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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Perry M. Buckner, III, Circuit Court Judge

Case No. 2017-CP-07-02110

RECEIVED

JUL 12 2019

SC Court of Appeals

Charles Willis Gardner,

Appellant,

v.

Taylor Reuben Adams,

Respondent.

RECORD ON APPEAL

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Cobb Dill & Hammett, LLC
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STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 CHARLES WILLIS GARDNER,)
)
 Plaintiff,)
)
 vs.)
)
 TAYLOR REUBEN ADAMS,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2017-CP-07-02110

**ORDER GRANTING PARTIAL
 SUMMARY JUDGMENT**

Defendant's Motion for Partial Summary Judgment came before this Court in the Beaufort County Courthouse on June 26, 2018. Present at the hearing was William L. Pyatt, Esquire, attorney for the Plaintiff and Terry A. Finger, Esquire, attorney for the Defendant.

This Court has reviewed the pleadings, Motion for Partial Summary Judgment, and listened to the arguments of counsel. Additionally, this Court has reviewed a Decree of Title Clearance in Case No. 89-CP-07-879, judgment roll number 82475 in the Office of the Clerk of Court for Beaufort County, said decree being signed by Thomas Kemmerlin, Jr., Beaufort County Master in Equity on November 20, 1990; a deed from Leroy Gardner, Sr. to Charles W. Gardner recorded in the Office of the Register of Deeds in Book 635 at Page 2600; a plat of the property prepared for Charles Gardner dated October 31, 2013 recorded in Plat Book 137 at Page 156; a plat prepared for Charles Gardner dated February 6, 1995 recorded in Plat Book 52 at Page 36; and a plat prepared for the Defendant dated September 19, 2017 recorded in Plat Book 147 at Page 133.

Based upon the pleadings, arguments of counsel, Quiet Title Action, relevant deeds and plats, this Court makes the following findings of fact:

1. The thirty (30') foot road right-of-way does not belong to the Plaintiff. The Quiet Title Action and the Deed to the Plaintiff from the Plaintiff's father specifically excludes the thirty foot road and the property to the south of the road.¹

2. The current Plaintiff was a Defendant in the 1989 Quiet Title Action which was resolved by the consent of the parties.

3. John Howard is shown by the Quiet Title Action, the deeds, and the relevant plats to be the owner of the thirty foot road and the property to the south of the current Plaintiff.

4. The Defendant is the successor in interest to the real property owned by John Howard at the time of the Quiet Title Action.

THEREFORE, based upon the above Findings of Fact, this Court finds:

1. There are no disputed facts and partial summary judgment is appropriate based upon the record.

2. The thirty foot road, the boat ramp at the eastern end of the thirty foot road and the property to the south of the road is owned by the Defendant, Taylor Ruben Adams. This property is shown on the plats referenced above.

3. The Plaintiff's causes of action for trespass, conversion, and injunction are hereby dismissed by virtue of the fact the property in question is owned in fee simple by Taylor Ruben Adams.

4. The counterclaim of the Defendant shall continue if Defendant elects to pursue same.

5. The consent restraining order dated May 23, 2018 shall remain in full force and effect.

¹ Title to the subject property has been determined in a Decree of Title Clearance signed by the Honorable Thomas Kemmerlin, Jr. on November 20, 1990 in Civil Action No.: 1989CP0700879.

NOW THEREFORE, IT IS ORDERED that the Defendant's Motion for Partial Summary Judgment is hereby **GRANTED**;

It is further Ordered that the thirty foot road, boat ramp and the +/- 1.054 acres below the road are owned in fee simple by Taylor Ruben Adams.

IT IS FURTHER ORDERED that the Plaintiff shall forthwith be prohibited from trespassing upon the property of Taylor Ruben Adams. From the plats shown to this Court, it is clear and apparent that Plaintiff has access to his property from Ashton Drive as shown on Plat Book 137 at Page 156 and it is not necessary for the Plaintiff to trespass upon Defendant's property in order to gain access to his property.

AND IT IS SO ORDERED this _____ day of July, 2018.

The Honorable Perry M. Buckner, III

Walterboro, S.C.
July 9, 2018



Beaufort Common Pleas

Case Caption: Charles Willis Gardner VS Taylor Reuben Adams
Case Number: 2017CP0702110
Type: Order/Summary Judgment

It is so Ordered

s/ Perry M Buckner III 2122

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 CHARLES WILLIS GARDNER,)
)
 Plaintiff,)
)
 vs.)
)
 TAYLOR REUBEN ADAMS,)
)
 Defendant.)

**IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2017-CP-07-02110**

**ORDER DENYING MOTION FOR
 RECONSIDERATION**

THIS MATTER came before this Court pursuant to the Plaintiff's Motion for Reconsideration or a New Trial and Motion to Stay Proceedings filed on July 20, 2018. A hearing was held on Defendant's Motion for Partial Summary Judgment in Beaufort County on June 26, 2018. Present at the hearing was William L. Pyatt, Esq. attorney for the Plaintiff¹ and Terry A. Finger, Esq., attorney for the Defendant. An Order Granting Partial Summary Judgment was filed on July 10, 2018 with the Beaufort County Clerk's Office. The Plaintiff subsequently and timely filed their Motion for Reconsideration or New Trial ("hereinafter Motion to Reconsider") on July 20, 2018.

After considering the record in this matter, the arguments of counsel, and the applicable legal authorities, this Court respectfully **DENIES** the Motion to Reconsider.

Additionally, the Motion to Reconsider, for the first time, alleges that the Plaintiff has some type of implied easement to use the road. That issue is not raised by the pleadings and was not raised in the argument on the summary judgment motion. That argument is not proper in a Motion to Reconsider.

¹ Plaintiff has substituted counsel since the original hearing on the Summary Judgment Motion on June 26, 2018.

Gardner - ROA - 006

Having fully reviewed the Motion to Reconsider, the pleadings, and the documentation submitted at the Summary Judgment hearing, this Court finds that the Motion to Reconsider is respectfully **DENIED**.

AND IT IS SO ORDERED this _____ day of August, 2018.

The Honorable Perry M. Buckner, III

Walterboro, S.C.

ELECTRONICALLY FILED - 2018 Aug 09 2:46 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702110



Beaufort Common Pleas

Case Caption: Charles Willis Gardner VS Taylor Reuben Adams
Case Number: 2017CP0702110
Type: Order/Other

It is so Ordered

s/ Perry M Buckner III 2122

Charles Willis Gardner

Plaintiff(s)

vs.

Taylor Reuben Adams

Defendant(s)

CIVIL ACTION COVERSHEET

2017-CP - _____ - _____

Submitted By: William L. Pyatt
Address: 1507 Bush River Road
Columbia, SC 29210

SC Bar #: 4599
Telephone #: 803-750-5929
Fax #: 803-750-5956
Other: 803-276-1118
E-mail: pyattlawfirm@gmail.com

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

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

Submitting Party Signature: s/William L. Pyatt

Date: 10/11/17

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 1.1, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Gardner - ROA - 009
Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

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

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

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

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

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
CHARLES WILLIS GARDNER,)	
)	
PLAINTIFF,	)	CIVIL ACTION NO.: 2017-CP-
)	
vs.	)	SUMMONS
)	
TAYLOR REUBEN ADAMS,)	
)	
DEFENDANT.)	

TO THE DEFENDANT 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 said Complaint to the subscriber, William L. Pyatt, at his office at 1507 Bush River Road, Columbia, South Carolina 29210, within THIRTY (30) DAYS after the service thereof, exclusive of the date of such service; and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded in this Complaint, and judgment by default will be rendered against you for the relief demanded in the Complaint.

Dated this the 11th day of October 2017.

Respectfully Submitted,

PYATT LAW FIRM, LLC

By: s/William L. Pyatt
William L. Pyatt
Attorney for Plaintiff

Post Office Box 12041
Columbia, SC 29211
(803) 750-5929
(803) 750-5956 (f)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
CHARLES WILLIS GARDNER,)	
	)	CIVIL ACTION NO. 2017-CP-
PLAINTIFF,)	
	)	COMPLAINT
vs.)	
TAYLOR REUBEN ADAMS,)	
DEFENDANT.)	

TO THE DEFENDANT ABOVE NAMED:

NOW COMES Plaintiff, who would respectfully show unto this Honorable Court as follows:

1.

That Plaintiff is a citizen and resident of the County of Beaufort and State of South Carolina.

2.

That Defendant is a citizen and resident of the County of Beaufort and State of South Carolina.

3.

That the real property which is the subject of this lawsuit is located in the County and State aforesaid.

4.

That Plaintiff has owned property on Warsaw Island Road, St. Helena, South Carolina in excess of twenty (20) years.

5.

That Defendant recently purchased property located on Warsaw Island Road in proximity to the property of Plaintiff.

FOR A FIRST CAUSE OF ACTION
(TRESPASS)

6.

That Plaintiff reiterates the allegations of paragraphs one (1) through five (5) as if written herein word for word.

7.

That Defendant has been trespassing upon the real property of Plaintiff without his consent, permission or authorization.

8.

That the trespass of Defendant is preventing the Plaintiff from the quiet use and enjoyment of his property.

9.

That Plaintiff is informed and believes that he is entitled to an Order of this Court restraining and prohibiting Defendant from Trespassing upon his property, and he hereby prays that this Honorable Court grants same.

FOR A SECOND CAUSE OF ACTION
(CONVERSION)

10.

That Plaintiff reiterates the allegations of paragraphs one (1) through nine (9) as if written herein word for word.

11.

That Plaintiff is informed and believes that Defendant has converted or is attempting to convert some of Plaintiff's property for his own use.

12.

That any property of Plaintiff converted by Defendant should be returned to Plaintiff and he hereby prays that this Honorable Court grants same.

FOR A THIRD CAUSE OF ACTION
(DECLARATORY & INJUNCTIVE RELIEF)

13.

That Plaintiff reiterates the allegations of paragraphs one (1) through twelve (12) as if written herein word for word.

14.

That Plaintiff is informed and believes that he will suffer irreparable harm if the conduct of the Defendant is not restrained and enjoined.

15.

That Plaintiff prays that this Court issues an appropriate injunction and restraining order, temporarily and permanently, restraining Defendant from trespassing upon and/or converting the real property of Plaintiff.

WHEREFORE, all premise considered, Plaintiff hereby prays that this Honorable Court takes jurisdiction of this matter, grant Plaintiff all the relief prayed for herein, as well as such other and further relief this Court deems just and proper.

Dated this the 11th day of October 2017.

Respectfully Submitted,

PYATT LAW FIRM, LLC

By: s/William L. Pyatt
William L. Pyatt
Attorney for Plaintiff.

Post Office Box 12041
Columbia, SC 29211
(803) 750-5929 (O)
(803)750-5926 (F)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 CHARLES WILLIS GARDNER,)
)
 Plaintiff,)
)
 vs.)
)
 TAYLOR REUBEN ADAMS,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2017-CP-07-02110

ANSWER AND COUNTERCLAIM

The Defendant, Taylor Reuben Adams, by way of Answer and Counterclaim to the Complaint, would allege that:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not hereinafter admitted, qualified or explained is denied.
2. The Defendant admits the allegations of Paragraphs 1, 2, and 3 of the Complaint.
3. As to the allegations of Paragraph 4 of the Complaint, the Defendant would allege that the property records in the Office of the Register of Deeds for Beaufort County will speak for themselves.
4. The Defendant admits the allegations of Paragraph 5 of the Complaint.
5. The allegations of Paragraph 6 of the Complaint require no further response from the Defendant.
6. The Defendant denies the allegations of Paragraphs 7, 8, and 9 of the Complaint.
7. The allegations of Paragraph 10 of the Complaint require no further response from the Defendant.
8. The Defendant denies the allegations of Paragraphs 11 and 12 of the Complaint.
9. The allegations of Paragraph 13 of the Complaint require no further response from the Defendant.
10. The Defendant denies the allegations of Paragraphs 14 and 15 of the Complaint.

FOR A SECOND DEFENSE

11. Each and every allegation of the First Defense is realleged as fully as if repeated verbatim herein.

12. The Plaintiff's claims are barred by the Doctrine of Res Judicata in that all issues raised the Plaintiff have been previously litigated in a Quiet Title Action in Beaufort County bearing Civil Action No.: 1989-CP-07-879.

