THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

Court of Common Pleas, Spartanburg County
Honorable J. Derham Cole, Circuit Judge
Circuit Court Case No. 2011-CP-42-02079

Appellate Case No. 2019-000852

The Revocable Trust Agreement of
Manning Lee Williams dated October 28, 2015, ... Respondent,

v.

Cynthia Norden and Raymond Norden, ... Appellants.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
The Revocable Trust Agreement of Manning Lee Williams dated October 28, 2015, Plaintiffs, v. Cynthia Norden and Raymond Norden, Defendants.	C.A. No. 2011-CP-42-02079 **ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court on Plaintiffs' Motion for Summary Judgment. The Court held a hearing on the motion on Monday, October 10, 2016, in Spartanburg, South Carolina. After careful consideration and review of the pleadings, motions, memoranda, and arguments of counsel, the Court makes the following findings of fact and conclusions of law and rules as follows:

I. Factual Background and Procedural History.

This case has been pending for seven years, and Plaintiff Manning Williams has since passed away on February 27, 2017[1]. The case was originally filed May 10, 2011, when Plaintiffs filed suit seeking to quiet title and obtain a declaratory judgment regarding their rights in an easement over Defendants' property. Plaintiffs own approximately 14.17 acres of land located off Gibson Road near Landrum, South Carolina. Plaintiffs' property is landlocked and does not

[1] By Order dated September 10, 2018, The Revocable Trust Agreement of Manning Lee Williams dated October 28, 2015 was substituted as the proper plaintiff in this litigation. The pleadings have been revised to reflect this change.

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have any frontage on Gibson Road or any other public road; they access their property via an easement road that crosses over Defendants' property from Gibson Road to the landlocked tract.

Plaintiffs' easement was granted to them when they purchased their property in 1976. The deed to Plaintiffs' property expressly states: "Grantor herein conveyes all his right, title, and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed." (*See* Deed from J. Baker Gibson to Manning L. Williams and Eleanor C. Williams recorded as Deed Book 43-G, Page 0806). The deed to Defendants' property specifically states that their property is "subject to a thirty (30') foot road easement as shown and designated upon plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209, aforesaid county records." (*See* Deed from Loretta B. Hyder to Cynthia W. Norden and Raymond A. Norden recorded as Deed Book 87-Z, Page 376).

The easement road that Plaintiffs use has been in the same location and has followed the same route to their tract for decades. This litigation arose after Defendants purchased their property and began blocking and obstructing Plaintiffs' access to the easement at the entrance gate, which began in 2011. Defendants' actions of blocking the gate and Plaintiffs' use of the easement road occurred both before and after Plaintiffs commenced this litigation.

By Order dated July 29, 2011, this Court entered a Preliminary Injunction in favor of Plaintiffs and ordered, among other things, that Defendants were enjoined from blocking access to the easement identified in Plat Book 72 at pages 208–09 in any way during the pendency of the litigation. The Court concluded that the status quo is and has been Plaintiffs' open and unfettered access to the easement and also concluded that Plaintiffs had a high likelihood of success on the merits because of language in both the deed granting the easement and in Defendants' deed reserving the easement.

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Since the entry of the Preliminary Injunction, the parties have exchanged written discovery requests and responses, produced documents, participated in depositions, and amended the initial pleadings. Defendants amended their answer and filed counterclaims against Plaintiffs on November 20, 2014 and again on January 29, 2015. Defendants waited three years and six months after they were served with Plaintiffs' Complaint and seven years after they purchased their property to assert any claims against Plaintiffs.

Plaintiffs moved for summary judgment on December 16, 2015 and filed a memorandum in support of their motion on September 30, 2016. Defendants filed an Affidavit of Defendants on October 6, 2016, and Plaintiffs filed a Reply brief in support of their summary judgment motion on October 7, 2016. The Court held a hearing with all parties present and represented by counsel on Monday, October 10, 2016, in Spartanburg, South Carolina.

