

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
The Honorable Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2018-001372
Common Pleas Case No.: 2016-CP-18-2123

RECEIVED
APR 22 2019
SC Court of Appeals

Mary Greene-Mackey.....Appellant,

vs.

David Bevins Respondent.

RECORD ON APPEAL

Eduardo K. Curry
Curry Law Firm, LLC
Post Office Box 42270
North Charleston, SC 29423
(843) 767-5284
Attorney for Appellant

Marvin I. Oberman
Harold A. Oberman
Oberman & Oberman, LLC
60 Markfield Drive, Ste. 2
Charleston, SC 29407
Attorneys for Respondent

ORIGINAL

INDEX

ORDERS

Notice of Appeal and Order entered June 15, 2018.....	1
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PLEADINGS

Summons and Complaint filed November 4, 2016.....	17
Answer and Counterclaim filed January 30, 2017.....	24
Reply to Counterclaim filed March 2, 2017.....	29

TRIAL TRANSCRIPT

Transcript of Trial.....	32
Direct Examination of Mary Louise Greene Mackey.....	48
Cross Examination of Mary Louise Greene Mackey.....	66
Re-Direct Examination of Mary Louise Greene Mackey.....	115
Direct Examination of David Bevins.....	128
Cross Examination of David Bevins.....	145

Plaintiff's Trial Exhibits

Photographs.....	169
Plat of Plaintiff's Property.....	172

Defendant's Trial Exhibits

Defendant's General Warranty Deed.....	175
Plaintiff's Title to Real Estate.....	177
Plaintiff's General Warranty Deed.....	182
Moss Pointe Subdivision Plat Phase 3.....	187
Moss Pointe Subdivision Plat Phase 4.....	188
Defendant's Photographs.....	189
Defendant's Plat of Lot 207.....	191
Plaintiff's Complaint for Restraining Order against Defendant.....	193

Certificate of Counsel.....	197
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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane S. Goodstein

RECEIVED

JUL 23 2018

SC Court of Appeals

Case No.: 2016-CP-18-2123

Mary Greene Mackey.....Appellant

vs.

David Bevins.....Respondent

NOTICE OF APPEAL

The Appellant identified above appeals the order of the Honorable Diane S. Goodstein,
filed June 15, 2018. Written notice of entry was received by Appellant on June 19, 2018.

July 18, 2018


EDUARDO K. CURRY, ESQUIRE
The Curry Law Firm, LLC
Post Office Box 42270
North Charleston, SC 29423
(843) 767-5284
(843) 767-5286 (Fax)
ATTORNEY FOR APPELLANT

Other Counsel of Record:
MARVIN I. OBERMAN
OBERMAN & OBERMAN, LLC
60 Markfield Drive, Ste. 2
Charleston, SC 29407
(843) 577-7010
ATTORNEY FOR RESPONDENT

ROA 001

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane S. Goodstein

Case No.: 2016-CP-18-2123

RECEIVED

JUL 23 2018

SC Court of Appeals

Mary Greene Mackey.....Appellant

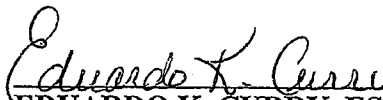
vs.

David Bevins.....Respondent

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on David Bevins, by depositing a copy of it in the United States Mail, postage prepaid, by email and by facsimile on July 18, 2018, addressed to his attorney of record, **MARVIN I. OBERMAN, Oberman & Oberman, LLC, 60 Markfield Drive, Ste. 2, Charleston, SC 29407.**

July 18, 2018


EDUARDO K. CURRY, ESQUIRE
The Curry Law Firm, LLC
Post Office Box 42270
North Charleston, SC 29423
(843) 767-5284
(843) 767-5286 (Fax)
ATTORNEY FOR APPELLANT

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2016CP1802123

☒ Mary Greene Mackey		David Bevins	
--	--	--------------	--

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

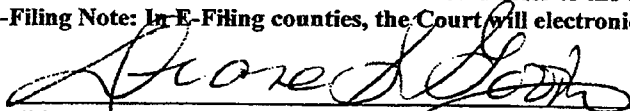
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
David Bevins	Mary Greene Mackey	\$18,925.00

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

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

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


Diane S. Goodstein, Circuit Court Judge

2112
Judge Code

5/21/2018
Date

For Clerk of Court Office Use Only

This judgment was entered on 6/15/18, and a copy mailed first class or placed in the appropriate attorney's box on 6/15/18, to attorneys of record or to parties (when appearing pro se) as follows:

Eduardo Kelvin Curry
PO Box 42270
N. Charleston, SC 29423

Harold Alan Oberman / Marvin I. Oberman
60 Markfield Drive Suite 2
Charleston, SC 29407

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Cheryl Graham - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

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

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

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

MARY GREENE-MACKEY,)
)
Plaintiff,)
)
vs.)
)
DAVID BEVINS,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO. 2016-CP-18-2122

ORDER

CHERYL GRAYHAM
CLERK OF COURT
DORCHESTER COUNTY

2018 JUN 15 AM 8:57

FILED-RECORDED

Trial Date: Monday, February 5, 2018
Trial Judge: The Honorable Diane S. Goodstein
Plaintiff's Attorney: Edurdo K. Curry, Esquire
Defendant's Attorney: Marvin I. Oberman, Esquire
Court Reporter: Clark & Associates

STATEMENT OF THE CASE

The Defendant and Counter Claimant, David Bevins, purchased and occupied the home and lot shown as Lot 207, Moss Pointe, Phase 3, represented on a plat prepared by E.M. Seabrook dated November 17, 1982, by deed from Julian B. Glover dated August 28, 2003. The plat referred to in that deed was recorded in Plat Book D, page 245, Register of Deeds for Dorchester County on January 6, 1983. The deed into Bevins was introduced into evidence as Defendant's Exhibit 1 at trial. The survey and plat of E.M. Seabrook dated November 17, 1982, showing Moss Pointe, Phase 3, was introduced as Plaintiff's Exhibit 3 and Defendant's Exhibit 5 at trial.

The Plaintiff, Mary Greene-Mackey, purchased the home and lot know and designated as Lot 208, Moss Pointe, Phase 4-117 Robert Drive, Ladson, SC 29456-by deed from her daughter,

Kimberly D. Washington, dated January 22, 2015 and recorded in Book 9600, page 6, Register of Deeds for Dorchester County. The survey and plat of Phase 4 were introduced as Plaintiff's Exhibit 1. That survey was dated November 18, 1982. The surveys and plats of Phase 3 and Phase 4 showing the two lots in question each show the courses of the southeastern boundary between Lots 207 and 208 to be magnetic north at N 32°45'49". The recent plats of Associated Surveyors of Summerville (John David Bass) dated December 7, 2015 and revised April 21, 2017—Defendant's Exhibits 8 and 9—show a very slight magnetic north deviation from the two plats of 1982 of 3 minutes 27 seconds over the period of approximately thirty-three (33) years. More importantly, the Bass plat of 2015 show the found corners of Lot 207 to be marked by steel staubs designated Found "FND" and the length of the line in question to be identical or nearly identical in length.

Mrs. Greene-Mackey acquired Lot 208 from her daughter on January 22, 2015. In September 2015, Mrs. Greene-Mackey called Mr. Bevins and advised him that his fence was on her property. On October 16, 2015, Mrs. Greene-Mackey had some workmen cross the fence and start cutting some branches from the trees on the property of Mr. Bevins. Mr. Bevins called the police who arrived, stopped the activities, talked to both, and advised the parties to get a survey done. On October 17, 2015, Mr. Bevins instituted a notice of trespass (Defendant's Exhibit 10). He also hired a survey company who delivered the requested survey (Exhibit 8 aforesaid, dated December 7, 2015). Mr. Bevins tendered that survey to Mrs. Greene-Mackey. She refused the survey and did not secure and deliver, at that time, to his knowledge, a survey for her property.

By Complaint and Motion for Restraining Order (harassment and stalking) dated July 6, 2016, Mrs. Greene-Mackey instituted an action against Mr. Bevins (Defendant's Exhibit 11). That

matter was heard on July 19, 2016 and dismissed by the judge who again advised the parties to secure a survey or surveys.

On October 17, 2016, Mrs. Greene-Mackey had her agents remove the fence in question or a large portion of that fence and cut down three (3) of trees on the property of Mr. Bevins (Defendant's Exhibit 9, revised April 21, 2017).

At the time of the purchase of Lot 207 by Mr. Bevins in August 2003, there existed a chain link fence that ran along the line separating the two lots. That line was shown as almost an exact bearing on the surveys and plats of Associated Surveyors of Summerville dated December 7, 2015 and revised April 21, 2017 (Defendant's Exhibits 8 and 9).

The Defendant/Counter Claimant submits that the very minor change in the north south bearing is explained by the drift of the magnetic north over a period of thirty-three (33) years and notes more importantly that the line between the street point on Robert Drive is marked by a 5/8" rebar found and at the rear by a 1/2" rebar found and that the boundary is a straight line between the two points. The two rebar markers appeared by their condition to be the original lot stakes from 1982 and should be determinative of the survey closure of Lot 207 of Bevins and lot 208 of Greene-Mackey. It appears that Mrs. Greene-Mackey commissioned a firm to locate the rebar stakes and one or two firms to survey the boundary line between lots 207 and 208. Mrs. Greene-Mackey testified that devices were used to clear the vegetation and soil to reveal the two boundary stubs in question. Mrs. Greene-Mackey though served with notice to produce and the Defendant's Motion for Summary Judgment opted to secrete any of the results or information from Mr. Bevins, his attorneys, and this Court.

Mrs. Greene-Mackey instituted her suit against Mr. Bevins on November 3, 2016. Mr. Bevins entered his Answer and Counterclaim dated January 3, 2017. Mrs. Greene-Mackey replied to the Defendant's Counterclaim and to the Defendant's Request to Admit but did not respond to the Defendant's Interrogatories, Amended Interrogatories, Request to Produce, and Amended Request to Produce. She did not respond to the Defendant's Motion for Summary Judgment dated October 19, 2017 until the day of the trial of this case on February 5, 2018 by submitting three (3) recorded surveys of the Moss Pointe Subdivision; each drawn in November, 1982.

LAW AND ARGUMENT OF DEFENDANT

Though this Court did not grant the Bevins' Motion for Summary Judgment, such decision of the Court is not to be considered as dispositive of the underlying case and the Court allowed the issues to go forward to trial.

After the testimony and exhibits elicited from the Plaintiff and the Defendant/Counter Claimant, David Bevins, it became clear that the Complaint of the Plaintiff and the three causes of action therein contained were not supported by the facts and should be dismissed. The testimony and exhibits elicited from the Plaintiff by cross examination and from that of the Defendant/Counter Claimant, David Bevins, made out a strong case in favor of the Defendant/Counter Claimant in trespass and the damages resulting therefrom as herein shown.

In the case of Snow v. City of Columbia, 305 S.C. 544 (1991) at pp. 552-553, 409 SE 2d 787, it was held that:

At common law, all land held in peaceable possession is deemed to be enclosed. Harris v. Baden, 54 Fla. 373, 17 So.2d 608 (1994). The person in peaceable possession has the right to exclude all others from the enclosure. See Statos v. King, 282 S.C. 501, 319 S.E. 2d

356 (Ct.App. 1984). The unwarrantable entry on land in the peaceable possession of another is a trespass, without regard to the degree of force used, the means by which the enclosure is broken, or the extent of the damages inflicted. Lee v. Stewart, 218 N.C. 287, 10 S.E.2d 804 (1940). The entry itself is the wrong. The mere entry entitles the party in possession at least to nominal damages. Lee v. Stewart, supra. To constitute an actionable trespass, however, there must be an affirmative act, the invasion of the land must be intentional, and the harm caused must be the direct result of that invasion. Alabama Power Co. v. C.G. Thompson, 278 Ala. 367, 178 So.2d 525 (1965).

Intent is proved by showing that the defendant acted voluntarily and that he knew or should have known the result would follow from this act. Snakenberg v. Hartford Casualty Insurance Co., 299 S.C. 164, 383 S.E.2d 2 (Ct.App. 1989). Although neither deliberation, purpose, motive, nor malice are necessary elements of intent, the defendant must intend the act which in law constitutes the invasion of the plaintiff's right. *Id.* Trespass is an intentional tort; and while the trespasser, to be liable, need not intend or expect the damaging consequence of his entry, he must intend the act which constitutes the unwarranted entry on another's land. See Phillips v. Sun Oil Co., 307 N.Y. 328, 121 N.E.2d 249 (1954); Lee v. Stewart, supra (it is immaterial whether defendant in committing the trespass actually contemplated the resulting damage to plaintiff).

Mr. Bevins from the date of his purchase enjoyed an enclosure of his rear and side yard. He had enjoyed that enclosure from August 28, 2003 to the date of the intrusion by Mrs. Greene-Mackey on October 17, 2016. It has been said that a man's home is his castle. The unwarrantable entry on land in the peaceable possession of another is a trespass without regard to the degree of force used, the means by which the enclosure is broken or the extent of the damage inflicted. The entry itself is the wrong. The mere entry entitles the party in possession at least to nominal damages. Lee v. Stewart, 218 N.C. 287, 10 S.E.2d 804.

The Plaintiff and her counsel appear to defend on the 3'27" magnetic deviation of the boundary line between lots 207 and 208 that occurred over a 33-year period. Such a deviation would be of a de minimis scale of the resulting frontal line of lot 207 on Robert Drive. In any event, the straight line between the survey stakes ($\frac{5}{8}$ " rebar found and $\frac{1}{2}$ " inch rebar found) would be controlling.

The Court notes
(The failure of the Plaintiff, Mrs. Greene-Mackey, to produce the findings and work of the two or three surveyors she had hired, ~~should be and are determinative of that issue of the case.~~ *DSJ* The Bass plats dated December 7, 2015 and revised April 21, 2017 remain uncontroverted and controlling in this matter and case.

Mr. Bevins followed the advice of the police and judges in the matters leading up to the breach of his fence on October 17, 2016. Both parties were advised to get surveys of their properties. Mr. Bevins did so. He secured the services of Associated Surveyors of Summerville who drew two surveys - the first dated December 7, 2015 and the revised survey showing the tree stumps dated April 21, 2017. Both surveys were given to the attorney(s) for Mrs. Greene-Mackey, and the Court and entered as Exhibits 8 and 9 at the trial of the case. Mrs. Greene-Mackey testified that she had an engineer locate the lot staubs and at least one surveyor to locate and mark the boundary line between the two lots in question. Mrs. Greene-Mackey did not give the Defendant nor the Court any evidence of the findings of these two or three persons. ~~These findings under the theory of "The dog that didn't bark" of Sherlock Holmes must be considered an important clue that these findings were adverse to the position of Mrs. Greene-Mackey.~~ *DSJ*

Within days after the dismissal of her case by the judge on July 19, 2016 Mrs. Greene-Mackey disregarded the earlier advise of the police and judges and took steps on November 3, 2016

to trespass upon the property of Mr. Bevins, remove his chain link fence and destroy three trees on his property.

Mrs. Greene-Mackey started her process by advising Mr. Bevins in September 2015 that his fence was on her property. On October 16, 2015, Mrs. Greene-Mackey directed some workmen to cross the fence and start to cut some branches from the trees clearly on the property of Mr. Bevins. The actions of Mrs. Greene-Mackey were stopped by the police who advised the parties to get surveys to determine who was right. The judge in his determination of the question again in this case on July 19, 2016 also advised that the parties secure a survey or surveys. Mr. Bevins did so on October 17, 2016. Mrs. Greene-Mackey did not follow this advice ^{or} ~~nor~~ did not share the result(s) of her surveyors with Mr. Bevins or the Court. Mrs. Greene-Mackey instead instituted this suit on November 3, 2016 some two weeks after the ruling of the Judge.

Mrs. Greene-Mackey by her actions ~~and in total disregard of the evidence and the advice of~~ ^{DSG} ~~the police and judges~~ intentionally trespassed over Mr. Bevin's fence and cut three (3) trees on the land of Mr. Bevins and subjected herself to damages due by her to Mr. Bevins. Under the laws of this State, Mrs. Greene-Mackey is liable to Mr. Bevins for nominal damages, compensatory damages and punitive damages. These damages would include:

~~Nominal damages~~	~~\$1,000.00~~	DSG
Actual or compensatory damages-paid out of pocket	\$17,925.00	
Punitive damages	~~1,000.00~~	DSG
	~~\$6,000.00~~	
for a total of	~~\$24,925.00~~	
	\$18,925.00	

The purposes of punitive damages are to punish the wrongdoer and deter the wrongdoer and others from engaging in similar reckless,

willful, wanton, or malicious conduct in the future. Clark v. Cantrell, 339 S.C. 369, 378, 529 S.E.2d 528, 533 (2000). 'Punitive damages also serve to vindicate a private right of the injured party by requiring the wrongdoer to pay money to the injured party.' *Id.* at 378-79, 539, S.E.2d at 533.

To receive an award of punitive damages, the [party claiming punitive damages] has the burden of proving by clear and convincing evidence the [trespassing party's] misconduct was willful, wanton, or in reckless disregard of the [owner's] rights. Austin v. Specialty Transp. Servs. Inc. 358 S.C. 298, 313, 594 S.E.2d 867, 875 (Ct.App. 2004). 'A conscious failure to exercise due care constitutes willfulness.' McCourt ex rel. McCourt v. Abernathy, 318 S.C. 301, 308, 457 S.E. 2d 603, 607 (1995). The issue of punitive damages before the finders of fact if more than one reasonable inference can be drawn from the evidence as to whether the [trespasser's] behavior was reckless, willful, or wanton. Graham v. Whitaker, 282 S.C. 393, 398, 321 S.E. 2d 40, 43 (1984).

Mr. Bevins submitted evidence and testified to the damages caused to him as the owner of the Lot 207 by the actions of the Plaintiff Greene-Mackey. Those damages includes the following:

~~A.~~	~~Nominal damages to be determined by the Court~~	~~\$1,000.00~~	~~Ø~~
A ~~B~~	The destruction and replacement of the fence in question		
(a)	Destruction	TBD	
(b)	Replacement	\$575.00	
C.	Replacement of three (3) trees, grind stumps and removal of debris of three (3) trees cut down	\$2,500.00	
D.	The surveys and plats	\$350.00	
E.	Attorneys' fees and costs	\$14,500.00 ¹	

¹Mr. Bevins testified to the total of the amounts paid to his attorneys Oberman and Oberman and the Court takes judicial notice of the reputation of the senior principal member of

for a total out of pocket determined fees of \$18,925.00. This figure does not account for the value of the destroyed fence and the value of the three (3) mature trees.

of 1,000.00
~~If the Court awards nominal damages in the amount of \$1,000.00 and punitive damages in the amount of \$6,000.00, the Court would find the sum of \$24,925.00 for nominal, compensatory,~~

punitive damages

18,925.00
and punitive damages due from Mrs. Greene-Mackey to Mr. Bevins. If the Court considers these damages and determines a fair value for the "to be determined" damages and punitive damages, a very fair judgment in the amount of *18,925.00* ~~\$24,925.00~~ would be most consistent with the actions of Mrs. Greene-Mackey and the trespass she committed.

CONCLUSION AND ORDER

The Court heard the motion of the Defendant/Counter Claimant, David Bevins, for Summary Judgment during the morning hours of Monday, February 5, 2018. The Plaintiff, Mary Greene-Mackey, was in attendance with her attorney, Edurdo K. Curry, Esquire and the Defendant Counter/Claimant, David Bevins, was also in attendance with his attorneys Marvin I. Oberman and Harold A. Oberman. After a full review of the motion, the supporting affidavit and the arguments of counsel, the motion was denied and the case went forward on the merits.

Upon consideration of the testimony of the parties, the voluminous exhibits, the law pertaining to the trespass, argument of counsel and the merits of the positions of both parties, the Court finds that:

the firm over the past fifty (50) years and the scope of the work done by that firm in the this case, as evidenced by the pleadings in the file.

A. The Complaint of the Plaintiff, Mary Green-Mackey, and the three causes of action therein contained against the Defendant/Counter Claimant, David Bevins, should be and it is hereby dismissed with prejudice.

B. The Plaintiff, Mary Greene-Mackey, intentionally and voluntarily, entered the property - the enclosure - of the Defendant/Counter Claimant, David Bevins, on two occasions - October 16, 2015 and one year later on October 17, 2016. On the first occasion in 2015, Mrs. Greene-Mackey had her workmen trim the branches of three (3) trees on the property of Mr. Bevins. On the second occasion of October 17, 2016, Mrs. Greene-Mackey had her workmen remove a large portion of the chain link fences on the property of Mr. Bevins, enter the property and cut down three (3) trees on the property of Mr. Bevins without permission or license.

C. During that year from October, 2015 to October, 2016,, police were called and the parties appeared in the lower courts. The parties were advised by the police and judges to secure the services of surveyors or other professionals to designate the boundary line between the properties of the parties. The Defendant/Counter Claimant, David Bevins, hired a surveyor - Associated Surveyors of Summerville - and tendered the resultant survey dated December 7, 2015 to the Court and Mrs. Greene-Mackey. It appears that Mrs. Greene-Mackey retained the services of an engineer and one or two surveyors but never presented their results to Mr. Bevins, his attorneys or the Court. Within days after the ruling by the lower court judge - July 19, 2016 to October 17, 2016 - and the request/order to secure a survey, Mrs. Greene-Mackey had her agents enter the property of Mr. Bevins, remove a large portion of his fence and cut down three (3) trees on his property.

D. The Plaintiff, Mary Greene-Mackey, ~~apparently disregarded the advice/request of the~~
failed to present
~~police and judges to secure and present surveys and other evidence as to the boundary in question~~

and disregarded the existing fence and lot stubs in the ground, entered upon the property of Mr. Bevins, removed a large portion of the existing fence and had three (3) mature trees on the property of Mr. Bevins cut to their stumps. Mrs. Greene-Mackey did not have the stumps or debris of the ~~three~~ trees removed from Mr. Bevins' property.

E. The evidence is compelling that the Defendant/Counter Claimant, Mr. David Bevins, held Lot 207 Moss Pointe, Phase 3 in peaceable possession and the portion of that lot and the fence butting to the east on Lot 208 of the Plaintiff which lot lies to the east of the line between the ½" rebar found and the ⅝" rebar found on Robert Drive - all on the survey and plat of Associated Surveyors of Summerville and Mr. Bevins had the right to exclude all others from his enclosure of Lot 207.

F. The evidence is clear that the Plaintiff, Mary Greene-Mackey, with knowledge and intention made an unwarranted entry on two occasions upon the enclosure of the property of Mr. David Bevins resulting in damages to Mr. Bevins in the amounts of actual damages in the amount of \$17,925.00 and punitive damages in the amount of \$1,000.00 for a total of damages due by Mary Greene-Mackey to David Bevins in the amount of ~~\$24,925.00~~ ^{\$18,925.00}.

And it is therefore

ORDERED that:

First: The motion of the Defendant/Counter Claimant, David Bevins, for Summary Judgment against the Plaintiff Mary Greene-Mackey is denied; and

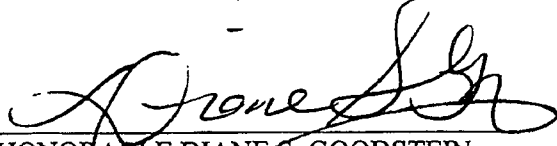
Second: the Complaint of the Plaintiff, Mary Greene-Mackey, and the three causes of action therein contained against the Defendant/Counter Claimant, David Bevins, is hereby dismissed with prejudice; and

Third: The Defendant/Counter Claimant, David Bevins, have judgement against the Plaintiff, Mary Greene-Mackey, in the sums of ~~\$18,925.00~~ ^{\$17,925.00} actual damages and ~~\$6,000.00~~ ^{\$1,000.00} punitive damages for the total sum of ~~\$24,925.00~~ ^{\$18,925.00}; and

Fourth: The boundary line between Lot 207 - the property of Bevins - and Lot 208 - the property of Greene-Mackey - be definitely established as that shown between the 1/2" stub to the rear and the 5/8" stub to the front on Robert Drive on the plat of Associated Surveyors of Summerville dated December 7, 2015, and it is confirmed as correct and binding, and

Fifth: The aforesaid survey and plat may be recorded with a copy of this Order by the Defendant/Counter Claimant.

AND IT IS SO ORDERED.


HONORABLE DIANE S. GOODSTEIN
Judge of the First Judicial Court
for Dorchester County

St. George, South Carolina

May 18, 2018.

f:\ob\bevins-mackey314.005\pleading\order

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

MARY GREENE-MACKEY,

vs.

DAVID BEVINS

Defendant(s))

Submitted By: JOSEPH R. WESTON

Address: P.O. BOX 1992

MT. PLEASANT, SC 29465-1992

IN THE COURT OF COMMON PLEAS

FILED - RECORDED

Plaintiff(s) 2016 NOV -4 PM 3:29

CIVIL ACTION COVERSHEET

2016-CP - 18- 2123

CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

SC Bar #: 66430

Telephone #: 843-881-4995

Fax #: 843-881-4009

Other:

E-mail: jweston@westonlawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/
Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) _____ | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -NI- _____
☐ Notice/ File Med Mal (230)
☐ Other (299) _____ | Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) _____ | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) _____ |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☒ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approval (780)
☐ Other (799) _____ | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCJOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) _____
☐ Sexual Predator (510)
☐ Permanent Restraining Order (680) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature: _____

Date: 11/3/2016

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

SCCA / 234 (03/2016)

Page 1 of 2

ROA 017

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

MARY GREENE-MACKEY,)

Plaintiff.)

v.)

DAVID BEVINS,)

Defendant.)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

CASE NO.: 2016-CP-18- 2123

SUMMONS

FILED - RECORDED
2016 NOV -4 PM 3:29
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: DAVID BEVINS:

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 upon the Plaintiff or his attorney, Joseph R. Weston, at his office at P.O. Box 1992, 761 Johnnie Dodds Blvd., Suite 100, Mt. Pleasant, South Carolina, 29465-1992, within thirty (30) days after the service hereof, excluding the date of such service. IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN THE TIME AFORESAID, PLAINTIFF WILL APPLY TO THE COURT FOR A JUDGMENT BY DEFAULT FOR THE RELIEF DEMANDED IN THE COMPLAINT AND ANY OTHER RELIEF DEEMED APPROPRIATE.

Mt. Pleasant, South Carolina

Dated: 11/3/16

WESTON LAW FIRM, P.A.



Joseph R. Weston
Post Office Box 1992
Mt. Pleasant, SC 29465-1992
(843) 881-4995

ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
MARY GREENE-MACKEY,)
)
Plaintiff,)
)
v.)
)
DAVID BEVINS,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

CASE NO.: 2016-CP-18- 2123

COMPLAINT

FILED - RECORDED
2016 NOV -4 PM 3:29
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

NOW COMES THE PLAINTIFF, Mary Greene-Mackey, by and through the undersigned counsel, and complains of the Defendant, as follows:

1. Plaintiff is the owner of and resides on real property identified as 117 Robert Drive in Ladson, South Carolina, Tax Map No. 154-10-15-019 (hereinafter "Plaintiff's property").
2. Defendant, upon information and belief, is the owner of real property identified as 113 Robert Drive in Ladson, South Carolina, Tax Map No. 154-10-15-020 (hereinafter "Defendant's property").
3. This Court has jurisdiction over the parties and the subject matter of this Complaint.
4. A portion of the west side of Plaintiff's property line abuts the east side of Defendant's property line.
5. Within a three year period prior to the filing of this action, Defendant has repeatedly committed unlawful acts and offenses against Plaintiff, including in the following particulars:
 - (1) Repeatedly trespassing upon Plaintiff's land and damaging Plaintiff's property and improvements thereon;

- (2) Removing trees, which were located on the Plaintiff's property; and
- (3) Constructing a fence which encroaches upon Plaintiff's property.

FOR A SECOND CAUSE OF ACTION
(Trespass)

- 6. Plaintiff repeats the allegations set forth in Paragraphs 1 through 5 and incorporates them herein by reference as if more fully set forth.
- 7. As owner of her real property, the Plaintiff has a right to peaceable possession and quiet enjoyment of her property, and the right to exclude others from trespassing upon the property.
- 8. Within a three year period prior to the filing of this action, the Defendant has repeatedly intentionally trespassed upon Plaintiff's property by constructing a fence which encroaches on Plaintiff's property, causing substantial damage and alteration to the Plaintiff's property.
- 9. The damage to Plaintiff's property as aforesaid directly resulted from Defendant's intentional trespasses as described, in violation of the Plaintiff's right to exclusive and peaceable possession of her property.
- 10. Plaintiff is informed and believes that she is entitled to recover damages against Defendant for the damages to her property caused by the Defendant's trespasses as described above.
- 11. Plaintiff is further informed and believes that she is entitled to injunctive relief against Defendant, ordering the Defendant to refrain from any further trespass onto Plaintiff's property, and ordering the removal of the fence described in Paragraph 8.