FOR A THIRD DEFENSE

13. Each and every allegation of the First and Second Defenses is realleged as fully as if repeated verbatim herein.

14. No Cause of Action for Conversion may be alleged concerning real property. The Conversion Cause of Action must fail as a matter of law.

FOR A FOURTH DEFENSE AND BY WAY OF COUNTERCLAIM

15. Each and every allegation of the First through Third Defenses is realleged as fully as if repeated verbatim herein.

16. The property in question is owned by the Defendant by virtue of the 1989 Quiet Title Action, the Defendant's deed and chain of title and the plats of record.

17. The Plaintiff has engaged upon a consistent pattern of trespass and harassment towards the Defendant.

18. The Plaintiff has been given multiple trespass warnings, including a warning from the Beaufort County Sheriff's Department, yet the Plaintiff continues to trespass upon the Defendant's property.

19. The Defendant prays that the Court restrain the Plaintiff from any further trespasses on his property and grant the Defendant actual and consequential damages for the consistent and continual trespass by the Plaintiff.

FOR A FIFTH DEFENSE AND BY WAY OF A SECOND COUNTERCLAIM

20. Each and every allegation of the First through Fourth Defenses is realleged as fully as if repeated verbatim herein.

21. The Defendant believes that the Plaintiff's claim violates the South Carolina Civil Frivolous Civil Procedures Sanctions Act and the Defendant, accordingly, requests that he be rewarded his reasonable attorneys' fees and costs.

WHEREFORE, have fully answered the Complaint, the Defendant prays that the Court inquire fully into the matters raised in the pleadings, issue the appropriate Orders, grant the Defendant actual and consequential damages for the consistent and continual trespass by the Plaintiff, grant the Defendant his reasonable attorneys' fees and costs, and for such other and further relief as is just and proper.

FINGER, MELNICK & BROOKS, P.A.

s/Terry A. Finger

Terry A. Finger

S.C. Bar No.: 2012

Attorney for the Defendant

Taylor Reuben Adams

35 Hospital Center, Suite 200

P. O. Box 24005

Hilton Head Island, SC 29925-4005

(843) 681-7000

tfinger@fingerlaw.com

Hilton Head Island, South Carolina
December 12, 2017

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)	FOURTEENTH JUDICIAL CIRCUIT
CHARLES WILLIS GARDNER)	
	)	CIVIL CASE NO.: 2017-CP-07-02110
PLAINTIFF,)	
	)	REPLY
vs.)	
)	
TAYLOR REUBEN ADAMS)	
)	
DEFENDANT.)	

TO THE DEFENDANT ABOVE NAMED AND HIS ATTORNEY OF RECORD:

NOW COMES Plaintiff, Charles Willis Gardner, and answers the Counterclaim of the Defendant as follows:

1.

That all matters herein not admitted, qualified or explained are hereby denied and strict proof is hereby demanded thereof.

2.

That Plaintiff reserves his rights herein to make any and all appropriate Motions.

3.

That Plaintiff denies the allegations of paragraphs fifteen (15) through twenty-one (21) of the Complaint and hereby demands strict proof thereof.

4.

That Plaintiff prays that the Counterclaim of the Defendant be dismissed and that he be granted the relief prayed for in his Complaint.

WHEREFORE, all premises considered, having fully replied to the Counterclaim of the Defendant, Plaintiff prays that the Court grant the relief prayed for in his Complaint as well as such other and further relief this Court deems just and proper.

Dated this the 18th day of December, 2017.

Respectfully Submitted,

PYATT LAW FIRM, LLC

By: s/William L. Pyatt
William L. Pyatt
Attorney for Plaintiff, Charles Willis Gardner

Post Office Box 12041
Columbia, SC 29211
(803) 750-5929
(803) 750-5956 (fax)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 CHARLES WILLIS GARDNER,)
)
 Plaintiff,)
)
 vs.)
)
 TAYLOR RUBEN ADAMS,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2017-CP-07-02110

NOTICE OF MOTION
 AND MOTION FOR PARTIAL
 FOR SUMMARY JUDGMENT

TO: WILLIAM L. PYATT, ESQUIRE, ATTORNEY FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE, that the undersigned, by and on behalf of the Defendant, Taylor Ruben Adams (hereinafter referred to as the “Defendant”), will move before the Presiding Judge or the Beaufort County Master-in-Equity of the Court of Common Pleas for the Fourteenth Judicial Circuit, Beaufort County, in the Beaufort County Courthouse on the tenth day after service hereof, or as soon thereafter as is convenient to Court and counsel, for an Order granting unto the Defendant Partial Summary Judgment against Plaintiff, Charles Willis Gardner (hereinafter referred to as the Plaintiff”), pursuant to Rule 56 of the *South Carolina Rules of Civil Procedure*, on the following grounds:

1. Title to the subject property has already been determined in a Decree of Title Clearance signed by the Honorable Thomas Kemmerlin, Jr. on November 20, 1990 in Civil Action No.: 89-CP-07-879. Said Decree of Title Clearance vests title to the 30 foot road and property to the south of the 30 foot road in the Defendant’s predecessor in title.
2. The Plaintiff has attempted to interfere with the Defendant’s lawful ownership of the property and has continually trespassed across it.

3. This Honorable Court should confirm title to the road and the subject property in the Defendant's name and restrain the Plaintiff from any additional trespass.

4. The Defendant is informed and believes he is entitled to a hearing on its Counterclaims to establish his damages.

The undersigned attorney for the Defendant hereby certifies that consultation between the parties would serve no useful purpose and he has not contacted the Plaintiff's attorney to resolve this matter.

FINGER, MELNICK & BROOKS, P.A.

s/Terry A. Finger

Terry A. Finger

S.C. Bar No.: 2012

Attorney for the Defendant

Taylor Ruben Adams

35 Hospital Center, Suite 200

P. O. Box 24005

Hilton Head Island, SC 29925-4005

(843) 681-7000

tfinger@fingerlaw.com

Hilton Head Island, South Carolina
March 15, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO.: 2017-CP-07-02110
)	
CHARLES WILLIS GARDNER)	
	)	NOTICE OF MOTION AND
Plaintiff,	)	MOTION FOR RECONSIDERATION OR
	)	NEW TRIAL
vs.	)	MOTION FOR RELIEF FROM ORDER
	)	MOTION TO STAY PROCEEDINGS TO
TAYLOR REUBEN ADAMS	)	ENFORCE A JUDGMENT
)	
<u>Defendant.</u>)	

PLEASE TAKE NOTICE that Charles Willis Gardner (“Mr. Gardner”) by and through his undersigned attorney, hereby moves pursuant to SCRCP Rule 52(b) and SCRCP Rule 59(e) for a reconsideration of this Court’s Order (Re: Order Granting Partial Summary Judgment) against Taylor Reuben Adams (“Mr. Adams”) filed on July 10, 2018 (the “Order”). THE MOVANT ALSO MOVES the Court to grant a new trial pursuant to Rule 59(b) and relief from the Order pursuant to Rule 60(b).

Specifically, Mr. Gardner requests this Court alter or amend:

- i. Its Order that the thirty (30) foot road, boat ramp (the “Road”) and the +/- 1.054 acres below the road are owned in fee simple by Mr. Adams.
- ii. Its Order stating that Mr. Gardner has access to his property from Ashton Drive and that it is not necessary for Mr. Gardner to trespass on the above property to access his property.
- iii. Assuming the above Order is amended, to reinstate the Mr. Gardner’s causes of action for trespass and injunction as to the road.

Pursuant to Rule 62(b), the Mr. Gardner moves the Court to stay the execution of the Order as it pertains to the Mr. Gardner’s access to the thirty (30) foot road during the pendency of the hearing on the above motions.

MOTION FOR RECONSIDERATION

I. Motion for Reconsideration Pursuant to Rule 52(b) and Rule 59(e)

In Paragraph 2 of the Order, the Court makes a factual finding that, “The thirty-foot road, the boat ramp at the end of the thirty foot road and the property south of the road is owned by the Defendant, Taylor Ruben Adams. This factual finding is disputed in the record. The dispute of the record constitutes a genuine issue of material fact, and thus summary judgment was not proper.

When findings of fact are made in actions tried by the court without a jury, the question of evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend them or a motion for judgment. SCRCP Rule 52.

“[O]ur rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party *may* wish to file such a motion when [he] believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (S.C., 2004).

i. As to the Ownership of the Road.

In Paragraph 2 of the Order, the Court makes a factual finding that, “The thirty-foot road, the boat ramp at the end of the thirty foot road and the property south of the road is owned by the Defendant, Taylor Ruben Adams.

On Page 1 of the Order the Court states that to make its determination of ownership, the Court relied on “a plat prepared for Charles Gardner dated February 6, 1995 recorded in Plat Book

52 at Page 36...”. A plain reading of this plat states that the Road is owned and claimed by Leroy Gardner. This plat constitutes a recorded document that disputes the factual finding that Mr. Adams owns the Road.

Further, no evidence in the record establishes that the Mr. Adams owns the Road in fee simple. The Court reviewed a Decree of Title Clearance in Case No. 89-CP-07-879, judgment roll number 82475 in the Office of Clerk of Court for Beaufort County, said decree being signed by Thomas Kemmerlin, Jr., Beaufort County Master in Equity on November 20, 1990. (“The Quiet Title Order”). The Quiet Title Order does not establish the ownership of the road by John Howard. Order, Findings of Fact, ¶3. The Quiet Title Order states, “Save and Except: The thirty (30) foot dirt road running in a generally southwest to northeast direction across Lot 15 and that 1.054 acre portion of Lot 15 immediately below (southeast) the thirty (30) foot dirt road, owned by Defendant, John Howard.” *Gardner, et al. v. Gardner, et. al.*, Beaufort County Master in Equity, Case No. 89-CP-07-879, November 20, 1990. The Quiet Title Order goes out of its way to specify that John Howard owns the parcel of land southeast of the unpaved county road, but never states that John Howard owns the road. *Id.* At The Quiet Title Order states on Page 11, “The unpaved county road separates the respective portions of Lot 15 owned by the Plaintiff and John Howard” and reiterates the ownership stating, that the Plaintiff owns the property save and excepting, however, the 1.054 acre portion of the Lot 15 situate immediately below (southeast) the unpaved Beaufort County road running in a generally southwest to northeast direction...”. *Id.* The Quiet Title Order indicates that Beaufort County is the rightful owner of the Road, not John Howard or his successors.

No further document in the record establishes the Mr. Adamss ownership of the Road. Moreover, for over twenty-seven (27) years, prior to and since the issuance of the Quiet Title Order, the Mr. Gardner has lived on, maintained, and paid taxes on the Road. The Road has been

used by the Gardner family for over one hundred (100) years. By continuous use and maintenance of the Road, the Mr. Gardner has acquired at the very least an implied easement to use the Road.

The Court should reconsider its grant of the Road to the Mr. Adams in fee simple.

- ii. **As to the Order stating that access to his property from Ashton Drive and that it is not necessary for Mr. Gardner to trespass on the above property to access his property.**

The Mr. Gardner does not have access to his property from Ashton Drive as stated in the Order. As stated above, the Mr. Gardner has used the Road for the last twenty-seven (27) years as his primary and exclusive access to his property. Since the Order was granted, the Defendant has blocked his access to the Road. The proposed access stated in the Order is illusory. Although it is apparent that Ashton Drive abuts the Mr. Gardner's property line, Mr. Gardner's home is situated behind a wooded area in trees that must be cleared to grant access to the property.

The Mr. Gardner requests this Court amend the Order to allow for Mr. Gardner to use the Road to access his property.

II. Motion for Relief from Judgment or Order and Motion for a New Trial

Pursuant to 60(b) and Rule 59(a)(1) the Mr. Gardner request the Court grant relief from the Order granting Partial Summary Judgment and moves for a new trial on the grounds of mistake, inadvertence, surprise, or excusable neglect.

In determining whether to grant relief under Rule 60(b) (1), the court must consider the following factors: "(1) the promptness with which relief is sought; (2) the reasons for the failure to act promptly; (3) the existence of a meritorious defense; and (4) the prejudice to the other party.

Rouvet v. Rouvet, 388 S.C. 301, 309, 696 S.E.2d 204, 208 (Ct. App. 2010).

