

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2019-000030

Shawonder Scott,

Appellant,

vs.

Curtis McAlister, Acquana McAlister,
Norma L. Cyrus, Tax Collector for
Williamsburg County, the County of
Williamsburg, an Unincorporated
Subdivision of the State of South Carolina,
Hartwell Pendergrass, Sr., and
Hattie S. Pendergrass, Defendants,

Of whom Norma L. Cyrus, Tax Collector
For Williamsburg County, and the County
of Williamsburg, an Unincorporated
Subdivision of the State of South Carolina,
are

Respondents.

RECEIVED
JUN 21 2019
SC Court of Appeals

RECORD ON APPEAL
VOLUME I

Dwight C. Moore, SC Bar No. 63008
Moore Law Firm, L.L.C.
26 North Main Street
Post Office Box 1229
Sumter, South Carolina 29151-1229
Telephone (803) 778-6520
Fax (803) 775-6365
Email: moorelawfirm@ftc-i.net
Attorney for Appellant

Other Counsel of Record:

William E. Jenkinson, III, SC Bar No.: 2984
Email: billy@jenkinsonlaw.com
Williams Evan Reynolds, SC Bar No.: 102352
Email: evan@jenkinsonlaw.com
Jenkinson, Jarrett & Kellahan, PA
P. O. Drawer 669
120 West Main Street
Kingstree, SC 29556
Telephone (843) 355-2000
Fax (843) 355-2010
Attorneys for Respondents Norma L. Cyrus and
County of Williamsburg

Willie H. Brunson, SC Bar No.: 71990
Brunson Law Firm, LLC
425 North Main Street
Sumter, SC 29150
Telephone (803) 774-3444
Fax (803) 774-3448
Email: wbrunson@thebrunsonlawfirm.com
Attorney for Respondents Curtis McAlister and
Acquana McAlister

Harriet Lynae Huell Lampkin, SC Bar No.: 100312
Lampkin Law Firm, L.L.C.
P. O. Box 843
Blythwood, SC 29016
Telephone (803) 920-1003
Email: harriet@lampkinlawfirm.com
Attorney for Respondents Hartwell Pendergrass, Sr., and
Hattie S. Pendergrass

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)
)
 Shawonder Scott,)
)
 PLAINTIFF,)
)
 vs.)
)
 Curtis McAlister, Acquana McAlister,)
 Norma L. Cyrus, Tax Collector for)
 Williamsburg County, the County of)
 Williamsburg, an Unincorporated)
 Subdivision of the State of South Carolina,)
 Hartwell Pendergrass, Sr., and)
 Hattie S. Pendergrass,)
)
 DEFENDANTS.)
)

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2015-CP-45-401

ORDER PURSUANT TO DEFENDANTS',
 NORMA L. CYRUS AND WILLIAMSBURG
 COUNTY, MOTION FOR SUMMARY
 JUDGMENT

HEARING DATE:
 PRESIDING JUDGE:
 ATTORNEY FOR PLAINTIFF:
 ATTORNEY FOR DEFENDANTS
 ACQUANA MCALISTER AND
 CURTIS MCALISTER:
 ATTORNEY FOR DEFENDANTS
 HARTWELL PENDERGRASS, SR.
 AND HATTIE S. PENDERGRASS:
 ATTORNEY FOR DEFENDANTS
 WILLIAMSBURG COUNTY AND
 NORMA L. CYRUS:
 COURT REPORTER:

September 27, 2018
 George M. McFaddin, Jr.
 Dwight C. Moore

Willie H. Brunson

Harriet Lynae Huell Lampkin

W. Evan Reynolds
 Frances B. Ray

THIS MATTER comes before the Court upon Defendants', Williamsburg County and Norma L. Cyrus, motion to amend the Defendants answer based on Rule 15 of the South Carolina Rules of Civil Procedure and motion for summary judgment based on Rule 56 of the South Carolina Rules of Civil Procedure, South Carolina Public Duty Doctrine, South Carolina Torts Claims Act §15-78-10, et seq., and South Carolina case law as incorporated in said Defendants Memorandum in Support of Summary Judgment.

Present at the hearing was counsel for the Plaintiff, Dwight C. Moore. Present was counsel for the Defendants, Curtis McAlister and Aquana McAlister, Willie H. Brunson. Present was counsel for the Defendants, Hartwell Pendergrass, Sr. and Hattie S. Pendergrass, Harriet Lynae Huell Lampkin. Present was counsel for the Defendants, Williamsburg County and Norma L. Cyrus, W. Evan Reynolds.

The Court heard oral arguments as to both motions from the parties, reviewed the case file and the documents presented to the Court, to include the Defendants', Williamsburg County and Norma L. Cyrus, Memorandum in Support of Summary Judgment and the Plaintiff's Reply to Defendants', Williamsburg County and Norma L. Cyrus, Motion for Summary Judgment.

Based on the arguments of counsel and the evidence presented, the Court finds it is not necessary to rule on said Defendants' motion to amend answer as the Court finds that there is no genuine issues as to any material fact and that said Defendants are entitled to a judgment as a matter of law based on the motion for summary judgment.

The Court finds that under the South Carolina's public duty doctrine, public officials are not liable to individuals for their negligence in discharging public duties as the duty is owed to the public at large rather than to anyone individually. *Tanner v. Florence Co. Treasurer, et al.*, 336 S.C. 552, 521 S.E.2d 153 (S.C. 1999); *Jensen v. Anderson County Dep't of Soc. Servs.*, 304 S.C. 195, 403 S.E.2d 615 (S.C. 1991). However, an affirmative legal duty may be created by statute, contract relationship, status, property interest, or some other special circumstance. *Id.* All requirements of law leading up to tax sales are intended for the protection of the taxpayer against surprise or the sacrifice of his property and are regarded as mandatory and are strictly enforced. *Dibble v. Bryant*, 274 S.C. 481, 265 S.E.2d 673 (1980). Failure to give the required notice is a fundamental defect in the tax proceedings which renders the proceedings absolutely void.

Donohue v. Ward, 298 S.C. 75, 378 S.E.2d 261 (Ct.App.1989). The Court will set aside sales where S.C. Code Ann. §12-51-40 has not been complied with by public officials. *Snelgrove v. Lanham*, 298 S.C. 302, 379 S.E.2d 904 (1989).

In the current case, Plaintiff asserts that the Defendants, Norma L. Cyrus and Williamsburg County, are liable to her for violating S.C. Code §12-51-40, by not providing her with notice of the delinquent taxes, the sale of the property and the opportunity to redeem the subject property located at 196 Gausetown Road in Kingstree, South Carolina. In *Tanner*, the South Carolina Supreme Court indicated that the notice provision of S.C. Code §12-51-40 creates a special duty to the owner of property so as to provide him or her with notice to protect the taxpayer against surprise or the sacrifice of his or her property. However, the Plaintiff does not fall under the public duty exception, nor is she owed this special duty. The Plaintiff is not the defaulting taxpayer of record, nor the owner of record, nor the grantee of record in regards to the subject property. Therefore, the Plaintiff lacks standing, and is not owed any duty from the Defendants, Williamsburg County and Ms. Norma Cyrus, under S.C. Code §12-51-40 in regards to the subject property.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. The Defendants, Williamsburg County and Norma L. Cyrus, motion for summary judgment as to all causes of action asserted against said Defendants by the Plaintiff is hereby granted based on the above.

IT IS SO ORDERED.

December ___, 2018
_____, South Carolina

George M. McFaddin, Jr.
Circuit Court Judge
Third Judicial Circuit



Williamsburg Common Pleas

Case Caption: Shawonder Scott VS Curtis McAlister , defendant, et al
Case Number: 2015CP4500401
Type: Order/Dismissal

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2018-12-11 10:28:12 page 4 of 4

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

FP. 514

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-45-0401

Shawonder Scott

Curtis McAlister, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ 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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ 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: **On motion of defense counsel, Willie Brunson, the Motion to be Relieved is withdrawn.**

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)
		\$
		\$
		\$

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.

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

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-Fileers 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.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Williamsburg Common Pleas

Case Caption: Shawonder Scott VS Curtis McAlister , defendant, et al
Case Number: 2015CP4500401
Type: Order/Form 4

So Ordered

s/ Clifton B. Newman, 2127.

Electronically signed on 2018-07-09 15:39:28 page 6 of 6

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)
Shawonder Scott,)
Plaintiff,)
vs.)
Curtis McAlister, Acquana McAlister,)
Norma L. Cyrus, Tax Collector for)
Williamsburg County, the County of)
Williamsburg, an Unincorporated)
Subdivision of the State of South Carolina,)
Hartwell Pendergrass, Sr., and)
Hattie S. Pendergrass,)
Defendants.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

CIVIL ACTION NO: 2015-CP-45-_____

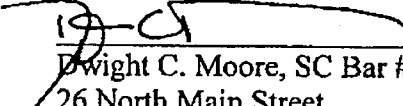
15 CP45 401

SUMMONS
(Complaint Served)

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED And required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint upon the subscriber at his office at 26 North Main Street, Sumter, South Carolina, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

MOORE LAW FIRM, L.L.C.


Dwight C. Moore, SC Bar # 63008
26 North Main Street
Post Office Box 1229
Sumter, South Carolina 29151-1229
Telephone (803) 778-6520
Fax (803) 775-6365
Attorney for Plaintiff

Sumter, South Carolina
July 22, 2015

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

CIVIL ACTION NO: 2015-CH-5-CP45 401

Shawonder Scott,
Plaintiff,

vs.

COMPLAINT
(Jury Trial Requested)

Curtis McAlister, Acquana McAlister,
Norma L. Cyrus, Tax Collector for
Williamsburg County, the County of
Williamsburg, an Unincorporated
Subdivision of the State of South Carolina,
Hartwell Pendergrass, Sr., and
Hattie S. Pendergrass,

Defendants.

Plaintiff Shawonder Scott, complaining of the Defendants, would respectfully show as follows:

FACTS

1. The Plaintiff is a resident of the County of Williamsburg, State of South Carolina.
2. The Defendants Curtis McAlister and Acquana McAlister are, upon information and belief, residents of Richland County, South Carolina.
3. The Defendant Norma L. Cyrus was, at the times alleged herein, the duly appointed and acting Tax Collector for Defendant the County of Williamsburg, an unincorporated subdivision of the State of South Carolina.
4. The Defendants Hartwell Pendergrass, Sr., and Hattie S. Pendergrass are, upon information and belief, residents of Williamsburg County, South Carolina.

5. In 1998 the Plaintiff and Defendant Curtis McAlister entered into a Contract for the sale and purchase of residential real estate (hereinafter referred to as the "Contract"); said real estate being located in Williamsburg County at 196 Gausetown Road, Kingstree, South Carolina 29556, identified as Tax Map Parcel Number 45-200-016 (hereinafter referred to as the "Property") and being described as follows:

All that certain lot of land situate in King Township, County of Williamsburg, State of South Carolina, bounded and measuring on the North by an access road, a distance of 2.22 chains; East by Carrie F. Pressley, a distance of 2.25 chains; South by Mary F. Fulton, a distance of 2.22 chains; on the West by Willie B. Scott, et al., a distance of 2.25 chains. All of which will more fully appear on a map of said lot made by J. D. Brockington, R.L.S., on February 25, 1971, and recorded in the Office of the Clerk of Court for Williamsburg County in Plat Book 19, at Page 16.

The consideration agreed upon for the sale of the property was Thirty-Five Thousand and No/100 (\$35,000.00) Dollars payable in a down payment of Four Thousand and No/100 (\$4,000.00) Dollars and the balance to be paid in monthly installments. The Plaintiff paid the down payment of \$4,000.00 and took possession of the property. Thereafter, she paid monthly installments in the amount of Three Hundred and No/100 (\$300.00) Dollars per month for seven (7) years. With the consent of Defendant Curtis McAlister, the Plaintiff then paid installments in the amount of Two Hundred and No/100 (\$200.00) Dollars per month until the balance was paid off.

6. The first year of the Contract, the Defendant Curtis McAlister paid the taxes on the property. The second year he told the Plaintiff that he needed her to pay the taxes. Thereafter, Defendant Curtis McAlister would either give the tax notices to the Plaintiff or tell her when the taxes were due, and she would pay the taxes directly to the Williamsburg County Treasurer's office. She received no re-imbursement or credit toward the purchase price for the taxes she paid on the property during the life of the Contract.

7. After she finished paying for the property, Plaintiff requested Defendant Curtis McAlister to give her a deed to the property. He refused to provide the deed and alleged that Plaintiff had not finished paying the Contract price.

8. In 2007, Defendant Curtis McAlister commenced eviction proceedings in the Williamsburg County Magistrate Court under Case Number 0108312 against the Plaintiff alleging that she had failed to make payments under her lease agreement and obtained an Order of Ejectment. The Plaintiff appealed the Order to the Circuit Court on the grounds that she and Defendant Curtis McAlister had entered into a purchase agreement for the property. On June 10, 2010, the Circuit Court Judge issued an Order Vacating the Magistrate's Eviction Order.

9. In 2010 Defendant Acquana McAlister delivered a document to the Plaintiff entitled "Lease, Basic Rental Agreement Or Residential Lease" and requested that the Plaintiff execute the document. The purported Lease reflected Curtis McAlister as Landlord and Shawonda Scott Sabb as Resident for rental of the property in the amount of \$500.00 per month commencing May 1, 2010, until November 1, 2010, and thereafter on a month-to-month tenancy. Payments were to be made at 405 Belle Claire Drive, Columbia, SC, to Acquana McAlister or Rosalind McAlister Najee. Plaintiff denied that she was renting or leasing the property and refused to sign the document.

10. Pursuant to the request of Defendant Acquana McAlister, on or about October 20, 2010, Defendants Cyrus and Williamsburg County changed the property's mailing address on the County's tax records from 196 Gausetown Road, Kingstree, SC 29556, to 2520 Carroll Drive, Columbia SC 29204. The Plaintiff was not made aware of the change of address. She did not receive notice of the tax delinquency, or subsequent correspondence, if any, between the Tax Collector and Defendants Curtis McAlister and Acquana McAlister.

11. On November 12, 2010, Defendant Curtis McAlister again filed an Application for Ejectment in the Magistrate Court in Case Number 2010-CV-45-10101078 on the grounds that Plaintiff had failed and refused to pay rent when due or demanded. Plaintiff retained counsel who filed an Answer to the Rule to Vacate contesting the jurisdiction of the Magistrate Court on the basis that she and Defendant Curtis McAlister had entered into a purchase agreement, not a lease. The matter was scheduled for a bench trial on January 7, 2011.

12. On September 9, 2014, Defendant Williamsburg County, by its Tax Collector, Defendant Norma L. Cyrus, executed a Tax Deed conveying the Property to Hattie S. Pendergrass for the sum of \$800.00 for delinquent taxes for the period 2011. Plaintiff alleges that Defendants Cyrus, Tax Collector, and the County of Williamsburg did not comply with the statutory requirements concerning notice of delinquent taxes, levy and the impending sale.

13. Plaintiff alleges collusion and a conspiracy among Defendants Curtis McAlister, Acquana McAlister, Hattie S. Pendergrass and Hartwell Pendergrass, Sr., in that they combined, conspired and colluded for the purpose of breaching the Contract between the Plaintiff and Defendant Curtis McAlister in order to deprive the Plaintiff of the benefits of the Contract. The aim of said conspiracy was accomplished by refusing to pay the taxes on the property, failing to inform the Plaintiff that Defendant Curtis McAlister had not paid the taxes, failing to request that the Plaintiff pay the taxes, as was his custom, concealing notice of the delinquency from the Plaintiff, allowing the property to be sold at auction to a third party, and thereby divesting the Plaintiff of the interest in and title to the property she acquired by virtue of the Contract

14. Plaintiff asserts that Hattie S. Pendergrass is in wrongful possession of the Property. Furthermore, due to her complicity in the scheme to deny the Plaintiff title to the property, Defendant Hattie S. Pendergrass should be restrained and enjoined from exercising the

rights and responsibilities of a lawful owner of the premises pending a judicial resolution of the controversies at issue.

15. Under cover of a certified letter dated July 6, 2015, and received by Plaintiff on July 13, 2015, Defendants Hartwell Pendergrass, Sr., and Hattie S. Pendergrass made an offer, as landlords, to rent the Property to the Plaintiff for \$400.00 per month and enclosed a document entitled "Basic Rental Agreement or Residential Lease containing the terms of the offer. The letter informed the Plaintiff that her failure to execute the Rental Agreement will constitute a revocation of the offer and the letter will then in turn, act as a thirty (30) day notice for Plaintiff to vacate the premises. The thirty day time to vacate began to toll upon receipt of the letter.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

16. The foregoing factual allegations are incorporated in this First Cause of Action as specifically as if re-stated verbatim. Defendant Curtis McAllister has breached the Contract for the sale and purchase of the property entered into by and between him and the Plaintiff and violated the principle of good faith and fair dealing inherent in contract law in that he has, without just cause or excuse, failed and refused to transfer the property and deliver title to the property to the Plaintiff after she paid off the agreed-upon Contract price. As a direct and proximate cause of Defendant Curtis McAlister's unjustifiable breach of the Contract, Plaintiff has suffered damages including, but not limited to, the following particulars:

- a. She has been deprived of ownership of the property which rightfully belongs to her under the terms of the Contract.
- b. She has been denied the benefits of the Contract after paying the full consideration due thereunder.
- c. She has had to retain counsel and incur legal expenses to defend her right to remain in possession of the property and forced to litigate the matter.

- d. She has suffered harassment, humiliation, embarrassment, financial loss and inconvenience by being subjected to legal prosecution in the Magistrate Court and in the Court of Common Pleas for Williamsburg County.
- e. She has suffered anxiety, mental anguish and emotional distress over the uncertainty created by Defendant Curtis McAlister's unjustifiable, willful, wanton and reckless breach of the Contract and his efforts to remove her from the property.

17. As a result of Defendant Curtis McAlister's unjustifiable, willful, wanton and reckless breach of the Contract, the Plaintiff has suffered damages as aforesaid, and she is entitled to actual damages, punitive damages, and an order of the court voiding the sale of the property for delinquent taxes, setting aside the tax deed to Hattie S. Pendergrass, and ordering specific performance of the Contract by Defendant Curtis McAlister.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract With Fraudulent Intent)

18. The allegations of the foregoing First Cause of Action are incorporated in this Second Cause of Action as specifically as if re-stated verbatim. Defendant Curtis McAllister has breached the Contract and violated the principle of good faith and fair dealing inherent in contract law in that he has, without just cause or excuse, intentionally defrauded the Plaintiff of the consideration paid for the Contract and money she paid for taxes at his request with the intent of keeping her money and refusing to transfer title to the property to her.

19. As a direct and proximate cause of Defendant Curtis McAlister's fraudulent breach of the Contract, Plaintiff has suffered damages, including but not limited to, the following particulars:

- a. She has been defrauded of ownership of the property which rightfully belongs to her under the terms of the Contract.

- b. After she paid the full consideration for the Contract, Defendant Curtis McAlister has retained the payments and defrauded the Plaintiff of the benefits of the same by failing and refusing to comply with conditions of the Contract.
- c. She has had to retain counsel and incur legal expenses to defend her right to remain in possession of the property and forced to litigate the matter on account of Defendant Curtis McAlister's attempts to defraud the Plaintiff of her rights and to evade his legal obligations under the Contract.
- d. She has suffered harassment, humiliation, embarrassment, inconvenience and financial loss by being subjected to legal prosecution in the Magistrate Court and in the Court of Common Pleas for Williamsburg County as Defendant Curtis McAlister used the legal system in his scheme to defraud the Plaintiff and evade performance of the lawful Contract.
- c. She has suffered anxiety, mental anguish and emotional distress over the uncertainty created by Defendant Curtis McAlister's unjustifiable, willful, wanton, reckless and fraudulent breach of the Contract.

20. As a result of Defendant Curtis McAlister's unjustifiable, willful, wanton, reckless, and fraudulent breach of the Contract, the Plaintiff has suffered damages as aforesaid, and she is entitled to actual damages, punitive damages, and an order of the court voiding the sale of the property for delinquent taxes, setting aside the tax deed, and ordering specific performance of the Contract by Defendant Curtis McAlister.

FOR A THIRD CAUSE OF ACTION
(Breach of Trust)

21. The allegations of the foregoing Second Cause of Action are incorporated in this Third Cause of Action as specifically as if re-stated verbatim. Defendant Curtis McAllister has breached the Contract and violated the principle of good faith and fair dealing inherent in contract law in that he has, without just cause or excuse, intentionally breached the trust placed in him by the Plaintiff when she paid, and he accepted, payment of the consideration for the Contract with the intent of wrongfully withholding and appropriating her money to his own use and refusing to transfer title to the property to her. Additionally, at the request of Defendant

Curtis McAlister and in reliance upon the Contract, Plaintiff paid the ad valorem taxes on the property expecting either to be reimbursed or to have a set-off against the purchase price for the amount of taxes she paid. Despite demands made by the Plaintiff, she has received neither reimbursement nor a set-off against the Contract price, and she has not received the benefit of the purchase price she entrusted to him under the terms of the Contract.

22. As a direct and proximate cause of Defendant Curtis McAlister's intentional breach of trust, Plaintiff has suffered damages including, but not limited to, the following particulars:

- a. She has been denied ownership of the property for which she has paid under the terms of the Contract.
- b. She has paid the full purchase price and paid the taxes on the property for numerous years; Defendant Curtis McAlister has retained the payments, converted Plaintiff's money to his own use, failed and refused to give the Plaintiff a set-off for her tax payments, and refused to transfer title to the property to her.
- c. She has had to retain counsel and incur legal expenses to defend her right to remain in possession of the property and forced to litigate the matter on account of Defendant Curtis McAlister's breach of the trust reposed in him by the Plaintiff under the Contract;
- d. She has suffered harassment, humiliation, embarrassment, financial loss and inconvenience by being subjected to legal prosecution in the Magistrate Court and in the Court of Common Pleas for Williamsburg County as Defendant Curtis McAlister misused the legal system in furtherance of his scheme to breach the trust placed in him by the Plaintiff in reliance upon the lawful Contract; and
- e. She has suffered anxiety, mental anguish and emotional distress over the uncertainty created by Defendant Curtis McAlister's unjustifiable, willful, wanton, reckless and unlawful breach of trust.

23. As a result of Defendant Curtis McAlister's unjustifiable, willful, wanton, reckless, and unlawful breach of trust, the Plaintiff has suffered damages as aforesaid, and she is entitled to actual damages, punitive damages, and an order of the court voiding

the sale of the property for delinquent taxes, setting aside the tax deed, and ordering specific performance of the Contract by Defendant Curtis McAlister.

FOR A FOURTH CAUSE OF ACTION
(Breach of Trust with Fraudulent Intent)

24. The allegations of the foregoing Third Cause of Action are incorporated in this Fourth Cause of Action as specifically as if re-stated verbatim. Defendant Curtis McAllister has breached the Contract for the sale and purchase of the property entered into by and between him and the Plaintiff and violated the principle of good faith and fair dealing inherent in contract law in that he has, without just cause or excuse, willfully, wantonly, recklessly and intentionally committed breach of trust with the intent to defraud the Plaintiff of the consideration paid for the Contract and the ad valorem taxes paid on the property for the purpose of converting her money to his own use and refusing to transfer title to the property to her.

25. As a direct and proximate cause of Defendant Curtis McAlister's fraudulent breach of the Contract, Plaintiff has suffered damages including, but not limited to, the following particulars:

- a. She has been defrauded of ownership of the property.
- b. She has been defrauded of the benefits of the Contract after she paid full consideration to Defendant Curtis McAlister, who has retained the payments and intentionally, willfully, wantonly and recklessly failed and refused to comply with conditions of the Contract.
- c. She has had to retain counsel and incur legal expenses to defend her right to remain in possession of the property and forced to litigate the matter on account of Defendant Curtis McAlister's attempts to defraud the Plaintiff of her rights and to evade his legal obligations under the Contract.
- d. She has suffered harassment, humiliation, embarrassment, financial loss and inconvenience by being subjected to legal prosecution in the Magistrate Court and in the Court of Common Pleas for Williamsburg County as Defendant Curtis McAlister manipulated the legal system to advance his scheme to defraud the Plaintiff and avoid performance of the lawful Contract.

- e. She has suffered anxiety, mental anguish and emotional distress over the uncertainty created by Defendant Curtis McAlister's unjustifiable, willful, wanton, reckless and fraudulent breach of the Contract and dispossess the Plaintiff of the property.

26. As a result of Defendant Curtis McAlister's unjustifiable, willful, wanton, reckless, and fraudulent breach of the Contract, the Plaintiff has suffered damages as aforesaid, and she is entitled to actual damages, punitive damages, and an order of the court voiding the sale of the property for delinquent taxes, setting aside the tax deed, and ordering specific performance of the Contract by Defendant Curtis McAlister.

FOR A FIFTH CAUSE OF ACTION
(Violation of Statute)

27. The allegations of the foregoing Fourth Cause of Action are incorporated in this Fifth Cause of Action as specifically as if re-stated verbatim. Norma L. Cyrus, as Tax Collector for Williamsburg County, and Williamsburg County violated the provisions of §12-51-40 which provides, in pertinent part, as follows:

(b) . . . The notice must be mailed to the best address available, which is either the address shown on the deed conveying the property to him, the property address, or other corrected or forwarding address of which the officer authorized to collect delinquent taxes, penalties, and costs has actual knowledge. The notice must specify that if the taxes, penalties, assessments, and costs are not paid, the property must be advertised and sold to satisfy the delinquency.

(c) If the "certified mail" notice has been returned, take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises, in the case of real estate, reading: "Seized by person officially charged with the collection of delinquent taxes of (name of political subdivision) to be sold for delinquent taxes", the posting of the notice is equivalent to levying by distress, seizing, and taking exclusive possession of it ..

United States Postal Service Certified Mail for Tax Year 2011 delinquent taxes sent to Defendant Curtis McAlister at 2520 Carroll Dr., Columbia, SC 29204, was returned to Defendant Cyrus on

08/28/12 bearing the notation "Return to Sender, Unclaimed, Unable to Forward." No mail was sent to the property address, which was the former address on the tax records. Plaintiff resides on the property, and Defendants Cyrus and Williamsburg County did not post notice on the property prior to, on, or after August 14, 2012, as stated in the Tax Deed, conspicuously or otherwise. A subsequently sent United States Postal Service Certified Mail addressed to Defendant Curtis McAlister at 2520 Carroll Dr., Columbia, SC 29204, was returned to Defendant Cyrus on 12/26/13 bearing the notation "Return to Sender, Temporarily Away, Unable to Forward." The property was sold to Hattie S. Pendergrass on December 3, 2012. December 4, 2013, was set as the final date to redeem the property. The Tax Deed is dated September 9, 2014, and it was recorded September 10, 2014, in the Office of the Clerk of Court for Williamsburg County in Book 341 at Page 16. At no time, commencing from 2010, was the Plaintiff made aware that the taxes on the property were not being paid, that the taxes were delinquent, that the property was up for sale, that the sale had occurred, nor was she informed of the one-year period to redeem the property. Furthermore, at the request of a non-owner of record, Defendants Cyrus and Williamsburg County changed the record mailing address for the property without due authorization. When certified mail sent to the new address was returned, said Defendants were put on notice that their mail either was not reaching the addressee or there were questions arising from the requested change from 196 Gausetown Road, Kingstree, SC 29556. As a direct and proximate cause of Defendants Cyrus and Williamsburg County's violation of the statute, Plaintiff has suffered damages including, but not limited to, the following particulars:

- a. She has been denied the opportunity to pay the delinquent taxes and protect her interest in the property which she acquired by virtue of the Contract.

- b. She has been denied the benefit of knowledge, by the requisite posting of the property, that the property had been seized; which knowledge would have afforded her a chance to take appropriate action to protect her interest in the property in advance of the tax sale;
- c. She has been denied the opportunity, during the one-year redemption period, to take remedial steps aimed at protecting her interest in the property.
- d. She has suffered harassment, humiliation, embarrassment, anxiety, mental anguish, emotional distress, inconvenience and has had to incur legal fees and costs to protect her interest in the property.

28. As a result of Defendants Cyrus and Williamsburg County's failure to comply with the requisite statutory mandate for a tax sale of real property, the Plaintiff is entitled to an order of the court awarding actual damages, voiding the sale of the property for delinquent taxes, and setting aside the tax deed to Hattie S. Pendergrass.

FOR A SIXTH CAUSE OF ACTION
(Civil Conspiracy)

29. The allegations of the foregoing Fifth Cause of Action are incorporated in this Sixth Cause of Action as specifically as if re-stated verbatim. Defendants Curtis McAlister, Acquana McAlister, Hattie S. Pendergrass and Hartwell Pendergrass, Sr., surreptitiously combined, conspired and deviously concocted a scheme, each with the other, to divest the Plaintiff of the rights she acquired under the Contract in at least the following instances. When Plaintiff first demanded the deed after she had paid off the Contract, Defendant Curtis McAlister stated that she had not finished paying off the contract and refused to provide the deed. Plaintiff made payments in excess of the contract price and demanded delivery of the deed. Defendant Curtis McAlister refused to deliver the deed. In 2007 he commenced eviction proceedings in Magistrate Court, which granted the eviction. After trial, the Plaintiff appealed the Order of the Magistrate to the Circuit Court and by Order filed June 9, 2010, the Circuit Court Judge vacated the Magistrate's Eviction Order upon the assertion by the Plaintiff that she occupied the premises

under a land purchase agreement. The record does not reflect that Defendant Curtis McAlister sought a judicial determination of the rights of the parties in the Circuit Court. In 2010 Defendant Acquana McAlister attempted to convert the Contract (land purchase agreement) to a rental agreement by demanding that the Plaintiff sign a six-month "Lease, Basic Rental Agreement or Residential Lease," for the period May 1, 2010 to November 1, 2010. Plaintiff refused to sign. On November 12, 2010, Defendant Curtis McAlister filed an Application for Ejectment in the Magistrate Court on the grounds that the Plaintiff had failed and refused to pay rent. Counsel for the Plaintiff filed an Answer asserting the Contract for Purchase. The case was scheduled for a bench trial on January 7, 2011. On or about October 20, 2010, and without Plaintiff's knowledge, Defendant Acquana McAlister requested that the mailing address on the Williamsburg County tax records be changed to a Columbia, SC, address. Plaintiff was excluded from communication between Defendant Williamsburg County and Defendants Curtis McAlister and Acquana McAlister concerning the property. Although Defendant Acquana McAlister had contacted the Plaintiff concerning rental of the property and the Contract was between the Plaintiff and Defendant Curtis McAlister, neither of the Defendants discussed the payment or non-payment of taxes on the property with the Plaintiff, she was never informed of the delinquency status, that the property was to be seized and sold for taxes, that there was a one-year period to redeem the property before the Tax Deed was issued, and that the property had been sold to Defendant Hattie S. Pendergrass who is known to and, upon information and belief, related to the McAlister Defendants by blood and/or marriage. Due to the willful, wanton and reckless conspiratorial conduct of Defendants Curtis McAlister, Acquana McAlister, Hattie S. Pendergrass and Hartwell Pendergrass, Sr., Plaintiff has suffered damages including, but not limited to, the following particulars:

- a. She has been defrauded of ownership of the property which rightfully belongs to her under the terms of the Contract.
- b. After she paid the full consideration for the Contract, Defendants Acquana McAlister, Hattie S. Pendergrass and Hartwell Pendergrass, Sr., have combined and conspired in furtherance of a scheme to assist Defendant Curtis McAlister in retaining the payments, defrauding the Plaintiff of the benefits of the Contract, engineering a tax sale to a third party, and divesting the Plaintiff of the rights she acquired under the terms of the Contract.
- c. She has had to retain counsel and incur legal expenses to defend her right to remain in possession of the property and forced to litigate the matter on account of the unlawful acts of the Conspirators' in their attempt to defraud the Plaintiff of her rights and to advance a plan for Defendant Curtis McAlister to evade his legal obligations under the Contract.
- d. She has suffered harassment, humiliation, embarrassment, inconvenience and financial loss by being subjected to legal prosecution in the Magistrate Court and in the Court of Common Pleas for Williamsburg County as the Conspirators exploited the legal system and manipulated the taxing authority of the State of South Carolina in their scheme to defraud the Plaintiff and subvert performance of the lawful Contract.
- e. She has suffered anxiety, mental anguish and emotional distress over the hardship and uncertainty created by unjustifiable, willful, wanton, reckless and fraudulent conduct of the Conspirators.

