), SCRPC, afforded McKnight one (1) year from written notice of entry of the order to file and serve the motion (or until April 21, 2012, at the earliest), and the "equitable to allow

prospective application” provision of Rule 60(b)(4) afforded McKnight three years from such notice (or until April 21, 2014) and, accordingly, it was timely filed on September 27, 2011, under both of these subsections. McKnight also has a continuing right to file an amended or even a new motion under Rule 60(b)(4), and would immediately do so, with leave of this Court of Appeals, if doing so would better clarify the issues on appeal in this case going forward on remand or otherwise.

Findings of Fact in 2nd Order

The 2nd Order made the following findings of fact and conclusions of law:

- a) Wright paid taxes and *maintained possession* of the property for a period of over twenty years;
- b) Wright’s possession was *open, notorious, hostile and continuous for this period*;
- c) Wright’s actions *constitute an ouster* of all other heirs and possible claimants;
- d) As a result of Wright’s acts, title to the subject property has vested in Wright.

Rule 60(b) Mistakes in 2nd Order

The 2nd Order includes mistakes of the trial court which were reiterated and compounded by the new findings of fact and conclusions of law issued in the 4th Order. Specifically, the trial court erred in finding that there was an ouster by Wright as against the Mortgagors when neither the pleadings nor the court’s orders set out the required elements of such an ouster. See *Fender v. Smashum*, 581 S.E.2d 853, (S.C. App (2003). Elements presented by Plaintiff’s counsel and the court lacked the required showing of “actual” and “exclusive” possession as against Wright’s fellow co-tenants for the requisite twenty (20) year period for implied ouster by possession. In addition, one of the three (3) mortgagors granting the mortgage interest to McKnight was none other than Wright himself! The mere existence of this mortgage, in which

all three mortgagors assert, inter alia, legal ownership, obviously negates any valid claim of ouster by Wright as to the other co-mortgagors. Thus, the Order was mistaken as a matter of law.

Furthermore, with no ouster, the Mortgagors retained a legal interests in the property, including a right of partition and right of first refusal under Section 15-61-25. A fact which in turn gives rise to the mistaken ruling in the 4th Order.

Findings of Fact in 4th Order

The trial court made the following findings and conclusions in his 4th Order:

1. That McKnight contends he has standing to assert claims under Section 15-61-25 ("Right of First Refusal of Joint Tenants or Tenants in Common").
2. That McKnight seeks reimbursement for taxes he purportedly paid.
3. That McKnight asserts a claim under a mortgage.
4. That McKnight's claims were expressly preserved in this Court's prior order (this is the "law of the case" referenced above).
5. That joint tenants or tenants in common are provided certain rights under Section 15-61-25.
6. That McKnight is neither a joint tenant nor a tenant in common.
7. That, as a creditor, he has no statutory right of first refusal under Section 15-61-25 which provides no basis for setting aside of this Court's prior order.
8. That McKnight's motion is untimely and improper.

Rule 60(b) Mistakes in 4th Order

The trial court made a mistake in finding that McKnight has no right of first refusal under section 15-61-25 without a full hearing on the matter. The Mortgagors retained their legal rights

in the property as noted above, and McKnight was conveyed an equitable interest in those rights (save possession and use prior to default, as noted above) by virtue of the mortgage. Thus, at least arguably, McKnight was conveyed and/or assigned any rights of first refusal the Mortgagors may had under Section 15-61-25.

For these reasons, both the 2nd and 4th Orders were mistaken as a matter of law and together were appealable final judgments as to the disposition of the ownership rights in the subject property to the detriment of McKnight, despite the Trial Court's preservation of his rights as a mortgagee as detailed above.

CONCLUSION

The 4th Order of The Honorable J.C. Nicholson dated May 2, 2012, and filed May 4, 2012, is appealable as a denial of McKnight's motion for relief from his 2nd Order (re-characterized as a motion under Rule 60(b)) improperly quieting title in Wright based upon a mistaken theory of "ouster" when the essential elements of "ouster" (importantly, ouster by "actual" and "exclusive" possession) do not appear in the Order or in the pleadings, the Order is both a mistake and inequitable vis-a-vis McKnight's ability to continue in this matter with his equitable and legal claims preserved.

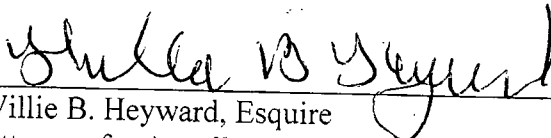
Quiet Title actions that result in several owners implicate a partition action by default when a mortgage interest and foreclosure is involved as to some, but not all, of the owners. Whether or not S.C. Code 15-61-25 becomes an issue in this case depends upon a judicial finding as to whether or not Appellant's rights as a mortgagee are tantamount to an assignment of the statutory right of first refusal therein from the three Mortgagors to the Appellant has not yet been properly addressed.

McKnight hereby moves before this Court for leave to file an amended Motion to Set Aside the

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Summary Judgment (4th Order) to be styled as one under Rule 60(b), and this matter be remanded to the Trial Court for an Order of Reference to the Charleston County Master-in-Equity to take testimony and fully adjudicate the rights of the parties in this matter.

Respectfully Submitted.


Willie B. Heyward, Esquire
Attorney for Appellant, Ernest McKnight

June 21, 2012

31 M 469PG341

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

MORTGAGE OF REAL ESTATE

TO ALL WHOM THESE PRESENTS MAY CONCERN: JOHN WRIGHT, ANNA MICHELLE PORCHER, AND HAROLD L. WRIGHT, IN THE STATE AFORESAID -- SEND GREETING:

WHEREAS the said John Wright, Anna Michelle Porcher and Harold L. Wright (hereinafter also styled the mortgagor(s) in and by their certain Note or obligation bearing even date herewith, stand firmly held and bound unto Ernest McKnight (hereinafter also styled the mortgagee(s) in the sum of SIX THOUSAND ONE HUNDRED EIGHTY SEVEN AND 52/100 (\$6,187.52) DOLLARS, as evidenced by and according to the terms and conditions of a Promissory Note of even date herewith, as in and by the said Note and Condition(s) thereof, reference being thereunto had, will more fully appear.

NOW, KNOW ALL MEN, that the said John Wright, Anna Michelle Porcher and Harold L. Wright in consideration of the said debt, and for the better securing the payment thereof, according to the conditions of the said Note, which with all its provisions is hereby made a part hereof; and also in consideration of Three Dollars to the said mortgagor in hand well and truly paid, by the said mortgagee, at and before the sealing and delivery of these Presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said Ernest McKnight the following described real property, to-wit:

ALL that lot, piece, or parcel of land situate lying and being on U.S. Highway 17 in the Rantowles Area of Charleston County containing 9.5 acres as shown on a plat by George D. Sample entitled "Plat of Lands of Ned Wright Estate" dated June 8, 1981 and recorded in Plat Book AU page 9 RMC, Charleston County. Said lot having such size, shape, dimensions, buttings, and boundings as will appear by reference to said plat and said plat is made a part in parcel of this description by reference hereto.

Being the same property conveyed to Ned Wright herein by deed of Margaret Singleton et al dated 9 day of Jan 1908 in book N-27 at page 19 in the RMC Office of Charleston County. The said Ned Wright died in the 1950's and the mortgagors are certain of his heirs.

TMS #245-00-00-026

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said Premises unto the said Mortgagee, its heirs, successors and assigns forever.

And Mortgagor do(es) hereby bind Mortgagor's heirs, successors, executors and administrators, to procure or execute any further necessary assurances of title to the said premises, the title to which is unencumbered, and also to warrant and forever defend all and singular the said Premises

Address of MORTGAGEE:

763 SEAMAN LN

Johns Island, S.C. 29445

unto the said mortgagee, mortgagee's heirs, successors, and assigns, from and against Mortgagor and Mortgagor's heirs, successors, executors and administrators and all persons lawfully claiming, or to claim the same or any part thereof.

AND IT IS AGREED, by and between the parties hereto, that the said mortgagor, mortgagor's heirs, successors, executors or administrators, shall keep the buildings erected, or to be erected on said premises, insured against loss or damage by fire, for the benefit of the said mortgagee, for an amount not less than the value of the buildings in such company as shall be approved by the said mortgagee, and shall deliver the policy to the said mortgagee, and in default thereof, the said mortgagee, mortgagee's heirs, successors, or assigns, may effect such instance and reimburse themselves under this mortgage for the expense thereof, with interest thereon, from the date of this payment. And it is further agreed, in the event of other insurance and contribution between the insurers, that the said mortgagee, mortgagee's heirs, successors, or assigns shall be entitled to receive from the aggregate of the insurance monies to be paid, a sum equal to the amount of the debt secured by this mortgage.

AND IT IS AGREED, by and between the parties, that if the said mortgagor, mortgagor's heirs, successors, executors, administrators or assigns, shall fail to pay all taxes and assessments upon the said premises when the same shall first become payable, then the said mortgagee, mortgagee's heirs, successors, or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse themselves under this mortgage for the sums so paid, with interest thereon, from the dates of such payments.

AND IT IS AGREED, by and between the parties, that upon any default being made in the payment of the interest on the said Note, or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, when the same shall severally first become payable, or in any other of the provisions of this mortgage, that then the entire amount of the debt secured, or intended to be secured hereby, shall forthwith become due, at the option of the said mortgagee, mortgagee's heirs, successors or assigns, although the period for the payment of the said debt may not then have expired.

AND IT IS AGREED, that if the holder of the Note secured hereby is compelled to pay any taxes upon the debt represented by said note, or by this mortgage, then, and in that event, unless the said taxes are paid by some party other than the said holder, that then the entire amount of the debt secured, or intended to be secured, shall forthwith become due at the option of the said mortgagee, mortgagee's heirs, successors, or assign, although the period for its payment may not then have expired.

AND IT IS AGREED, by and between the said parties, that, should legal proceedings be instituted for the collection of the debt secured hereby, then and in that event, the said mortgagee, mortgagee's heirs, successors, or assigns, shall have the right to have a Receiver appointed of the rents and profits of the above described premises, with power to forthwith lease out the said premises anew if he should so elect, who after deducting all charges and expenses attending such proceedings, and the execution of the said trust as Receiver, shall apply the residue of the said rents and profits towards the payment of the debts secured hereby.

AND IT IS FURTHER AGREED, by and between the parties, that should legal proceedings be instituted for the foreclosure of this mortgage, or for any purpose involving this

EX M 469PG343

mortgage, or should the debt hereby secured be placed in the hands of an attorney at law for collection, by suit or otherwise, that all costs and expenses incurred by the mortgagee, mortgagee's heirs, successors, or assigns, including a reasonable counsel fee (of not less than ten percent of the amount involved), shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED, ALWAYS, and it is the true intent and meaning of the parties to these Presents, that when the said mortgagor, mortgagor's heirs, successors, executors or administrators shall pay, or cause to be paid unto the said mortgagee, mortgagee's certain attorneys, heirs, successors or assigns, the said debt, with the interest thereon, if any shall be due, and also all sums of money paid by the said mortgagee, mortgagee's heirs, successors or assigns, according to the conditions and agreements of the said note, and of this mortgage and shall perform all the obligations according to the true intent and meaning of the said note and mortgage, and the conditions thereunder written, then this Deed of Bargain and Sale shall cease, determine and be void, otherwise it shall remain in full force and virtue.