Page 3 of the Order grants the Mr. Adams Partial Summary Judgment on his counterclaim to confirm title to the Road and injunctive relief prohibiting the Mr. Gardner from trespassing on the Property of the Mr. Adams. The confirmation of the title to the Road and the boat ramp should be vacated as the Mr. Adams's counterclaim does not indicate that he considered the Road to be part of his property. Thus, the Mr. Gardner was unaware of his ability or need to assert defenses claiming ownership of the Road by claims of adverse possession or implied easement.

The Counterclaim in this action requested relief of actual and consequential damages for the consistent and continual trespass by the Plaintiff. See Page 3 of Counterclaim. The Counterclaim states, "the property in question is owned by the Defendant by virtue of the 1989 Quiet Title Action, the Defendant's deed and chain of title and the plats of record. Defendant's Answer and Counterclaim ¶16. As noted above, on Paragraph 3 of the Order, the Court found that the 1989 Quiet Title Action did not establish Mr. Adams's ownership of the Road. The Counterclaim thus was not sufficient to inform the Mr. Gardner of the intention of the Mr. Adams to include the Road as part of the property alleged to be trespassed upon.

The failure of the Mr. Gardner and the Mr. Gardner's prior legal counsel to assert defenses of adverse possession or implied easement constitutes excusable neglect based on the pleadings. Typically, the asserted failure of an attorney to interpose available defenses does not amount to the kind of mistake, surprise, inadvertence, and excusable neglect contemplated by Rule 60(b). *Greenville Income Partners v. Holman*, 308 S.C. 105, 107, 417 S.E.2d 107, 108 (Ct. App. 1992). This case is an exception to the general rule because the Mr. Gardner's attorney did not have proper notice based on the Mr. Adams's counterclaim to know that Mr. Adams was claiming ownership to the Road. The failure to interpose a defense of adverse possession or implied easement was therefore excusable.

As stated above, in Mr. Gardner's motion for reconsideration, it is our contention that the language of the Quiet Title Order does not specifically grant the Road to the Mr. Adams or his predecessor. The Mr. Gardner had no reason to believe based on the pleadings that the Mr. Adams was alleging that the Road was part of the property in which Mr. Gardner was alleged to have trespassed. The Mr. Gardner should be allowed an opportunity to establish defenses such as adverse possession or implied easement.

The claims of adverse possession and implied easement are meritorious. As stated above, the Mr. Gardner's continuous, hostile, notorious, and exclusive use of the Road for over twenty (20) years allows him the opportunity to raise the defense of adverse possession. Further, as he has been using the Road as the sole and exclusive access to his property for over twenty (20) years, he would likely succeed on an implied easement cause of action.

Finally, the Mr. Adams would not be prejudiced by the Mr. Gardner's use of the Road. The vacation of the grant of the Road in fee simple to the Mr. Adams would not restrict Mr. Adams's use of the Road in any way.

The Mr. Gardner reserves his right to establish the claims of adverse possession and implied easement in another action. In the interest of judicial economy and justice, the Mr. Gardner moves that a new trial be granted with the Road being part of the disputed land of trespass so as to determine the equitable rights of all parties involved.

Wherefore, the Mr. Gardner prays for the following relief:

1. An amendment of the Order stating that the Road is not owned by the Mr. Adams.
2. An Order staying the enforcement of the of the injunction.
3. An Order granting relief from the Judgment or Order and the granting of a new trial or leave to amend the pleadings.

Respectfully submitted,

COBB DILL & HAMMETT LAW FIRM, LLC

/s/ Bryan A. Raymond

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300 W. Coleman Blvd. Suite 106
Mt. Pleasant, SC 29464
(843) 936-6676

ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, South Carolina
July 20, 2018

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APPEARANCES

REPRESENTING DEFENDANT:

Terry A. Finger, Esquire
Finger, Melnick & Brooks, P.A.

PO Box 24005

Hilton Head Island, SC 29925-4005

843-681-7000

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REPRESENTING PLAINTIFF:

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Pyatt Law Firm, LLC

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Columbia, SC 29211

803-750-5929

pyattlawfirm@gmail.com

1 PROCEEDINGS

2 THE COURT: All right. The next matter for
3 hearing is Charles Willis Gardner versus Taylor Adams.
4 Give me a moment to take a look at it. This is
5 Mr. Finger and Mr. Pyatt. Mr. Finger is the moving
6 party. Mr. Pyatt I see. Give me a moment to read it.

7 (Pause.)

8 THE COURT: All right. Let the record reflect
9 that I've read the Summons and Complaint, and I've read
10 the Motion for Partial Summary Judgment. When I
11 sounded the roster this morning, it's now 11:30, I was
12 informed at ten o'clock a.m. this morning Mr. Finger
13 said he could argue it in seven minutes, and so did Mr.
14 Pyatt. They are both present. Mr. Finger for the
15 Defendant. Mr. Pyatt for the Plaintiff.

16 Mr. Finger, happy to hear from you at this time.

17 MR. FINGER: May it please the Court.

18 If I could hand up a copy of a 1989 Quiet Title
19 Order by Judge Kemmerlin.

20 THE COURT: This is Judge Kemmerlin's Order?

21 MR. FINGER: This is Judge Kemmerlin's Order.
22 That's correct, Your Honor, and the---

23 THE COURT: Let the record reflect -- and I assume
24 you have a copy, do you not, Mr. Pyatt?

25 MR. PYATT: Yes, Your Honor. I have a copy.

1 THE COURT: All right. I'm being handed
2 89-CP-07-879, Leroy Gardner, Senior, Plaintiff, versus
3 numerous named Defendants. It's a Decree of Title
4 Clearance, and it was signed by Judge Thomas Kemmerlin
5 on November 20th, 1990.

6 All right, Mr. Finger.

7 MR. FINGER: And, Your Honor, the operative
8 portion of the -- the operative portion of Judge
9 Kemmerlin's Order is on Page 15.

10 THE COURT: Fifteen?

11 MR. FINGER: Yes.

12 THE COURT: Hold on a minute, and let me get to
13 Page 15 with you.

14 All right. I'm with you on Page 15.

15 MR. FINGER: The, the first full paragraph
16 beginning save and except. That's the -- I think
17 that's the key to this whole case. In this quiet title
18 action, the Plaintiff in the quiet title action was the
19 current Plaintiff's father. Mr. Gardner, the current
20 Plaintiff, was a defendant in this quiet title action.
21 He is the same -- second named party in the caption.

22 THE COURT: Is that Charles W. Gardner?

23 MR. FINGER: That's correct.

24 THE COURT: All right. And that -- and Charles W.
25 Gardner is the father of Charles Willis Gardner?

1 MR. PYATT: No, I'm sorry.

2 MR. FINGER: Charles---

3 THE COURT: That's the named Plaintiff in this
4 action?

5 MR. FINGER: Leroy Gardner, Senior.

6 THE COURT: I'm sorry.

7 MR. FINGER: The plaintiff in Judge Kemmerlin's
8 Order is the father of Charles W. Gardner who is the
9 Plaintiff in this action.

10 THE COURT: All right.

11 MR. FINGER: Okay. And as you can see from Page
12 15 in Judge Kemmerlin's Order, the parties reached an
13 agreement during the course of this quiet title, and
14 they said that Mr. Gardner owns this much property,
15 save and except the 30-foot road, and the acreage below
16 the road. And that property was owned by, as you can
17 see from this order, John Howard. My client is in
18 privity, and Mr. Howard sold it. Guy lost it at tax
19 sale. Bought it at tax sale. My guy bought it. So,
20 my guy is in Mr. Howard's chain of title.

21 THE COURT: And I see, on Page 15, where it saves
22 and excepts the 30-foot dirt road.

23 MR. FINGER: Right.

24 THE COURT: And the 1.054 acre portion of Lot 15
25 immediately below the 30-foot dirt road owned by

1 Defendant, John Howard.

2 Is that what you're---

3 MR. FINGER: That's correct.

4 THE COURT: ---referring to?

5 MR. FINGER: And my client has taken his ownership
6 in the contested property through Howard.

7 THE COURT: All right.

8 MR. FINGER: He's in Howard's chain. Hopefully to
9 have, to, to have you better visualize, two additional
10 documents I would hand up, if I could please? .

11 This is the deed from the Kemmerlin Plaintiff,
12 Leroy Gardner, Senior, to the current Plaintiff,
13 Mr. Gardner. And you can see in that deed there's the
14 exact same "save and except" language, except for they
15 delete the word "Defendant Howard," and they just say
16 Mr. Howard owns the road and the one hundred -- the --
17 and the 1.45---

18 THE COURT: And this deed is recorded where?
19 Because I can't read the stamp on it.

20 MR. FINGER: I'm sorry. I'd, I'd be happy to, to
21 provide that to you. It was done by current Magistrate
22 Bernard McIntyre drafted that deed. I know Bernard was
23 here earlier today, but -- and I don't -- it, it's
24 dated, Judge, but I don't have the recording
25 information at the tip of my fingers.

1 THE COURT: All right.

2 MR. FINGER: I might be able to, to get that.

3 THE COURT: So that the record's clear as to what
4 I'm being handed by Mr. Finger, this is a deed
5 purportedly conveying Leroy Gardner, Senior, for \$10.00
6 and love and affection, to Charles W. Gardner, Route
7 Number 3, Box 137, St. Helena, South Carolina, 29920.
8 There is a description of the property conveyed in this
9 deed. I can't tell what book number, but the Page
10 Number is 2600. But -- and it has the same language in
11 the deed for save and except that is reflected in Judge
12 Kemmerlin's Order of November 20th, 1990.

13 MR. FINGER: Yes. And then lastly, Judge, I would
14 hand up for you a copy of a plat that the current
15 Plaintiff had done, which is recorded in Plat Book 52
16 at Page 36 in the ROD here---

17 THE COURT: All right.

18 MR. FINGER: ---which is -- which shows the---

19 THE COURT: You got a copy of this, Mr. Pyatt?

20 MR. PYATT: Yes, sir.

21 THE COURT: All right.

22 MR. FINGER: And, Judge, I would simply point out
23 to you that, on this plat that the current Plaintiff
24 had done, it clearly shows that the 30-foot road is not
25 within his boundaries. And what the Plaintiff -- what

1 the Defendant, Mr. Adams, is asking for is a partial
2 summary judgment ruling that the current Plaintiff,
3 Charles Willis Gardner, does not own the road, that he
4 owns the road, and then our counterclaim will be taken
5 up in due course because we have alleged trespass in
6 our counterclaim.

7 THE COURT: Thank you very much.

8 MR. FINGER: I'm under my seven minutes. Thank
9 you.

10 THE COURT: Let me hear from you.

11 MR. PYATT: Your Honor, please the Court. All the
12 evidence that he's submitted does not show that his
13 client has title. I think that, in fact, if you look
14 at the save and except, it says that the dirt road is
15 on Page 15---

16 THE COURT: Wait a minute.

17 What are you quoting from now?

18 MR. PYATT: The---

19 THE COURT: You quoting Judge Kemmerlin's Order?

20 MR. PYATT: Yes, sir.

21 THE COURT: All right.

22 MR. PYATT: Yes, sir, Judge Kemmerlin's Order in
23 the save and except provision on Page 15. Starting
24 after the 20-foot dirt road, it says the ownership of
25 which is unknown, and it also -- so, that's the

1 operative part, Judge. It also states---

2 THE COURT: Well, let me ask you this since we're
3 talking about -- Mr. Finger says we're talking about
4 the 30-foot dirt road in the save and except, and he
5 didn't point out to me -- cause there's an easement on
6 this plat. He didn't -- there is a thing on the plat
7 that shows a dirt drive. It doesn't actually give a
8 width. .

9 Where on the plat is the dirt road that is the
10 subject of this controversy?

11 MR. PYATT: On the, on the -- Judge, do you have a
12 copy of the plat dated---

13 THE COURT: I do. I have a copy of the plat in
14 front of me. This plat is -- Mr. Finger's already
15 published that it was recorded in Plat Book 52 at Page
16 36, and it is dated February 27th, 1995. And I'll be
17 happy to hand it back to both of y'all if you want to
18 look at the one I have.