30. As a result of unlawful, unjustifiable, willful, wanton, reckless, and fraudulent conduct of the Conspirators, the Plaintiff has suffered damages as aforesaid, and she is entitled to actual damages, punitive damages, and an order of the court voiding the sale of the property for delinquent taxes, setting aside the tax deed, and ordering specific performance of the Contract by Defendant Curtis McAlister.

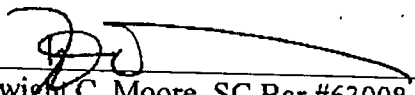
WHEREFORE, Plaintiff prays that this Court issue its Order granting relief to the Plaintiff as follows:

- (a) Voiding the sale of the property by Defendants Norma L. Cyrus and Williamsburg County for delinquent taxes;
- (b) Setting aside the tax deed to Hattie S. Pendergrass;

- (c) Ordering specific performance of the Contract by Defendant Curtis McAlister to include reimbursement to the Plaintiff or a set-off against the purchase price for the funds she paid for taxes on the property;
- (d) Ordering that the Defendants Hartwell Pendergrass, Sr., and Hattie S. Pendergrass be estopped, restrained and enjoined from requiring the Plaintiff to vacate the premises or to execute any documents pertaining to the property pending a final disposition of this action on the merits;
- (e) Ordering that the Defendants Curtis McAlister, Acquana McAlister, Hartwell Pendergrass, Sr., and Hattie S. Pendergrass be restrained and enjoined from harassing or interfering with the Plaintiff's peaceful enjoyment of the premises pending a final disposition of this action on the merits;
- (f) Ordering that the Plaintiff be awarded actual damages, punitive damages, attorney's fees and the costs of this action; and
- (g) Ordering such other and further relief as the Court deems equitable, fair and just in the premises.

Respectfully submitted,

MOORE LAW FIRM, L.L.C.


Dwight C. Moore, SC Bar #63008
26 North Main Street
Post Office Box 1229 (29150)
Sumter, South Carolina 29151-1229
Telephone (803) 778-6520
Fax (803) 775-6365
Attorney for Plaintiff

July 22, 2015
Sumter, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)
Showwander Scott,)
Plaintiff,)
vs.)
Curtis McAlister, Acquana McAlister,)
Norma L. Cyrus, Tax Collector for)
Williamsburg County, the County of)
Williamsburg, an Unincorporated)
Subdivision of the State of South Carolina,)
Hartwell Pendergrass, Sr., and)
Hattie S. Pendergrass,)
Defendants.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2015-CP-45-401

ANSWER

2015 SEP -3 PM 3:55

Defendants Norma L. Cyrus, Tax Collector for Williamsburg County, and Williamsburg County, an unincorporated subdivision of the State of South Carolina, by and through their undersigned attorney by way of answer to the Complaint respectfully allege as follows:

AS A FIRST DEFENSE

1. These answering Defendants deny each and every allegation of the Complaint not herein specifically admitted or denied.

AS A SECOND DEFENSE

2. These Defendants have no information or belief as to allegations of Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11, therefore deny the same.

3. These Defendants admit the allegations contained in Paragraph 3 of the Complaint.

4. These Defendants admit so much of Paragraph 12 as alleges that on September 9, 2014 these Defendants executed a Tax Deed conveying the Property to Hattie S. Pendergrass for

the sum of \$800.00 for delinquent taxes for the period 2011, but deny the remaining allegations of said paragraph.

5. These Defendants have no information or belief as to the allegations contained in Paragraph 13, 14 or 15 and therefore deny the same.

AS TO THE FIRST CAUSE OF ACTION
(Breach of Contract)

6. These answering Defendants have no information or belief as to the allegations of Paragraph 16(a), 16(b), 16(c), 16(d) or 16(e) and therefore deny the same.

7. These answering Defendants have no information or belief as to the allegations of Paragraph 17 and therefore deny the same.

8. The First Cause of Action has no allegation as to these answering Defendants.

AS TO THE SECOND CAUSE OF ACTION
(Breach of Contract with Fraudulent Intent)

9. These Defendants have no information or belief as to the allegations of Paragraphs 18, 19(a)-(e), or 20 and therefore deny the same.

10. There are no allegations against these Defendants in the Second Cause of Action.

AS TO THE THIRD CAUSE OF ACTION
(Breach of Trust)

11. These answering Defendants have no information or belief as to the allegations of Paragraphs 21, 22(a)-(e), or 23, nor any allegations made against these Defendants and therefore they deny the same.

AS TO THE FOURTH CAUSE OF ACTION
(Breach of Trust with Fraudulent Intent)

12. These answering Defendants have no information or belief as to the allegations of Paragraphs 24, 25(a)-(e), or 26, nor any allegations made against these Defendants and therefore they deny the same.

AS TO THE FIFTH CAUSE OF ACTION
(Violation of Statute)

13. These Defendants admit the allegations of Paragraph 27 that allege §12-51-40(b) and (c), but deny the remaining allegations of said paragraph, including subparagraphs (a) through (d).

14. These Defendants deny the allegations of Paragraph 28.

AS TO THE SIXTH CAUSE OF ACTION
(Civil Conspiracy)

15. These answering Defendants have no information or belief as to the allegations of Paragraph 29 or all subparagraphs thereof, (a) through (e), and therefore deny the same.

16. These Defendants have no information or belief as to Paragraph 30 and therefore deny the same and particularly those allegations dealing with setting aside the tax deed.

WHEREFORE, these answering Defendant having fully answered the Complaint of Plaintiff pray:

1. That the causes of action against the Defendants Norma L. Cyrus, Tax Collector for Williamsburg County and the County of Williamsburg, an unincorporated Subdivision of the State of South Carolina be dismissed, as well as any judgment ordering the setting aside the tax deed or any award of actual damages against these answering Defendants;

2. For the costs and the disbursements of this action;
3. For such other and further relief as this Court may deem just and proper.



W. E. Jenkinson, III
Jenkinson, Jarrett & Kellahan, P. A.
120 West Main Street
P.O. Drawer 669
Kingstree, SC 29556
Phone: (843) 355-2000
Fax: (843) 355-2010
E-mail: billy@jenkinsonlaw.com
Attorney for Defendants Norma L. Cyrus,
Williamsburg County Tax Collector, and
Williamsburg County

September 3, 2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	CIVIL ACTION NO.: 2015-CP-45-401
	)	
Showander Scott,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS, NORMA L. CYRUS, TAX
	)	COLLECTOR FOR WILLIAMSBURG
Curtis McAlister, Acquana McAlister,	)	COUNTY, AND WILLIAMSBURG
Norma L. Cyrus, Tax Collector for	)	COUNTY, AN UNINCORPORATED
Williamsburg County, the County of	)	SUBDIVISION OF THE STATE OF
Williamsburg, an Unincorporated	)	SOUTH CAROLINA, NOTICE OF
Subdivision of the State of South Carolina,	)	MOTION AND MOTION TO AMEND
Hartwell Pendergrass, Sr., and	)	ANSWER
Hattie S. Pendergrass,	)	
	)	
Defendants.	)	
	)	

TO: DWIGHT C. MOORE, ESQUIRE, ATTORNEY FOR THE PLAINTIFF; WILLIE H. BRUNSON, ESQUIRE, ATTORNEY FOR THE DEFENDANTS, CURTIS MCALISTER AND AQUANA MCALISTER; AND HARRIET LYNÆ HUELL LAMPKIN, ESQUIRE, ATTORNEY FOR HARTWELL PENDERGRASS, SR. AND HATTIE S. PENDERGRASS:

PLEASE TAKE NOTICE that the undersigned as attorney for the Defendants, Norma L. Cyrus, Tax Collector for Williamsburg County, and Williamsburg County, an unincorporated subdivision of the State of South Carolina, in the above referenced matter will move before the presiding judge of the Third Judicial Circuit at the Williamsburg County Courthouse, 125 W. Main Street, Kingstree, South Carolina ten (10) days after the service hereof or as soon thereafter as counsel may be heard for an Order allowing the aforementioned Defendants leave to file an Amended Answer pursuant to Rule 15 of the South Carolina Rules of Civil Procedure. This motion is based upon the following:

Rule 15(a) of the South Carolina Rules of Civil Procedure sets forth the liberal standard applied to the Motion, directing that leave to amend a pleadings, "shall be freely given when justice so requires and [the amendment] does not prejudice any other party." Courts have "wide latitude" in deciding to grant a motion to amend. City of Myrtle Beach v. Lewis-Davis, 360 S.C. 225, 232, 599 S.E.2d 462, 465 (Ct. App. 2004) (quoting Berry v. McLeod, 328 S.C. 435, 450, 492 S.E.2d

794, 802 (Ct. App. 1997)); see also Foggie v. CSX. Transp. Inc., 315 S.C. 17, 22, 431 S.E.2d 587, 590 (1993). (“It is well established that a motion to amend is addressed to the sound discretion of the trial judge....”).

Importantly, the “party opposing the motion has the burden of establishing prejudice.” Foggie, 431 S.E.2d at 590. The prejudice envisioned under Rule 15(a) “is a lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it.” Pool v. Pool, 329 S.C. 324, 328-29, 494 S.E.2d 820, 823 (1998); see also Soil & Material Eng’rs, Inc. v. Folly Assocs., 293 S.C. 498, 501, 361 S.E.2d 779, 781 (Ct. App. 1987) “In considering potential prejudice to the opposing party [under Rule 15, SCRPC], the court should consider whether the opposing party ‘has had the opportunity to prepare for the issue now being raised formally.’” Id. When prejudice cannot be found, the court should grant leave to amend. Forrester v. Smith & Steele Builders, Inc., 295 S.C. 504, 507, 369 S.E.2d 156, 158 (Ct. App. 1988)

In this case, the Defendants, Normal L. Cyrus and Williamsburg County, are seeking to amend their Answer to assert the South Carolina Tort Claims Act, § 15-78-10, et seq. as an affirmative defense. This amendment will not prejudice the Plaintiff as she has had notice of this issue as the Defendants filed their Motion for Summary Judgment based partially on the South Carolina Tort Claims Act on June 28, 2018, that date also being the date that counsel for the parties were electronically served. Even further, the Plaintiff will not be prejudiced by the amendment as she has had and actually did prepare for the amendment as evidenced by her Response to the Defendants’, Normal L. Cyrus and Williamsburg County, Motion for Summary Judgment which was emailed to counsel for the Defendants on July 7, 2018. Additionally, this motion was continued on July 9, 2018, and will not be rescheduled until the September 24, 2018, term of Court. Thus, the parties now have one week shy of three (3) months to prepare to show why they have not had the opportunity to prepare for the Defendants’, Normal L. Cyrus and Williamsburg County, motion to amend their Answer to include the South Carolina Tort Claims Act § 15-78-10, et seq. which was raised on the record on July 9, 2018. Since prejudice to the Plaintiff and all other parties

cannot be found, the Court should allow leave to the Defendants, Normal L. Cyrus and Williamsburg County, to amend their Answer to assert the South Carolina Tort Claims Act, § 15-78-10, et seq. as an affirmative defense.

Kingstree, SC
July 9, 2018

s/W. Evan Reynolds

W. Evan Reynolds (SC Bar# 102352)

W.E. Jenkinson, III (SC Bar# 2984)

Jenkinson, Jarrett & Kellahan, P.A.

Post Office Drawer 669

Kingstree, SC 29556

PH. (843) 355-2000

FAX (843) 355-2010

Email: evan@jenkinsonlaw.com

Email: billy@jenkinsonlaw.com

Attorneys for Defendant Norma L. Cyrus,
Tax Collector for Williamsburg County, and
Williamsburg County, an unincorporated
subdivision of the State of South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

Showander Scott,)

Plaintiff,)

vs.)

Curtis McAlister, Acquana McAlister,)
Norma L. Cyrus, Tax Collector for)
Williamsburg County, the County of)
Williamsburg, an Unincorporated)
Subdivision of the State of South Carolina,)
Hartwell Pendergrass, Sr., and)
Hattie S. Pendergrass,)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2015-CP-45-401

AMENDED ANSWER

Defendants Norma L. Cyrus, Tax Collector for Williamsburg County, and Williamsburg County, an unincorporated subdivision of the State of South Carolina, by and through their undersigned attorney by way of answer to the Complaint respectfully allege as follows:

AS A FIRST DEFENSE

1. These answering Defendants deny each and every allegation of the Complaint not herein specifically admitted or denied.

AS A SECOND DEFENSE

2. These Defendants have no information or belief as to allegations of Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11, therefore deny the same.

3. These Defendants admit the allegations contained in Paragraph 3 of the Complaint.

4. These Defendants admit so much of Paragraph 12 as alleges that on September 9, 2014 these Defendants executed a Tax Deed conveying the Property to Hattie S. Pendergrass for

the sum of \$800.00 for delinquent taxes for the period 2011, but deny the remaining allegations of said paragraph.

5. These Defendants have no information or belief as to the allegations contained in Paragraph 13, 14 or 15 and therefore deny the same.

AS TO THE FIRST CAUSE OF ACTION
(Breach of Contract)

6. These answering Defendants have no information or belief as to the allegations of Paragraph 16(a), 16(b), 16(c), 16(d) or 16(e) and therefore deny the same.

7. These answering Defendants have no information or belief as to the allegations of Paragraph 17 and therefore deny the same.

8. The First Cause of Action has no allegation as to these answering Defendants.

AS TO THE SECOND CAUSE OF ACTION
(Breach of Contract with Fraudulent Intent)

9. These Defendants have no information or belief as to the allegations of Paragraphs 18, 19(a)-(e), or 20 and therefore deny the same.

10. There are no allegations against these Defendants in the Second Cause of Action.

AS TO THE THIRD CAUSE OF ACTION
(Breach of Trust)

11. These answering Defendants have no information or belief as to the allegations of Paragraphs 21, 22(a)-(e), or 23, nor any allegations made against these Defendants and therefore they deny the same.

AS TO THE FOURTH CAUSE OF ACTION
(Breach of Trust with Fraudulent Intent)

12. These answering Defendants have no information or belief as to the allegations of Paragraphs 24, 25(a)-(e), or 26, nor any allegations made against these Defendants and therefore they deny the same.

AS TO THE FIFTH CAUSE OF ACTION
(Violation of Statute)

13. These Defendants admit the allegations of Paragraph 27 that allege §12-51-40(b) and (c), but deny the remaining allegations of said paragraph, including subparagraphs (a) through (d).

14. These Defendants deny the allegations of Paragraph 28, and further pleads the affirmative defense and immunities available to it pursuant to the South Carolina Tort Claims Act, §15-78-10, et seq.

AS TO THE SIXTH CAUSE OF ACTION
(Civil Conspiracy)

15. These answering Defendants have no information or belief as to the allegations of Paragraph 29 or all subparagraphs thereof, (a) through (e), and therefore deny the same.

16. These Defendants have no information or belief as to Paragraph 30 and therefore deny the same and particularly those allegations dealing with setting aside the tax deed.

WHEREFORE, these answering Defendant having fully answered the Complaint of Plaintiff pray:

1. That the causes of action against the Defendants Norma L. Cyrus, Tax Collector for Williamsburg County and the County of Williamsburg, an unincorporated Subdivision of the

State of South Carolina be dismissed, as well as any judgment ordering the setting aside the tax deed or any award of actual damages against these answering Defendants;

2. For the costs and the disbursements of this action;
3. For such other and further relief as this Court may deem just and proper.

July 9, 2018

s/Evan Reynolds

W. Evan Reynolds (SC Bar# 102352)

W. E. Jenkinson, III (SC Bar# 2984)

Jenkinson, Jarrett & Kellahan, P. A.

120 West Main Street

P.O. Drawer 669

Kingstree, SC 29556

Phone: (843) 355-2000

Fax: (843) 355-2010

E-mail: billy@jenkinsonlaw.com

Attorney for Defendants Norma L. Cyrus,
Williamsburg County Tax Collector, and
Williamsburg County

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	CIVIL ACTION NO.: 2015-CP-45-401
Shawonder Scott,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS', NORMA L. CYRUS AND
	)	WILLIAMSBURG COUNTY, NOTICE
Curtis McAlister, Acquana McAlister,	)	OF MOTION AND MOTION FOR
Norma L. Cyrus, Tax Collector for	)	SUMMARY JUDGMENT
Williamsburg County, the County of	)	
Williamsburg, an Unincorporated	)	
Subdivision of the State of South Carolina,	)	
Hartwell Pendergrass, Sr.; and	)	
Hattie S. Pendergrass,	)	
	)	
Defendants.	)	

TO: DWIGHT C. MOORE, ESQUIRE, ATTORNEY FOR THE PLAINTIFF SHAWONDER SCOTT; WILLIE H. BRUNSON, ESQUIRE, ATTORNEY FOR DEFENDANTS, CURTIS MCALISTER AND AQUANA MCALISTER; AND HARRIET LYNÆ HUELL LAMPKIN, ESQUIRE, ATTORNEY FOR HARTWELL PENDERGRASS, SR. AND HATTIE S. PENDERGRASS:

PLEASE TAKE NOTICE that the undersigned as attorney for the Defendants, Norma L. Cyrus, Tax Collector for Williamsburg County, and Williamsburg County, an unincorporated subdivision of the State of South Carolina, in the above referenced matter will move before the presiding judge of the Third Judicial Circuit at the Williamsburg County Courthouse, 125 W. Main Street, Kingstree, South Carolina ten (10) days after the service hereof or as soon thereafter as counsel may be heard for an Order for Summary Judgment pursuant to Rule 56 South Carolina Rules of Civil Procedures. This motion is based upon the following grounds:

1. Based upon the pleadings, depositions, and evidence provided, there is no genuine issue as to any material fact and that Plaintiff is entitled to judgment as a matter of law pursuant to Rule 56 of the SCRCF.
2. South Carolina public duty doctrine.
3. South Carolina Torts Claims Act, §15-78-10, et seq.

4. Applicable South Carolina case law as incorporated in the forthcoming Defendants' Memorandum in Support for Summary Judgment.

Kingstree, SC
June 28, 2018

s/W. Evan Reynolds
W. Evan Reynolds (SC Bar# 102352)
W.E. Jenkinson, III (SC Bar# 2984)
Jenkinson, Jarrett & Kellahan, P.A.
Post Office Drawer 669
Kingstree, SC 29556
PH. (843) 355-2000
FAX (843) 355-2010
Email: evan@jenkinsonlaw.com
Email: billy@jenkinsonlaw.com
Attorneys for Defendant Norma L. Cyrus,
Tax Collector for Williamsburg County, and
Williamsburg County, an unincorporated
subdivision of the State of South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	CASE NO.: 2015-CP-45-00401
	)	
Shawonder Scott,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS', NORMA L. CYRUS AND
	)	WILLIAMSBURG COUNTY, MEMORANDUM
Curtis McAlister, Acquana McAlister,	)	IN SUPPORT OF SUMMARY JUDGMENT
Norma L. Cyrus, Tax Collector for	)	
Williamsburg County, the County of	)	
Williamsburg, an Unincorporated	)	
Subdivision of the State of South Carolina,	)	
Hartwell Pendergrass, Sr., and Hattie S.	)	
Pendergrass,	)	
	)	
Defendants.	)	

The Defendants, Normal L. Cyrus and Williamsburg County, have filed their Motion for Summary Judgment dated June 28, 2018, in the above-captioned matter on the grounds that there is no material issue of fact which would entitle the Plaintiff to recover against them.

Motions for Summary Judgment are governed by Rule 56, SCRCF. A grant of Summary Judgment is appropriate when no genuine issue of material fact exists. In determining whether any triable issues of fact exist, this Court must consider the evidence and all reasonable inferences in the light most favorable to the Plaintiffs. McLaughlin v. Williams, 379 S.C. 451, 665 S.E.2d 667 (Ct. App. 2008).

Here, summary judgment against the Plaintiff and in the favor of the Defendants, Norma L. Cyrus and Williamsburg County, is warranted.

BACKGROUND

In 1998 the Plaintiff and the Defendant Curtis McAlister allegedly entered into a contract for the purchase of residential real estate located at 196 Gausetown Road in Kingstree, South Carolina for \$35,000.00. The Plaintiff asserts that the contract for this sale of land is evidenced by a receipt from 1998 that indicates the Plaintiff paid \$4,000.00 to the Defendant Curtis McAlister. (Depo of Plaintiff, p. 20, line 25 through p. 27 line 11) However, the drafter of this receipt is not known as the receipt bears no signatures of the Defendants, no terms of payment, no contract price and no identification of the land being sold. Id. The Plaintiff admits that the Defendants, Norma L. Cyrus and Williamsburg County, were never privy to this alleged contract. Id. at p. 64, lines 8-10.

The Plaintiff admits that she was not the owner of record and her name has never been on the deed to the land. Id. at p. 59, lines 11-19. The Plaintiff assert that according to the alleged agreement the Defendant Curtis McAlister was to pay the taxes on the subject property and if he couldn't, then the Plaintiff would help out. Id. at p. 60, lines 12-25 and p. 61, lines 1-18. During the time of delinquency, the Plaintiff admits that she didn't know when the taxes were due on the subject property because the Defendant Curtis McAlister did not let her know. Id. at p. 61, 13-18 and p. 63, lines 9-16.

The Plaintiff admits that it was proper for the County to send notice of the tax delinquency to the Defendant Curtis McAlister since he is the owner of record of the real property. Id. 62, lines 3-14. The Defendants, Norma L. Cyrus and Williamsburg County, sent notices of tax bills and delinquency to the address provided by the Defendant Curtis McAlister and his daughter, the Defendant Acquana McAlister. (Depo of Defendant Acquana McAlister, p. 21, lines 7-25 and p. 22, lines 1-3) (Depo of Curtis McAlister, p. 36, line 25 and p. 37, lines 1-5) (Delinquent Tax file

of the Defendant Norma L. Cyrus) Additional, the Plaintiff admits that the County should not have known that the Plaintiff was alleging to have owned the property since she is not on the deed. (Depo of Plaintiff, p. 64, lines 16-24) Further, the Plaintiff asserts that the sole remedy she is seeking from the Defendants, Norma L. Cyrus and Williamsburg County, is for the tax deed to be rescinded and for the deed to revert back to the name of the Defendant Curtis McAlister. Id. at p. 64, line 25 and p. 65, lines 1-6.

Here, the Defendants, Norma L. Cyrus and Williamsburg County, move before this Court for summary judgment based on the following:

ARGUMENT

I. South Carolina Public Duty Doctrine

Under South Carolina's public duty doctrine, public officials are not liable to individuals for their negligence in discharging public duties as the duty is owed to the public at large rather than to anyone individually. Tanner v. Florence Co. Treasurer, et al., 336 S.C. 552, 521 S.E.2d 153 (S.C. 1999); Jensen v. Anderson County Dep't of Soc. Servs., 304 S.C. 195, 403 S.E.2d 615 (S.C. 1991). However, an affirmative legal duty may be created by statute, contract relationship, status, **property interest**, or some other special circumstance. Id. The public duty rule is a defense which denies an element of the plaintiff's cause of action; the existence of a duty of care to the individual plaintiff, and the burden is on the plaintiff to show a duty of care was owed to him. Rayfield v. South Carolina Dep't of Corrections, 297 S.C. 95, 105-06, 374 S.E.2d 910, 916 (Ct.App.1988), cert. denied, 298 S.C. 204, 379 S.E.2d 133 (1989). Under South Carolina law, however, a "special duty" to particular individuals may be created by such a statute when:

- (1) an essential purpose of the statute is to protect against a particular kind of harm;

- (2) the statute, either directly or indirectly, imposes on a specific public officer a duty to guard against or not cause that harm;
- (3) the class of persons the statute intends to protect is identifiable before the fact;
- (4) the plaintiff is a person within the protected class;
- (5) the public officer knows or has reason to know of the likelihood of harm to members of the class if he fails to do his duty; and
- (6) the officer is given sufficient authority to act in the circumstances or he undertakes to act in the exercise of his office.

In general, we have been reluctant to find special duties statutorily imposed. Brady Dev. Co. v. Town of Hilton Head Island, 312 S.C. 73, 439 S.E.2d 266, 268 (1993). **However, all requirements of law leading up to tax sales are intended for the protection of the taxpayer against surprise or the sacrifice of his property and are regarded as mandatory and are strictly enforced.** Dibble v. Bryant, 274 S.C. 481, 265 S.E.2d 673 (1980). Failure to give the required notice is a fundamental defect in the tax proceedings which renders the proceedings absolutely void. Donohue v. Ward, 298 S.C. 75, 378 S.E.2d 261 (Ct.App.1989). The Court will set aside sales where S.C. Code Ann. §12-51-40 has not been complied with by public officials. Snelgrove v. Lanham, 298 S.C. 302, 379 S.E.2d 904 (1989).

In Tanner, while the petitioner was imprisoned, the respondent sold petitioner's home. Petitioner brought suit, alleging the sale was void because he was not given proper notice. Petitioner moved to file a supplemental complaint. Respondent brought a summary judgment motion, alleging it was immune from the tort claims made in the supplemental complaint. The trial court granted the summary judgment motion, holding that petitioner could not supplement his complaint due to respondent's tort immunity. The appellate court affirmed, but the reviewing court

reversed and remanded, holding that where the trial court failed to allow evidence that respondent had petitioner's correct prison mailing address and failed to comply with notice requirements, summary judgment was premature. Such evidence was crucial where respondent's failure to comply with notice requirements rendered the tax sale void. In Tanner, the State's Supreme indicated that the notice provision of S.C. Code §12-51-40 creates a special duty to the owner of property so as to provide him or her with notice to protect the taxpayer against surprise or the sacrifice of his or her property. However, it is only in cases such as this one where the delinquent taxpayer asserts that he provided the County his correct address and the County failed to use that address that the special duty exception to the public duty doctrine may arise. In that case, the Petitioner was never given the chance to put forth that evidence and so summary judgment was premature.

In the current case, the Plaintiff is asserting that the Defendants, Norma L. Cyrus and Williamsburg County, are liable to her for violating S.C. Code §12-51-40, for not providing her notice of the delinquent taxes, the sale of the property and the opportunity redeem the subject property located at 196 Gausetown Road in Kingstree. However, the Plaintiff lacks standing to assert any claim against the Defendants, Norma L. Cyrus and Williamsburg County, because she is not the defaulting taxpayer or the owner or grantee of record for the subject property.

The Plaintiff does not fall under the public duty exception. The essential purpose of S.C. Code §12-51-40 is intended for the protection of the taxpayer against surprise or the sacrifice of his property. The Plaintiff admits she is not the owner of record or the defaulting taxpayer. Additionally, the Plaintiff is not the class of persons (property owners) that the statute is intended to protect. Additionally, the Plaintiff admits that the Defendants, Norma L. Cyrus and Williamsburg County, should not have known the harm to the Plaintiff if the statute was not

complied with as the Defendants had no way of knowing that the Plaintiff was alleging to be the owner of the subject property. **In sum, the Plaintiff in this case is owed no duty of notice under S.C. Code §12-51-40 in regards to the subject property at all.** Surely, this Court will not set the precedent that the Counties of this State now owe a special duty of notice under S.C. Code §12-51-40 to persons claiming to be owners of real property by disputed oral contracts, who admit to not being the owner of record and admit to never being named on the deed to the property.

II. South Carolina Tort Claims Act, § 15-78-10, et seq.

S.C. Code Ann. §15-78-60(11) provides that a “governmental entity is not liable for a loss resulting from:....assessment or collection of taxes or special assessments or enforcement of tax laws.” As cited previously, the State’s Supreme Court has held that the notice provision in regards to tax sales are regarded as mandatory and are strictly enforced. Dibble v. Bryant, 274 S.C. 481, 265 S.E.2d 673 (1980). Additionally, failure to give the required notice is a fundamental defect in the tax proceedings which renders the proceedings absolutely void. Donohue v. Ward, 298 S.C. 75, 378 S.E.2d 261 (Ct.App.1989). The Court will set aside sales where S.C. Code §12-51-40 has not been complied with by public officials. Snelgrove v. Lanham, 298 S.C. 302, 379 S.E.2d 904 (1989).

Therefore, regardless of whether the Plaintiff wins this case against the Defendant Curtis McAlister and becomes the legal owner, or owner of record, if the County or Norma Cyrus is proven to have failed to strictly comply with the statutory requirements of the tax sale, then the sale would be void and there is no other legal remedy to be had. As such, the Plaintiff’s claims for actual damages against the Defendants, Norma L. Cyrus and Williamsburg County, in her complaint is without legal merit even if she is victorious with her suit for breach of contract against the Defendant Curtis McAlister.

CONCLUSION

For the reasons set forth above herein, the Defendants', Norma Cyrus and Williamsburg County, Motion for Summary Judgment shall be granted as no genuine issue of material fact exists in regards to the only cause of action (Fifth Cause of Action – Violation of Statute) which concerns the Defendants, Norma Cyrus and Williamsburg County. Considering the evidence and all reasonable inferences in the light most favorable to the Plaintiff, the Plaintiff still have no standing to assert a claim against the Defendants, Norma Cyrus and Williamsburg County, for violating S.C. Code §12-51-40 as she is admittedly not the owner of record of the subject property, acknowledged that the Defendants should not have known that she was claiming ownership of the property as the Defendants were not privy to her 1998 verbal contract with the Defendant Curtis McAlister to purchase the property. In the alternative, if the Court sets precedent today and finds that the Defendants, Norma L. Cyrus and Williamsburg County, did owe the Plaintiff a special duty under S.C. Code §12-51-40, then the Defendants, Norma L. Cyrus and Williamsburg County, should nevertheless be granted summary judgment on the issue of damages as the only legal recourse for a property owner for a County's violation of S.C. Code §12-51-40 is to set aside the tax deed.