FOR A THIRD CAUSE OF ACTION
(Declaratory Relief)

12. Plaintiff repeats the allegations set forth in Paragraphs 1 through 11 and incorporates them herein by reference as if more fully set forth.
13. As deed holder, Plaintiff has rights to and an interest in her real property identified above, and a right of quiet enjoyment to said property.
14. Defendant has, in connection with his wrongful actions against Plaintiff as aforesaid, challenged the location of the property line between the Plaintiff's property and that of the Defendant.
15. The challenges raised by the Defendant, and the results of his wrongful actions based on those repeated challenges as to the location of the property line, has caused the Plaintiff to suffer a loss of quiet enjoyment of her property.
16. Pursuant to the Uniform Declaratory Judgments Act, S.C. Code Ann. § 15-53-10 et seq., Plaintiff is entitled to and requests that the Court issue a declaratory judgment as to the location of the property line, in order to prevent further challenges by Defendant and allow Plaintiff to have quiet enjoyment of her property.

WHEREFORE, Plaintiff demands judgment against the Defendant, for actual and punitive damages in an amount to be determined by the Court, for injunctive and declaratory relief as requested in the Complaint, for her attorney's fees and the costs of this action, and for such other and further relief as the Court deems just and proper.

[signature page to follow]

Mt. Pleasant, South Carolina

Dated: 11/3/16

WESTON LAW FIRM, P.A.

A handwritten signature in black ink, appearing to read "Joseph R. Weston", is written over a horizontal line.

Joseph R. Weston
Post Office Box 1992
Mt. Pleasant, SC 29465-1992
(843) 881-4995

ATTORNEY FOR PLAINTIFF

✓

FILED-RECORDED
2017 JAN 30 PM 4:25
IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO. 2016-CP-18-~~212~~ 2123

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
MARY GREEN-MACKEY,)
CLERK OF COURT)
DORCHESTER COUNTY)

Plaintiff,)

✓ vs.)

DAVID BEVINS,)

Defendant.)

ANSWER AND COUNTERCLAIM

Answering the Complaint of the Plaintiff, Defendant David Bevins, would state that:

1. Each allegation of the Complaint not specifically admitted is denied.
2. Defendant admits paragraph 1 on information and belief.
3. Defendant admits paragraphs 2 through 4.
4. Defendant denies paragraph 5.
5. Defendant responds to paragraph 6 as set forth above.
6. Defendant admits paragraph 7 as a general statement of law but denies he infringed upon Plaintiff's peaceful possession.
7. Defendant denies paragraphs 8 through 11.
8. Defendant responds to paragraph 12 as set forth above.
9. Answering paragraphs 13 and 14, Defendant admits that he and Plaintiff have a dispute about the property line, but would further assert that he has had a survey drawn and commissioned, that he has abided by that survey, and that he has shown said survey to Plaintiff.
10. Paragraph 15 is denied.

11. As to paragraph 16, Defendant would also ask this Court reaffirm the property line shown in the above-referenced survey, but would deny he ever infringed upon Plaintiff's quiet enjoyment of her property.

FOR CLARIFICATION, FOR OTHER AND FURTHER RELIEF, AND BY WAY OF COUNTERCLAIMS, DEFENDANT WOULD STATE AS FOLLOWS:

12. The above paragraphs are realleged here.

13. Defendant had a survey drawn on December 7, 2015, a reduced copy of which is attached to this Answer and Counterclaim as Exhibit "A".

14. Plaintiff removed trees from Defendant's property without Defendant's permission.

15. Plaintiff destroyed and removed a fence on Defendant's property without Defendant's permission.

16. Plaintiff was fully aware of the survey Defendant had drawn as it was shown to her when Plaintiff brought criminal actions against Defendant.

17. Those criminal actions were dismissed.

FOR A FIRST COUNTERCLAIM

(Declaratory Judgment)

18. Defendant restates and realleges the above paragraphs here.

19. Defendant seeks a declaration that Plaintiff has infringed upon his right of use of his property and that the Plaintiff has no legal right to enter Defendant's property as shown on the attached plat.

20. Defendant further seeks to enjoin Plaintiff from entering his land as shown on the plat.

FOR A SECOND COUNTERCLAIM

(Trespass)

21. Defendant restates and realleges the above paragraphs here.
22. Plaintiff's intentional acts of destroying the fence and removing trees is an unauthorized use of Defendant's property and constitutes a trespass.
23. Defendant, because of said trespass, should be granted money damages.
24. Plaintiff was fully aware of the survey when she took down Defendant's fence and cut down his trees.
25. Because Plaintiff knew of the survey and for other reasons, her actions were wilful, wanton, and in complete disregard for Defendant's rights, Defendant should be granted punitive damages.

WHEREFORE, Defendant prays that the Complaint of Plaintiff be dismissed; that he be granted judgment against the Plaintiff on his counterclaims for actual and punitive damages in a amount determined by the Court; for injunctive and declaratory relief as requested in his counterclaims; for attorneys' fees and costs of this action; and for other and further relief as the Court deems just and proper.

OBERMAN & OBERMAN, LLC



Harold A. Oberman
Marvin I. Oberman
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843) 577-7010

Charleston, South Carolina

January 27, 2017.

f:\obj\bevins-smacked314\015\pleading\answer.cc

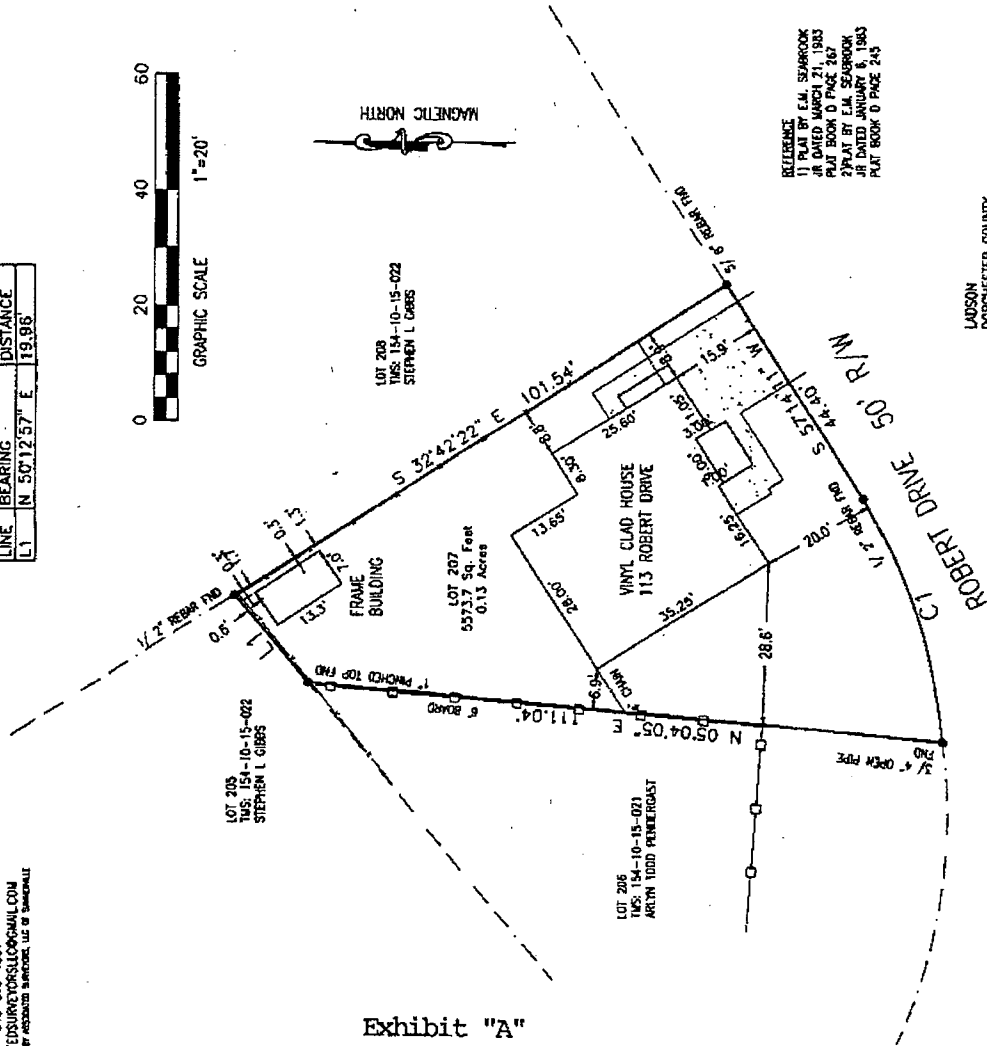
ASSOCIATED SURVEYORS OF SUMMERVILLE
P.O. BOX 8 SUMMERVILLE, S.C. 29404
843-471-1051
ASSOCIATEDSURVEYORS@GMAIL.COM
COPYRIGHT 2015 BY ASSOCIATED SURVEYORS, LLC OF SUMMERVILLE

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	45.27'	100.00'	25°56'10"	S 71°57'11" W	44.88'

LINE	BEARING	DISTANCE
L1	N 50°12'57" E	19.96'



Exhibit "A"



REFERENCE
1) PLAT BY E.M. SEAROOK
JR DATED MARCH 21, 1983
2) PLAT BOOK D PAGE 267
3) PLAT BY E.M. SEAROOK
JR DATED JANUARY 8, 1983
4) PLAT BOOK D PAGE 243

LADSON
DORCHESTER COUNTY
SOUTH CAROLINA

JOB NO. 2015-186
DECEMBER 7, 2015

NOTES
1) THIS NO. 154-10-15-020 OWNED BY DAVID H BEVINS
2) ZONED R-2
3) THIS PROPERTY IS LOCATED IN FLOOD ZONE X, AS PER
FEMA PANEL NO. 450660000SC, DATED APRIL 1A, 1994
4) THIS PROPERTY WAS SURVEYED BY REFERENCE PLATS AND FIELD
WORK. THE SURVEYOR HAS NO KNOWLEDGE OF ANY ENCUMBRANCES
OR PROJECTIONS OF ANY KIND, BUT THE SURVEYOR HAS NO
OBLIGATION TO INVESTIGATE OR PROTECT THE PROPERTY
FROM SUCH AS STORM SEWER, SANITARY SEWER, ELECTRIC, GAS, OR
TELEPHONE LINES, OR ANY OTHER UTILITIES, OR ANY
PLATS NOTED HEREON. THIS PLAT DOES NOT DEFINE OR ADDRESS ANY
SUBTERRANEAN CONDITIONS OF ANY OF THESE EASEMENTS, UNLESS
NOTED SPECIFICALLY HEREON.
5) IF THE SIGNATURE UPON THIS PAPER IS NOT IN RED INK ALONG
WITH A RAISED EMBOSSED SEAL, THIS DOCUMENT IS NOT AN ORIGINAL.
SURVEY VENDOR MAY BE WARY OF IDEAS THAT MAY BE ADDED AND OR
CHANGED FROM THE ORIGINAL DRAWING.

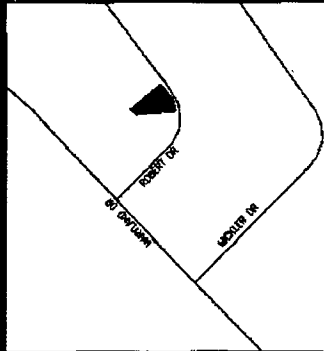
PLAT OF 0.13 ACRES LOT 207, 113 ROBERT DRIVE IN MOSS POINTE SUBDIVISION SURVEYED FOR DAVID BEVINS

I, JOHN DAVID BEVINS, HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THAT THE
SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE UNIFORM STANDARDS MANUAL
FOR THE SURVEYING AND MAPPING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A
CLASS "A" SURVEY AS SET FORTH IN THE UNIFORM STANDARDS MANUAL, AND TO THE SURVEYOR WITHIN OF THE
ENCUMBRANCES OR PROJECTIONS OTHER THAN THOSE NOTED ABOVE.



John David Bevins
JOHN DAVID BEVINS, P.E.
S.C. REGISTRATION NO. 15108

LOCATION MAP N.T.S.



ADDITIONAL

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

) IN THE COURT OF COMMON PLEAS
) FOR THE FIRST JUDICIAL CIRCUIT
) CASE NO. 2016-CP-18-2122

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of January, 2017, a true and correct copy of the Defendant's Answer and Counterclaim was hand delivered by courier to:

Joseph R. Weston, Esquire
Weston Law Firm, P.A.
Attorney at Law
761 Johnnie Dodds Boulevard
Mt. Pleasant, SC 29464

FILED-RECORDED
2017 JAN 30 PM 1:25
CHERYL SIMMONS
CLERK OF COURT
DORCHESTER COUNTY

Lee Bolton

Charleston, South Carolina.

f:\job\bevins-mackey314.005\pleading\cs

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

✓ MARY GREEN-MACKEY,

Plaintiff,

vs.

DAVID BEVINS,

Defendant.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
CASE NO.: 2016-CP-18-2123

PLAINTIFF GREEN-MACKEY
ANSWER TO DEFENDANT BEVINS
COUNTERCLAIM

FILED-RECORDED
2017 MAR -2 PM 12:39
CLERK OF COURT
DORCHESTER COUNTY

**TO: HAROLD A. OBERMAN, ESQUIRE AND MARVIN I. OBERMAN, ESQUIRE,
ATTORNEYS FOR DEFENDANT DAVID BEVINS:**

Plaintiff Mary Green-Mackey, by and through her undersigned counsel, responds to
Defendant David Bevins' Counterclaim, as follows:

1. With respect to the allegations set forth in Paragraph 12, Plaintiff repeats and incorporates by reference herein the allegations set forth in Paragraphs 1 through 16 of Plaintiff's Complaint.
2. Plaintiff admits, upon information and belief, the allegations set forth in Paragraph 13.
3. Plaintiff denies the allegations set forth in Paragraph 14.
4. Plaintiff denies the allegations set forth in Paragraph 15.
5. Plaintiff denies the allegations set forth in Paragraph 16.
6. With regard to Paragraph 17, Plaintiff is without sufficient information to admit or deny the allegations set forth therein and demands strict proof thereof.
7. With respect to the allegations set forth in Paragraph 18, Plaintiff repeats and

incorporates by reference herein her responses to the allegations set forth in Paragraphs 12 through 17 of Plaintiff's Counterclaim.

8. With respect the allegations set forth in Paragraph 19, Plaintiff denies that Defendant is entitled to the relief requested.
9. With respect the allegations set forth in Paragraph 20, Plaintiff denies that Defendant is entitled to the relief requested.
10. With respect to the allegations set forth in Paragraph 21, Plaintiff repeats and incorporates by reference herein her responses to the allegations set forth in Paragraphs 12 through 20 of Plaintiff's Counterclaim.
11. Plaintiff denies the allegations set forth in Paragraphs 22, 23, 24, and 25, being the remaining allegations set forth in the counterclaim.

WHEREFORE, the Plaintiff demands judgment granting her the relief requested in her Complaint and denying the relief requested by Defendant in his Counterclaim, and for such other relief as the Court may deem proper.

Mt. Pleasant, South Carolina
February 26, 2017

WESTON LAW FIRM, P.A.



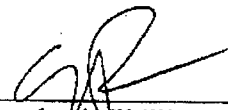
Joseph R. Weston, Esquire
P.O. Box 1992
Mt. Pleasant, SC 29465
P: (843) 881-4995

ATTORNEY FOR PLAINTIFF
MARY GREEN-MACKEY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of **Plaintiff Mary Green-Mackey's Answer to Defendant Bevins' Counterclaim**, has been served this **26th day of February 2017**, by depositing in the U.S. Mail a copy of the same in a properly addressed envelope with adequate postage thereon to the following parties:

**Harold A. Oberman
Marvin I. Oberman
60 Markfield Drive, Suite 2
Charleston, SC 29407**



Stephanie Phillips Anthony, Attorney

FILED-RECORDED
2017 MAR -2 PM 12:46
CLERK OF COURT
DORCHESTER COUNTY

1 STATE OF SOUTH CAROLINA)
 2) Court of Common Pleas
 2 COUNTY OF CHARLESTON) Case No. 2016-CP-18-02123
 3)
 3 MARY GREENE MACKEY,)
 4)
 4 Plaintiff,)
 5)
 5 vs.) Transcript of Record
 6)
 6 DAVID BEVINS,)
 7)
 7 Defendant.) DATE: February 5, 2018
 8)
 9)

10 B E F O R E:

11 THE HONORABLE DIANE S. GOODSTEIN

13 A P P E A R A N C E:

14 EDUARDO KELVIN CURRY
 15 Attorney for the Plaintiff

16 MARVIN I. OBERMAN
 17 Attorney for the Defendant

18 Karen V. Andersen, RMR, CRR
 19 Circuit Court Reporter
 20
 21
 22
 23
 24
 25

INDEX**EXAMINATION**

Witness Name	Page
MARY LOUISE GREENE MACKEY	
DIRECT BY MR. CURRY	17
CROSS BY MR. OBERMAN	35
RE-DIRECT BY MR. CURRY	84
DAVID BEVINS	
DIRECT BY Mr. Oberman	97
CROSS BY MR. CURRY	114

PRETRIAL EXHIBITS

Exhibit	Description	Identification	Evidence
P-2 (Pre-trial)	Plat dated November 24th, 1983	15	
P-3 (Pre-trial)	Plat dated 11/17/82	15	

TRIAL EXHIBITS

Exhibit	Description	Identification	Evidence
P-1	Photograph	19	20
P-2	Photograph	19	22
P-3	Photograph	19	26
P-4	Photograph	26	27
P-5	Photograph	30	92
P-6	Photograph	31	117
D-1	Deed		39

1	D-2	Title - Bradley Bunton	41
2	D-3	Title to real estate	43
3	D-5	Document entitled Morris	46
4		Point Phase 3	47
5	D-6	Survey and plat	47
6	D-8	Enlarged survey and plat	48
7	D-7G	Photograph	54
8	D-7J	Photograph	54
9	D-9	Survey	69
10	D-11	Restraining Order dated	82
11		7/6/16	
12	D-12	Survey	109
13	D-13	Estimate for the fence	109
14	D-14	Estimate from Stacks	110
15		Nursery	
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 THE COURT: 2016-CP-18-2123, Mary Greene Mackey vs.
2 David Bevins. Mr. Curry is here on behalf of the plaintiff,
3 and Mr. Oberman on behalf of the defendant.

4 MR. OBERMAN: Can I approach the bench, Your Honor,
5 and give you the memo?

6 THE COURT: Absolutely. Have you seen the memo,
7 Mr. Curry, on the motion for summary judgment?

8 MR. CURRY: Yes, Your Honor. He gave that to me this
9 morning.

10 THE COURT: Mr. Oberman, I read it. I'm listening to
11 you. Anything additional you want to tell me?

12 MR. OBERMAN: Your Honor, I think it's very clear.
13 We've served a motion for summary judgment. We outlined
14 exactly what our case was. The plaintiff, actually,
15 Mrs. Mackey, agreed, had the right to put in opposing
16 affidavits and such. She had up until two days before this
17 hearing. She did not put one in. And we ask the Court to
18 grant judgment based on the facts of this case, which I think
19 is pretty simple and clear-cut. And we would ask that you
20 grant judgment as requested in the motion for summary
21 judgment.

22 THE COURT: Thank you, Mr. Oberman. Got it.

23 Yes, sir, Mr. Curry.

24 MR. CURRY: Thank you very much, Your Honor. I'm
25 Eduardo Curry. Your Honor, I also have in my hand, as you know

1 under Rule 56, it's a combination -- first of all, there's no
2 genuine issue of material fact. You get the opportunity to
3 take into consideration pleadings, affidavits, evidence. And,
4 Judge, what I would hand you is a plat, the plats that the
5 defendant has relied on. These are official copies. I have a
6 true copy of it from the Register of Deeds downstairs. I would
7 ask that you take judicial notice. Do you want me to mark them
8 individually? But they are also the same thing they had
9 actually put in. And I ask you to take judicial notice or
10 allow me to go down there and bring the, I guess, the register
11 of deed person, if I needed to, Your Honor, in order to --

12 THE COURT: Mr. Oberman, is this the plat that you
13 just shared with me? Is that right.

14 MR. OBERMAN: I'm sorry, ma'am?

15 THE COURT: Is this the plat that Mr. Oberman attached
16 to his motion for summary judgment? Is that what you are
17 saying?

18 MR. CURRY: Yes, Your Honor. Those are the original
19 plats. And what he attached is a blown-up photocopy of that
20 original plat that was provided by the deed. And I have the
21 one that he has showing the little pie shape and all of that
22 there, Your Honor.

23 THE COURT: Mr. Oberman, what is your position about
24 these, what's just been handed to the Court?

25 MR. OBERMAN: I think it's too late, Your Honor. I

1 think that if there was an issue to be raised, it should have
2 been raised in answer to the motion for summary judgment. And
3 the rule is pretty clear that they have up until two days
4 before this hearing to put in the affidavits, to put in the
5 evidence, and they didn't do it. I am not blaming Mr. Curry.
6 I'm just saying that's what the rules call for. And they were
7 given notice, not once, but twice, three times, that we were
8 going to hear this motion for summary judgment.

9 THE COURT: What about that, Mr. Curry?

10 MR. CURRY: Your Honor, if it please the Court. Those
11 are documents that are already in. They are the actual -- not
12 in court, but they are part of the register conveyance. They
13 are already there. They are official documents that they
14 relied on, Judge, that obviously we just brought along the
15 document for completion with regard to it. And I ask you to
16 take judicial notice because they are already court documents
17 in the register of deeds's office, Your Honor, of which if you
18 look at the document that Attorney Oberman presented, it's
19 merely just a blown-up copy of a small portion. Because
20 argument that she would make, first of all, to my
21 understanding -- well, let me back up.

22 I was not the original lawyer, obviously. Mr. Weston
23 was. And so he filed a summons and complaint. Mr. Oberman
24 filed an answer and counterclaim. He filed a reply. Those
25 documents were filed, I guess, with the court and with the

1 opposing person. So by the time I got in, her back was against
2 the wall to get those.

3 Now, I would say this, respectfully, Your Honor, that
4 the reason Your Honor should take judicial notice, those
5 documents are already considered documents that are a part of
6 the whole court system and easily accessible and used by
7 reference by the defendant with regard to it. And we just all
8 need a document of completion saying, Judge, you need to look
9 at the whole entire plat with regard to it.

10 Now, I would say, respectfully, with regard to those
11 things, Your Honor, you have the option and the right to say, I
12 can consider documents where register of conveyance or register
13 of deeds or any other testimony, including oral, because the
14 rules allow for that.

15 Ms. Mackey could testify there could also be
16 additional filings that could be filed on my behalf or Ms.
17 Mackey's behalf for that. So first argument I want to make is
18 that her reply was unverified. And I don't think that the
19 rules require that in terms of whether complaint is verified or
20 an answer has to be verified. As long as it's filed in due
21 course. And so my argument is that that is part of the court
22 record.

23 Secondly, that the documents that we presented up
24 are actually true and accurate copies of the documents they've
25 already submitted up in their case in chief or in their

1 defendant's reply. And, therefore, I would ask that you take
2 judicial notice in regards to it. And, secondarily, he just
3 filed a memoranda today, Your Honor. It's not even filed. He
4 just offered it up to you. It's actually an unfiled copy with
5 regard to it.

6 So Your Honor has election if she could allow us to go
7 forward in terms of the presentation of that which creates a
8 genuine issue of material fact or with respect -- because
9 Mr. Oberman just still has not filed that memorandum, but
10 offered it up to Court, give me a 10-day window to reply,
11 respond to that respectfully, Judge, or in the opposite, just
12 deny the motion for summary judgment and have a bench trial,
13 which Your Honor already offered with regard to the situation.

14 THE COURT: Mr. Curry, here's what the rule says. The
15 rule says the adverse party may serve opposing affidavits, not
16 later than two days before the hearing. The judgment sought
17 shall be rendered forthwith if the pleadings, depositions,
18 answers to interrogatories and admissions on file, together
19 with the affidavits, if any, show there is no genuine issue as
20 to any material fact. And that moving party is entitled to
21 judgment as a matter of law. It essentially talks about the
22 Court taking judicial notice. Says that the Court can take
23 judicial notice of matters which cannot be reasonably be
24 disputed and says that the Court can take judicial notice at
25 any time during the proceedings.

1 So my concern is, I don't know why Mr. Oberman would
2 not have been entitled to the plats two days before the
3 hearing.

4 MR. CURRY: Judge, he has. In addition, I also have
5 answer that Ms. Greene Mackey that she had filed -- well --

6 THE COURT: I was going to ask, did she file these
7 with her answer?

8 MR. CURRY: Judge, I don't think so, but I do have her
9 answer that was filed that says that was unverified, but filed
10 by her lawyer. And it was filed, I guess, March 2nd, 2017.
11 And so, Judge, in terms of taking all those, including that
12 would be a part of the pleadings with regard to it, there's a
13 genuine issue even of material fact, a scintilla of evidence.
14 It's not that there's an amount, just the existence of it. I
15 would submit, Judge, at this point that it would be premature
16 to rule a summary judgment and that you just have a bench
17 trial. It's not like an economy of having to bring in the
18 jury. It's just scintilla of evidence that you allow to go
19 forward and allow to see what happens.

20 MR. OBERMAN: Your Honor, if I may be heard.

21 THE COURT: Yes, Mr. Oberman.

22 MR. OBERMAN: The whole purpose of a motion for
23 summary judgment was to cut through all of the delaying factors
24 that we had here. And with all due respect, what Mr. Curry is
25 now raising is things that could have been raised at a counter

1 affidavit and exhibits. We have followed the rule exactly.
2 And we would ask the Court to ask Mr. Curry to follow the rule.
3 If he had anything to say or Ms. Greene had anything to say, it
4 should have been said by a counter sworn affidavit and given to
5 us two days before this hearing.

6 We had several hearings set out, one of which got
7 continued because of a blizzard that Ms. Greene could have put
8 in a counter affidavit. The whole purpose that we had this is
9 to cut through all of the delaying tactics of Mrs. Greene
10 Mackey. And we ask the Court to go by the rule as to the
11 motion for summary judgment.

12 MR. CURRY: Judge, I'm going to say there's a reason
13 why the law allows you wide latitude in summary judgment, Your
14 Honor. And just given those factors, I still believe that if
15 there's existence, and doesn't have to go to the weight, just
16 goes to the existence of it, that you would allow this case to
17 go forward and, you know, we can resolve it today.

18 THE COURT: All right. This is my concern. My
19 concern is that, obviously, this is a matter that involves real
20 property. And when you look at the pleadings, which aren't
21 verified, it is a property line dispute, clearly.

22 The rule on summary judgment, however, does require 48
23 hours for affidavits or other materials to be submitted so that
24 the opposing side can have benefit of the defense.

25 Because the summary judgment was filed and there was

1 an affidavit filed, you cannot rest just on the pleadings,
2 Mr. Curry. So Mr. Oberman is correct that the Court certainly
3 could go forward and review these matters and disregard what
4 you would offer on summary judgment.

5 This case is a 2016 case that was filed when? It
6 looks like January the 27th, the Answer and Counterclaims. So
7 it clearly is over a year old. That's the answer and
8 counterclaim. So it's certainly ripe for trial, more than ripe
9 for trial.

10 So I'm going to do one of two things. Mr. Oberman, I
11 can review these plats and make a determination on summary
12 judgment and then, if necessary, the trial, or we can come back
13 later in the week. If we come back later in the week,
14 Mr. Curry, I may have to assess attorney's fees and costs for
15 the return.

16 Your call, Mr. Oberman. How do you want to proceed?

17 MR. OBERMAN: Let me see what I got. You can review
18 these surveys and plats and then make a decision on the summary
19 judgment.

20 THE COURT: Very well. I will do that.

21 MR. CURRY: Thank you, Your Honor.

22 MR. OBERMAN: Are you going to do that today, Your
23 Honor?

24 THE COURT: I'm going to do that right now. Do you
25 want me to do that now, take a look at them?

1 What do you want to tell me about them, Mr. Curry?

2 MR. CURRY: Judge, just that the plats that Ms. Mackey
3 actually stands on, she wants you to look at Phase 3, which is
4 Mr. Bevins's plat from November 17th, 1982. And she wants you
5 to look at Phase 4, which is Lot 2A, which is Ms. Mary Greene
6 Mackey's plat. So you got Lot 2077 on Phase 3.

7 THE COURT: Wait a minute now. My pages are not
8 numbered.

9 MR. CURRY: Your Honor, the plats will say Phase 2,
10 Phase 3 --

11 THE COURT: Phase 3 on the first one. And Phase 3 is
12 the second one. And phase four is the third one.

13 MR. CURRY: Right. Judge, on the phase, and I may
14 have given you too many, but Phase 3, which is Lot 2077, is
15 Mr. Bevins's lot. And the measurement is November 17th,
16 1982 --

17 THE COURT: Let me make sure I got the right date.
18 I'm sorry. Got it.

19 MR. CURRY: November 17th, 1982, and look at the meets
20 and bounds on it, Judge, which was 45.60 and 44.40. That was
21 on the front of the road. And then the left side was 110.98.
22 And the right side was 101.59. And the back house left to
23 right was 20 feet. I guess that is how you read it.