19 So, you got a working copy, Terry?

20 MR. FINGER: I do.

21 THE COURT: You got a copy, Mr. Pyatt?

22 MR. PYATT: I want to make---

23 THE COURT: You've told me you did. So, I don't
24 want to -- both of you two go together so that y'all
25 can designate, and let's make sure I'm not talking---

1 MR. PYATT: Yes, sir.

2 (Pause.)

3 THE COURT: Counsel approach. Come on around
4 either side, but both of you come to the same side. .

5 All right. Let the record reflect I'm asking the
6 lawyers to show me on the plat I was handed, and I --
7 this plat, which was done according to Mr. Finger for
8 you.

9 Is that right?

10 MR. FINGER: No, it was, it was done for his
11 client.

12 THE COURT: Okay.

13 MR. FINGER: For Mr. Pyatt's client.

14 (WHEREUPON, a bench conference was held at this time.)

15 THE COURT: Mr. Pyatt, is there anything else you
16 want to tell me? .

17 You've designated -- you and Mr. Finger have
18 designated on my plat the approximate location of the
19 road, which is the road that is in issue.

20 MR. FINGER: Judge, may it please the Court? I
21 have a, a plat to the same surveyor in 2017 which
22 specifically shows the road if that will help the
23 Court.

24 THE COURT: All right.

25 MR. FINGER: And Mr. Pyatt has that as well.

1 THE COURT: Does Mr. Pyatt have a copy?

2 MR. PYATT: Yes. Yes, sir, I have a copy.

3 MR. FINGER: He does have a copy of this one.

4 This is from the same surveyor, and it does show the
5 road specifically on that.

6 MR. PYATT: That's the one that was done in
7 October of last year.

8 THE COURT: Mr. Pyatt, he's handed me this.

9 MR. PYATT: Yes, sir.

10 THE COURT: Do you have a copy of this plat?

11 MR. PYATT: Yes, sir. That's the one that he had
12 done for his client.

13 THE COURT: All right. I think it shows it very
14 clearly if this is the shaded portion of the plat.

15 MR. FINGER: That's correct. Your Honor.

16 THE COURT: All right. Anything else, Mr. Pyatt?

17 MR. PYATT: Nothing further, Your Honor.

18 THE COURT: All right. All right. I'm gonna ask
19 you both to submit proposed orders to me. I'm going to
20 ask you to submit them to me at P.O. Drawer -- excuse
21 me. At pbucknerj@sccourts.org. Send my law clerk a
22 working copy. Seven days. Copy opposing counsel. My
23 law clerk's email address is pbucknerlc@sccourts.org.

24 I'm taking with me, for purposes of this, a copy
25 of Judge Kemmerlin's order. I'm taking with me, for

1 purpose of this, two plats. I, I don't have -- the
2 second one I was handed is in --

3 MR. FINGER: It's Plat Book 147 at 133, Your
4 Honor.

5 THE COURT: All right.

6 MR. FINGER: It's the second one I handed you.

7 THE COURT: All right. 147 at 133. The first one
8 was in 59 at 36. I'm taking both plats, and I'm taking
9 a copy of Mr. Finger's motion with me, and also a copy
10 of Mr. Gardner's Complaint. That's everything that I
11 have. The record's now closed. I'll expect your
12 orders within seven days of today. Please copy
13 opposing counsel on any transmittal to the Court.

14 Do you understand?

15 MR. FINGER: I do.

16 MR. PYATT: I---

17 THE COURT: Any questions about proposed order
18 from counsel for the responding party?

19 MR. PYATT: None, Your Honor.

20 THE COURT: Any questions from the moving party?

21 MR. FINGER: None from the moving party, Your
22 Honor.

23 THE COURT: Thank you very much.

24 MR. FINGER: Judge, I believe you also have a --
25 you have Mr. Gardner's deed I believe also. I handed

1 it up to you. You did not mention that.

2 THE COURT: I think I did. Hold on. I might of
3 -- I think you did hand it. No, those are plats. Let
4 me see the other one. That's Judge Kemmerlin's Decree.
5 There should be a deed.

6 Yes, I was handed the deed. We couldn't tell
7 where it was filed. I quoted it was the deed of Leroy
8 Gardner, Senior to Charles W. Gardner, and it was
9 dated, since I can't tell, July 5th, 1993, is the date
10 that it was executed, which contains, as I quoted on
11 the record, the same language as reflected in Judge
12 Kemmerlin's Order.

13 MR. PYATT: And, and, Judge---

14 MR. FINGER: I do have one that has the recording
15 information for that deed if you'd like to substitute,
16 Judge. The last page.

17 THE COURT: You got a copy, Mr. Pyatt?

18 MR. PYATT: Of my client's deed, yes, sir. I have
19 a copy. And, and---

20 MR. FINGER: That's the recording information on
21 the back page.

22 THE COURT: All right. The deed was recorded in
23 Book 635 at 2600.

24 MR. FINGER: Thank you.

25 THE COURT: Thank you.

1 MR. PYATT: And, and, Judge, when he made his
2 Motion for Partial Summary Judgment, there was no
3 attachments made. He just made the motion. So --

4 THE COURT: The reason I can take attachments
5 cause it is a Motion for Summary Judgment---

6 MR. PYATT: All right.

7 THE COURT: ---that y'all both had copies of.

8 MR. PYATT: Right.

9 THE COURT: It is a Motion for Partial Summary
10 Judgment.

11 MR. PYATT: All right, sir.

12 THE COURT: All right. Mr. Finger will be
13 preparing a proposed order and so will you.

14 MR. PYATT: Thank you.

15 THE COURT: You will send those to me by email at
16 that address, and give my law clerk a working copy. I
17 will then decide, once I've reviewed the plats, and the
18 deed, and the decree, what I'm gonna do. I will
19 contact the prevailing party. I might change your
20 proposed order. If I do, I'll let you know. Then
21 you'll be required to electronically file the order
22 once I've decided it.

23 MR. PYATT: Thank you.

24 THE COURT: I'll expect your proposed orders
25 within seven days.

1 MR. PYATT: Thank you.

2 THE COURT: Thank you.

3 UNIDENTIFIED PERSON: Your Honor?

4 THE COURT: No, ma'am, I can't answer any
5 questions. Now talk to your lawyer.

6 Okay. The record's closed now on that hearing.

7 (Hearing adjourned.)

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CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF BEAUFORT:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 29th day of November, 2018.

Mona L. Manley /s/

MONA L. MANLEY
Official South Carolina Court Reporter
Circuit Reporter for the 14th Circuit
(850) 893-6662
mmanley@sccourts.org

82475

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

LEROY GARDNER, SR.,

C/A No. 89-CP-07-879

Plaintiff,

-vs-

ARDELLE S. GARDNER, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Ardelle S. Gardner, if deceased; CHARLES W. GARDNER, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Charles W. Gardner, if deceased; MARY JANE GARDNER, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Mary Jane Gardner, if deceased; RONALD LEE GARDNER, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Ronald Lee Gardner, if deceased; LEROY GARDNER, JR., and the Unknown Heirs at Law, Next of Kin and Distributees of the said Leroy Gardner, Jr., if deceased; ARTHUR S. STEWART, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Arthur S. Stewart, if deceased; WILLIE TAYLOR, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Willie Taylor, if deceased; JUANITA TAYLOR, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Juanita Taylor, if deceased; GEORGE KNOWLES, and the Unknown Heirs at Law, Next of Kin and Distributees of the said George Knowles, if deceased; PECOLA KNOWLES, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Pecola Knowles, if deceased; PRINCE GARDNER, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Prince Gardner, if deceased; FRANKLIN HEYWARD, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Franklin Heyward, if deceased; JOHN MATTIS, JR.

NOV 21 PM 2 48

DECREE OF TITLE CLEARANCE

DEFENDANT'S EXHIBIT #1

Certified - A True Copy
Deborah Batey
W. Henry Jackson, Clerk of Court
Beaufort County, SC

Tik 2

and the Unknown Heirs at Law, Next of Kin and Distributees of the said John Mattis, Jr., if deceased; LILLIAN B. MATTIS, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Lillian B. Mattis, if deceased; LINDA H. JOHNSON, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Linda H. Johnson, if deceased; GERLENE MATTIS, a/k/a CERLENE MATTIS, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Gerlene Mattis, if deceased; PAUL MATTIS, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Paul Mattis, if deceased; CARL C. MATTIS, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Carl C. Mattis, if deceased; NORMAN MATTIS, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Norman Mattis, if deceased; LILLY MAE FRAZIER SIMMONS, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Lilly Mae Frazier Simmons, if deceased; JOHN PIZARRO, and the Unknown Heirs at Law, Next of Kin and Distributees of the said John Pizarro, if deceased; LILLIE MAE PIZARRO, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Lillie Mae Pizarro, if deceased; JOHN HOWARD, and the Unknown Heirs at Law, Next of Kin and Distributees of the said John Howard, if deceased; JOE BEN TAYLOR, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Joe Ben Taylor, if deceased; WILLIE GARDNER, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Willie Gardner, if deceased; BILLY TAYLOR, a/k/a BILLIE TAYLOR, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Billy Taylor, if deceased; WILLIAM A. ANGELO, and the Unknown Heirs at Law, Next of Kin and Distributees of the said William A. Angelo, if deceased; BRENDA L. ANGELO, and the Unknown Heirs at Law, Next of Kin and Distributees of the said Brenda L.

Angelo, if deceased; KENNETH SINGLETON, his Successors or Assigns; FIRST UNION NATIONAL BANK OF NORTH CAROLINA, their Successors or Assigns; UNITED PARCEL SERVICE, their Successors or Assigns; SOUTH CAROLINA TAX COMMISSION, their Successors or Assigns; PALMETTO FINANCE COMPANY, their Successors or Assigns; and ALL OTHER PERSONS UNKNOWN WHO HAVE OR MAY CLAIM TO HAVE ANY RIGHT, TITLE, ESTATE OR INTEREST IN OR LIEN UPON THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN, being collectively designated as JOHN DOE and MARY ROE, including ANY HEIRS, DISTRIBUTEES, DEVISEES OR ANY UNKNOWN DEFENDANTS WHO MAY NOW BE DECEASED, and including ALL MINORS, PERSONS IN THE ARMED FORCES, INSANE PERSONS, and ALL OTHER PERSONS UNDER ANY DISABILITY WHO HAVE OR MAY CLAIM TO HAVE ANY RIGHT, TITLE OR INTEREST IN THE REAL PROPERTY DESCRIBED IN THE COMPLAINT HEREIN,

Defendants.

This matter came before the undersigned presiding Master-in-Equity for a final hearing on March 16, 1990, in the Master-in-Equity Court, in Beaufort, South Carolina.

Present and appearing at the appointed time and place for the hearing were Plaintiff Leroy Gardner, Sr.; Plaintiff's counsel, Bernard McIntyre, Esquire; Defendants Juanita Taylor and Peter Nilsson, and their attorney, C. Scott Graber, Esquire; Defendant John Howard and his attorney, Thomas C. Davis, Esquire; Thomas C. Davis, Esquire, in lieu of W. Brantley Harvey, Jr., Esquire, for Defendants George and Pecola Knowles; and Hugh K. Davis, Esquire, Guardian ad Litem Nisi.

Based upon the pleadings, Affidavits, plats, title search and other documents in this case, and upon the testimony of the witnesses, I make

T. 1/2/90

Gardner, RQA, 049
the following findings of salient facts:

1. That Plaintiff is a citizen and resident of Beaufort County, South Carolina.
2. That Defendants John Doe and Mary Roe are fictitious names used to represent any living heirs or distributees of Ardelle S. Gardner and any other interested parties who are proper defendants, if any, but whose names are unknown to the Plaintiff, including any person or persons who claim to have any right, title, estate and interest in or lien upon the real estate which is the subject of this quiet title action, more particularly described hereinbelow.
3. That Plaintiff contends that he owns all parcels of land originally owned by Ardelle S. Gardner, who allegedly obtained title to the property by deeds of various grantors, and more specifically by deed from Charles W. Gardner, dated November 10, 1975, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, on November 14, 1975, in Deed Book 232, at page 1401; and by deed from Dan Taylor, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, on November 1, 1976, in Deed Book 241, at page 1637.
4. That Ardelle S. Gardner died intestate on April 14, 1982, leaving as her sole heirs at law her spouse, Plaintiff Leroy Gardner, Sr., and four (4) children, to wit: Charles W. Gardner, Mary Jane Gardner, Ronald Lee Gardner and Leroy Gardner, Jr.
5. That Ardelle S. Gardner had no other children, none of whom predeceased her or who were born after her death.