II. Summary Judgment Standard.

Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." S.C.R. Civ. P. 56(c); *Hedgepath v. Am. Tel & Tel. Co.*, 348 S.C. 340, 354, 559 S.E.2d 327, 335 (Ct. App. 2001). Although the party moving for summary judgment "has the initial burden of demonstrating the absence of a genuine issue of material fact," the moving party may discharge this initial responsibility "by pointing out to the trial court that there is an absence of evidence to support the nonmoving party's case." *Id.* A party opposing a motion for summary judgment must "come forward with specific facts showing that there is a genuine issue for trial" and "cannot simply rest on mere allegations or denials contained in the pleadings." *Id.* "[W]hen

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plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." *Id.* at 355, 559 S.E.2d at 336.

III. Defendants' Affidavit.

Rule 56 provides that "[s]upporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein." S.C.R. Civ. P. 56(e). Under the "sham affidavit" rule, this Court has the power to disregard some or all of a summary judgment affidavit "when it was submitted 'to contradict that party's own prior sworn statement' in 'an attempt to create a sham issue of material fact.'" *McMaster v. Dewitt*, 411 S.C. 134, 149, 767 S.E.2d 451, 456 (Ct. App. 2014). Additionally, "'bald allegations' are insufficient to create a genuine issue of fact." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 117, 410 S.E.2d 537, 546 (1991).

After careful consideration of the record in this case, the Court finds that Defendants' joint affidavit is insufficient under Rule 56 and exercises its power to disregard the affidavit under the sham affidavit rule. For example, the statements in Defendants' Affidavit that they realized that Plaintiffs allegedly might not be using the easement road as shown on the 1973 plat when Defendants had architectural plans drawn for a riding ring are inconsistent with Mr. Norden's deposition testimony that he first learned Plaintiffs were allegedly using land not part of the easement in 2007 when Plaintiffs were planting. (*See* Affidavit of Defendants at pg. 2 vs. Depo R. Norden 13:1-10, May 15, 2015). Defendants' Affidavit also opines as to how the easement was used prior to their ownership of the property during a time when the Nordens did not live in South Carolina. Any such statements clearly are not based on personal knowledge as required by Rule 56 of the SCRCP. The Court, therefore, finds that Defendants' statements in

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the affidavit are inconsistent with the deposition testimony in the record and their pleadings and are not based on personal knowledge as required by Rule 56.

Based on the foregoing, the Court finds that the joint affidavit submitted in response to Plaintiffs' Motion for Summary Judgment consists of conclusory statements and irrelevant information and is, therefore, insufficient to create a genuine issue as to any material fact.

IV. Defendants' Counterclaim for Trespass.

Although Plaintiffs have an easement across Defendants' property, Defendants assert a claim for trespass because, according to them, the road that Plaintiffs have always used to access their property does not match the location of the easement as shown on a 1973 plat. (Answer to First Am. Compl. & Countercls. ¶¶ 29–31). According to Defendants, "Plaintiffs trespass on to and over the Defendants' property each and every time they access their property." (*Id.* ¶ 32).

"The language of an easement determines its extent. The general rule is that the character of an express easement is determined by the nature of the right and the intention of the parties creating it. The intention of the parties must be determined by a fair interpretation of the grant or reserve creating the easement. It is not essential to the validity of a grant of an easement that it be described my metes and bounds or by figures giving definite dimensions of the easement." *Simmons v. Berkeley Elec. Coop., Inc.*, 404 S.C. 172, 179, 744 S.E.2d 580, 584–85 (Ct. App. 2013) (internal quotation marks & citations omitted), *reversed in part on other grounds by Simmons v. Berkeley Elec. Coop., Inc.*, 419 S.C. 223, 797 S.E.2d 387 (2016). The express language in Plaintiffs' deed conveyed "an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed." (*See* Deed Book 43-G, Page 0806). When Plaintiffs purchased their property in 1975, the unpaved easement road from Gibson Road to Plaintiffs' property was already in existence, and it had been in the same location and had

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followed the same route for many years. (*See* Affidavit of Manning L. Williams and Affidavit of Eleanor C. Williams). This fact "demonstrates the easement holder and the landowners' understanding that such configuration did not exceed the intended scope of the easement." *Simmons*, 404 S.C. at 180, 744 S.E.2d at 585.