AND IT IS LASTLY AGREED, by and between the said parties, that the said mortgagor is to hold and enjoy the same premises until default of payment shall be made.

Witness mortgagor's hand and seal this 25th day of September in the year of our Lord two thousand three and in the two hundred and twenty-seventh year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

[Signature]
Randall A. Hiller
[Signature]
Randall A. Hiller
[Signature]
[Signature]
[Signature]
Randall A. Hiller

[Signature]
John Wright

[Signature]
Anna Michelle Porcher

[Signature]
Harold L. Wright

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

31 M 469PG344

I, [Signature], do hereby certify that John Wright, Anna Michelle Porcher and Harold L. Wright personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 25th day of September, 2003.

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA
My Comm. Expires: 3-22-07

BARRY I. BAKER
ATTORNEY AT LAW
O. C. CARRIAGE LANE, BLDG H
P.O. BOX 31265
CHARLESTON, SC 29417-1265

Handwritten signature/initials

BK M 469PG345

10.00
C

FILED

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2003 SEP 29 PM 4: 28

CLERK LYBRAND
REGISTER
CHARLESTON COUNTY SC

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

N-7 NOTE

\$6,187.52

September 25, 2003

FOR VALUE RECEIVED, the undersigned John Wright, Anna Michelle Porcher and Harold L. Wright promise(s) to pay to the order of Ernest McKnight at Charleston, South Carolina, in lawful money of the United States of America, the principal sum of SIX THOUSAND ONE HUNDRED EIGHTY-SEVEN AND 52/100 (\$6,187.52) DOLLARS, together with interest thereon from the date hereof at the rate of eight percent per annum, with both interest and principal being due and payable one year from date.

If default be made in the performance of or compliance with any of the covenants and conditions of this Note or of the mortgage or any other instrument securing this note, then in any of said events, said principal sum with all accrued interest thereon shall become at once due and payable at the option of holder thereof and be collectible without further notice. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

If this note be placed in the hands of an attorney for collection after the same shall for any reason become due, or if collected by legal proceedings or through the probate or bankrupt courts, or under foreclosure proceedings under the mortgage securing this note, than all cost of collection, including a reasonable sum for attorneys fee, shall be added hereto as fees secured and collectible as the principal thereof.

The undersigned expressly agree jointly and severally to remain and continue bound for the payment of the principal and interest provided for by the terms of this note notwithstanding any extension or extensions of the time of, or for the payment of said principal or interest, or any change or changes in the amount or amounts agreed to be paid under and by virtue of the obligation to pay provided for in this note, or any change or changes by way of release or surrender of any collateral held as security for this note and waive all and every kind of notice of such extension or extensions, change or changes and agree that the same may be made without the joinder of the undersigned.

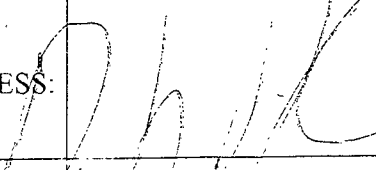
Presentment, protest, and notice are hereby waived.

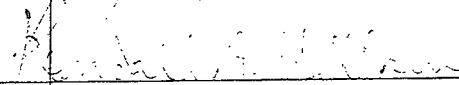
It is expressly agreed and declared that this note is given for an actual loan of SIX THOUSAND ONE HUNDRED AND EIGHTY-SEVEN AND 52/100 (\$6,187.52) DOLLARS.

This note is secured by a mortgage of even date conveying property in Charleston County, South Carolina.

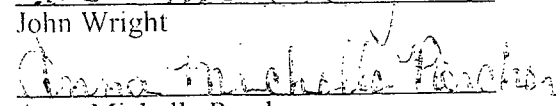
Witness the hand and seal of each of the signers hereof.

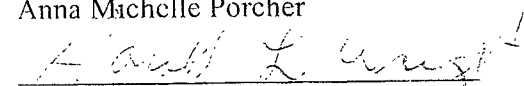
WITNESS:






John Wright


Anna Michelle Porcher


Harold L. Wright

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

JB 665PG187

PROBATE COURT

IN THE MATTER OF HENRY WILLIAM WRIGHT, SR.

CASE NUMBER 1997-ES-10-009572O

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 26TH day of June 1997 and,

WHEREAS, the estate of the decedent is being administered in the Probate Court for Charleston County, South Carolina in File # 1997-ES-10-009572; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, Ned Wright who died intestate in 1953 was the owner of a parcel of land containing approximately 10.25 acres. The Decedent was one of eight children who were the heirs at law of Ned Wright. Said heirs agreed among themselves as to a partition of the land and the below described lots are a portion of Ned Wright's Estate that was allotted to the Decedent, and,

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted bargained, sold and released, and by these Presents does grant, bargain, sell and release to:

Anna Michelle Wright Porcher
4789 Savannah Hwy.
Ravenel, SC 29470

the following described property:

All that certain lot, piece, parcel or lot of land, situate, lying and being in St. Paul's Parish, County of Charleston, State of South Carolina, known and designated as Lot 2, on a plat thereof entitled "PLAT OF LANDS OF THE SUBDIVISION OF THE ESTATE OF NED WRIGHT" said plat being dated Nov. 26, 1986 was made by James G. Pennington RLS and recorded in the RMC Office for Charleston County on January 14, 1987 in plat Book BL, at page 150. The aforesaid plat is made a part and parcel of this description by reference.

TMS: 245-00-00-169

ALSO

All that certain lot, piece, parcel or lot of land, situate, lying and being in St. Paul's Parish, County of Charleston, State of South Carolina, known and designated as Lot 1, on a plat thereof entitled "PLAT OF LANDS OF NED WRIGHT ESTATE" said plat being dated June 7, 1983 was made by George D. Sample, PE & LS and recorded in the RMC Office for Charleston County on September 6, 1983 in plat Book AY, at page 35. The aforesaid plat is made a part and parcel of this description by reference.

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Being the same property conveyed to Ned Wright by deed dated January 2, 1908 and recorded in Book N27 at Page 19 in the RMC Office for Charleston County.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises/Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said **Anna Michelle Wright Porcher** her heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as Personal Representative of the estate of the decedent, has executed this Deed, this ~~10th~~ ^{July} day of ~~June~~ 2008.

SIGNED, SEALED AND DELIVERED Estate of: **HENRY WILLIAM WRIGHT, SR**
IN THE PRESENCE OF

by Signature: Anna Michelle Wright Porcher
Name: Anna Michelle Wright Porcher
Personal Representative
Address: 4789 Savannah Hwy.
Ravenel, SC 29470
Telephone: 843-556-8301

Witness: Janice L. Carrell

Notary: [Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that he/she saw the within named Personal Representative(s) sign, seal, and as their act and deed, deliver the within written Deed, and that he/she with the other witness witnessed the execution thereof.

SWORN to before me this
~~10th~~ ^{July} day of ~~June~~ 2008.

Witness Signature: Janice L. Carrell

Notary Public for South Carolina
My Commission Expires: 02/12/11

J. TED KIENE

Notary Public

State of South Carolina

Commission Expires Feb. 22, 2011

BELOW, PLEASE SPECIFY THE EXACT NAME AND ADDRESS
OF THE PERSON(S) TO WHOM TAX BILL SHALL BE SENT:

Anna Michelle Wright Porcher
4789 Savannah Hwy.
Ravenel, SC 29470

1342

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT

Date of Transfer of Title
7/10/2008

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred BY The Estate of Henry William Wright, Sr.
TO Anna Michelle Wright Porcher ON July 10, 2008
3. Check one of the following: The DEED is
 - (A) ☐ subject to the deed recording fee as a transfer for consideration paid or to be paid in Money or money's worth.
 - (B) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
 - (C) ☒ EXEMPT from the deed recording fee because. (Exemption # 1)
(Explanation if required) Less than \$100.00
(If Exempt, please skip items 4-6, and go to item 7 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (A) ☐ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$.
 - (B) ☐ The fee is computed on the fair market value of the realty which is \$.
 - (C) ☐ The fee is computed on the fair market value of the realty as established for property Tax purposes which is \$.
5. Check YES ☐ or NO ☐ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES" the amount of the outstanding balance of this lien or encumbrance is \$.
6. The DEED Recording Fee is computed as follows:
 - (A) ☐ the amount listed in item 4 above.
 - (B) ☐ the amount listed in item 5 above. (no amount place zero)
 - (C) ☐ subtract line 6(b) from line 6(a) and place the result.
7. As required by Code Section 12-24-70. I state that I am a responsible person who was connected with the transaction as:
Attorney
8. Check if Property other than Real Property is being transferred on this Deed.
 - (A) ☐ Mobile Home
 - (B) ☐ Other
9. ☒ DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT: Estate of Henry William Wright, Sr. deceased CASE NUMBER 1997-ES-10-0095720. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Rep. in the Estate of Henry William Wright, Sr. deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.
10. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Sworn to before me this 10th
day of July, 2008.

Janice L. Caneel
Notary Public for South Carolina
My Commission Expires: 11/13/13

Signed [Signature]
Grantor, Grantee, or Attorney that prepared this form
J. Ted Kiene, Attorney
Type or Print Name here

**J. TED KIENE
ATTORNEY AT LAW
P.O. BOX 40176
NORTH CHARLESTON, SC**

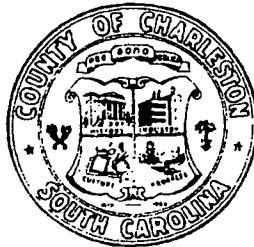
137

JAB

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RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document

**FILED**

July 21, 2008

9:08:59 AM

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665PG187

Charlie Lybrand, Register
Charleston County, SC

Filed By:

J. Ted Kiene

PO Box 40176
N. Charleston

SC 29423

Number of Pages:

4

AMOUNT

DESCRIPTION

Deed/Dist

Recording Fee \$ 10.00

State Fee <Exempt>

County Fee <Exempt>

Postage

TOTAL

\$ 10.00

\$ Amount (in thousands):

DRAWER:

B - ECP

AUDITOR STAMP HERE

RECEIVED FROM RMC

JUL 25 2008

PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP

DATE

MKD
7/25/08

DO NOT STAMP BELOW THIS LINE

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BP0137112

RMC Bk-0137 Pg 112 : pg 1 *

Deed prepared by:

Derfner, Altman & Wilborn, LLC
Post Office Box 600
Charleston, SC 29402

TITLE NOT EXAMINED BY DERFNER, ALTMAN & WILBORN, LLC

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That **John Wright** (hereinafter "Grantor"), for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and love and affection for my brother, to him in hand paid at and before the sealing and delivery of these presents by **Eugene D. Gathers** (hereinafter "Grantee"), the receipt whereof is hereby acknowledged, has remised, released and forever quit-claimed, and by these presents does remise, release and forever quit-claim all of his right, title, and/or interest in and to the following described property unto **Eugene D. Gathers**, his heirs and assigns, forever, to-wit:

6.94 Acres on the southside of U.S. Hwy 17 in the Rantowles area of Paul's Parish, Charleston County, S.C., and designated as per "Plat of Lands of Ned Wright . . ." by George D. Sample, P.E. and L.S., depicting 9.5 Acres dated June 8, 1981, and recorded in Plat Book AU, Page 9, RMC Office for Charleston County.