Respectfully submitted,

July 8, 2018

s/W. E. Reynolds
W. E. Jenkinson, III, SC Bar# 2984
W.E. Reynolds, SC Bar# 102352
Jenkinson Jarrett & Kellahan, P.A.
120 West Main Street
Post Office Drawer 669
Kingstree, South Carolina 29556
Phone: (843) 355-2000
Fax: (843) 355-2010
E-mail: Billy@jenkinsonlaw.com
Attorneys for Respondent

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF WILLIAMSBURG	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
	)	
	)	CIVIL ACTION NO: 2015-CP-45-00401
	)	
Shawonder Scott,	)	
	)	
Plaintiff,	)	
vs.	)	Plaintiff's Reply to Defendants Norma L.
	)	Cyrus and the County of Williamsburg's
	)	Motion for Summary Judgment
Curtis McAlister, Acquana McAlister,	)	
Norma L. Cyrus, Tax Collector for	)	
Williamsburg County, the County of	)	
Williamsburg, an Unincorporated	)	
Subdivision of the State of South Carolina,	)	
Hartwell Pendergrass, Sr., and	)	
Hattie S. Pendergrass,	)	
	)	
Defendants.	)	

Plaintiff Shawonder Scott, by and through her undersigned counsel, hereby submits her Reply to Defendants Norma L. Cyrus and the County of Williamsburg's Motion for Summary Judgment made pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. Item 4 of the Motion states that Defendants' Memorandum in Support of Summary Judgment was forthcoming. Having not received the Memorandum to date, Plaintiff's Reply is made in accordance with her counsel's understanding of the four grounds set forth in Defendants' Motion.

FACTS

1. In 1998 the Plaintiff and Defendant Curtis McAlister entered into a Contract for the sale and purchase of residential real estate (hereinafter referred to as the "Contract"); said real estate being located in Williamsburg County at 196 Gausetown Road, Kingstree, South Carolina 29556, identified as Tax Map Parcel Number 45-200-016 hereinafter referred to as the "Property." The consideration agreed upon for the sale of the property was Thirty-Five

Thousand and No/100 (\$35,000.00) Dollars payable in a down payment of Four Thousand and No/100 (\$4,000.00) Dollars and the balance to be paid in monthly installments. The Plaintiff paid the down payment of \$4,000.00 and took possession of the property. Thereafter, she paid monthly installments in the amount of Three Hundred and No/100 (\$300.00) Dollars per month for seven (7) years. With the consent of Defendant Curtis McAlister, the Plaintiff then paid installments in the amount of Two Hundred and No/100 (\$200.00) Dollars per month until the balance was paid off.

2. Defendant Curtis McAlister paid the taxes on the property the first year of the Contract. The second year he told the Plaintiff that he needed her to pay the taxes. Thereafter, Defendant Curtis McAlister would either give the tax notices to the Plaintiff or tell her when the taxes were due, and she would pay the taxes directly to the Williamsburg County Treasurer's office.

3. After she finished paying for the property, Plaintiff requested Defendant Curtis McAlister to give her a deed to the property. He refused to provide the deed and alleged that Plaintiff had not finished paying the Contract price.

4. In 2007, Defendant Curtis McAlister commenced eviction proceedings in the Williamsburg County Magistrate Court under Case Number 0108312 against the Plaintiff alleging that she had failed to make payments under her lease agreement and obtained an Order of Ejectment. The Plaintiff appealed the Order to the Circuit Court on the grounds that she and Defendant Curtis McAlister had entered into a purchase agreement for the property. On June 10, 2010, the Circuit Court Judge issued an Order Vacating the Magistrate's Eviction Order.

5. In 2010 Defendant Acquana McAlister delivered a document to the Plaintiff entitled "Lease, Basic Rental Agreement Or Residential Lease" and requested that the Plaintiff

execute the document. The purported Lease reflected Curtis McAlister as Landlord and Shawonda Scott Sabb as tenant for rental of the property in the amount of \$500.00 per month commencing May 1, 2010, until November 1, 2010, and thereafter on a month-to-month tenancy. Payments were to be made at 405 Belle Claire Drive, Columbia, SC, to Acquana McAlister or Rosalind McAlister Najee. Plaintiff denied that she was renting or leasing the property and refused to sign the document.

6. Pursuant to the request of Defendant Acquana McAlister, on or about October 20, 2010, Defendants Cyrus and Williamsburg County changed the property's mailing address on the County's tax records from 196 Gausetown Road, Kingstree, SC 29556 to 2520 Carroll Drive, Columbia SC 29204. The Plaintiff was not made aware of the change of address. She did not receive notice of the tax delinquency, or subsequent correspondence, if any, between the Tax Collector and Defendants Curtis McAlister and Acquana McAlister.

7. On November 12, 2010, Defendant Curtis McAlister again filed an Application for Ejectment in the Magistrate Court in Case Number 2010-CV-45-10101078 on the grounds that Plaintiff had failed and refused to pay rent when due or demanded. Plaintiff retained counsel who filed an Answer to the Rule to Vacate contesting the jurisdiction of the Magistrate Court on the basis that she and Defendant Curtis McAlister had entered into a purchase agreement, not a lease. The matter was scheduled for a bench trial on January 7, 2011.

8. On September 9, 2014, Defendant Williamsburg County, by its Tax Collector, Defendant Norma L. Cyrus, executed a Tax Deed conveying the Property to Hattie S. Pendergrass for the sum of \$800.00 for delinquent taxes for the period 2011. Plaintiff alleges that Defendants Cyrus, Tax Collector, and the County of Williamsburg did not comply with the statutory requirements concerning notice of delinquent taxes, levy and the impending sale.

9. In her Complaint Plaintiff alleges collusion and a conspiracy among Defendants Curtis McAlister, Acquana McAlister, Hattie S. Pendergrass and Hartwell Pendergrass, Sr., in that they combined, conspired and colluded for the purpose of breaching the Contract between the Plaintiff and Defendant Curtis McAlister in order to deprive the Plaintiff of the benefit of the Contract. The aim of said conspiracy was accomplished by refusing to pay the taxes on the property, failing to inform the Plaintiff that Defendant Curtis McAlister had not paid the taxes, failing to request that the Plaintiff pay the taxes, as was his custom, concealing notice of the delinquency from the Plaintiff, allowing the property to be sold at auction to a third party, and thereby divesting the Plaintiff of the interest in and title to the property she acquired by virtue of the Contract. Plaintiff asserts that Hattie S. Pendergrass is in wrongful possession of the Property due to her complicity in the scheme to deny the Plaintiff title to the property.

LAW/ANALYSIS

1. **Rule 56: Motion for Summary Judgment**

In reviewing the grant of a summary judgment motion, this court applies the same standard which governs the trial court under Rule 56(c) SCRCF; summary judgment is proper when "there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." (*Emphasis Supplied*)

In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party. On appeal from an order granting summary judgment, the appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party below. (*Internal cites omitted*)

Osborne v. Adams, 550 S.E.2d 319, 321, 346 S.C. 4, 7 (2001), reh'g denied August 22, 2001

Plaintiff relies upon the pleadings, discovery, Rule 56(c) and case law which mandate that there be a finding that there is no genuine issue as to any material fact warranting trial.

Plaintiff refers the Court to Response No. 1 giving the names and addresses of seven (7) witnesses and to her answer to Interrogatory Response No. 3 which states that these "seven potential witnesses will be asked to testify concerning communication between the Plaintiff and the Defendants, communication among the Defendants, the facts surrounding the possession and occupancy of the subject property by the Plaintiff, and the history of the subject property as it relates to payment of the purchase price, ad valorem taxes and auction of the property at tax sales(s)." The record before this Court clearly presents reasonable inferences and conclusions that justiciable issues exist in this controversy and, therefore, the motion for summary judgment must be denied.

2. **South Carolina Public Duty Doctrine**

Under the public duty rule, public officials are not liable to individuals of the public for negligence in discharging their statutory obligations. A public official may be liable if he owed a special duty or care to the individual, as determined by a six-factor test, assessing whether: (1) an essential purpose of the statute is to protect against a particular kind of harm; (2) the statute imposes on a specific public officer a duty to guard against or not cause that harm; (3) the class of persons the statute intends to protect is identifiable before the fact; (4) the plaintiff is a person within that class; (5) the public officers know or should know of the likelihood of harm to the class if he fails in his duty; and (6) the officer is given sufficient authority to act in circumstances or he undertakes to act in the exercise of his office. (*Internal cites omitted*)

Plat v. CSX Transportation, Inc. 697 S.E2d 575, 577, 388 S.C. 441, 446, (2010)

Defendants Norma L. Cyrus and the County of Williamsburg's duty to the Plaintiff under the six-factor test is set forth in the enabling legislation which provides for them to act in the circumstances involved here. The pertinent portion of the Code Section governing these Defendants at the time of the 2012 Tax Sale is as follows:

After the county treasurer issues his execution against a defaulting taxpayer in his jurisdiction, as provided in Section 12-45-180, signed by him or his agent in his official capacity, directed to the officer authorized to collect delinquent taxes, assessments, penalties, and costs, requiring him to levy the execution by distress and sale of the defaulting taxpayer's estate, real or personal, or

both, or property transferred by the defaulting taxpayer, the value of which generated all or part of the tax, to satisfy the taxes, assessments, penalties, and costs, the officer to which the execution is directed shall:

(a) On April first or as soon after that as practicable, mail a notice of delinquent property taxes, penalties, assessments, and costs to the defaulting taxpayer and to a grantee of record of the property, whose value generated all or part of the tax. The notice must be mailed to the best address available, which is either the address shown on the deed conveying the property him, **the property address**, or other corrected or forwarding address of which the officer authorized to collect delinquent taxes, penalties, and costs has actual knowledge. The notice must specify that if the taxes, penalties, assessments, and costs are not paid, the property must be advertised and sold to satisfy the delinquency. *(Emphasis supplied)*

(b) If the taxes remain unpaid after thirty days from the date of mailing of the delinquent notice, or as soon thereafter as practicable, take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs. In the case of real property, exclusive possession is taken by mailing a notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and any grantee of record of the property at the address shown on the tax receipt or to an address of which the officer has actual knowledge, by "certified mail, return receipt requested-restricted delivery" pursuant to the United States Postal Service "Domestic Mail Manual Section S912". If the addressee is an entity instead of an individual the notice must be mailed to its last known post office address by certified mail, return receipt requested, as described in Section S912. ...

(c) If the "certified mail" notice has been returned, **take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises in the case of real estate, reading: "Seized by person officially charged with the collection of delinquent taxes of (name of political subdivision) to be sold for delinquent taxes"**, the posting of the notice is equivalent to levying by distress, seizing, and taking exclusive possession of it, or by taking exclusive possession of personalty. ...*(Emphasis supplied)*

(d) The property must be advertised for sale at public action. The advertisement must be in a newspaper of general circulation with the county municipality, if applicable, and must be entitled "Delinquent Tax Sale". It must include the delinquent taxpayer's name and the description of the property, a reference to the county auditor's map-block-parcel number being sufficient for a description of realty. The advertising must be published once a week before the legal sales date for three consecutive weeks for the sale of real property, and two consecutive weeks for the sale of personal property. All expense of the levy, seizure, ad sale must be added and collected as additional costs, and must include, but not be

limited to, the expenses of taking possession of real or person property, advertising, storage, identifying the boundaries of the property, and mailing certified notices. ...

S. C. Code Ann. § 12-51-40 (2000)

Defendants Cyrus and Williamsburg County owed a public duty to the Plaintiff as established by the six-factor test. The evidence establishes at this juncture in the proceedings that these Defendants failed, at the least, to comply with the notice provision. The Plaintiff asserts that she received no notice from these Defendants either prior to or after the sale, that she lived on the premises, and that no notice was placed on the property as required by statute. By virtue of her interest in the real estate acquired under her contract of sale, she was entitled to notice of delinquent taxes, an impending sale by auction, and the right of redemption after the sale.

“Tax sales must be conducted in strict compliance with statutory requirements.” Moreover, “failure to give the required notice of a tax sale is a fundamental defect in the tax sale proceedings that renders the proceedings absolutely void”. *Baker v. Denton*, 37 F. Supp.3d 794, U.S. District Ct., DSC, Charleston Div. 2014.

These Defendants are not entitled to summary judgment because there is evidence in the record that they have failed to discharge their duty owed to the Plaintiff imposed upon them by statute.

3. South Carolina Tort Claims Act, § 15-78-10, et seq.

An essential element in a cause of action based upon negligence is the existence of a legal duty of care owed by the defendant to the plaintiff. Without a duty, there is no actionable negligence. A plaintiff alleging negligence on the part of a governmental actor or entity may rely either upon a duty created by statute or one founded on the common law. When the duty is created by statute, we refer to this as a “special duty,” whereas when the duty is founded on the common law, we refer to this as a legal duty arising from “special circumstances.”

Plat v. CSX Transportation, Inc., 697 S.E2d at 445, 388 S.C. at 577.

Under the Tort Claims Act “[t]he State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability damages contained herein.” S.C. Code Ann. § 15-78-40 (2005). Notwithstanding any provision of law, the Tort Claims Act “is the exclusive and sole remedy for any tort committed by an employee of a governmental entity while acting within the scope of the employee’s official duty.” S.C. Code Ann. § 15-78-200 (2005).

Repko v. County of Georgetown, 785 S.E.2d 376, 382, 416 S.C. 22, 34 (Ct. App. 2016), reh’g denied May 20, 2016, cert. granted Sept. 8, 2017

The record before the Court reflects that there are genuine issues of material to be decided by triers of the facts and, therefore, summary judgment is improper in this case.

CONCLUSION

Based upon the foregoing, Plaintiff respectfully urges the Court to deny Defendants Cyrus and County of Williamsburg’s Motion for Summary Judgment.

MOORE LAW FIRM, L.L.C.

Dwight C. Moore

Dwight C. Moore, S.C. Bar No. 63008

26 North Main Street

Post Office Box 1229

Sumter, South Carolina 29151-1229

Telephone (803) 778-6520

Fax (803) 775-6365

Email: moorelawfirm@ftc-i.net

Attorney for Plaintiff

July 7, 2018

Sumter, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

COURT OF COMMON PLEAS

SHAWONDER SCOTT)
PLAINTIFF,)

v.)

TRANSCRIPT OF RECORD
15-CP-45-00401

CURTIS MCALISTER, ET.)
AL.,)
DEFENDANTS.)

September 27, 2018
Sumter, South Carolina

B E F O R E :

THE HONORABLE GEORGE M. MCFADDIN, JR., JUDGE

A P P E A R A N C E S:

DWIGHT C. MOORE, ESQ.
Attorney for the Plaintiff

WILLIE H. BRUNSON, ESQ.
HARRIET H. LAMPKIN, ESQ.
W. EVAN REYNOLDS, ESQ.
Attorneys for Defendants.

FRANCES B. RAY, RPR
Circuit Court Reporter

EXHIBIT

MAR 22 2019

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(There were no exhibits submitted.)

1 THE COURT: Whose motion?

2 MR. MOORE: May it please the Court, Your
3 Honor.

4 THE COURT: Yes, sir.

5 MR. BRUNSON: I actually filed a motion, I
6 represent the defendant, or the defendants, Curtis
7 McAlister and Aquana McAlister. I initially filed a
8 motion to be relieved as counsel in this case, and I
9 respectfully withdraw that motion from the docket
10 today.

11 THE COURT: So you're still with us, all
12 right, sir.

13 Yes, ma'am.

14 MS. LAMPKIN: May it please the Court,
15 Your Honor. So I'm Harriet Lampkin, defendant,
16 counsel for the defendants Hattie and Hartwell
17 Pendergrass, so I have a motion today for dismissal
18 pursuant to 12(b)(6), or in the alternative summary
19 judgment.

20 THE COURT: All right. Is that the only
21 motion before me today in this case?

22 MR. REYNOLDS: Your Honor, my name is Evan
23 Reynolds. I'm serving for Billy Jenkinson,
24 represent Ms. Norma Cyrus along with Williamsburg
25 County. We have two motions here today. One is to

1 amend our Complaint and one is for summary judgment.

2 THE COURT: All right, who wants to go
3 first?

4 MR. MOORE: Your Honor, just so we get the
5 ---

6 THE COURT: All right, sir.

7 MR. MOORE: I also have a motion to amend
8 the Complaint and I'm not sure whether you want to
9 hear the motion to amend first or the summary
10 judgment first. I don't know which procedurally is
11 the correct, order of hearing it, but give to the
12 Court ---

13 THE COURT: I tell you what I'm gonna do,
14 I'm gonna hear all of it and then I'll retreat and
15 sort it all out and make my rulings, okay. You know
16 my normal style. So who wants to go first? Ms.
17 Lampkin?

18 MR. REYNOLDS: Your Honor, I'll go first.
19 On our first motion, our motion to amend the
20 Complaint, that'll be our, hopefully our briefest
21 motion. Your Honor, this case got initiated 2015.
22 I took over sometime last year. I noticed that in
23 our answer to the plaintiff's Complaint that we did
24 not assert the South Carolina Torts Claims Act which
25 is an affirmative defense and so we are liking to

1 amend our answer to assert that affirmative defense.

2 Your Honor, we previously — and
3 everything, both our motions are e-filed. We
4 previously e-filed this motion to amend on July 9th,
5 2018. That was at the same time we came to court
6 last, and it's been continued. At that time the
7 standard here is under Rule 15, South Carolina Rules
8 of Civil Procedure, that a motion to amend should be
9 freely given when it does not prejudice any other
10 party. At that time it was our position that it did
11 not prejudice any other party. That was based on
12 the fact that we asserted the South Carolina Tort
13 Claims Act in our motion for summary judgment. And
14 the plaintiff e-filed a reply to that and he's
15 already replied to a South Carolina Torts Claims Act
16 that we assert in our summary motion. That was back
17 in July. Well, it's been almost three months since
18 then so we would argue that there most certainly
19 can't be prejudice to the parties now, or at least
20 to the plaintiff. I don't believe there would be
21 any prejudice to my co-defendants 'cause we're all
22 kind of wanting the same thing here. So that is my
23 motion to amend our answer to assert the affirmative
24 defense the South Carolina Tort Claim Act.

25 THE COURT: All right. Mr. Brunson, any

1 comments on that one?

2 MR. BRUNSON: None, Your Honor.

3 THE COURT: Ms. Lampkin?

4 MS. LAMPKIN: No, sir, Your Honor.

5 THE COURT: Mr. Moore?

6 MR. MOORE: Your Honor, the rules are
7 pretty straight forward, and I certainly don't
8 contest the reading of the rule as based to leave to
9 amend. We got notice about two months ago pursuant
10 to e-filing. I can make argument, I wouldn't do
11 that, just to make argument. I certainly agree that
12 we've had time and notice of the motion so I do not
13 overly oppose that motion.

14 THE COURT: Okay, all right.

15 Mr. Reynolds, you want to talk about your
16 summary judgment now?

17 MR. REYNOLDS: Okay. Yes, Your Honor. If
18 it pleases the Court, our summary judgment motion is
19 based on, most importantly, the South Carolina
20 Public Duty Doctrine and then, alternatively,
21 summary judgment based on the Torts Claim Act. I'd
22 like to get into the Public Duty Doctrine first.
23 Just a brief overview of the facts, Your Honor,
24 apparently the plaintiff and the, Mr. Brunson's
25 clients, the McAlisters, allegedly entered into an

1 oral agreement kind of like a rent-to-own on a piece
2 of property in the building that was thereon. I
3 believe that agreement was allegedly initiated in
4 1998 so it's been some 20 years ago. The plaintiff
5 is saying that she has, I guess, fulfilled her part
6 of the contract and that the property should be
7 hers; and of course, the defendants are saying
8 that's to the contrary, that's not true, we never
9 had that agreement. So the County is involved
10 because the defendants ultimately did not pay the
11 taxes on the property and the County, as any county
12 would, sold the property at a delinquent tax sale,
13 and Ms. Lampkin's clients are the successful bidders
14 on the property and that's why she's here.

15 So the plaintiff is saying that the County
16 owes a duty to the plaintiff to give her proper
17 notice of the delinquent taxes. Well, under the
18 South Carolina Public Duty Doctrine that's just not
19 the case. And Your Honor, I have filed along with
20 my motion for summary judgment a memorandum in
21 support of same. And as we can see, as Your Honor
22 is probably aware, the South Carolina Public Duty
23 Doctrine makes it where public officials, i.e., Ms.
24 Norma Cyrus, is not liable to individuals for any
25 negligence and discharge of the public duties, that

1 the duty in theory is owed to the public at large
2 and not a certain individual. However, there are
3 exceptions. A statute can create a special duty
4 under — in this case the sale and the notice
5 requirements leading to the sale, a property tax
6 sale, there is a special duty, is created by the
7 statute.

8 Under that statute there are six prongs
9 for a special duty to be established. The first
10 prong is that the statute to protect, that this
11 statute must protect this type of person against
12 this particular harm. In this case the supreme
13 court has already established that regards to the
14 tax sale statute that Mr. Moore is citing, that the
15 requirements of law leading up to the tax sale are
16 intended for the protection of the tax payer against
17 surprise or sacrifice of his property and are
18 regarded as mandatory and strictly enforced. And I
19 repeat, the sacrifice of his property, the tax
20 payer, so that's who we owe a duty to. I'll go
21 ahead and admit it; we owe a duty to Curtis
22 McAlister. Curtis McAlister is the property owner,
23 is named on the deed, he was the one that was in
24 charge of paying the taxes.

25 The plaintiff, her name has never been on

1 the deed; it is still is not on the deed. She is
2 not the owner of record. She admitted it in her
3 deposition. So our argument under the Public Duty
4 Doctrine is that even if we were negligent in
5 discharging our duties in regards to notice of an
6 upcoming tax sale in delinquent taxes, that duty is
7 owed to the owner, the taxpayer, one of my
8 co-defendants. That duty is not owed to the
9 plaintiff who is alleging some property interest via
10 a oral contract from 20 years ago. Quite frankly,
11 that's a -- if we're gonna say that we do owe a duty
12 to her, we're creating a class and a class that
13 really cannot be regulated 'cause now anybody can
14 come forward after a tax sale and say, and claim
15 some property interest and then we owe them a duty
16 so it would be -- procedurally it wouldn't work
17 anyways. So that's our first argument as we owe no
18 duty to a claimant via an oral contract that she
19 would rent-to-own a piece of property.

20 The next argument is under the Torts Claim
21 Act. Now under that argument the County and
22 Ms. Cyrus is saying that our supreme court has laid
23 it out, the only recourse -- and this is if that we
24 owe to Mr. McAlister. The only recourse to Mr.
25 McAlister, that's the property owner, would have if

1 we fail to fulfill our duties of notice regarding
2 this delinquent taxes and tax sale would be that the
3 tax sale would be deemed void and we would
4 essentially tear up the tax deed and give him a deed
5 back into his name. The property would revert back
6 to the owner's name. There's no monetary damages.
7 There is no other — there's definitely no punitive.
8 There's no other damages to be had under the torts
9 immunity provision so the only thing that could
10 possibly, if all this worked out for the plaintiff,
11 the only thing that would happen is we would rule
12 that — or Your Honor would rule that the tax sale
13 would be void, we would take our deed to
14 Ms. Lampkin's clients, tear it up, and we would
15 still give the property back to our other
16 co-defendant 'cause he is the owner of record. And
17 Your Honor, that is essentially, that is both of our
18 causes of action under our summary judgment motion.

19 THE COURT: Okay. All right, Mr. Brunson,
20 any response?

21 MR. BRUNSON: None, Your Honor.

22 THE COURT: Ms. Lampkin?

23 MS. LAMPKIN: No, sir.

24 THE COURT: Mr. Moore?

25 MR. MOORE: Thank you, Your Honor, if it

1 please the Court. The County has an obligation to
2 follow the statute to the landowner irregardless of
3 the arrangement orally or contractually with any
4 other third party. That's by statute. Counsel
5 makes argument regarding the Tort Claims Act and how
6 it applies and if it applies. There's case law out
7 there, and I'll be glad to pass them a copy and pass
8 the Court a copy. And I think I may have not
9 printed the first page off, but this is a Hawkins
10 matter and I have a page tied back on page 9 of 14
11 that says the statute is a strict statutory
12 compliance statute. That means that this is not a
13 negligence issue that would, that would come under
14 umbrella of the Tort Claims Act; it's a due process
15 issue that's separate from that argument. And so
16 the law simply says if they don't comply with the
17 statutes strictly, then it's a due process argument
18 that can't be pushed aside by the Tort Claims Act.
19 So if the statute says that they have to give notice
20 to a property owner by certified registered mail, if
21 the statute says that if they don't reach that
22 person they have to post notice on the property
23 itself and they don't do that, they have not
24 complied with the statute; therefore, the statute
25 gives rise to a cause of action by a landowner or a

1 landowner who has contractual rights equitable, or
2 otherwise, to that property. And so that argument
3 fails if it's a due process argument.

4 Now I've in my brief, and I'm not sure,
5 Your Honor, whether, how you have access to
6 e-filings here in Williamsburg County, but I briefed
7 that; and out of abundance of caution, I dealt with
8 the Public Duty Doctrine in that brief so I won't
9 belabor that except to say that I've dealt with it
10 amply in that filing. I pass up one of the document
11 and I'll finish with this argument.

12 The McAlisters and Ms. Scott had an
13 arrangement to purchase this property that went back
14 approximately 20 years. When it came to my client
15 Ms. Scott's notice or attempting that the property
16 had been sold, Attorney Doward Keith Harvin who
17 represented her at the time, went through the
18 process of investigation to determine what happened.
19 If the Court will look at on what I have tabbed 1,
20 there's a letter to Ms. Norma Cyrus, a tax
21 collector, that reads this way: "I have reviewed
22 the information related to listed property above.
23 As you may recall the property was sold to Ms.
24 Hattie Pendergrass at the tax, at a tax auction.
25 The owner was not aware that this took place until

1 recently, and as such, we requested and filed a copy
2 of your file for review. From reviewing the file
3 there seems to be an unauthorized change of address
4 by someone claiming to be the daughter of the owner,
5 the owner Mr. Curtis McAlister, who did not give
6 anyone any authorization to handle any business at
7 any time. In fact, the file does not include any
8 type of power of attorney document that would give a
9 person the ability to handle such affairs for
10 Mr. McAlister. This unauthorized change of address
11 took place at a time when Mr. McAlister was
12 hospitalized and was still engaged in a contractual
13 arrangement with Ms. Shawonder Sabb to pay taxes."
14 And Ms. Sabb is Ms. Scott, on the property. "By the
15 tax notices being sent to the owner's address
16 without owner's authorization, the owner, nor his
17 tenant, was able to receive any notices sent from
18 the office. In addition, there seems to be no proof
19 that a notice was placed on the property being
20 levied. I saw no affidavit or a picture showing
21 where the notice was placed on the property as
22 required by law. The tenant Ms. Sabb, Ms. Scott,
23 never saw a notice on the property as well. Based
24 upon the above we are asking that the tax
25 collector's office do what is right and just by

1 rescinding the transfer, property transfer that
2 occurred, because of an unauthorized change of
3 address and the lack of notice being placed on the
4 property."

5 In the file, while Mr. McAlister was
6 hospitalized a phone call came into the assessor's
7 office that changed the address from the property
8 where it lies here in Williamsburg County to another
9 address in Columbia, South Carolina. The
10 contractual arrangement, verbal, between Ms. Scott
11 and Mr. McAlister, took place late 1999, early 2000.
12 She had been paying the taxes off and on. When Mr.
13 McAlister got the notices he didn't have the money
14 to pay it. He gave it to her so she paid it and so
15 that is how it worked. Until the address changed
16 from Williamsburg County, the Gott Road address to
17 Clarendon -- to Columbia or Richland County, by way
18 of a phone call to the office here in Williamsburg
19 County to change the property address. And so the
20 notices didn't go to the address anymore, the notice
21 went to Columbia; and so when Mr. McAlister didn't
22 pay the taxes they sent the notices restricted
23 delivery to Columbia that came back because they
24 were never picked up. They claim that they
25 posted -- they never said that, but the statute

1 requires that they post notice on the door of the
2 property here in Williamsburg County in order to
3 proceed with the tax sale. It is our position that
4 they never did that.

5 The attorney for the County responded;
6 it's tab number 2. He wrote, writes Mr. Doward and
7 says this: "I've been asked my Ms. Cyrus to respond
8 to your letter dated October 29, 2014. She has
9 received her file at your request or reviewed her
10 file at your request to determine if she can find
11 anywhere that the property received is the sale of
12 property at tax sale or at a tax sale were not
13 followed. I can assure you that in the past when
14 there has been an error she has taken corrective
15 action. Here review the file does not indicate that
16 where she has not followed the law. Ms. Pendergrass,
17 Hattie Pendergrass purchased the property in auction
18 and after redemption period the property has not
19 been redeemed. Having not being redeemed was
20 transferred by tax deed to Ms. Pendergrass. As we
21 see it, the only remedy your client has is to file a
22 suit against Ms. Pendergrass, the current owner,
23 alleging that the deed should be set aside, which
24 we've done. Williamsburg County and Ms. Cyrus as a
25 tax collector would" — and the exact wording is --

1 "would necessary party," so I assume he's saying
2 would be necessary parties. Even though they take
3 no serious position one way or the other than to
4 relate the facts from our file. Any decision as to
5 the case will be up to the judge based on the
6 factual consideration as well as the law. I wish
7 there was something else that could be done, but
8 where the properties were sold and conveyed the
9 right to take corrective action for the most part is
10 nonexistent as far as the tax collector is
11 concerned. I trust that answers your questions or
12 answer your question. If you need anything further,
13 please do not hesitate to call me or let me know."

14 What they did not do, Your Honor, is
15 address the unauthorized changing of the address by
16 what is said to be the daughter of Mr. McAlister
17 without a power of attorney or legal authority.
18 They didn't address that. Secondly, they did not
19 address the fact that there was a question of notice
20 being placed on the property as required by the
21 statute. That was not addressed. Their thing was
22 simply, you want to fix this bring a lawsuit, name
23 Ms. Pendergrass, name the tax collector, that's the
24 only way to address it. Well, now they appear in
25 court and said it's illegal to do that, but that's

1 what they told us, Ms. Scott, she had to do, which
2 is right. And procedurally they did not address and
3 still have not addressed how this happened, that is,
4 the notice, the address being changed from one
5 address to another, from Williamsburg County to
6 Richland County, and the fact that they have no
7 proof that notice was placed on the door as required
8 by the statute.

9 Also on tab 3, Your Honor, you will see
10 where a change of address form was done. It was
11 done by Ms. McAlister as noted by this document by
12 phone and it notice she is the daughter. Well, the
13 question is, and I think it's a jury question is, is
14 that proper to have a notice of address done by
15 telephone by a third party. They can't verify who
16 it is or why they're calling, if they have the
17 authority to call. Normally in this day and time
18 that's done by power of attorney if there's one
19 filed, one done and filed. In this case there was
20 none done on file, and the address change that
21 effected the actual tax paid on the filing.

22 The Howard case, Your Honor, I think it
23 is, says that we're required, the nonmoving party,
24 to show the court beyond a mere scintilla of
25 evidence. I think we've met that standard by the

1 documents presented here both dealing with their
2 argument under the Torts Claim Act, the Public Duty
3 Doctrine which I've set out in my response and reply
4 to his motion and I'll be glad to answer any further
5 question from the Court.

6 THE COURT: I don't have any right now.
7 Any of you lawyers want to respond to that?

8 MR. REYNOLDS: Yes, Your Honor. Again, I
9 believe the plaintiff is missing the boat here.
10 Ironically he handed up a case that was about a boat
11 as well and it was the owner of a boat. I'm reading
12 the case now, but it says, "Here the parties and the
13 master stipulated that Hawkins in that case owned
14 the Lady Hawk at the time of the tax sale." And
15 then it says, "Because the County failed to adhere
16 the mandatory notice provisions contained in
17 12-3-140 we conclude the tax sale of the Lady Hawk
18 was void." That's, and that's the law and that's
19 what I'm telling the Court and that's what I told
20 the Court. I agree with the plaintiff here. We do
21 have a duty of notice and that it should be strictly
22 enforced and mandatorily adhered to; but the problem
23 is, the plaintiff in this case is not the owner of
24 the boat in this case. She's not the owner of the
25 property. We do not owe her the duty. She lacks

1 the standing to assert this claim against us. The
2 only person in this courtroom today who we owe that
3 duty to is the owner and the tax payer and that is
4 my co-defendant the McAlisters. What we did or
5 didn't do with the McAlisters is not properly before
6 the court. And even for argument sake let's just
7 stipulate that the County didn't follow all the
8 notice provision rights, still, the plaintiff has no
9 standing. We do not owe that duty to provide notice
10 to somebody who is not the landowner; and that's
11 just, that's quite simply, that's it, that's our
12 argument.