T.K.A.

6. That Plaintiff Leroy Gardner, Sr., and Charles W. Gardner, Mary Jane Gardner, Ronald Lee Gardner and Leroy Gardner, Jr., are all of the living heirs of Ardelle S. Gardner.

7. That the real property which is the subject matter of this quiet title action is described as follows, to wit:

TRACT A

ALL that certain piece, parcel or lot of land in the State of South Carolina, County of Beaufort, on Wausaw Island, being a part of Lot Five and One-half (5 1/2) according to H.G. Judd's map of 1886, and more particularly described as by a line commencing at a concrete marker on the North edge of the County Road Two Hundred Ninety-five and 6/10ths (295.6') feet N. 49 Degrees 36 Minutes E. of the Western boundary of Lot Five and One-half (5 1/2), said line extends thence N. 49 Degrees 36 Minutes E. Forty-five and 44/100ths (45.44') feet along the edge of the County Road to a concrete marker, thence due North to a concrete marker, thence N. 33 Degrees E. to a concrete marker, thence West to a concrete marker on the West boundary of Lot Five and One-half (5 1/2), thence due South Three Hundred Ten (310.0') feet to a concrete marker, thence South Two Hundred Ten (210.0') feet to a concrete marker, thence East Fourteen and 7/10ths (14.7') feet to the point of beginning: all of which is more clearly shown on a plat by Niels Christensen, revised October 1, 1974, and recorded in the Office of the Clerk of Court for Beaufort County tax assessor map, this is a two (2) acre tract assigned tax map number 300-9-29.

This is the same tract of land conveyed to Ardelle S. Gardner by Charles W. Gardner by deed dated November 10, 1975, and recorded on November 14, 1975, in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 232, at page 1401.

TRACT B

ALL those certain pieces, parcels or tracts of land, said to contain eighteen (18) acres, situate, lying and being on the North end of Wausaw Island in Section #12, Township 1, South Range 1 West of E.G. Nichols Survey; said land being Lot #15, containing ten (10) acres, more or less, Sub-Lot #20 and Sub-Lot #14. According to the Beaufort County tax assessor map, one tract contains 8.5 acres and is assigned tax map number 300-9-3, and one tract contains 10 acres and is assigned tax map number 300-9-10.

This is the same tract of land conveyed to Ardelle S. Gardner by deed of Dan Taylor, dated October 22, 1976, and recorded on November 1, 1976, in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.

8. That Plaintiff's pleadings have been properly filed and served, and notice of this pending action and service by publication, as required by statute, have been properly conducted. All of the Defendants failed to Answer within the required period of thirty (30) days and, indeed, by the time of this hearing, except Defendants George and Pecola Knowles, John Howard, Salant Corporation, Joe Ben Taylor, Peter Nilsson, Juanita Taylor and Viola S. Taylor Richardson as representative of the Estate of Willie Taylor. All other Defendants except those identified in the immediately preceding sentence are in default, and are hereby held to be in default.

9. That Hugh K. Davis, Esquire, Guardian ad Litem Nisi, filed an Answer on behalf of the Defendants who are in the military service, whose status is unknown to the Plaintiff, and unknown minor Defendants or persons under disability, if any, wherein he states that he has no knowledge or information sufficient to form a belief as to the matters and things alleged in the Complaint, and submits the rights and interests of those Defendants to the protection of the Court.

10. That a number of exhibits were marked and entered into evidence without objection and during the course of the trial prior to settlement, including the tax map of all three parcels of property in dispute (Defendants Knowles' Exhibit #2); plat of sub-division of Lot 5 1/2, Section 12, 1S1W, Warsaw Island, Beaufort County, South Carolina, prepared by Niels Christensen, dated February 27, 1974 (Plaintiff's Exhibit #1); plat of Sub-Lot 14, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, prepared by Rod C. Spann, dated May 29, 1978 (Plaintiff's Exhibit #6); plat of property of J.B. Taylor of Lot 12, Warsaw Island, Beaufort County, South Carolina, prepared by Niels

Christensen III, dated April 11, 1989 (Defendant Taylor's Exhibit #2); names and addresses of taxpayers from the Beaufort County Courthouse for the subject property (Defendant Howard's Exhibit #1); tracing by Arthur O. Christensen of H.G. Judd's plat of Section 12, Township 1S1W, Warsaw Island, Beaufort County, South Carolina, undated (Plaintiff's Exhibit #14); plat for Joe Ben Taylor of Lot 12, Section 1S1N, Warsaw Island, Beaufort County, South Carolina, prepared by Jerry L. Richardson, dated May 16, 1983 (Defendant Taylor's Exhibit #1); plat of Section 11 and 12, 1S1E, Warsaw Island, Beaufort County, South Carolina, dated December 1989 (Defendant Taylor's Exhibit #3); plat for Leroy Gardner and Peter Nilsson for part of Lot 12 and Lot 14, Warsaw Island, Beaufort County, South Carolina, dated May 8, 1990, prepared by Niels Christensen IV (submitted without objection by the parties subsequent to the hearing); plat prepared for Ardelle Gardner, Section 12, 1S1W, Lot 15, Warsaw Island, Beaufort County, South Carolina, dated November 11, 1976, prepared by Rod C. Spann (Defendant Knowles' Exhibit #3); and a number of other documents, including, but not limited to, deeds which Plaintiff claims establish his chain of title to the parcels of property which are the subject of this title clearance action.

11. That there is only a contest among and between just a few Defendants when closely scrutinizing this matter. Defendant Viola S. Taylor Richardson, who claims she is the representative for the Estate of Defendant Willie Taylor, was involved only to the extent of ensuring that Ardelle S. Gardner's property did not encroach on that of Willie Taylor, as they have a common boundary, and there was no evidence to substantiate the property of either encroached upon the other. Defendant Salant

Corporation claimed a judgment against Leroy Gardner, Jr., but that claim was discharged in bankruptcy, and for that same reason Defendant United Parcel Service apparently decided not to file an Answer. In short, C. Scott Graber, Esquire, represented Juanita and Joe Ben Taylor and Peter Nilsson on a claim in dispute in reference to the boundaries of Lot 12 and Lot 14, Warsaw Island, Beaufort County, South Carolina; and Thomas C. Davis, Esquire, represented George and Pecola Knowles as to Lot 5 1/2, Section 12, 1S1W, Warsaw Island, Beaufort County, South Carolina; and Thomas C. Davis, Esquire, also represented John Howard as to Lot 15, Section 12, 1S1W, Warsaw Island, Beaufort County, South Carolina. These were the only three claims in controversy.

12. That Plaintiff's chain of title as to Tract .B, described hereinabove, being Lot 15 and Sub-lots 14 and 20, Section 12, 1S1W, Warsaw Island, Beaufort County, South Carolina, reflects conveyance of this property to Plaintiffs by Robert F. Anderson, Trustee in Bankruptcy for Leroy Gardner, Jr., to Leroy Gardner, Sr., Charles W. Gardner, Ronald Lee Gardner and Mary Jane Gardner by instrument dated June 1, 1988, and recorded in Deed Book 503, at page 2141. Then the remainder of the heirs of Ardelle S. Gardner conveyed all of their interests in Tract B to Plaintiff Leroy Gardner, Sr.: deed from Charles W. Gardner to Leroy Gardner, Sr., dated February 12, 1988, and recorded in Deed Book 550, at page 941; deed from Ronald Lee Gardner to Leroy Gardner, Sr., dated February 12, 1988, and recorded in Deed Book 550, at page 936; and deed from Mary Jane Gardner to Leroy Gardner, Sr., dated February 12, 1988, and recorded in Deed Book 550, at page 931. Dan Taylor conveyed Tract B to Ardelle S. Gardner by instrument dated October 22, 1976, and recorded in

Deed Book 241, at page 1637. Dan Taylor obtained Tract B by deed from the Forfeited Land Commission, dated February 12, 1941, and recorded in Deed Book 55, at page 481 1/2. The Forfeited Land Commission obtained title to the property in a tax sale by tax deed from Sheriff J.E. McTeer against the Estate of Billie Taylor, by instrument dated April 18, 1938, and recorded in Deed Book 55, at page 137. Billie Taylor came into title of the property by instrument from Samuel Mattis, dated December 2, 1889, and recorded in Deed Book 17, at page 247.

13. That Plaintiff's chain of title as to Tract A, described hereinabove, being a part of Lot 5 1/2, Section 12, 1S1W, Warsaw Island, Beaufort County, South Carolina, reflects conveyance of this property to Plaintiffs by Robert F. Anderson, Trustee in Bankruptcy for Leroy Gardner, Jr., to Leroy Gardner, Sr., Charles W. Gardner, Ronald Lee Gardner and Mary Jane Gardner by instrument dated June 1, 1988, and recorded in Deed Book 503, at page 2141. Then the remainder of the heirs of Ardelle S. Gardner conveyed all of their interests in Tract A to Plaintiff Leroy Gardner, Sr.: deed from Charles W. Gardner to Leroy Gardner, Sr., dated February 12, 1988, and recorded in Deed Book 550, at page 941; deed from Ronald Lee Gardner to Leroy Gardner, Sr., dated February 12, 1988, and recorded in Deed Book 550, at page 936; and deed from Mary Jane Gardner to Leroy Gardner, Sr., dated February 12, 1988, and recorded in Deed Book 550, at page 931. Ardelle S. Gardner obtained title to Tract A by instrument from Charles W. Gardner, dated November 10, 1975, and recorded in Deed Book 232, at page 1401. Charles W. Gardner came into title to the property from John Mattis by instrument dated October 14, 1974, and recorded in Deed Book 224, at page 769. John Mattis obtained the property at a tax sale by way of tax

Gardner - ROA - 055
deed from Sheriff J.E. McTeer, dated October 20, 1952, and recorded in Deed Book 67, at page 60, against the Estate of Eugenia Danner. There is a break in the chain of title in that no deed was produced showing an in-conveyance to the tax defaulter, Eugenia Danner. The next and final deed in the chain of title produced was a deed from George W. Woodman to Samuel Mattis, dated March 11, 1870, and recorded in Deed Book 4, at page 497.

14. That, after Plaintiff had presented his case in chief and Defendant John Howard had begun to present his case, the parties advised the Court that they had reached an agreement, the terms of which are as follows:

- (1) That Plaintiff, by virtue of having acquired all of the interests of all other heirs of Ardelle S. Gardner, owns the two acres in Lot 5 1/2, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, with boundaries as specifically delineated on the plat of this property prepared by Niels Christensen, dated February 27, 1974, revised October 1, 1974, and recorded in Plat Book 23, at page 13, in the Office of the Clerk of Court for Beaufort County, South Carolina. This parcel of property is also described in that deed from Charles W. Gardner to Ardelle S. Gardner, dated November 10, 1975, and recorded in Deed Book 232, at page 1401, in the Office of the Clerk of Court for Beaufort County, South Carolina. It is further agreed in this regard that Defendants George and Pecola Knowles own the one (1) acre square parcel of property contiguous to the two (2) acres of property owned by Ardelle S. Gardner, particularly

described in the plat prepared by Niels Christensen referenced immediately above.

- (2) That by virtue of Plaintiff having acquired all of the interests of the living heirs of Ardelle S. Gardner, there is no dispute as to title, boundaries or otherwise on Sub-Lot 20, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, in accordance with the deed from Dan Taylor to Ardelle S. Gardner, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.
- (3) That the Plaintiff, by virtue of having acquired all of the interest of the heirs of Ardelle S. Gardner, owns all of Lot 15, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, more particularly described on that plat prepared for Ardelle S. Gardner by Rod C. Spann dated November 11, 1976, and recorded in Plat Book 28 at Page 21, save and excepting, however, the 1.054 acre portion of Lot 15 situate immediately below (southeast) the unpaved Beaufort County road running in a generally southwest to northeast direction, said portion of Lot 15 being more particularly shown on a plat prepared by Niels Christensen, IV dated June 5, 1990, attached hereto and incorporated as a part hereof, said piece of Lot 15 being owned by the Defendant John Howard; and further save and excepting the portion of Lot 15 which consists of a triangle situate immediately below (southwest) the unpaved county road running in a generally southeast to

described in the plat prepared by Niels Christensen referenced immediately above.