SAVING AND EXCEPTING Lot 1 (.88 ac), Lot 2 (7 ac), and Lot 3 (1.0 ac) all in the Northwest Moeity of said Tract previously conveyed.

Portion of TMS No. 245-00-00-026

Grantee's Address: 2301 West Howett Street
Peoria, IL 61605

TOGETHER with all and singular the rights, members, hereditaments and appurtenance to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said **Eugene D. Gathers**, his heirs and assigns, forever, so that neither the Grantor, nor his heirs, nor any other person or persons, claiming under the Grantor or him, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

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WITNESS the Grantor's Hand and Seal this 31 day of August, 2010.

IN THE PRESENCE OF:

Walter Hatter
(1st witness)

John Wright
JOHN WRIGHT

[Signature]
(2nd witness)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Jonathan S. Altman
THE FOREGOING was affirmed and acknowledged before me, / ~~Jonathan S. Altman~~
a Notary Public for the State of South Carolina, by **John Wright**, who upon
oath acknowledged himself, and that he executed the within instrument for the purposes therein
contained.

WITNESS my hand and official seal at office this 31 day of August, 2010.

[Signature] (SEAL)
Notary Public for South Carolina

My Commission Expires: 11/20/2013

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STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON

PERSONALLY appeared before me, the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by John Wright to Eugene D. Gathers:
3. Check one of the following: **THE DEED IS**
 - (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) X _____ **EXEMPT** from the deed recording fee because (exemptions 1-14). (If exempt, please skip items 4-7, and go to item 8 of this Affidavit.) Exemption 1 - Family conveyance from brother to brother.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
 - (b) _____ The fee is computed on the fair market value of the realty which is \$ _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ _____.
5. Check **YES** _____ or **NO** _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is \$ _____.
6. The **DEED** Recording Fee is computed as follows:
 - (a) \$ _____ the amount listed in item 4 above
 - (b) _____ the amount listed in item 5 above (no amount place zero)
 - (c) \$ _____ Subtract Line 6(b) from Line 6(a) and place the result.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Legal Representative
8. Check if Property other than Real Property is being transferred on this Deed.
 - (A) _____ Mobile Home
 - (B) _____ Other
9. _____ **DEED OF DISTRIBUTION** - attorney's affidavit: Estate of _____ deceased CASE NUMBER _____. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Rep. in the Estate of _____ deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.
10. I understand that a person required to furnish this Affidavit who wilfully furnishes a false or fraudulent Affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

DERFNER, ALTMAN & WILBORN, LLC

By: _____

Jonathan S. Altman

SWORN to before me this

4th day of August, 2010Jenna M. Hoody
NOTARY PUBLIC FOR SOUTH CAROLINAMY COMMISSION EXPIRES: 7/30/2017

14/11

RECORDER'S PAGE

NOTE: This page MUST remain
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Filed By:

DERFNER, ALTMAN & WILBORN, LLC

PO BOX 600
CHARLESTON SC 29402

RECORDED

Date: August 6, 2010
Time: 9:27:16 AM

Book	Page	Doc Type
0137	112	Q/Claim

Charlie Lybrand, Register
Charleston County, SC

MAKER:

WRIGHT JOHN

of Pages: 4

RECIPIENT:

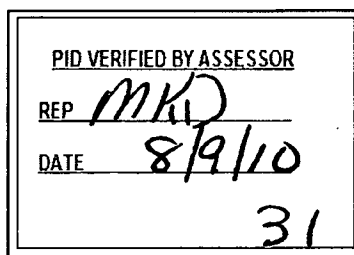
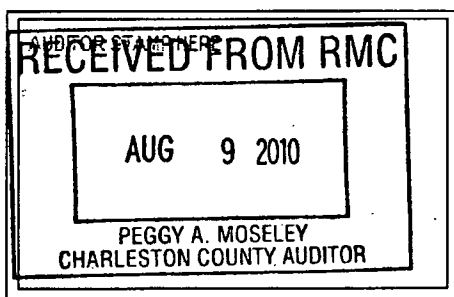
GATHERS EUGENE D

Note:

Recording Fee	\$ 10.00
State Fee	<EXEMPT>
County Fee	<EXEMPT>
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 10.00

Original Book:

Original Page:



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CLERK SLW



0137
Book



112
Page



08/06/2010
Recorded Date



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Original Book



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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
)

John Wright,

) CASE NO. 2010-DR-10-250
)

PLAINTIFF,

)

VS.

) Charleston, South Carolina
)

The Estate of Ned Wright,
et. al.,

)

)

)

DEFENDANTS.

)

)

TRANSCRIPT OF RECORD

(A certification sheet will be attached bearing an original signature
if this transcript has been certified by the court reporter.)

COMMENCING:

February 13, 2012 at 1:11 p.m.

Before The Honorable J. C. Nicholson, Jr.

APPEARANCES:

Attorney for the Plaintiff
Jonathan S. Altman, Esquire

Attorney for Unnamed Defendant, Anna Forchay
Frank Barnwell, Esquire

Attorney for the Defendant, Earnest McKnight
Willie B. Heyward, Esquire

Phyllis Norton, CVR-Master, Nationally Certified Verbatim Court Reporter
100 Broad Street, Suite 236, Charleston, SC 29401
(843) 958-5083 PNorton@sccourts.org

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PROCEEDING - Page 3

NO SWORN TESTIMONY

EXHIBITS - None Proffered.

CERTIFICATION OF TRANSCRIPT - See Page 20

A transcript certified by the court reporter will bear an original signature on the attached certification sheet. Please contact the court reporter for additional certified transcripts.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

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1 THE COURT: Let's see. This is what; is it John Wright
2 versus the estate of Ned Wright?

3 MR. ALTMAN: Yes, Your Honor.

4 THE COURT: Okay.

5 MR. ALTMAN: I am Jonathan Altman. I represent the
6 plaintiff in this case. There are essentially two motions
7 pending. Willie Heyward represents Earnest McKnight. Willy
8 was here this morning. I expect him to be here momentarily.

9 THE COURT: Okay.

10 MR. ALTMAN: But he is not here. The second motion is
11 a motion to intervene and set aside the summary judgment
12 that you granted to the plaintiff in this case that was
13 filed by Mr. Barnwell, to my left, on behalf of Anna
14 Forchay.

15 And I believe that we have an agreement as to Ms.
16 Forchay's motion that I am happy to put on the record. And
17 if I say anything incorrect, Mr. Barnwell can correct me.

18 THE COURT: Okay.

19 MR. ALTMAN: Ms. Forchay lives on an adjacent piece
20 of property. She is not a named defendant. The party's
21 record -- she claims and I have no reason to doubt, that she
22 has paid taxes relative to the piece that my folks took
23 title to by summary judgment.

24 I would in light of the -- what I -- the documentation
25 that I have seen I believe that she very well may have an

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1 interest in this property as a creditor.

2 And as a result, I on behalf of the plaintiff will
3 consent as to Ms. Forchay intervening in this action in the
4 summary judgment order that you granted that it be set aside
5 with regard to Ms. Forchay.

6 My hope is that that will afford us the opportunity to
7 get some documentation seeing what she actually paid so that
8 we can quantify her claim for reimbursement as a creditor.

9 So I suppose Frank and I will get together and prepare
10 a simple consent order allowing her to intervene setting
11 aside the motion -- or the summary judgment order as to Ms.
12 Forchay and recognizing her status as a potential creditor.

13 THE COURT: Okay.

14 MR. BARNWELL: I do just want to add one thing. Ms.
15 Forchay -- and she is out there in the hall - considers
16 her -- she is very much a historian of the family, and she
17 has prepared a family tree with all of the different
18 branches of the family. And she tells me that she is
19 concerned about these other branches that aren't being
20 represented.

21 So it is a strong possibility that she may have
22 representatives of these other family members convey their
23 interest over to her so that she can represent ---

24 THE COURT: I assume they ordered -- there is a John
25 Doe in the action, isn't it?

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1533

1 MR. ALTMAN: I'm sorry?

2 THE COURT: Is there a John Doe ---

3 MR. ALTMAN: There is a John Doe in the action.

4 THE COURT: Okay.

5 MR. BARNWELL: There is a John Doe in the action;
6 however, these -- she has information about the ouster
7 that -- that was -- as far as the quitclaim deed that there
8 may be some issues coming down the line.

9 The quitclaim deed that John Wright issued -- John
10 Wright is still named as the plaintiff, but he is deceased.
11 And he had quitclaimed his interest to someone named Eugene
12 Gathers, his stepson. But on the deed it says that he's
13 quitclaimed the property to his brother. This was a
14 deathbed deed about three weeks before he died. And there
15 may be some other issues relative to that.

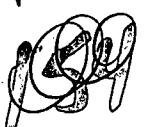
16 That's why today we are setting aside the summary
17 judgment motion as to my client Michelle Forchay, Anna
18 Michelle Forchay. It may be in the future that she -- that
19 other branches of the family want to come forward.

20 THE COURT: Well, I mean it's -- we will just have to
21 deal with that when it happens I would assume. If and when
22 it happens.

23 MR. ALTMAN: I think that is appropriate, Your Honor.

24 THE COURT: Okay.

25 MR. BARNWELL: Yeah, I am not asking you to do anything

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1 about it now. It is ---

2 THE COURT: Okay.

3 MR. ALTMAN: I think that is everything as to ---

4 THE COURT: Ms. Forchay?

5 MR. ALTMAN: --- Ms. Forchay.

6 THE COURT: Motion to intervene?

7 MR. BARNWELL: And motion to intervene and set aside
8 summary judgment as to her.

9 THE COURT: All right. Just send me a proposed order.

10 MR. ALTMAN: I think we will get together. It won't be
11 more than a page.

12 MR. BARNWELL: Okay. That sounds good.

13 THE COURT: Okay. Thank you very much for being here.

14 MR. BARNWELL: Thank you, Your Honor.

15 THE COURT: It looks like she spent some time putting
16 that together.

17 MR. BARNWELL: She certainly did. And she has got --
18 down the hall she even has a more cleaned up looking version
19 of this. So she is very interested.