24 THE COURT: Got it.

25 MR. CURRY: Judge, and it's my understanding that in

1 the filing by Attorney Oberman, Exhibit 1, there is a plat pie
2 that is involved in that. So you can see the differences in
3 there on that plat pie. That would be Exhibit 1 of his filing,
4 right after the -- it would be right after the affidavit of
5 David Bevins. And we submit that the meets and bounds are
6 different. Front house is 45.27, and the same is 44.40. Left
7 side is 111.04. The right side is 101.54. And the back house
8 left to right is 19.96. Okay?

9 If you will go to Phase 4 of Lot 2078 that you have in
10 the plat, the original plat, you will find that Ms. Mary Greene
11 Mackey's meets and bounds --

12 THE COURT: She's number?

13 MR. CURRY: Lot 208, Phase 4. And that original plat
14 that was filed March 21st, 1983, front of the house, from left
15 to right, was 55.00.

16 THE COURT: Hold on one second. Because I've got one
17 dated November the 18th, 1982. And you want me to look at the
18 one that's --

19 MR. CURRY: Well, that was Phase 3.

20 THE COURT: Phase 4, and you want me to look at one
21 Phase 2?

22 MR. CURRY: No, Phase 4, lot 208, filed March 21st,
23 1983. You got it, Your Honor?

24 THE COURT: Nope. Hold on.

25 MR. CURRY: May I approach? Maybe I can help you make

1 heads and tails of it.

2 THE COURT: Hold on one second. All of the plats --
3 I've got a plat dated November the 17th, 1982. I've got one
4 dated November the 18th, 1982. And I have one dated November
5 the 16th, 1982. Now, which one do you want me to look at?

6 MR. CURRY: I'm on Phase 4. I guess --

7 THE COURT: You mean Phase 4?

8 MR. CURRY: Yes, ma'am, Phase 4. I thought it was
9 filed March 21st, 1983.

10 THE COURT: What is the date of the plat?

11 MR. CURRY: Okay. Court's indulgence.

12 THE COURT: Okay. Because it's filed --

13 MR. CURRY: Phase 4. I used my magnifying glasses.
14 Seemed like it was the 24th, '83, up on the right-hand side,
15 Your Honor, small little on the right-hand side. Go above the
16 official seal, you will see something 21st, 1983.

17 THE COURT: That's all smushed.

18 MR. CURRY: May I approach?

19 THE COURT: D267 right above the smushed 21?

20 MR. CURRY: May I approach, Your Honor?

21 THE COURT: Yeah. '83, you see here's the date of it
22 right there.

23 MR. CURRY: I got the wrong date. That was the --

24 THE COURT: November 24th, and then we have smushed
25 21.

1 MR. CURRY: And that's it right there, Judge.

2 THE COURT: Okay. I'm going to mark this as
3 Plaintiff's 2. And the first one you want me to look at --

4 MR. CURRY: Dated November 17th, 1982, that is No.
5 3.

6 THE COURT: We are going to mark that as?

7 (Plaintiff's Exh. 2, Plat dated November 24th, 1983,
8 was marked for identification.)

9 (Plaintiff's Exh. 3, Plat dated November 17th, 1982,
10 was marked for identification.)

11 THE COURT: And the other one I guess we will do is
12 Plaintiff's 3. So now I'm actually looking at Plaintiff's
13 Exhibit 2. And I'm looking at Lot No. 208.

14 MR. CURRY: Yes, Your Honor, on Phase 4, correct?

15 THE COURT: Phase 4.

16 MR. CURRY: Yes, Your Honor. And it said that
17 measurements from the front of the house to the road was 55.
18 And then the left side was 139.37. And that was the distance
19 it extends the property, Lot 207, 205, that's the distance
20 there. Right side was 138.64. And then the backside of the
21 house, left to right, was 55.00. And that was the original
22 plat by the developer.

23 So simply Ms. Mackey agreeing and saying that there's
24 no way for her -- her position is that there's no way for her
25 property to shrink unless there was eminent domain or

1 squatter's rights or a hole in the ground. So it would mean
2 that someone is manipulating the post because those trees from
3 her position were inside of her property line, which is the
4 source of this problem that is there. Because it appears that
5 someone is juxtapose their property lines to make them fit
6 perfectly rectangle by eye. But, technically, the property is
7 not by eye. So those measurements would not be perfectly
8 rectangle, obviously. And, therefore, her property should not
9 have shrank in any subsequent survey.

10 MR. OBERMAN: Your Honor, if I may be heard.

11 THE COURT: Yes, Mr. Oberman.

12 MR. OBERMAN: Your Honor, this is all very
13 interesting, but we are here on a motion for summary judgment.
14 All of this should have been raised by a counter affidavit and
15 counter plats. They failed to do so. And the reason they
16 failed to do so is that there is no issue of fact as we showed
17 on our motion for summary judgment. To raise this now is to
18 raise smoke and mirrors that's not called for at this late in
19 the game.

20 THE COURT: All right. Since I now have the plats to
21 review and my standard is by a scintilla of the evidence, let
22 me just take a moment and look at these things. I will be with
23 you just very shortly.

24 All right. Having looked at the plats, there is a
25 scintilla of evidence that exists. And I would respectfully

1 deny the motion for summary judgment. And we will now go
2 forward on the trial.

3 Mr. Curry, call your first witness.

4 MR. CURRY: Yes. I call to the stand Ms. Mary Mackey
5 Greene.

6 MARY LOUISE GREENE MACKEY,
7 having been duly sworn, testifies as follows:

8 THE COURT: Your witness.

9 MR. CURRY: Thank you very much.

10 DIRECT EXAMINATION

11 BY MR. CURRY:

12 Q. Ms. Mackey, please state your full name.

13 A. Mary Louise Greene Mackey.

14 Q. Where do you presently live?

15 A. 117 Robert Drive, Ladson, South Carolina.

16 Q. And when did you move there?

17 A. In 2015.

18 Q. All right. And from whom did you purchase the
19 property?

20 A. From my daughter, Kimberly Washington.

21 Q. And when you purchased the property, what condition
22 did you find it in?

23 A. Explain what you mean.

24 Q. Did you have fences up? Were there meets and bounds,
25 areas to show you what was the measure of your property?

1 A. Yes, there's a wooden fence around the property.

2 Q. Okay. Now, part of the issue with regard to this case
3 has been that there were some trees that were cut down
4 allegedly by you, and that those trees were supposed to be on
5 someone else's property; is that correct?

6 A. Correct.

7 Q. Why don't you tell Her Honor what you know about the
8 trees in terms of your property lines and the width of it?

9 A. My property line, I had someone to survey it.

10 MR. OBERMAN: I'm sorry. Would you ask her to repeat
11 that, Your Honor?

12 THE COURT: She said that she had someone survey the
13 property.

14 THE WITNESS: Yes. I had someone to come out and
15 survey my property. When it was done, it was shown that the
16 fence that my -- my fence was not where it should have been on
17 that side of my property.

18 Q. Okay. And what side of the property are we talking
19 about? As I'm facing your house, which side would those gum
20 trees have been on?

21 A. Facing the house, those gum trees would be on my
22 left.

23 Q. All right. And your property line, as far as you
24 know, would have been on which side of the gum trees?

25 A. On the back side of the gum tree, would have been in

1 my property line.

2 MR. CURRY: Your Honor, may I approach the witness?

3 THE COURT: Yes.

4 MR. CURRY: Court's indulgence, I thought she had it
5 separated.

6 Your Honor, may I have these marked for identification
7 purposes only at this point?

8 (Plaintiff's Exh. 1, Photograph, was marked for
9 identification.)

10 (Plaintiff's Exh. 2, Photograph, was marked for
11 identification.)

12 (Plaintiff's Exh. 3, Photograph, was marked for
13 identification.)

14 BY MR. CURRY:

15 Q. Ms. Mackey, I hand you what has been previously marked
16 as Plaintiff's Exhibit 1 for identification.

17 THE COURT: We are going to fire up our technology,
18 number one, because I'm so proud of it and, number two, I don't
19 want Mr. Oberman -- I want him to be able to see what's being
20 demonstrated. And I sure want to see what's being
21 demonstrated. So let's fire up Elmo.

22 Mr. Oberman, it ought to come up on your computer
23 screen there, I hope. All right. Now, let me tell you, if you
24 want to draw on the screen like Madden with the football
25 things, let us know, because we can even do that. I'm really

1 showing off now. I can't make it work, but Reese Witherspoon
2 can. You go right ahead, Mr. Curry.

3 BY MR. CURRY:

4 Q. Ms. Mackey, I have posted now what is Plaintiff's No.
5 1 for identification purposes only. Do you know what that is?

6 A. Yes, sir.

7 Q. What is it?

8 A. That is the metal fence that's the pole that's between
9 the trees, the tree that's dividing -- that's pushed up against
10 my wooden fence.

11 Q. All right. Did you take that picture?

12 A. Yes, I did.

13 MR. CURRY: Your Honor, I would ask what has been
14 previously marked as Plaintiff's Exhibit 1 for identification
15 purposes only be admitted into evidence as Plaintiff's Exhibit
16 No. 1.

17 THE COURT: Any objection.

18 MR. OBERMAN: No objection.

19 THE COURT: All right.

20 Plaintiff's Exhibit 1 is moved into evidence.)

21 BY MR. CURRY:

22 Q. Ms. Mackey, that appears to be a pole that's between
23 the tree; is that correct?

24 A. Yes.

25 Q. Was that pole there before when you purchased the

1 property?

2 A. Yes.

3 Q. Okay. And what did that pole symbolize from your
4 understanding?

5 A. The pole symbolized, from my understanding, the
6 chain-link fence that was supposedly -- that Mr. Bevins tried
7 to put between my --

8 Q. Your property line?

9 A. The property line, yes.

10 Q. Okay. And the tree to the right was on your property
11 line, correct?

12 A. Yes.

13 Q. Or inside of your property?

14 A. It was inside my property.

15 Q. And what about the tree to the left where the pole
16 was?

17 A. This tree right here?

18 Q. The tree that I got posted with the pole.

19 A. Yeah. That tree, that tree is in my property line,
20 according to what I understand to be my property, my original
21 property line.

22 Q. Okay. All right. I'm going to publish what is marked
23 as Plaintiff's No. 2 for identification purposes only. Do you
24 recognize what this photo is?

25 A. Yes.

1 Q. Did you take the photo?

2 A. Yes, I did.

3 Q. What is it?

4 A. It's, I believe -- I'm not sure if that's Mr. Bevins.
5 I think it's his brother or somebody that was working with him.
6 They were putting -- after my fence was removed, the fence that
7 was leaning up against my wooden fence fell down. So they are
8 trying to put that fence back up.

9 MR. CURRY: All right. Your Honor, I would ask what
10 has been previously marked as Plaintiff's Exhibit No. 2 for
11 identification purposes only be admitted into evidence as
12 Plaintiff's Exhibit No. 2.

13 THE COURT: Any objection.

14 MR. OBERMAN: No objection.

15 THE COURT: All right. No objection.

16 (Plaintiff's Exh. 2 is moved into evidence.)

17 BY MR. CURRY:

18 Q. Ms. Mackey Greene, can you show the Court just by
19 pointing where you believe your original property line is and
20 based where that fence and that tree is?

21 THE COURT: Can you see the little X where the little
22 pen --

23 THE WITNESS: Yes, ma'am.

24 THE COURT: You can take your finger and you can
25 actually mark and do what Mr. Curry is asking you to do. It

1 should appear on the screen.

2 THE WITNESS: Okay.

3 THE COURT: And did it?

4 THE WITNESS: No. It's not holding.

5 THE COURT: Did it work?

6 THE WITNESS: No, still not working. I'm supposed to
7 be touching this X, correct?

8 THE COURT: You are supposed to be able to just touch
9 the screen and make a mark.

10 MR. CURRY: Your Honor, may I approach the witness?

11 THE COURT: Yeah. Hold on a second. It would be
12 great for us if she could do this. Let us try one more time.
13 We tried.

14 THE WITNESS: My property should be between this tree
15 and these trees right here, which would put my property line
16 behind these three trees.

17 MR. CURRY: Your Honor, may I approach?

18 THE COURT: Uh-huh, you may.

19 BY MR. CURRY:

20 Q. Ms. Mackey, you are pointing out -- and I guess this
21 is Exhibit 2 -- that your property line was on the other side
22 of this tree, somewhere on here; is that correct, where that
23 shed is?

24 A. Yes, sir. It should come from that shed, that back
25 part of the shed back here. This is another tree here.

1 Q. Is that tree on your property line or on Mr. Bevins's
2 property line?

3 A. That's Mr. Bevins's tree.

4 Q. This tall tree is Mr. Bevins's tree?

5 A. Right.

6 Q. And your property line is somewhere in between that
7 tree and this stump, correct?

8 A. Yes, a good 12 inches or more right here, behind that,
9 which would encompass these trees here.

10 Q. Okay. All right. Okay. And that's about a foot,
11 would that be fair to say, at least a foot over on the other
12 side of the chain-link fence?

13 A. A foot or more.

14 Q. Was that fence there when you purchased it?

15 A. I didn't see that fence until we moved to my wooden
16 fence.

17 Q. Okay. All right. And then that fence or some fence
18 like that was there, correct?

19 A. Yes. Yeah, it wasn't attached as a fence, but the
20 wiring was laid up against -- between the shed here.

21 Q. No. You have to deal with that.

22 A. Yeah. Right here you can see my fence here. This
23 open area here, this part, the wiring right here was against my
24 fence. And when I moved the tree right here that was
25 holding -- that was in front of my wooden fence, then when we

1 moved the fence, then this wiring that was smushed between the
2 shed and my fence fell over.

3 Q. All right. Now, that shed, is that a permanent shed
4 or was it on blocks?

5 A. The shed is on blocks.

6 Q. It was a temporary shed? Was that shed there when you
7 moved there?

8 A. The shed was here when I moved there.

9 Q. Was it there when your daughter moved in?

10 A. No, it wasn't.

11 Q. And when did you purchase this property?

12 A. In 2015.

13 Q. All right. Ms. Mackey, I posted what has been
14 previously marked as Plaintiff's Exhibit 3 for identification
15 purposes only. What is it?

16 A. This is one of the trees that was cut down. And
17 because of the color in here, you can't see it that well. But
18 you can see where the tree has actually pushed -- I should say,
19 the wiring, the fence, the wire fence is imbedded into the
20 tree, because it grew into it like that, pushing it so it's
21 part of the tree.

22 Q. Did you take this picture?

23 A. Yes, I did.

24 MR. CURRY: Judge, I would ask what has been
25 previously marked as Plaintiff's Exhibit 3 for identification

1 purposes only be admitted into evidence as Plaintiff's Exhibit
2 No. 3.

3 THE COURT: Any objection.

4 MR. OBERMAN: No objection, Your Honor.

5 (P-3 is moved into evidence.)

6 BY MR. CURRY:

7 Q. Now, Ms. Mackey Greene, where is your property line in
8 proportion to where -- where do you believe your property line
9 is in proportion to where that tree is located?

10 A. This tree is one of the three trees that was cut down
11 and it's behind it.

12 Q. All right. So your property line is on the other side
13 of that tree, correct?

14 A. Yes, it is.

15 Q. And you claim that tree as your tree, is that fair to
16 say?

17 A. Yes, I did.

18 MR. CURRY: All right. Your Honor, may I approach the
19 witness?

20 THE COURT: Sure.

21 (Plaintiff's Exh. 4, Photograph, was marked for
22 identification.)

23 BY MR. CURRY:

24 Q. Ms. Mackey, I hand you what has been marked as
25 Plaintiff's Exhibit No. 4 for identification purposes only. Do

1 you recognize that?

2 A. Yes.

3 Q. And what do you believe it to be?

4 A. This is a copy of the plat for my property.

5 Q. What property number is your property?

6 A. 208.

7 Q. And what property number is Mr. Bevins's property?

8 A. 207.

9 MR. CURRY: Judge, I would ask that you admit this as
10 what has been previously marked as Plaintiff's Exhibit 4 for
11 identification purposes only, if you take judicial notice and
12 admit it as Plaintiff's No. 4.

13 THE COURT: In other words, because this is a
14 certified copy, it's your position that it is a
15 self-authenticating document?

16 MR. CURRY: That is correct, Your Honor.

17 THE COURT: Any objection?

18 MR. OBERMAN: No objection, Your Honor.

19 THE COURT: All right.

20 (Plandiff's Exh. 4 was received in evidence.)

21 MR. CURRY: If I may continue, Your Honor.

22 THE COURT: Sure.

23 BY MR. CURRY:

24 Q. Ms. Mackey, are you able to identify your property
25 from that particular plat that's, I guess, Plaintiff's No. 4?

1 A. Yes.

2 Q. Can you put a circle around it and mark --

3 THE COURT: What are you doing?

4 MR. CURRY: I'm just having her mark her plat 208.

5 THE COURT: Let's take -- with your permission,
6 instead of putting a circle, because I don't want the numbers
7 obliterated, just highlight where it says 208, because that's
8 what I'm doing on mine.

9 MR. CURRY: Very well, Your Honor.

10 THE WITNESS: Just the 208?

11 THE COURT: Just 208. In other words, I want to be
12 able to see all the markings around it.

13 MR. CURRY: Thank you, Your Honor.

14 BY MR. CURRY:

15 Q. Now Ms. Mackey, where would the trees be located that
16 were the subject in question on that 208 property? If you are
17 facing it like you are facing it right --

18 A. Trees would be located right here.

19 THE COURT: Do you want to have her mark with a blue
20 highlighter? That way it won't obliterate anything.

21 BY MR. CURRY:

22 Q. Okay. Now, the property next to it is 207. And whose
23 property is that?

24 A. Mr. Bevins's.

25 Q. Okay. Now, upon appearance, it looks like that

1 property 207 appears to be perfectly in rectangle form, is that
2 fair to say?

3 A. Fair to say.

4 Q. You know your property; is that correct?

5 A. Yes, sir.

6 Q. You walk the meets and bounds and parameters of your
7 property; is that correct?

8 A. Yes, I have.

9 Q. Is your property perfectly rectangle?

10 A. No.

11 Q. As it appears on this plat?

12 A. No, it's not perfectly rectangle.

13 Q. Explain to Her Honor what you mean by that.

14 A. It's slightly to the right, if that makes sense.

15 Q. If you were facing your property, it would be off --
16 the right side of it is to the bottom right, correct?

17 A. Yes.

18 Q. And would that account for -- well, because it's to
19 the right, does it include any trees?

20 A. Because it's to the right, that's why it includes
21 those trees.

22 Q. Okay. And that's what you believe, based on when you
23 purchased the property, correct?

24 A. Yes.

25 Q. In terms of your property with -- are you able to

1 ascertain from that plat the meets and bounds of that?

2 A. Yes. It's 55 front and 55 back, 55 feet.

3 Q. And on the left side, would it be fair to say it's
4 139.37?

5 A. I need my glasses to see that. But, yes, it's, from
6 my remembrance, a blowup of it. It's supposed to be 139 point
7 something.

8 Q. 137?

9 A. Right.

10 Q. And on the right side, would it be fair to say 138.64?

11 A. Yes.

12 Q. That was from the original plat, correct?

13 A. Correct.

14 MR. CURRY: All right. Court's indulgence. Your
15 Honor, may I approach the witness?

16 THE COURT: You may.

17 MR. OBERMAN: When is this dated?

18 MR. CURRY: That's the survey. She did a survey.

19 MR. OBERMAN: She did a survey when? I never got
20 that.

21 MR. CURRY: Court's indulgence, Your Honor.

22 THE COURT: Sure.

23 (Off-the-record conference.)

24 (Plaintiff's Exh. 5, Photograph, was marked for
25 identification.)

1 (Plaintiff's Exh. 6, Photograph, was marked for
2 identification.)

3 BY MR. CURRY:

4 Q. Ms. Mackey, I hand you what has been previously marked
5 as Plaintiff's Exhibit 5 for identification purposes. Do you
6 recognize that?

7 MR. OBERMAN: Your Honor, I'm going to object to that
8 survey.

9 THE COURT: Again?

10 MR. OBERMAN: The reason I'm going to object to it is
11 that we served notice to produce and this was never shown to us
12 until today. We've given the attorneys far -- the other side,
13 every survey that we had without a notice to produce. And I
14 think to allow this to come into this late date would be
15 objectionable.

16 THE COURT: Yes, sir, Mr. Curry.

17 MR. CURRY: Your Honor, if it please the Court,
18 unfortunately, I have the unenviable task that all of this
19 stuff was given to me. And, Judge, if I had known that they
20 did not have it because it didn't indicate it in the files,
21 Your Honor, I'm only bound by what they tell me. If you say
22 no, then I still can let her talk about it or whatever your
23 deal is. I just didn't know they didn't have it. And he told
24 me that today when I queried him, Your Honor. Unfortunately,
25 I'm stuck with it, but I'm willing to go forward. It is what

1 it is on 5 and 6, Your Honor.

2 THE COURT: Very well. You know, the problem is that
3 if they haven't received it, then the production rules mean
4 nothing. So if they have not seen it and have not received it,
5 you cannot use it.

6 MR. CURRY: That's fine, Your Honor.

7 THE COURT: And I understand your circumstances,
8 Mr. Curry.

9 MR. CURRY: Yes, Your Honor. If I may continue. Ms.
10 Mackey, you had your property surveyed since you purchased the
11 property; is that correct?

12 THE WITNESS: Yes, sir.

13 BY MR. CURRY:

14 Q. All right. And based on your knowledge of the
15 surveys, did the surveyor's meets and bounds, were they exact
16 from what you have testified about the original plat?

17 A. No, they weren't.

18 Q. Okay. They were actually different; is that
19 correct?

20 A. Yes, sir.

21 Q. They were actually smaller, would that be fair to say?

22 A. Yes.

23 Q. Thank you. Now, moving forward, it is your contention
24 today that the property, the trees in question were inside your
25 property line; is that correct?

1 A. Yes, they are.

2 Q. And do you know, if any, why the property line was
3 different?

4 A. All I can think of is that the survey was not done
5 correct, because I could not understand how my property line,
6 my dimensions were shrinking, yet, I was still having 55
7 feet.

8 Q. Okay. Let's start out. You never were served with
9 any paperwork for eminent domain, correct?

10 A. No.

11 Q. No one ever served you with any kind of paperwork
12 saying that they were a squatter, pauper, a hostile taking your
13 property, correct?

14 A. No.

15 Q. Your property didn't fall in a hole so it's no longer
16 there, is that fair to say?

17 A. Fair to say.

18 Q. So it is your position that your property line should
19 be the same as they were from that original plat; is that
20 correct?

21 A. Yes.

22 Q. Now, those trees that were cut, were they your trees
23 or were they Mr. Bevins's trees?

24 A. They were my trees.

25 Q. Okay. Why did you cut them?

1 A. Because I wanted to take -- because I wanted to make
2 sure that the property line was fair, that it was right and
3 fair, and that there was nothing obstructing anything.

4 Q. Why do you say it was right and fair? What's going on
5 with that?

6 A. Because I believed that whatever you buy is what you
7 should have. And I wanted to make sure that it was clear to
8 Mr. Bevins and myself where our boundaries were.

9 Q. So you are only looking for this honorable court to
10 set the boundaries based on original plat; is that correct?

11 A. That's all I want.

12 Q. You are not looking for reimbursement for gum trees;
13 is that correct?

14 A. No.

15 Q. You are not looking to take any property that you
16 don't believe you own; is that correct?

17 A. None other than what I paid for.

18 Q. Okay. And what you believe is what you paid for is
19 what is in Exhibit 5 on that original -- or is that Exhibit 4,
20 on that original plat?

21 A. Original plat, yes.

22 MR. CURRY: Court's indulgence.

23 THE COURT: All right.

24 MR. CURRY: Please answer any questions that Attorney
25 Oberman may have of you.

1 THE COURT: Cross-examination.

2 MR. OBERMAN: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY MR. OBERMAN:

5 Q. Mackey Greene, is that how you pronounce your name?

6 A. Actually, I just prefer Mackey.

7 Q. What's that?

8 A. I prefer just Mackey.

9 Q. Ms. Mackey, I'm Marvin Oberman, and I represent
10 Mr. Bevins. Let me ask you, you had someone survey this
11 property when you bought it?

12 A. Right after I bought it, I had someone to do that,
13 yes, sir.

14 MR. OBERMAN: Your Honor, without waiving objection to
15 the survey, I'm going to ask her questions about it.

16 BY MR. OBERMAN:

17 Q. Where is that survey?

18 A. I never received that survey because somehow it
19 mysteriously disappeared out of my mailbox. And when I called
20 the company about it, they said they mailed it, but I never
21 received it.

22 Q. All right. So what you are telling the Court is that
23 you never received the survey when you bought the property?

24 A. No, but I did have my daughter's survey, that she had
25 the original survey. But the survey that I paid for, no, sir.

1 It was -- somehow I never received it. They said they mailed
2 it to me.

3 Q. You had the survey that your daughter had?

4 A. Yes, sir.

5 Q. And do you know you were asked to produce anything
6 that you had that would show surveys and such?

7 A. Your question is by my previous attorney, is what you
8 are asking me?

9 Q. Yes. Your previous attorney. You were served with
10 what they call a notice to produce?

11 A. Well, from my previous attorney, I had no idea of how
12 my case was going. And because of that, that's why my attorney
13 at the end, I produced some pictures and some information to
14 him, and that's why he excused himself at the end of that,
15 because they did not discuss any of that.

16 MR. CURRY: Your Honor, I'm going to object with
17 regard to relevance and, you know, I --

18 THE COURT: I don't think she's being responsive to
19 Mr. Oberman's objection. He just wants to know, where is the
20 survey?

21 MR. CURRY: Right. And, Judge, I would only ask that
22 he ask that. I am not trying to get into Mr. Weston and any of
23 that stuff.

24 THE COURT: He didn't ask for that. He just wants to
25 know where the survey is?

1 THE WITNESS: I never received it.

2 BY MR. OBERMAN:

3 Q. You never received the survey that was put in your
4 mailbox?

5 A. That I paid for from the surveyor, yes.

6 Q. But you received a survey in your hand from your
7 daughter?

8 A. I received a copy of all -- no, I did not receive that
9 from her. I got it from her attorney, the attorney that closed
10 her property when she bought it.

11 Q. All right. Where is that survey?

12 A. I have it right over there.

13 Q. You have it over there?

14 A. Yes.

15 Q. Did you ever produce it to us, the defendant?

16 A. I produced it to my past attorney, yes.

17 Q. And did you ask him to produce that to us?

18 A. I was not aware that there was anything -- I assumed
19 that, because I gave him what he asked for, that he presented
20 that to you.

21 Q. So what you are telling me is that you had a past
22 survey of your daughter that you gave to your previous
23 attorney, but you don't know where it is?

24 A. No, sir. I told you that I received a copy of the
25 survey that she received when she closed her house. When I

1 found the attorney that closed it for her, I gave a copy of
2 that to Mr. Weston. And that's where he should have given that
3 to you if you had this discussion with him about that. I was
4 not aware of anything other than that.

5 MR. OBERMAN: May I approach?

6 THE COURT: Yes.

7 BY MR. OBERMAN:

8 Q. This is a copy of the general warranty deed that's
9 recorded. The RNC office of Dorchester County, can you tell us
10 what that is, ma'am?

11 A. Warranty deed?

12 Q. Is that a deed to Mr. Bevins?

13 A. I have no idea.

14 Q. Can you read that, ma'am?

15 A. A deed to Mr. Bevins.

16 Q. Do you see "David Bevins"?

17 A. I see "David Bevins", uh-huh.

18 Q. And that is a description of the property? Do you
19 want my glasses?

20 A. I assume this is a copy of his deed, I assume so, a
21 copy, yes.

22 Q. And can you tell us the description?

23 A. Do you want me to read this?

24 Q. Go ahead and read it, yes, ma'am.

25 A. All that lot, piece or parcel of land situated lane

1 and being in Dorchester County and known designated as Lot 207
2 as shown on plat entitled plat of Lots 1 through 12, 96 through
3 122 and 193, 207.

4 Q. That's all you have to read, ma'am. He got Lot 207,
5 did he not?

6 A. Yes.

7 Q. And he got it as to a description that shows he got it
8 as far as a plat was concerned, did he not?

9 A. According to this, yes.

10 MR. OBERMAN: Your Honor, we will put this in as --

11 THE COURT: Any objection?

12 MR. CURRY: No, Your Honor.

13 THE COURT: Okay. It will be Defendant's 1.

14 (Defense Exh. 1, Deed, was marked in evidence.)

15 Q. I'm going to hand you a copy of the deed to Kimberly
16 Washington and ask you to take a look at that. Is that your
17 daughter, Ms. Washington

18 A. Yes, she's my daughter.

19 Q. And she bought that and she had a description as to
20 what she bought, did she not?

21 A. Yes.

22 Q. Can you find that description for me.

23 A. This is parcel of lot of land situated lane and being
24 in the County of Dorchester, South Carolina, and designated as
25 Lot 207 -- excuse me, 208.