In order to establish a claim for trespass, a party must allege and prove the other party's "interference with 'one's right to the exclusive, peaceable possession of his property.'" *Babb v. Lee Cty. Landfill SC, LLC*, 405 S.C. 129, 139, 747 S.E.2d 468, 473 (2013) (quoting *Ravan v. Greenville Cty.*, 315 S.C. 447, 463, 434 S.E.2d 296, 306 (Ct. App. 1993)). "For a trespass action to lie, the act must be affirmative, the invasion of land must be intentional, and the claimed harm must be the direct result of that invasion." *Santoro v. Schulthess*, 384 S.C. 250, 268, 681 S.E.2d 897, 906 (Ct. App. 2009). A claim for trespass is subject to the three-year statute of limitations of S.C. Code Ann. § 15-3-530(3). *See Hedgepath v. Am. Tel. & Tel. Co.*, 348 S.C. 340, 355–59, 559 S.E.2d 327, 336–38 (Ct. App. 2001).

Based on the foregoing, Plaintiffs have an unrestricted right to use the entire easement road, including the allegedly disputed portion of the easement road, pursuant to the express grant of their easement. Defendants' claim for trespass, therefore, fails as a matter of law. Moreover, Plaintiffs have been using the easement in question for over forty years after purchasing the property in 1975. Defendants bought the property subject to the easement in question in 2007, after Plaintiffs had already been using the easement for thirty-two years. Defendants waited seven more years after the purchase of the property and three years and six months after the filing of this complaint by Plaintiffs to assert any claims for trespass. Defendants' claims for trespass are, therefore, barred by the three-year statute of limitations.[2]

[2] Defendants make an alternative argument that their claim for trespass is subject to a ten-year statute of limitations under S.C. Code of Laws § 15-3-340, which provides that "[n]o action for the recovery of real

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For these reasons, the Court finds that Plaintiffs are entitled to judgment in their favor as a matter of law on Defendants' counterclaim for trespass.

V. Defendants' Counterclaims for Private Nuisance.

Defendants have asserted a counterclaim for private nuisance based on the alleged conduct of third parties who are not parties to this litigation, in particular, Plaintiff's adult son. (*See* Answer to First Am. Compl. & Countercls. ¶¶ 40, 41). Specifically, Defendants assert that "Plaintiffs regularly allow others to use the subject easement for hunting and other firearms practices." *Id.* Defendants, however, make no allegations that either Plaintiff has done anything to unreasonably interfere with Defendants' ownership or possession of their land nor do they make any allegations of any agency relationship between Plaintiffs and the alleged third parties.

"Nuisance is a substantial and unreasonable interference with the [landowner]'s use and enjoyment of his land." *FOC Lawshe Ltd. P'ship v. Int'l Paper Co.*, 352 S.C. 408, 413–14, 574 S.E.2d 228, 231 (Ct. App. 2002). "[E]very annoyance or disturbance of a landowner from the use made of property by a neighbor does not constitute a nuisance." *O'Cain v. O'Cain*, 322 S.C. 551, 561, 473 S.E.2d 460, 466 (Ct. App. 1996). A nuisance is "that class of wrongs that arises from the unreasonable, unwarrantable, or unlawful use by a person of his own property." *Id.* "[T]he right to hunt and fish on one's own premises is a right of property incident thereto which may even be granted or leased to others." *Rice Hope Plantation v. S.C. Pub. Serv. Auth.*, 216 S.C. 500, 524, 59 S.E.2d 132, 142 (1950), *overruled on other grounds by McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985).

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property or for the recovery of the possession of real property may be maintained unless it appears that the [claimant], his ancestor, predecessor, or grantor was seized or possessed of the premises in question within ten years before commencement of the action." Plaintiffs have been using the entire easement road, including any portion allegedly disputed by Defendants, since 1975. This Court finds neither Defendants, nor their predecessors in title, were seized or possessed of the allegedly disputed portion of the easement within ten years before Defendants brought their counterclaims; therefore, Defendants' claim for trespass is also barred by any potential ten-year statute of limitations.

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The Court finds there is no evidence in the record to support Defendants' claim of nuisance. Plaintiffs are entitled to summary judgment on this counterclaim because Defendants have identified no evidence that either Plaintiff has unreasonably interfered with Defendants' ownership or possession or use and enjoyment of their property. The Court further finds Defendants failed to allege any sort of agency relationship between Plaintiffs and the third parties of whose conduct Defendants complain. Moreover, Defendants acknowledged that Plaintiffs and any invited guests of theirs can legally hunt on Plaintiffs' property. (*See* Depo. R. Norden 48:7 – 49:5 October 3, 2012).