20 THE COURT: Okay. Thank you. How much land was
21 involved in this?

22 MR. BARNWELL: It's about ten acres.

23 MR. ALTMAN: It was originally ten acres and then Ms.
24 Forchay's father had two lots cut out I believe in nineteen
25 -- in the 80's. So I don't know what -- how much the

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1 residual acreage is. But I think the original tract was a
2 little over ten acres.

3 MR. BARNWELL: I think there is about nine left,
4 something like that.

5 MR. ALTMAN: That could be.

6 THE COURT: Okay. Thank you so very much for being
7 here.

8 (Whereupon the hearing recessed 1:16 p.m.)

9 (Whereupon the hearing resumed 1:25 p.m.)

10 THE COURT: All right. Mr. Heyward, Roger Young had
11 dismissed defendant Knight's (sic) counterclaim for adverse
12 possession, was dismissed a while back; is that correct?

13 MR. HEYWARD: That is correct.

14 THE COURT: And then we had this motion for
15 reconsidera- -- excuse me, the motion for summary judgment.
16 And it was granted against all of the defendants except Mr.
17 McKnight if I remember correctly.

18 MR. ALTMAN: That is correct.

19 THE COURT: So what are you asking me to set aside?

20 MR. HEYWARD: There is a mortgage that Mr. McKnight had
21 with some of the heirs including John Wright, one Anna
22 Forchay, and Harold L. Wright.

23 Because any interest they may have in the property has
24 been extinguished because of the order granting fee simple
25 interest in Mr. Altman's client, when Mr. McKnight

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1 forecloses -- and that is one of the allegations in his
2 answer was foreclosure. Once he forecloses on the mortgage
3 and acquires the interest ---

4 THE COURT: Well, has he foreclosed?

5 MR. HEYWARD: He has not foreclosed yet.

6 THE COURT: But he voluntarily withdrew his
7 counterclaim.

8 MR. HEYWARD: For adverse possession, Your Honor.

9 THE COURT: Right, adverse possession.

10 MR. HEYWARD: That is correct. And there is a
11 right ---

12 THE COURT: And then a summary judgment was granted
13 against all of the defendants but McKnight. Is that right,
14 Mr. Altman?

15 MR. ALTMAN: Yes.

16 THE COURT: So what is your complaint?

17 MR. HEYWARD: My ---

18 THE COURT: He is still in the lawsuit.

19 MR. HEYWARD: He is still in the lawsuit. But the
20 folks for whom he can assert his right of first refusal and
21 stepping into his shoes are now out of the lawsuit.

22 THE COURT: I understand.

23 MR. HEYWARD: They are no longer in the lawsuit because
24 of this order.

25 THE COURT: Right.

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1 MR. HEYWARD: So therefore when he forecloses the folks
2 with whom he can foreclose against are gone.

3 THE COURT: Well, who signed -- who signed the
4 mortgage? Is Mr. -- Mr. John Wright ---

5 MR. HEYWARD: John Wright who is deceased.

6 THE COURT: Well, John Wright signed the mortgage;
7 right?

8 MR. HEYWARD: And Anna Forchay and Harold L. Wright.
9 All three of them signed the mortgage.

10 THE COURT: Okay.

11 MR. HEYWARD: John Wright is deceased. And there has
12 been no -- it is my understanding there has never been an
13 administration of an estate on John Wright. Also when John
14 Wright quitclaimed his interest to Eugene D. Gaston it was
15 seven days before he died.

16 So all of these issues that would be brought before the
17 court are now moot because the only person who is now still
18 in the lawsuit are Eugene D. Gaston I guess because John
19 Wright is deceased and he is - which is not in the complaint
20 nor in the order - he is now the grantor of a party to this
21 quitclaim deed John Wright's interest seven days before John
22 Wright died. And this deed is dated August 3rd, 2010. John
23 Wright died on I believe a week after that on the 10th.

24 So all of the possible interest holders are John
25 Wright, Anna Forchay who is alive, and Harold L. Wright

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1 when -- when my client foreclosed on the mortgage are out of
2 the lawsuit or gone.

3 THE COURT: He hasn't foreclosed yet.

4 MR. HEYWARD: He hasn't foreclosed yet. He hasn't had
5 an opportunity to foreclose yet. We haven't gotten to the
6 Master in Equity.

7 THE COURT: Does he have a note?

8 MR. HEYWARD: Yes, we have a note, Your Honor.

9 THE COURT: Well, I mean he doesn't have to get to the
10 Master in Equity to foreclose. He can file a foreclosure
11 action on his note.

12 MR. HEYWARD: Yeah, well, we filed -- that was a part
13 of the lawsuit, Your Honor, the foreclosure.

14 THE COURT: Okay.

15 MR. HEYWARD: But the summary judgment action
16 circumvents whatever rights he may have acquired under South
17 Carolina ---

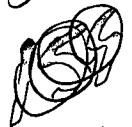
18 THE COURT: Who are the heirs of John Wright? Because
19 at some point in time they are going to have to be
20 substituted. I think we talked about that last time.

21 MR. ALTMAN: I can ---

22 MR. HEYWARD: I don't -- I don't ---

23 MR. ALTMAN: I can address all that. Eugene Gathers is
24 John Wright's son.

25 THE COURT: Okay.

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1 MR. ALTMAN: And just -- let me state to notice first
2 of all before we talk -- and then I will address the
3 mortgage issue. The rules are very, very clear. I noticed
4 Mr. Heyward with notice of the summary judgment hearing. He
5 did not appear to contest it. I specifically excepted Mr.
6 McKnight from the motion for summary judgment ---

7 THE COURT: Right.

8 MR. ALTMAN: --- because there has never been any issue
9 that Mr. McKnight has an interest as a creditor. It is a
10 valid note in mortgage. That has never been an issue. I am
11 holding sufficient funds in trust to pay that sum.

12 Mr. McKnight claims that additional monies are due and
13 owing beyond the amount in his note and mortgage. And that
14 is the dispute between my client and McKnight. So the issue
15 that somehow his mortgage is somehow worth less is moot. My
16 client's predecessor in title signed a note and mortgage.
17 We have ---

18 THE COURT: Who is Wright's predecessor in title?

19 MR. ALTMAN: John Wright is my client's father. I
20 represented John Wright and his son Eugene Gathers.

21 THE COURT: Eugene Gaston, okay.

22 MR. ALTMAN: Yeah. We do not contest the note and
23 mortgage. It is a valid lien on the premises. Mr.
24 McKnight's ability to foreclose is not impacted in any way,
25 shape, or form because John Wright, my client, signed it.

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1 And we have never disputed the validity of that mortgage.

2 THE COURT: I mean and Mr. McKnight is still in the
3 lawsuit. I mean ---

4 MR. ALTMAN: And he is still in the lawsuit. And I
5 specifically excepted him not only in our motion but in the
6 order that I prepared relative to the granting.

7 THE COURT: Right.

8 MR. ALTMAN: He is in exactly the same spot as he was
9 the day before you heard the motion.

10 MR. HEYWARD: Your Honor ---

11 THE COURT: At some point in time I think we talked
12 about it when you were here before, you are going to have to
13 substitute Eugene Gathers as a party in the lawsuit.

14 MR. ALTMAN: And I have got to do that. I have got to
15 do that, and I have got to probate his estate but.

16 THE COURT: Okay. All right. I mean I don't know
17 where -- what -- I mean you are still in the lawsuit. I
18 don't know what you want me to do.

19 I am not going to put these people back in it that were
20 in default. That is not going to happen. But you are still
21 in the lawsuit. You have still got a valid note and
22 mortgage, and you can move on that whenever you feel it is
23 appropriate.

24 MR. HEYWARD: I understand, Your Honor. If, I mean,
25 the right of first refusal specifically states the

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1 requirement -- it specifically gives the non petitioning
2 cotenants a right that survives default, that they still
3 have a right to purchase the share of that petition in
4 cotenant. In this case a deceased cotenant, John Wright.

5 It also, Your Honor, specifically gives any assignees
6 of those now petitioning cotenants that right. That right
7 would have inured to my client, Mr. McKnight.

8 THE COURT: You may be right, but they didn't come
9 forward in the lawsuit and claim that right. They are in
10 default.

11 MR. HEYWARD: It specifically says ---

12 THE COURT: Nobody has tried to move them out of
13 default.

14 MR. HEYWARD: It says -- specifically says in the
15 statute that right survives default.

16 THE COURT: Okay.

17 MR. HEYWARD: Default does not extinguish that right.
18 In this particular instance the only thing that has -- in
19 this particular instance if a third-party was to purchase
20 this property they could purchase it and simply pay off Mr.
21 McKnight and that is the end of it. Mr. Altman's client
22 would have fee simple interest paying off Mr. McKnight and
23 that would be it.

24 There are a lot of folks left out. Mr. McKnight is a
25 longtime family friend. There was an understanding that he


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1 paid substantial funds to save this property, which was
2 heirs property at the time, and now because who knows who
3 the heirs of John Wright are but John Wright, Ms. Forchay,
4 and the other signatory of the mortgage now have no rights
5 whatsoever to the property.

6 MR. ALTMAN: Judge, I don't think there is any question
7 Mr. McKnight is owed some money. He is a creditor. We
8 don't dispute that.

9 I -- I can get Mr. McKnight paid the amount on his note
10 of mortgage tomorrow. I have been holding money in trust
11 for well over a year.

12 Mr. McKnight claims that additional monies are in fact
13 owed to him, happy to talk to him about that any time. That
14 is why he was excepted from the motion in order so we could
15 do that. No issue regarding the validity that he is owed
16 money.

17 MR. HEYWARD: Has Your Honor ruled on the ---

18 THE COURT: I mean what is -- what is your complaint?
19 I mean he says the money is there; all they have got to do
20 is pay you. What is your complaint?

21 MR. HEYWARD: My complaint is Mr. McKnight specifically
22 in his answer said he had a right to foreclose on this
23 mortgage. How is ---

24 THE COURT: Well, he doesn't have the right ---

25 MR. HEYWARD: --- Your Honor going to rule ---

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1 THE COURT: He doesn't have a right to foreclose if the
2 note is paid.

3 MR. HEYWARD: If the note has been ---

4 THE COURT: If the note's paid, he doesn't have any
5 right to foreclose.

6 MR. HEYWARD: Who is going to pay the note, Your Honor?

7 THE COURT: He just said he has got the money up front
8 to pay it.

9 MR. ALTMAN: I will get your check before day's end.

10 MR. HEYWARD: Okay, let me ask this: Does deceased
11 client that is on John Wright, okay, ---

12 THE COURT: I'm sorry, what?

13 MR. HEYWARD: The deceased plaintiff, both the
14 complaint and the order that for summary judgment has the
15 deceased plaintiff on there with no administration of his
16 estate. And all of these basically assertions of what the
17 deceased client did as far as ousting all of these other
18 possible claims in this lawsuit ---

19 THE COURT: Well, I don't -- let me just tell you my
20 difficulty, okay. Y'all can argue about the mortgage. And
21 he says he has got the money to pay you. If he pays the
22 money and you don't have the right to foreclose, so I don't
23 know what Earnest Wright's (sic) complaint it.