13 THE COURT: All right.

14 MR. MOORE: Just briefly in response, Your
15 Honor.

16 THE COURT: Yes, sir.

17 MR. MOORE: Ms. Scott lived on that
18 property for 20 years. She lived on the property,
19 in the property. The agreement between Mr.
20 McAlister and Ms. Scott is their agreement. The
21 County has nothing to do with the agreement between
22 the two parties. And the issue of standing never
23 came up, it certainly was not pled. It's certainly
24 not raised prior to now. Their obligation is to the
25 tax payer, whomever that is. The situation between

1 Ms. Scott and Mr. McAlister is their business, and I
2 guess they're saying now because that has not been
3 litigated it is a part of this claim and part of
4 this lawsuit, then they have, that's their hour as
5 far as not following the statute. The statute
6 doesn't say that. The statute says that they have
7 to follow the statute as set out procedurally. He
8 has admitted that, I guess he's admitted, that they
9 have not done that. And if he's not admitted, they
10 understand that the place to do that or have that
11 dealt with this court and the relief is to void the
12 deed. We're satisfied if they will just do that,
13 just follow the statute.

14 THE COURT: All right, sir. Anything else
15 from this table here? I heard from all of you. Ms.
16 Lampkin, do you have any motions for me, ma'am?

17 MS. LAMPKIN: Yes, sir.

18 THE COURT: All right, what are yours?

19 MS. LAMPKIN: Your Honor, I have a
20 12(b)(6) motion to dismiss or in the alternative a
21 motion for summary judgment. Your Honor, I would
22 like to just go forward on the motion for summary
23 judgment and not even address 12(b)(6) if that's
24 okay.

25 THE COURT: Are you abandoning 12(b)(6)

1 then?

2 MS. LAMPKIN: Yes, sir.

3 THE COURT: All right.

4 MS. LAMPKIN: So just the motion for
5 summary judgment.

6 THE COURT: All right, proceed, ma'am.

7 MS. LAMPKIN: Yes, sir. May it please the
8 Court, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. LAMPKIN: Good morning, sir. So this
11 case as you can decipher is a myriad of issues, but
12 the only issues pled against my client is a civil
13 conspiracy. And the plaintiff has alleged in her
14 Complaint that my client Hattie and Hartwell
15 Pendergrass conspired with Mr. Brunson's clients the
16 McAlisters, to somehow trick Ms. Scott, the
17 plaintiff, from paying taxes on this property, Your
18 Honor. My argument here is basically there's been
19 no evidence produced through this whole three year
20 process of discovery, depositions, interrogatories
21 to support that there's been a civil conspiracy.

22 South Carolina recognizes three elements
23 of civil conspiracy, Your Honor. They are that
24 there must be a combination of two or more persons
25 for the purposes of injuring the plaintiff which

1 causes special damages. In order to establish civil
2 conspiracy direct or circumstantial evidence must be
3 produced from which one may reasonably infer a joint
4 assent to the prosecution of unlawful, in criminal
5 enterprise, and unlawful here does not have to be a
6 violation of criminal statutes.

7 Your Honor, the plaintiff here pled no
8 facts of conspiracy besides the fact that the
9 Hartwell and Hattie bought this property at a tax
10 sale. The relevant facts for my clients are as
11 follows. On December the 3rd, 2012, on Williamsburg
12 County County Complex Pendergrass spent 800-dollars
13 to buy subject property 196 Gausetown Road. They
14 were the successful bidder; they paid that money.
15 They walked away from the sale. They did nothing
16 with the property. They spoke to no one. About a
17 year-and-a-half later on September 26th, 2014, the
18 Williamsburg County tax office mailed Ms. Hattie
19 Pendergrass a title to this property, and the
20 statutory redemption period had expired. So they
21 sent her a title saying she's now the record
22 landowner of this property.

23 Ms. Pendergrass never spoke with McAlister
24 defendants prior to the sale of the land of the
25 property. After the sale of the property in 2014

1 the McAlister defendants came to the Pendergrass
2 home asking them if they would re-sell the property
3 to them at the price that they paid at the tax sale.
4 The Pendergrass' denied to do the same. At one
5 point the Pendergrasses in 2015 sent a letter to
6 Ms. Scott saying if you're gonna be here can you pay
7 the rent. She didn't respond and this action
8 transpired.

9 Now there's been, like I say, Your Honor,
10 no evidence has been produced saying that there's
11 been a conspiracy. Plaintiff's counsel argues in
12 his response to my motion that we should go forward
13 with a trial because even though no evidence has
14 been produced from discovery, he needs to have
15 testimonial evidence from the seven witnesses he
16 listed to me in his answers to my interrogatories to
17 see if there are facts that constitute a conspiracy
18 here, Your Honor. But I want to come back at and
19 said that plaintiffs counsel has done six
20 depositions, direct examinations of six of the seven
21 witnesses that are in this trial. The only witness
22 that he did not perform a deposition on is
23 Ms. Scott's son Mr. Christopher Sabb, and any
24 comments or answers that he would have the questions
25 on whether or not there was a conspiracy would be

1 hearsay 'cause he did not have firsthand knowledge.

2 Your Honor, I've gone through all the
3 depositions one by one, line by line, and if I can
4 approach you, I've highlighted all the answers where
5 they show there's not been any communication between
6 the McAlisters and the Pendergrass prior to, about
7 any coming together to have a conspiracy to make the
8 McAlisters not pay the taxes so that the Pendergrass
9 can come to the tax sale, buy the property to
10 defraud Ms. Scott. Would y'all like to have a copy
11 of that?

12 THE COURT: Yes, ma'am.

13 MS. LAMPKIN: Okay.

14 THE COURT: Is that your argument, ma'am?

15 MS. LAMPKIN: Yes, sir. There's no
16 evidence of anything. And the direct testimony done
17 by plaintiff, direct examination of the witnesses
18 shows that there is no, so there's a highlight in
19 the front. So Your Honor, in those depositions it
20 says -- direct question was asked by the plaintiff.
21 To all the defendants, to Hartwell, Hattie: "Did
22 you ever speak with the McAlisters about this
23 property before or after this sale? The answers
24 were, never talked to them, never discussed it with
25 them, never knew who lived in the property. Yes, I

1 did talk to the McAlisters in 2014 when they came to
2 my house asking me to sell them the property back.
3 I told them no." If you go through my little
4 highlight list, Your Honor, you're gonna see that's
5 across the board. These depositions were done on
6 different days. I didn't cross. It was all done
7 primarily by plaintiff's counsel. There's been no
8 evidence what so all of any coming together for a
9 conspiracy.

10 Ms. Cyrus for the County testified that
11 the ad ran in the newspaper. She provided a copy of
12 that notice in the newspaper. That's included in
13 there. That supports my client's position that they
14 saw about it in the newspaper. They went to a tax
15 sale. They purchased the property. Plaintiff is
16 not going to be able to demonstrate anything at
17 trial that's any different than these depositions to
18 show that there's been a civil conspiracy, and
19 that's my argument in a nutshell.

20 THE COURT: Mr. Moore.

21 MR. MOORE: Yes, sir, Your Honor. Let me
22 add some color to this and then I'll deal with the
23 deposition. Through discovery, and this is a tab
24 bit tedious, but I'd ask the Court to indulge me
25 just a second. The Pendergrasses, Ms. Hattie

1 Pendergrass and her husband, are long time residents
2 of Williamsburg County. One's a retired carpenter,
3 he is; she's a retired school person. They, 80 and
4 70 years of age respectively. Mrs. Pendergrass'
5 sister is married to Mr. McAlister's brother.
6 Ms. Pendergrass' sister was married to
7 Mr. McAlister's brother George, I think his name
8 was. So they're, they know each other by marriage.
9 I asked the question at deposition to Mr. Hartwell
10 Pendergrass, are you related to anyone in the county
11 by blood or marriage; he said no. The fact is that
12 Mr. McAlister is Mr. Pendergrass' brother-in-law by
13 marriage. My client, Ms. Sabb Scott, is
14 Mr. McAlister's, Curtis McAlister's niece. So all
15 of these folk are related, despite the fact that Mr.
16 Hartwell Pendergrass at his deposition declared that
17 he didn't have anyone related by blood or marriage
18 to this person, that is, Ms. Scott, which in fact,
19 that's not true.

20 What is also deemed if the Court will take
21 a look into packet I hand up from the County, the
22 Court will see that Ms. Pendergrass' sister while
23 married to George McAlister deeded the property —
24 her sister — deeded the property to Mr. Curtis
25 McAlister who entered into the agreement with Mrs.

1 Scott Sabb. So her sister in a deed in 1979 in the
2 packet I handed up, deeded the property to Mr.
3 Curtis McAlister who entered into the agreement to
4 purchase, lease purchase, with my client Ms. Sabb
5 who is Scott Sabb. That's in the County file handed
6 up. At no time that she acknowledged any of that,
7 that is Ms. Pendergrass.

8 If the Court will look at the deposition
9 handed up on page 10 at line 17. And I would ask
10 the Court to keep this in mind, that everyone lives
11 in this county and everyone is related by blood or
12 by marriage. Ms. Pendergrass in the deposition
13 lives three or four miles from the property that her
14 sister and brother-in-law own, the same property
15 they bought from the tax sale. This is the query.
16 Line 10, starting on, on page 10 starting on line
17 17. "Okay, let me get this right, how far do you
18 live from Gosstown Road?" This is the property that
19 was sale at tax sale. "I never clocked it. We
20 live right down the road from there. Okay. Would
21 you say three, three miles? Okay. Three, four
22 miles that I understand. Yes. Three or four miles
23 from the Gosstown Road property? Uh-huh. Okay.
24 How long have you lived at that property that you
25 currently live at now? Probably 30 years." So she

1 lived three miles, four miles from the property for
2 30 years, and it's her position that she know
3 nothing about it.

4 We'll read on. "And you, you did not know
5 at the time that Mr. McAlister lived in that area in
6 that house in that area?" That's a answer.

7 Question: "Okay, did you ever try to ascertain who
8 lived in the house at all? No, because it wasn't
9 interesting." So it's her testimony that though she
10 lived in that area for 30 years, a house three miles
11 down the road that was titled to her sister and
12 brother-in-law, that was then deeded to Mr. Curtis
13 McAlister that was then dealt with by agreement to
14 sell the property she knew nothing about.

15 Now let's talk about what happened during
16 the period of time that Ms. Sabb lived on the
17 property. Mr. McAlister, there was a dispute about
18 how much was being paid and when it was being paid;
19 and so Mr. McAlister took Ms. Sabb to court to have
20 that issue resolved. The court kicked it out, sent
21 it to circuit court where it was appealed. The
22 court kicked it out and so that was never resolved.
23 And this is, this is the brother-in-law of
24 Ms. Pendergrass. And so Ms. Pendergrass is up with
25 the property three miles from her house that she

1 says she knows nothing about, that she didn't have
2 an interest in it, she never saw it, she never went
3 by to see it; and all of a sudden it ends back up
4 with the sister of the person who deeded the
5 property. Our standard or our requirement is we,
6 the standard of mere scintilla of evidence, those
7 facts as borne out by the depositions meet that
8 requirement. Now that's a factual requirement that
9 we pose, we put before the Court that deal with the
10 mere scintilla of evidence.

11 Now, the legal issue is whether Mr. and
12 Ms. Pendergrass are indispensable parties. Counsel
13 for the County says that those persons who have
14 title to the property or alleged title to the
15 property are necessary parties for this litigation.
16 This is the County attorney. Ms. Pendergrass is the
17 person who's on the title to the property. Her
18 husband says, yes, I gave her money, so both are
19 indispensable in that he has an equitable interest
20 either by marriage or by the fact he has interest to
21 the property. Those persons are indispensable to
22 the litigation or necessary so that if a Court finds
23 that the County did not follow the process as set by
24 the statute they can order that the deed be void.
25 In order to that, that person or those persons who

1 have the title in their name have to be part of the
2 lawsuit. So legally they're indispensable pursuant
3 to what is required by pleading. Factually, in my
4 mind they don't get out of the case because we have
5 met, in my mind, the requirement as to the mere
6 scintilla of evidence in order to defeat summary
7 judgment.

8 THE COURT: Yes, ma'am.

9 MS. LAMPKIN: Very briefly, Your Honor.
10 Plaintiff's counsel goes about a myriad of a
11 possible familial relation. First I'll just say
12 being family doesn't prove coming together to
13 conspire. Ms. Pendergrass' sister, as plaintiff's
14 counsel said, was married to Curtis McAlister's
15 brother; but Ms. Pendergrass' sister died ten years
16 ago pursuant to Ms. Pendergrass' statements at the
17 deposition so she's been dead approximately ten
18 years. During plaintiff's counsel's deposition of
19 Mr. Curtis McAlister he asked her, "Do you know
20 Hattie Pendergrass," and he says, his answer is, "I
21 know her from being married, her sister being
22 married to my brother." And he asked her: When's
23 the last time you spoke to her. He said, "I don't
24 know, she's not a very friendly woman," okay. So
25 it's not like they had a, in my opinion since we're

1 going on mere scintilla, we had family reunions and
2 after church suppers, okay. So, and them being
3 family alone by marriage is not sufficient to prove
4 that there's been here any coming together to
5 defraud these folks. I'm from Williamsburg County;
6 I'm from Salters. So is everybody kind of related?
7 If you dig far enough, maybe, you know, sir; but
8 that's not enough to say, hey, these people
9 conspired. That's the factual.

10 On the legal, Mr. Moore here just did a, I
11 guess, an amended motion to say that the Pendergrass
12 are an indispensable party to this action. I think
13 that's a motion that might be before the court
14 today. As Mr. Reynolds said, I don't feel like the
15 Pendergrass have to be here because if it's found
16 that the County messed up something, then the tax
17 sale would be void, right, and then they will just
18 give the property back to the record landowner
19 Mr. McAlister, so I don't think that the Pendergrass
20 are necessary parties here. And I know that the
21 deposition evidence that I've seen here is not
22 enough to say there's been a conspiracy. Counsel
23 did not plead at the beginning they were
24 indispensable parties. He pled those before the
25 Court that they conspired with the McAlisters to

1 defraud Ms. Scott of her land, and the record here
2 just does not show that, Your Honor. And I just
3 don't want to tie these people up in a trial for
4 something we've already asked and there are no new
5 questions.

6 THE COURT: Mr. Moore, was that going to
7 be one of your motions to make the parties, ---

8 MR. MOORE: Yes, sir.

9 THE COURT: ---to make new parties?

10 MR. MOORE: That was the final motion to
11 amend to add the language indispensable party. Out
12 of abundance of caution for pleadings sake, your
13 Honor, I err on the side of caution by making a
14 motion to amend which I would ask the Court to
15 grant; but I think the mere fact that the facts are
16 as they are makes it indispensable without making
17 the amendment. But I would ask the Court to grant
18 the motion to amend along with your consideration of
19 any motion.

20 THE COURT: Okay. Are those all of your
21 motions, Mr. Moore?

22 MR. MOORE: Yes, sir, I only had one
23 motion to amend.

24 THE COURT: Okay. Anything on this table
25 further, reply anything?

1 MR. BRUNSON: None, Your Honor.

2 THE COURT: All right, folks. Y'all have
3 obviously lived with this for a while, know it
4 inside and out, I don't. I only met this case this
5 morning. You can rest assured it's gonna take me a
6 few days, perhaps a few weeks to get you an answer
7 on this. It's all brand new to me folks. Thank
8 you.

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10 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
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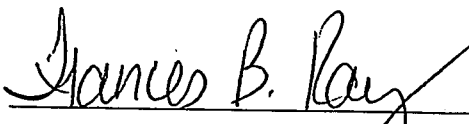
C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 12th day of March, 2019.


FRANCES B. RAY, RPR

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF WILLIAMSBURG

15-CP-45-00401

Shawonder Scott,

Plaintiff,

vs.

Curtis McAlister, Aquana McAlister,

Norma L. Cyrus, Tax Collector for

Williamsburg County, County of

Williamsburg, an Unincorporated

Subdivision of the State of South

Carolina, Hartwell Pendergrass, Sr.,

and Hattie S. Pendergrass,

Defendants.

Deposition of SHAWONDER SCOTT taken on January 12th,
2018 at 9:30 a.m. at the Moore Law Firm in Sumter, South
Carolina. Laura Landrum, Notary Public for South Carolina.

FOR THE PLAINTIFF:

Dwight C. Moore, Esquire

Sumter, South Carolina

FOR THE DEFENDANTS McALISTER:

Willie H. Brunson, Esquire

Sumter, South Carolina

FOR THE DEFENDANTS CYRUS AND WILLIAMSBURG COUNTY:

William Evan Reynolds, Esquire

Kingstree, South Carolina

1 It was stipulated by counsel that the deposition
2 would be taken in accordance with the South Carolina Rules
3 of Civil Procedure and Amendments and pursuant to notice.

4 By agreement of counsel and with the consent of
5 the deponent, the deponent agreed to waive the right to
6 read and sign the deposition after the same had been duly
7 transcribed.

8 SHAWONDER SCOTT, after first duly affirming to
9 tell the truth, the whole truth, and nothing but the
10 truth, testified as follows:

11 DIRECT EXAMINATION BY MR. BRUNSON:

12 Q Good morning, Ms. Scott.

13 A Good morning.

14 Q My name is Will Brunson, and of course, I defend Ms.
15 Aquana McAlister and Mr. Curtis McAlister in this
16 action. They are two of the defendants.

17 A Yes, sir.

18 Q You filed a Summons and Complaint in 2015, correct?

19 A That's correct.

20 Q And in that Complaint, you sued father and son -- I
21 mean, father and daughter?

22 A Correct.

23 Q All right. Now, before we get started, let me ask
24 you a few general questions.

25 A Yes.

1 Q Have you ever had your deposition taken before?

2 A No.

3 Q Okay. I believe you indicated that your last name
4 was Scott in your pleadings. Has that changed?

5 A No, sir. I was once married. My husband is
6 deceased. I still use Sabb and Scott. I use both
7 names, because Scott is what --

8 Q Scott is your maiden name?

9 A My maiden name. It's my maiden name.

10 Q And your married name is Sabb?

11 A Yes, sir.

12 Q Okay. There are a few rules that I'd like to go over
13 with you, okay?

14 A Yes, sir.

15 Q The first one being, there's a court reporter
16 present, and she's creating a record. So for that
17 reason, we request that you make your responses
18 verbal.

19 A Yes, sir.

20 Q I know we're inclined to shake our head in agreement
21 or in disapproval.

22 A Uh-huh.

23 Q But because of the record, we ask that you make all
24 of your responses verbal.

25 A Yes.

1 Q The next thing we ask is that you wait until I
2 complete my question before you answer.

3 A Uh-huh. Yes, sir.

4 Q I know sometimes we can anticipate what the question
5 is, --

6 A Uh-huh.

7 Q -- but again, since she's creating a record, --

8 A Right.

9 Q -- we want it to be completed in the question form
10 before you provide an answer.

11 A Yes, sir. Yes, sir.

12 Q All right. The other thing, do you agree to be
13 truthful and forthright today?

14 A Yes, sir.

15 Q Okay. And not evasive in your answers?

16 A No, sir.

17 Q Okay. Once we've begun, you can't ask your lawyer
18 any questions --

19 A Right.

20 Q -- until we take a break, and if you do, then you
21 have to tell us what you talked about.

22 A Yes, sir.

23 Q Okay?

24 A Yes, sir.

25 Q Now, tell me your full name as it is listed on your

1 driver's license.

2 A Shawonder Dean Scott.

3 Q Spell -- what's that middle name?

4 A Dean.

5 Q Spell that for me.

6 A D-e-a-n.

7 Q Okay. And where do you currently reside, Ms. Scott?

8 A In Kingstree, South Carolina.

9 Q At what address?

10 A 196 Gausetown Road.

11 Q Okay. That address is the subject matter of this
12 litigation?

13 A Yes, sir.

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

15 A Twenty years.

16 Q Since 1998?

17 A '98, yes, sir.

18 Q Okay. And are you currently married?

19 A No, sir.

20 Q You were previously married to a Sabb, you indicated?

21 A Yes, sir.

22 Q What is his name?

23 A Edward Sabb.

24 Q Okay. And is Edward in Kingstree?

25 A He's from Salters.

1 Q Okay. Does he reside in Kingstree?

2 A Right, yes, sir. But he's deceased now.

3 Q Oh, he is?

4 A Yes, he's deceased.

5 Q Do you have any children?

6 A Yes, sir, I do.

7 Q How many children do you have?

8 A Three.

9 Q What are their ages?

10 A My oldest son is twenty-eight. My daughter -- my
11 only daughter, she's twenty-seven, and my younger son
12 is twenty-five.

13 Q Okay. And what are their names, in that same order?

14 What's the twenty-eight year old's name?

15 A Edward Germaine Sabb.

16 Q Okay.

17 A Kimberly Rene Sabb.

18 Q Okay.

19 A Christopher Bernard Sabb.

20 Q And does Edward, your son, reside in Kingstree?

21 A No, sir.

22 Q Where does he live?

23 A He lives in Columbia, South Carolina.

24 Q Okay. What about Kimberly, your daughter?

25 A Kimberly lives with me in Kingstree.

1 Q Okay. And your youngest?

2 A Christopher lives with me also in Kingstree.

3 Q Okay. Was that your only marriage?

4 A That was my only marriage, yes, sir.

5 Q All right. Tell me about the names of any of your
6 other relatives that reside in Williamsburg County.

7 A Mariker Benbow. That's my sister.

8 Q Benbow?

9 A Yes, B-e-n-b-o-w.

10 Q Okay.

11 A Karen McCray.

12 Q What relation is that?

13 A These are my sisters.

14 Q Sisters?

15 A Uh-huh.

16 Q Okay. Who else?

17 A Billy Scott, Jr.

18 Q Okay.

19 A Priscilla Wilson, Jeronda Parker. That's -- those
20 are the ones in the Williamsburg County area.

21 Q Aren't you related to the McAlisters?

22 A Yes, I am.

23 Q Okay. In fact, Curtis McAlister is your uncle,
24 correct?

25 A That's correct, yes, sir.

1 Q And Aquana McAlister is your first cousin?

2 A Yes.

3 Q Okay. So McAlister is another family name, correct?

4 A That's right, yes, sir.

5 Q All right. And how are you related to Curtis
6 McAlister?

7 A Curtis McAlister is my uncle through my mother. My
8 mother and him are sister and brother.

9 Q All right. And tell me about your employment
10 situation. Are you currently employed?

11 A Yes, sir, I am.

12 Q Where?

13 A I work with the Williamsburg County School District.

14 Q What do you do for the school district?

15 A Teacher assistant and bus driver.

16 Q How long have you worked for Williamsburg County?

17 A Twenty-five years.

18 Q In the capacity of teaching assistant?

19 A Teacher assistant, yes, sir.

20 Q How old are you?

21 A I'm forty-eight.

22 Q What's your date of birth?

23 A 8/21/69.

24 Q And what's your social security number?

25 A XXX-XX-5169.

1 Q All right. And before you started working for the
2 county as a teaching assistant, where were you
3 employed?

4 A I was employed with Williamsburg County Transit in
5 Kingstree.

6 Q And what did you do for them?

7 A I drove buses.

8 Q City bus?

9 A City buses.

10 Q When did you start working for the county as a bus
11 driver?

12 A For Williamsburg County?

13 Q Yes, ma'am.

14 A I started back in 1989.

15 Q Okay. And you left that employment because of what
16 reason?

17 A Because of my job with the Williamsburg School
18 District.

19 Q As a teaching assistant?

20 A Yes, sir.

21 Q And that job commenced when?

22 A Now, I work on Saturdays if they need me. So just a
23 side job that I do now, you know, if they need me to
24 come in on Saturdays. Sometimes I do that. So
25 really, I didn't really just leave. It's just that

1 they worked with me along with my job with the school
2 district.

3 Q Okay. When did you start working for the school
4 district?

5 A I started with the school district back in the -- in
6 the '80s. In -- the end of '89.

7 Q All right. And before you started working as a
8 transit bus driver, what type of employment did you
9 have?

10 A I worked as a daycare -- I worked in a daycare as an
11 assistant.

12 Q Okay.

13 A And I also was at -- I also had worked with the
14 sewing plant.

15 Q What daycare did you work with?

16 A Little Gwen's Daycare.

17 COURT REPORTER: I'm sorry?

18 A Gwen's, G-w-e-n.

19 Q That's Little Gwen's?

20 A Uh-huh.

21 Q Okay. When did you start working for Little Gwen's?

22 A Back in 2000, roughly. 2001.

23 Q And when did you stop working with them?

24 A I only worked there for a year and a half, about a
25 year and a half with them.

1 Q And before Little Gwen's, where did you work?

2 A I worked at a sewing plant.

3 Q What's the name of it?

4 A Kingstree Knits.

5 Q K-n-i-t-s?

6 A Uh-huh, that's correct, and I worked at McDonald's in
7 Kingstree. I did those two jobs together.

8 Q When did you start working at Kingstree Knits?

9 A Roughly 2002. Yeah, roughly 2002.

10 Q Until when?

11 A Until I got the job with the Williamsburg County
12 School District.

13 Q Which was in what year?

14 A That was in 1990 -- '98. No, no, I'm sorry. That
15 was in -- my son was born in -- that was in '89 when
16 I started with the school. Like I said, I had
17 various jobs.

18 Q I see that.

19 A Yes, sir.

20 Q And so after you left Kingstree Knits Sewing Plant,
21 you worked for the school district full time?

22 A Full time, yes, sir.

23 Q In what year?

24 A In '90. In 19 --

25 Q I thought you said you left --

1 A No, my son was born in -- in '89 was when I went as a
2 substitute teacher. I subbed with the district for
3 -- that was my first job with Williamsburg, as a
4 substitute teacher. I went from substitute teacher
5 to a teacher assistant and the bus driver.

6 Q Okay. Now, earlier you indicated -- and correct me
7 if I'm wrong --

8 A Yes.

9 Q -- that you stopped -- that you started working at
10 Kingstree Knits in 2002.

11 A Uh-huh.

12 Q When did you stop working at Kingstree Knits?

13 A To my remembrance -- I can't remember at this point.
14 Don't know at this point.

15 Q How many years do you think you worked for Kingstree
16 Knits?

17 A About five years. About five, yes, sir. About five.

18 Q So maybe 2007 -- in that vicinity?

19 A In that vicinity, yes, sir.

20 Q All right. And McDonald's, how long did you work for
21 McDonald's?

22 A I worked there for about just three years. I didn't
23 stay there too long.

24 Q And that's the McDonald's in Kingstree?

25 A Yes, sir.

1 Q All right. Where else did you work?

2 A I worked in Andrews, South Carolina. This was during
3 the summertime. During the break in the summer when
4 the Williamsburg County School District -- we get
5 breaks during the summer, and I worked in Andrews at
6 Little Smurf Daycare. But I only worked there two
7 weeks. I didn't stay there long.

8 Q Okay. Any place else you worked?

9 A That's roughly about it.

10 Q Tell me about your educational background.

11 A I finished school in 1987.

12 Q That's high school?

13 A High school, yes, sir.

14 Q Which high school did you graduate from?

15 A Kingstree Senior High. And I went to college at
16 South Carolina State.

17 Q Okay.

18 A I only did three years at South Carolina State.

19 Q You started there in '88 or '87?

20 A Yeah, I started State in '88.

21 Q And you went for three years?

22 A Yes, sir.

23 Q Why didn't you finish at South Carolina State?

24 A Married and started, you know, having children. I
25 had my son, and I needed to -- like work or you know,

1 try to work, and that's why I didn't finish.

2 Q Okay. And did you have any other education?

3 A I got my -- I got a certification in my music and
4 business through South Carolina State as well.

5 Q So you're certified in music?

6 A Yes, sir.

7 Q And what type of certification do you hold?

8 A It's just a regular certification. I have to -- it's
9 one of those certifications that you get that you
10 have to renew at least once a year.

11 Q And that certification allows you to do what?

12 A Teach music. I can do it in my home. I can get in a
13 building, and I can teach it in a building, you know,
14 anywhere, and I can -- that's all that allows me to
15 do.

16 Q And you obtained that certification prior to '88?

17 A Prior to '88, yes, sir.

18 Q And you've renewed it up to this point?

19 A Yes, sir.

20 Q And it's still in good standing?

21 A Yes, sir.

22 Q Do you currently utilize it?

23 A Yes, sir, I do.

24 Q In what way?

25 A Sometime in my church if need be, and then my grands,

1 whenever they come over, I just utilize it with them
2 or whatever.

3 Q Okay. Do you currently have students?

4 A No, sir, not at this moment.

5 Q Okay. When was the last time you had a student?

6 A Last year in 2017.

7 Q How many students did you have at that time?

8 A I had only three students.

9 Q Okay. Why don't you have students now?

10 A Because I just gave it up for a while because of my
11 ministry. I focus more on my ministry.

12 Q Okay. And any other education? Any other schools
13 you've attended?

14 A That's it. Well, for my -- my license as a pastor,
15 you know, just went under my belt, but I don't
16 believe in getting a license to be a pastor, because
17 I believe in whom God calls, he qualifies, but I felt
18 like I needed to -- my mother wanted us to go. Both
19 of us went, and I have an associate's degree, and I
20 have a bachelor's degree.

21 Q Where did you obtain that associate's degree?

22 A Fayetteville, South Carolina.

23 Q When did you obtain an associate's degree?

24 A That was back in 2000 -- 2002.

25 Q You said Fayetteville, South Carolina?

1 A Yes, that's -- it's a college that name from the
2 Fayetteville, South Carolina, and we had our
3 schooling at the church in Coward, South Carolina,
4 but our license and stuff -- our degrees and stuff
5 came from Fayetteville.

6 Q North Carolina?

7 A North Carolina.

8 Q Okay.

9 A Thank you.

10 Q What's the name of that institution that certified
11 you?

12 A Believers. Believers Holiness.

13 Q And any other schools you've attended?

14 A That's it.

15 Q Any other licenses or certifications you hold?

16 A No, sir, that's it.

17 Q What church do you attend?

18 A Kingstree Apostolic Faith.

19 Q And how long have you attended that church?

20 A Ten years.

21 Q And do you hold any positions in the church?

22 A Yes, sir, I do.

23 Q Tell me what those positions are.

24 A I'm the pastor.

25 Q Okay. And how long have you been the pastor of this

1 church?