- (2) That by virtue of Plaintiff having acquired all of the interests of the living heirs of Ardelle S. Gardner, there is no dispute as to title, boundaries or otherwise on Sub-Lot 20, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, in accordance with the deed from Dan Taylor to Ardelle S. Gardner, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.
- (3) That the Plaintiff, by virtue of having acquired all of the interest of the heirs of Ardelle S. Gardner, owns all of Lot 15, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, more particularly described on that plat prepared for Ardelle S. Gardner by Rod C. Spann dated November 11, 1976, and recorded in Plat Book 28 at Page 21, save and excepting, however, the 1.054 acre portion of Lot 15 situate immediately below (southeast) the unpaved Beaufort County road running in a generally southwest to northeast direction, said portion of Lot 15 being more particularly shown on a plat prepared by Niels Christensen, IV dated June 5, 1990, attached hereto and incorporated as a part hereof, said piece of Lot 15 being owned by the Defendant John Howard; and further save and excepting the portion of Lot 15 which consists of a triangle situate immediately below (southwest) the unpaved county road running in a generally southeast to

northwest direction and shown on the 1989 Beaufort County Tax Maps as Parcel 5A, Map 9, District 300, the ownership of said triangular tract being unknown. This is the same property described in the deed of Lot 15, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina from Dan Taylor to Ardelle S. Gardner, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 241 at Page 1637, except as to the parcel southeast of the unpaved county road (which belongs to John Howard) and the triangular parcel southwest of the unpaved county road, the ownership of which is unknown, reflected in the survey for Ardelle S. Gardner prepared by Rod C. Spann dated November 11, 1976, and recorded in Plat Book 28 at Page 21. The 1.054 acre piece of Lot 15 shown on the plat for John Howard (attached hereto) was acquired by John Howard from Dan Taylor by way of deed dated July 24, 1960, and recorded in Deed Book 102 at Page 270. The Plaintiff is the only individual who could possibly contest John Howard's ownership of this 1.054 acre tract, and he has stipulated that John Howard owns this parcel in fee simple. The unpaved county road separates the respective portions of Lot 15 owned by the Plaintiff and John Howard.

- (4) That the Plaintiff, by virtue of having acquired all of the interests in the property of the other heirs of Ardelle S. Gardner, owns Lot 14, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, constituting

8.59 acres, more particularly described in that plat prepared for Leroy Gardner and Peter Nilsson by Niels Christensen IV, dated May 8, 1990. This is the same Sub-Lot 14, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina, conveyed by Dan Taylor to Ardelle S. Gardner by deed dated October 22, 1976, and recorded in Deed Book 241, at page 1637, in the Office of the Clerk of Court for Beaufort County, South Carolina, except that it does not contain 10.4 acres, but 8.59 acres.

15. As to the property described in paragraph 14, above, which constitute the subject of the agreement of the parties, I further find that Plaintiff has paid the real property taxes on the property, improved and maintained improvements on the property, and evidenced other indicia of ownership in regards to said property for a period in excess of twenty (20) years. Plaintiff has exercised ownership of all parcels described in the agreement openly, hostilely, continuously and adversely for more than twenty (20) years, and his actions and those of his predecessors are sufficient to bar the claims of any and all Defendants.

16. I find that the agreement of the parties is fair and equitable, and in accordance with and supported by the evidence and chains of title, and that title to the property which is the subject of the agreement should be confirmed and quieted in the Plaintiff; and that the claims, rights, title, interests, estates and liens to or upon said property by any of the Defendants should be barred.

Based upon the foregoing findings of salient facts, I conclude as a matter of law that all parties have been properly served and noticed, and

this Court has jurisdiction over all the parties and the subject matter hereof. I further conclude as a matter of law that all title and right to the property which is the subject of the agreement between the parties should be confirmed and quieted into Plaintiff Leroy Gardner, Sr.; and that the claims of any and all of the Defendants to said property should be forever barred, and the Lis Pendens should be dismissed.

Now, therefore, it is accordingly

ORDERED, ADJUDGED and DECREED that all right, title and interest in and to the real property described immediately hereinbelow is confirmed and quieted in the Plaintiff, Leroy Gardner, Sr.; and that the claims of any and all Defendants to said property are forever barred:

- (1) ALL that certain piece, parcel and lot of land, consisting of two (2) acres, situate, lying and being on Warsaw Island, St. Helena Township, Beaufort County, South Carolina, and designated as a part of Lot 5 1/2, Section 12, 1S1W,. For a more complete description as to metes, courses, distances and bounds, reference may be had to the plat of this property prepared by Niels Christensen, dated February 27, 1974, revised October 1, 1974, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Plat Book 23, at page 13.

This is the same tract of land conveyed to Ardelle S. Gardner by Charles W. Gardner by deed dated November 10, 1974, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 232, at page 1401.

- (2) ALL that certain piece, parcel and lot of land, situate, lying and being on Warsaw Island, St. Helena Township, Beaufort County, South Carolina, and designated as Sub-Lot 20, Section 12, 1S1W.

This is a portion of the same tract of land conveyed to Ardelle S. Gardner by deed from Dan Taylor dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.

- X (3) ALL that certain piece, parcel and lot of land, consisting of 8.91 acres, situate, lying and being on Warsaw Island, St. Helena Township, Beaufort County, South Carolina, and

designated as Lot 15, Section 12, 1S1W. For a more complete description as to metes, courses, distances and bounds, reference may be had to the plat prepared for Ardelle S. Gardner by Rod C. Spann, dated November 11, 1976, and recorded in Plat Book 28, at page 21.

SAVE AND EXCEPT: The thirty (30) foot dirt road running in a generally southwest to northeast direction across Lot 15 and that 1.054 acre portion of Lot 15 immediately below (southeast) the thirty (30) foot dirt road, is owned by Defendant, John Howard; and the parcel constituting a triangle immediately below (northeast) the twenty (20) foot dirt road, the ownership of which is unknown, as reflected in the plat prepared by Rod C. Spann for Ardelle S. Gardner, just referenced.

This is a portion of the same tract of land conveyed by deed from Dan Taylor to Ardelle S. Gardner, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.

- (4) ALL that certain piece, parcel and lot of land, consisting of 8.59 acres, situate, lying and being on Warsaw Island, St. Helena Township, Beaufort County, South Carolina, and being designated as Sub-Lot 14, Section 12, 1S1W. For a more complete description as to metes, courses, distances and bounds, reference may be had to the plat of this property prepared for Leroy Gardner and Peter Nilsson by Niels Christensen IV, dated May 8, 1990, attached hereto and made a part hereof by reference.

This is a portion of the tract of land conveyed by Dan Taylor to Ardelle S. Gardner by deed dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.

IT IS FURTHER ORDERED that the Lis Pendens filed in this action is hereby dismissed.

AND IT IS SO ORDERED.


THOMAS KEMMERLIN, JR.
Master-in-Equity

Beaufort, South Carolina

November 22, 1990

10/28/81

21716
State of South Carolina,
COUNTY OF BEAUFORT

Form 14—Title to Real Estate
6/82 Revised 1978

635 / 2600
R: 7/6/93

BEAUFORT COUNTY TAX MAP

Dist	Map	Submap	Parcel	E. S.
300	9		29	

3

KNOW ALL MEN BY THESE PRESENTS, THAT

I, LEROY GARDNER, SR.

in the State aforesaid _____ for and _____ in consideration of the sum of
Ten and No/100 (\$10.00), love and affection DOLLARS,

to _____ me _____ in hand paid at and before the sealing of these presents by Charles W. Gardner
Route #3, Box 137
St. Helena, SC 29920

in the State aforesaid _____ the receipt whereof is hereby

acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and
release unto the said Charles W. Gardner, his heirs and assigns, in fee simple,
the followind described real property, to wit:

Tract A: ALL that certain piece, parcel and lot of land, consisting
of two (2) acres, situate, lying and being on Warsaw Island,
St. Helena Township, Beaufort County, South Carolina, and
designated as a part of Lot 5 1/2, Section 12, 1S1W. For a
more complete description as to metes, courses, distances
and bounds, reference may be had to the plat of this
property prepared by Neils Christensen, dated February 27,
1974, revised October 1, 1974, and recorded in the Office of
the Clerk of Court for Beaufort County, South Carolina, in
Plat Book 23, at page 13.

This is the same tract of land conveyed to Ardelle S.
Gardner by Charles W. Gardner by deed dated November 10,
1974, and recorded in the Office of the Clerk of Court for
Beaufort County, South Carolina, in Deed Book 232, at page
1401.

Tract B: ALL that certain piece, parcel and lot of land, situate,
lying and being on Warsaw Island, St. Helena Township,
Beaufort County, South Carolina, and designated as Sub-Lot
20, Section 12, 1S1W.

This is a portion of the same tract of land conveyed to
Ardelle S. Gardner by deed from Dan Taylor dated October 22,
1976, and recorded in the Office of the Clerk of Court for
Beaufort County, South Carolina, in Deed Book 241, at page
1637.

2601

Tract C: ALL that certain piece, parcel and lot of land, consisting of 8.91 acres, situate, lying and being on Warsaw Island, St. Helena Township, Beaufort County, South Carolina, and designated as Lot 15, Section 12, 1S1W. For a more complete description as to metes, courses, distances and bounds, reference may be had to the plat prepared for Ardelle S. Gardner by Rod C. Spann, dated November 11, 1976, and recorded in Plat Book 28, at page 21.

SAVE AND EXCEPT: The thirty (30) foot dirt road running in a generally southwest to northeast direction across Lot 15 and that 1.054 acre portion of Lot 15 immediately below (southeast) the thirty (30) foot dirt road, owned by John Howard; and the parcel constituting a triangle immediately below (northeast) the twenty (20) foot dirt road, the ownership of which is unknown, as reflected in the plat prepared by Rod C. Spann for Ardelle S. Gardner, just referenced.

This is a portion of the same tract of land conveyed by deed from Dan Taylor to Ardelle S. Gardner, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Deed Book 241, at page 1637.

The Grantor herein Leroy Gardner, Sr., became seized and possessed of all three tracts of realty referenced immediately above, Tracts A, B and C, by Decree of Title Clearance entered by the Master-In-Equity Court, for Beaufort County, South Carolina, in Leroy Gardner, Sr. vs. Ardelle S. Gardner, et al. Case Number 89-CP-07-879 on November 20, 1990 and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, under Judgment Roll Number 82475.

This deed was prepared by the Law office of Bernard McIntyre, 1606 King Street, Beaufort, South Carolina 29902, without benefit of a title search and does not constitute a certification of title.

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

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said

Charles W. Gardner, his Heirs and Assigns forever.

AND I do hereby bind my Heirs, assigns
Executors and Administrators, to warrant and forever defend, all and singular, the said Premises ²⁰⁰² ~~and~~ said
Charles W. Gardner, his

Heirs and Assigns, against me and my Heirs, and all persons whomso-
ever, lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal, this 5th day of July

in the year of our Lord one thousand nine hundred and ninety-three and in the two hundred and
seventeenth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

[Signature] Leroy Gardner Sr. (L. S.)
[Signature] Jean L. Williams (L. S.)
Leroy Gardner, Sr.
Jean L. Williams

The State of South Carolina,

Beaufort County.

PERSONALLY appeared before me Jean L. Williams

and made oath that she saw the within named Leroy Gardner, Sr.

sign, seal, and as his act and deed, deliver the within written Deed,

and that she with Bernard McIntyre, Esquire

witnessed the execution thereof.

SWORN to before me, this 5th

day of July A.D. 1993

[Signature] (SEAL)
Notary Public of South Carolina
My Commission Expires: 05/04/94

[Signature]
Jean L. Williams

2603

McIntyre
FILED
THERESA MORRIS
BEAUTY, S.C.
93 JUL -6 PM 4:41
BK 635 PG 2600
FOLDER #

Bernard McIntyre, Esquire

State of South Carolina,

Leroy Gardner, Sr.