24 However, I do not think Earnest Wright (sic) has the
25 standing or the -- to come in and try to set aside the order

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1 granting summary judgment for the other defendants because
2 it didn't affect him. He was excluded.

3 And I don't think he has got standing to come in for on
4 behalf of the other defendants and ask the court to set
5 aside the summary judgment.

6 Okay, that's my difficulty with your argument. They --
7 you don't have a right to come in and do that.

8 MR. HEYWARD: What ---

9 THE COURT: Your client, Mr. McKnight, does not. He is
10 in the lawsuit. He is going to have to substitute the son.
11 That was cleared up at the last hearing in April or whenever
12 we heard it. Was it April?

13 MR. ALTMAN: Yes, sir.

14 THE COURT: April of last year. He needs to get that
15 done. And then he says he is going to pay you. So I don't
16 know what your problem is.

17 MR. HEYWARD: My problem is Mr. McKnight is in a worse
18 position now because he now has no rights if he forecloses
19 to purchase the statutory right of purchasing the interest
20 of that -- of John Wright.

21 THE COURT: Well, that may be. I don't know. If
22 Eugene Gathers pays your man off it doesn't matter where he
23 is, in the lawsuit or outside the lawsuit, he doesn't have
24 the right to foreclose.

25 MR. HEYWARD: He does not?

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1 THE COURT: Does not have the right to foreclose if the
2 note is paid.

3 MR. HEYWARD: Thank you, Your Honor.

4 THE COURT: Is that right, or is that wrong?

5 MR. HEYWARD: His rights --

6 THE COURT: All of ---

7 MR. HEYWARD: There are -- there are -- there are more
8 than one way of which my client could have acquired this
9 property and adverse possession is simply one of them.
10 Now ---

11 THE COURT: Well, he withdrew it. Well, you can't
12 for- -- you can't gain possession through foreclosure except
13 at the public auction.

14 MR. HEYWARD: No, Your Honor, you can ---

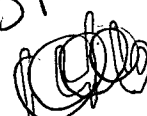
15 THE COURT: Now if you pay -- if you paid the note you
16 don't have the right to foreclose; is that right or is that
17 wrong?

18 MR. HEYWARD: His rights that inured under the statute,
19 the right of first refusal, of which none of these other
20 clients had ever had notice of are now gone. Are gone. The
21 only person that we have now in this lawsuit is Mr. McKnight
22 and Eugene Gaston ---

23 THE COURT: Right.

24 MR. HEYWARD: --- for the summary judgment.

25 THE COURT: Right. I mean that is -- that is correct.

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1 MR. HEYWARD: Thank you, Your Honor.

2 THE COURT: But you have got a note and a mortgage. If
3 they pay the note, you don't have a right to foreclose; is
4 that right or is that wrong?

5 MR. HEYWARD: If you pay the note you do not have a
6 right to foreclose?

7 THE COURT: Right.

8 MR. HEYWARD: Foreclosure is never before the court.
9 When is foreclosure before the court? Foreclosure has been
10 a part of the answer and counterclaim. But foreclosure has
11 never been before this court.

12 THE COURT: I understand.

13 MR. HEYWARD: So the only issue then before the court
14 basically are the assertions that were in the complaint
15 stating that there has been an ouster and the plaintiff has
16 acquired this property through ouster of all of the possible
17 claims. And that's it.

18 THE COURT: Okay.

19 MR. ALTMAN: Thank you, Your Honor.

20 THE COURT: Go ahead -- I am going to give you 30 days
21 to file your motion to substitute Mr. Gathers on behalf of
22 John Wright or whatever you need to do to get that
23 straightened out.

24 MR. ALTMAN: I will get that ---

25 THE COURT: Because that needs to be straightened out.

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1 MR. ALTMAN: Do you want me to prepare an order or form
2 order suffice as to this?

3 THE COURT: I will be happy to use a form order. I
4 will be happy to --- I am not going to set aside the summary
5 judgment motion as to these other parties primarily because
6 I don't think Ernest Knight (sic) has a right to make a
7 motion on behalf of other parties.

8 MR. ALTMAN: I agree ---

9 THE COURT: Because summary judgment was not granted
10 against him.

11 MR. ALTMAN: Right. Thank you, Your Honor.

12 THE COURT: Okay. Thank you very much.

13 MR. HEYWARD: Thank you, Your Honor.

14 (Whereupon the hearing concluded 1:40 p.m.)

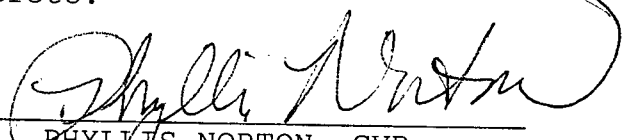
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(NOTE: A transcript certified by the court reporter will bear an original signature on the certification sheet below. Please contact the court reporter for additional certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the captioned case, relative to appeal, in the Family Court for Charleston County, South Carolina, on February 13, 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



PHYLLIS NORTON, CVR
(Signature in blue ink.)

Date: August 14, 2012

Certified Transcript Provided For: Heyward
Certification Reference # 08/14/12 CP 116

ORIGINAL

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STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 : NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) CASE NO. 2010-CP-10-0250

JOHN WRIGHT,) DEPOSITION OF
)
 Plaintiff,) ERNEST MCKNIGHT
)
 -versus-)

NED WRIGHT, HATTIE WRIGHT)
 GASTON, ANNIE M. WRIGHT, EDWARD)
 WRIGHT, SAMUEL WRIGHT, JAMES)
 WRIGHT, EARLINE WRIGHT MAXWELL,)
 WILMENIA WRIGHT, HENRY WRIGHT,)
 OSCAR WRIGHT, LEROY WRIGHT,)
 LEROY WRIGHT, HAROLD WRIGHT,)
 CHARLES WRIGHT, SAMUEL WRIGHT,)
 JR., ERNESTINE WRIGHT, HENRY)
 WRIGHT, JR. ERNESTINE WRIGHT,)
 HENRY WRIGHT, JR., ERNEST)
 MCKNIGHT, ALONG WITH JOHN DOE OR)
 MARY ROE, FICTITIOUS NAMES TO)
 DESIGNATE MINORS, INFANTS,)
 PERSONS OF UNSOUND MIND, UNDER)
 DISABILITY OR INCOMPETENT)
 PERSONS IN PRISON, PERSONS IN)
 THE MILITARY SERVICE WITHIN)
 MEANING OF TITLE 50, UNITED)
 STATES CODE, COMMONLY REFERRED)
 TO AS THE SOLDIERS AND SAILORS)
 CIVIL SERVICE ACT OF 1940, IF)
 ANY, AND RICHARD ROE AND SARAH)
 ROE, FICTITIOUS NAMES TO)
 DESIGNATE THE UNKNOWN HEIRS,)
 DEVISEES, DISTRIBUTES, ISSUE,)
 EXECUTORS, ADMINISTRATORS,)
 SUCCESSORS OR ASSIGNS OF NED)
 WRIGHT, HATTIE WRIGHT GASTON,)
 ANNIE M. WRIGHT, EDWARD WRIGHT,)
 SAMUEL WRIGHT, JAMES WRIGHT,)
 EARLINE WRIGHT, WILMENIA WRIGHT,)
 HENRY WRIGHT, OSCAR WRIGHT,)
 LEROY WRIGHT, HAROLD WRIGHT,)
 CHARLES WRIGHT, SAMUEL WRIGHT,)
 JR, ERNESTINE WRIGHT AND HENRY)

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WRIGHT, JR., ALSO ALL OTHER)
UNKNOWN PERSONS CLAIMING ANY)
RIGHT, TITLE, ESTATE OR LIEN)
UPON THE REAL ESTATE WHICH IS)
THE SUBJECT OF THIS ACTION,)
)
Defendants.)

DATE: Tuesday, November 23, 2010

TIME: 2:06 p.m.

LOCATION: Derfner, Altman & Wilborn, LLC
575 King Street
Post Office Box 600
Charleston, South Carolina 29402-0600

REPORTED BY: Janice D. Hayward, RMR
NCRA Registered Merit Reporter
101 Dorchester Court
Charleston, South Carolina 29418
843.478.6756
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1 (Ernest McKnight, after being sworn,
2 testified as follows:)

3 EXAMINATION

4 BY MR. ALTMAN:

5 Q Mr. McKnight, good afternoon. I'm
6 Jonathan Altman. You and I met in the lobby just a
7 minute ago.

8 We're here today in a case that
9 I represent the plaintiff in, you're one of a number
10 of defendants named. The case is captioned John
11 Wright versus Ned Wright. It's essentially a suit
12 to quiet title.

13 You have asserted a counterclaim
14 in this action seeking reimbursement for moneys that
15 you paid for taxes and other moneys that may have
16 been expended relative to this particular piece of
17 property.

18 Have you ever had your
19 deposition taken before?

20 A Once.

21 Q Okay. What context was that?

22 A Workers' comp --

23 Q Okay.

24 A -- case.

25 Q I take it you were a claimant?

1 A No, I was the defendant.

2 Q You were the employer?

3 A Yeah.

4 Q Okay. And you were personally deposed in
5 that action?

6 A Well, workers' comp took it over.

7 Q Workers comp, okay.

8 Were you present at a deposition
9 or --

10 A Yeah, yeah, I was present, yeah.

11 Q Did somebody ask you questions or did you
12 observe somebody?

13 A Yeah, someone asked me questions.

14 Q Okay. This is going to be similar to
15 that. I'm going to ask you a series of questions
16 about your claims and I'm going to expect you to
17 answer completely and truthfully.

18 If you don't understand any of
19 the questions that I ask, stop me, ask me, interrupt
20 me or ask me to rephrase it and I'll be happy to do
21 so. Is that fair?

22 A That's fair enough.

23 Q Okay. Any reason why you wouldn't be able
24 to give complete testimony today?

25 A No, sir.

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1 Q Okay. It will help Jan, the court
2 reporter, if you answer yes or no.