For the reasons stated above, Plaintiffs are entitled to judgment as a matter of law on Defendants' counterclaim for private nuisance.

VI. Defendants' Counterclaim for Interference with a Contractual Relationship.

Defendants' final counterclaim for interference with a contractual relationship fails as a matter of law because the claim is untimely and the record is devoid of evidence to support all of the required elements of such a claim. To recover on a claim for tortious interference with contractual relations, Defendants must show the following: "1) the existence of a contract; 2) knowledge of the contract; 3) intentional procurement of its breach; 4) the absence of justification; and 5) resulting damages." *Eldeco, Inc. v. Charleston Cty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007). The statute of limitations for this claim is three years. S.C. Code Ann. § 15-3-530(5).

Defendants' sole allegation to support this claim is that they entered a listing contract with a real estate agent, from August 7, 2009 to October 4, 2009, to sell a portion of their property and that "Plaintiffs' son allegedly contacted the listing agent on or about August 19, 2009 and made threats or statements to the listing agents that [caused] the listing agent to cancel

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the listing contract and prevent a sale of the property." (*See* Answer to First Am. Compl. & Countercls. ¶¶ 46, 48; Ex. 13 to Mem. in Supp. of Pls.' Mot. for Summ. J. on Defs.' Countercls.). Defendants allege no conduct on the part of Plaintiffs and no agency relationship between Plaintiffs and their adult son. This claim is based on pure speculation and Defendants have not produced any evidence to support it despite having ample opportunity to do so. In any event, Defendants clearly knew of any potential claim when the conduct allegedly occurred in 2009, yet Defendants did not file a pleading asserting this claim until November 20, 2014, approximately five years later and well past the applicable three year statute of limitations.

Therefore, Defendants' counterclaim for tortious interference with a contractual relationship lacks evidentiary support and is barred by the statute of limitations, and Plaintiffs are entitled to judgment as a matter of law.

CONCLUSION

For all of the reasons stated above, the Court finds that Plaintiffs have an unrestricted right to use the entire easement road, including the allegedly disputed portion of the easement road, pursuant to the express grant of their easement. Plaintiffs have established that there is no genuine issue of any fact material to Defendants' counterclaims, and Plaintiffs have an unrestricted right to use the easement road over Defendants' property to access their property. Therefore, Plaintiffs' Motion for Summary Judgment is **GRANTED.**

IT IS SO ORDERED THIS _____ DAY OF _____, 2019.

ELECTRONIC SIGNATURE PAGE TO FOLLOW

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Spartanburg Common Pleas

Case Caption: Manning L Williams , plaintiff, et al VS Cynthia W Norden , defendant, et al

Case Number: 2011CP4202079

Type: Order/Summary Judgment

IT IS SO ORDERED!

s/J. Derham Cole 2053

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STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	SEVENTH JUDICIAL CIRCUIT
The Revocable Trust Agreement of Manning Lee Williams dated October 28, 2015, Plaintiffs, v. Cynthia Norden and Raymond Norden, Defendants.	C.A. No. 2011-CP-42-02079 **AMENDED ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND DENYING DEFENDANTS' MOTION TO RECONSIDER**

This matter came before the Court on Plaintiffs' Motion for Summary Judgment, and Defendants' Motion to Reconsider. The Court held a hearing on the Motion for Summary Judgment on Monday, October 10, 2016, in Spartanburg, South Carolina and a hearing on the Motion to Reconsider on Thursday, March 21, 2019 in Spartanburg, South Carolina. After careful consideration and review of the pleadings, motions, memoranda, and arguments of counsel at both hearings, the Court makes the following findings of fact and amended conclusions of law and rules as follows:

I. Factual Background and Procedural History.

This case has been pending for seven years, and Plaintiff Manning Williams has since passed away on February 27, 2017[1]. The case was originally filed May 10, 2011, when Plaintiffs filed suit seeking to quiet title and obtain a declaratory judgment regarding their rights in an easement over Defendants' property. Plaintiffs own approximately 14.17 acres of land located

[1] By Order dated September 10, 2018, The Revocable Trust Agreement of Manning Lee Williams dated October 28, 2015 was substituted as the proper plaintiff in this litigation. The pleadings have been revised to reflect this change.