1 Q. 208?

2 A. Uh-huh.

3 Q. And where is that shown?

4 A. In Morris Point, Phase 4.

5 Q. Does it refer to a plat, a survey and plat?

6 A. Yes, plat, Cabinet D.

7 Q. I'm sorry?

8 A. Plat, Cabinet D, page 267.

9 Q. All right. And have you seen that survey and plat?

10 A. Yes, sir, I've been to the RNC office.

11 Q. Plat Cabinet D, page 267, and that is a deed by which

12 Ms. Washington acquired this property?

13 A. Yes, sir.

14 Q. And -- excuse me on the "ands". If you can strike the

15 "ands". You've seen that survey and plat?

16 A. Yes, sir.

17 Q. Is there anything on that survey and plat that shows

18 that that lot is not rectangular?

19 MR. CURRY: Objection. What.

20 MR. OBERMAN: Not rectangular.

21 Q. Do you want me to find the plat, ma'am?

22 A. No. I believe this is it right here, yes.

23 Q. Is Lot 208 right here?

24 A. Yes, sir.

25 Q. Is there anything that shows that that lot is ticked

1 over to one side?

2 A. Yes.

3 Q. Can you tell me?

4 A. Yes, right here. Right here you can see where the --
5 where it's supposed to be, I guess. The rebar for the property
6 starts on one end. Judging from the other property behind it,
7 you can see that it's off to the -- to my left, looking at it
8 this way. Facing my property, it would be off to my right
9 and --

10 Q. Go ahead. I'm looking.

11 A. And over on the other side of it, you can see how it's
12 skewed just a little bit.

13 Q. Your daughter bought this Lot 208, according to this
14 deed?

15 A. Uh-huh.

16 Q. And she bought it as per the description showing the
17 lot as Lot 208, Phase 4?

18 A. Yes, sir.

19 Q. If I have not said this, we introduce this as
20 Defendant's Exhibit 2.

21 MR. CURRY: No objection.

22 THE COURT: Defendant's Exhibit's 2 is the plat or the
23 deed?

24 MR. OBERMAN: The deed.

25 (Dft. Exh. 2, Title - Bradley Bunton, is moved into

1 evidence.)

2 BY MR. OBERMAN:

3 Q. Ms. Washington was your daughter?

4 A. Yes, sir.

5 Q. And she conveyed this property to you; is that
6 correct?

7 A. Yes, I purchased it from her.

8 Q. And she conveyed it by deed dated January 22, 2015?

9 A. Yes, sir.

10 Q. And she described it on the deed. If you would look
11 at this.

12 A. Lot 207, Phase 4.

13 Q. I'm sorry?

14 A. Lot 208, Phase 4.

15 Q. And she referred to the same plat that we've talked to
16 here?

17 A. Yes, sir.

18 Q. And she referred to the dimensions on the same plat,
19 did she not?

20 A. According to that plat, yes.

21 MR. OBERMAN: We will put this in as Defendant's
22 Exhibit 3.

23 MR. CURRY: What would that be, Your Honor.

24 THE COURT: Any objection? This would be Defendant's
25 Exhibit 3?

1 MR. CURRY: What was that he was trying to introduce?

2 THE COURT: That was the deed from Ms. Washington to
3 the plaintiff.

4 MR. CURRY: Thank you, Your Honor. No on objection.

5 (Defendant's Exh. 3, Title to real estate, is moved
6 into evidence.)

7 Q. You bought the property or got the property from your
8 daughter?

9 A. Yes, I got it from her.

10 Q. And you got it from the description that was shown on
11 that deed?

12 A. Yes.

13 Q. And there's nothing on this deed that says that your
14 lot is different than what is shown on the plat?

15 A. No difference.

16 Q. Do you know who lived next-door when your daughter
17 bought her property?

18 A. No, sir.

19 Q. You don't? Does Julianne Glover ring a bell?

20 A. No, sir, I do not know of him.

21 Q. There was a fence, a chainlink fence put up when you
22 bought your property from your daughter; is that correct?

23 A. Yes, uh-huh.

24 Q. And there was a wooden fence into your property when
25 you got it from your daughter?

1 A. Her privacy fence, yes.

2 Q. Did you walk -- you said you walked your property?

3 A. Yes, I did.

4 Q. And did you find the iron pipes on the corners of your
5 property?

6 A. No, I did not find the rebars -- you are talking about
7 the iron rebars?

8 Q. That is correct.

9 A. No, sir, because I'm not a surveyor and I do not have
10 a metal detector to do that.

11 Q. So you didn't have any method of taking the shovel and
12 finding a rebar?

13 A. No, sir, I did not.

14 Q. Did you subsequently find the rebar?

15 A. No, I did not.

16 Q. Your testimony is you did not find the rebar at the
17 front of your property and at the rear of your property?

18 A. No, I did not find that. I did not myself do that,
19 no.

20 Q. Did you have someone do it for you?

21 A. As I said, the survey that I had done before, the guy
22 that came out to do it, yes, he did find it.

23 Q. He did find a rebar?

24 A. Yes.

25 Q. And he found a rebar at the front of the property and

1 at the rear of the property?

2 A. Yes, he did.

3 Q. All right. Did he run a line from the back rebar to
4 the front rebar?

5 A. No. The guy that was with him had a surveyor's, I
6 guess --

7 Q. Transit?

8 A. Yes, uh-huh, and they used that.

9 Q. Did anyone run a line from the front bar to the back
10 bar?

11 A. No. I don't remember if he did or not, really. No, I
12 don't think he did.

13 Q. You don't remember that Mr. Bevins ran a line or a
14 ribbon from the front rebar to the rear rebar?

15 A. No, I have never seen Mr. Bevins do that.

16 Q. I'm going to hand to you a copy of Morris Point Phase
17 3. And I ask you to look at Lot 207. Can you see that?

18 THE COURT: Can you tell me what you are referring to,
19 Mr. Oberman, what document? Has it been marked.

20 MR. OBERMAN: This one has not been marked.

21 THE COURT: Can we mark it for identification
22 purposes?

23 MR. OBERMAN: I'm going to ask that it be marked as
24 Defendant's Exhibit 5. Do you have any objection to this?

25 MR. CURRY: Your Honor, may I approach?

1 THE COURT: Sure.

2 (Defendant's Exh. 5, Document entitled Morris Point
3 Phase 3, for identification.)

4 Q. Would you look at what has been marked as Defendant's
5 Exhibit 5. And tell us if you can read it, what the courses
6 are on that line?

7 A. Right here?

8 Q. Yes.

9 A. It's 101.

10 MR. CURRY: Which line, Lot 207?

11 THE WITNESS: Yes.

12 MR. CURRY: Your Honor, may I approach? I can bring
13 her glasses.

14 THE COURT: Sure. Of course, absolutely.

15 BY MR. OBERMAN:

16 Q. Speaking of this line, that line right there of 207,
17 it would be the eastern line of Lot 207. Tell me the first
18 what the distance is.

19 A. Are you talking about the 1.59 feet?

20 Q. Yes. And the courses about that?

21 A. Yes, it's not 32 degrees, 45 feet, I guess and 49
22 inches.

23 Q. Would you repeat that again so we can hear it?

24 A. Yes. Both pieces?

25 Q. We don't need the one.

1 A. Not 32 degrees, 45 feet, 49 inches west.

2 Q. Put that in as Defendant's Exhibit 5.

3 MR. CURRY: Without objection.

4 (Defendant's Exh. 5 was received in evidence.)

5 Q. Phase 4 is by which you acquired your lot from your
6 daughter; is that correct?

7 A. Yes, sir.

8 Q. Would you look at the distance and courses on that,
9 ma'am? And that is Plaintiff's (sic) Exhibit 4.

10 A. Uh-huh. It's not 32 degrees, 45 feet, 49 inches west.

11 Q. And what is the distance?

12 A. 139.37 feet.

13 MR. OBERMAN: This is what -- you bought your property
14 by this, did you not?

15 A. Yes.

16 Q. And that is Defendant's Exhibit 4. And here is a
17 survey and plat showing both lots. And this would be
18 Defendant's Exhibit 6. Can you find the two lots?

19 THE COURT: Has that been marked as an exhibit.

20 MR. OBERMAN: Not yet, Your Honor.

21 THE COURT: We will mark it as Defendant's Exhibit 6
22 for ID.

23 (Defendant's Exh. 6, Survey and plat, was marked for
24 identification.)

25 Q. Did you find the two, 207 and 208? Do you want to

1 mark that on the exhibit?

2 A. Okay.

3 Q. This is an enlarged version of that. Can you mark
4 Mr. Bevins and yours there?

5 A. (Witness complies.)

6 Q. Would you read the courses of the lines separating
7 your lot and Mr. Bevins lot on this?

8 THE COURT: That's on Defendant's Exhibit 6.

9 MR. OBERMAN: 6, that's correct.

10 THE COURT: Any objection to it being in evidence?

11 MR. CURRY: No objection, Your Honor.

12 (D-6 is moved into evidence.)

13 THE WITNESS: Not 32 degrees, 45 feet, 49 inches west,
14 139.37 feet.

15 Q. This is Defendant's Exhibit 6. So the courses on
16 these plats that I've shown you -- which if I remember right, I
17 need magnifying glasses too.

18 MR. CURRY: Me too.

19 Q. -- 35, 45, 49; is that correct?

20 A. 35 -- no, I believe that's 32 degrees, 45 feet, 49
21 inches.

22 Q. So you think it's 32. Okay?

23 A. Uh-huh.

24 Q. I'm going to show to you a survey and plat.

25 MR. CURRY: Judge, it's going to be without objection.

1 It's their survey. That can be 7.

2 THE COURT: That can be Defendant's Exhibit 7.

3 MR. OBERMAN: I want it to be Defendant's Exhibit 8.

4 THE COURT: Okay. You've got to give me a Defendant's
5 Exhibit 7 at some point.

6 (Defendant's Exh. 8, Enlarged survey and plat, has
7 been marked in evidence.)

8 Q. This is Defendant's Exhibit 8 and there's a large
9 version.

10 A. This is the large version right here. It's 32 feet --
11 32 degrees, 42 feet, 22 inches, 101.54 feet.

12 Q. And that's just enlarged?

13 A. Yes.

14 Q. And when is that dated, ma'am? Is there a date on
15 there?

16 A. Doesn't have -- '15? 2015, December 7th.

17 Q. All right. So that the courses on these surveys that
18 I've shown you, the one by which Mr. Bevins bought his
19 property, the ones by which your daughter bought hers and then
20 you got it, and this plat, shows the same 32 degrees, 42
21 minutes, 22 seconds; is that right?

22 A. It's different.

23 Q. Why?

24 A. The original in that is different.

25 Q. Tell me how it differs.

1 A. Can I have the original?

2 Q. Sure. Here's one of them, which is Defendant's --

3 A. Can I have the larger? Yes. It's 32 degrees, 45
4 feet, 49 inches; however you read that. And this is
5 different.

6 Q. How is it different?

7 A. This is 32 -- this is -- the plat that you are showing
8 me that is Mr. Bevins's is 32, 42, 22.

9 Q. And this shows?

10 A. On this original plat, it's 32, 45 -- I believe it is
11 49. I can't see that. Yes. And this here, you have on his,
12 it has 101, whatever feet. And on here, it's 139.37.

13 Q. 139 is the whole length of that pond, is it not, going
14 back?

15 A. Uh-huh.

16 Q. But does not show the 101?

17 A. Yeah, because 139 is the property of mine going all
18 the way back. So that's 139. And his is only showing the 101,
19 because his is short. His does not go all the way back to the
20 property line.

21 Q. So your testimony is that there is some difference in
22 the minutes and the seconds?

23 A. From what I understand, it's the angle. I talked with
24 a surveyor, and according to him, all of that makes a
25 difference as to the angle that the property line is at, as to

1 what it's supposed to be.

2 Q. Yes, ma'am. So your testimony is that because there
3 is a difference of -- it's so hard to make these out -- three
4 minutes between the subdivision plat and the survey that was
5 just recently done, that that skews it over to your side?

6 A. No, sir, I am not saying that. I'm saying that
7 according to the original plat, that because the surveys were
8 not done correctly that my -- because the survey that -- the
9 property line that's what was said to me to be Mr. Bevins's,
10 that my 55 feet is no longer 55 feet. That's what I'm saying.

11 Q. Well, do you have an argument with what the surveyor
12 found in December 2016?

13 A. I have an argument when it takes away part of my 55
14 feet, yes, sir.

15 Q. So you say that this survey is incorrect?

16 A. If that survey has taken away part of my 55 feet, sir,
17 yes.

18 Q. All right. Defendant's Exhibit 9 is a survey drawing
19 showing the location of the three trees in question. Would you
20 read the courses on its line?

21 A. Yes, sir. I see this survey, but if you go back to
22 this original plat and if you do the 32 degrees, 45, 49, you
23 will see that those three trees are behind -- in front of those
24 three trees are in my property. But because this is shortened
25 here, because of how it's written, that means those three trees

1 now are on Mr. Bevins's side. But if you go according to the
2 original plat and you put in the 45 feet, 49, those trees are
3 on my property.

4 Q. You notice it says rebar found at this corner?

5 A. Yes, sir. And I also know that that rebar is a new
6 rebar and it was placed there recently.

7 Q. What's that?

8 A. That's a new rebar and someone has placed that there.
9 It was moved.

10 Q. Even though it says rebar found?

11 A. Yes, sir, it's a new rebar.

12 Q. Okay. And this one says a five-eighths' inch rebar
13 found on the street; is that correct?

14 A. Yes, sir.

15 Q. And you think that the rebars were moved?

16 A. Actually, I had a surveyor tell me that it was removed
17 and replaced.

18 Q. All right. You talk about the surveys that you had
19 drawn.

20 MR. OBERMAN: And I'm going to reserve my objection to
21 those, but I do want to ask her about it.

22 Q. Have you ever -- do you have a copy of those surveys?

23 A. Mr. Curry has one, but you would not allow him to
24 present because it wasn't given to you earlier.

25 Q. And when was that done?

1 A. Right after -- just before Mr. Weston.

2 Q. I'm sorry?

3 A. Just before Mr. Weston declined to be my attorney.

4 Q. You had -- Mr. Weston had a surveyor come out there?

5 A. As far as I know. He told me he did, because I paid
6 for it.

7 Q. So you paid for a survey?

8 A. Yes, sir.

9 Q. And did that survey show the line running exactly as
10 my client had shown on his survey?

11 A. I don't know what -- I never saw the survey that
12 Mr. Weston had done. I had one done myself independently and
13 that survey shows that my property is no longer 55-55.

14 Q. You or your attorney had a survey drawn relatively
15 recently, did you not, Mr. Weston?

16 A. Yes.

17 Q. And your surveyor put up markers showing where the
18 line was, did he not?

19 A. No. The one that I had done, no, sir. The one
20 Mr. Weston did, yes, sir.

21 Q. He put up markers?

22 A. Yes, sir, recently.

23 Q. And were those markers right on the fence?

24 A. I don't know.

25 Q. You don't know? I'm going to show you Defendant's --

1 I have 7D. So that's out of order. Are those markers put up
2 by your surveyor?

3 A. No, sir, I haven't seen this one.

4 Q. What's that?

5 A. I have not seen that.

6 Q. You are seeing it now. Do you see that your
7 surveyor's markers are wrong?

8 A. The surveyor that I paid for did not put up markers.
9 He didn't move anything. Now, if Mr. Weston had a survey done
10 and they put this up, then I assume so.

11 Q. I'm going to show you what will be marked as 7,
12 Defendant's Exhibit 7G, as in good.

13 (Defendant's Exh. 7G, Photograph, was marked for
14 identification.)

15 (Defendant's Exh. 7J, Photograph, was marked for
16 identification.)

17 BY MR. OBERMAN:

18 Q. Do you see those ribbons of markers?

19 A. Yes, sir.

20 Q. And do they run right along the fence?

21 A. The fence that Mr. Bevins put up, yes.

22 Q. They do.

23 A. Uh-huh.

24 Q. And 7J.

25 A. Yes, they are ribbons tied on the fence.

1 Q. Tied on the fence?

2 A. Tied on the fence, uh-huh.

3 Q. And 7A?

4 A. Yes.

5 Q. They are tied right on the fence?

6 A. That one is not.

7 Q. In fact, it shows a little bit into your property?

8 A. Yes.

9 MR. OBERMAN: We will put these in.

10 MR. CURRY: Judge, I think -- I'm going to object
11 based on the problem that --

12 THE COURT: She's not been able to identify them.

13 MR. CURRY: Correct.

14 THE COURT: Sustained.

15 MR. OBERMAN: She's been able to identify them, Your
16 Honor.

17 THE COURT: They can't come in -- I mean, she said,
18 what I'm seeing are things tied to the fence, but she can't
19 authenticate what they are. Somebody else is going to have to
20 do that. She has not indicated that she's ever seen them
21 before or that she could identify what they are. If you want
22 to clarify that, go right ahead, Mr. Oberman.

23 BY MR. OBERMAN:

24 Q. Were you there when the surveyor came out there?

25 A. No, sir. That's one of the arguments my past attorney

1 and I had.

2 Q. So you had arguments with your attorney?

3 A. Because he had a survey come out and I was not there.
4 I don't let anyone come on my property doing a survey without
5 me present.

6 Q. All right. Before Mr. Weston had this surveyor come
7 out, there was no flags on the line, were there?

8 A. No, I believe there might have been.

9 Q. What's that?

10 A. I believe Mr. Bevins had someone come out.

11 Q. All right. But these were put up there by
12 Mr. Weston's surveyor?

13 A. I don't know. I can't testify to that because I was
14 not there.

15 THE COURT: We are going to take a break here for
16 lunch. It's almost 1:30. You may not discuss your testimony
17 with anyone during lunch because you are on the stand.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Have a good lunch.

20 THE WITNESS: Thank you.

21 (Luncheon recess was taken.)

22 BY MR. OBERMAN:

23 Q. I think you said you wanted to be referred to as
24 Mackey?

25 A. Yes, sir.

1 Q. All right. Let me try to get something straight in my
2 mind before we go forward. You had a surveyor come out when
3 you got this property from your daughter, did you not?

4 A. Yes.

5 Q. And he found the stubs for you?

6 A. Yes.

7 Q. He went out there and he found, what was it, a rebar?

8 A. Yes, sir.

9 Q. And a rebar at the rear of the property?

10 A. One of them at the rear of the property. Couldn't
11 find the other one because the ditch was full of stuff. So he
12 wasn't sure where that was.

13 Q. Didn't he find a front rebar too?

14 A. Yes, sir.

15 Q. He did find it?

16 A. Uh-huh.

17 THE COURT: And that's a yes? You said "uh-huh".

18 THE WITNESS: Oh, excuse me. Yes, yes, yes, ma'am.

19 BY MR. OBERMAN:

20 Q. And for my understanding, there were rebars and they
21 were there for a long time?

22 A. Yes, sir, they were old rebars.

23 Q. Right, rusted and whatever?

24 A. Yes, sir.

25 Q. He used a shovel to feel around?

1 A. He had a metal detector.

2 Q. A what?

3 A. I guess a metal detector.

4 Q. A metal detector. All right.

5 A. One of those things.

6 Q. He used a metal detector and he found the front rebar
7 and the rear rebar?

8 A. Yes, sir.

9 Q. All right. Didn't Mr. Bevins run a yellow line
10 between those two rebars?

11 A. Not that I know of, no.

12 Q. You didn't see a yellow line out there run from that
13 rear rebar to the front rebar?

14 A. When this survey was done, Mr. Bevins wasn't living in
15 the house.

16 Q. I'm sorry?

17 A. When this survey was done, Mr. Bevins wasn't living in
18 the house; his brother-in-law was.

19 Q. I'm talking about later on, no time while he was
20 living in the house?

21 A. Mr. Bevins never lived in the house while I was
22 there.

23 Q. Never lived in the house while you were there?

24 A. He would come in and out, but he wasn't living there
25 then.

1 Q. Right. Did anyone run a yellow line between the two
2 rebars?

3 A. Not that I know of.

4 Q. When you say not that you know of, did you see a
5 yellow line run from the rear rebar to the front rebar?

6 A. No, sir.

7 Q. All right. Did you pay the surveyor that you got to
8 come out there?

9 A. Yes, I did.

10 Q. What did you pay him?

11 A. 350.

12 Q. What's that?

13 A. 350 for the first one.

14 Q. And did he draw a survey and plat?

15 A. Yeah. That's the one I did not receive. He said he
16 would send it to me.

17 Q. All right. So you paid 350. And he came out there.
18 Did you pay him before?

19 A. I paid him when he came out that day after he did the
20 survey.

21 Q. And that survey you never received? It's lost in the
22 mail?

23 A. Yes, somehow it got lost.

24 Q. Okay. Did you ever write him or call him or do
25 anything?

1 A. I did call him. That's when they told me that they
2 did mail it out to me.

3 Q. Did you tell him that you did not receive it?

4 A. Yes, I did.

5 Q. Did he offer to send you a new one?

6 A. No. She said that -- she said she wanted my e-mail
7 address and she would send me one at my e-mail address.

8 Q. Did you receive it by e-mail?

9 A. Yes, I did receive --

10 Q. You received a survey by e-mail?

11 A. Yes.

12 Q. All right. Do you have a copy of that?

13 A. No, I don't.

14 Q. What happened to that?

15 A. It's in my phone.

16 Q. I'm sorry?

17 A. It's in my telephone.

18 Q. In your telephone?

19 A. In my e-mail, yes.

20 Q. Can you print it out for us today?

21 MR. CURRY: Your Honor, Judge, the mention of my
22 objection is that Attorney Oberman wants to question her about
23 something that he says if we had a copy of it, he doesn't want
24 to allow in. So he wants to have reservation of rights, but
25 then wants to move forward in an area that's outside the scope

1 of the direct exam. When I offered to try to put something in,
2 he objected to it. Now he wants to question her ad nauseam
3 about something that he says he has a right to object to but
4 wants to question her. I don't know, which one does he want?
5 I would say, Judge, it's outside the scope of the direct
6 examination.

7 THE COURT: Overruled.

8 MR. OBERMAN: Your Honor --

9 THE COURT: Overruled.

10 MR. OBERMAN: Yes, Your Honor. I just want --

11 THE COURT: You made a request to produce; is that
12 correct?

13 MR. OBERMAN: Yes.

14 THE COURT: And you've already indicated in court that
15 you requested that any and all surveys within the possession or
16 control be produced, correct?

17 MR. OBERMAN: Right.

18 MR. CURRY: But, Judge I would say that those things
19 are not the subject -- they are not entered into evidence. So
20 I'm trying to figure out, is he setting this up for a sanction
21 when --

22 THE COURT: No, sir. I think it probably goes to
23 bias, quite frankly. I mean, if she has these surveys and he's
24 requested them, and she hasn't turned them over, you know,
25 spoliation of evidence, you know what that charge is.

1 MR. CURRY: I know, Judge.

2 MR. OBERMAN: I think we are talking about apples and
3 oranges, Your Honor.

4 THE COURT: I already ruled. I already ruled. You
5 know, and the problem for me, quite frankly, is that if you had
6 requested them, at some point, you probably need to put, you
7 know, the request to produce in and make it a Court's exhibit.
8 But assuming, as an officer of the court, you represented to me
9 that you requested that these surveys be produced.

10 MR. OBERMAN: Correct.

11 THE COURT: They obviously exist. They haven't been
12 produced. Spoliation of evidence is a charge. It's of concern
13 to the Court. That's it. You can ask more about it if you
14 wish. I think you've established that it exists and it is not
15 here today.

16 MR. OBERMAN: I'm asking about a survey that she says
17 was produced when she bought this property.

18 THE COURT: I know. You can ask her more about it if
19 you wish.

20 MR. OBERMAN: Oh, okay. And the survey, I think, that
21 we have a disagreement about, is one that she had drawn just
22 somewhat recently.

23 THE COURT: Right.

24 MR. OBERMAN: And that's the one I object to.

25 THE COURT: I understand.

1 MR. OBERMAN: Okay.

2 BY MR. OBERMAN:

3 Q. Do you remember the name of the original surveyor that
4 you had?

5 A. No, I don't.

6 Q. You don't?

7 A. Hm-mm.

8 Q. After that was drawn and you did not receive it, did
9 the attorney send another surveyor out?

10 A. No.

11 Q. What?

12 A. Which attorney? I am not --

13 Q. Mr. Weston.

14 A. Mr. Weston didn't have anything to do with that first
15 survey.

16 Q. I'm talking about just recently. Did you have another
17 survey drawn by a surveyor that Mr. Weston hired?

18 A. No. Mr. Weston told me that he was going to have a
19 survey done, and he did that. And I didn't -- he didn't have
20 anything. He didn't have another one done from that one.

21 Q. So your testimony is that no one came out to your
22 property and did a survey in, let's say, the last six months?

23 MR. CURRY: Objection. Judge, that's not what she
24 testified to.

25 THE COURT: Sustained.

1 MR. CURRY: Thank you.

2 BY MR. OBERMAN:

3 Q. Now, you apparently --

4 MR. OBERMAN: And, again, this is what I'm reserving
5 my objection to, Your Honor.

6 THE COURT: Okay.

7 BY MR. OBERMAN:

8 Q. You had another survey drawn just recently, did you
9 not?

10 A. Just before Mr. Weston no longer became my attorney.

11 Q. I'm sorry?

12 A. Just before Mr. Weston no longer became my attorney.

13 Q. You had another survey?

14 A. Yes.

15 Q. And that's the survey that your attorney now has and
16 has offered to the Court?

17 A. Yes.

18 Q. You called to Mr. Bevins's attention that you thought
19 your trees were on his property, or vice-versa?

20 A. That I told Mr. Bevins that I wanted to remove the
21 trees when I called him and discussed it with him, if that's
22 what you are asking about.

23 Q. Did what?

24 A. Are you asking me if Mr. Bevins and I had that
25 conversation?

1 Q. Yes.

2 A. Yes, I did call him and I told him that I was wanting
3 to clear the tree that was between the two of us, because of
4 the fence and the pole of the fence being in the middle of the
5 tree, to make a -- so that we could get a clear determination
6 of where the property line was for sure.

7 Q. Now, let me get this straight in my mind. It was --
8 first there was a wooden fence on your property?

9 A. Yes.

10 Q. Is that correct?

11 A. Yes.

12 Q. And there was space between that wooden fence and the
13 chain-link fence?

14 A. No. The wooden fence and the chain-link fence was --
15 the chain-link fence was slapped up against the wooden fence.

16 Q. So they were one and the same, is what you are saying?

17 A. It appeared to be. I don't know.

18 Q. And you told Mr. Bevins you were going to, what, take
19 down the chain-link fence?

20 A. No.

21 Q. What did you tell him.?

22 A. I asked him if he wouldn't mind removing it so that we
23 could do that.

24 Q. I see. Did he refuse doing that?

25 A. Mr. Bevins did not -- he was a very hostile -- I don't

1 know how to say this. He was very hostile when I made the call
2 to him, so I ended the call.

3 Q. You did what?

4 A. He was hostile when I called him to discuss that, so I
5 ended the call.

6 Q. You ended the call?

7 A. Yes.

8 Q. Do you have any recording of that call?

9 A. No, I don't, but I do have -- when we could not do
10 that, I sent him a certified letter.

11 Q. You sent him a certified letter?

12 A. Yes, sir.

13 Q. All right. You have not introduced that in evidence
14 here today?

15 A. No, because this is just now coming up.

16 Q. All right. After that call, did he tell you that the
17 property on his side of the chain-link fence was his property?

18 A. Mr. Bevins and I did not have a conversation after
19 that because of his hostility. I did not discuss anything with
20 Mr. Bevins. In fact, we argued more than anything.

21 Q. What did you argue about?

22 A. About him being on my property.

23 Q. All right.

24 A. Interfering with people that came to my property.

25 Q. Did he tell you he was on your property?

1 A. He was clearly by my house, in the middle of my
2 property, yes, sir.

3 Q. I don't understand what you said, ma'am.

4 A. Between the fence and my house is a piece of property,
5 and he was clearly straight in the middle of it. Yes, that's
6 my property. He was on my side of the fence, if you want to
7 put it that way.

8 Q. So he was maintaining the grass and weeds on your side
9 of the fence?

10 A. He did not have to do that. I paid someone to do that
11 for me every two weeks.

12 Q. Did you decide to take down the fence?

13 A. My privacy fence, yes, sir.

14 Q. I am not talking about the wooden fence. I'm talking
15 about the chain-link fence.

16 A. No, sir, I did not take down his fence. His fence
17 fell over because it wasn't attached to his poles. When I
18 removed my wooden fence, it fell down into my property. And I
19 told a young man to roll it up, because he probably would want
20 it. And that's the way he saw it, argued, fussed, said some
21 words and put it back up.

22 Q. Where did you -- when the chain-link fence fell over
23 into your property, where did you -- you had that moved, did
24 you not?

25 A. I only rolled it up and left it right there where it

1 was and near where it was supposed to be, because the guy was
2 cutting down the tree, my tree that was in my fence on the
3 other side of my privacy fence that when I removed the privacy
4 fence, I needed to get that stuff done, taken up. And that is
5 the only reason why I moved it, because it was in the way of
6 him taking care of what I was paying him for.