3 A Yes or no, yeah.

4 Q All right. State your full name for the
5 record.

6 A Ernest McKnight.

7 Q Where do you live?

8 A 763 Seaman Lane, Red Top.

9 Q Okay. Is that close to this property?

10 A It's about three miles from it.

11 Q Okay. How long have you lived at that
12 address?

13 A Which one, Seaman Lane?

14 Q The one you're currently living at.

15 A Last nine years, 11, 10 years.

16 Q Do you own that property?

17 A Yes.

18 Q What do you do for a living?

19 A Plumbing.

20 Q Do you own your own business?

21 A Yes, sir.

22 Q What's the name of that business?

23 A McKnight's Plumbing.

24 Q Is that a sole proprietorship?

25 A Sole proprietor, yeah, sole proprietor.

1 Q Give me your date of birth.
2 A 4-2-62.
3 Q Your social.
4 A 250-31-8060.
5 Q Okay. Are you from Red Top?
6 A No, I'm from Ravenel actually.
7 Q Where did you go to high school?
8 A Baptist Hill.
9 Q You graduate?
10 A Nine, ten years later.
11 Q That's still graduating.
12 A Um-hum.
13 Q Any education or schooling after high
14 school?
15 A No, just plumbing trade.
16 Q Married, single, family?
17 A Divorced.
18 Q Kids?
19 A Quite a few.
20 Q Just give me a number.
21 A Four.
22 Q Ever been arrested?
23 A Traffic violation.
24 Q Okay. Anything more serious than a
25 traffic violation?

1 A No.

2 Q Okay. I'm going to hand you a document --

3 MR. ALTMAN: And you can mark this as
4 Plaintiff's 1.

5 Q It's entitled answer and counterclaim.
6 That's the answer and counterclaim that was filed on
7 your behalf in this action. Have you read that
8 document?

9 A Briefly.

10 Q Okay. I'm going to give you a chance, you
11 can take as long as you need to read it now 'cause
12 I'm going to ask you a few questions about that
13 document.

14 And I'd specifically refer you
15 to the middle of page three and that's the page
16 where you begin asserting counterclaims, affirmative
17 claims in this case.

18 A Who is Ernestine McKnight?

19 Q Well, I believe that's a typo, that it's
20 intended to be -- I don't know, I didn't prepare the
21 document, I believe Mr. Martin did, your attorney at
22 the time. It probably should be Ernest McKnight.

23 A Um-hum.

24 Q But nevertheless, I think the claims were
25 asserted on your behalf.

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1 MR. ALTMAN: Willie, you can
2 interject if you need, I don't mind you
3 doing so.

4 (Marked for identification was Plaintiff's
5 Exhibit 1.)

6 A (Witness complied.)

7 Q Have you had a chance to review
8 Plaintiff's Exhibit 1?

9 A Um-hum, yes, sir.

10 Q Does that document accurately reflect your
11 claims in this case?

12 A Somewhat.

13 Q Okay. How does it not?

14 A Well, there's more added to it. See, I
15 also did some more work on the property that I done
16 myself.

17 Q Okay. We'll get into that in a second.

18 A Okay.

19 Q I believe I'm familiar with some of that
20 work. Keep the document in front of you. And let's
21 look at, if you would, turn to page 13 -- paragraph
22 13 rather on page three.

23 In paragraph 13 it refers to a
24 note in the amount of \$6,187.52 as well as on
25 paragraph 14, a mortgage in the same amount. Was

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1 that note and mortgage given for money you had
2 loaned Mr. Wright's family for taxes?

3 A Yes, sir.

4 Q Okay. Was a note ever prepared? I've
5 seen the mortgage but I've never seen a note.

6 A Well, I believe Mr. Baker made a note.

7 Q Are you in possession of a note?

8 A No, I'm not.

9 Q Okay. And the figure reflected in
10 paragraphs 13 and 14, \$6,187.52, that's the amount
11 of money that you loaned the family for real
12 property taxes?

13 A Yeah, to redeem their taxes, yes.

14 Q Okay. Has any of that money been repaid?

15 A None of it.

16 Q And I'm trying just to, just to figure out
17 what your claim is. \$6,187.52 represents the amount
18 of money that you're owed for back taxes that you
19 advanced for the family. I'm not talking about work
20 or anything separate and apart, we'll get to that,
21 talking about taxes.

22 A Taxes, yeah, well, actually plus interest
23 and all the rest of that stuff that goes with it.

24 Q We'll get to that.

25 A Yeah.

1 Q Okay. The base figure is \$6,187.52?

2 A Yes, sir.

3 Q I have, and maybe you can help me with
4 this, I have your mortgage, and I'll show it to you.

5 MR. ALTMAN: Willie, do you have a
6 copy of the mortgage?

7 MR. HEYWARD: Yes, I do.

8 MR. ALTMAN: Okay. If we could mark
9 the mortgage as Plaintiff's 2.

10 Q And I'd like to have you just review that
11 document.

12 (Marked for identification was Plaintiff's
13 Exhibit 2.)

14 Q And I'm happy to have you take as much
15 time as you need. Is that, the document that's been
16 marked as Plaintiff's Exhibit 2, does that appear to
17 be the mortgage that we were just talking about?

18 A Yes, sir.

19 Q Okay. As I told you before, I've never
20 seen the note that accompanied this mortgage. Do
21 you have any idea where that note is?

22 A Well, I would have to get with Mr. Baker
23 about that.

24 Q Do you recall what the terms of the note
25 and mortgage were?

1 A Well, if I ain't mistaken, I believe they
2 had one year to pay me, and I think it was at nine
3 and three quarters percent, something like that.

4 Q Okay. Did you ever -- now, this mortgage
5 is dated September 25th, 2003. What has transpired
6 in the last seven years relative to this note and
7 mortgage?

8 A Well, one of the persons that signed this
9 mortgage goes to my church.

10 Q Who is that?

11 A Which is Anna Porcher.

12 Q Okay.

13 A Which is -- she's living on the property.
14 From time to time she would approach me and say,
15 neighbor, we're going to give you your money, work
16 with us. So that's what I did, I worked with them,
17 never done anything irrational or crazy with them.

18 Q Okay.

19 A You know, 'cause, you got to remember now,
20 these people I live next to, these people are my
21 life, these are my neighbors.

22 Q And I take it -- was any payment ever
23 received?

24 A No.

25 Q Did you ever send them any correspondence?

1 A Well, Ms. Porcher, she more or less
2 handles that aspects of the family anyway so I
3 relayed my message to her, she relayed the message
4 to the rest of them.

5 Q All right. So what I'm hearing from you
6 is no moneys were repaid?

7 A No money were paid.

8 Q And the full amount of the note is due and
9 owing?

10 A (No audible response.)

11 Q Okay. All right. That, is it fair to
12 state that that covers the tax part of your claim?

13 A (No audible response.)

14 Q Yes or no?

15 A With the interest.

16 Q With --

17 A With the interest, yeah.

18 Q Okay. All right. Let's move on and talk
19 about the other aspects of your claim. Why don't
20 you tell me what else you're seeking recovery for.

21 A Well, a year after I didn't get my money,
22 Mr. Wright started talking to me, Mr. John Wright,
23 and he told me he needed access to get to the back
24 of the property.

25 So me and him came to terms of

1 agreement, he said, if you cut the road in there,
2 we'll pay your money we owe you for the tax, the
3 road, and whatever else that you done on the
4 property. So I in turn called my guy to cut the
5 road in there which is Mr. Ford.

6 Q Now, tell me, the note and mortgage are
7 dated 2003. You had this conversation with
8 Mr. Wright in 2004?

9 A No, whatever, let me see that piece right
10 there.

11 Q I'll show it to you, this is, you're
12 referring to the J. Ford Trucking receipt which is
13 sometime in 2007.

14 A Well, that's, I believe, when we cut the
15 road in there in 2007.

16 Q Is that when you spoke to Mr. Wright?

17 A I talked to Mr. Wright about two months
18 prior to that.

19 Q Okay. This is September so sometime
20 during the summer of 2007?

21 A Um-hum, yeah.

22 Q Okay. All right. Tell me where that
23 conversation took place.

24 A Right there on the property actually,
25 right there, 'cause his mother used to live there.

1 Q Okay.

2 A And the old house is still there, he
3 frequent the old house. I mean, my folks live right
4 next-door to the property.

5 Q So that's the nature -- did you grow up,
6 your folks live next-door to the property?

7 A Our property is adjacent to that property.

8 Q Okay. And Mr. Wright's mother --

9 A Lived in there on the property.

10 Q And she was still living?

11 A No, she died long time ago.

12 Q Okay. But Mr. Wright, Mr. Wright lived
13 downtown Charleston, didn't he?

14 A Yes.

15 Q Okay. But he happened to be on the
16 property?

17 A Just like I say, he frequent the property.
18 'Course, the house is still there, he comes out
19 there and work on the old house.

20 Q I'm trying to figure out how you guys
21 happened to meet at the property.

22 A Just like I said, he frequent the
23 property. I'm over here 'cause I got a couple of
24 houses out there right next-door to the property.
25 Mr. Wright's there, Mr. Wright's walking down the

1 line which is between my house and the property, and
2 he comes up in the yard and we have a conversation.

3 Q Okay.

4 A About him needing to get access in the
5 back of the property.

6 Q That's all I'm trying to understand. He's
7 out at the property, you're out at your parents'
8 property.

9 A Um-hum.

10 Q You all know each other.

11 A We knew each other very well since I was a
12 little kid.

13 Q And obviously you were friendly?

14 A We all were friendly, we were neighbors.

15 Q You're neighbors.

16 Is there a survey or a plat
17 reflecting where this road was put in?

18 A No plats.

19 Q Okay. Any agreement or correspondence at
20 all between you and Mr. Wright?

21 A Me and Mr. Wright had a verbal
22 conversation between two grown men.

23 Q Okay. Sometime during the summer of 2007?

24 A Right there on my, right between the two
25 properties. Like I said, my house butts up to their

1 property and I got a garage in the back yard and
2 that's where we were, in my garage.

3 Q Was Miss Porcher involved with --

4 A No, no, actually before I called Mr. Ford
5 I told Miss Porcher that me and her cousin, I
6 believe, John is her cousin, that we were going to
7 be cutting a road in there.

8 Q Okay.

9 A She didn't have no objection to it 'cause
10 they got no way to get to the back of the property.

11 Q Who uses this road?

12 A No one.

13 Q Okay. Does the road provide you any
14 access or any access to your family property?

15 A No. We got a 50-foot road going down my
16 family's property.

17 Q Tell me, I'm trying to understand, if
18 nobody uses this road, why did he want it put in?

19 A Now, that's something you'll have to ask
20 him.

21 Q Well, he's deceased so I'm asking you.

22 A You know, well, from what he told me, he
23 wanted a road in there, I agreed to help him get the
24 road in there.

25 Q Okay.

1 A And besides, he wanted to get the property
2 surveyed too but he never got to that point.

3 Q Okay. So there's no written document
4 relative to the placement of this road?

5 A An agreement between me and Mr. Wright,
6 verbal.

7 Q I understand your testimony is you had a
8 verbal agreement. You never reduced it to writing?

9 A No.

10 Q No surveys were done regarding the
11 placement?

12 A No.

13 Q Did you ever send Mr. Wright this invoice
14 from J. Ford Trucking?

15 A No, I never did.

16 Q Why not?

17 A Well, 'cause from my, what we came upon,
18 the taxes, they owe me for the taxes.

19 Q Okay.

20 A He told me when I get the road in there,
21 and the taxes, and when they get the property all
22 straightened out, I get all my money and probably
23 get a piece of property also.