2 A Ten years.

3 Q And how many members do you have?

4 A Twenty-five.

5 Q Does your church have a member roll or a member log?

6 A A member roll.

7 Q All right. And you've been a pastor for ten years?

8 A Yes, sir.

9 Q Okay. When did you receive your license to work as a
10 pastor?

11 A 2007. If I remember correctly, 2007.

12 Q And that's the one that you got from Believers?

13 A That's the -- no, I use -- my license comes -- the

14 license that I have comes through Kingstree

15 Apostolic. The license that I got from Believers is

16 just some paperwork that we get just to have

17 something under our belt if something should come up,

18 and we need to register it for something, or we have

19 it showing that we had -- we went to some type of

20 schooling for that, but my license comes through a

21 Sarah Carty from Florida. She's my overseer.

22 Q All right. And I believe you said the associate's

23 degree --

24 A Yes, sir.

25 Q -- came from --

1 A The Believers, yes, sir.

2 Q Have you been a pastor at any other church?

3 A No, sir.

4 Q Did you -- are you an employee of the church that you
5 pastor?

6 A No, sir.

7 Q Okay. Are you on the payroll? Do you get paid?

8 A No, sir.

9 Q Are you a member of any other organizations, aside
10 from your church?

11 A No other organization, uh-uh.

12 Q Not Eastern Star?

13 A No, sir.

14 Q All right. Tell me where -- tell me where your
15 oldest son works.

16 A Edward?

17 Q Oh, he's the one in Columbia, right?

18 A He's the one in Columbia.

19 Q Not him. Tell me about Kimberly. Where does she
20 work?

21 A Kimberly doesn't work at this time. She is a
22 volunteer at the school where I teach at. She's one
23 of our volunteers. She volunteers in our library and
24 in our parenting center.

25 Q Okay. Where's the last place she worked?

1 A The last place she worked as at a daycare center for
2 my aunt, Carolyn Wilson.

3 Q What's the name of it? Do you recall?

4 A I don't recall the name of it.

5 Q And before she worked at that daycare, where did she
6 work?

7 A She worked at a daycare called Phyllis Daycare in
8 Kingstree.

9 Q Phyllis?

10 A Phyllis, yes, sir.

11 Q And before she worked at Phyllis, where did she work?

12 A She didn't work. That was it.

13 Q Okay. All right. Tell me about Christopher.

14 A Christopher works at Wellman in Johnsonville, South
15 Carolina. That's a plant. They make things. I
16 don't know what it is they make, but they make stuff.

17 Q Where did he work prior to working at Wellman?

18 A Chris has been at Wellman, oh, my goodness -- prior
19 to Wellman, he worked at KFC in Kingstree.

20 Q Okay. Did he work any place else before he worked at
21 KFC?

22 A That was it.

23 Q What kind of work did Edward, your husband, do?

24 A He started off -- when we got married, he was working
25 down at the beach -- in Myrtle Beach, South Carolina.

1 He worked in a Pizza Roma as a manager there, and
2 then he worked side jobs with my uncles and stuff,
3 painting or whatever. He did that.

4 Q In and around Kingstree?

5 A Yes, sir.

6 Q Okay. And your uncle was a carpenter or --

7 A Painter, carpenter, yes.

8 Q Okay. What other employment did your former husband
9 have in Kingstree?

10 A Painting. Just the painting.

11 Q Besides that.

12 A That's it.

13 Q Okay. All right. You moved in this property that
14 you're currently residing in in 1998. Oh, no, you
15 had been there before '98, correct?

16 A No, sir, I moved there in 1998.

17 Q All right. When you first moved in, you were
18 renting, correct?

19 A Renting to own.

20 Q Okay. So is it your testimony that you did not begin
21 occupying this residence as a tenant on a -- just a
22 purely rental arrangement?

23 A No, sir.

24 Q All right. Do you have any document that you believe
25 is a contract that allows you to occupy this

1 premises? A written --

2 A Yes.

3 Q A written document?

4 A Yes, sir, a receipt that I got from Mr. McAlister.

5 Q Okay. And the receipt you got, is it -- do you have
6 it here with you?

7 A Yes, sir. It's in the other room.

8 MR. MOORE: That's been produced in discovery.

9 Q All right.

10 A DISCUSSION WAS HELD OFF THE RECORD.

11 Q The document you're referring to you said is a
12 receipt that you received. Can you tell me a little
13 bit more about that receipt?

14 A Yes, sir, I can. The receipt was -- Mr. McAlister
15 asked for \$35,000 for the house, and the receipt was
16 receipted for \$4,000 that I gave a down payment on
17 the house.

18 Q Okay. So this receipt that you're referring to, is
19 it a receipt that -- who gave you this receipt?

20 A Mr. McAlister and his wife.

21 Q And who wrote the receipt?

22 A Who wrote it?

23 Q Uh-huh.

24 A I'm thinking Mr. McAlister and his wife did it
25 together.

1 Q How does one write a receipt together?

2 A What I'm saying is -- what I'm referring to -- thank
3 you. What I'm referring to is I'm thinking when I
4 looked at the handwriting, it looks like both
5 handwritings on the receipt, but I don't know exactly
6 who wrote it.

7 Q Okay. So let me back --

8 A It was just given to me.

9 Q All right. Let me back you up. You are not a
10 handwriting expert, are you?

11 A No, I'm not.

12 Q Okay. So you are not qualified to analyze
13 handwriting, are you?

14 A No, sir.

15 Q Okay. So you're speculating when you say that.
16 Isn't that right?

17 A That's right.

18 Q Okay. So this receipt was given to you by who?

19 A Mr. McAlister.

20 Q And when was this given to you?

21 A In 1998.

22 Q Where were you when you got it?

23 A We were in the home.

24 Q And you didn't see who wrote it?

25 A During the time, I think I was -- I was doing

1 something at that time, but I remember his wife
2 having the receipt in her hand, and I don't -- I
3 didn't see who wrote the receipt, but I know it was
4 written and given to me by him.

5 Q When did you see her with the receipt in her hand?

6 At what point?

7 A When we were in the house.

8 Q And what was she doing with it when you saw it in her
9 hand?

10 A She was handing it to me.

11 Q Okay. So isn't it true that his wife gave you the
12 receipt?

13 A Yes, she gave me the receipt.

14 Q Okay. Now, isn't it also true that you -- that you
15 did not see my client, Mr. McAlister, write the
16 receipt?

17 A No. Like I said, I don't know who wrote the receipt,
18 but I was given the receipt by his wife.

19 Q I understand. So his wife gave you the receipt, and
20 you did not see my client write it, correct?

21 A No, I didn't see it. Correct.

22 Q All right. Do you have any other document that you
23 believe is a contract that is written between you and
24 my client, Mr. McAlister?

25 A No, I don't.

1 Q And the document that you allege is a receipt from --
2 that you received from Mr. McAlister's wife, does it
3 indicate on it what you are supposed to pay in what
4 increment and at what time?

5 A When I talked with Mr. McAlister --

6 Q No, no, my question is, --

7 A Uh-huh.

8 Q Would looking at that document refresh your
9 recollection?

10 A Uh-huh.

11 Q Okay.

12 A Okay. And what is your question again, please, sir?

13 Q All right. You indicate that this receipt that you
14 received from Ms. McAlister is what you believe is a
15 contract. Is that right?

16 A That's right.

17 Q Okay. Now, tell me what on this receipt indicates
18 what you're supposed to pay per month -- on -- from
19 this document.

20 A It's not on here.

21 Q Tell me what on this receipt indicates the frequency
22 of your payments.

23 A The \$4,000 that I paid down.

24 Q Okay. And what indicates the frequency of any
25 additional payments?

1 A The only frequency that I see, the \$35,000, and he
2 stated that --

3 Q No, no, no, I'm not talking about what he stated.

4 A Uh-huh.

5 Q My question is, what on this writing indicates a
6 frequency of payment and what that payment is?

7 A It doesn't have the payment. It just has the balance
8 up there where it says the down payment of \$1,000.

9 Q I understand. And tell me, what identifies the
10 property that you believe you're buying on this
11 receipt? What property do you believe you were
12 buying?

13 A The house that I'm in now.

14 Q And that address is --

15 A The one -- PO Box -- 196 Gausetown.

16 Q 196 -- spell that for the record.

17 A G-a-u-s-e-t-o-w-n. It's one word.

18 Q All right. That's a road or a street?

19 A That's a road.

20 Q All right. Tell me what on this receipt refers to
21 196 Gausetown Road as the subject matter of this
22 transaction.

23 A It's not on there.

24 Q Okay. And tell me if my client Mr. Curtis

25 McAlister's signature appears on this receipt.

1 A No, sir, it doesn't.

2 Q Tell me where my client, Ms. Aquana McAlister's,
3 signature appears on this receipt.

4 A It's not on there.

5 Q Tell me where your signature appears on that receipt.

6 A It's not on there.

7 Q All right. So just for summation purposes, this
8 receipt does not contain the address, 196 Gausetown
9 Road, correct?

10 A Correct.

11 Q It does not have Mr. McAlister's signature on it?

12 A Correct.

13 Q It does not have Ms. Aquana McAlister's signature on
14 it?

15 A Correct.

16 Q It does not have your signature on it?

17 A Correct.

18 Q It does not have any terms of payment?

19 A Correct.

20 Q It does not have any time frames or amounts for
21 payment?

22 A Correct.

23 Q It does not have any expiration date upon which
24 payment must be made?

25 A Correct.

1 Q So it never ends based on this? There's no written
2 indication of a completion period, correct?

3 A Correct.

4 Q All right. In fact, this document was not even given
5 to you by Mr. McAlister? It was given to you by his
6 wife, right?

7 A Correct.

8 Q And you have no other writing that you contend is
9 evidence of a written contract between you and my
10 clients?

11 A No, sir.

12 Q Okay. When do you believe the -- when do you believe
13 the contract began?

14 A When I got the receipt in my hand.

15 Q What date was that?

16 A That was in March of 1998.

17 Q Okay. And you said you believed you were renting to
18 own?

19 A That's right.

20 Q Do you contend that you paid \$35,000?

21 A Yes, sir.

22 Q By what date did you pay that?

23 A In the year of 2014.

24 Q 2014?

25 A Yes, the year of 2014.

1 Q And what evidence do you have of your payments?

2 A Receipts.

3 Q That total what?

4 A That totals the \$35,000.

5 Q Where are those receipts?

6 A My lawyer.

7 A DISCUSSION WAS HELD OFF THE RECORD.

8 Q Ms. Scott, --

9 A Yes, sir.

10 Q -- I believe you testified or stated that you had
11 receipts evidencing payments that you made.

12 A Yes, sir.

13 Q How were you making your payments?

14 A I would send them -- I would go -- it was Western
15 Union through Bi Lo or Wal Mart, and I would send
16 them to him that way.

17 Q Every payment you made was through Western Union?

18 A Yes, sir.

19 Q Okay. And --

20 A Unless -- excuse me, unless he would come by the
21 house, and then I would give it to him, but it would
22 be in a check or something. Yes, sir.

23 Q Okay. So you have some receipts from Western Union?

24 A Yes, sir.

25 Q And how much were you supposed to be paying per

1 month?

2 A I started off with \$300 when I first started, and I
3 went -- I talked with him on occasion and asked him
4 could we bring it down to \$200, because I wasn't able
5 to continue to pay the \$300, but I paid the \$300 for
6 quite some years, and then he agreed that I could pay
7 the \$200.

8 Q Okay. And you were supposed to pay \$300 a month with
9 no interest to buy a house for \$35,000?

10 A Yes, sir.

11 Q Are you saying that was the original agreement?

12 A Yes, sir.

13 Q That was your understanding?

14 A Yes, sir.

15 Q Okay. How long did you pay \$300 a month?

16 A For about ten or more consecutive years.

17 Q Ten years?

18 A About -- yeah, for about -- along about that, nine or
19 ten years. I paid the \$300 to him, but I talked with
20 him -- I asked him would it be able that I cut it
21 down to \$200.

22 Q Do you have anything in writing regarding a \$300 per
23 month agreement?

24 A No, sir.

25 Q Do you have anything in writing that \$200 was

1 agreeable?

2 A No, sir.

3 Q The only receipts that I received --

4 A Uh-huh.

5 Q -- that evidence Western Union payments are from the
6 year 2010.

7 A Uh-huh.

8 Q Is it your testimony -- so you've indicated that you
9 believe the agreement was \$300 per month, but you
10 have nothing in writing to evidence that, correct?

11 A Correct.

12 Q And then you said the agreement changed to \$200 per
13 month, but you have nothing in writing to evidence
14 that change, correct?

15 A Correct.

16 Q And you said you have made all your payments through
17 Western Union, and if you made any other payments, it
18 was by a check?

19 A Right.

20 Q Now, I asked you whether you had receipts for these
21 items, and you indicated that you had provided them
22 to your lawyer. Is that correct?

23 A That's correct.

24 Q Now, I have what your lawyer provided me, --

25 A Uh-huh.

1 Q -- and they are receipts from Western Union Bi Lo,
2 and they total -- and a cashier's check, and those
3 total \$3,881, okay?

4 A All right.

5 Q So is it your testimony that you have provided your
6 lawyer with more receipts than that, or you might not
7 -- or you may be mistaken about that?

8 A I may be mistaken about all the receipts.

9 Q Okay. So the receipts show -- the receipts that I
10 have show that you were paying \$200 to Western Union,
11 right?

12 A Right.

13 Q But Western Union charged a fee, correct?

14 A That's correct.

15 Q And in most instances, there was a \$12 fee?

16 A Right.

17 Q So what you were paying to my client was \$188. Is
18 that right?

19 A That's correct.

20 Q But that wasn't the agreement, was it?

21 A When I talked with him, I told him -- I asked him
22 when I send the \$200 that I take that out of whatever
23 the charges were for me to send it.

24 Q Okay. So now you're saying he agreed to accept \$188
25 a month?

1 A Right.

2 Q Is that what you're saying now?

3 A But it was \$200, I just -- it was just that I took
4 that from -- I asked his agreement for that, and
5 that's what we came -- that's what he told me that I
6 could do.

7 Q Okay. So my question then is, the agreement is now
8 changed from \$300 to \$200 to \$188. Is that your
9 testimony?

10 A No, sir.

11 Q You were giving him \$188 a month. That's what he was
12 receiving, correct?

13 A Correct.

14 Q So he didn't agree to receive that, did he?

15 A He told me \$200.

16 Q But you were giving him --

17 A But I said -- I told him when we talked that I would
18 take it out to send the money, and he told me okay.

19 Q All right. Now, isn't it true that you were paying
20 rent this whole time?

21 A No, not rent. Rent to own.

22 Q But rent, right? That requires a "yes" or a "no."

23 A Rent to own.

24 Q So you were paying -- these were rent payments?

25 MR. MOORE: I think that she's already answered.

1 Q Monthly payments of --

2 A Monthly, uh-huh.

3 Q Monthly payments of what?

4 A Rent to own.

5 Q Okay. Just for clarity, your -- you were supposed to
6 pay Mr. McAlister how much per month?

7 A Our agreement, \$200.

8 Q Okay. Thank you. Now, isn't it true that you were
9 supposed to make these payments eleven months out of
10 the year?

11 A Correct.

12 Q And the twelfth month, you were supposed to do what?

13 On one of the months, you were supposed to pay the
14 taxes. Is that right?

15 A No, that's not correct. No, I was supposed to make
16 twelve months payments, and then me and Mr. McAlister
17 came to an agreement if he didn't have money for the
18 taxes, I paid it, and that was our agreement. It was
19 twelve months, but if he couldn't pay the taxes, I
20 paid it.

21 Q So if he didn't have it? Is that what you're saying?

22 A Right.

23 Q Okay. So the agreement was that he was going to pay
24 the taxes?

25 A Right.

1 Q Okay. You sure about that?

2 A Our agree -- that was our agreement. If he didn't
3 have it, then I paid it. That was our agreement.

4 Q Okay. If he didn't have it. So -- but he was
5 supposed to pay the taxes, right?

6 A Right, until I owned the house.

7 Q Okay. Now, isn't it true that in 2007, an eviction
8 action was instituted against you?

9 A Yes, it was.

10 Q Okay. And that was to evict you from the property,
11 correct?

12 A That's correct.

13 Q And isn't it also true that you were -- that the
14 judge issued an eviction?

15 A That's correct.

16 Q All right. A subsequent eviction action took place
17 in 2010, correct?

18 A Correct.

19 Q And did you file a lawsuit against Mr. McAlister
20 prior to 2015?

21 A A lawsuit?

22 Q Yes.

23 A Yes, I did.

24 Q When?

25 A When I did the -- after -- in 2011 when we had the

1 eviction -- was it in 2007 when we had the eviction,
2 I did an appeal.

3 Q Okay. You appealed the eviction?

4 A Right.

5 Q Okay. I'm not referring to an appeal... I'm referring
6 to an independent action that you filed against Mr.
7 McAlister.

8 A I can't recall right now.

9 Q Okay. And you didn't file any action against Ms.
10 Aquana McAlister either until 2015, correct?

11 A Correct.

12 Q Now, in 2007, you were put on notice that he was
13 attempting to evict you, correct?

14 A Correct.

15 Q And you interpreted that to mean that he wasn't
16 trying to sell you a house, isn't that right, because
17 he tried to evict you? Isn't that right?

18 A Can you repeat that again?

19 Q By him -- by his filing an eviction action, that let
20 you know that he wasn't trying to sell you a house.
21 Isn't that correct?

22 A No, that's not correct. To me, in my form, it's not.

23 Q So the eviction was designed to do what, to put you
24 out of the house?

25 A To put me out of the house. It was stated that I

1 wasn't paying the payments.

2 Q Right. And so that is basically an indication that
3 my client was not moving towards conveying you a
4 house. He was trying to put you out. Isn't that
5 right?

6 A That's what it was for.

7 Q In 2007?

8 A Right.

9 Q And isn't the same thing true in 2010? He was trying
10 to put you out of this house by filing a subsequent
11 eviction action, correct?

12 A Correct.

13 Q And you knew that he wasn't trying to sell you a
14 house, by --

15 A No, I didn't know that, sir.

16 Q -- trying to put you out?

17 A No, sir.

18 Q Did you think he was still trying to sell it to you
19 and put you out at the same time?

20 A I went by the agreement that we made.

21 Q I understand. But my question is, what was your
22 understanding of him filing an eviction action? Do
23 you think he was still trying to sell you a house;
24 and he put you out of it at the same time?

25 A No, I think that they -- he wanted the house back.

1 Q Okay, thank you. That was my question.

2 A Yes, sir.

3 Q So in 2007, you knew that he wasn't trying to sell
4 you a house anymore. Isn't that right?

5 A I knew he wanted -- he was trying to put me out of
6 the house --

7 Q Right.

8 A -- that we agreed for me to be renting to own.

9 Q Correct. And by trying to put you out, he's no
10 longer trying to sell it to you, correct?

11 A I can't say correct on that, because that's not --

12 Q Okay. So you think he was still trying to sell it to
13 you?

14 A Yes, I was going to still -- because I had already
15 had money in this house already.

16 Q And he was going to put you out and still let you buy
17 it? Is that what you're saying?

18 A What I'm saying, sir, is I'm still sticking with my
19 agreement that was given to me.

20 Q I'm not asking you what you were sticking to. My
21 question to you is, what was your impression that my
22 client was trying to do by evicting you from the
23 property?

24 A He wanted me to pay more money.

25 Q Why did he try to evict you?

1 A Because it was stated that I owe money.

2 Q Did you owe money?

3 A No, sir. All I owed was the -- I owed \$1,100 more on
4 the house, but at that time, I didn't owe any money.
5 I was paying my money.

6 Q In 2007, you owed \$1,100 on the house?

7 A I don't remember what year at this time. I can't --
8 the year --

9 Q Well, the eviction occurred in 2007. Is it your
10 testimony that in 2007, you owed how much?

11 A \$1,100.

12 Q All right. And you were supposed to make payments of
13 \$200 a month?

14 A Correct.

15 Q So you were supposed to have this house paid off in
16 six months from 2007? Is that your understanding?

17 A No, sir.

18 Q All right. In 2007, you're saying you owed \$1,100
19 more dollars, correct?

20 A I don't remember the year that it was that -- I was
21 stated that we went to court for the \$1,100. That's
22 what I was stated from Harvin when we went to court
23 and came to an agreement that we was going to get
24 together and agreed --

25 Q You had an agreement you were going to get together

1 and agree? Is that what you said?

2 A Yes.

3 Q And agree to what?

4 A From -- to give me time to pay the rest of the money
5 that I owed.

6 Q Which was how much.

7 A Eleven.

8 Q Eleven what?

9 A \$1,100.

10 Q So one more time for clarification. In 2007, you
11 only owed Mr. McAlister \$1,100? Is that correct?

12 A I'm not going to say -- I -- no, sir, understand me,
13 what I'm saying is, in 2007, there was an eviction --

14 Q Yes.

15 A -- during that time.

16 Q Yes, ma'am. And why was there an eviction?

17 A Because it was stated that I owed him some money.

18 Q Okay. And how much money did you owe him at that
19 time?

20 A In 2007, I can't recall how much during that time.

21 Q Well, you said \$1,100.

22 A I said that, but then I'm thinking back --

23 Q Okay.

24 A -- to it could not have been the \$1,100 at that time.

25 Q How much did you pay my client, Mr. McAlister, by

1 2007?

2 A From the time I was in the house up until then?

3 Q Unless you paid any other times.

4 A \$200 per month.

5 Q From 1989?

6 A 1998.

7 Q '98? \$200 a month from 1998?

8 A First -- no, no, sir. I started off with \$300, then
9 went down to \$200.

10 Q So you don't know?

11 A Yes, I know we started with \$300. Then it went to
12 \$200 when I went to him for an agreement to pay the
13 \$200 per month, but in 2017 -- 2007, what you're
14 saying -- what I'm saying is yes, it was an eviction.
15 Eviction was taking place, but at that time, I won't
16 say I recall what I owed at that time, but I know in
17 2014, we went to court, and that's when the \$1,100
18 came in at, in 2014.

19 Q I'm sorry, say that last part one more time. The
20 \$1,100 did what now?

21 A I went to court during the eviction. In 2007, what
22 you're talking about now --

23 Q Uh-huh.

24 A -- was an eviction for me to be put out of the house.

25 Q Correct.

1 A It was stated that I wasn't paying my rent.

2 Q Okay.

3 A But at that time, when we went to court, it was for
4 me to be evicted for not paying it.

5 Q Okay.

6 A But when I went to court -- when I had Attorney
7 Harvin as my lawyer, it was stated then that I owed
8 the \$1,100, and we was going to get together and --

9 Q When was that? That's what I want to know. When did
10 you owe \$1,100?

11 A When did I owe it?

12 Q Yeah.

13 A In 2014. Let me -- correction. It was when I was
14 supposed to have been getting the deed to the house.

15 Q All right. Your testimony from the beginning is that
16 in 1998, you had an agreement to buy this property
17 for \$35,000. Is that your statement?

18 A Uh-huh.

19 Q And that you paid \$4,000 toward that. Is that your
20 statement?

21 A Yes.

22 Q And that you owed \$31,000. Is that your statement?

23 A That's right.

24 Q And that you were supposed to pay \$300 per month. Is
25 that your statement?

1 A Yes.

2 Q All right. So based on your statement, if you do the
3 math, \$31,000 divided by \$300 per month comes up to
4 103.3 months, correct?

5 A Correct.

6 Q There's twelve months in a year, right?

7 A That's right.

8 Q That means you were supposed to have this deal done
9 and paid by eight years and six months. Is that your
10 understanding?

11 A No, sir, not in eight years. I didn't -- I didn't
12 receive any years.

13 Q Okay. When were you supposed to have this house paid
14 off? Tell me that.

15 A I didn't receive any years of when.

16 Q Because you didn't have an agreement to that effect,
17 did you? It's either -- it's a "yes" or "no," I
18 believe.

19 MR. MOORE: I object. Please give her time to
20 answer.

21 Q Okay, let me ask the question. Did you have an
22 agreement that indicated when you were supposed to
23 have this house paid off?

24 A No, sir.

25 Q Okay. So you don't know when you were supposed to

1 have it paid off?

2 A No, sir.

3 Q And the reason you don't know is because it wasn't in
4 writing, right?

5 A Exactly, yes, sir. Wasn't in writing.

6 Q Because if it was in writing, you'd be able to look
7 at it and read that, right?

8 A Correct.

9 Q And you'd also be able to look at and read how much
10 you were supposed to pay a month, right?

11 A Right.

12 Q All right. In your Complaint -- you read the
13 Complaint before it was filed, correct?

14 A Correct.

15 Q And in it, it says that -- that my client, Mr. Curtis
16 McAlister, got together with someone by the last name
17 of Pendergrass. Is that correct? You said they got
18 together and formed a civil conspiracy. Is that your
19 allegation?

20 A That's what I feel happened.

21 Q When did they get together?

22 A I have no -- I don't know.

23 Q Where did they get together? What evidence do you
24 have that they got together?

25 A I don't have any.

1 Q Okay. I believe you indicated that my client, Aquana
2 McAlister, was in on it as well. Is that your
3 allegation?

4 A Correct.

5 Q When did she meet and conspire with these two people?

6 A I have -- I don't know.

7 Q Where did they meet? When did they plan it? Do you
8 know?

9 A I don't know.

10 MR. BRUNSON: Let's go off the record.

11 A DISCUSSION WAS HELD OFF THE RECORD.

12 Q All right. You accused my client, Mr. Curtis
13 McAlister, of having a fraudulent intent with regard
14 to this action. Is that correct?

15 A Can you explain that some more?

16 Q Well, I'm reading your Complaint. Your Complaint
17 says that my client violated the principal of good
18 faith and fair dealing, because he, without cause or
19 excuse, willfully and other things breached the trust
20 with an intent to defraud you. Do you believe my
21 client intended to defraud you?

22 A Well, I got the eviction notice to be evicted when I
23 was paying -- paying the payments on the house. I
24 feel like they just wanted the house.

25 Q All right. So do you believe that he intended to

1 defraud you? I think you said this is your uncle,
2 correct?

3 A Yes, he is.

4 Q Do you believe your uncle intended to defraud you?

5 A That's how it felt back during that time when they
6 was trying -- he was trying to evict me from the
7 house.

8 Q So do you believe your uncle is -- intended to
9 defraud you?

10 A During that time, yes, sir.

11 Q Do you believe that now?

12 A No, sir.

13 Q You do not believe your uncle intended to defraud
14 you? Do you believe your cousin, Aquana, intended to
15 defraud you?

16 A Yes, I believed it.

17 Q Well, my question is, currently, do you believe my
18 client, Aquana McAlister, intended to defraud you?

19 A As of this current time?

20 Q Yes, ma'am.

21 A I believe that she did.

22 Q How? How did your cousin, Aquana McAlister, intend
23 to defraud you?

24 A She came -- well, she came to the house and brought
25 an agreement for me to fill out.

1 Q Okay.

2 A And she wanted me to pay -- she wanted me to sign an
3 agreement.

4 Q A lease -- a rental agreement?

5 A A rental agreement to pay monthly on the house. And
6 I refused to do so.

7 Q All right. So is it your testimony that by bringing
8 you a rental agreement and asking you to sign it,
9 that she intended to defraud you? Is that your
10 testimony?

11 A Yes.

12 Q Do you believe she intended to defraud you in any
13 other way?

14 A Yes, sir.

15 Q How?

16 A When the address was changed from the address of the
17 house to the Columbia address.

18 Q Okay. Why do you believe that that was intended to
19 defraud you?

20 A I felt like she didn't want me to be in the house,
21 and I felt that with it being changed, it was no way
22 possible I could have gotten any of the letters
23 stating that the taxes for the land was due, and the
24 papers that they send out that I didn't -- I didn't
25 get to receive any of them.

1 Q All right. Now, you testified earlier that my client
2 was supposed to pay the taxes, right?

3 A That's right.

4 MR. MOORE: Object to the form. Your client?

5 Q Mr. McAlister. You testified earlier that my client,
6 Mr. Curtis McAlister, was the one that was supposed
7 to pay the taxes. Is that right?

8 A That's right.

9 Q And the taxes -- the tax notice was changed to a
10 Columbia address, correct?

11 A Correct.

12 Q Isn't it true that that's the address where Mr.
13 McAlister was staying?

14 A Correct.

15 Q So if he's supposed to pay the taxes, and he is
16 staying at an address in Columbia, isn't that where
17 the tax notice is supposed to go so that he can pay
18 it?

19 A But the agreement was if he couldn't, we would -- I
20 would pay it. I understand what you're saying.

21 Q My question is about changing the tax notice.

22 A Uh-huh.

23 Q So would you --

24 A Okay.

25 Q -- like for me to repeat the question?

1 A No, sir, you're correct.

2 Q So it was proper to change the notice to the place
3 where the taxpayer would receive it. Is that
4 correct?

5 A That's correct.

6 Q So in light of this, let me ask you the question
7 again. Did you think Ms. Aquana McAlister intended
8 to defraud you by changing the address for the notice
9 to come to the Columbia address?

10 A No, sir.

11 Q All right. Let's go off the record for a second.

12 A RECESS WAS TAKEN AT THIS TIME.

13 Q In regard to your payments of money, do you agree
14 that you missed payments?

15 A No, sir.

16 Q You paid every time? Every month?

17 A Can I explain that?

18 Q Well, yes, but I want you to answer the question
19 first. Did you pay every month?

20 A No, I missed some months.

21 Q Okay. That was my question. All right. And --

22 MR. MOORE: Let her explain. She asked if she
23 could explain.

24 Q Okay.

25 A And the reason for that is because I -- the agreement

1 that me and Mr. McAlister had --

2 Q The verbal agreement?

3 A Right.

4 Q Okay.

5 A Concerning the taxes -- when I paid the taxes, that
6 would help along with the payments on the house.

7 Q So is it your testimony that when you didn't make
8 your rent payment, it was because you paid the taxes?

9 A I paid the taxes on the house.

10 Q Is that a "yes" to my question?

11 A That's a "yes."

12 Q All right. So you made monthly rent payments
13 throughout the year, but if you paid the taxes for
14 Mr. McAlister, you didn't pay the rent. Is that
15 right?

16 A For that particular month?

17 Q Yeah.

18 A Yes, sir.

19 Q Okay. Instead you took that monthly rental payment,
20 and you paid the taxes with it?

21 A Yes, sir.

22 Q All right. Now, is it your statement under oath that
23 that is the only time you missed a monthly payment?

24 A During the year you mean that that's the only time?

25 Q Pardon me?

1 A You said that during the year?

2 Q From 1998 up until --

3 A Oh, yes.

4 Q -- you believe you paid this property in full. Did
5 you miss some payments?

6 A Just the ones that I just told you about. Just that
7 -- just that.

8 Q All right. So your testimony is you paid every month
9 from 1998 through when?

10 A 2014.

11 Q Okay. And it was \$300 at first for how many months?

12 A To my recall, for at least about nine or ten of those
13 years.

14 Q And the rest of the time, you paid \$188?

15 A Yes, sir, along with the \$12 that I put whenever I --

16 Q The cost?

17 A The cost.

18 Q All right. From '98 to 2008, you paid \$300 a month,
19 correct?

20 A Correct.

21 Q And then from 2008 to 2014, you paid \$200 per month?

22 And I only have receipts for the year 2010, but you
23 maintain that you've got receipts for this period of
24 time?

25 A Correct.

1 Q Where are they?

2 A They were supposed to be in my file.

3 Q Okay. You gave them to your lawyer is what you're
4 saying?

5 A I thought I did -- gave him all of them.

6 Q So by saying you "thought," you're not sure?

7 A Not sure.

8 Q You didn't look at them yourself and make sure they
9 were all present before you delivered them? Is that
10 what you're saying?