7 Q. And you took down some other trees, did you not?

8 A. Yes, I did.

9 Q. And that was on the side of the chain-link fence that
10 Mr. Bevins claimed to be his?

11 A. I don't know what you are referring to now. If you
12 are talking about the first of those three trees --

13 Q. The three trees, yes, ma'am.

14 A. Those trees are on my property if you go according to
15 the plat.

16 Q. The plat I have. I will show it to you again. I
17 believe we put this in as Defendant's 9.

18 (Whereupon, the court reporter informs that it is not
19 in evidence.)

20 MR. OBERMAN: I submit --

21 THE COURT: Have you seen this one?

22 MR. CURRY: No, Judge. I'm sorry. Your Honor, this
23 is y'all's survey. I think that's already in.

24 MR. OBERMAN: I will do it again.

25 MR. CURRY: Without objection, Your Honor.

1 (Defendant's Exh. 9, Survey, was received into
2 evidence.)

3 BY MR. OBERMAN:

4 Q. This is a survey and it show Mr. Bevins's property.
5 Shows -- do you see the stumps here?

6 A. Yes, I do.

7 Q. Does it show how far this stump, the first one from
8 this tree, is from the fence?

9 A. According to what you have here, I can see that.

10 Q. And what does it show?

11 A. It shows -- well, I don't know what order you want in
12 terms of --

13 Q. Start with the first one and work that back.

14 A. Starting from the front and back, it's a .3 -- is
15 that --

16 Q. Feet.

17 A. .3 feet.

18 Q. From the fence?

19 A. From the fence.

20 Q. Right.

21 A. And then another .1 feet from the fence and another .4
22 feet from the fence.

23 Q. That's correct. So according to this survey and plat
24 drawn for Mr. Bevins, those three stumps or three trees were on
25 his side of the line, are they not?

1 A. No, sir. Because that, according to this, according
2 to this survey, which goes against what is written on the plat
3 for my property, these dimensions are incorrect and there's no
4 feet. This fence is in the middle of one of the trees.

5 Q. All right. What I'm asking you, ma'am, is, according
6 to the survey dated December 7, 2015, and revised April 21,
7 2017, drawn by and signed by John David Bass, gum stump No. 1
8 is three-tenths of a foot inside Mr. Bevins's property, is it
9 not?

10 A. Well, if you are going according to that, according to
11 what he has written down here, I guess that is correct. But
12 according to your angle, according to that, and according to
13 what's on the plat, it's incorrect.

14 Q. My question to you, again, is, according to this plat,
15 survey and plat dated as I told you, the first gum stump is
16 three-tenths of a foot inside Mr. Bevins's property, according
17 to the plat?

18 A. According to what you are showing me, that's what it
19 looks like.

20 Q. And gum stump No. 2 is one-tenth of a foot inside?

21 A. That's the way you are reading that, that looks
22 correct.

23 Q. And gum stump No. 3 is four-tenths of a foot inside?

24 A. Again, if that's what you are telling me, then that
25 looks correct.

1 Q. I am not telling you. I'm asking you. Mr. John David
2 Bass drew and then redrew this survey and plat. That's what he
3 shows.

4 A. That's what it looks like from what you are showing
5 me.

6 Q. All right. And he shows a rebar found at the rear of
7 Mr. Bevins's property, does he not?

8 A. That's what it shows.

9 Q. And a rebar found along Robert Drive, does it not?

10 A. That's what it looks like.

11 Q. And those are the same rebars that your surveyor found
12 when you bought the property from your daughter?

13 A. No.

14 Q. It's your testimony that these are -- have changed
15 since you brought the property?

16 A. Yes.

17 Q. In which way were they changed?

18 A. Moving further into my property.

19 Q. What?

20 A. Moving further into my property.

21 Q. So it's your testimony that the rebars that you found,
22 existing rebars that your surveyor found, somebody came, picked
23 them up and moved them?

24 A. As one surveyor told me, he said it moved on its own.
25 So I don't know. That's what he said.

1 Q. All right. So not only one rebar moved, but two
2 rebars moved?

3 A. Evidently.

4 Q. It's your testimony that the rebar that is shown on
5 this survey and plat were old and rusted?

6 A. Not all of them, no.

7 Q. What?

8 A. No, they were not.

9 Q. They were not? What were they, new rebar?

10 A. Yes, sir.

11 Q. So you knew that there was a dispute between you and
12 Mr. Bevins as to where that line was, did you not?

13 A. I guess that there probably was, and I just wanted to
14 make clear.

15 Q. You wanted to make clear?

16 A. Just what exactly was what.

17 Q. All right. So you had a survey drawn showing where
18 the line was?

19 A. Yes, sir.

20 Q. And where is that survey?

21 A. Again, that is the survey that's in my phone that I
22 never received in the mail.

23 Q. That's the survey that you had done when you bought
24 the property from your daughter?

25 A. Yes, sir.

1 MR. OBERMAN: Excuse me, Your Honor.

2 THE COURT: Okay.

3 BY MR. OBERMAN:

4 Q. You got this property from your daughter in 2000 --
5 january 20th, 2015?

6 A. Yes, that's when I purchased it.

7 Q. And it's your testimony that sometime between January
8 2015 and I guess when you had the dispute with Mr. Bevins, that
9 those rebars moved over further into your property?

10 MR. CURRY: Objection. She has not testified to any
11 of that. If you want to ask her a question, but he's asked her
12 something that she has not stated in the record.

13 MR. OBERMAN: This is cross-examination.

14 MR. CURRY: Judge, but she's not stated -- he's asking
15 her was it your testify that you testified to that. I guess
16 she can answer that, but I didn't see her answer that under
17 direct or initial cross-examine.

18 THE COURT: On cross-examination, I will allow the
19 question. In other words, you are asking her did you testify
20 earlier to this?

21 MR. OBERMAN: Yes, I'm trying to find out --

22 THE COURT: Okay. Go ahead.

23 BY MR. OBERMAN:

24 Q. If these rebars moved between when she bought the
25 property and present or any time -- when did the rebars move?

1 A. I can't give you exact date. I worked third shift. I
2 don't know.

3 Q. You did what, ma'am?

4 A. I worked third shift when I first bought my house, so
5 I don't know when they moved. They didn't move during the day
6 when I was there.

7 Q. And these are the rebars that your surveyor found with
8 a metal detector?

9 A. Yes, which, excuse me --

10 Q. I'm sorry?

11 A. Which survey are you talking about?

12 Q. The one that you had draw the survey when you got the
13 property from your daughter?

14 A. No. Those rebars right there that you are referring
15 to were never found.

16 Q. You had a survey drawn, or you had a surveyor
17 commissioned when you got the property from your --

18 A. Yes, sir. And those rebar placed where you have on
19 your plat right there, they were not the ones I'm referring to.
20 They are different ones. It was in a different place. That's
21 why I stated that for them to be where they are, they were not
22 where the surveyor showed me initially where it should have
23 been, where he found them. So, yes, I'm assuming someone moved
24 them.

25 Q. Okay. I'm confused, ma'am. I'm trying to straighten

1 it out. The surveyor that you hired when you got the property
2 from your daughter --

3 A. Yes, when I bought it, yes, sir.

4 Q. -- he did a survey?

5 A. Yes, sir.

6 Q. Did he go out there with a metal detector?

7 A. Yes, sir.

8 Q. Did he find rebars?

9 A. Yes, sir.

10 Q. All right. And he found a front rebar and the rear
11 rebar?

12 A. He found a front rebar on that side. He could not get
13 to the one in the back because of the stuff that was in the
14 ditch in the back. So he was not sure where that one was,
15 but --

16 Q. He used a metal detector to find --

17 A. Yes, yes, sir.

18 Q. And there were rebars in the ground at that point?

19 A. At the point where he showed me, not where you have
20 that one at, no.

21 Q. My question was, there were rebars in the ground?

22 A. You want me to state that -- my question is, what are
23 you exactly asking me?

24 Q. Your surveyor found at least one rebar; is that
25 correct?

1 A. On the side of Mr. Bevins, yes.

2 Q. And is that rebar still there?

3 A. I don't know.

4 Q. Did that surveyor find the rebar in the rear of your
5 property?

6 A. On that side of it, no, sir. Because of the metals
7 and trash that was in the ditch, he wasn't sure and clear as to
8 what that one was on that side.

9 Q. So it's your testimony that he found one of the two
10 rebars?

11 A. On that side, yes, sir.

12 Q. On that side. Okay. And it's your testimony today
13 that that front rebar has moved from where he found it?

14 A. I don't know if it's moved, but I know that the rebar
15 that is in question on that plat is not the one that he showed
16 me that he found, no.

17 Q. And that is a survey that has been lost somewhere
18 else?

19 A. It never arrived at my home. They said they mailed it
20 and I never got it.

21 Q. When did you decide to take down the trees in
22 question?

23 A. When I decided to move my fence.

24 Q. When was that?

25 A. I don't remember exactly.

1 Q. All right. Did you tell Mr. Bevins that you were
2 going to take the fence down?

3 A. I did not take his fence down.

4 Q. No. My question was, did you tell him that you were
5 going to take the chain-link fence down?

6 A. No, sir.

7 Q. All right. Who took it down for you?

8 A. No one took down the chain-link fence. I removed my
9 privacy fence.

10 Q. That's the wooden fence?

11 A. Yes, sir.

12 Q. All right. And what happened?

13 A. His private metal fence fell down into my property
14 because it was behind my wooden fence and it was not attached
15 to the poles that he had up.

16 Q. Who removed that portion of the fence?

17 A. The young man that was taking down my trees. I told
18 him to roll it up when it fell over and leave it right where it
19 was.

20 Q. Did you tell Mr. Bevins that you were going to roll it
21 up and take it away from the line?

22 A. I did not take it away from the line.

23 Q. What did you do with it?

24 A. It was placed right there in the spot so that he could
25 continue cleaning my yard. I did not do anything but put it

1 right in the middle of the two poles that were there.

2 Q. Did you take the trees down at that time?

3 A. These trees were -- I'm trying to think. Not at that
4 particular time, I don't think I took them down then; shortly
5 afterwards, I think.

6 Q. All right. Did you tell Mr. Bevins you were going to
7 have the trees chopped down.

8 A. As I said before, Mr. Bevins and I were not
9 conversating (sic) at that time.

10 Q. Didn't you cut some of the overhanging limbs first?

11 A. Yes, I most certainly did.

12 Q. All right. And did you thereafter direct your man to
13 cut the stumps down?

14 A. Not right then, no, I didn't.

15 Q. How long after?

16 A. I don't remember how long after.

17 Q. A month, two months?

18 A. I'm not sure, because I was paying him in
19 installments, so I'm not sure. He came when he could.

20 Q. I'm sorry?

21 A. He came out to cut my trees down when he could, so I
22 don't remember exactly.

23 Q. Did Mr. Bevins object to Chris cutting down the trees?

24 A. Of who?

25 Q. I thought you said Chris.

1 A. No, no, I did not mention a name.

2 Q. The man that you had cut down the trees.

3 A. Yes.

4 Q. He objected to you --

5 A. He called the police.

6 Q. All right.

7 A. Because he said the guy was hanging on his side of the
8 fence.

9 Q. Then the police come?

10 A. Yes, they did.

11 Q. Did they tell Mr. Bevins that those were your trees
12 and you could do what you want with it?

13 A. They told Mr. Bevins they could not make a judgment
14 call at all, that we would have to hire attorneys to get
15 involved.

16 Q. Did you have your man continue cutting the trees?

17 A. Probably did, yes.

18 Q. Even though Mr. Bevins complained about you cutting
19 the trees?

20 A. Because they were my trees.

21 Q. Did Mr. Bevins have the magistrate give you a notice
22 of trespass?

23 A. Yes. And that -- yes, he -- I got that, because when
24 I was cutting down my trees, I went over to his property to
25 tell his wife that the van that she had the guy -- the van that

1 was supposed -- that was there to put carpet on their floor was
2 blocking the mailbox. I went over to tell her that he had to
3 remove the van from the front of the mailbox. That's when she
4 called him. And then the police came. And, yes, I did convey
5 that to the officer, yes.

6 Q. Did you sign a notice of trespass?

7 A. Yes, sir, because, partially, I was -- because I could
8 not lie. I was on his property to tell his wife that the guy
9 had to remove his van from in front of the mailbox. And I
10 would not -- I couldn't say no, I wasn't on the property,
11 because I actually physically was. And, yes, that was my bad.

12 Q. And you did that in October of 2015?

13 A. I don't remember the date, but I do have that in my
14 paperwork over there and I could tell you exactly what day it
15 was.

16 Q. Would you look and see?

17 A. Yes, this is correct.

18 Q. And what is the date?

19 A. October 17th.

20 Q. Of 2015?

21 A. '15, yes, sir, uh-huh.

22 Q. We will put this in as Defendant's Exhibit 10.

23 MR. CURRY: What is it?

24 THE COURT: I couldn't hear either.

25 MR. CURRY: What is it?

1 MR. OBERMAN: I apologize.

2 MR. CURRY: Where is the signature?

3 MR. OBERMAN: Right here.

4 THE WITNESS: And that was in reference of --

5 MR. CURRY: Judge, I'm going to object to that. I
6 don't see a signature of the defendant on it and it's -- the
7 record custodian for something like that is not here to
8 testify. In fact, I see a man named Martin Clark. I'm not
9 sure it says what he purports it to say.

10 MR. OBERMAN: Let me see if I can clarify.

11 THE COURT: Okay.

12 BY MR. OBERMAN:

13 Q. Did you make a complaint about trespass?

14 A. Me?

15 Q. Yeah.

16 A. Make? No, I did not make a complaint of trespass.

17 Q. Was there a complaint about trespass?

18 A. Yes.

19 Q. And was that made in October 17, 2015?

20 A. According to that, yes.

21 Q. Did you go before the Court on this?

22 A. No.

23 MR. OBERMAN: Your Honor, I will withdraw.

24 MR. CURRY: I object.

25 THE COURT: He withdrew.

1 BY MR. OBERMAN:

2 Q. Did you seek a restraining order against Mr. Bevins?

3 A. Yes, I did.

4 Q. What was that based on?

5 A. Of him threatening coming on to my property,
6 interfering with people that came on my property.

7 Q. And that was made July 8th, 2016?

8 A. I believe that was the date.

9 Q. All right. I will show this to you. And we will put
10 this in as Defendant's Exhibit --

11 MR. CURRY: Your Honor, may I approach?

12 THE COURT: Sure.

13 MR. OBERMAN: Any objection?

14 MR. CURRY: I want to wait until you ask her the
15 questions.

16 BY MR. OBERMAN:

17 Q. This is a summons for restraining order signed by Mary
18 Greene Mackey, July 6th, 2016. Do you remember that?

19 A. Yes, sir.

20 MR. OBERMAN: Now can I put it in, sir?

21 MR. CURRY: Without objection, Your Honor.

22 THE COURT: Go ahead.

23 (Defendant's Exh. 11, Restraining Order dated
24 7/6/16, is received in evidence.)

25 BY MR. OBERMAN:

1 Q. What happened with that petition for restraining
2 order?

3 A. The judge threw it out because she said I didn't prove
4 my case, because even though I supplied her with photos and
5 that, I did not have the dates on the photos. So she just
6 dismissed it.

7 Q. So the judge dismissed it as not founded on evidence?

8 A. Because I could not prove -- I did not have dates on
9 my evidence.

10 MR. OBERMAN: Reserving my objection, Your Honor.

11 THE COURT: All right. Redirect.

12 MR. OBERMAN: I was going to ask her some questions
13 about this latest survey and plat that she had drawn.

14 THE COURT: Oh, you want to -- I'm sorry. I thought
15 you had concluded. You had not concluded.

16 MR. OBERMAN: No. I'm reserving my objections. We've
17 never been given a copy of it.

18 BY MR. OBERMAN:

19 Q. Did you have another survey and plat drawn just
20 recently?

21 A. Before Mr. Weston? After Mr. Weston? No, sir.

22 Q. After Mr. Weston.

23 A. No, sir.

24 Q. You did not?

25 A. No.

1 Q. Did you not have a surveyor from Greenville draw a
2 survey for you?

3 A. That was before Mr. Weston was no longer my attorney?

4 Q. I'm sorry?

5 A. That was before Mr. Weston was no longer my attorney.

6 Q. Did you present this to Mr. Weston?

7 A. Yes, we discussed it in court that day that he
8 withdrew himself from my case.

9 Q. So you showed him the survey?

10 A. No, I had just received it. I hadn't opened it yet.

11 MR. OBERMAN: I'm now finished, Your Honor. That's
12 the end of my questioning.

13 THE COURT: Thank you. All right.

14 Now redirect.

15 MR. CURRY: Thank you, Your Honor. May I approach?
16 Your Honor, may I approach?

17 THE COURT: You may.

18 REDIRECT EXAMINATION

19 BY MR. CURRY:

20 Q. I hand you what has been previously marked as or
21 entered into evidence as Defendant's Exhibit No. 1, which was a
22 deed. You didn't write this deed, did you?

23 A. No.

24 Q. All right. Are you -- did you write the legal
25 description for the deed?

1 A. No.

2 Q. That was just what was found in terms of a
3 transaction?

4 A. Yes, sir.

5 Q. Fair? Number two, what about the Washington deed from
6 Bradley Bunion to Kimberly Washington; you didn't write that
7 deed either, did you?

8 A. No, sir.

9 Q. And you don't know the accuracy of that deed with
10 regard to legal description or meets and bounds, do you?

11 A. No, sir.

12 Q. The Defendant's Exhibit 5, which was phase, it looks
13 like, 3, that's a deed that's in the courthouse that you relied
14 on; is that correct?

15 A. That's right.

16 Q. As Defendant's 5, is that fair to say? Yes?

17 A. Uh-huh.

18 Q. Okay. On the Phase 3 deed, can you find -- which was
19 Exhibit 6, can you find Lot 207 or 208?

20 A. It's right there.

21 Q. Why don't you put on your glasses. 6, can you find
22 Lot 207?

23 A. Right here.

24 Q. Is that where the blue dot is here?

25 A. Blue dot is 207.

1 Q. Can you read the meets and bounds descriptions on that
2 207 lot?

3 A. There's only the one side that's the boundary that we
4 share.

5 Q. Okay. And what does that one say?

6 A. 32 degrees, 45 feet, 49 inches.

7 Q. Okay. And that's on the boundary that y'all share
8 together; is that correct?

9 A. Yes.

10 Q. All right. Now I'm going to hand you exhibit --
11 Defense Exhibit 9. And I want you to read the same
12 description. And that's the December 15th -- what date is
13 that, December --

14 A. No, that's May, May 21.

15 Q. Of what?

16 A. 2017.

17 Q. 2017? Can you read that same line on the comment line
18 that you share?

19 A. 32 degrees, 42 feet, 22 inches.

20 Q. Are those two the same?

21 A. No, they are not.

22 Q. They are not, are they?

23 A. No, sir.

24 Q. Okay. Is one longer than the other or one shorter
25 than the other, based on your common knowledge?

1 A. One is shorter than the other.

2 Q. Which is shorter from your common knowledge?

3 A. From my common knowledge, the property --

4 Q. Name the exhibit so we know.

5 A. Exhibit 9 is more into my property than on the
6 original plat of Exhibit 6.

7 Q. Okay. All right. And is it your testimony today from
8 the physical property that those gum trees would have been on
9 your property based on Exhibit 6?

10 A. Yes, sir.

11 Q. But under Exhibit 9, it appears that the gum trees
12 have moved from your property over to Mr. Bevins's property; is
13 that correct?

14 A. That's correct.

15 Q. Okay. Is it your opinion that the difference in the
16 property descriptions on that line account for the inches of
17 the trees being on your property versus being on Mr. Bevins's
18 property?

19 A. Yes, sir.

20 Q. And you didn't hire a surveyor for those, did you?

21 A. No, sir.

22 Q. And the description that's offered in Exhibit 9 is
23 actually something that the defendant's offered; is that
24 correct?

25 A. Yes, sir.

1 Q. And that is purported to be a surveyor that they used;
2 is that correct?

3 A. Yes, sir.

4 Q. Let's be clear. You have not entered into exhibit any
5 survey that you either allegedly purchased or received from
6 anybody; is that correct?

7 A. No, sir.

8 Q. But based on your knowledge, those surveys are
9 different from even the original plat; is that correct?

10 MR. OBERMAN: Your Honor, I'm going to object.

11 THE COURT: Sustained.

12 BY MR. CURRY:

13 Q. Move forward. Do you know who moved the rebars?

14 A. No, sir.

15 Q. But you do know the rebars are not in the same
16 position as the original plat; is that correct?

17 A. That's correct.

18 MR. CURRY: Your Honor, if I may continue, I'm just
19 looking for Phase 3.

20 BY MR. CURRY:

21 Q. Do you have Phase 3 there, Ms. Mackey, Phase 3 of the
22 Moss Point?

23 A. This is Phase 4.

24 Q. I think I've got it here.

25 MR. CURRY: Your Honor, may I approach?

1 THE COURT: Yes.

2 BY MR. CURRY:

3 Q. I'm going to hand you what has been marked as Exhibit

4 5. Do you have that?

5 A. Yes, sir.

6 Q. And that's what phase on that, if you look at it?

7 A. Phase 3.

8 Q. All right. And if you will take Exhibit No. 9 and
9 turn it like so, correct, on Exhibit No. 5, can you then read
10 out the meets and bounds of each one of those as it pertains to
11 the descriptions, Exhibit No. 9 being that of the surveyor
12 purchased by Bevins and Exhibit No. 5 being that from the
13 original map? Can you read those out?

14 A. The boundaries that we share?

15 Q. The boundaries, and then go all the way around, the
16 boundaries and go around the circle and come up to the
17 boundary.

18 A. Okay. Starting with the boundary that we share?

19 Q. Yes.

20 A. 32 degrees, 45 feet, 49 inches west.

21 Q. Okay. And what does the Bevins survey say?

22 A. Bevins survey says, which is Exhibit 9, says 32
23 degrees, 42 feet, 22 inches.

24 Q. Okay.

25 A. And coming around to the street, the Bevins Exhibit 9

1 says 44.40 feet.

2 Q. And on the plat, plot, what does it say on that one?

3 A. It says -- there are two things here.

4 Q. Turn to the --

5 A. On the plat here it says 44.40 and also says 45.60.

6 Q. Okay. And that's on the -- which says 45.60, the
7 Bivens's survey or the plot?

8 A. The plot says.

9 Q. And go around to the next side.

10 A. And on the other side that we don't share --

11 Q. Exhibit 5, the plat says what?

12 A. The plat says 50 degrees, 45 feet, 0 inches.

13 Q. Okay.

14 A. Excuse me, correction.

15 Q. Correction?

16 A. It says 5 degrees, 04 feet, 05 inches east.

17 Q. Okay. What does the other say?

18 A. The Bevins says -- it says 05 degrees, 04 feet, 05
19 inches.

20 Q. Okay. Do you have any final measurement?

21 MR. OBERMAN: Your Honor --

22 THE WITNESS: On the Bevins, no.

23 MR. OBERMAN: Your Honor, I believe they speak for
24 themselves.

25 MR. CURRY: I moved on, Judge.

1 THE COURT: You have finished that? Go ahead.

2 MR. CURRY: I have finished that. Thank you.

3 BY MR. CURRY:

4 Q. All right. Just a couple final things, Judge, and I
5 will be finished with this. Now, do you have any pictures
6 showing Mr. Bevins trespassing on your property?

7 A. Yes, I do.

8 MR. CURRY: Your Honor, may I approach?

9 THE COURT: Sure.

10 MR. CURRY: May I approach?

11 THE COURT: Uh-huh.

12 MR. CURRY: Your Honor, I would ask that this be
13 marked as Plaintiff's Exhibit. Any objection? We will do it
14 for ID purposes.

15 (Plaintiff's Exh. 5, Photograph, was marked for
16 identification.)

17 (The following conversation takes place outside the
18 hearing of the witness in front of the court reporter.)

19 MR. OBERMAN: Which one are you talking about?

20 MR. CURRY: I will let her identify it.

21 MR. OBERMAN: He's got a twin brother. That's why I'm
22 not asking.

23 MR. CURRY: She can identify it. Let her do it.

24 MR. OBERMAN: Excuse me, just let me ask. Which one
25 are you asking about?

1 MR. CURRY: I'm going to ask her.

2 (Whereupon, the closed conversation ends.)

3 BY MR. CURRY:

4 Q. I have what was previously marked as Plaintiff's
5 Exhibit No. 5 for identification purposes only. What is it?

6 A. It's a picture of Mr. Bevins.

7 Q. Okay. Now, did you take that picture?

8 A. Yes.

9 Q. Tell me who would you say would be Mr. Bevins?

10 A. In the blue.

11 Q. Okay. But is that -- you took that picture?

12 A. I took that picture.

13 MR. CURRY: Judge, I would ask what has been
14 previously marked as Plaintiff's Exhibit No. 5 for
15 identification purposes only be admitted as Plaintiff's Exhibit
16 No. 5.

17 THE COURT: All right. Any objection?

18 MR. OBERMAN: I object to her identification of the
19 wrong party, Your Honor.

20 THE COURT: All right.

21 MR. OBERMAN: In light of the photograph.

22 THE COURT: All right. Very well, it's admitted.

23 (Plaintiff's Exh. 5 moved into evidence.)

24 BY MR. CURRY:

25 Q. Now, in terms of -- I'm going to put this up on the

1 screen. All right. Can you identify for this Court where your
2 property or property line is based on this photo?

3 A. It's behind the trees that are cut down right here,
4 behind the fence.

5 Q. Now, there are two people there, one that looks like
6 has something blue on or white, and then somebody behind that.
7 Where would your property line be next to the person over by
8 the shed?

9 A. It would be right between him and the trees right
10 there, him and the fence.

11 Q. All right. And it appears that there are two people
12 there. Do you know whether or not -- who these people are?

13 A. One of them was Mr. David Bevins, because the other
14 person referred to him as David because he was arguing with me
15 and he told him to leave, to be quiet and leave.

16 Q. Okay. Now, who was telling the other David be quiet
17 and leave?

18 A. The one behind the fence was telling the one in the
19 blue.

20 Q. All right. And you witnessed this with your own eyes
21 and sight and hearing, correct?

22 A. Yes, sir. Yes, sir.

23 Q. You are sure it wasn't vice-versa?

24 A. It was not vice-versa.

25 Q. Are you aware that Mr. Bevins has a twin brother?

1 A. No, I am not.

2 Q. Would you have known Mr. Bevins from his twin brother?

3 A. I don't know how twin they are.

4 Q. You don't know if they are identical or fraternal?

5 A. I don't remember.

6 Q. But you are sure that the person on the side of the
7 fence by the shed was telling the person on your property what?

8 A. To come away from me, come away from my property
9 because he was getting very belligerent.

10 Q. The trees that you cut, you believe were your trees,
11 correct?

12 A. Correct.

13 MR. CURRY: Your Honor, may I approach?

14 THE COURT: Yes.

15 BY MR. CURRY:

16 Q. You were shown a schematic about where the trees would
17 have been allegedly located; is that correct?

18 A. Correct.

19 Q. I hand you what has been previously marked as
20 Defendant's Exhibit 9; is that correct?

21 A. Yes, sir.

22 Q. And you were shown by Attorney Oberman the area where
23 the alleged stumps were located?

24 A. Yes.

25 Q. And it would have been on the property line that's

1 south 32, 42, 22; is that correct?

2 A. Correct.

3 Q. And it is your position that given the modifications
4 on the property line, that those trees are actually his side of
5 your property?

6 A. Yes.

7 Q. Because some of them are, like, .5 of a -- is this
8 feet or inches?

9 A. I don't know. You have to ask him.

10 Q. Okay. But it's clear that you believe that they are
11 inside of the zone based on the property line.

12 MR. OBERMAN: Objection --

13 MR. CURRY: I'm moving on. I'm moving on. Thank
14 you.

15 THE COURT: All right.

16 BY MR. CURRY:

17 Q. When did you allegedly get a deed on your phone? What
18 year would that have been?

19 A. The deed or the survey?

20 Q. The survey, survey. I'm sorry.

21 A. Oh, some time in 2015 or so.

22 Q. Was it before you filed a lawsuit or was it after you
23 filed a lawsuit?

24 A. It was before.

25 Q. Okay. All right. And you never had a physical copy

1 other than electronic copy on your phone?

2 A. Never a physical, no.

3 Q. Were you ever able to produce that physical copy?

4 A. No. I actually went to the surveyor and asked him
5 about it, and he was just very, very, very nervous. And, in
6 fact, as I stated before, he was the one that said that the
7 rebars moved.

8 Q. All right.

9 MR. OBERMAN: Did what? I'm sorry.

10 MR. CURRY: Please answer any questions that attorney
11 might have.

12 MR. OBERMAN: What did she say?

13 BY MR. CURRY:

14 Q. Would you repeat what you just said about what the
15 surveyor told you?

16 A. The surveyor, when I went to see him, I confronted him
17 about the survey. And I told him, I said, from what he sent me
18 electronically, didn't match what the surveyor showed me that
19 day. And he said that the rebars moved.