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off Gibson Road near Landrum, South Carolina. Plaintiffs' property is landlocked and does not have any frontage on Gibson Road or any other public road; they access their property via an easement road that crosses over Defendants' property from Gibson Road to the landlocked tract.

Plaintiffs' easement was granted to them when they purchased their property in 1976. The deed to Plaintiffs' property expressly states: "Grantor herein conveyes all his right, title, and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed." (*See* Deed from J. Baker Gibson to Manning L. Williams and Eleanor C. Williams recorded as Deed Book 43-G, Page 0806). The deed to Defendants' property specifically states that their property is "subject to a thirty (30') foot road easement as shown and designated upon plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209, aforesaid county records." (*See* Deed from Loretta B. Hyder to Cynthia W. Norden and Raymond A. Norden recorded as Deed Book 87-Z, Page 376).

The easement road that Plaintiffs use has been in the same location and has followed the same route to their tract for decades. This litigation arose after Defendants purchased their property and began blocking and obstructing Plaintiffs' access to the easement at the entrance gate, which began in 2011. Defendants' actions of blocking the gate and Plaintiffs' use of the easement road occurred both before and after Plaintiffs commenced this litigation.

By Order dated July 29, 2011, this Court entered a Preliminary Injunction in favor of Plaintiffs and ordered, among other things, that Defendants were enjoined from blocking access to the easement identified in Plat Book 72 at pages 208–09 in any way during the pendency of the litigation. The Court concluded that the status quo is and has been Plaintiffs' open and unfettered access to the easement and also concluded that Plaintiffs had a high likelihood of

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success on the merits because of language in both the deed granting the easement and in Defendants' deed reserving the easement.

Since the entry of the Preliminary Injunction, the parties have exchanged written discovery requests and responses, produced documents, participated in depositions, and amended the initial pleadings. Defendants amended their answer and filed counterclaims against Plaintiffs on November 20, 2014 and again on January 29, 2015. Defendants waited three years and six months after they were served with Plaintiffs' Complaint and seven years after they purchased their property to assert any claims against Plaintiffs.

Plaintiffs moved for summary judgment on December 16, 2015 and filed a memorandum in support of their motion on September 30, 2016. Defendants filed an Affidavit of Defendants on October 6, 2016, and Plaintiffs filed a Reply brief in support of their summary judgment motion on October 7, 2016. The Court held a hearing with all parties present and represented by counsel on Monday, October 10, 2016, in Spartanburg, South Carolina. The Court issued an Order Granting Plaintiffs' Motion for Summary Judgment on January 14, 2019. Defendants filed a Motion to Reconsider on January 14, 2019, and Plaintiff filed a Response in Opposition to Defendants' Motion to Reconsider on January 23, 2019. The Court held a hearing with all parties represented by counsel on Thursday, March 21, 2019. At the March 21, 2019 hearing, the parties, by stipulation of Counsel, agree Deed Book 43-G, Page 806; Deed Book 87-Z, Page 376; and Plat Book 72 at Pages 208-209 define the Easement that is the subject of this litigation.

II. Summary Judgment Standard.

Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." S.C.R.

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Civ. P. 56(c); *Hedgepath v. Am. Tel & Tel. Co.*, 348 S.C. 340, 354, 559 S.E.2d 327, 335 (Ct. App. 2001). Although the party moving for summary judgment "has the initial burden of demonstrating the absence of a genuine issue of material fact," the moving party may discharge this initial responsibility "by pointing out to the trial court that there is an absence of evidence to support the nonmoving party's case." *Id.* A party opposing a motion for summary judgment must "come forward with specific facts showing that there is a genuine issue for trial" and "cannot simply rest on mere allegations or denials contained in the pleadings." *Id.* "[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." *Id.* at 355, 559 S.E.2d at 336.