11 A Right. That's correct.

12 Q In fact, you just gave him what you had. Isn't that
13 right?

14 A I won't say that, because I had -- I paid some in
15 checks.

16 Q Did you give him copies of those checks?

17 A No, I didn't.

18 Q All right. I believe you said that you had never
19 gotten behind. Isn't that right? Did you say that?

20 A If I got behind, I paid -- I caught it up.

21 Q Oh, so now it's an "if" you got behind? I thought
22 you said you never got behind.

23 A I'm not going to say that, because like I said, when
24 the taxes needed to be paid, I paid.

25 Q I'm not talking about the taxes, I'm referring to the

1 monthly installments. So let me ask my question
2 again, did you ever get behind?

3 A Not to my knowledge.

4 Q Okay. Let me ask you to take a look at that.

5 A Yes, I've seen it.

6 Q What is that?

7 A That's a cashier's check.

8 Q Paid to who?

9 A Curtis McAlister.

10 Q Why?

11 A \$2,000.

12 Q Why?

13 A For my house payments.

14 Q You were getting caught up?

15 A Yes, I was. I was paying him whatever I owed. I
16 paid him directly what I --

17 Q So -- I'm sorry, are you finished?

18 A Go ahead.

19 Q So you weren't correct when you said you never got
20 behind, were you?

21 A I said not to my knowledge. I didn't think I got
22 behind, because I paid Mr. McAlister.

23 Q That's not my question, but I appreciate you saying
24 that. My question to you was, you were not correct
25 earlier when you said that you never got behind.

1 A Okay, correct.

2 Q Now, my next question is, why were you not correct?

3 Were you intending to deceive me?

4 A No, sir, never.

5 Q Or did you forget?

6 A I forgot.

7 Q You forgot about some other things too, didn't you?

8 A I'm pretty sure you're refreshing my memory.

9 Q Let me ask you about -- just let me make a summation,
10 and you tell me if I'm correct or not.

11 A Okay.

12 Q In 2007, when my client filed an ejectment action, he
13 intended for you to be ejected from this premises,
14 correct?

15 A Correct.

16 Q And the reason was because you were behind. Isn't
17 that right?

18 A Correct.

19 Q Okay. Now, at that point, you knew he intended to
20 have you ejected, so didn't you also know that he did
21 not want to deed you this property? Isn't that
22 right? Isn't that just consistent?

23 A No, I -- I just feel like he wanted his money. He
24 knew that I was in the house.

25 Q Which is why he filed the ejectment, to get you out

1 of the house, right? So what was your answer in
2 regard to my question?

3 MR. MOORE: I'm a little lost. Can you restate
4 the question again?

5 Q All right. In 2007, when he filed the ejectment
6 action, you said, yeah, he wanted to get you out of
7 the house, correct?

8 A He wanted his money. He wanted his money.

9 Q Well, of course he wants his money. He always wants
10 his money.

11 A But I just don't feel that he meant for me to just
12 leave from the house with him knowing -- but he
13 wanted his money. I -- this is me. That's why he
14 took it to court, because he wanted his money, but he
15 knew that me and my children have to have a place to
16 stay. And like you said, yeah, this is my uncle.

17 Q Yes.

18 A That's how I feel.

19 Q So my question was, at that point, do you believe he
20 intended to deed you this house?

21 A Yes.

22 Q Okay.

23 A I still think so, yes, sir.

24 Q Okay. And in 2010, when the second ejectment action
25 came, he wanted to put you out, right?

1 A Correct.

2 Q Okay. Do you know what an ejectment is?

3 A To -- yes, I know what it is.

4 Q It's to put somebody out of a property and retake it,
5 correct?

6 A That's correct.

7 Q All right. So when he did that in 2007, that's what
8 he wanted to do, right?

9 A Uh-huh.

10 Q All right. And again, in 2010, he filed another one,
11 right?

12 A That's correct.

13 Q He wanted to -- the ejectment was to have you out of
14 the house, right?

15 A That's correct.

16 Q All right. And I asked you about the receipts that
17 we obtained, and if you have any more, will you agree
18 to provide them?

19 A Yes, sir.

20 Q You indicated that you had checks -- that you paid
21 with checks.

22 A Yes.

23 Q Have you attempted to get copies of those checks?

24 A No, sir.

25 Q Would you agree to do that?

1 A I sure will.

2 Q Let me go off the record for just a moment.

3 A DISCUSSION WAS HELD OFF THE RECORD.

4 Q Okay. Just one or two more. Now, earlier, you
5 identified a \$2,000 check -- a cashier's check that
6 you said was to get caught up on some rent, right?

7 A Right.

8 Q Now, you indicated you were paying \$200 a month.

9 Now, this was to get caught up on ten months of rent.
10 Isn't that right?

11 A No, it wasn't -- I'm not referring to ten months.

12 Q What are you referring to?

13 A It wasn't ten months.

14 Q This is a \$2,000 check to get caught up on some rent.
15 You're supposed to pay \$200 a month. So why would
16 you pay \$2,000 if it wasn't to get caught up on ten
17 months?

18 A I just wanted to pay my uncle -- give him the money.

19 Q Right.

20 A I just wanted to make sure he get -- I understand
21 what you're saying.

22 Q And I understand that too.

23 A Uh-huh.

24 Q But my question is, you were paying for ten months
25 delinquency, right? Ms. Scott, while you ponder that

1 question --

2 MR. MOORE: I'd like for her to answer, because
3 I'm getting confused with you doing compound
4 questions.

5 A The \$2,000 was for the rent.

6 Q Yes.

7 A Yes, sir.

8 Q Okay. So you were getting caught up for ten months
9 rent. Is that a "yes"?

10 A Yes.

11 Q Thank you. Back in 1998, were you -- did you attempt
12 to obtain financing for \$31,000?

13 A No, sir.

14 Q Never went to a bank to try to get the financing for
15 \$31,000?

16 A Not to my knowledge.

17 Q Well, think about it for a minute. I want you to be
18 sure about that one. Weren't you supposed to buy
19 this outright? Wasn't that the original -- was that
20 the original agreement?

21 A To pay the \$31,000?

22 Q \$35,000.

23 A \$35,000 out?

24 Q Yes.

25 A No, that wasn't the original agreement. The original

1 agreement -- I -- when I met with him -- when he told
2 -- when I told him yes, I wanted the house, I told
3 him I had \$4,000 I could give him, and he told me
4 okay, and that's what I did. But I don't -- I don't
5 recall the agreement was for me to pay the whole
6 \$35,000 right then, because I don't remember that.

7 Q Do you remember attempting to get \$31,000 from
8 anywhere?

9 A I don't recall, sir.

10 Q You don't recall?

11 A No, sir.

12 Q Now, that would be a term of the agreement, right,
13 how it was supposed to be paid? That would be a term
14 of the agreement, correct?

15 A Correct.

16 Q But you don't recall if paying \$31,000 was one of
17 those terms?

18 A No, sir.

19 Q Okay. That's all I've got.

20 MR. MOORE: Do you need to take a break?

21 MR. BRUNSON: Are you going to ask her questions?

22 MR. MOORE: Yes.

23 MR. REYNOLDS: I've got some for her too, but we
24 can take a break. It doesn't matter to me. Mine
25 will be fairly brief.

1 MR. MOORE: Go ahead.

2 CROSS EXAMINATION BY MR. REYNOLDS:

3 Q Ms. Scott, I'm Evan Reynolds. I work for Billy
4 Jenkinson. We represent the county and Ms. Cyrus.
5 I'm mainly focused on the taxes. My first question
6 to you is going to be, are you the owner of record
7 to this property? And when I say "property," I'm
8 talking about the Gausetown Road property in
9 Kingstree.

10 A Yes, sir.

11 Q You are the owner of record?

12 A Not on record, no, sir. Not on record.

13 Q Okay. So your name is not on the deed?

14 A No, sir.

15 Q Whose name is on the deed?

16 A From my understanding, Ms. Pendergrass's name is on
17 the deed.

18 Q Okay. Has your name ever been on the deed?

19 A No, sir.

20 Q Do you have a Durable Power of Attorney, or are you a
21 conservator over your uncle, Curtis McAlister?

22 A No, sir.

23 Q Okay. Did you know that taxes on that property were
24 due every year or annually?

25 A I knew it was due, but --

1 Q You didn't know when it was due?

2 A Right.

3 Q Okay. But you did know it was due once a year?

4 A That's correct.

5 Q Did you know that because you had paid taxes before
6 on it?

7 A Yes, sir.

8 Q How many years did you pay those taxes?

9 A I can't recall the exact years -- how many years I
10 paid, but I know I paid. I can't recall the exact
11 years.

12 Q Okay. And I believe you told Mr. Brunson that the
13 deal was -- correct me if I'm wrong, that Mr.

14 McAlister would pay the taxes, and if for some reason
15 he couldn't pay the taxes, you would pay them?

16 A That's correct.

17 Q How did you find out, or how were you supposed to
18 find out if he couldn't pay the taxes?

19 A He called to say -- we communicated.

20 Q Okay. Did you call Mr. McAlister and ask him if he
21 had paid the taxes for the year 2011?

22 A Sometimes he would come by the house. If he was in
23 the area, he would come by, and we would communicate.

24 Q Okay. So I guess nobody communicated from 2010 to
25 2014?

1 A NO ANSWER.

2 Q From your understanding, the property was sold for
3 delinquent taxes in 2013?

4 A I don't -- I can't recall the year, so --

5 Q You don't recall?

6 A -- I can't recall it. No, sir.

7 Q That's fine. And I believe you said -- you told Mr.
8 Brunson that -- that Mr. McAlister is supposed to pay
9 the taxes until you owned the house?

10 A Yes, I told him that, but I will -- the agreement we
11 had, if he couldn't pay it, I would come in and help
12 pay it.

13 Q Got you. Was Mr. McAlister supposed to tell you that
14 he couldn't pay it, or were you supposed to find out
15 from Mr. McAlister that he couldn't pay it?

16 A He would contact me and let me know.

17 Q Okay. So Mr. McAlister didn't contact you?

18 A I didn't hear from him, no, sir.

19 Q So that's how you knew that it -- you didn't know --
20 I got it. I understand.

21 A Yes, sir.

22 Q All right. Now, you do know that the mailing address
23 on the taxes has been changed to Mr. McAlister's
24 address?

25 A I didn't know that until I went to see Ms. Cyrus in

1 -- I think it was in 20 -- if my mind is correct, '13
2 or '14, one of those years.

3 Q Okay. If Mr. McAlister is the owner of record, do
4 you think it was proper for the county to send the
5 taxes to him?

6 A Yes, sir.

7 Q And that also complied with your agreement, right?
8 He's supposed to pay the taxes?

9 A He supposed to pay it. If not, then I would step in.

10 Q So the county and Ms. Cyrus should have sent a notice
11 to Mr. McAlister?

12 A Correct.

13 Q And it was his responsibility to pay the taxes? He's
14 the primary responsible party here?

15 A Correct.

16 Q All right. So how has the county and Ms. Cyrus, how
17 have we -- I guess when I say "we," I'm meaning both
18 Ms. Cyrus and the county, two separate entities here,
19 but how have they damaged you? Why are we in this --
20 well, I'll let you answer that one first. How have
21 we damaged you?

22 A Well, me not knowing that the taxes was due to pay
23 the -- you know, to go and make the payment. Because
24 what happened -- can I say this?

25 Q Yeah, you can say whatever you want.

1 A When I found out about the taxes, this was a morning
2 that I was supposed to have been on my job working,
3 and I stayed at home, because I didn't feel well, and
4 I was in the bed, and I heard some people -- I could
5 hear people outside of the house, so I got up, and
6 when I looked out the window, I saw two men, they was
7 surveying the land, and I saw Mr. Pendergrass, and
8 that was how I found out. I didn't know anything.

9 Q Okay. So you would say then that Mr. McAlister
10 didn't tell you that he didn't pay the taxes on the
11 property?

12 A I hadn't heard from Mr. McAlister, no, sir.

13 Q And that's who you're saying -- and I don't mean to
14 beat a dead horse, but that's who was supposed to
15 tell you if the taxes were owed?

16 A Right.

17 Q Okay. Was the county or Ms. Cyrus ever privy to your
18 agreement? Were we ever involved in the agreement
19 between the two of y'all?

20 A The day that I went to -- me and my son went to
21 Columbia to pick up Mr. McAlister, that was in -- if
22 my mind is correct, it was in 2013 or '14, one of
23 those years we went to the home in Columbia and
24 picked him up and brought him to Kingstree, and we
25 went to the treasurer's office to look at -- you

1 know, to see what was going on with the land. Mr.
2 McAlister was with me, along with my son, and we
3 talked with Ms. Cyrus, and Ms. Cyrus showed us the --
4 the taxes that were sent to Mr. McAlister, and then
5 that's how we found out that the address was changed
6 as well, and Mr. McAlister said that he didn't know
7 that the address was changed.

8 Q Okay. I understand. Was the county or Ms. Cyrus
9 ever involved in your agreement to buy this house?

10 A Not to my knowledge.

11 Q So if you're not the attorney of record, how was the
12 county or Ms. Cyrus supposed to know that you want
13 the taxes sent to you?

14 MR. MOORE: Object to the form of the question.
15 Attorney of record? What of record?

16 Q If your name is not on the deed, how was the county
17 -- how would you expect the county to know that you
18 were supposed to have owned the property, but you're
19 not on the deed?

20 A They wouldn't have known.

21 Q Okay. So this is something that you and Mr.
22 McAlister -- there must be a failure to communicate.
23 Is that a good way to put it?

24 A Could be.

25 Q What do you want now from the county and/or Ms.

1 Cyrus? What could we do to remedy your situation?

2 A I would want the deed to -- to go back in Mr.

3 McAlister's name. That way, we could --

4 Q Okay. So if we tore up the deed for the tax sale,
5 that is the only thing you would want from us?

6 A That's correct.

7 Q Okay. That's all the questions I have.

8 CROSS EXAMINATION BY MR. MOORE:

9 Q I have a few questions, Ms. Scott.

10 A Yes, sir.

11 Q Give the address for Gausetown Road house again.

12 A 196 Gausetown Road.

13 Q As far as you know, that was the address on the tax
14 records from 1998 to 2010. Is that correct?

15 A That is correct.

16 Q And so you would have received either directly or
17 indirectly some notice that the taxes were due from
18 the time of the contract or the agreement in 1998
19 until 2010. Is that correct?

20 A That's correct.

21 Q And it was not until 2010 that you learned later on
22 that the tax notice was sent to an address in
23 Columbia?

24 A That is correct.

25 Q When you took Mr. McAlister from Columbia to

1 Kingstree to meet with the Ms. Cyrus, it was then
2 that you learned through conversations with Mr.
3 McAlister that the address had been changed?

4 A That's correct.

5 Q And this was after the sale or before the sale?

6 A This was after.

7 Q And Mr. McAlister indicated that he did not know of
8 the address change. Is that correct?

9 A That is correct.

10 Q Did it come to your attention by way of some document
11 from Ms. Cyrus's office that in 2010, Mr. McAlister's
12 daughter had had the address changed from the
13 Gausetown address to the Columbia address?

14 A That is correct.

15 Q After 2010, you got no further notice from the
16 treasurer's office of taxes being owed. Is that
17 correct?

18 A That's correct.

19 Q And you had no conversations with Mr. McAlister about
20 any taxes that needed to be paid until after the
21 house had been sold?

22 A That's correct.

23 Q Now, you were asked about the possibility of
24 refinancing.

25 A That's correct.

1 Q As far as the terms of the agreement, there was
2 nothing said that could have stopped you -- if you
3 wanted to get the house refinanced within one year
4 and pay them out, there was nothing to stop you from
5 doing that, correct?

6 A That's correct.

7 Q Prior to the notice of eviction filed in 2007, did
8 Mr. McAlister ever come to you or anyone and say --
9 and tell you that you might have been late?

10 A No, sir.

11 Q Prior to any subsequent eviction notice, did Mr.
12 McAlister ever come to you, his niece, and say to
13 you, "Ms. Scott, you're late"?

14 A No, sir.

15 Q Okay. So based on your testimony, you just got the
16 notices of eviction from the court telling you that
17 you were to be evicted. Is that correct?

18 A That's correct.

19 Q You went to court at least three times, and the court
20 declined to evict you. Is that correct?

21 A That's correct.

22 Q You also had another attorney. What was his name?

23 Do you remember?

24 A His name was -- a guy named Keith Harvin.

25 Q Do you know times when Mr. Harvin would communicate

1 with Mr. McAlister regarding the payment history and
2 what was owed on the house?

3 A Yes, sir.

4 Q Do you know, based upon that correspondence, whether
5 Mr. Harvin indicated by way of letter that the house
6 had been paid for in full?

7 A Yes, sir.

8 Q After the house was paid for in full, did you ever
9 have any conversations with Mr. McAlister regarding
10 getting the deed filing done for you?

11 A Yes, sir, I had one conversation.

12 Q Do you recall when that was?

13 A It was in 2014. When Mr. Harvin -- Attorney Harvin
14 had called him from the office and asked him about
15 the deed being changed over into my name.

16 Q Do you know what he said in response to your
17 attorney's telephone call?

18 A Mr. McAlister had said then that it wasn't -- I still
19 owed money on the house.

20 Q This was in 2014?

21 A Right. And then we went back again when he talked to
22 Mr. McAlister a second time. Mr. McAlister had
23 agreed to go ahead and take the deed and sign it over
24 to me.

25 Q Okay. And this was in 2014?

1 A Yes, sir.

2 Q At this time, the house had been sold, had it not?

3 A Yes, sir.

4 Q Did you have any conversations with Mr. McAlister's
5 daughter?

6 A No, sir.

7 Q Okay. Now, you did indicate that there was a lease
8 that was brought to you. Is that correct?

9 A That's correct. That's the only time. It wasn't in
10 2014. This was -- this was in -- I think it was --
11 if my mind is correct, it was back in October or
12 November of 2011 -- if my mind -- if I got those
13 dates right.

14 Q Okay. Prior to 2011, had you ever had a -- and this
15 is -- which daughter is this, by name?

16 A This is the oldest daughter, Quana.

17 Q Okay. Can you spell that name for me?

18 A A-q-u-a-n-a.

19 Q Okay. Aquana?

20 A Aquana. I just call her Quana, yeah.

21 Q Okay. So Ms. Aquana McAlister was the person who
22 brought you the lease?

23 A That's correct.

24 Q Okay. Prior to that time, had you had any
25 conversations with her?

1 A No, sir.

2 Q Okay. Have you had any conversations with her after
3 her attempt to get you to sign the lease up until
4 this matter was filed?

5 A No, sir.

6 Q Do you have any idea why Mr. McAlister, had he known
7 that the address was changed, would have not told
8 you?

9 A I don't have any idea. I know he would probably -- I
10 knew he would have told me.

11 Q Okay. Those are all of my questions.

12 MR. BRUNSON: No follow up.

13 THIS DEPOSITION WAS CONCLUDED.

14

15

16

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25

1 STATE OF SOUTH CAROLINA CERTIFICATE
2 COUNTY OF FLORENCE

3 I hereby certify that the foregoing deposition
4 was taken and heard before me, a duly authorized Notary
5 Public, and the same transcribed as a true and correct
6 transcript of the testimony taken at the time and place
7 indicated therein. I am not related to any of the parties
8 or their counsel, nor am I interested in the outcome of
9 the foregoing litigation, financially or otherwise.

10 WITNESS my hand and seal this the 21st day of
11 January, 2018 at Lake City, South Carolina.

12
13 _____ (L.S.)

14 LAURA B. LANDRUM

15 My Commission expires: 12/20/2027
16
17
18
19
20
21
22
23
24
25

P.160 112 Cherry Ln
Athens, GA 30601
706-613-5564

36651

CUSTOMER ORDER NO.					DATE 3-25-98				
NAME Shawonder Scott									
ADDRESS P.O. Box 695									
CITY/STATE/ZIP Stryker, SC 29536									
SOLD BY		CASH		C.O.D.		CHARGE/ON ACCT		MDSE RETD	
PAID OUT									
QUAN	DESCRIPTION				PRICE		AMOUNT		
1	Received \$4000.00								
2	Four Thousand Dollars and								
3	no 100								
4	for down payment on								
5	house.								
6	\$1000.00 balance								
7									
8									
9	\$35000.00								
10									
11									
12									
RECEIVED BY									

PLAINTIFF'S
EXHIBIT
C. McALISTER

DC 4705

KEEP THIS SLIP FOR REFERENCE

WILLIAMSBURG COUNTY, S.C.

CEIPT NUMBER
018298-02-3

NORMA L. CYRUS
TAX COLLECTOR

TAXES DUE ON THE FOLLOWING DESCRIBED PROPERTY FOR THE CALENDAR YEAR COMMENCING DEC. 31. 2001

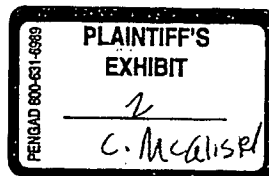
NO. LOTS	APPRaisal VALUE OF LAND	BLDGs.	APPRaisal VALUE OF BLDGS.	TOTAL PERSONAL & REAL ASSESSMENT	LEVY
1	120	2	297	417	.2810

PROPERTY LOCATION	MAP, BLOCK & PARCEL NO.	DISTRICT
	45-200-016	10

TAX YEAR	TOTAL TAXES
2002	127.67

MCALISTER CURTIS
196 GAUSETOWN RD
KINGSTREE SC 29556

10/22/03 PAID



11-8-04
I Curtis McCalister gets
payment from Mrs. Shawonder
on house, wanting to own
she is owner of house she
pays taxes on property

Curtis McCalister

RESIDENTIAL APPRAISAL CARD

SOUTH CAROLINA
WILLIAMSBURG COUNTY

CARD _____ OF _____ CARD

9-507

B. B. B. B.

TAX MAP 45-200-016	DISTRICT King	DATE OF APPRAISAL 6-23-04	APPRAISER R. B. B.
Curtis McAlister 2520 Cairnwood Dr. Columbia SC 29204	TRANSFERRED FROM George + Pauline S. McAlister	Deed Book A145	Deed Page 699
	Curtis McAlister	Acres or Lots	Plat Book 19
		Plat Page 16	Date of Sale 12/27/79
		SALES PRICE \$600.00	

Owner's Name and Address

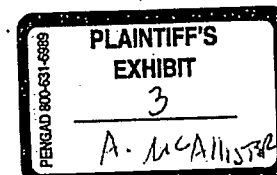
PROPERTY LOCATION	GENERAL DATA	COST DATA	MOBILE HOME	INCOME APPROACH
St., Rt. & No.	Yr. Built	Land	Make	Monthly Rental
City	Economic Life	Imp.	Model	
Use	Condition	L. H.	Yr. Built	G. M. M.
Subdivision	Quality	Total	Condition	Indicated Value
Legal Description	Annual Rent	Stamps	Size	
	Bldg. Permit	Old Map Ref 360-41		
	Mort.	File No.		

STANDARD CLASSIFICATION		PROPERTY DATA		LAND CLASSIFICATION				
NEIGHBORHOOD	TRANSPORTATION	LAND IMP.	UTILITIES	TOPOGRAPHY	LAND CLASS	NO. OF ACRES	VALUE PER ACRE	VALUE PER C
Progressive	Paved Road	Buildings	Electricity	Level	Open Land			
Static	Earth Road	Payment	Water	High				
Regressive	Railroad	Fence	Gas	Low				
Old	Water	Landscaping	Sewer	Rolling				
New	Airport	Well	All Utilities	Swampy				

LAND	
Number of Acres	Number of Lots
Per Acre Value	Number of Front Ft.
Value for Acres	Per Lot Value #12194-A
Returned Area	Per Front Ft. Value
Legal Area	Value for Lots
Planimetered Area	Value for Fr. Ft.
Total Land Value	well + septic

ESTIMATED MARKET VALUE			
on this lot			
Land Acres or Lots	Improvement	Total	
3000	7434	10434	
Cost Approach 3000	11576	14576	
Market Approach 7750	9567	17317	
Income Approach			
Correlated Value			
Assessed %			
Reviewed by	Date		

10/20/10 Change of Address requested by his daughter
Remarks & Description
Aguana McAlister
2013
5 x 5500 = 2750
2 wells / 2 septic 5000
7750



Zoning

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF WILLIAMSBURG 15-CP-45-00401

Shawonder Scott,

Plaintiff,

vs.

Curtis McAlister, Aquana McAlister,
Norma L. Cyrus, Tax Collector for
Williamsburg County, County of
Williamsburg, an Unincorporated
Subdivision of the State of South
Carolina, Hartwell Pendergrass, Sr.,
and Hattie S. Pendergrass,

Defendants.

Deposition of CURTIS McALISTER taken on January 12,
2018 at 11:30 a.m. at the Moore Law Firm in Sumter, South
Carolina. Laura Landrum, Notary Public for South Carolina.

FOR THE PLAINTIFF:

Dwight C. Moore, Esquire
Sumter, South Carolina

FOR THE DEFENDANTS McALISTER:

Willie H. Brunson, Esquire
Sumter, South Carolina

FOR THE DEFENDANTS CYRUS AND WILLIAMSBURG COUNTY:

William Evan Reynolds, Esquire
Kingstree, South Carolina

1 It was stipulated by counsel that the deposition
2 would be taken in accordance with the South Carolina Rules
3 of Civil Procedure and Amendments and pursuant to notice.

4 By agreement of counsel and with the consent of
5 the deponent, the deponent agreed to waive the right to
6 read and sign the deposition after the same had been duly
7 transcribed.

8 CURTIS McALISTER, after first being duly sworn
9 to tell the truth, the whole truth, and nothing but the
10 truth, testified as follows:

11 DIRECT EXAMINATION BY MR. MOORE:

12 Q Mr. McAlister, my name is Dwight Moore. You sat
13 through the previous deposition, so you've seen how
14 the process works. The court reporter is recording
15 our conversation, so we will have to speak up so that
16 she can make a record of our questions and answers.

17 A Okay.

18 Q If I ask a question that you don't understand, let me
19 know and I'll be glad to re-ask it.

20 A Fair enough.

21 Q It's not an endurance contest. I just want to get
22 some information like you saw your attorney do, and
23 then we can move on, all right?

24 A All right.

25 Q Give me your full name for the record.

1 A My full name is Curtis McAlister.

2 Q Is there a middle initial?

3 A No middle initial. My mama didn't believe in that.

4 Q Where do you live now?

5 A I live in Kingstree at King's Crossing -- at King
6 Court Apartments, 115 Reed Street, Apartment 5-A.

7 Q Who do you live there with?

8 A I live by myself.

9 Q Now, were you born and raised in Williamsburg County?

10 A As far as I know.

11 Q What is your birth date?

12 A April the 2nd, 1959.

13 Q Did you go to school in Williamsburg County?

14 A I did. I went to Kingstree Senior High.

15 Q Did you graduate high school?

16 A No.

17 Q Okay. What year did you leave high school?

18 A '75.

19 Q What grade would you have been in?

20 A Eleventh grade.

21 Q After you left high school in '75, did you go to
22 work?

23 A Yeah, I went to work.

24 Q What kind of work did you do initially?

25 A When I was in school, I was a painter. I thought I

1 was one of the best in the world, and after that I
2 done floor sanding and floor installing, and that's
3 all I ever did.

4 Q So from the time you left high school, you were a
5 painter or floor installer/sander?

6 A Right.

7 Q Did you work for one company or --

8 A I worked for individuals.

9 Q So you were a sub-contractor?

10 A Right.

11 Q So you would do painting, floor installing or
12 sanding?

13 A Right.

14 Q Have you ever been married?

15 A I was married to Peggy McAlister.

16 Q And when were you married?

17 A I think '76 or '77.

18 Q How many children do you have from the marriage?

19 A Three.

20 Q Can you give me their names?

21 A Aquana McAlister.

22 Q And Aquana is sitting next to you now?

23 A Right. Rosalind and Clarissa.

24 Q Do you spell that with a K or a C?

25 A With a C.

1 Q Does Rosalind live in Williamsburg County?

2 A No. She lives in Greenville.

3 Q And does Clarissa live in Williamsburg County?

4 A She lives in Augusta.

5 Q Your oldest daughter, Aquana, where does she live?

6 A She lives in Columbia.

7 Q Give me the last names of your relatives that live
8 in Williamsburg County, just last names aside from
9 McAlister.

10 A I don't have none. They all live in another city or
11 whatever.

12 Q What was your mother's maiden name?

13 A Alston.

14 Q Do you have any Alstons in Williamsburg County?

15 A Yes.

16 Q And what was your mother's married name?

17 A Evelyn McAlister. And she remarried after my father
18 died to a Boyd.

19 Q Okay. What was your wife's maiden name?

20 A Dennis, but she was from Texas.

21 Q Do you have any brothers-in-law in Williamsburg
22 County?

23 A Joe C. Tisdale.

24 Q Any other brothers-in-law in Williamsburg County?

25 A No.

1 Q Are you related to Hartwell and Hattie Pendergrass?

2 A No.

3 Q By marriage or blood?

4 A No.

5 Q Have you lived in Williamsburg County all of your
6 life?

7 A No, I lived in Atlanta for a period of time.

8 Q Do you recall in what year you moved to Atlanta?

9 A '98, I think.

10 Q Do you recall when you moved from Atlanta?

11 A I stayed there about four years.

12 Q So would it have been about 2002?

13 A Yeah.

14 Q So assuming that 2002 was the year, where did you
15 move to?

16 A I moved to Manning, South Carolina.

17 Q And from Manning you went where?

18 A Columbia.

19 Q And do you recall when you left Manning to go to
20 Columbia?

21 A Not really.

22 Q What was the address that you moved to in Columbia?

23 A I can't tell you.

24 Q Who did you move to Columbia with?

25 A With my daughter.

1 Q So you both moved from Manning to Columbia?

2 A She was already in Columbia.

3 Q And who were you living with in Manning?

4 A I left Manning shortly after I lost my wife.

5 Q So you and your wife moved from Kingstree to the
6 Atlanta area, and then from the Atlanta area to
7 Manning, and you lost your wife and then you moved to
8 Columbia?

9 A Yes, after she deceased.

10 Q And when did you move from Columbia back to
11 Kingstree?

12 A I'm going to try to tell you right. It was about two
13 or three years ago.

14 Q So in 2015 or 2016, thereabouts?

15 A No. It been longer than that. It was about 2008 or
16 2009.

17 Q What's when you moved back to Kingstree?

18 A No.

19 Q Let's see if we can get it straight. You told me
20 that you moved from Kingstree to Atlanta in '98. Is
21 that right?

22 A '98? It might be '89. I don't know.

23 Q All right. Can we agree that you moved from --

24 A I know I moved from Manning to Kingstree to Columbia
25 and back to Kingstree.

1 Q And you lived in Atlanta as well?

2 A Right. Atlanta was the first place.

3 Q Kingstree, Atlanta, Manning and Columbia?

4 A Yeah.

5 Q Did you have plans to move to Atlanta or move from
6 Kingstree in 1998?

7 A That was my plans, but they didn't work out like I
8 thought they would.

9 Q But you did, in fact, move?

10 A Yeah.

11 Q Do you recall, by chance, what month you left
12 Kingstree in 1998?

13 A No.

14 Q But you left in 1998 or thereabouts?

15 A I think so, as far as I can remember.

16 Q The house on Gausetown Road, was that the house you
17 lived in --

18 A Before I moved to Atlanta.

19 Q There has been testimony today that Ms. Scott is a
20 relative of yours. Is that correct?

21 A She's my niece.

22 Q Okay. That makes her mother --

23 A My sister.

24 Q Okay. How long have you known Ms. Scott?

25 A All of her life.

1 Q How many brothers and sisters do you have that live
2 in Kingstree now?

3 A I have no sisters that live in Kingstree and one
4 brother.

5 Q Is his last name McAlister?

6 A That's right. My mama didn't play around. I'm just
7 being real.

8 Q I understand. Did you have a conversation with your
9 sister and/or Ms. Scott regarding the house on
10 Gausetown Road?