24 Q Okay.

25 A So if someone's going to give me an

1 incentive, give me my money back that I spent in
2 there plus a piece of the property, I mean, wouldn't
3 you jump on that?

4 Q No, I wouldn't actually, I wouldn't, I
5 wouldn't enter into an agreement with anybody to
6 loan them money based on verbal conversation, but.

7 A Well, they weren't your neighbors and you
8 never grew up with them, you never lived next-door
9 to them.

10 Q How did you pay Mr. Ford?

11 A Cash.

12 Q Okay. What's your relationship to
13 Mr. Ford?

14 A Mr. Ford does all my land clearing. I
15 also own other property too.

16 Q Okay.

17 A And every time I get a house that need to
18 be knocked down or a road need to be cut in, dirt
19 need to be hauled in, Mr. Ford is my man.

20 Q Okay. Are you related to Mr. Ford?

21 A By no chance.

22 Q You consider him a friend?

23 A Business associate.

24 Q Business associate.

25 All right. So if I'm trying to

1 understand the extent of your claim, we've got the
2 \$6,187 plus whatever interest you're entitled to
3 relative to the note and mortgage for the taxes, and
4 this \$9,500 receipt that -- from J. Ford Trucking;
5 correct?

6 A And other work that I did in there that I
7 didn't even consider writing invoices to them about.

8 Q Okay. Have you tried to quantify that
9 work?

10 A Have I tried to do what?

11 Q Put a value on it.

12 A If I were to sit down and figure it out,
13 yeah.

14 Q Are you asserting a claim for that, for
15 those services?

16 A Not at the moment, but yeah, I think I
17 could 'cause I'm entitled to it.

18 Q This is not adversarial. I'm trying to
19 understand how much money you're seeking repayment
20 for. I understand the note and mortgage amount and
21 the interest. And I understand this \$9,500.

22 But at the end of this I'm going
23 to go back to my clients and say, this is how much
24 Mr. McKnight wants. This is how much he's entitled
25 to. I'm going to make a recommendation to them.

1 I get the taxes, you helped them
2 with that issue. I understand the road as well.
3 I'm just trying to get a total.

4 And I'll call Mr. Baker, see if
5 I can get a copy of that note so I can quantify it.
6 Whatever it is, it is. But I just want to make sure
7 that when I go back to my clients, I know what I'm
8 talking about and the amount of your claim.

9 I understand the 6,000 plus
10 interest, I understand the \$9500. If I add those
11 two totals together, is that the amount of your
12 claim?

13 A No, it is not, 'cause I would have to
14 figure in for the rest of the work that I had done
15 that I didn't even put a value on it, plus I also,
16 there's also the fact that there was about, almost
17 an acre of dead trees in there too and I had to get
18 someone in there to cut all those trees down so we
19 had to take all of those dead trees out.

20 Q Who authorized you to do that work?

21 A I told you when Mr. Wright told me to cut
22 the road, there were trees lying all over the place
23 so we had to get the dead trees out of the place.
24 We couldn't leave the dead trees, someone go in
25 there with a dozer, hit it and it falls down on top

1 of the dozer or track hoe or whatever the case may
2 be.

3 Q Who did that work for you?

4 A Mr. Ford did it.

5 Q Well, I've got an invoice from Mr. Ford.

6 A He cut down the -- he cut the road in
7 there. He hauled the dirt in there. There was
8 another incident where I had another gentleman
9 hauled about --

10 Q Let's finish with Mr. Ford. I've got an
11 invoice for Mr. Ford for land clearing for 4500,
12 that would include removing the trees, the hauling
13 and spreading the dirt for 4500 and cutting the road
14 for \$1500. So what you just talked about is
15 addressed in Mr. Ford's invoice.

16 A That's just the road on Mr. Ford'
17 behalf -- on behalf of Mr. Ford, cutting in the
18 road, bringing in the dirt and grading it out.

19 Q Okay.

20 A Now, I went in there and I done some work
21 too. Now, as I said, while Mr. Ford's cutting this
22 road in there, there's dead trees all over the place
23 so you got to move those trees, you got to cut it
24 up.

25 Q That wouldn't be taken care of in the land

1 clearing portion of Mr. --

2 A Well, actually if the trees is in my way,
3 yeah, I'm going to move it out of the way, cut it up
4 and burn it. Okay? So he cut the road and he cut
5 the road in there for me, that part was done.

6 Q Okay.

7 A Okay. Here we got a depleting bank here,
8 we got big holes in the place that we got to fill
9 the holes in also, that was also original holes, I
10 mean, nature, you know, holes in the place, we have
11 to fill in those holes also.

12 'Course, you couldn't drive in
13 there 'cause you had a bunch of dead trees, dead
14 stumps, so we had to haul more dirt in there, plus
15 in the process I also brought some dirt up on the
16 bank too because the bank and all that was eroding
17 out.

18 Q Do you have any paperwork or invoices to
19 substantiate that?

20 A Like I said, I done this all on my own. I
21 done this, from me, I done this part, I didn't hire
22 no one else to do this, I done this.

23 Q Well, you had to buy the dirt.

24 A I bought the dirt from the people when
25 they was putting in a bridge right there at --

1 Q My question is do you have any invoices,
2 returned checks, anything to substantiate your claim
3 of additional expense?

4 A Like I said --

5 Q It's a yes or no question.

6 A -- I never done an invoice on myself for
7 the work that I done over there.

8 Q Okay. You're not answering my question.
9 Other than the invoice from J. Ford Trucking, other
10 than the mortgage that we talked about, do you have
11 any other documentation to substantiate any claim
12 that you have to additional reimbursement?

13 A To answer your question legally --

14 Q Say yes or no.

15 A No.

16 Q Okay. That's all I'm asking you for.

17 Do you consider this property
18 yours?

19 A If I don't get my money back, yeah.

20 Q Is that why you were doing work on this
21 property?

22 A No, that's not why. I was doing work on
23 the property to help the folks out. I also gave
24 them my money to help them out. Like I said, the
25 property is adjacent to my folks' property.

1 Ain't no funny business in
2 there, this is straight-up business. I know them,
3 he knew me, I knew his mom, I used to cut wood for
4 his mom, we were neighbors.

5 Q Okay. You were looking out for him?

6 A Wouldn't you look out for your neighbors?
7 Yes, I would look out for them, yeah.

8 Q Well, you're familiar with the answer and
9 counterclaim that you asserted in this case?

10 A Explain it to me.

11 Q Okay. Well, it's your document, it was
12 filed on your behalf, it's right there, you've read
13 it.

14 MR. ALTMAN: Will you mark this as
15 Plaintiff's 3.

16 (Marked for identification was Plaintiff's
17 Exhibit 3.)

18 A Now, what was your question again?

19 Q Are you familiar with Plaintiff's
20 Exhibit 1? That's your answer and counterclaim in
21 this case.

22 A Which page are you talking about?

23 Q I'm talking about the entire document, but
24 I'll make specific reference to paragraph 16.

25 A Paragraphs 16?

1 Q On page four.

2 A Sure, yeah.

3 Q You considered this property your own,
4 didn't you?

5 A No, I don't consider this property my own.

6 Q Are you aware that you originally asked
7 that the Court award you ownership of this property?

8 A When was this?

9 Q This is March 16th, 2010 when this answer
10 and counterclaim was filed on your behalf.

11 A On whose behalf?

12 Q Yours.

13 A Repeat your question again.

14 Q Okay. In your answer and counterclaim you
15 asked the Court to say that you were the owner of my
16 client's property.

17 A No, I never said I was the owner.

18 Q Okay. Well, that is -- I'll read you the
19 document. The defendant, which is you, is informed
20 and believes that he should be awarded ownership of
21 the subject property and be given title there by
22 deed of the master.

23 A If no money is returned to me and nobody
24 wants to do anything about it, nobody cares about
25 it, why not let me own it?

1 Q Okay. So you understood that you were
2 seeking ownership of my client's property?

3 A I was seeking ownership of your client's
4 property?

5 Q Yes, sir.

6 A I was seeking my money back --

7 Q Okay.

8 A -- from your client.

9 Q That isn't what your answer says.

10 A I was seeking my money back from your
11 client.

12 Q Okay.

13 A But if your client doesn't pay me my
14 money, I think I am rightfully -- should be awarded
15 ownership of it.

16 Q Okay. So it's your position that if you
17 didn't get repaid your money, then you should be
18 awarded the property? Yes or no.

19 A Yes. Why not?

20 Q Okay. The answer is yes?

21 A Yes.

22 Q Okay. Well, that isn't really what your
23 answer says. Look in paragraph 11 with me.

24 A (Witness complied.) I don't know about
25 the hostile.

1 Q Okay.

2 A But I'm the guy that was taking care of
3 that property.

4 Q Well, paragraph eleven states that you had
5 paid the taxes and maintained continuous, open,
6 notorious, hostile, unbroken and adverse possession
7 of the subject premises for a period of ten years
8 prior to the initiation of this action.

9 A Adverse possession, does that mean I would
10 own it?

11 Q That's correct, that's what you were
12 alleging. This is your answer and claim.

13 A Me alleged adverse possession?

14 Q Yes, sir.

15 A If they didn't pay me my money for the
16 work that I've done and what we agreed on, if I
17 could seek adverse possession, why not?

18 Q What this says is that you had claimed
19 ownership of this property for more than ten years.
20 This is your answer.

21 A I think you can do that as a typo.

22 Q Typo?

23 A Yeah.

24 Q Typo, do you understand the definition of
25 a typo?

1 A A misprint.

2 Q Okay. That is three lines, that's not a
3 misspelling.

4 A I'm not a liar, and I really don't
5 appreciate you calling me a liar.

6 Q I'm not calling you a liar.

7 A I mean, you just did, you said that's
8 three lies.

9 Q No, no, no, you misheard me.

10 A No, no.

11 Q No, no, no, it's my deposition. My
12 statement was it's three lines.

13 A Three lines?

14 Q Lines, count it, 11 is one, two, three,
15 lines.

16 A Lines.

17 Q L-i-n-e-s..

18 A My apology.

19 Q Apology accepted.

20 A Lines, not lies, lines.

21 Q Okay?

22 A All right.

23 Q So it's your testimony today -- well, tell
24 me what your position is today since your position
25 appears to be different than what was filed on your

1 behalf.

2 A My position is today, I waited so long for
3 my money, I helped these people all my life, no one
4 seemed to care about whether I get my money back or
5 time that I spent on there trying to help them out.