III. Defendants' Affidavit.

Rule 56 provides that "[s]upporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein." S.C.R. Civ. P. 56(e). Under the "sham affidavit" rule, this Court has the power to disregard some or all of a summary judgment affidavit "when it was submitted 'to contradict that party's own prior sworn statement' in 'an attempt to create a sham issue of material fact.'" *McMaster v. Dewitt*, 411 S.C. 134, 149, 767 S.E.2d 451, 456 (Ct. App. 2014). Additionally, "'bald allegations' are insufficient to create a genuine issue of fact." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 117, 410 S.E.2d 537, 546 (1991).

After careful consideration of the record in this case, the Court finds that Defendants' joint affidavit is insufficient under Rule 56 and exercises its power to disregard the affidavit under the sham affidavit rule. For example, the statements in Defendants' Affidavit that they realized that Plaintiffs allegedly might not be using the easement road as shown on the 1973 plat

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when Defendants had architectural plans drawn for a riding ring are inconsistent with Mr. Norden's deposition testimony that he first learned Plaintiffs were allegedly using land not part of the easement in 2007 when Plaintiffs were planting. (*See* Affidavit of Defendants at pg. 2 vs. Depo R. Norden 13:1-10, May 15, 2015). Defendants' Affidavit also opines as to how the easement was used prior to their ownership of the property during a time when the Nordens did not live in South Carolina. Any such statements clearly are not based on personal knowledge as required by Rule 56 of the SCRCP. The Court, therefore, finds that Defendants' statements in the affidavit are inconsistent with the deposition testimony in the record and their pleadings and are not based on personal knowledge as required by Rule 56.

Based on the foregoing, the Court finds that the joint affidavit submitted in response to Plaintiffs' Motion for Summary Judgment consists of conclusory statements and irrelevant information and is, therefore, insufficient to create a genuine issue as to any material fact.

IV. Defendants' Counterclaim for Trespass.

Although Plaintiffs have an easement across Defendants' property, Defendants assert a claim for trespass because, according to them, the road that Plaintiffs have always used to access their property does not match the location of the easement as shown on a 1973 plat. (Answer to First Am. Compl. & Countercls. ¶¶ 29–31). According to Defendants, "Plaintiffs trespass on to and over the Defendants' property each and every time they access their property." (*Id.* ¶ 32).

"The language of an easement determines its extent. The general rule is that the character of an express easement is determined by the nature of the right and the intention of the parties creating it. The intention of the parties must be determined by a fair interpretation of the grant or reserve creating the easement. It is not essential to the validity of a grant of an easement that it be described my metes and bounds or by figures giving definite dimensions of the easement."

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Simmons v. Berkeley Elec. Coop., Inc., 404 S.C. 172, 179, 744 S.E.2d 580, 584–85 (Ct. App. 2013) (internal quotation marks & citations omitted), *reversed in part on other grounds by Simmons v. Berkeley Elec. Coop., Inc.*, 419 S.C. 223, 797 S.E.2d 387 (2016). The express language in Plaintiffs' deed conveyed "an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed." (*See* Deed Book 43-G, Page 0806). When Plaintiffs purchased their property in 1975, the unpaved easement road from Gibson Road to Plaintiffs' property was already in existence, and it had been in the same location and had followed the same route for many years. (*See* Affidavit of Manning L. Williams and Affidavit of Eleanor C. Williams). This fact "demonstrates the easement holder and the landowners' understanding that such configuration did not exceed the intended scope of the easement." *Simmons*, 404 S.C. at 180, 744 S.E.2d at 585.

In order to establish a claim for trespass, a party must allege and prove the other party's "interference with 'one's right to the exclusive, peaceable possession of his property.'" *Babb v. Lee Cty. Landfill SC, LLC*, 405 S.C. 129, 139, 747 S.E.2d 468, 473 (2013) (quoting *Ravan v. Greenville Cty.*, 315 S.C. 447, 463, 434 S.E.2d 296, 306 (Ct. App. 1993)). "For a trespass action to lie, the act must be affirmative, the invasion of land must be intentional, and the claimed harm must be the direct result of that invasion." *Santoro v. Schulthess*, 384 S.C. 250, 268, 681 S.E.2d 897, 906 (Ct. App. 2009). A claim for trespass is subject to the three-year statute of limitations of S.C. Code Ann. § 15-3-530(3). *See Hedgepath v. Am. Tel. & Tel. Co.*, 348 S.C. 340, 355–59, 559 S.E.2d 327, 336–38 (Ct. App. 2001).