11 A I first had the conversation with my sister.

12 Q Ms. Scott's mother?

13 A That's right. And she come over and entered the
14 conversation after we had talked for a little while.

15 Q And was the conversation dealing with the house on
16 Gausetown Road?

17 A Yes.

18 Q And at about this time, did you plan to move to
19 Atlanta?

20 A I think I had already been living in Atlanta.

21 Q Okay. Do you recall what year you had the
22 conversation with your sister regarding the house?

23 A I don't remember the year.

24 Q That's fine. But Ms. Scott entered the conversation
25 regarding the house?

1 A That's right.

2 Q And at some time, according to some documentation, in
3 March of 1998, a payment was made of \$4,000?

4 A That's right, but it wasn't just \$4,000. It was
5 \$2,000 and then \$2,000 later within a week's time.

6 Q Okay. So within a week's time, it's your testimony
7 that you got a total of \$4,000?

8 A Right.

9 Q And that was the down payment for a house on
10 Gausetown Road?

11 A Yes.

12 Q Was anybody living in the house?

13 A Ms. Sabb was living in the house at the time that we
14 talked.

15 Q So you're saying that in March of 1998 Ms. Sabb was
16 living in the house?

17 A Right.

18 Q Now, there was a document that showed the payment of
19 \$4,000, and I want to show this to you. I show you
20 an address of 112 Cherry Lane, Athens, Georgia.

21 A Right.

22 Q Is this a copy of a document where your wife
23 indicates the payment?

24 A As far as I can tell.

25 Q And I'd like to mark this.

1 PLAINTIFF'S EXHIBIT NUMBER ONE WAS MARKED.

2 Q For the record, can you give me the name of your
3 wife?

4 A Peggy, P-e-g-g-y.

5 Q So your wife wrote this receipt?

6 A Yeah.

7 Q Okay. It says, "For down payment on house." Is that
8 correct?

9 A Right.

10 Q And at this point you were in Atlanta or the Atlanta
11 area?

12 A Yeah.

13 Q The tax notice, according to the county records, went
14 to the house on Gausetown Road. Is that correct, as
15 far as you know?

16 A Right, but in the country we don't have mailboxes on
17 the front porch.

18 Q They're by the street, right?

19 A Yeah.

20 Q So it went to the mailbox on the highway in front of
21 the house?

22 A Right.

23 Q Was there ever a conversation between you and Ms.

24 Scott while she was living there about the taxes and
25 payment?

1 A Yeah.

2 Q What was your understanding of those conversations?

3 A Well, in the beginning it was that I would tell her
4 when I had the money to pay the taxes and tell her
5 when I didn't, and I would tell her sometimes to
6 disregard that monthly rent and give me the receipt,
7 and she did that.

8 Q So she would pay the taxes and give you the receipt?

9 A Right.

10 Q And you would tell her when you had the money for
11 those taxes?

12 A Right.

13 Q Was that the pattern for the period of time that she
14 was in the house?

15 A Not for the whole period of time.

16 Q When did that pattern stop?

17 A Sir, you've go to excuse me because I'm going to be
18 real blunt. I don't know when it stopped. I started
19 getting sickly, the heart attack and then the stroke,
20 and that's when I brought my daughter in to help me
21 out.

22 Q Let's talk about that for a second. You came today
23 with a cane, is that right?

24 A Right..

25 Q And you have some mild paralysis on your right side?

1 A On the left side.

2 Q The left side?

3 A Yeah.

4 Q And you indicated that you had a stroke?

5 A Right.

6 Q Are you on any medications today?

7 A I didn't take them yet.

8 Q What kind of medications are you on?

9 A I'm on something to control my heart, and they're
10 trying to give me something make it lighten up a
11 little bit.

12 Q Are you on any medications that would make it hard
13 for you to understand what I'm asking you today?

14 A No.

15 Q Are you on any medications that would make it so that
16 you don't understand what I'm saying?

17 A I don't think so.

18 Q So when you say to make it lighter, are you talking
19 about a muscle relaxer?

20 A Yeah.

21 Q So you're taking a high blood pressure pill and a
22 muscle relaxer?

23 A Right.

24 Q And in your mind, that doesn't affect you --

25 A It doesn't affect me at all.

1 Q When did you have your stroke?

2 A You're going back to dates now.

3 Q Okay. About when?

4 A I know I got out of the hospital in '13.

5 Q Okay. You also mentioned a heart attack.

6 A I had that before.

7 Q How long before?

8 A About two or three years before I had the stroke.

9 Q Okay. So you understand me and I understand you. Is
10 that fair?

11 A If you understand me, I've got you.

12 Q Okay. Good. Now, did you have your heart attack
13 when you lived in Columbia or was that in Manning?

14 A When I was living in Columbia.

15 Q So that was when you had your heart attack and your
16 stroke?

17 A I moved when I had the heart attack so my daughter
18 could help me out.

19 Q You had the heart attack in Manning, and you moved to
20 Columbia so that she could help you out?

21 A No, sir.

22 Q Okay. Explain it to me.

23 A I had the heart attack after I moved to Columbia.

24 Q Okay. Did you have the stroke while you were living
25 in Columbia as well?

1 A Yeah.

2 Q Can you tell me, by chance, the date that you had the
3 heart attack?

4 A I'd be scared to try.

5 Q But it was after you moved to Columbia?

6 A Right.

7 Q And you testified that you moved to Columbia in 2010
8 or thereabouts?

9 A Somewhere in there.

10 Q Maybe it was 2008?

11 A Yeah.

12 Q Prior to 2008 and your moving to Columbia, had you
13 had any conversation with Ms. Scott regarding the
14 house and her being late?

15 A I'm not sure but I think so. Ms. Scott was here one
16 time when her mother was living.

17 Q When did her mother pass away?

18 A I don't know.

19 Q I'm trying to figure out the time frame. When your
20 sister passed, where were you living?

21 A Columbia.

22 Q So this was after 2010 or thereabouts?

23 A Right.

24 Q So you said there was a time when you believe you had
25 a conversation about her being late. Is that

1 correct?

2 A Right.

3 Q Was that late payment period caught up?

4 A You see the statement what was presented to her.

5 Q Was that the \$2,000 check?

6 A Yeah.

7 Q So that caught it up?

8 A Yeah.

9 Q Were there any other times?

10 A Yeah.

11 Q When was that?

12 A I don't recall dates too good. I've told you that.

13 Q Do you know how many times it was?

14 A It ain't been the whole year, but it was something I
15 would want to have before that time.

16 Q Did you keep any records?

17 A Yeah. I give some little records.

18 Q Who did you give them to?

19 A I give them to her, a receipt every time she gave me
20 money.

21 Q Did you keep copies of the receipts?

22 A Sir, I done moved around so much.

23 Q Do you have any of them?

24 A Yeah, I have some of them.

25 Q Have you looked for them?

1 A I didn't think I'd ever need them. I think I know
2 where they is, but I'm not sure.

3 Q Do you think you could put your hands on them for me?

4 A I'll try to.

5 Q If you could do that and if you would give them to
6 your attorney, I'd appreciate that.

7 A I'll try to.

8 Q Okay, good. On any of the times when you say you
9 believe she might have been behind, did she catch
10 those payments up, if you can remember?

11 A Sir, you're going to get mad with me in a minute. I
12 done answered that one time. Yeah, she caught it up
13 with the \$2,000.

14 Q I asked if there were any times after that when she
15 might have been late.

16 A Maybe a month or a month and a half, something like
17 that.

18 Q But she caught it up?

19 A As far as I know.

20 Q At some point in 2010, the taxes were changed from
21 the address on Gausetown Road to the Columbia
22 address. Is that correct?

23 A Yes.

24 Q Did that come to your attention?

25 A As far as I know, but that was at the time that I was

1 in the hospital and my daughter was taking care of
2 things for me.

3 Q Did you ever do a power of attorney that allowed --

4 A No. I didn't do that.

5 Q Did you instruct your daughter to go --

6 A Yeah. I told her what to do.

7 Q So it's your testimony that you told her to go to
8 Kingstree and change the address on the Gausetown
9 house so that the taxes would be sent from that
10 address to the Columbia address?

11 A That's right.

12 Q So at that point in 2010, Ms. Scott didn't have the
13 tax notice coming to her address. Is that correct?

14 A No. I would either call Ms. Scott or go by her
15 house and tell her to pay the taxes, but with my
16 limitations, it would take me an hour or two to get
17 into the courthouse.

18 Q Do you recall any conversations that you had with Ms.
19 Scott after 2010 regarding paying the taxes?

20 A 2010?

21 Q Yes, sir, after the address was changed.

22 A Yeah, because like I told you, I went to her with the
23 tax notice and told her to pay the taxes and not to
24 worry about paying me the monthly rent or whatever.

25 Q Did you do that in 2010?

1 A I'm trying to think. I thought by telling her in
2 2008 that she would know to do it in 2010.

3 Q But do you recall -- the address was changed in 2010.
4 Is that correct?

5 A That's what I'm telling you, but you ain't
6 understanding me. I would drive to her house and
7 tell her to pay the taxes.

8 Q After you had your heart attack and after you had
9 your stroke, were you able to drive?

10 A No. Someone would be driving for me.

11 Q And in what year did you tell me you had the heart
12 attack?

13 A I didn't tell you.

14 Q What year did you have the heart attack?

15 A I don't know.

16 Q How long have you not been driving?

17 A You'll have me locked up if I tell you that.

18 Q Let's do it this way. When you left Manning to go to
19 Columbia, were you able to drive?

20 A Yeah.

21 Q When you moved to Columbia, how long, if you
22 remember, after you moved were you not able to drive?

23 A I'll tell it to you like this. I tried to fix it so
24 that I would never not be able to drive.

25 Q Are you able to drive now?

1 A Yeah.

2 Q You can drive yourself now?

3 A Uh-huh.

4 Q Do you drive now?

5 A I'm not supposed to be driving, but I still can drive
6 a little bit.

7 Q You didn't drive here today, did you?

8 A No.

9 Q When Ms. Scott and her son picked you up to drive
10 back to Kingstree, were you driving then?

11 A I would slip around and drive a little bit, but I
12 wasn't supposed to be doing that.

13 Q When you had your stroke, you said that was after
14 your heart attack. Were you driving when you had
15 your stroke?

16 A I wasn't supposed to drive.

17 Q After you had your heart attack, were you driving?

18 A I wasn't supposed to drive.

19 Q Could you drive -- after your heart attack, could you
20 drive from Columbia to Kingstree?

21 A I didn't never try it.

22 Q Okay. So after your heart attack and stroke, did you
23 have a conversation with Ms. Scott about the taxes in
24 Kingstree?

25 A Sir, please forgive me, but I think I answered that

1 one.

2 Q I don't think so.

3 A What was your question again?

4 Q My question was, have you had a conversation with Ms.
5 Scott about the taxes after 2010? You said you had
6 driven to Kingstree and --

7 A Yeah. I had a conversation with her.

8 Q And my question was, did you drive yourself?

9 A No, I didn't drive myself.

10 Q Who took you to Kingstree to have a conversation
11 with --

12 A You're asking about way back in 2010? I can't
13 remember all them dates.

14 Q After 2010 when you now say you had the conversastion
15 with Ms. Scott, did you talk to her about taxes after
16 that, after 2010?

17 A I don't know if I did or not.

18 Q Okay. That's fine.

19 A Oh, yeah, when we went to court, it was discussed
20 that she would pay the taxes.

21 Q When was that?

22 A You're asking me about 2010, right?

23 Q Yes, sir.

24 A Yeah.

25 Q Okay. In 2010, and this is in the public record, Mr.

1 McAlister, you had your address at 2520 Carroll Drive
2 in Columbia. Is that the address where you were
3 living?

4 A That's the address.

5 Q And according to the tax records, on October 20th,
6 2010, there was a change of address requested by your
7 daughter, Ms. Aquana McAlister, on that date, and the
8 tax notice was sent from the address in Kingstree to
9 your address in Columbia.

10 A I would get someone to take me to her house and give
11 her the address. That was 2010 and after, probably
12 right before November.

13 Q I'm going to ask you some more questions about that,
14 and if you can't answer, just say that you can't
15 answer. You say that was in 2010 when you had
16 somebody drive you to meet with her, correct?

17 A Right.

18 Q Did you tell her about taxes in 2011?

19 A I don't know if I did or not.

20 Q 2012?

21 A I'm almost sure I did, but I'm not positive.

22 Q 2013?

23 A What I'm trying to impress on y'all is, she was going
24 to be paying the taxes, and if I was \$50 short or
25 something, she would give it to me.

1 Q If that was your understanding, what made you change
2 your address from Gausetown Road to the place where
3 you were living in Columbia?

4 A Like I tell you, I had a heart attack and a stroke,
5 and I asked my daughter would she fill in for me and
6 do what I had to do, and that's what I did.

7 Q Did you tell her specifically to go to Williamsburg
8 County and change the address for the tax notice?

9 A I think, if I can remember, we was in Kingstree to go
10 to court, and she said to me that it would be a good
11 time to change that.

12 Q Did you and your daughter go by the courthouse that
13 day to change it?

14 A I don't know if it was that same day, but I had to be
15 with her to change it, or they wouldn't have changed
16 it.

17 Q Let's go back to the payment. You were receiving
18 payments, and correct me if I'm wrong, that started
19 out at \$300 a month. Is that correct?

20 A Right.

21 Q And then there was an agreement where you would
22 receive \$200 a month.

23 A My niece come to me one day and said she couldn't
24 afford \$300 a month, and I asked her what she could
25 afford, or something like that, and she said she

1 could give me \$200 so I told her that was all right.

2 That's my sister's baby.

3 Q So you agreed to a reduction of \$100?

4 A Yeah.

5 Q And she agreed that --

6 A She said for a period of time.

7 Q And you agreed as well about the taxes. You told her
8 if she paid the taxes, she could deduct it from the
9 rent?

10 A Right.

11 Q So that was your agreement, from \$300 to \$200 and --

12 A It was a little back yard dealing.

13 Q Yes, sir. I accept that. So you had the agreement
14 -- let me ask this question. The sale of the house,
15 according to the receipt we've talked about, was
16 \$35,000, correct?

17 A Yeah.

18 Q And she gave you \$4,000 down?

19 A Yes, sir.

20 Q And the payment was to be \$300 a month and that was
21 for a period of time, and then it was reduced to \$200
22 a month for a period of time.

23 A Right.

24 Q During that first ten years or so, the understanding
25 was that if you ran short on the payment of taxes,

1 she would pay the taxes and you would credit it
2 toward her payments?

3 A Right. It was fine until she went a year without
4 giving me anything.

5 Q And then she gave you a check for \$2,000?

6 A Right.

7 Q When did you find out that the house had been sold?

8 Did you know that the house had been sold?

9 A When she came to Columbia and told me.

10 Q Up until that time, you didn't know that the house
11 had been sold?

12 A No. I was under the impression that she would be
13 paying the taxes.

14 Q Now, the county indicates that they sent every notice
15 regarding the taxes, the tax delinquency and the sale
16 was sent to your house in Columbia. Do you recall
17 receiving those documents?

18 A I think I received them, but Ms. Scott didn't pay the
19 taxes like she said that she would.

20 Q The taxes, according to the tax collector, were
21 delinquent in 2010.

22 A I understand that after she came and picked me up.

23 Q But did you tell her after -- you indicated that
24 sometime in 2010 you had the conversation about the
25 taxes, and you weren't sure about 2011, 2012 or 2013.

1 A Right.

2 Q So in 2011 when you got the tax notice for 2010 and
3 you noticed that it hadn't been paid, did you say
4 anything about the taxes?

5 A Like I said or like I thought I said, I got somebody
6 to drive me to Ms. Scott's house and I called her to
7 the door, outside, and asked her could she -- I
8 couldn't even hardly get out of the car. I asked her
9 could she do it?

10 Q Who drove you to Kingstree? Do you remember?

11 A No.

12 Q In 2012 when you saw that the taxes hadn't been paid
13 and hadn't been paid for two years, did you go back
14 and talk to her?

15 A I don't know if I did or not.

16 Q When you got the notice about the sale of the
17 property --

18 A No, I didn't get no notice. When I went to her house
19 at some time, I went to the tax office and they was
20 closed during the holidays or something, and I asked
21 her to pay it and she said she'd get it done.

22 Q Do you remember when that was?

23 A No. I don't know when.

24 Q Do you recall seeing any documents from the county
25 after 2010?

1 A No. Let me tell you, and I probably shouldn't say
2 this, but Williamsburg County is slack on doing some
3 things.

4 Q Let me ask you this question. Do you recall getting
5 any documentation from the county after 2010
6 regarding the taxes, even though you had changed the
7 address or your daughter had changed the address?

8 A No, sir. I don't recall getting anything.

9 Q Do you recall getting a notice of levy, which means
10 that they were about to sell the house? Did you get
11 anything like that?

12 A I know what a levy is, and when I went to the house,
13 they didn't have it on the house like they said they
14 had.

15 Q Did you get one in Columbia?

16 A No.

17 Q So when it came to your attention in 2013 that the
18 house had been sold to Mr. and Mrs. Pendergrass, were
19 you surprised by that?

20 A Yeah, I was surprised.

21 Q You wouldn't want to have your niece, after she had
22 paid for a number of years, to be put on the street,
23 would you?

24 A That's why I got in the car with her and we drove
25 over here because I thought I could get it

1 straightened out, but I couldn't.

2 Q So when you went to Kingstree with Ms. Scott and her
3 son --

4 A I need to go to the bathroom.

5 A RECESS WAS TAKEN AT THIS TIME.

6 Q We were talking about the sale of the house and your
7 niece being put out of the house, and you were saying
8 that's not what you wanted, correct?

9 A Let me tell you what I wanted. All I wanted was my
10 money. If I didn't get my money, I wanted her out.
11 If she gave me my money, I wanted her to stay.

12 Q Do you recall a time when there was a conversation
13 between you and another lawyer regarding doing a
14 deed. Do you remember a conversation about that?

15 A No. I never did.

16 Q Was there ever a conversation with anyone regarding
17 getting the deed done?

18 A I had a conversation with her.

19 Q About the deed?

20 A Right.

21 Q When you got the receipts, did you do the receipts
22 yourself, or after your wife died, you did them for a
23 while? Is that how that happened?

24 A After my wife died, I did them.

25 Q So up until the time you moved to Columbia --

1 A I even went to Ms. Scott one time and told her that
2 she wasn't buying. She was renting.

3 Q You went to tell her that?

4 A I went and told her that.

5 Q What's your contention today as to whether she owes
6 you any money?

7 A I don't know exactly, but I think she owes a little
8 something else.

9 Q But you don't know what that is?

10 A I don't know exactly what that is.

11 Q And you don't have any proof as to what it is?

12 A I've got proof. I already told you that.

13 Q But you don't have the proof here?

14 A No, not here.

15 Q And you said that you may have some things in boxes
16 somewhere that you may be able to find because --

17 A I think I can put my hands on them, but I'm not sure.

18 Q Okay. I'm going to ask you to do that. But as you
19 sit here today for your deposition, you're not sure
20 what is owed, if anything, correct?

21 A Right.

22 Q All you know is that the deed was never done,
23 correct?

24 A I know that.

25 Q But in the meantime, after the address change and

1 after 2011 when the taxes were deemed delinquent, did
2 you ever go to her and say that she owed you some
3 money?

4 A Sir, let me see if I can get it across one more time.

5 Q Okay.

6 A It's a strain, but I want you to get where I want you
7 to be.

8 Q Okay.

9 A I went to Ms. Scott in 2010.

10 Q Okay. I got that. So your testimony is that you saw
11 her in 2010 and you don't know if you talked to her
12 after that?

13 A About that, right. I talked to her plenty of times,
14 but I don't know if we talked about the taxes or
15 whatever.

16 Q That's what I wanted to make sure that I understood.
17 And then you found out in 2013 --

18 A Ms. Scott came to the house and picked me up to go
19 back to Kingstree, and that's when I found out.

20 Q Okay. Now, you and your daughter just went to the
21 restroom, did you have any conversations about --

22 A I didn't speak to her one way or the other.

23 Q Okay.

24 A I didn't say nothing about this.

25 Q Okay. And, again, there was nothing that could stop

1 her from paying this agreement any time she wanted in
2 total, was there?

3 A I went to court in 2010 and I tell the lady if she
4 would give me \$9,000 or \$10,000, we would call it
5 square because I was tired of messing with it.

6 Q Are you sure that she owed you \$9,000 or \$10,000 back
7 then?

8 A Back when I tell her that, she brought over a little
9 more.

10 Q Do you know for sure what she owed you?

11 A No. I don't know for sure.

12 Q Okay. But nothing would have stopped you from
13 accepting the balance of what she owed you in 1998?
14 You would have accepted that, correct?

15 A The agreement was that she was going to pay me the
16 down payment and go to the loan company or the bank
17 and pay me \$31,000. I was living in Georgia. I was
18 trying to buy some property in Georgia, but it never
19 happened.

20 Q But nothing would have stopped you from accepting the
21 balance in 1998, 1999, 2000 or at any time after
22 that, correct?

23 A No. Nothing would have stopped me if she could have
24 come up with the money, but she didn't. After she
25 didn't come up with the money, I even told her,

1 "You're not buying nothing. You're renting."

2 Q Do you recall going to the tax assessor's office in
3 2004 and telling the tax person, Ms. Cyrus, that you
4 were getting the payments from Ms. Shawonder Scott on
5 the house, rent to own, and she was the owner of the
6 house and paid the taxes on the house?

7 A No, I never said that.

8 Q Let me show you this document.

9 A DEPONENT REVIEWS DOCUMENT. I never had that
10 conversation with Ms. Cyrus.

11 Q Let me ask you this. Is this your handwriting?

12 A No.

13 Q This is not your handwriting?

14 A I'll say this. I don't know if it's my handwriting
15 or not.

16 Q Let's mark this.

17 PLAINTIFF'S EXHIBIT NUMBER TWO WAS MARKED.

18 A And the reason I say that --

19 MS. McALISTER: Can I speak with you?

20 MR. BRUNSON: Let's go off the record real quick.

21 A DISCUSSION WAS HELD OFF THE RECORD.

22 MR. MOORE: I want to object to stopping the
23 deposition to speak with you. She is a party, and I
24 don't know that she can stop the deposition in the
25 middle of my question.

1 MR. BRUNSON: I would like to take a minute to
2 clarify that, to make sure that we do not have any
3 additional interruptions.

4 MR. MOORE: For that purpose only?

5 MR. BRUNSON: That's right.

6 A DISCUSSION WAS HELD OFF THE RECORD.

7 MR. MOORE: Back on the record. Ms. McAlister
8 asked to speak to Mr. Brunson and after my objection,
9 Mr. Brunson stated that he needed to admonish her
10 about interruptions on the record during her father's
11 testimony, and we are back on the record now and he
12 has admonished her only about that issue. Is that
13 fair, Mr. Brunson?

14 MR. BRUNSON: That's correct.

15 Q Okay. Mr. McAlister, do you know who Hattie
16 Pendergrass is?

17 A I knew her from my brother being married to her
18 sister. That's the only way I know her.

19 Q You indicated earlier that you had one brother that
20 lived in Kingstree, correct?

21 A Yeah.

22 Q Is that the brother?

23 A No. That's the brother that's deceased.

24 Q What is your deceased brother's name?

25 A George McAlister. He married her sister, Pauline.

1 Q What was Pauline's maiden name before she married
2 your brother?

3 A Singletary.

4 Q So your brother married Ms. Singletary who is the
5 sister of Ms. Pendergrass?

6 A Right.

7 Q How long have you known her?

8 A Ever since I was a little boy.

9 Q When is the last time you have spoken with Ms.
10 Pendergrass?

11 A I can't recall that because she's not a very friendly
12 person. I should -- go ahead.

13 Q Is there something else you want to say?

14 A No.

15 Q Okay. And it's your testimony now that you learned
16 about the sale to Ms. Pendergrass in 2015. Is that
17 correct?

18 A The same time Ms. Scott came and picked me up.

19 Q Did you have a conversation with Ms. Pendergrass
20 after you found out that she had purchased the house?

21 A Yeah. I told her -- I went by the house with my
22 daughter, and I spoke with her, but she was so -- I
23 just left it alone.

24 Q What did you say to her?

25 A I wanted to see if I could redeem the property.

1 Q And she told you no?

2 A She told me -- I won't tell you what she told me.

3 Q Well, I'm going to ask you to tell me what she told
4 you.

5 A She said business was business, and I ought to be
6 ashamed for not paying my back taxes, and she said
7 she would go by the law and follow it up to the
8 fullest extent.

9 Q Okay. Other than that conversation, do you recall
10 any recent conversations in the last three or four
11 years regarding this property?

12 A No, sir.

13 Q Does Ms. Pendergrass have any children that you know
14 of?

15 A She's got children. They're much younger than me.
16 They're in college, I think.

17 Q Do you know how old Ms. Hattie Pendergrass might be?

18 A I don't know.

19 Q Would you say to me then that she has known you as
20 long as you have known her?

21 A Sure.

22 Q And she would know that at one point you lived on
23 Gausetown Road?

24 A Yeah.

25 Q Would she have known your children as well?

1 A I don't know if she would have known my children, but
2 I know she would have known me because me and that
3 brother I told you about used to be together all the
4 time.

5 Q The only thing I don't have are the exact dates when
6 you were in the hospital with the heart attack and
7 the stroke. Can you get those dates for me?

8 A Yes, sir.

9 Q That's all I have, Mr. McAlister.

10 CROSS EXAMINATION BY MR. REYNOLDS:

11 Q Mr. McAlister, I am Evan Reynolds, and I have a few
12 questions for you. Prior to the tax sale, was your
13 name on the deed to the Gausetown property that we're
14 here about today?

15 A Yeah.

16 Q So you were the owner?

17 A I was the owner.

18 Q So did that make you responsible for paying the taxes
19 on that property?

20 A I always felt and had been taught that you have to
21 pay taxes every year.

22 Q So you did know that you would pay taxes once a year,
23 correct?

24 A Yeah.

25 Q And whether it was expressed or implied, did you give

1 your daughter consent to change your address to the
2 Columbia address?

3 A I already answered that one time, but I'll answer it
4 again. Everything my daughter did, I asked her to do
5 it.

6 Q Thank you. All right. So was it your understanding
7 -- did you know that you weren't getting the taxes
8 paid in 2010 and from then on?

9 A Were you listening, sir?

10 Q I was. I'm doing this for the record. I already
11 know the answer.

12 A I thought she was paying them.

13 Q You thought the taxes were being paid by Ms. Scott?

14 A Right.

15 Q And in 2010 when you said somebody drove you from
16 Columbia to Kingstree, what were you letting Ms.
17 Scott know?

18 A I was letting her know to pay the taxes.

19 Q Did you give her anything? Did you give her a tax
20 bill or anything like that?

21 A I didn't have one.

22 Q So you just put her on notice to pay the taxes,
23 right?

24 A Right.

25 Q And you assumed from 2010 on that she was paying

1 those taxes?

2 A Right.

3 Q Did you follow up to see if she was actually doing
4 it?

5 A No, sir.

6 Q You did not?

7 A No, sir. Every year I would go down there and the
8 only thing they would tell you was if the taxes had
9 been paid. I was just thinking she had paid the
10 taxes.

11 Q So you're saying that Ms. Cyrus's office told you
12 that the taxes were being paid?

13 A I don't know whose office it was, but they told me
14 the taxes was paid up.

15 Q Okay. You don't know who told you that?

16 A No. I just thought they was crooks down there.

17 Q Were they in one of those offices by the courthouse
18 in Kingstree?

19 A It was at the tax office, the little building that
20 they built.

21 Q So someone at the tax office told you that the taxes
22 were paid up?

23 A Right.

24 Q Okay. And then it wasn't until after December of
25 2014, and that's when you talked to Ms. Pendergrass

1 Is that correct?

2 A Sometime during that time.

3 Q So to your knowledge, somebody in the tax office told
4 you that the taxes were paid up, and then you found
5 out from Ms. Pendergrass around that time that she
6 had bought it?

7 A No. I found out from Ms. Scott.

8 Q You found out from Ms. Scott in 2014?

9 A Yeah, or whenever it was that she picked me up.
10 That's when I found out that the taxes wasn't being
11 paid by somebody for me. They was being paid
12 otherwise.

13 Q Okay. So that's when you found out?

14 A Yes..

15 Q That's all the questions I have.

16 CROSS EXAMINATION BY MR. BRUNSON:

17 Q Mr. McAlister, you were presented with a document,
18 and you were asked whether or not this was your
19 signature and whether or not you recognized it. How
20 is your last name spelled?

21 A M-c-A-l-i-s-t-e-r.

22 Q And I presume you've been writing your name for as
23 long as you've been able to write?

24 A Exactly.

25 Q I presume that you know how to spell it on a piece of

1 paper?

2 A Yeah.

3 Q So the name that's on this document, is it spelled
4 correctly?

5 A No.

6 Q Would you have misspelled your own last name?

7 A No.

8 Q I'm going to ask you to look at that document one
9 more time. Did you write that?

10 A The last name I didn't write. Someone evidently
11 tried to write it for me.

12 Q So you didn't write this?

13 A No.

14 MR. MOORE: I object. The question was, "Did you
15 write that," and he said not the last name. And then
16 you asked again if he wrote it, and he said no. I'm
17 trying to make sure that we're on the same page.

18 MR. BRUNSON: We are. I had two questions.

19 MR. MOORE: Okay.

20 Q Just one more time for clarification purposes, after
21 looking at this document a little closer, and after
22 looking at the way your name is spelled, did you
23 write that?

24 A No, I did not write that.

25 Q You wouldn't have spelled your name wrong once?

1 A No.

2 Q And you certainly wouldn't have spelled it wrong
3 twice?

4 A I didn't write my name.

5 Q So you can say with certainty now, after further --

6 A I can say with assurance that I didn't write that.

7 Q Okay. Now, with regard to the -- Mr. Moore asked you
8 in a very creative way about an agreement that you
9 had with Ms. Scott, and I'm going to ask you in a
10 less creative way, in a more black and white way.
11 Did you want to sell this house to Ms. Scott in the
12 beginning?

13 A In the beginning, I wanted to sell the house but when
14 Ms. Scott didn't make the payment --

15 Q Wait a minute. You're going too fast. Let's break
16 it down a little bit. Your understanding was that
17 she was supposed to make how many payments?

18 A Two payments.

19 Q All right. The first payment was supposed to be
20 what?

21 A She had \$4,000 coming on her income tax and she was
22 going to give me \$4,000 and go to the bank or the
23 loan company and give me \$31,000.

24 Q For a total of --

25 A For a total of \$35,000.

1 Q Did she ever give you that \$31,000 check?

2 A No, she didn't.

3 Q So what was your impression of the agreement after
4 she failed to give you the \$31,000?

5 A My impression was that she didn't want to or couldn't
6 afford to give it to me.

7 Q And did you communicate to her what her payments
8 were, what any additional payments were going to be?

9 A No. We didn't talk about no additional payments. I
10 told her, "You're not buying no house. I'm renting
11 it to you."