20 Q. Okay.

21 MR. OBERMAN: Your Honor, I object.

22 THE COURT: Recross.

23 MR. OBERMAN: No, no recross.

24 THE COURT: Yes, ma'am. You may come down. Call your
25 next witness please, sir.

1 MR. CURRY: Your Honor, I think that we are going to
2 rest based on that's all that we have with regard to it. Your
3 Honor, that's our case in chief.

4 THE COURT: Very well. All right.

5 MR. OBERMAN: We call Mr. David Bevins.
6
7

8 DAVID BEVINS,
9 having been duly sworn, testifies as follows:

10 THE COURT: I ask you to state your full name for the
11 record.

12 THE WITNESS: David Howard Bevins.

13 THE COURT: Your witness.

14 DIRECT EXAMINATION

15 BY MR. OBERMAN:

16 Q. Mr. Bevins, when did you buy this property?

17 A. 2013, I believe, or 2003 -- I'm sorry, 2003. I'm
18 sorry.

19 Q. 2003? And you've lived in this property all along?

20 A. Yes, sir.

21 Q. Was there a fence separating this property from the
22 property now claimed by Ms. Mackey?

23 A. There's been a chain-link fence around my property
24 since I was there. And Ms. Mackey, when her daughter came at
25 it, it was a wooden fence.

1 Q. Where was the wooden fence?

2 A. It was within inches of my chain-link fence.

3 Q. Were you able to find the stubs or monuments for your
4 property?

5 A. No, sir. Surveyor found them. Last time I seen them
6 was when I purchased, the surveyor.

7 Q. What's that?

8 A. Last time I seen them was when I purchased the
9 property and it had been surveyed.

10 Q. All right. But you saw the stumps?

11 A. Yes, sir, when it was surveyed when I purchased the
12 property.

13 Q. What were they?

14 A. The fence was just about right on the property line
15 except for in the back. The back is over the property line
16 probably about two to three inches.

17 Q. Was it a rebar?

18 A. It was rebar.

19 Q. Rebar on the back?

20 A. Back and the front.

21 Q. And the front? And were the rebar, were they ancient?

22 A. They were very rusty, so I assumed they had been there
23 probably since the day they were built, the houses had been
24 built.

25 Q. And to your knowledge, it is not -- neither of the

1 survey markers had been moved?

2 A. My surveyor, when I bought the property, said they
3 were accurate. So, apparently, they hadn't been moved.

4 Q. Did you have occasion to connect the front bar and the
5 rear bar?

6 A. Yes, sir. I used a yellow piece of -- I say yellow
7 rope, but it's not rope. It's same thing you use for kite
8 string.

9 Q. For what?

10 A. Kite string.

11 Q. Kite? All right. And you ran it from the front rebar
12 to the rear rebar?

13 A. Yes. This is after the surveyor I had do the survey
14 when it first started with her wanting the property lines.

15 Q. How long did that string or yellow rope or whatever it
16 was stay there?

17 A. It stayed up there until her first surveyor came and
18 surveyed it, Ms. Mackey's surveyor.

19 Q. Do you know if Ms. Mackey was cognizant? Did she see
20 the string?

21 A. I'm sure she did. She comes in and out of there all
22 the time. These strings are not very large.

23 Q. Did she raise any objection about the location of the
24 string?

25 A. No, sir. Not to me, she didn't.

1 Q. Did Ms. Mackey ever show you a survey showing
2 different locations of the stubs?

3 A. No, sir. The only thing she showed me and the police
4 officer was a plat.

5 Q. I'm sorry?

6 A. The only thing she showed me and the police was the
7 plat.

8 Q. What sort of plat was it?

9 A. Like you get from the county courthouse.

10 Q. So it was a tax map?

11 A. Yes, sir.

12 Q. And she showed you that?

13 A. Yes, sir.

14 Q. Did she ever show you or show anybody that you know of
15 a survey done by a surveyor?

16 MR. CURRY: Objection. Judge, he wouldn't know
17 whether or not she showed anybody else, but certainly calls for
18 speculation and a bifurcated question.

19 THE COURT: Yeah, I understand. Did she show you a
20 survey?

21 THE WITNESS: Well, when the police came -- I called
22 the police on four occasions. The police asked to see a survey
23 for me or her the first time they came. And I called surveyor
24 after I realized I was going to need one to stop her. But she
25 never had no surveyor. Every time the police asked to see a

1 survey, she always showed them a plat. That's the only thing
2 they had seen.

3 Q. When you say showed them a plat, you are talking about
4 a tax map?

5 A. Tax map, same thing I had.

6 Q. Showing the whole subdivision?

7 A. Yes, sir, not the whole subdivision, just the areas
8 platted off in the area you get a copy.

9 Q. And do you know --

10 A. Tax office of your area.

11 Q. Right. So you were in this property when you got it?

12 A. Yes, sir.

13 Q. From 2003. You are still there?

14 A. Yes, sir.

15 Q. And you got it from Mr. --

16 A. Mr. Glover.

17 Q. Mr. Glover? Do you know who put up the fence?

18 A. Mr. Glover put up the fence in 2004 -- I mean, 1984,
19 excuse me.

20 Q. So the fence, to your knowledge, was there from 1984
21 to the present except where Mrs. Mackey tore it down?

22 A. Correct.

23 MR. CURRY: Objection.

24 THE COURT: Sustained.

25 MR. CURRY: Thank you, Your Honor.

1 THE COURT: Leading.

2 MR. OBERMAN: I apologize, Your Honor.

3 THE COURT: That's okay.

4 BY MR. OBERMAN:

5 Q. Did you know Kimberly Washington?

6 A. I did too. She was a very good neighbor.

7 Q. How long had she been there?

8 A. She was there until Ms. Mackey purchased the property.

9 Q. Did she ever raise a question about the location of
10 the fence?

11 A. No, sir.

12 Q. Now, Ms. Mackey has testified the fence fell down?

13 A. No, sir, they took it down.

14 Q. Was there any time that the fence fell over?

15 A. No, sir.

16 Q. And how far was it from the wood privacy fence?

17 A. Within inches, I would say three or four inches, five
18 inches, something like that, a very small amount, just enough
19 for the weeds to get in between.

20 Q. Did you take care of the weeds?

21 A. Because the chain-link fence was on my side, I sprayed
22 the weeds on my side.

23 Q. Did you spray the weeds on the other side?

24 A. No, sir.

25 Q. Who sprayed the weeds between the wood fence and the

1 chain-link fence?

2 A. Me.

3 Q. You did?

4 A. But I did it for my side on the chain-link fence side.

5 Q. Were you present when Ms. Mackey or her attorney had a
6 surveyor to come up and survey the fence again?

7 A. I was out there for two surveyors. I saw her after
8 she already cut the trees down and taken the fence down.

9 Q. Tell me about the first surveyor.

10 A. First surveyor came and he surveyed the property. He
11 was there when I got there. And he told me he had surveyed the
12 property before when her daughter -- he said, I also surveyed
13 it when Ms. Kimberly Washington owned the property. And I
14 proceeded to tell me that was her daughter. And he showed me
15 where the markers were. He was already done when I spoke with
16 him. And he had the markers against my fence. He said, your
17 fence is right on the property line.

18 Q. Were there markers all the way down the fence?

19 A. He had, after so many feet, he had markers. He had
20 stakes, except on the back. The back is probably two or three
21 inches away from her property. He showed me the stubs. So I
22 knew where the metal stubs were at.

23 Q. I'm going hand to you what has been marked as
24 Defendant's Exhibit 7G, possibly already put into evidence.
25 Would you take a look at that.

1 A. Okay. This is my survey markers, the one the surveyor
2 did for her. He had them in the ground against the fence. He
3 didn't put them in the ground.

4 Q. Who took those pictures?

5 A. Who took these pictures?

6 Q. Yeah.

7 A. I did.

8 Q. You came out there? You took the pictures?

9 A. Yes, sir. That's why these marks are here. When he
10 got down, I took pictures when his survey was done.

11 Q. Whose mark is this?

12 A. That's the surveyor I had.

13 Q. That you had done?

14 A. Yes, sir.

15 Q. And what about 7J?

16 A. This is also my surveyor. The surveyor I got, he put
17 them against the fence. There's another picture that you have
18 in there against the fence.

19 Q. All right. And who took that picture?

20 A. I did.

21 MR. OBERMAN: We will put these in as Defendant's
22 Exhibit --

23 THE WITNESS: Both those are the survey I had done,
24 the engineer survey I had done, which is what the police
25 record -- after the first time she was on the property, to try

1 to stop her. It took them six months to do the survey.

2 MR. OBERMAN: 7.

3 MR. CURRY: Which one is he -- 7G and J.

4 MR. OBERMAN: 7G and 7J.

5 MR. CURRY: No objection. 7G and 7J.

6 (Defense Exh. 7G, is received in evidence.)

7 (Defense Exh. 7J, is received in evidence.)

8 BY MR. OBERMAN:

9 Q. Did you see the markers that her surveyor had put
10 up?

11 A. Yes, sir.

12 Q. And how did they compare to the ones you had, your
13 surveyor had put up?

14 A. It wasn't three-sixteenth of an inch of each other,
15 very close.

16 Q. And did they run all the way down the fence?

17 A. Except for the back, because the back is not on --
18 like I said, I have about two or three inches on her side at
19 the back of my fence.

20 Q. Now, do you know if she had another survey done?

21 A. Yes, sir, she had two done.

22 Q. She had two done? When was the last one done?

23 MR. OBERMAN: And it's reserved by objection, Your
24 Honor.

25 A. It was done right after she got her lawyer discharged

1 himself from the case.

2 Q. All right.

3 A. I don't know the dates, but whatever that date was,
4 because we were supposed to go to court.

5 Q. And was there any great difference that he showed than
6 your surveyor showed?

7 A. Not that I'm aware of, sir.

8 Q. The last surveyor showed pretty much the same?

9 A. Yes, sir.

10 Q. Mr. Bevins, did you ever move any of the stobs
11 separating your property from her property?

12 A. No, sir.

13 Q. Do you know of anyone who moved those stobs?

14 A. No, sir.

15 Q. Are those stobs still there?

16 A. Yes, sir.

17 Q. Are they still rusted?

18 A. Yes, sir.

19 Q. And are they rebars?

20 A. They are pieces of rebar.

21 Q. And it's banged into the ground?

22 A. Yes, sir.

23 Q. Is there any question in your mind where those three
24 trees were?

25 A. No, sir.

1 Q. And where were they?

2 A. They were on my property.

3 Q. And how did they meet their demise?

4 A. Ms. Mackey had somebody cut them down as she assisted
5 them.

6 Q. She what?

7 A. She had somebody actually doing the sawing and she did
8 the dragging of the limbs.

9 Q. She did the dragging of the limbs?

10 A. Yes. The first time they were in my yard, she was
11 assisting them pulling the limbs out of my yard through my
12 gate.

13 Q. And what happened with the stubs? Are they still
14 there?

15 A. They were still there.

16 Q. So you had lost three trees?

17 A. Yes, sir.

18 Q. And did you have an estimate made of the value of
19 those trees?

20 A. I had an estimate, but they said there's no way it can
21 be accurate about the value of the tree. He said it's a lot
22 more than what they gave me, the estimate. But said the court
23 system doesn't have a statute for tree cost.

24 Q. Do you remember what that estimate was or guesstimate?

25 A. I think it was \$2,500 or \$2,600. It was \$2,600 or

1 \$2,500.

2 Q. That is for what the trees were worth?

3 A. Yes, sir.

4 Q. And you had cost, of course, for your attorney?

5 A. Yes, sir.

6 Q. What other costs did you have?

7 A. I had to put the fence back up because she damaged
8 part of the fence when she took it down.

9 Q. All right. Who put the fence back up?

10 A. My brother and I.

11 Q. And did you get an estimate as to --

12 A. Yes, sir, I got an estimate. A fence guy gave me an
13 estimate. It was \$150, I believe.

14 Q. \$150 to put the fence back up?

15 A. Yes, sir.

16 Q. So we are talking about three trees at \$2,500. We are
17 talking about \$150 to put the fence back up. What other was
18 the cost? Your attorney's cost and there was another cost, was
19 there not?

20 A. Surveys, the survey cost.

21 Q. Survey cost. How much was the survey cost, sir?

22 A. Was it 250 or 350? I can't remember exact amount,
23 because I had to have engineers survey, because after the first
24 time the police recommended at try to keep her from doing any
25 more damage.

1 Q. I'm going to hand to you --

2 A. Yeah, this is surveys. This is the pictures you just
3 introduced. These are the people that did it.

4 Q. Estimate, sir?

5 A. 350.

6 Q. \$350?

7 A. Yes, sir.

8 Q. We will put this in whatever, Defendant's Exhibit
9 whatever.

10 (Defendant's Exh. 12, Survey, was marked for
11 identification.)

12 Q. What was this?

13 A. This is for the fence.

14 Q. How much was that?

15 A. 575.

16 MR. OBERMAN: This is 13.

17 (Defendant's Exh. 13, Estimate for the fence, was
18 marked for identification.)

19 Q. I have an estimate from Stacks Nursery. Can you tell
20 us what this is?

21 A. This is presumed estimate of the trees, of the trees
22 of 2,500. He said they are valued more than this, but this is
23 as close as he could get.

24 Q. What it's valued?

25 A. Yes.

1 (Defendant's Exh. 14, Estimate from Stacks Nursery,
2 was marked for identification.)

3 BY MR. OBERMAN:

4 Q. This is picture that was put in as Plaintiff's Exhibit
5 No., it looks like, 5. Are you shown in that photo?

6 A. Yes. This is when we are putting the fence back up.
7 This was also placed into evidence when I went to court with
8 Ms. Mackey for harassment. And magistrate said she could not
9 use this as being on trespassing because we were going on her
10 property in order to recover my fence to put it back up.

11 Q. Are you bald-headed in the back?

12 A. No, sir. That's my brother, Damon. Over on the other
13 side of the fence toward the shed is me. And I have an
14 identical twin.

15 Q. So Damon is --

16 A. Taking a picture.

17 Q. -- taking a picture of you?

18 A. Yes, sir.

19 Q. But you are not bald, are you?

20 A. I'm not as bald as he is. I can put my head down if
21 you want to see, but ...

22 Q. Mr. Bevins, when you bought this property, you bought
23 it by description as shown on the deed?

24 A. Yes, sir.

25 Q. And there was a chain-link fence there?

1 A. Yes, sir.

2 Q. There were trees there?

3 A. Yes, sir.

4 Q. You have not moved the fence since you bought the
5 property?

6 A. No, sir.

7 Q. You were dependent upon the description?

8 A. Yes, sir.

9 Q. All right. Did you do your best to try and straighten
10 this out with Ms. Mackey?

11 A. Well, let's start off, in 2016, I come home, pulled up
12 in my driveway, there's two gentlemen up in my tree cutting my
13 tree down. So I proceeded to go call the police. Dorchester
14 County Police sent four units out. They spoke with me on my
15 property and spoke with Ms. Mackey on her property. They both
16 told us both the same thing. She tried to evade with a plat.
17 And the police officer said that's not relevant, or tax map or
18 whatever you want to call it from the office, which had nothing
19 but measurements on it. Proceeded to say that my fence was on
20 her property line. The police explained to her that that means
21 nothing, because if you are starting measurement point that's
22 wrong, all your measurements are going to be wrong. And they
23 recommended both of us, before we proceeded any farther, to get
24 an engineer's survey and go to court, if necessary, if we
25 couldn't settle this among ourselves, before we proceeded any

1 more. But it didn't stop there.

2 Then on November 28th, I come back, they are in the
3 trees again. Called Dorchester County Police. This time they
4 dispatched two units. Same thing, they said not a whole lot
5 they could do. I told them, I said from the first incident, I
6 already called surveyor, going to take about six months to get
7 him to survey this property. He said there's nothing we can
8 do. We can try to get them out of the trees, try to explain
9 the seriousness of this, as they did me. All right.

10 Then on the third time, on December 7th -- or October
11 7th, I'm sorry, they were in the trees sawing the trees down
12 and taking the fence down. My wife called. They hadn't
13 started on the fence yet, they were still cutting the trees.
14 My wife called me and told me they were up there cutting again.
15 She called. Mr. Hall, which was a deputy, sent one deputy this
16 time, recommended that we do no trespassing this term. He said
17 maybe this will stop her from coming on the property until we
18 can settle this property dispute.

19 Well, as soon as Mr. Hall left -- my wife said and my
20 father-in-law, all of them were there -- as soon as they left,
21 they continued cutting the trees down and took the fence down.

22 Q. All right. Did you give her a copy of the survey that
23 you had drawn?

24 A. I was out in my front yard after I got my survey, but
25 she had already cut the trees down and done all of this. After

1 this, I got the survey done. Her grandson was in the front
2 yard, and I didn't want to go on her property because I don't
3 want her to accuse me of trespassing, I asked him if he would
4 go inside and get his grandmother to come outside so I can
5 speak to her and show her this drawing to prove that the fence
6 was not over the property line.

7 Well, he went inside. I hear him screaming, her
8 screaming at that little boy, I don't want to talk to that
9 crazy man, I am not coming out there. And then the little
10 boy's mother came out and said, Mr. Bevins, please don't talk
11 to the boy, you are causing problems for us. So she did not
12 want to see it. She didn't want to have nothing to do with
13 it.

14 Q. You offered her a copy on your survey and plat?

15 A. Well, when was at the courthouse when she accused me
16 of harassing, I tried to introduce it into evidence so we could
17 settle this property dispute and end this right then and there.
18 But Mr. Mackey would not allow it. And she asked for a copy of
19 it. And I told her, if she wants a copy of it, she will have
20 to pay half of it because I think it's fair, because, you know,
21 it was my expense. I don't want to be a bad neighbor. There's
22 no reason to cause bad blood between me and her. I was just
23 trying to stop her from coming on my property.

24 Q. Did she ever give you a copy of a survey?

25 A. No, sir.

1 Q. Did she ever offer to show you a survey?

2 A. No, sir.

3 Q. Did she ever accuse you of moving the metal stobs?

4 A. No, sir.

5 MR. OBERMAN: That's all the questions I have, Your
6 Honor.

7 THE COURT: Mr. Curry, cross-examination.

8 CROSS-EXAMINATION

9 BY MR. CURRY:

10 Q. Mr. Bevins, I'm Eduardo Curry. And I represent
11 Mr. Mackey. Have you ever seen the descriptions of the plat
12 for -- your property was 207, correct?

13 A. I have two plats to be accurate about that. I believe
14 you are correct, but I am not 100 percent. I would say yes,
15 but it's something I'm not sure of.

16 MR. CURRY: May I approach?

17 THE COURT: Yes.

18 THE WITNESS: Not to say -- I am not evading your
19 question, just giving you a correct answer.

20 BY MR. CURRY:

21 Q. I hand you what is Defendant's Exhibit No. 5. That's
22 y'all's exhibit right there, and Defense 9. Have you had a
23 chance to look at those, those plats?

24 A. I had a copy of the plat, just like she had. But,
25 like I said, they were irrelevant because the police said they

1 don't mean nothing unless you have -- there was no stamp on
2 there. It was irrelevant.

3 Q. So you are saying Exhibit Number -- I guess what
4 number is this? No. 5 is irrelevant? That's your position
5 today?

6 A. Well, I was told by the police they are not relevant
7 in court unless they have an engineering stamp on them. So
8 that makes it irrelevant. You are a lawyer. I'm asking you.

9 Q. What about 9, is that irrelevant too?

10 A. No. This has a stamp on it.

11 Q. Okay. All right. So that would be relevant because
12 it has a stamp, but the plat that they made the subdivision in
13 down at the deed's office is not relevant?

14 A. No. My survey was relevant that said my fence was on
15 the property. It was relevant too, correct? That's got a
16 stamp on it.

17 Q. Now, tell me while we are talking about that --

18 MR. CURRY: If I may continue to approach.

19 (Plaintiff's Exh. 6, Photograph, was marked for
20 identification.)

21 MR. OBERMAN: Okay.

22 MR. CURRY: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MR. CURRY:

25 Q. Mr. Bevins, I have what was previously marked as

1 Plaintiff's Exhibit 6 for identification purposes only. Do you
2 recognize that as your shed?

3 A. Yes, sir.

4 Q. Do you recognize that as your chain-link fence?

5 A. Yes, sir.

6 Q. Do you recognize that as the wooden fence behind it?

7 A. Well, it's not behind my chain-link fence, but what's
8 left of the wooden fence.

9 Q. What's left of the wooden fence going back on the
10 property correct?

11 A. Yes, sir.

12 Q. And you see in the middle of that, you see a
13 chain-link fence, you see a pole in the middle of that tree,
14 correct?

15 A. Yes, sir.

16 Q. Whose tree is that?

17 A. The tree is -- the tree is on my property probably
18 about maybe 1/16th of an inch on her property.

19 Q. What does 16th of an inch look like?

20 A. Very small amount.

21 Q. Can you show, like, with your hand what you think 16th
22 of an inch looks like?

23 A. Probably about that much. (Indicating.)

24 Q. But this is a picture that you recognize, correct?

25 A. Yes, sir.

1 MR. CURRY: Judge, I would ask what has been
2 previously marked as Plaintiff's Exhibit No. 6 for
3 identification purposes be admitted into evidence as
4 Plaintiff's Exhibit 6.

5 THE COURT: Any objection?

6 MR. OBERMAN: No objection.

7 Plaintiff's Exh. 6 was received in evidence.)

8 A. But the pole is still attached to the fence. In the
9 other pictures, the pole is still attached to the fence.
10 Correct?

11 Q. That pole it looks like it's about --

12 A. Still attached to the fence. And the picture y'all
13 showed earlier, it wasn't attached to the fence, so ...

14 Q. I will put that --

15 A. And that damage to the fence was done after they cut
16 the tree down. That damage you got on the fence there, it
17 wasn't like that. You know, back where the wooden fence is at,
18 it was not damaged like that until they cut the tree down.
19 They did that when they were cutting the tree down.

20 Q. That wooden fence is not yours, is it?

21 A. I wasn't saying it was. My chain-link fence wasn't
22 damaged like that until he cut the tree down, sir.

23 Q. I'm asking, is that wooden fence yours?

24 A. No, sir.

25 Q. All right: Now, you were talking about damage on the

1 chain-link fence. And you said that it costs \$575?

2 A. Yes, sir, to replace the fence.

3 Q. And that was for professionals to come out and get
4 that fence replaced, right?

5 A. Yes, sir.

6 Q. Did professionals come out and get that fence
7 replaced?

8 A. Not yet, sir.

9 Q. It's still down?

10 A. No, sir.

11 Q. It's up, right?

12 A. Yep.

13 Q. How much did it cost to buy the materials for the
14 chain-link fence?

15 A. I think it was \$85 from Lowe's.

16 Q. All right. So didn't cost 575, did it?

17 A. But the fence was up properly before they took it
18 down, so it needs to be put up properly once --

19 Q. Looking still on this exhibit, I see that that pole
20 that you say is your property is right in the middle of that
21 tree. Do you see that?

22 A. Yes, sir.

23 Q. Now, is that a -- you called it a 16th of an inch.
24 What did you call that?

25 A. I said about 16th of an inch of the fence.

1 Q. That pole is in the square of that tree at least,
2 correct?

3 A. It's not the square of the tree. It's at the edge of
4 the tree. Bottom of the tree is larger than the top of the
5 tree. If you look at the pole at the top, the fence is
6 partially bent because of the tree that's pushed the fence.

7 Q. Okay.

8 A. But the fence laying down was not laying down when
9 this -- prior to this picture, after they cut the tree down, it
10 caused the fence to fall some.

11 MR. CURRY: Your Honor, may I approach?

12 THE COURT: You may.

13 BY MR. CURRY:

14 Q. Now I'm looking and I see your shed on --

15 A. Because if you look at the pole --

16 Q. Wait. Hold on.

17 A. If you look at the pole, it's not straight.

18 Q. When I look at the picture, there is your fence
19 allegedly going down by the shed, but there's some space in
20 between that shed and the wooden fence, right?

21 A. There's space between the shed and my fence. And
22 there's a space between wooden fence and my fence, I would say
23 about 45 inches.

24 Q. Did anybody tell you where the property line goes
25 through that area?

1 A. Yes, sir. It was surveyed when I bought the
2 project.

3 Q. Okay.

4 A. When I bought the property, the fence was on the
5 property line except for in that back.

6 Q. Who told you that?

7 A. The surveyor when I bought the property. If you look
8 at the -- like you were talking about stobs in the back, in the
9 back towards here -- can I stand up, ma'am?

10 THE COURT: Sure. It's going to be hard to see.

11 THE WITNESS: See how the property line, because my
12 property does not go all the way to the ditch. She said they
13 couldn't find the other stob at the ditch. Her property goes
14 this way. And there's two lots that are adjoining her
15 property. There's a stile about right up in here behind my
16 shed that's straight down to where my fence stops and goes that
17 way.

18 Now, that stob there, I've got a few inches, which
19 means that fence, that wooden fence right there, just a small
20 amount of it, would have been on the property that I own.

21 Q. All right.

22 A. But, to me, that's not a big deal.

23 Q. So you agree with me that the properties are not
24 perfectly rectangle, are they?

25 A. I don't know if they are not rectangle. The fence is

1 not rectangle.

2 Q. I'm saying, is the property, as you know it, perfectly
3 rectangle?

4 A. As far as I know, it is, but I know the fence is not
5 perfectly straight. I knew that when I bought the property.

6 Q. If the fence is not perfectly straight, you can't
7 ascertain whether it would be on one rectangle or the other if
8 it's not perfectly straight, correct?

9 A. Don't know whether it's rectangle or not, but I know
10 from the surveys, the fence is on my property.

11 Q. Do you have any survey to show that that fence was on
12 your property?

13 A. Yes, sir.

14 Q. From the plat?

15 A. I got survey that Mr. Oberman has in his engineering
16 drawing.

17 Q. Can you account for the difference between what the
18 meets and bounds are on the plat versus the difference on your
19 survey?

20 A. Yes, sir, I can tell you what happened.

21 Q. Go ahead.

22 A. The surveyor from Ms. Mackey said whoever did -- put
23 the wooden fence up on the other side, not the side I living
24 on, but other side of her, moved the boundaries in order to set
25 the poles for the wooden fence on that side.

1 Q. So there's not testimony about boundaries being moved
2 at least from even your people, correct?

3 A. It wasn't my people. It was her people. It was her
4 surveyor that did that, because that was on her side of the
5 property.

6 Q. You misunderstood my question, Mr. Bevins. I said, do
7 you have information that someone told you about boundaries
8 being moved?

9 A. Her surveyor told me that somebody moved the
10 boundaries on the opposite side of the her lot when they put up
11 the wooden fence.

12 Q. Is that answer yes?

13 A. I'm not sure what you are asking, sir, because I'm
14 just telling you it was not my surveyor there. He did tell
15 me -- her surveyor did tell me that somebody moved the
16 boundaries on the opposite, opposing side.

17 MR. CURRY: Court's indulgence.

18 THE COURT: All right.

19 BY MR. CURRY:

20 Q. Did you all ever find those rebars back there on that
21 property for 208 or 207?

22 A. All three bars were found from day one from when she
23 had her first guy do it and when I had a survey when I
24 initially bought the property, those rebars have been found
25 both times.

1 Q. All right.

2 A. Rebar she's talking about she could not find are on
3 the ditch. My property does not go all the way back to the
4 ditch bank. Her property does, but mine does not. I don't
5 know if that makes any sense to you, sir. The property
6 divides, if you look toward the back, ditch bank is all the way
7 to the back where the fence goes, beyond the fence.

8 Q. All right. Tell me, you had \$2,500. What kind of
9 trees are these?

10 A. I'm not sure. I'm not a tree expert.

11 Q. What kind of trees did Stacks Nursery tell you they
12 were?

13 A. I can't remember. You can look at the -- it's been
14 put into evidence. You can read his --

15 Q. Okay. Do they reproduce fruit?

16 A. No, sir.

17 Q. Are they there for beautification?

18 A. They are there for shade.

19 Q. They are there for shade for where?

20 A. For the house and for the backyard.

21 Q. Now, the way the trees grew, did they only grow on
22 your side of the property, like one side, or were they out on
23 both sides?

24 A. Well, to rectify that, let's put it this way, when Ms.
25 Mackey and I spoke on the phone the first time, she told me she

1 was going to take the fence down and remove the trees. And I
2 told her the trees were not on her property. But I did tell
3 her, when we had our first conversation on the phone now, that
4 she had my permission to climb the trees and take every limb
5 that was on that side of her property down.

6 Q. Okay. And she had your permission, you told her that?

7 A. Not to take the trees down, to take the limbs that are
8 on her side of the property down.

9 Q. Isn't it true you never withdrew that permission, did
10 you?

11 A. I did not.

12 Q. All right. Now, and the \$2,500 represents what?

13 A. Replacement of the trees. They cannot replace the
14 trees, because the size of those trees, you cannot purchase
15 trees that size. That's as close as you can get to the size
16 for what I had.