6 No one's contacted me except for
7 Miss Porcher that I see in church. Mr. Wright,
8 after all this happened he went haywire on me. Now
9 I got somebody on here trying to take something that
10 they have no right to.

11 Q Who is that?

12 A Just -- apparently -- he's dead,
13 Mr. Wright is dead, but I'm talking in general, I
14 mean, we got people flying left and right trying to
15 take something from me but they don't understand the
16 whole business of it.

17 If I help you, I lend you my
18 money, we agreed on something, I expect that in
19 return.

20 Q Okay. Fair enough.

21 A Not going through all this, this drama
22 here. There wasn't no drama when we met.

23 Q I'm sure you would be upset if somebody
24 claimed to own your property.

25 A I would be upset?

1 Q Yes.

2 A If I know they don't own it, why should I
3 be upset?

4 Q Well, because it could affect your title,
5 it could affect your credit, it could affect a lot
6 of things.

7 A They don't know something that be wrong so
8 how could it, how could it upset me?

9 Q If you got a letter from me saying I've
10 got a client who claims ownership of your family
11 property, your parents' house, that wouldn't bother
12 you?

13 A No, 'cause I know it would be a lie.

14 Q All right. Just to sum this up, I
15 understand the taxes, I understand the work that
16 Mr. Ford did. Any other portion of your claim that
17 I should consider?

18 A Well, since you're not going to do the end
19 document-wise.

20 Q Well, this is your claim. I'm trying to
21 get a figure from you for what you're seeking
22 reimbursement.

23 A Well, I would have to go home in my
24 office, figure up all of my time and what all I have
25 done myself, not from hiring, not hired people,

1 myself on it.

2 Q Okay.

3 A I will send you an invoice on that also.

4 Q And besides your word, is there any other
5 basis for arriving at that figure?

6 A It's my word, my word is my bond, that's
7 all I got, my word.

8 Q Any documentation between you and anybody
9 else where you were authorized or approved to do any
10 of this work, the road, this supplemental work that
11 you did?

12 A Any documentation from any -- a verbal
13 agreement.

14 Q Besides verbal, we've covered, I
15 understand your verbal --

16 A A verbal agreement between two grown men.

17 Q I understand that. Besides that one
18 conversation you had with Mr. Wright, anything on
19 paper between you and any family member?

20 A No, sir.

21 Q Okay. I think that's all I've got.

22 MR. ALTMAN: Willie, do you have
23 anything?

24 MR. HEYWARD: Yes, one real quick.

25 EXAMINATION

1. BY MR. HEYWARD:

2 Q Since the taxes you have paid as reflected
3 in the mortgage, have you paid any other taxes?

4 From 2003 have you paid any other taxes?

5 A From 2003 have I paid any other taxes?

6 Q Yes.

7 A No, 'cause someone beat me to the punch
8 this year and paid this year's taxes.

9 Q I'm talking about 2003 when this mortgage
10 was done saying that you were owed the \$6,187.52,
11 since that time have you paid any other taxes, since
12 2003?

13 A No, sir.

14 Q The improvements that you did yourself --
15 let's backtrack. Is there anybody that's familiar
16 enough with the property that can testify as to the
17 improvements that you've done yourself, that they
18 were done by you and they were present in 2003 and
19 that these improvements were done by you?

20 A Miss Porcher, she lives on the property.

21 Q Has anyone, after you put the road in, did
22 anyone question you as to why the road was put in?

23 A No one questioned me whatsoever.

24 MR. HEYWARD: That's all I have.

25 MR. ALTMAN: You're done, that's it.

1 (The deposition was concluded at
2 2:41 p.m.)

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STATE OF SOUTH CAROLINA)

CERTIFICATE
COUNTY OF DORCHESTER)

I, Janice D. Hayward, Registered Merit Reporter and Notary Public, certify that I was authorized to and did stenographically report the foregoing deposition, and that the transcript is a true record of the testimony given by the witness.

I further certify that the witness was duly sworn and cautioned by me to tell the truth, the whole truth and nothing but the truth. I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand and seal this the 1st day of December 1, 2010.

COPY

Janice D. Hayward, RMR
Notary Public, South Carolina
My Comm. Expires Oct. 9, 2012

J. FORD TRUCKING

P.O. Box 204
Wadmalaw Island, SC 29487
(843) 906-5064

RECEIPT

September 12, 2007

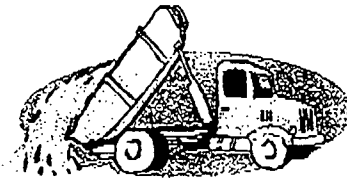
INVOICE # 0090107

CUSTOMER: Ernest McKnight

SITE LOCATION: Ravenel, South Carolina

JOB DESCRIPTION:

Land Clearing
Dirt (Haul & Spread)
Cut Road



\$4,500.00
\$4,500.00
\$1,500.00
\$9,500.00

Please tell a friend about the excellent work by
J. Ford Trucking

THANK YOU!



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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-10-250

John Wright,

Plaintiff,

v.

REPLY TO COUNTERCLAIM

Ned Wright, Hattie Wright Gaston,
Annie M. Wright, Edward Wright,
Samuel Wright, James Wright,
Earline Wright Maxwell, Wilmenia
Wright, Henry Wright, Oscar
Wright, Leroy Wright, Harold
Wright, Charles Wright, Samuel
Wright, Jr., Ernestine Wright,
Henry Wright, Jr., Ernest
McKnight, along with John Doe or
Mary Roe, fictitious names to
designate minors, infants, persons
of unsound mind, under disability
or incompetent, persons in prison,
persons in the military service
within meaning of Title 50, United
States Code, commonly referred to
as The Soldiers and Sailors Civil
Service Act) of 1940, if any, and
Richard Roe and Sarah Roe,
fictitious names to designate the
unknown heirs, devisees,
distributees, issue, executors,
administrators, successors or
assigns of Ned Wright, Hattie,
Defendant.

FILED
2010 MAR 31 PM 4:07
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Plaintiff John Wright, replying to the counterclaims of Defendant Ernest

McKnight, alleges and states as follows:

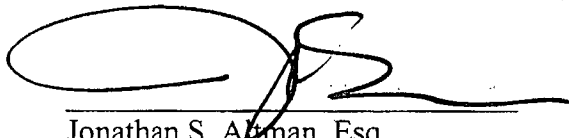
1. Plaintiff denies each and every allegation of Defendant's counterclaims not specifically admitted herein.

200

2. Paragraphs 1 through 10 constitute Defendant's Answer to Plaintiff's complaint and require no response from Plaintiff.
3. Plaintiff denies the allegations of paragraphs 11 and 12.
4. Plaintiff is without information or belief as to the allegations of paragraphs 13 and 14 and demands strict proof thereof.
5. Plaintiff denies the allegations of paragraphs 15, 16 and 17.
6. Plaintiff is without information and belief as to the allegations in paragraph 18 and demands strict proof thereof.
7. Plaintiff is without information and belief as to the allegations in paragraphs 19, 20, 21 and 22, and therefore denies the same.

WHEREFORE, having replied to Defendants counterclaims, Plaintiff prays that said counterclaims be dismissed and that Plaintiff be awarded the relief sought in Plaintiff's complaint and any other such other and further relief as this Court deems just and proper.

DERFNER, ALTMAN & WILBORN, LLC



Jonathan S. Altman, Esq.
575 King Street, Suite B (29403)
P.O. Box 600
Charleston, SC 29402
(843) 723-9804

March 26, 2010
Charleston, South Carolina

Attorney for Plaintiff

201

THAT STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COURNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No.: 2010-CP-10-00250

Eugene Gathers Respondent,

v.

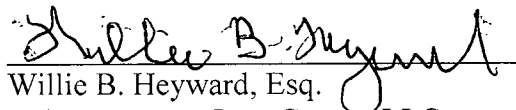
Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry Wright, Jr., Ernest McKnight, along with John Doe or Mary Roe, fictitious names to designate minors, infants, person of unsound mind, under disability or incompetent. Person in prison, persons in the military service within meaning of Title 50, United States Code, commonly referred to as The Soldiers and Sailors Civil Service Act of 1940, if any, and Richard Roe and Sarah Roe, fictitious names to designate the unknown heirs, devisees, distributes, issue, executors, administrators, successors or assigns of Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry Wright, Jr., also all other unknown person claiming any right, title, estate of lien upon the real estate which is the subject of this action, Defendants,

of whom Ernest McKnight is the Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by the parties and not any other material under Rule 210, SCACR.

March 15, 2013


Willie B. Heyward, Esq.
Heirs' Property Law Center, LLC
277 Gamecock Ave., Suite 200
Charleston, S.C. 29407
(843) 225-8754
Attorney for the Appellant

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr. – Circuit Court Judge

APPELLATE CASE NUMBER 2012-212010

Eugene Gathers Respondent,

v.

Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright Maxwell, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Ernestine Wright, Henry Wright, Jr., Ernest McKnight,, along with John Doe or Mary Roe, fictitious names to designate minors, infants person of unsound mind, under disability or incompetent. Person in prison, persons in the military service within meaning of Title 50, United States Code, commonly referred to as the Soldiers and Sailors Civil Service Act of 1940, if any, and Richard Roe and Sarah Roe, fictitious names to designate the unknown heirs, devisees, distributees, issue, executors, administrators, successors or assigns of Ned Wright, Hattie Wright Gaston, Annie M. Wright, Edward Wright, Samuel Wright, James Wright, Earline Wright, Wilmenia Wright, Henry Wright, Oscar Wright, Leroy Wright, Harold Wright, Charles Wright, Samuel Wright, Jr., Earnestine Wright, and henry Wright, Jr., also all other unknown person claiming any right, title, estate of lien upon the real estate which is the subject of this action, Defendants,

of whom Ernest McKnight Appellant

PROOF OF SERVICE

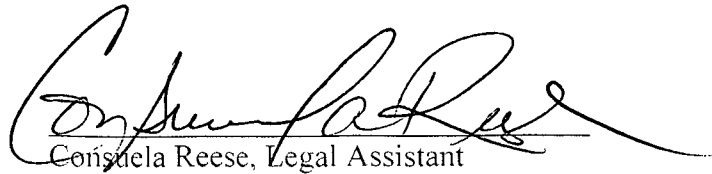
I certify that I have served the Record of appeal to all counsel of record by depositing copies of the same in the United States Mail postage prepaid, on February 25, 2013 addressed as follows:

Jonathan S. Altman, Esq.
Derfner, Altman & Wilborn, LLC

P.O. Box 600

RECEIVED
MAR 01 2013
SC Court of Appeals

Charleston, SC 29402

A handwritten signature in black ink, appearing to read 'Conisuela Reese', written over a horizontal line.

Conisuela Reese, Legal Assistant
Heirs Property Law Center, LLC