12 Q So there were no additional payments?

13 A Right.

14 Q The money you received after her failing to pay
15 \$31,000 was what?

16 A Rent.

17 Q And she was aware of this?

18 A I told her.

19 Q Okay. And she wasn't paying any interest or
20 anything, was she?

21 A I told her one time, "We're going to have to put a
22 charge on this," and she said, "No, I ain't paying
23 you no interest. You told me to buy it 'as is'," but
24 she couldn't come up with no more.

25 Q She was paying \$300 a month for rent. Is that your

1 testimony?

2 A Right.

3 Q And people don't pay interest on rent, do they?

4 A Not if they pay on time.

5 Q Okay. And then you agreed to reduce the \$300 to
6 something else?

7 A Right.

8 Q To \$200?

9 A Right.

10 Q And what was that \$200 for?

11 A I was under the impression that she was going to pay
12 that for a little while. What kind of man would I be
13 to tell my niece, "No, you can't do that"?

14 Q Was that a rent payment every month?

15 A After she couldn't pay me the rest of the money, that
16 was for rent.

17 Q Okay. And so there were never any balances on her
18 account, were there?

19 A No.

20 Q It was just --

21 A It's what I told you about already.

22 Q It was just that "You pay rent, and you live here,"
23 right?

24 A Uh-huh.

25 Q You were paying the taxes, right?

1 A Right.

2 Q If you couldn't pay the taxes, she paid it?

3 A Right.

4 Q But what did you do to offset that rent, if anything?

5 A I -- she was living in the house all the time for
6 that. So that was absolved.

7 Q Okay. And so she went -- you testified that there
8 were times when she didn't pay, so I won't harp on
9 that. Did you get together with Ms. Pendergrass or
10 anybody else to lose your property?

11 A No, sir, I didn't.

12 Q You attempted to evict Ms. Scott, correct?

13 A Right.

14 Q And that eviction took place because she wasn't
15 paying the rent, right?

16 A Right.

17 MR. MOORE: I'm going to object to the leading.

18 Q Let me rephrase. How many times did you attempt to
19 evict Ms. Scott from the premises?

20 A To my recollection, two or three times.

21 Q And when did you first notify Ms. Scott that these
22 were rent payments and not toward any purchase?

23 A When she didn't pay me for a year or something.

24 Q Okay. Let's go off the record for a minute.

25 A DISCUSSION WAS HELD OFF THE RECORD.

1 Q In 2007, she knew or should have known that you were
2 not going to deed her the house.

3 A I told her that she was renting.

4 Q And she knew that in 2007, right? In fact, did she
5 know that before then?

6 A I don't know.

7 Q Did you ever provide her with a rental agreement?

8 A We just had a little verbal thing.

9 Q I know, but did you ever provide her with one to
10 sign?

11 A Never.

12 Q Your daughter took over your affairs at some point,
13 correct?

14 A Right.

15 Q Do you know if your daughter ever provided her with a
16 rental agreement?

17 A My daughter told me that she carried one to Ms. Scott
18 but she wouldn't agree with it.

19 Q Okay. That's all I have.

20 REDIRECT EXAMINATION BY MR. MOORE:

21 Q I just have two or three questions. I won't keep you
22 long. From March of 1998, at that time you started
23 off with what you called the sale of the house,
24 correct?

25 A Right.

1 Q And you say -- you just testified that sometime in
2 2007 you said that you wanted to go into a rental
3 agreement. Is that correct?

4 A Correct.

5 Q And then you said again that your daughter, after you
6 moved to Columbia -- is that right?

7 A I don't know when, but I know she told me that.

8 Q So she didn't do it because you told her to do it.

9 She told you that she had gone and presented a rental
10 agreement?

11 A No. She and I talked.

12 Q You didn't say that the first time. You said that
13 she told you that she took an agreement for her to
14 sign.

15 A I didn't figure I had to tell you, but she and I
16 talked.

17 Q And this was after you moved in with her?

18 A I can't remember.

19 Q Was this after she took over taking care of your
20 affairs for you?

21 A Yeah.

22 Q So at that time you had had the heart attack and the
23 stroke when she did that?

24 A Right.

25 Q So this was after 2010 or 2011. Thereabouts? It was

1 after you moved in with her?

2 A After I moved in with her.

3 Q And Ms. Scott never signed a rental agreement. Is
4 that correct?

5 A As far as I know. I don't know whether she did or
6 not.

7 Q At any time after Ms. Scott moved in the house and
8 there was an agreement that she would buy it, did you
9 do any repairs on that house? Did you go fix
10 anything?

11 MR. BRUNSON: I object to the form.

12 A I didn't need to. It was already fixed.

13 Q Any repairs?

14 A No, no repairs.

15 Q If you did any repairs from the time of the sale in
16 March of 1998 until the house was sold, would you
17 remember that if you had done any repairs?

18 MR. BRUNSON: Object to the form.

19 A I don't remember.

20 Q Did you spend any money out of your pocket to do
21 anything to the house from March of 1998 up until the
22 time the house was sold?

23 MR. BRUNSON: Object to the form. Asked and
24 answered.

25 A I don't remember.

1 Q And you realize that if you are renting property,
2 you're responsible for repairs unless otherwise
3 stated, correct?

4 A Correct.

5 Q And as we sit here today, you don't know of any
6 balance that she owes, or you don't have any proof of
7 any balance that she owes, if any at all, as we sit
8 here today, do you?

9 A No, I don't have any.

10 Q Okay. That's all I have.

11 MR. BRUNSON: I don't have anything.

12 THIS DEPOSITION WAS CONCLUDED.
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1 STATE OF SOUTH CAROLINA CERTIFICATE

2 COUNTY OF FLORENCE

3 I hereby certify that the foregoing deposition
4 was taken and heard before me, a duly authorized Notary
5 Public, and the same transcribed as a true and correct
6 transcript of the testimony taken at the time and place
7 indicated therein. I am not related to any of the parties
8 or their counsel, nor am I interested in the outcome of
9 the foregoing litigation, financially or otherwise.

10 WITNESS my hand and seal this the 22nd day of
11 January, 2018 at Lake City, South Carolina.

12

13 _____ (L.S.)

14 LAURA B. LANDRUM

15 My Commission expires: 12/20/2027

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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF WILLIAMSBURG 15-CP-45-00401

Shawonder Scott,

Plaintiff,

vs.

Curtis McAlister, Aquana McAlister,

Norma L. Cyrus, Tax Collector for

Williamsburg County, County of

Williamsburg, an Unincorporated

Subdivision of the State of South

Carolina, Hartwell Pendergrass, Sr.,

and Hattie S. Pendergrass,

Defendants.

Deposition of AQUANA L. McALISTER taken on January 12,
2018 at 1:00 p.m. at the Moore Law Firm in Sumter, South
Carolina. Laura Landrum, Notary Public for South Carolina.

FOR THE PLAINTIFF:

Dwight C. Moore, Esquire

Sumter, South Carolina

FOR THE DEFENDANTS McALISTER:

Willie H. Brunson, Esquire

Sumter, South Carolina

FOR THE DEFENDANTS CYRUS AND WILLIAMSBURG COUNTY:

William Evan Reynolds, Esquire

Kingstree, South Carolina

1 It was stipulated by counsel that the deposition
2 would be taken in accordance with the South Carolina Rules
3 of Civil Procedure and Amendments and pursuant to notice.

4 By agreement of counsel and with the consent of
5 the deponent, the deponent agreed to waive the right to
6 read and sign the deposition after the same had been duly
7 transcribed.

8 AQUANA McALISTER, after first duly affirming to
9 tell the truth, the whole truth, and nothing but the
10 truth, testified as follows:

11 DIRECT EXAMINATION BY MR. MOORE:

12 Q Ma'am, my name is Dwight Moore. You have now sat
13 through two depositions.

14 A Yes.

15 Q And so I assume you understand how we are doing this.

16 A Yes.

17 Q Again, I say to you, if you have any questions about
18 questions I ask, if you don't understand it, I'll be
19 glad to repeat it or rephrase it. If I need to slow
20 down, I'll be glad to slow down. Is that fair?

21 A That's fair.

22 Q Is it fair also that if you answer a question, it's
23 fair for me to assume that you understood it?

24 A Yes, that's fair.

25 Q Okay. Are you on any medications today that would

1 render you unable to understand what I'm saying?

2 A No.

3 Q Okay. Can you give me your full name for the record?

4 A Aquana Lavert McAlister.

5 Q And for the court reporter's sake, can you spell that
6 for me?

7 A A-q-u-a-n-a, middle name, L-a-v-e-r-t, McAlister,
8 M-c-A-l-i-s-t-e-r.

9 Q And Ms. McAlister, where do you live currently?

10 A Columbia, South Carolina.

11 Q What's that address?

12 A 967 Ridgeley Place, R-i-d-g-e-l-e-y Place, Apartment
13 B, 29210.

14 Q And what do you do for a living?

15 A Clinical informatics.

16 Q What is that?

17 A I work with the electronic -- the healthcare
18 electronic medical records.

19 Q And who do you work for?

20 A Palmetto Health.

21 COURT REPORTER: I'm sorry, who?

22 A Palmetto Health.

23 COURT REPORTER: Thank you.

24 Q Okay. How long have you been with them?

25 A Sixteen years.

1 Q And I assume you're originally from Kingstree?

2 Williamsburg County?

3 A I am.

4 Q And what's your birthday?

5 A 1/26/79.

6 Q And did you go to high school there?

7 A No, I graduated from Clarke Central High, Athens,
8 Georgia.

9 Q Okay. And so your father testified that at some
10 point y'all moved to Athens, and I guess you and your
11 sister went with them to Athens and --

12 A Right. That would have been the summer of 1993.

13 Q And so you matriculated high school out there?

14 A Yes.

15 Q And what year did you graduate?

16 A 1997.

17 Q Any post-high school education?

18 A Yes, I have a Master's of Business Administration.

19 Q Where is that from?

20 A South University.

21 Q And what year did you get that degree?

22 A 2013.

23 Q Okay. And your undergraduate?

24 A Bachelor of Science in healthcare management.

25 Q And where is that from?

1 A South University.

2 Q After leaving Athens, Georgia, did you move directly
3 to Columbia?

4 A I stayed in Kingstree for a short stint between the
5 move to Columbia as I was transitioning.

6 Q So when your family moved to Manning, you didn't go
7 to Manning?

8 A I stayed there for a short while, yes. I apologize.

9 Q Okay. So Athens, Kingstree, Manning, then Columbia?
10 A Uh-huh.

11 Q You have to say "yes" or "no" for the court reporter.

12 A Yes.

13 Q Okay. Relatives in Kingstree that live there
14 currently. Can you give me last names?

15 A McAlister, Alston, and Boyd, with Boyd being the
16 step-family.

17 Q Any affiliations other than the fact that you have
18 these relatives living in Kingstree or Williamsburg
19 County for yourself? Do you go to church there or is
20 there anything you're a member of there?

21 A My home church is Apostolic Faith Church Holiness
22 Community, Kingstree, South Carolina.

23 Q Okay. Is that in the city or the county?

24 A I'm not sure.

25 Q Okay. And so that -- you're not sure whether it's in

1 the city or the county?

2 A I'm not sure.

3 Q When is the last time you attended?

4 A I'm not a member there.

5 Q That's a previous home church?

6 A Yes, that's my home church. I grew up there.

7 Q Okay. Any other affiliations, religious, social or
8 otherwise in Williamsburg County?

9 A No, but I probably should add that my father
10 remarried, and his wife's maiden -- or name before
11 that is McFadden. Yeah.

12 Q Okay. When did your father remarry?

13 A 2004.

14 Q Okay. Is he currently still married?

15 A Yes.

16 Q Is he currently living with his wife now?

17 A No.

18 Q Okay. Are they divorced, separated?

19 A Separated.

20 Q And what's her full name again?

21 A Carol.

22 Q Carol? C-a-r-o-l?

23 A Uh-huh. McFadden McAlister.

24 Q All right. In 1998, how old would you have been?

25 A Nineteen.

1 Q Nineteen?

2 A Yes.

3 Q Would you have been in Kingstree when you were 19?

4 A Well, I relocated back to Kingstree approximately
5 around that time and transitioned -- my parents were
6 about to move to Manning, so I moved there with my
7 uncle for a short period of time until they moved
8 back to Manning, South Carolina.

9 Q Okay. On March 25th of 1998, where were you?

10 A I can't be certain, but I would say that I was in
11 Kingstree. And I only know because I graduated in
12 1997, and I left Athens after I graduated.

13 Q Okay. Now, was your family in Athens -- your father
14 and mother -- when you graduated?

15 A Right. They stayed on in Athens for approximately
16 six months.

17 Q Okay. So in March of 1998, would your parents have
18 been back in Kingstree at that time?

19 A They would have been in Manning at that time. They
20 didn't move back to Kingstree.

21 Q At all?

22 A At all. Not when my mom was alive.

23 Q Okay. And so would you have any firsthand knowledge
24 of the sale of the house or the negotiations between
25 Ms. Scott and your father?

1 A I do have knowledge.

2 Q Firsthand knowledge?

3 A Not -- I wasn't present, if that's what you're
4 asking.

5 Q I'm asking if you were present during the
6 consummation of this --

7 A I was not present.

8 Q Okay. When did you become involved in it?

9 A Roughly -- I do not recall specific dates, but I
10 received a call from a family member around 2006, I
11 guess, 2007.

12 Q Who would have been that family member?

13 A It was actually my uncle, Leroy McAlister.

14 Q Okay. And that's your father's brother?

15 A Yes. And he informed me while at work that the house
16 was delinquent at that time, and he felt like I
17 should know, and that's really how I was brought into
18 the mix of all this.

19 Q Okay. And this was when?

20 A Approximately 2006 or 2007. I would say I would lean
21 toward 2006. Well, he felt like I should be aware
22 about the taxes on the property, and after our
23 conversation, I ended up paying the taxes that year
24 and for, I think, about two or three years previous.

25 Q Okay. When you say "delinquent," were they one year

1 delinquent or two?

2 A It was one at that time, but someone else had paid,
3 and he -- I paid those back taxes to get it out of
4 that person's name.

5 Q Okay. Do you recall what year the person had paid
6 it?

7 A No, I'm not exactly sure of the year.

8 Q Now, when you say "delinquent," was the house in a
9 tax sale at that time?

10 A No, it had not gone to a tax sale yet, to my
11 knowledge. Now, this was by phone.

12 Q Okay. Did you pay one year's delinquent taxes?

13 A No, I ended up -- I paid more than one year.

14 Q You don't recall how much you paid?

15 A No, but I can get my bank statements for you if you
16 need me to.

17 Q You can provide that to your attorney?

18 A Sure.

19 Q So you paid at least one year, and it could have been
20 two years, approximately?

21 A Right.

22 Q Okay.

23 A And I paid it by phone at the time.

24 Q Okay. That was your first involvement, 2006 or 2007
25 when you --

1 A Right.

2 Q -- paid the taxes?

3 A Right.

4 Q When's the next time you were involved?

5 A Well, I continued to be involved from that point and
6 speaking with my father back and forth about the
7 property to, you know, get up to date on the
8 information from him.

9 Q Where were you living during 2006/2007?

10 A Columbia, South Carolina.

11 Q So now this is part of your employment at Palmetto
12 Health?

13 A Yes.

14 Q And so you and your father went back and forth about
15 the property -- the taxes?

16 A Right.

17 Q I guess, were you trying to make sure they were paid
18 on time? Was that --

19 A Right. I was paying the taxes at that point for a
20 short while.

21 Q Okay. The next time that you were directly involved
22 in this matter was when?

23 A Well, to my knowledge, there wasn't another tax issue
24 until this present issue.

25 Q Okay. Let's talk about the present issue. There's

1 an indication in the tax records by way of the tax
2 collector that you at some point, with or without
3 your father, indicated that that address should be
4 changed. Is that right?

5 A Yes.

6 Q And that was, according to our records, 2010?

7 A Yes, and that exact date would have been the date of
8 the magistrate court date, and it was upon advice
9 from the judge where all parties were present.

10 Q Okay. Let me see if we can identify that. Would
11 that have been -- that document or tax record that
12 showed 10/20/2010, I think it was, there's a notation
13 that you were changing the address per --

14 MR. BRUNSON: I object to this document.

15 Q Okay. Is that about the date that you made the
16 change?

17 A It would have been whatever date we went to
18 Magistrate's court.

19 Q Okay. But you don't know that -- would it have --

20 A I don't know the date specifically, but it was in
21 2010 when we went to Magistrate's court. I left the
22 Magistrate's court office, and my father and I walked
23 next door to the courthouse.

24 Q Okay. And you told them that the address should be
25 changed from Gausetown Road to the address on that

1 document?

2 A My father and I did, yes.

3 Q Okay. Is that address on that document the address
4 it was changed to, if you look down at the bottom
5 right there?

6 A Yeah, here it is. It's 2520 Carroll Drive. That's
7 correct.

8 Q Can I mark this, please?

9 MR. BRUNSON: I object to that document.

10 COURT REPORTER: Do you want it to run, like we
11 did One, Two, and this would be Three?

12 MR. MOORE: Yes, ma'am.

13 PLAINTIFF'S EXHIBIT NUMBER THREE WAS MARKED.

14 Q Now, after the address changed --

15 A Uh-huh.

16 Q -- and prior to that, it was going to Gausetown, and
17 now it would be going to Carroll Drive?

18 A Right, upon the advice of the Magistrate's court
19 judge at the time.

20 Q Okay. Now, you had been to Magistrate's court to try
21 and get an eviction, and the court -- that was not
22 successful. Is that correct?

23 A Well, that's not completely true.

24 Q Excuse me, let me ask the question this way.

25 A Sure.

1 Q She was never evicted. Is that correct?

2 A Well, I don't know if she would have been or not.

3 Would you like for me to expound on that a little
4 bit?

5 Q Sure.

6 A Okay. So in 2010, the Magistrate advised us to go to
7 civil court -- that it became a civil court matter.
8 So we walked over and asked for it to be placed on
9 the civil court dockets and filled out the paperwork,
10 and Williamsburg County never notified my father and
11 I that the court actually went before the -- I mean,
12 the case actually was presented before the judge, so
13 we weren't present, so therefore, I don't know how it
14 would have turned out.

15 Q Okay. But she was not evicted?

16 A No, not formally evicted.

17 Q And you all never went back to court after that?

18 A No, because I didn't find out until sometime later --
19 because I was told that it could have taken
20 approximately three years for us to get on the
21 docket, so I didn't find out until sometime later
22 that the court had already been held.

23 Q Okay. At any time, had you and your father done an
24 accounting to determine what amount was owed on this
25 agreement?

1 A No. As far as your question, to me, that was
2 irrelevant at the time.

3 Q Got you.

4 A Uh-huh.

5 Q So what was owed was irrelevant, you were just
6 concerned about the eviction?

7 A Right.

8 Q All right.

9 A That was our discussion.

10 Q Okay. Did you receive notice at the 2520 Carroll
11 Drive -- and I assume that was your address?

12 A Yes.

13 Q Your father was living with you?

14 A At the time, yes.

15 Q Of any subsequent tax notices from the tax assessor's
16 office or the tax collector at Williamsburg County?

17 A We did not receive a levy, notice of sale, or
18 anything at the address.

19 Q Okay. Now, your father indicated that Ms. Scott and
20 her son picked him up and took him to Williamsburg to
21 talk with the tax persons about it. Did you yourself
22 become directly involved in finding out what had
23 happened?

24 A After the fact. So this happened in the latter part
25 of the year prior, so it was 2014. It was mentioned

1 to me, and I just kind of threw it over my head. I
2 didn't think about it any further. Then in 2016 --

3 Q Let's start with this, what was mentioned to you?

4 A About the tax sale.

5 Q Okay.

6 A Uh-huh.

7 Q In 2016, --

8 A That's when Ms. Scott and her son came to pick my
9 father up to go and try to resolve the issue.

10 Q So it was in 2016?

11 A Right. And then I became even more in-depth -- it
12 became more knowledge to me when I spoke to you on
13 the phone when you attempted to reach my father.

14 Q Okay. All right.

15 A And so I think I want to say it was that same day we
16 stopped by to speak with Ms. Pendergrass to ask her,
17 and we explained to her that it was a little bit more
18 complicated than a tax sale, and she did say, as my
19 father stated, that she was willing to fight it or
20 pursue it to the fullest extent of the law.

21 Q Did you ever take up your concerns with the tax
22 assessor's office or the tax --

23 A I did. I went and retrieved tax information from the
24 tax -- from the tax office, and what I saw, I
25 believed to be negligent, so they gave me, of which I

1 provided to my attorney, the paperwork that they had
2 at the time from the file.

3 Q And what was included in that paperwork?

4 A They gave me a photocopy of the levy, and I asked
5 them -- I can't remember how many years back I asked
6 them for receipts.

7 Q And so you had a copy of the levy and copies of
8 receipts for what?

9 A The tax payments.

10 Q Okay.

11 A Yeah.

12 Q Did you pay any payments after the address change had
13 taken place?

14 A I can't recall at this time.

15 Q Okay. Do you believe had you made the payments, that
16 the levy would have gone forward?

17 A Do I believe it would have gone forward?

18 Q Had you made the payments.

19 A Had payments been made? No, the levy would not have
20 gone forward.

21 Q And you don't have -- as you recalled having some
22 proof of canceled checks back in 2006/2007, you don't
23 have any proof that payment was made after 2010?

24 A I don't recall.

25 Q Would you recall had you made the payments?

1 A Yes, if I personally had.

2 Q Do you recall if your father had made the payments?

3 A I would not have recalled if he had.

4 Q Okay. So it's your testimony that you never
5 received, per your instructions, notice from --

6 A We never received anything about a tax sale, we never
7 received a levy in the mail or anything from
8 Williamsburg County.

9 Q Okay. One more thing, had you received any tax
10 notices initially saying that the taxes were due or
11 any delinquent notices after that initial tax notice?

12 A I do recall receiving one tax notice after the
13 address was changed. One notice.

14 Q And would that have been for the 2010 or 2011 tax
15 year?

16 A I do not recall.

17 Q Okay. The one that you received, is it your
18 testimony that you don't recall if you paid it or
19 not?

20 A I do not recall.

21 Q So your involvement was 2006, 2007, and 2010 when the
22 address change was made, and y'all went to court?

23 A Uh-huh.

24 Q And then one time directly when you got a notice from
25 the tax assessor's office -- one notice, and then

1 lastly, when you found out that the property had been
2 sold?

3 A I do not recall the one notice, and I didn't do
4 anything when the property was sold.

5 Q Okay. But you said you got --

6 A Myself personally.

7 Q I'm saying you received at least one notice?

8 A Yeah.

9 Q Yeah.

10 A We received at least one notice.

11 Q So you received at least one notice, and then when it
12 came to your attention the property had been sold,
13 you made a trip to see Ms. Pendergrass?

14 A Right.

15 Q And that was your involvement in this property?

16 A Right.

17 Q Okay. And so you would have no accounting of any
18 monies paid or owed, yourself directly?

19 A No.

20 Q And you don't have or possess, or your father never
21 did a Power of Attorney which allowed you to act on
22 his behalf officially?

23 A At -- no, he wasn't incapacitated to that degree
24 where he would need Power of Attorney.

25 Q Okay. Well, people get them whether they're

1 incapacitated or not, but you said you never received
2 one, but he never gave you any Power of Attorney to
3 officially act on his behalf?

4 A No, we don't have any written paperwork.

5 Q Okay. And so if -- is there any reason why the
6 change of request would have been done by you, as
7 noted on Exhibit Number Three, and not by him, your
8 father, if he was there at the courthouse with you?

9 A When you state that you're noting the exhibit, can
10 you please --

11 Q Sure.

12 A Are you suggesting that this is my signature?

13 Q No, ma'am, I'm suggested that's noted. I said noted
14 on the exhibit --

15 A Uh-huh.

16 Q -- that on that date, thereabouts, "change of address
17 requested by his daughter, Aquana McAlister."

18 A I'm not exactly sure why it's stated that way,
19 because both my father and I were present standing at
20 the counter at the same time.

21 Q Okay. Now, your father has said in testimony that he
22 had instructed you to make the change. Is that
23 correct?

24 A Yeah. He was standing there.

25 Q And despite the fact that he was standing there, you

1 made the request to change the address?

2 A I can't say specifically who verbalized the change,
3 but both of us was at the counter at the time.

4 Q You wouldn't doubt that if they said it was done by
5 you, that it would have been done by you, would you?

6 A I would doubt Williamsburg County. I absolutely
7 would, for the record.

8 Q I have no further questions.

9 CROSS EXAMINATION BY MR. REYNOLDS:

10 Q All right, I just have a few. Ms. McAlister, you
11 stated that you don't have a Durable Power of
12 Attorney, or you were never court-appointed guardian
13 or conservator for your father?

14 A No.

15 Q Okay. You might want to get that done before
16 anything happens.

17 A Thank you.

18 Q Yeah, no problem. As far as delinquent taxes, you
19 paid before 2006. Is that correct?

20 A Approximately. I may not recall specific dates, but
21 I can attempt to obtain my --

22 Q That doesn't matter to me. My follow up question is,
23 how did you find out about those delinquent taxes
24 back then?

25 A From my uncle.

1 Q Okay. So he told you about them?

2 A Yes, because allegedly, he had paid the taxes in the
3 past.

4 Q Okay.

5 A So he said -- his direct conversation with me was
6 that he felt that I should know.

7 Q Okay. And your father already told me, but he did
8 give you permission to change the address in 2010?

9 A If you want to say "permission." He was standing
10 there when it happened.

11 Q He didn't stop you from doing it, did he?

12 A He didn't stop me.

13 Q Okay. And you changed it to an address in Columbia
14 where he was living with you?

15 A We changed it. Yes, we did.

16 Q So y'all both changed it to --

17 A We were standing at the counter together, upon the
18 advice of the Magistrate judge.

19 Q Okay. So y'all changed it to the address that he was
20 living in?

21 A Yes.

22 Q Okay. And you said you had received just one notice?

23 A I recall receiving one notice.

24 Q Okay. Do you know what that notice said? Do you
25 remember?

1 A It was a tax bill at that time.

2 Q Was it -- you don't know what year, though?

3 A No, I do not recall.

4 Q Well, just assuming that it's got to be for the prior
5 year or maybe that current year, 2009, 2010?

6 A I'm not going to assume anything.

7 MR. BRUNSON: Object to the form.

8 Q Okay. So you have no clue what year?

9 A I don't know what year it was.

10 Q Did you pay that?

11 A I can't recall.

12 Q Okay. Did you do any follow up with Williamsburg
13 County to ask why you weren't receiving any of the
14 tax notices?

15 A No, I didn't do any follow up, and I did not speak
16 with Williamsburg County until this situation
17 transpired.

18 Q So who did you think was paying -- who did you assume
19 was paying the taxes from 2010 to --

20 A I didn't assume anything.

21 Q Who was paying the taxes from 2010 to 2014?

22 A I don't know.

23 Q Was it your father?

24 A I couldn't say.

25 MR. BRUNSON: Asked and answered.

1 Q Okay. So do you know that your father thinks Ms.
2 Scott was paying the taxes?

3 MR. BRUNSON: Object to the form.

4 A I can't say what my father thinks.

5 Q Y'all don't have conversations about the delinquent
6 taxes?

7 A No, we didn't, actually.

8 Q Okay. So y'all had no conversations about this case
9 at all --

10 A Until this instance right here. Prior --

11 Q This is the first time that y'all have talked about
12 this case?

13 A Prior -- not today, sir, but prior to this, my father
14 and I didn't have any conversations about tax notices
15 until we were notified that this property had been
16 purchased by the Pendergrasses.

17 Q Okay.

18 A Yeah.

19 Q And did y'all inquire as to how it could have been
20 sold to the Pendergrasses?

21 A That's when I went down to the tax assessor's office.

22 Q And what did they tell you?

23 A Well, if you want to know what I actually saw, and
24 what they told me, I saw that there was a levy
25 written out -- I witnessed this with my own two eyes.

1 Someone wrote a levy out with blue ink on it. It
2 wasn't a photocopy of the levy. So that let me know
3 right there personally myself that something is wrong
4 with this whole situation. So no, we never received
5 a levy by mail from Williamsburg County, and we never
6 received any tax notices that the property was sold
7 in the tax sale.

8 Q Okay. Did you ask -- did you ask your father if he
9 had been paying the taxes?

10 A No, I didn't have a reason to ask him that.

11 Q Okay. That's all the questions that I have for you.

12 A Thank you.

13 CROSS EXAMINATION BY MR. BRUNSON:

14 Q I have a few.

15 A Okay.

16 Q Ms. McAlister, you were asked a few questions by Ms.
17 Scott's attorney regarding balances and things of
18 that nature, correct?

19 A Uh-huh, yes.

20 Q You indicated that you became involved in this in or
21 around 2006/2007, --

22 A Approximately.

23 Q -- and that after that time, you talked with your
24 father about what was going on with this property,
25 correct?

1 A Right.

2 Q And based on those -- that conversation, you were
3 instructed or advised that Ms. Shawonder Scott was
4 making payments, correct?

5 A Right.

6 Q What kind of payments was she making?

7 A She was making rental payments, and at the time, they
8 were delinquent, which is what happened. That's what
9 caused the 2007 action.

10 Q All right. That was going to be my next question.

11 So you were advised that she was making rental
12 payments, and you were -- after that, an eviction
13 action occurred, correct?

14 A Right. She was evicted at the 2007 hearing.

15 Q Okay. And in regard to any balances, those balances
16 wouldn't be on a contract, would they? Those would
17 be in delinquent rents?

18 A Right.

19 Q Okay. Are you aware of any other balances that there
20 would be?

21 A No.

22 Q Okay. So when Mr. Moore asked you whether there were
23 any balances that she still owed or outstanding, the
24 only balance that could have been in place, to your
25 knowledge, would have been unpaid rent?

1 A Right.

2 Q Okay.

3 MR. MOORE: Objection. My question was, did she
4 have any notice of any unpaid balances or any
5 balances due. She said she didn't.

6 Q That's correct. And that's the same balances I'm
7 referring to. We're clarifying what those would have
8 been, and she indicated that if she had any balances
9 at all, they would be unpaid rental balances, not a
10 balance left to pay off any contract or anything.

11 A Right.

12 Q Okay. I think that's all I've got.

13 REDIRECT EXAMINATION BY MR. MOORE:

14 Q Just one more. You still don't know of any balances
15 -- you don't have knowledge of any balances yourself,
16 do you?

17 A I do not have a ledger of balances.

18 Q Okay. And as we stand here or sit here today, you
19 don't know what she owes, if anything, do you?

20 A No, I do not.

21 MR. BRUNSON: All right, we're done.

22 THIS DEPOSITION WAS CONCLUDED.

23

24

25

1 STATE OF SOUTH CAROLINA CERTIFICATE

2 COUNTY OF FLORENCE

3 I hereby certify that the foregoing deposition
4 was taken and heard before me, a duly authorized Notary
5 Public, and the same transcribed as a true and correct
6 transcript of the testimony taken at the time and place
7 indicated therein. I am not related to any of the parties
8 or their counsel, nor am I interested in the outcome of
9 the foregoing litigation, financially or otherwise.

10 WITNESS my hand and seal this the 23rd day of
11 January, 2018 at Lake City, South Carolina.

12
13 _____ (L.S.)

14 LAURA B. LANDRUM

15 My Commission expires: 12/20/2027
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