17 Q. And they are not oak trees?

18 A. They would have been a lot more if they were oak
19 trees.

20 Q. They are not grand moss?

21 A. They would be more than that if they were grand
22 moss.

23 Q. You don't know what kind of trees they were?

24 A. Yes, I do.

25 Q. What kind of trees are they?

1 A. They are whatever you wrote down there, sir. He told
2 me there's no way he could give me exactly what I wanted
3 because they do not move trees that large. He said you have to
4 have a special type of company to come in and put trees in that
5 size. He said it would be astronomic for the cost for that,
6 but they don't do that.

7 Q. How much did you pay your lawyer?

8 A. So far or total?

9 Q. You said you put him down as a cost.

10 A. Yes, sir.

11 Q. How much did you pay him?

12 A. So far he got \$6,500 from me, but I still owe him
13 money. I'm up to about \$11,000, if you want to know the total
14 cost right now at this point.

15 Q. \$11,000 to pay your lawyer?

16 A. Yes, sir.

17 Q. Did he give you a statement of professional services?

18 A. Yes, sir, it's itemized.

19 Q. Where are they?

20 A. I don't have it with me.

21 MR. CURRY: Your Honor, may I approach?

22 THE COURT: You may.

23 BY MR. CURRY:

24 Q. Is it your testimony today that your chain-link fence
25 was in good condition?

1 A. Yes, sir.

2 Q. All the way up and down that line?

3 A. Yes, sir.

4 Q. How were you maintenancing (sic) the fence behind your
5 shed?

6 A. What do you mean how was I maintenancing it?

7 Q. How were you maintenancing behind the shed?

8 A. Like I said before, spraying the weeds and stuff.

9 Q. That's all you were doing?

10 A. Because distance between there is only enough for
11 weeds.

12 Q. Okay. You had a Weed Eater. You can't get in
13 between, so you stick the Weed Eater?

14 A. No, I get between there.

15 Q. You can get in between this?

16 A. Yes, sir, I can get in between there.

17 Q. You can get in between you and this No. 5?

18 A. Yes, sir, because if you look right -- may I get up
19 again, ma'am?

20 THE COURT: Uh-huh.

21 THE WITNESS: If you look right there, I can get right
22 there and walk between there.

23 BY MR. CURRY:

24 Q. How wide is that?

25 A. I'm not sure exactly.

1 Q. Okay. All right.

2 A. I'm not sure exactly. I'm sorry.

3 Q. How often would you do that?

4 A. As I cut the grass.

5 Q. How often would you cut the grass?

6 A. The backyard, every other week.

7 Q. How big was your backyard?

8 A. They are very small.

9 Q. Right. How small?

10 A. My yard and her yard are not very big yards. I don't
11 know the exact measurements. It's small. This room is a lot
12 bigger than the backyard.

13 Q. 20 x 20?

14 A. Not sure about the measurements, sir. I don't want to
15 be inaccurate.

16 Q. How much does it cost to cut that yard?

17 A. It costs nothing because I do it myself.

18 Q. Have you ever tried to hire anybody?

19 A. No, sir.

20 MR. CURRY: Court's indulgence.

21 THE COURT: All right.

22 BY MR. CURRY:

23 Q. Mr. Bevins, you don't have any reason to doubt the
24 deed that came from -- or the tax map, or whatever you called
25 it that came from the register of deeds office, you don't have

1 any reason to doubt that, do you?

2 A. I'm not sure, because when I did this, when the
3 policeman came to my house the first time when I spoke to Ms.
4 Mackey about this, she wanted to do this, why didn't she get it
5 surveyed before she did these things, but that's irrelevant.
6 But, anyway, I did the same thing the police told us the first
7 time she came to the backyard disputing the property things. I
8 didn't go to the tax office. I didn't go nowhere. I called a
9 surveyor, like the police told me, and I had it surveyed. And
10 I had engineering drawing done to prove where my property line
11 was. So I'm going with the engineer drawing because it's got
12 their engineered stamp on it and they came out and actually did
13 it. It was physically done by them.

14 Q. Is your answer no, you have no reason to doubt what's
15 on file down there in the deed's office?

16 A. I'm not sure, sir, because I'm assuming the surveyor
17 used that same thing for their measurements. But I can't say
18 for sure what he did. I'm not sure of that. I am not a
19 surveyor so I can't answer that. I am not a professional to
20 answer something like that.

21 MR. CURRY: Thank you.

22 THE WITNESS: All right. Thank you, sir.

23 THE COURT: Redirect?

24 MR. OBERMAN: I rest, Your Honor.

25 THE COURT: Come on down. Thank you. You are

1 finished. Yes, sir.

2 THE COURT: All right. Any reply?

3 MR. CURRY: Your Honor, I think you have heard all of
4 the evidence that's out there. I really do. So we rest, Your
5 Honor.

6 THE COURT: All right. You want to make a very, very
7 short closing? I don't want to keep you from doing that if you
8 wish, Mr. Curry.

9 MR. CURRY: Your Honor, if it please the Court. This
10 is about a property line dispute. I am not going to be long
11 about it. You heard the evidence. You've seen the tax map.
12 You've seen everything. You heard the testimony.

13 The question is just where that line is going to be.
14 Is it going to be on one side where the trees are included? Is
15 it going to be on the other side where the trees are not? Is
16 it going to be where you are that she cut limb off the trees,
17 if she didn't have authority to cut the trees, or is it going
18 to be that she had authority to cut the trees because they are
19 hers?

20 She had the burden of persuasion of going forward.
21 And we appreciate you being patient to allow this case to
22 unfold. I know sometimes it's tough between neighbors, because
23 even after you remove yourself from this, they are still going
24 to have to be neighbors unless one sells the property.

25 So, Judge, I would just ask, I personally got into

1 this case late. Maybe some other things could have happened,
2 but where I am at this particular point, I would ask that you
3 view the evidence, that you make a decision as you have been in
4 your tenure on the bench, that would be fair, looking at all
5 the evidence. I think she had the burden of persuasion in
6 going forward, the issue on trespass and nuisance, all that. I
7 think this is really just about where is this property line and
8 how is it going to come through.

9 Judge, I'm glad you are the judge. And I'm just a
10 litigant. Okay? But I would say that we thank you for what
11 you've heard, you've seen. And ask you to look at all of the
12 evidence, view it in the light favorable to the party that you
13 believe should have prevailed.

14 I am curious about some of the costs that the
15 defendant raised as the stuff with the trees in terms of the
16 \$2,500, the cost of the fence at 575, the cost of the lawyer,
17 which no statement of services has been presented. You know,
18 he says he wants the cost of that for \$11,000. I think, Judge,
19 this case could be determined under your wisdom. And I
20 appreciate you listening to us.

21 THE COURT: Thank you so much, Mr. Curry.

22 Yes, sir, Mr. Oberman.

23 MR. OBERMAN: Your Honor, many cases are decided on
24 the absent witness. And what we have here is a lady who says
25 she had surveys done, but the surveys got lost in the mail, or

1 lost on her cell phone, or whatever. That speaks a monumental
2 amount as to what those surveys would have shown. They had all
3 the time in the world to come to me, to come to Mr. Bevins and
4 say, look, we had a survey drawn, and here's what the survey
5 shows. And they didn't do that. And they haven't told you
6 where those surveys are. So we've got the absent witness in
7 the form of a survey.

8 Your Honor, we also have the dancing stobs or
9 monuments. Mr. Bevins has testified that there are rebars
10 there that have been there from day one. They are in the
11 ground. They are rusted. And he found them. And I'm sure
12 that Mrs. Mackey's surveyor, if that was true, found them. And
13 she knows where they are. To base her whole case on TMS maps,
14 borders, I don't want to say are the ridiculous, but borders
15 falsely.

16 Everyone knows, Mr. Greene knows, Ms. Mackey should
17 know, that the tax maps are not drawn with accuracy. They are
18 estimations of what's there. And if she had a surveyor, in
19 fact, she had one or two or three surveys drawn, they would
20 have produced them. We served them with a notice to produce.
21 We begged them to give us surveys. And she has seen fit to
22 hide those surveys.

23 It must strain the Court's ability to think that she's
24 telling them 100 percent truth when she says she paid \$350 for
25 a survey, but that it was eaten by the mailbox or got lost

1 somewheres along the way. She apparently went out with her
2 surveyor and found the stobs. Mr. Bevins has testified that he
3 found the stobs. He pulled a line that showed that line. And
4 she's forgotten that.

5 Your Honor, it all boils down to, I hate to say it,
6 the neighbor from a nightmare. And Mrs. Mackey is determined
7 that she is right, that she has got a tax map or a recorded
8 map, and she is measuring it out and saying that she should be
9 able to tell this Court that, forgetting about the surveys that
10 were drawn, this is what you should bank on.

11 Your Honor, these surveys are surveys of sections of
12 subdivisions. The minutes might be off. The seconds might be
13 off, but not the line itself. And with that in mind,
14 Mr. Bevins begged her and the police were called and they
15 begged her, go out and get a survey and show us that what you
16 are claiming is proven by a surveyor drawing this line.

17 We are talking about not that much footage, but there
18 were three or four trees down the line that belonged to
19 Mr. Bevins. He begged her not to massacre the trees. She
20 said, the heck with it, and went out there and had her people
21 chop the trees down. Didn't even take the stumps out. And
22 left that to Mr. Bevins to get the stumps out.

23 So I think we have a clear intentional trespass with
24 damages, intended damages. I would ask the Court to rule so,
25 Your Honor.

1 THE COURT: Let me ask you a couple of questions. I
2 don't recall the survey, your client talking about a survey,
3 but that survey, is that survey in evidence.

4 MR. OBERMAN: Yes, ma'am.

5 THE COURT: What number exhibit is that?

6 MR. OBERMAN: Let me find it for you.

7 THE COURT: That's No. 9.

8 MR. OBERMAN: And then we have one, a subsequent
9 survey showing the tree stubs?

10 THE COURT: Right, right.

11 MR. OBERMAN: I think that's the same one.

12 THE COURT: Now, with regards to the proposed damages,
13 do you believe that attorney's fees are allowed as damages?

14 MR. OBERMAN: I do, Your Honor, since we asked for
15 punitive damages and it is a trespass. I have not presented
16 the hourly charges that I charge to Mr. Bevins but I will be
17 glad to do so. I have it itemized for you.

18 MR. CURRY: I would say that it would not, but if he
19 was going to provide those services, Ms. Mackey should have the
20 right to cross-examine on those services and offering them and
21 not take them at face value, absent no checks being shown or
22 any of those other things. I would say it should not be
23 included, Your Honor, respectfully.

24 THE COURT: Well, there is evidence in the record, I
25 believe it was cross-examination by Mr. Bevins, that he had

1 paid fees in the amount of 6,000 something, but he owed 11,000
2 in all. So there is that evidence. It's not an itemization,
3 but there is that evidence of damages. All right.

4 MR. OBERMAN: I will be glad to submit at this time an
5 itemization minute by minute of attorney's fees, certified or
6 signed by me.

7 THE COURT: Mr. Oberman, let me just say, the
8 difference is that, as I understand it, the amount of
9 attorney's fees is offered up as a damage as opposed to the
10 type of actions that attorney's fees are allowed.

11 MR. OBERMAN: Right.

12 THE COURT: And typically, oftentimes one must be
13 successful in order to then have a hearing in regards to
14 attorney's fees. But as I understand your client's case, it is
15 the amount of attorney's fees that is offered up as a damage.
16 So what about that, Mr. Curry?

17 MR. CURRY: Judge, I'm a lawyer, but I also, Judge,
18 I'm just looking at the overall cost. If it's going to be
19 considered, I think personally he's offering it as a damage and
20 not as an itemization for a separate time. But by the same
21 token, I'm looking at overall scheme. And I would ask that you
22 look at it, Your Honor, even if you decide you are going to
23 award damages, that that be cut, because in some ways, we
24 haven't had a chance to challenge that in writing. He said I
25 could do it subsequently, when today is their day to move

1 forward on that as an affirmative duty. So I would ask Your
2 Honor that we not include it at this particular point. But if
3 there's something on the back side of it, if you rule against
4 Ms. Mackey.

5 THE COURT: I understand. Very well. All right.

6 MR. OBERMAN: I have the affidavit in support of
7 attorney's fees, Your Honor. I've always been taught that it's
8 not a good idea to submit it until the Court had ruled that
9 attorney's fees were called for.

10 THE COURT: I understand. All right. Well,
11 Mr. Curry, he has an affidavit of attorney's fees.

12 MR. CURRY: Judge, I would say that the case is closed
13 with regard to it. They had a burden when he rested, that that
14 drew the line. So closing arguments is just merely our ability
15 to color the lines. But the line have been drawn. I will say,
16 having said that, I stand here as an officer of the court, I
17 stand here as a lawyer, but I would also, if you are going to
18 consider it, Judge, that you would use your judicial restraint
19 with regard to the warrants of attorney's fees.

20 THE COURT: I understand. All right. There's an
21 objection, Mr. Oberman, that the case is closed, that the proof
22 is closed at this point. But there is the evidence, there's
23 the testimony of your client.

24 MR. OBERMAN: Evidence of my client.

25 THE COURT: Yes. All right. What I think I will

1 probably do is, I have not had a chance other than during the
2 examination to look at the exhibits, and I want to do that. So
3 I'm going to do that. I'm going to look at the exhibits. And
4 once I've done that and considered these matters, I will,
5 Counsel, send you a memorandum outlining my determination. And
6 at that point, ask one of you to draft an order in accordance
7 with that memorandum. I think that's the best way to proceed.
8 But I am not ready to rule at this moment because I have not
9 had an opportunity to look at the exhibits. So I think that's
10 important. So I will do that.

11 And I hope, I hope to get that done this week. I
12 certainly will endeavor to try to get time to do that this week
13 because beyond this week is a little tough.

14 MR. OBERMAN: Thank you, Your Honor.

15 MR. CURRY: Thank you, Your Honor.

16 THE COURT: Having said that, do not let the fact that
17 I'm struggling with it keep y'all from having a conversation if
18 you wish.

19 MR. OBERMAN: Having a what?

20 THE COURT: Having a conversation if you wish.

21 MR. CURRY: I will certainly reach out, Your Honor.

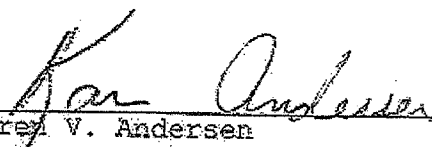
22 THE COURT: I understand. Thank you so much.

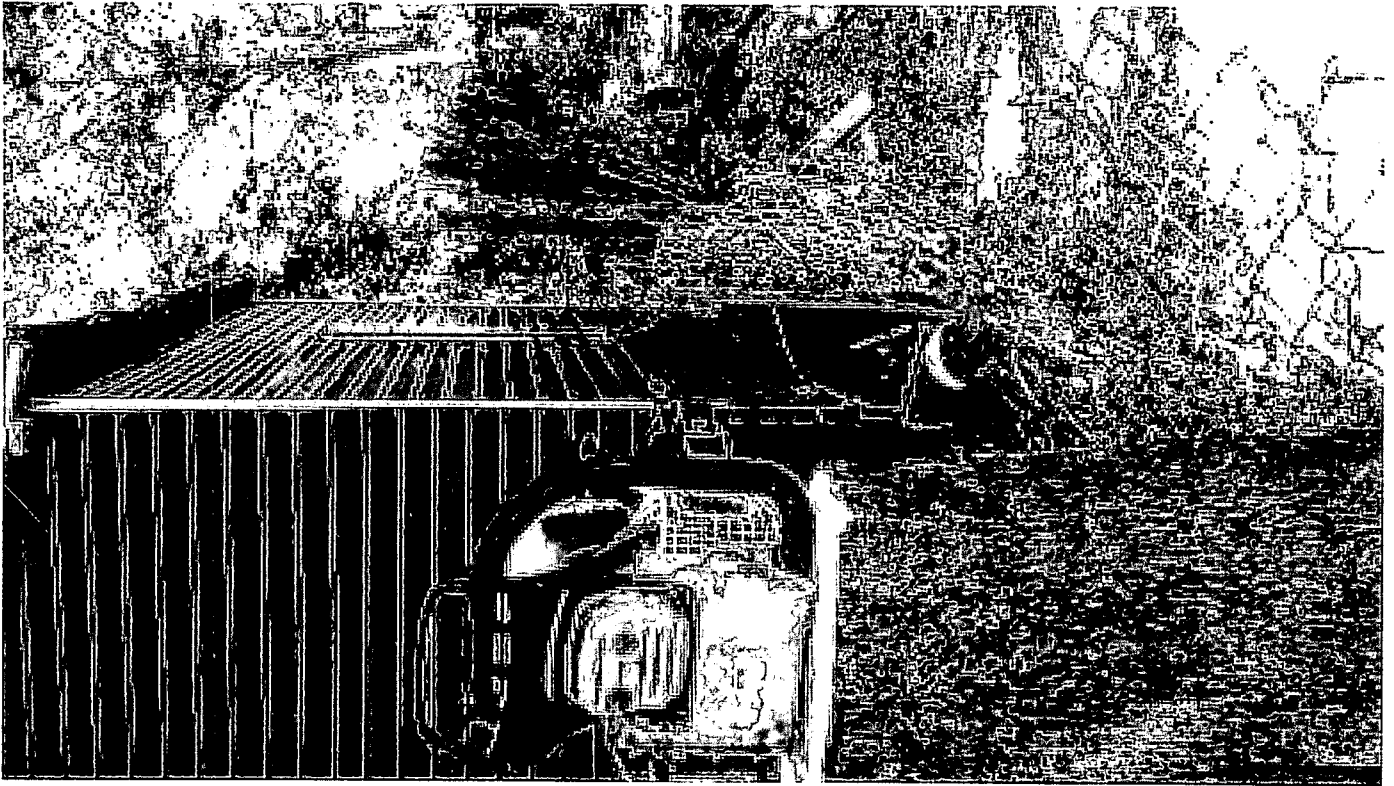
23 (Whereupon, proceedings are adjourned.)
24
25

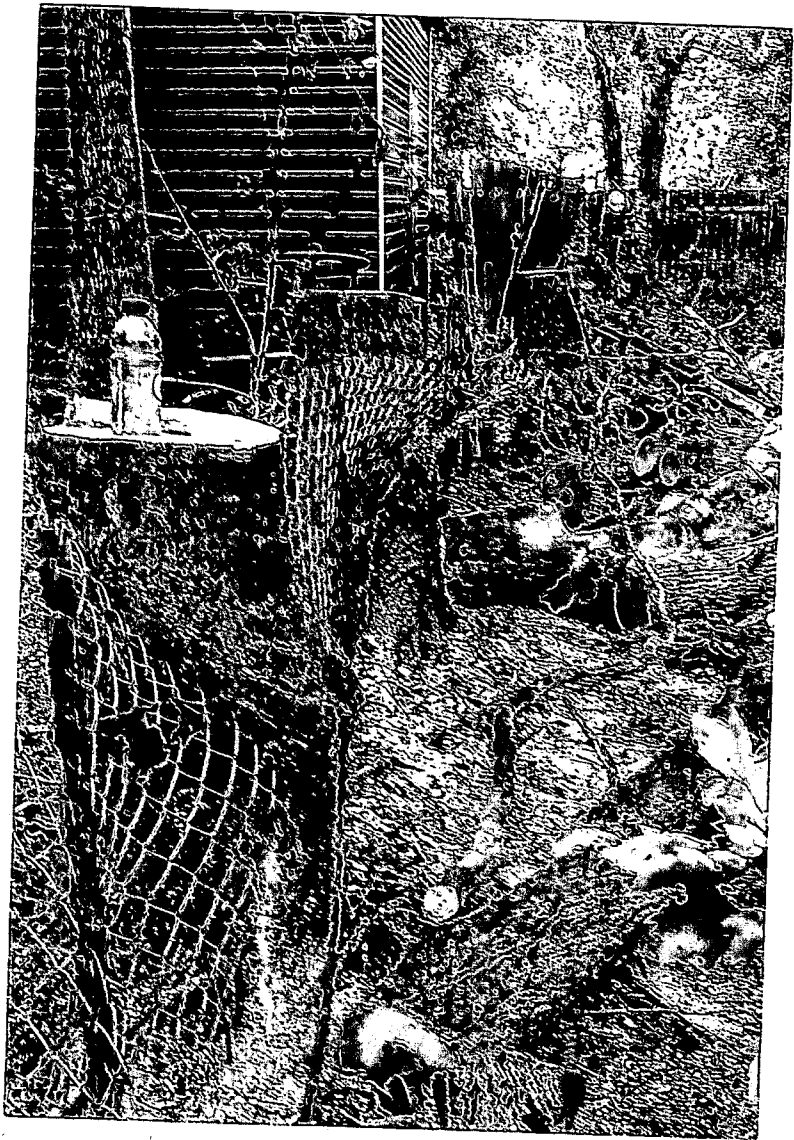
CERTIFICATE OF REPORTER

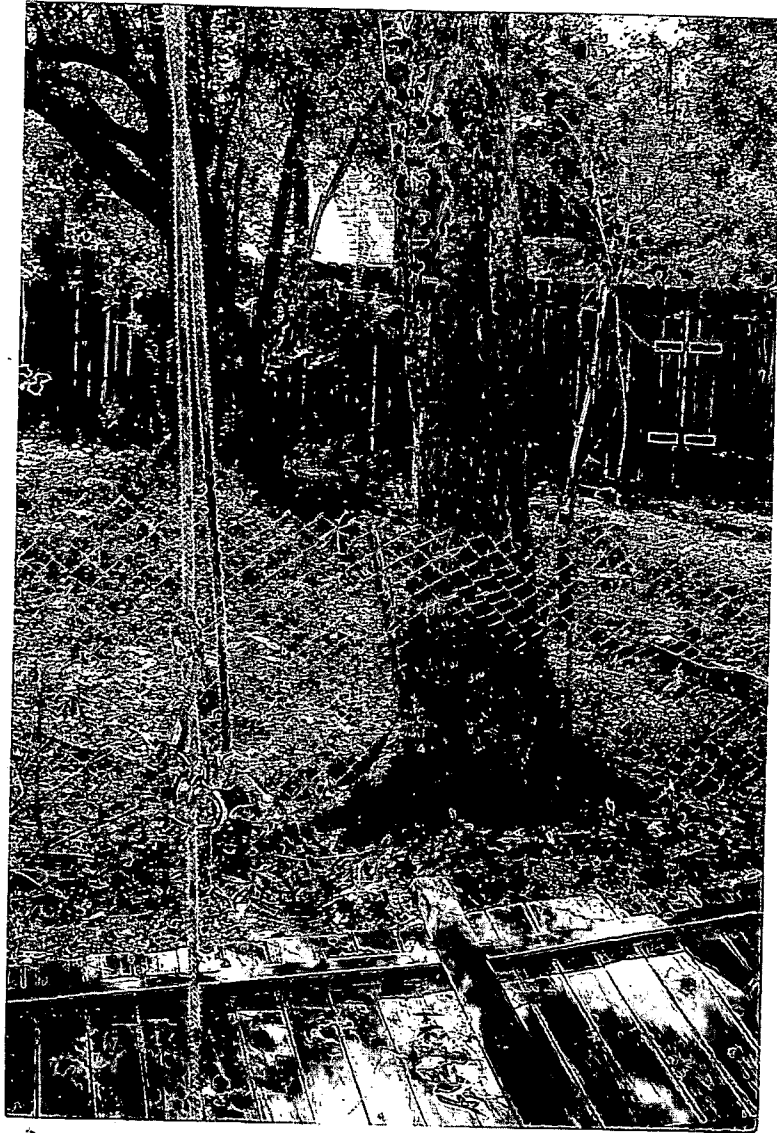
I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime Reporter for the State of South Carolina at
Large, do hereby certify that the foregoing transcript is a
true, accurate and complete Transcript of Record of the
proceedings.

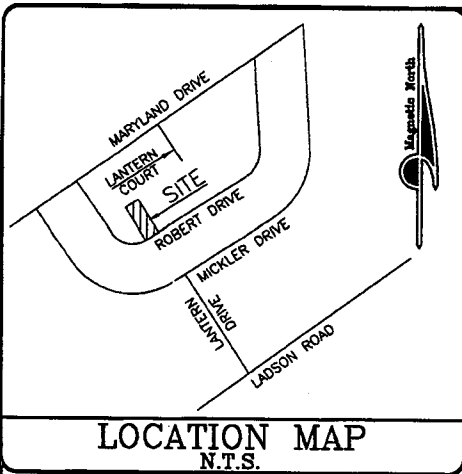
I further certify that I am neither related to nor
counsel for any party to the cause pending or interested in the
events thereof.


Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter



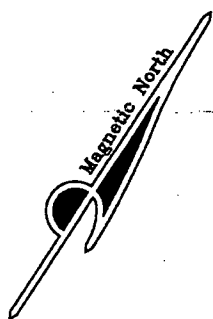






THIS LOT IS LOCATED IN
FLOOD ZONE X
SEE FIRM PANEL 45035C 0407 E **LOT 205**
MAP REVISED 07/18/201

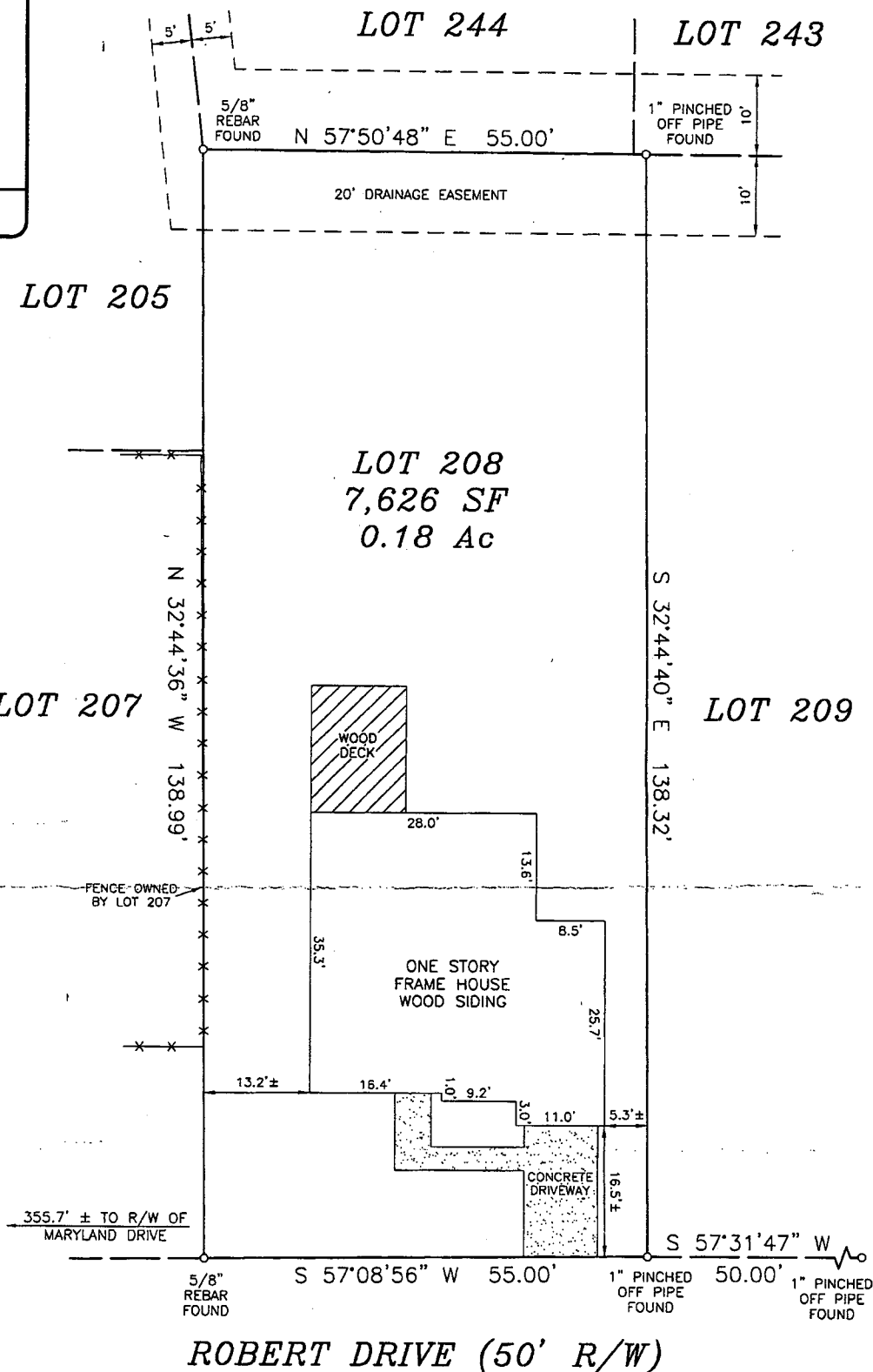
117 ROBERT DRIVE
T.M.S. 154-10-15-019
THE SAME BEING SHOWN AS
LOT 208, PHASE 4, ON A PLAT OF
MOSS POINTE SUBDIVISION
DATED NOVEMBER 18, 1982
BY E.M. SEABROOK, JR.
AND RECORDED IN THE RMC OFFICE
FOR DORCHESTER COUNTY
IN PLAT CABINET D, AT PAGE 267.