TO

Charles W. Gardner

TITLE TO REAL ESTATE

Filed _____ day
of _____ A.D. 19____
at _____ o'clock _____ M.
and recorded in Book _____
Page _____, Fee, \$ _____

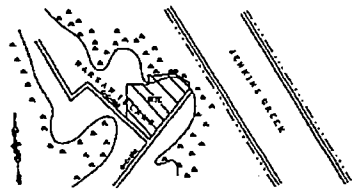
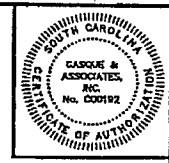
R. M. C. or Clerk Court C.P. & G. S.

County, S.C.

Recorded this 20th day
of July, 1993
in Book 3 Page 604
Fee, \$ _____

Auditor Mary H. Gray
Gray County, S. C.

635, 2600



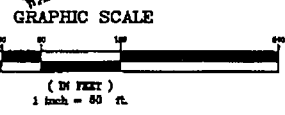
LOCATION MAP (N.T.S.)

- LEGEND:**
- C.O. CONCRETE OLD
 - I.M. IRON PIN NEW

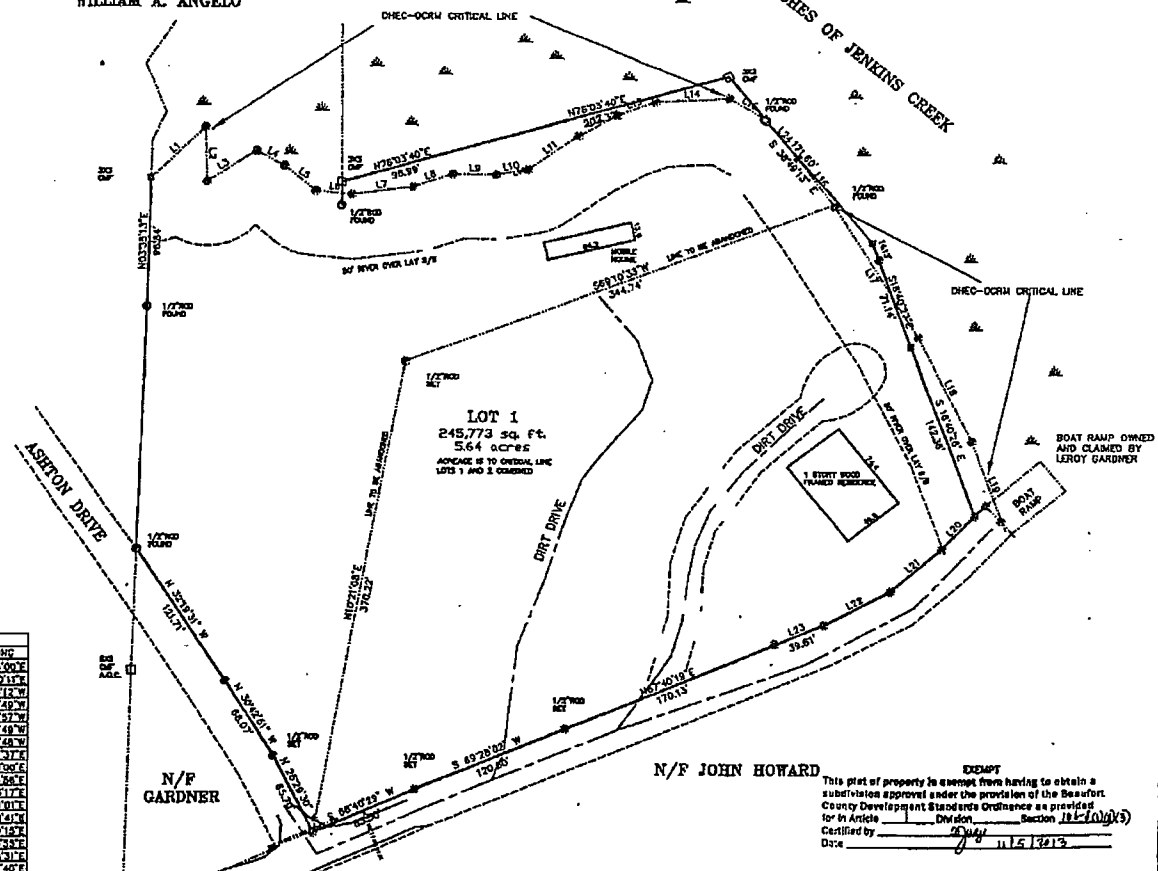
- NOTES:**
- 1.) THE BEARINGS SHOWN HEREON ARE MAGNETIC AND AS SUCH ARE SUBJECT TO LOCAL ATTRACTION.
 - 2.) THE PRESENCE OR ABSENCE OF U.S. ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS IS UNDETERMINED AS OF THE DATE OF THIS SURVEY.
 - 3.) THE UNDERSIGNED DOES NOT CERTIFY THAT THE PROPERTY SHOWN HERON COMPLIES WITH THE BEAUFORT COUNTY DEVELOPMENT STANDARDS ORDINANCE.
 - 4.) AREA DETERMINED BY COORDINATE METHOD.
 - 5.) THIS PROPERTY LIES IN FLOOD ZONE A-10, ELEV. 13.00 AS DETERMINED BY FEMA, FIRM COMM.-PANEL NUMBER 450025-0100 D. DATED: 09/28/86.

- REFERENCES:**
- 1.) TAX MAP 300-009-0051 & 300-009-0071
 - 2.) PLAT BY: ROD C. SPANN DATED: 11/11/76 PLAT BOOK 28, PAGE 21. BEAUFORT COUNTY R.M.C.
 - 3.) PLAT BY: GEORGE A.Z. JOHNSON, JR., INC. DATED: 01/11/88 PLAT BOOK 35, PAGE 349. BEAUFORT COUNTY R.M.C.
 - 4.) PLAT BY: DAVID E. GASQUE DATED 2/8/95 RECORDED IN PLAT BOOK 52, PAGE 36
 - 5.) PLAT BY: DAVID E. GASQUE DATED 8/22/10 RECORDED IN PLAT BOOK 131, PAGE 87

LINE	LENGTH	BEARING
L1	87.28	N41°02'00"E
L2	41.72	S00°10'15"E
L3	34.81	S29°24'12"W
L4	23.84	N40°20'49"W
L5	31.05	N47°57'57"W
L6	26.86	N81°45'48"W
L7	46.75	S24°30'49"W
L8	30.82	S72°30'31"E
L9	31.64	S82°30'00"E
L10	23.92	N82°14'58"E
L11	42.53	N57°23'17"E
L12	32.80	N03°31'01"E
L13	30.80	N71°08'41"E
L14	55.60	N83°19'15"E
L15	30.49	S27°15'34"E
L16	47.23	S33°54'31"E
L17	118.57	S20°48'40"E
L18	81.84	S23°04'34"E
L19	75.62	S18°38'48"E
L20	38.03	N48°28'17"E
L21	50.73	N51°29'18"E
L22	24.23	N55°07'48"E
L23	39.82	N63°48'18"E
L24	39.78	S38°24'49"E



PROPERTY OF WILLIAM A. ANGELO



I, David E. Gasque, a Registered Professional Land Surveyor in the State of South Carolina, certify to owner(s) shown hereon that to the best of my knowledge, information and belief, the survey shown hereon was made in accordance with the requirements of the minimum standards manual for the practice of land surveying in South Carolina, and meets or exceeds the requirements for a CLASS A survey as specified therein, also there are no encroachments or projections other than shown. This survey is not valid unless it bears the original signatures and has an embossed seal.

11-1-13
 David E. Gasque, P.L.S.
 S.C. Registration Number 19008

GASQUE & ASSOCIATES INC.
 LAND SURVEYORS · PLANNERS
 28 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
 P.O. BOX 1363, BEAUFORT, S.C.
 (843) 522-1798

DREC-OCRM CRITICAL LINE

THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES ITS RIGHT TO ASSESS PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.

**LOT RECOMBINATION / RECONFIGURATION
 PARCELS "A" & "B"
 PREPARED FOR
 CHARLES GARDNER**

WARSAW ISLAND
 BEAUFORT COUNTY-SOUTH CAROLINA

DEPT
 This plat of property is exempt from having to obtain a subdivision approval under the provision of the Beaufort County Development Standards Ordinance as provided for in Article _____ Division _____ Section 11-10(a)(3)
 Certified by _____
 Date: 11/5/2013

DATE 10/30/2013

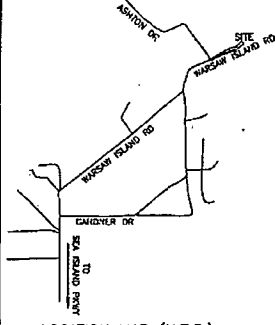
SCALE 1"=80'

10/31/13
 SIGNATURE DATE
 THE CRITICAL LINE SHOWN ON THIS PLAT IS VALID FOR FIVE YEARS FROM THE DATE OF THIS MEASUREMENT, SUBJECT TO THE CURRENTLY ENFORCEABLE LAWS.

BEAUFORT COUNTY SC-1101
 BK 00127 PG 6164
 DATE: 11/08/2013 11:22:30 AM
 WSB 6 2013080518 RCP10 277164



PROBLEM PLAT SEE ASSESSOR



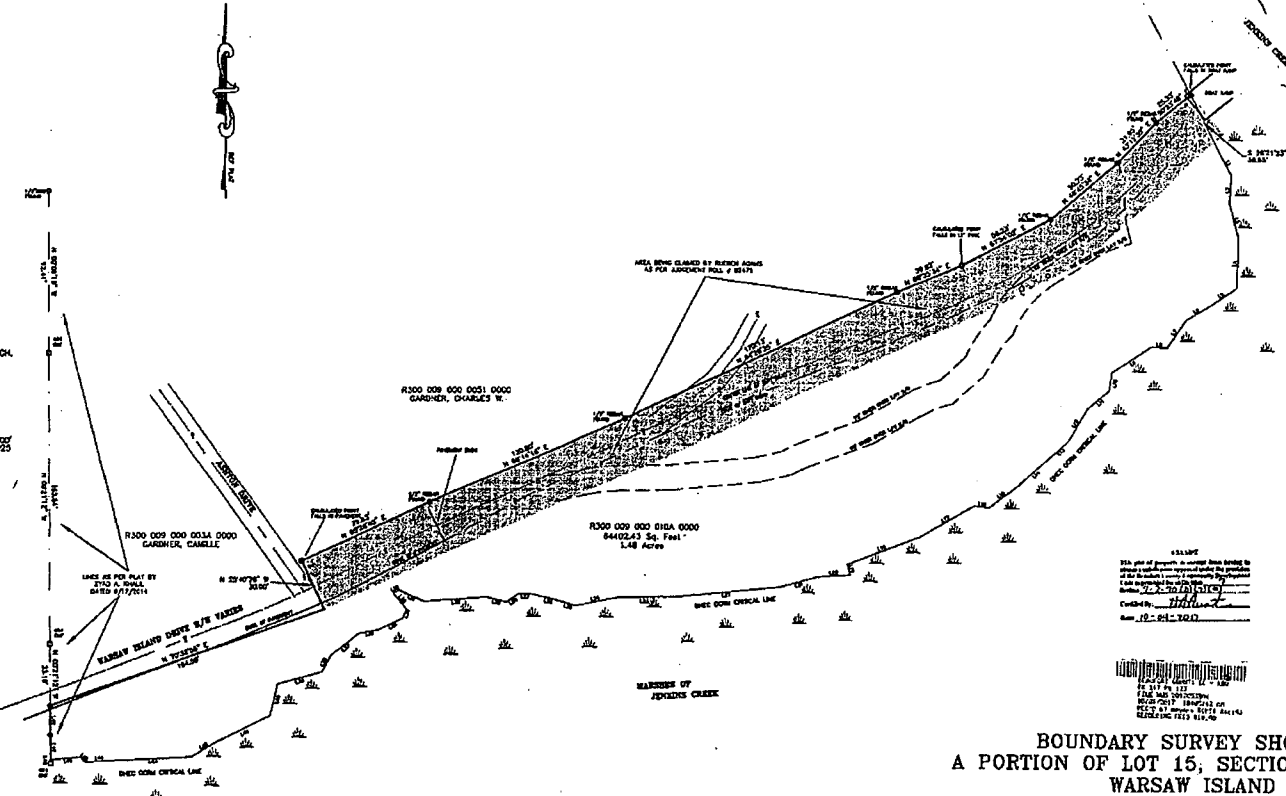
LOCATION MAP (N.T.S.)