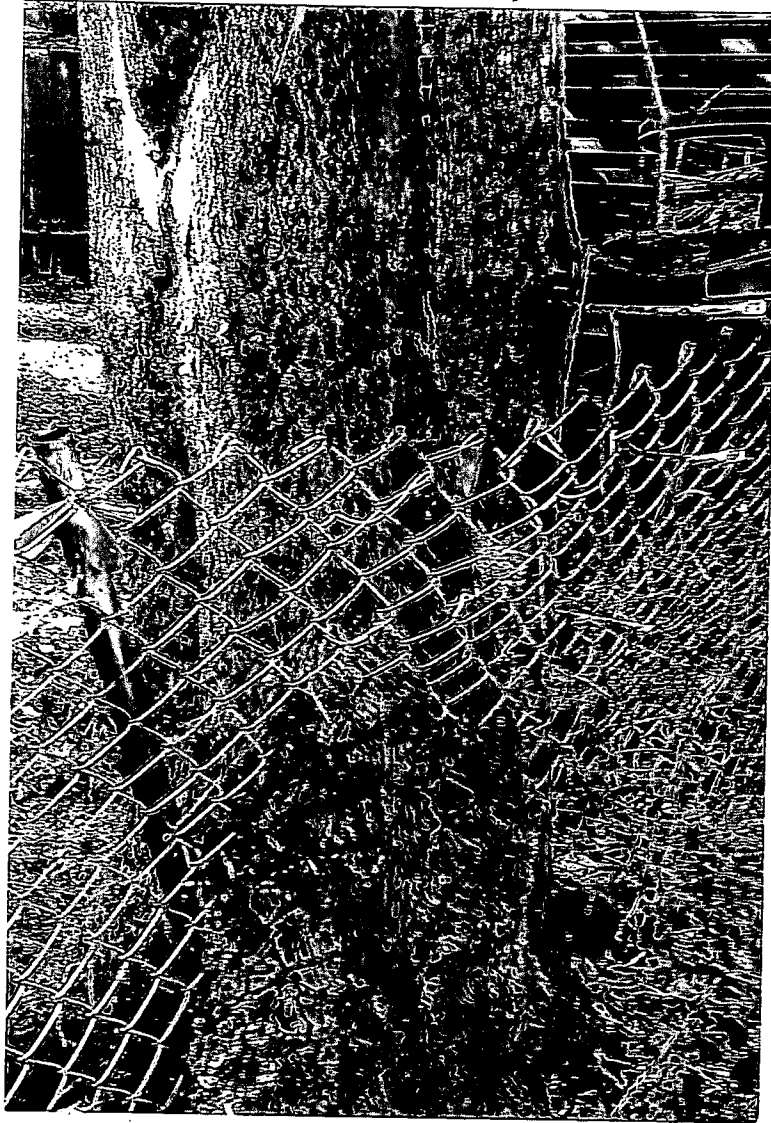
LOT 207

LOT 208
7,626 SF
0.18 Ac

LOT 209







General Warranty Deed

SN 377910201

State of South Carolina

County of Dorchester

Parcel ID Number: 154-19-15-020
Grantee #1 (76)
Grantee #2 (12)

RECORDED
RMC / RDC

SEP-9 AM 8:31

LINDA T. MESSERVY
DORCHESTER COUNTY, SC

Know All Men By These Presents, That
JULIAN B. GLOVER

(hereinafter referred to as "GRANTOR") in consideration of the sum of

SEVENTY THOUSAND AND 00/100 (\$70,000.00) ***
paid at and before the sealing of these presents, by DAVID H. BEVLINS

(hereinafter referred to as "GRANTEE") the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, released, and in any way conveyed, grant, bargain, sell and release unto the said Grantee, and the Grantee's heirs and assigns forever, all of the said land and interest,

ALL that lot, piece or parcel of land, situate, lying and being in Dorchester County, S.C. and known and designated as Lot 20" as shown on a plat entitled "Plat of Lots 1-12, 96-122, and 193-207, Moss Pointe, Phase 3, Dorchester County, SC" prepared by E.M. Seabrook, Jr., Inc., dated November 17, 1982, and recorded in the RMC Office for Dorchester County in Cabinet D, at Page 245. Said lot having such size, shape, dimensions, buttings and boundings as shown on said plat, reference to which is hereby made for a more complete description.

SUBJECT to any and all easements and restrictions of record.

BEING the same property conveyed to the Grantor herein by deed from RAC Enterprises, Inc., dated December 13, 1983, and recorded December 14, 1983, in the RMC Office for Dorchester County in Book 505, at Page 638.

Grantee's address: 113 Robert Drive, Ladson, SC 29106

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
Filed for record this 8th
Day of September, 2003
at 8:31 PM and recorder
in book 3778 page 201
LINDA T. MESSERVY
REGISTER OF MESSE CONVEYANCES

DORCHESTER COUNTY
St. Deed Rec Fee \$5.00
Gr Cu Deed Rec Fee \$2.00
Filing Fee \$1.00
Exemption #
LINDA T. MESSERVY
Register of Messe Conveyances

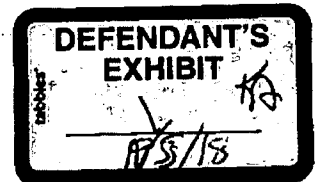
Together with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in any way incident or appertaining.

To Have and to Hold all and singular the said Premises before mentioned unto the said Grantee, and the Grantee's heirs and assigns forever. And, Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's heirs and assigns, against the Grantor and the Grantor's heirs and assigns and against every person whosoever lawfully claiming or to claim, the same or any part thereof.

Witness the Hand and Seal of the Grantor this 28th day of August, 2003.
Signed, sealed and delivered in our presence:

[Signature]
[Signature]

[Signature]
JULIAN B. GLOVER
J.B.G.



State of South Carolina
County of Charleston

Personally appeared before me the undersigned witness and made oath that he saw the within named Grantor sign, seal and deliver the within written Deed for the uses and purpose therein and that he with the other witness whose signature appears above witnessed the execution thereof.
SWORN to before me on August 28th, 2003

[Signature]
Notary Public for South Carolina (SEAL)

[Signature]
[Signature]

My Commission Expires: 03/28/07

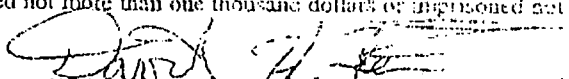
BM 377816202

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

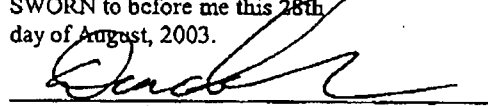
AFFIDAVIT

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 Julian G. Glover to David H. Bevins on August 28, 2003.
3. 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 stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust.
 - (c) EXEMPT from the deed recording fees because (exemption # _____)
(Explanation if required) _____
(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 to the amount of \$70,000.00.
 - (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 (if no amount place zero)
 - (c) Subtract Lines 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: Grantee
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 No. _____, Personally appeared before me the undersigned attorney, who, being duly sworn, certifies 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 Representative in the Estate of _____, deceased, and that the grantees 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.


David H. Bevins, Grantee

SWORN to before me this 28th
day of August, 2003.


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3/28/07

=====
RETURN TO:

98-682 JSC/lde

J. STANLEY CLAYPOOLE, P.A.
ATTORNEY AT LAW
2155 NORTHPARK LANE
N. CHARLESTON, S.C. 29406

FILED-RECORDED

SEP 15 9 27 AM '98

LINDA MESSERVY
REGISTER
MESNE CONVEYANCES
DORCHESTER COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF Dorchester)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT

BRADLEY E. BUNTON

(hereinafter referred to as grantor in the State aforesaid for/and
in consideration of the sum of:

FORTY SEVEN THOUSAND FIVE HUNDRED and 00/100-----
(\$47,500.00)-----DOLLARS

to me in hand paid at and before the sealing of these presents by:

KIMBERLY D. WASHINGTON

hereinafter referred to as GRANTEE(S) in the State aforesaid, 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 GRANTEE'S his/her heirs and assigns the
following described real property, to-wit:

DORCHESTER COUNTY

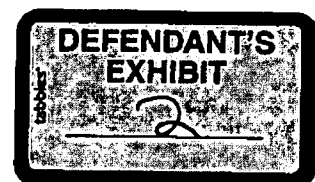
SEE ATTACHED EXHIBIT "A"

Lot 208, Moss Pointe
117 Robert Dr., Ladson, SC 29456

SC Deed Rec Fee 123.50
Dor Co Deed Rec Fee 52.25
Filing Fee 17.00
Exemption #

LINDA T. MESSERVY
Register of Mesne Conveyances

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



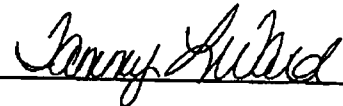
TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said Grantee(s) his/her heirs and assigns forever.

AND I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend, all and singular, the Premises unto the said Grantee(s), his/her Heirs and Assigns, against me and my Heirs, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal this September 11, 1998.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF





 (L.S.)
BRADLEY B. BUNTON

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me the undersigned notary and I do hereby certify that the above named Grantee(s) personally appeared before me this day and that the above named Grantee(s) acknowledged the due execution of the foregoing instrument.

SWORN to before me this September 11, 1998

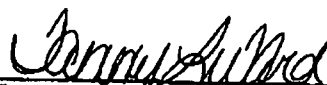
 (SEAL)
Notary Public For South Carolina
My Commission Expires: 11-16-03

Exhibit "A"

ALL that piece, parcel or lot of land, situate, lying and being in the County of Dorchester, State of South Carolina, and known and designated as Lot 208, Moss Pointe, Phase 4, as shown on a plat by E.M. Seabrook, Jr., Inc., dated November 18, 1982 and recorded in the RMC Office for Dorchester County in Plat Cabinet D, Page 267. Said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

SUBJECT TO:

Restrictive Covenants and amendments thereto recorded in the RMC Office for Dorchester County in Book 488, page 262 and re-recorded in Book 498, Page 238.

Right of Way to South Carolina Electric and Gas Co. recorded in the RMC Office for Dorchester County in Book 176, Page 145.

Ten (10') foot drainage easement along the rear lot line as shown on that certain plat recorded in the RMC Office for Dorchester County in Plat Book D, Page 267.

BEING the same premises conveyed to the grantor herein by deed of Monty B. McNutt and Connie S. McNutt, dated October 26, 1993 and recorded in the RMC Office for Dorchester County in Book 1225, page 174.

TMS# 154-10-15-019

Grantee's Address: 117 Robert Dr.
Ladson, SC 29456

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
Filed for record this 15th day of Sept 1998
at 9:27 A M and recorded
in Book 2037 page 43
LINDA T. MESSERVY
REGISTER OF MIDDLE CONVEYANCES

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) AFFIDAVIT

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. Property located at: Lot 208, Moss Pointe
also known as: 117 Robert Dr., Ladson, SC 29456
County TMS#: 154-10-15-019,
Transferred by: BRADLEY E. BUNTON
Transferred to: KIMBERLY D. WASHINGTON
Dated: September 11, 1998.
3. Check one of the following: The DEED is
 - (a) XX 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 transfer to a trust or as a distribution to a trust beneficiary.
 - (c) _____ EXEMPT from the deed recording fee because (exemptions 1-12) (if exempt, please skip items 4-7, and go to item 8 of this affidavit)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (a) xx The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$47,500.00.
 - (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 xx 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) 47,500.00 the amount listed in item 4 above.
- (b) -0- the amount listed in item 5 above
(no amount place zero)
- (c) 47,500.00 Subtract Line 6(b) from
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

_____ SELLERS of the Property _____ PURCHASERS of the property.

XX CLOSING ATTORNEY _____ (Other)

I further 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.

J. STANLEY CLAYPOOLE
CLOSING ATTORNEY

SWORN to before me September 11, 1998

Notary Seal (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
Commission expires: 11-16-03



Recording Date: 02/02/2015

Instrument: 103

Book: 9600 Page: 6-10

FILED-RECORDED
RMC / ROD

2015 Feb 02 AM 11:35:17

DORCHESTER COUNTY

SC Deed Rec Fee: .00

Dor Co Deed Rec Fee: .00

Filing Fee: 10.00

Exemption #: 1

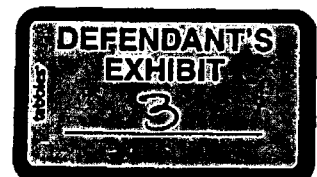
MARGARET L. BAILEY

Register of Deeds



THIS PAGE IS HEREBY ATTACHED AND MADE PART OF
THE PERMANENT RECORD OF THIS DOCUMENT. IT IS
NOT TO BE DETACHED OR REMOVED AND MUST BE
CITED AS THE FIRST PAGE OF THE RECORDED
DOCUMENT. THE TOP OF THE PAGE IS TO BE USED FOR
RECORDING PURPOSES AND IS NOT TO BE USED FOR
ANY OTHER PURPOSE.

REGISTER OF DEEDS
DORCHESTER COUNTY SOUTH CAROLINA
MARGARET L. BAILEY, REGISTER
POST OFFICE BOX 38
ST. GEORGE, SC 29477
843-563-0181 or 843-832-0181



ROA 182

FILED/RECORDED
FEBRUARY 2, 2015
DORCHESTER COUNTY
REGISTER OF DEEDS

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
TITLE TO REAL ESTATE
(General Warranty)

KNOW ALL MEN BY THESE PRESENTS, THAT, I, KIMBERLY D. WASHINGTON, (the "Grantor"), in the State aforesaid, for and in consideration of the sum of ten (\$10.00) dollars and love and consideration to Grantor in hand paid at and before the sealing of these presents by MARY GREENE-MACKEY, 117 Robert Drive, Ladson, SC 29456 (the "Grantee"), in the state aforesaid, the receipt of which is acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release, subject to the easements, restrictions, reservations and conditions set forth herein, the Grantor's undivided interest unto the said Grantee, her heirs and assigns, in and to the following described property, to wit:

See Attached Exhibit "A"

Being the same property conveyed to Grantor herein by deed of Bradley E. Bunton, signed September 11, 1998 and recorded September 15, 1998, in Deed Book 2037, at page 043, in the RMC Office for Dorchester County, South Carolina.

TMS # 154-10-15-019

Grantee's Address: 117 Robert Drive, Ladson, SC 29456

RETURN TO:

This deed is prepared by Michael C. Sgobbo, Esquire, 852 Orleans Rd., Chas., SC 29407.

THIS CONVEYANCE IS MADE SUBJECT TO all other easements and restrictions of record and otherwise affecting the property.

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 before mentioned unto the Grantee, her heirs and assigns forever; subject, however, to the rights, conditions and restrictions that constitute covenants running with the land, all as set forth herein.

AND the Grantor does hereby bind herself and her successors, heirs, executors, administrators and assigns to warrant and forever defend all and singular the said premises unto the Grantee, her heirs and assigns, against Grantor and her successors and assigns, and all persons whomsoever lawfully claiming or to claim the same, or any part thereof.

Return to: Michael Sgobbo, Esq.
852 Orleans Rd
Charleston SC 29407

IN WITNESS WHEREOF I, KIMBERLY D. WASHINGTON, have hereunto set my hands and seal this 22 day of January, 2015.

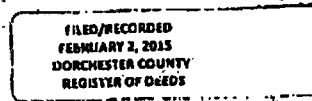
Signed, sealed and delivered
in the presence of:

GRANTOR

Debra Fuller
[Signature]

[Signature]
KIMBERLY D. WASHINGTON

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)



Personally appeared before me this the 22 day of January, 2015, who, on oath says that s/he saw the within Grantor, KIMBERLY D. WASHINGTON, sign, seal, and as his/her act and deed, deliver the within written instrument, and that s/he, with Michael C. Sgobbo, witnessed the execution thereof.

Debra Fuller

SWORN to before me this 22
day of January, 2015

[Signature]
Notary Public for South Carolina
My commission expires: June 23, 2019

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

AFFIDAVIT

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 Kimberly D. Washington To Mary Greene-Mackey On January 22, 2015
3. Check on 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) XX EXEMPT from the deed recording fee because #1 NO consideration
(Explanation If required) Value less than \$100.00
(If exempt, please skip items 4-6, and go to item 7 of affidavit.)
4. Check on 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) \$0.00 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. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____
8. As required by Code Section '12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantee
9. 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 22 day
of January, 2015

Notary Public for South Carolina
my commission expires: June 23, 2019

Mary Greene Mackey
Grantor, Grantee, or legal
representative
connected with this transaction

EXHIBIT "A"

ALL that piece, parcel or lot of land, situate, lying and being in the County of
Dorchester, State of South Carolina, and known and designated as Lot 208, Moss
Pointe, Phase 4, as shown on a plat by E. M. Seabrook, Jr., Inc., dated November 18,
1982 and recorded in the RMC Office for Dorchester County in Plat Cabinet D, Page
267. Said lot having such size, shape, dimensions, buttings and boundings as will by
reference to said plat more fully appear.

SUBJECT TO:

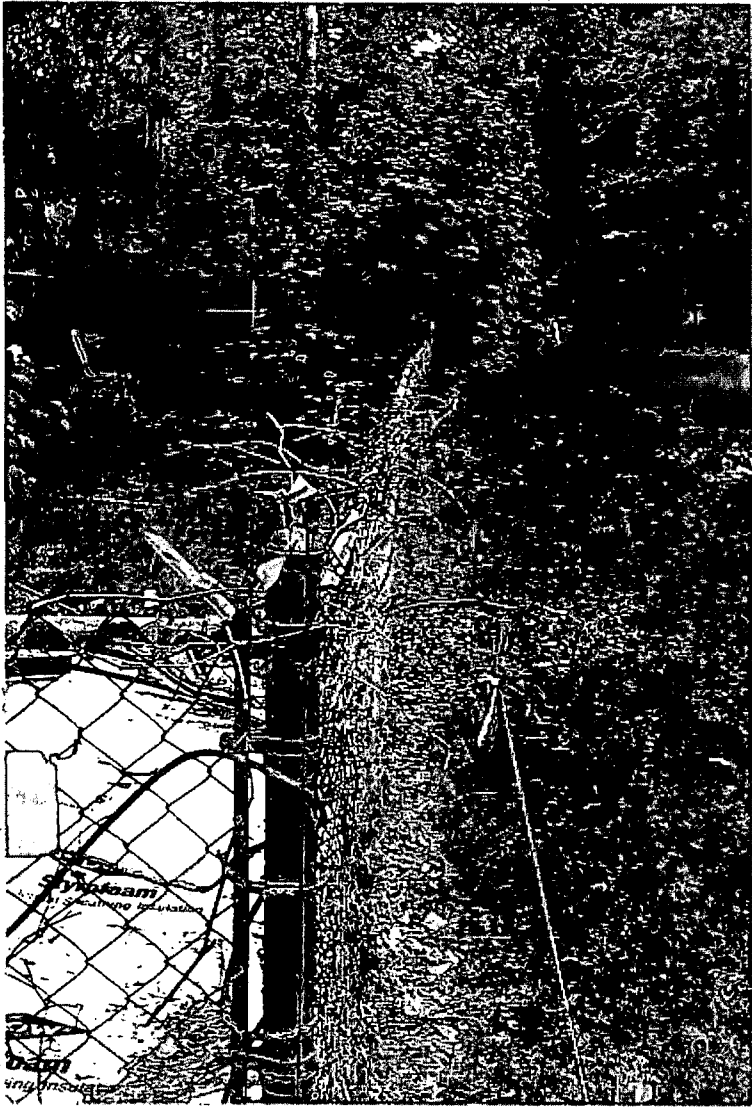
Restrictive Covenants and amendments thereto recorded in the RMC Office for
Dorchester County in Book 488, page 262 and re-recorded in Book 498, Page 238.

Right of way to South Carolina Electric and Gas Co. recorded in the RMC Office for
Dorchester County in Book 176, Page 145.

Ten (10') foot drainage easement along the rear lot line as shown on that certain plat
recorded in the RMC Office for Dorchester County in Plat Book D, Page 267.

TMS# 154-10-15-019

Grantee's Address: 117 Robert Drive
Ladson, SC 29456





CURVE	ARC LENGTH	RADIUS	DELTA ANGLE
C1	45.27'	100.00'	25°56'10"

LINE	BEARING	DISTANCE
L1	N 50°12'57" E	19.96'



LOT 205
TMS 154-10-15-022
STEPHEN L GIBBS

LOT 208
TMS 154-10-15-022
STEPHEN L GIBBS

LOT 207
5573.7 Sq. Feet
0.13 Acres

LOT 206
TMS 154-10-15-021
ARLYN TODD PODERCAST

VINYL CLAD HOUSE
113 ROBERT DRIVE

ROBERT DRIVE 50' R/W

LAUSON
DORCHESTER CO
SOUTH CAROLINA
JOB NO: 2015-11
DECEMBER 7, 20

RD. BEARING	CHORD LENGTH
1°57'11" W	44.88'

NOTES

- 1) TMS NO. 154-10-15-020 OWNED BY DAVID H-BEVINS
- 2) ZONED R-2
- 3) THIS PROPERTY IS LOCATED IN FLOOD ZONE X, AS PER FIRM PANEL NO. 4508026SC, DATED APRIL 15, 1994
- 4) THIS PROPERTY WAS SURVEYED BY REFERENCE PLATS AND FIELD NOTES TO THE SURETY COMPANY PERFORMED BY ME FOR THIS COMPANY AS TO THE CLEAR TITLE TO THE PROPERTY.
- 5) THIS PROPERTY MAY BE SUBJECT TO OTHER UTILITY EASEMENTS, SUCH AS STORM SEWER, SANITARY SEWER, ELECTRIC, AND/OR TELEPHONE, THAT WERE NOT FOUND BY THE REFERENCE DEEDS OR PLATS NOTED HEREON. THIS PLAT DOES NOT DEFINE OR ADDRESS ANY SUBTERRANEAN CONDITIONS OF ANY OF THESE EASEMENTS, UNLESS NOTED SPECIFICALLY HEREON.
- 6) IF THE SIGNATURE UPON THIS PAPER IS NOT IN RED INK ALONG WITH A RAISED EMBOSSED SEAL THIS DOCUMENT IS NOT AN ORIGINAL SURVEY. VIEWER MAY BE WARY OF ITEMS THAT MAYBE ADDED AND OR CHANGED FROM THE ORIGINAL DRAWING.

LOCATION MAP N.T.S.



PLAT OF 0.13 ACRES LOT 207, 113
ROBERT DRIVE IN MOSS POINTE
SUBDIVISION SURVEYED FOR DAVID
BEVINS

REFERENCE
1) PLAT BY E.M. SEABROOK
JR DATED MARCH 21, 1983
PLAT BOOK D PAGE 267
2) PLAT BY E.M. SEABROOK
JR DATED JANUARY 6, 1983
PLAT BOOK D PAGE 245

I, JOHN DAVID BASS, HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THAT THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. THERE ARE NO VISIBLE TO THE SURVEYOR WHEN ON THE ENCROACHMENTS OR PROJECTIONS OTHER THAN THOSE NOTED ABOVE.



JOHN DAVID BASS, P.E.
S.C. REGISTRATION NO. 13388

JOHN DAVID BASS, PLS.
S.C. REGISTRATION NO. 15388
Richard Bass 5/2/2017

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

2016OR1810300045
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

SUMMONS
(RESTRAINING ORDER)
(Harassment and Stalking)

Mary Mackey

PLAINTIFF(S)

VS.

David Bevins
113 Robert Dr

Ladson, SC 29456

DEFENDANT(S)

TO: David Bevins , Defendant:

The above named Plaintiff having filed a Petition for Restraining Order, copy attached:

YOU ARE HEREBY SUMMONED TO APPEAR before the:

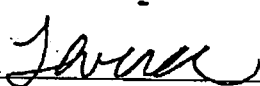
Summerville Magistrate
212 Deming Way, Box 10
Summerville, SC

on July 19, 2016 at 10:00 AM to show cause why the Restraining Order prayed for by the Petitioner should not be granted.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.

NOTICE: THE NON-PREVAILING PARTY IN THIS ACTION IS ASSESSED A FILING FEE OF FIFTY-FIVE DOLLARS (\$55.00). THE COURT MAY HOLD A PERSON IN CONTEMPT OF COURT FOR FAILURE TO PAY THIS FILING FEE. §16-03-1750(D).

July 8, 2016



(MAGISTRATE)

DEFENDANT'S
EXHIBIT

2016 JUL -8 AM 9:56

CLERK OF COURT
CIVIL PROCESS

STATE OF SOUTH CAROLINA)

COUNTY OF Dorchester)

IN THE MAGISTRATES COURT

Mary Mackey)

PLAINTIFF(S))

VS.)

David Bevins)

DEFENDANT(S))

COMPLAINT AND MOTION
FOR RESTRAINING ORDER
(Harassment and Stalking)

CIVIL CASE NUMBER _____

The Plaintiff alleges:

1. The Plaintiff lives in Dorchester County.
2. The Defendant lives at 113 Robert Drive, which is in Dorchester County, SC.
3. The Harassment First or Second Degree or Stalking occurred in Dorchester County, SC.
4. Plaintiff further alleges that the following conduct occurred by the defendant on the times, dates, and places listed below, and such conduct falls within the definition of:
☒ HARASSMENT, FIRST DEGREE (§16-3-1700 (A)), or
☐ HARASSMENT, SECOND DEGREE (§ 16-3-1700 (B)), or
☐ STALKING (§ 16-3-1700 (C)).

5. June 13, 2016, at 5 O'clock, A.M./P.M. (circle one), at 117 Robert Drive, which is in Dorchester County, SC, the conduct complained of occurred when the defendant:

CAME out of 113 Robert Dr., yelling & shouting that this is his property, the fence (chain link), and that it is on record

On May 18, 2016, at 6:52 O'clock, A.M./P.M. (circle one), at 117 Robert Drive, which is in Dorchester County, SC, the conduct complained of occurred when the defendant:

CAME out of 113 Robert Dr., yelling & shouting about my property being his, asked my no trespassing sign

SCCA/749 (Amended 5/08)

On May 14, 2016, at 11:54 O'clock, A.M. (circle one), at 117 Robert Drive, which is in Dorchester County, SC, the conduct complained of occurred when the defendant: Cutting grass along the chain link fence in my yard claiming that that area is his.

(State details of harassment/stalking and other facts and circumstances upon which relief is sought above. Attach additional sheets if necessary.)

6. Plaintiff requests: (Check one or more)

- ☒ a. That the defendant be enjoined from abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family.
- ☒ b. That the defendant be enjoined from entering or attempting to enter the plaintiff's place of residence, employment, education, or other location.
- ☒ c. That the defendant be enjoined from communicating or attempting to communicate with the plaintiff in a way that would violate Article 17, Chapter 16 of the 1976 South Carolina Code of Laws, as amended.

SWORN to and Subscribed before me

This 6th day of July, 2016.

Kimberly J. Carter

Notary Public for South Carolina

My Commission expires: July 17, 2016

Mary L. Moore Mackay
Signature of Plaintiff or Person Filing
on Behalf of Plaintiff

NOTICE: THE NON-PREVAILING PARTY IN THIS ACTION IS ASSESSED A FILING FEE OF EIGHTY DOLLARS (\$80.00). THE COURT MAY HOLD A PERSON IN CONTEMPT OF COURT FOR FAILURE TO PAY THIS FILING FEE. §16-03-170(D).

NOTICE TO DEFENDANT: YOU HAVE THE RIGHT TO EMPLOY COUNSEL TO REPRESENT YOU.

SCCA/749 (Amended 5/08)

DORCHESTER COUNTY

DEFENDANT'S NAME David Bevins

DATE OF BIRTH 6/17/66 SOCIAL SECURITY # _____

ADDRESS 113 Robert Dr.

Ladson, S.C. 29456

PHONE NUMBER _____

PLACE OF EMPLOYMENT _____

ADDRESS _____

PHONE NUMBER _____

HEIGHT 5'9" WEIGHT 170 RACE white

HAIR COLOR Black/white EYE COLOR _____

MAKE AND COLOR OF CAR white / truck TAG NUMBER _____

WORKING HOURS _____

DEFENDANT IS HOME BEFORE _____ AFTER _____

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
The Honorable Diane S. Goodstein, Circuit Court Judge

RECEIVED
APR 22 2019
SC Court of Appeals

Appellate Case No. 2018-001372
Common Pleas Case No.: 2016-CP-18-2123

Mary Greene Mackey.....Appellant

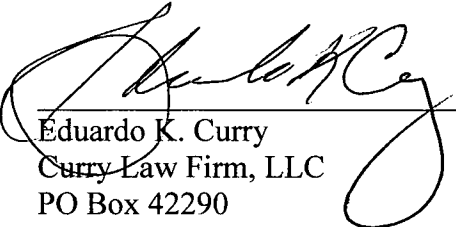
vs.

David Bevins Respondent

CERTIFICATE OF COUNSEL

The undersigned certified that the **Record on Appeal** contains all material proposed to be included by any of the parties and not any other material.

April 15, 2019


Eduardo K. Curry
Curry Law Firm, LLC
PO Box 42290
North Charleston, SC 29423
(843) 767-5284