NOTES:

- 1.) THE BEARINGS SHOWN HEREON ARE MAGNETIC AND AS SUCH ARE SUBJECT TO LOCAL ATTRACTION.
- 2.) THE PLAT DOES NOT CERTIFY THE PRESENCE OR ABSENCE OF U.S. ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS.
- 3.) METHOD OF AREA CALCULATION BASED ON COORDINATE METHOD.
- 4.) LOCATION OF UNDERGROUND UTILITIES ARE FROM SURFACE INDICATIONS ONLY AND ARE NOT PERMANENT.
- 5.) THE PLAT REPRESENTS A SURVEY BASED ON THE LISTED REFERENCES ONLY AND IS NOT THE RESULT OF A TITLE SEARCH.
- 6.) CERTIFICATIONS ARE NOT TRANSPARENT TO ADDITIONAL INSTRUMENTS OR SURVEYOR OPINIONS.
- 7.) THE CERTIFIER HAS NOT INVESTIGATED OR BEEN INSTRUCTED TO INVESTIGATE THE EXISTENCE OR NONEXISTENCE OF ANY UNLAWFUL OBSTRUCTIONS SUCH AS AIRPORT, MILITARY, HOSE, OR OTHER POTENTIAL OF ENVIRONMENTAL ISSUES.
- 8.) BEFORE ANY DESIGN WORK OR CONSTRUCTION ON THIS SITE IS INITIATED FLOOD ZONE INFORMATION MUST BE OBTAINED BY PROPER BUILDING CODES OFFICIAL.
- 9.) THE PROPERTY OF F.E.M.A. AND COMA-TWAIL NUMBER 450022 D100 IS DATED 09/24/04 (RECD. DATE 1/24/05)

REFERENCES:

- 1.) TALS. R300 000 000 010A 0000
- 2.) PLAT BY RUD C. SPAN DATED 11/11/78 BOOK 305, PAGE 21 BEAUFORT COUNTY RMC
- 3.) PLAT BY JUD A. KRALA DATED 01/12/2014
- 4.) DEED BY ROBERT L. COMB, ESQUIRE BOOK 3375, PAGE 447-449 DATED 1/10/2014 BEAUFORT COUNTY RMC
- 5.) DEED BY ROBERT L. COMB, ESQUIRE BOOK 3375, PAGE 450-452 DATED 1/13/2015 BEAUFORT COUNTY RMC
- 6.) DEED BY EDWARD MATHIAS, ESQUIRE BOOK 624, PAGE 2800-2823 DATED 1/24/1983 BEAUFORT COUNTY RMC
- 7.) TAX SALE DEED BY DOUGLAS E. HENDERSON BOOK 1396, PAGE 1937-1938 DATED 1/13/2014 BEAUFORT COUNTY RMC
- 8.) DEED BY KAREN SAMRISO, ESQUIRE BOOK 673, PAGE 449-451 DATED 10/19/1983 BEAUFORT COUNTY RMC



LINE	TABLE	BEARING	DISTANCE	AREA
1	1	N 89° 57' 30" W	100.00	100.00
2	2	S 89° 57' 30" E	100.00	100.00
3	3	S 89° 57' 30" E	100.00	100.00
4	4	N 89° 57' 30" W	100.00	100.00
5	5	N 89° 57' 30" W	100.00	100.00
6	6	S 89° 57' 30" E	100.00	100.00
7	7	S 89° 57' 30" E	100.00	100.00
8	8	N 89° 57' 30" W	100.00	100.00
9	9	N 89° 57' 30" W	100.00	100.00
10	10	S 89° 57' 30" E	100.00	100.00
11	11	S 89° 57' 30" E	100.00	100.00
12	12	N 89° 57' 30" W	100.00	100.00
13	13	N 89° 57' 30" W	100.00	100.00
14	14	S 89° 57' 30" E	100.00	100.00
15	15	S 89° 57' 30" E	100.00	100.00
16	16	N 89° 57' 30" W	100.00	100.00
17	17	N 89° 57' 30" W	100.00	100.00
18	18	S 89° 57' 30" E	100.00	100.00
19	19	S 89° 57' 30" E	100.00	100.00
20	20	N 89° 57' 30" W	100.00	100.00
21	21	N 89° 57' 30" W	100.00	100.00
22	22	S 89° 57' 30" E	100.00	100.00
23	23	S 89° 57' 30" E	100.00	100.00
24	24	N 89° 57' 30" W	100.00	100.00
25	25	N 89° 57' 30" W	100.00	100.00
26	26	S 89° 57' 30" E	100.00	100.00
27	27	S 89° 57' 30" E	100.00	100.00
28	28	N 89° 57' 30" W	100.00	100.00
29	29	N 89° 57' 30" W	100.00	100.00
30	30	S 89° 57' 30" E	100.00	100.00
31	31	S 89° 57' 30" E	100.00	100.00
32	32	N 89° 57' 30" W	100.00	100.00
33	33	N 89° 57' 30" W	100.00	100.00
34	34	S 89° 57' 30" E	100.00	100.00
35	35	S 89° 57' 30" E	100.00	100.00
36	36	N 89° 57' 30" W	100.00	100.00
37	37	N 89° 57' 30" W	100.00	100.00
38	38	S 89° 57' 30" E	100.00	100.00
39	39	S 89° 57' 30" E	100.00	100.00
40	40	N 89° 57' 30" W	100.00	100.00
41	41	N 89° 57' 30" W	100.00	100.00
42	42	S 89° 57' 30" E	100.00	100.00
43	43	S 89° 57' 30" E	100.00	100.00
44	44	N 89° 57' 30" W	100.00	100.00
45	45	N 89° 57' 30" W	100.00	100.00
46	46	S 89° 57' 30" E	100.00	100.00
47	47	S 89° 57' 30" E	100.00	100.00
48	48	N 89° 57' 30" W	100.00	100.00
49	49	N 89° 57' 30" W	100.00	100.00
50	50	S 89° 57' 30" E	100.00	100.00
51	51	S 89° 57' 30" E	100.00	100.00
52	52	N 89° 57' 30" W	100.00	100.00
53	53	N 89° 57' 30" W	100.00	100.00
54	54	S 89° 57' 30" E	100.00	100.00
55	55	S 89° 57' 30" E	100.00	100.00
56	56	N 89° 57' 30" W	100.00	100.00
57	57	N 89° 57' 30" W	100.00	100.00
58	58	S 89° 57' 30" E	100.00	100.00
59	59	S 89° 57' 30" E	100.00	100.00
60	60	N 89° 57' 30" W	100.00	100.00
61	61	N 89° 57' 30" W	100.00	100.00
62	62	S 89° 57' 30" E	100.00	100.00
63	63	S 89° 57' 30" E	100.00	100.00
64	64	N 89° 57' 30" W	100.00	100.00
65	65	N 89° 57' 30" W	100.00	100.00
66	66	S 89° 57' 30" E	100.00	100.00
67	67	S 89° 57' 30" E	100.00	100.00
68	68	N 89° 57' 30" W	100.00	100.00
69	69	N 89° 57' 30" W	100.00	100.00
70	70	S 89° 57' 30" E	100.00	100.00
71	71	S 89° 57' 30" E	100.00	100.00
72	72	N 89° 57' 30" W	100.00	100.00
73	73	N 89° 57' 30" W	100.00	100.00
74	74	S 89° 57' 30" E	100.00	100.00
75	75	S 89° 57' 30" E	100.00	100.00
76	76	N 89° 57' 30" W	100.00	100.00
77	77	N 89° 57' 30" W	100.00	100.00
78	78	S 89° 57' 30" E	100.00	100.00
79	79	S 89° 57' 30" E	100.00	100.00
80	80	N 89° 57' 30" W	100.00	100.00
81	81	N 89° 57' 30" W	100.00	100.00
82	82	S 89° 57' 30" E	100.00	100.00
83	83	S 89° 57' 30" E	100.00	100.00
84	84	N 89° 57' 30" W	100.00	100.00
85	85	N 89° 57' 30" W	100.00	100.00
86	86	S 89° 57' 30" E	100.00	100.00
87	87	S 89° 57' 30" E	100.00	100.00
88	88	N 89° 57' 30" W	100.00	100.00
89	89	N 89° 57' 30" W	100.00	100.00
90	90	S 89° 57' 30" E	100.00	100.00
91	91	S 89° 57' 30" E	100.00	100.00
92	92	N 89° 57' 30" W	100.00	100.00
93	93	N 89° 57' 30" W	100.00	100.00
94	94	S 89° 57' 30" E	100.00	100.00
95	95	S 89° 57' 30" E	100.00	100.00
96	96	N 89° 57' 30" W	100.00	100.00
97	97	N 89° 57' 30" W	100.00	100.00
98	98	S 89° 57' 30" E	100.00	100.00
99	99	S 89° 57' 30" E	100.00	100.00
100	100	N 89° 57' 30" W	100.00	100.00

1. This plat of property is a copy from the original plat of the same and is not a reproduction of the original plat. It is subject to the same conditions and restrictions as the original plat. The original plat is on file in the office of the Register of Deeds, Beaufort County, South Carolina.

2. The area shown on this plat is a reproduction of the original plat and is not a reproduction of the original plat. It is subject to the same conditions and restrictions as the original plat. The original plat is on file in the office of the Register of Deeds, Beaufort County, South Carolina.

3. The area shown on this plat is a reproduction of the original plat and is not a reproduction of the original plat. It is subject to the same conditions and restrictions as the original plat. The original plat is on file in the office of the Register of Deeds, Beaufort County, South Carolina.

BOUNDARY SURVEY SHOWING
A PORTION OF LOT 15, SECTION 12, 1S-1W
WARSAW ISLAND
BEING CLAIMED BY
RUBEN ADAMS, PER
TAX DEED Bk.3298/Pg.1937, J.R. #82475
ST. HELENA ISLAND

BEAUFORT COUNTY SOUTH CAROLINA
DATE: 11/07/2014
REVISION DATE: 09/19/2017
SCALE 1"=30'



JOB#210708 F&B#71/01 DRAWN BY G

Gardner, R.O.A.-068

GASQUE & ASSOCIATES INC.
LAND SURVEYORS - PLANNERS
25 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
P.O. BOX 1343, BEAUFORT, S.C.
(843) 322-1788

I, Dale E. Gasque, a Registered Professional Land Surveyor in the State of South Carolina, hereby certify that I have personally supervised and checked the accuracy of the measurements and calculations shown on this plat and that the same are correct and true to the best of my knowledge and belief. I am not responsible for any errors or omissions on this plat which may be caused by any person other than myself.

Dale E. Gasque
11/15/14

THE AREA SHOWN ON THIS PLAT IS A REPRODUCTION OF THE ORIGINAL PLAT AND IS NOT A REPRODUCTION OF THE ORIGINAL PLAT. IT IS SUBJECT TO THE SAME CONDITIONS AND RESTRICTIONS AS THE ORIGINAL PLAT. THE ORIGINAL PLAT IS ON FILE IN THE OFFICE OF THE REGISTER OF DEEDS, BEAUFORT COUNTY, SOUTH CAROLINA.

Dale E. Gasque, P.L.S.
11/15/14

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Perry M. Buckner, III, Circuit Court Judge

Case No. 2017-CP-07-02110

RECEIVED
JUL 09 2019
SC Court of Appeals

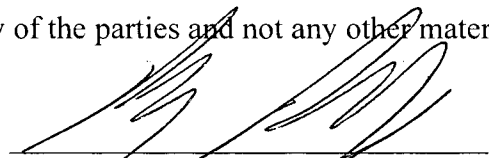
Taylor Reuben Adams,.....Respondent

v.

Charles Willis Gardner,.....Appellant

CERTIFICATE OF COUNSEL

Pursuant to Rule 210(g), SCACR, the undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Bryan A. Raymond, Esq.
S.C. Bar No. 101341
Cobb Dill & Hammett, LLC
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Mount Pleasant, SC 29464
(843) 936-6676
braymond@cdhlawfirm.com
Attorney for Appellant