Based on the foregoing, Plaintiffs had a right to use the unpaved easement road from Gibson Road to Plaintiffs' property that had been in existence for over forty years at the time Defendants' purchased their property. Plaintiffs used the easement road as they understood it to

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exist and never intended to deviate from the easement. Defendants' claim for trespass, therefore, fails as a matter of law. Moreover, Plaintiffs have been using the easement in question for over forty years after purchasing the property in 1975. Defendants bought the property subject to the easement in question in 2007, after Plaintiffs had already been using the easement for thirty-two years. Defendants waited seven more years after the purchase of the property and three years and six months after the filing of this complaint by Plaintiffs to assert any claims for trespass. Defendants' claims for trespass are, therefore, barred by the three-year statute of limitations.[2]

For these reasons, the Court finds that Plaintiffs are entitled to judgment in their favor as a matter of law on Defendants' counterclaim for trespass.

V. Defendants' Counterclaims for Private Nuisance.

Defendants have asserted a counterclaim for private nuisance based on the alleged conduct of third parties who are not parties to this litigation, in particular, Plaintiff's adult son. (*See* Answer to First Am. Compl. & Countercls. ¶¶ 40, 41). Specifically, Defendants assert that "Plaintiffs regularly allow others to use the subject easement for hunting and other firearms practices." *Id.* Defendants, however, make no allegations that either Plaintiff has done anything to unreasonably interfere with Defendants' ownership or possession of their land nor do they make any allegations of any agency relationship between Plaintiffs and the alleged third parties.

"Nuisance is a substantial and unreasonable interference with the [landowner]'s use and enjoyment of his land." *FOC Lawshe Ltd. P'ship v. Int'l Paper Co.*, 352 S.C. 408, 413–14, 574

[2] Defendants make an alternative argument that their claim for trespass is subject to a ten-year statute of limitations under S.C. Code of Laws § 15-3-340, which provides that "[n]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the [claimant], his ancestor, predecessor, or grantor was seized or possessed of the premises in question within ten years before commencement of the action." Plaintiffs have been using the entire easement road, including any portion allegedly disputed by Defendants, since 1975. This Court finds neither Defendants, nor their predecessors in title, were seized or possessed of the allegedly disputed portion of the easement within ten years before Defendants brought their counterclaims; therefore, Defendants' claim for trespass is also barred by any potential ten-year statute of limitations.

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S.E.2d 228, 231 (Ct. App. 2002). "[E]very annoyance or disturbance of a landowner from the use made of property by a neighbor does not constitute a nuisance." *O'Cain v. O'Cain*, 322 S.C. 551, 561, 473 S.E.2d 460, 466 (Ct. App. 1996). A nuisance is "that class of wrongs that arises from the unreasonable, unwarrantable, or unlawful use by a person of his own property." *Id.* "[T]he right to hunt and fish on one's own premises is a right of property incident thereto which may even be granted or leased to others." *Rice Hope Plantation v. S.C. Pub. Serv. Auth.*, 216 S.C. 500, 524, 59 S.E.2d 132, 142 (1950), *overruled on other grounds by McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985).

The Court finds there is no evidence in the record to support Defendants' claim of nuisance. Plaintiffs are entitled to summary judgment on this counterclaim because Defendants have identified no evidence that either Plaintiff has unreasonably interfered with Defendants' ownership or possession or use and enjoyment of their property. The Court further finds Defendants failed to allege any sort of agency relationship between Plaintiffs and the third parties of whose conduct Defendants complain. Moreover, Defendants acknowledged that Plaintiffs and any invited guests of theirs can legally hunt on Plaintiffs' property. (*See* Depo. R. Norden 48:7 – 49:5 October 3, 2012).

For the reasons stated above, Plaintiffs are entitled to judgment as a matter of law on Defendants' counterclaim for private nuisance.

VI. Defendants' Counterclaim for Interference with a Contractual Relationship.

Defendants' final counterclaim for interference with a contractual relationship fails as a matter of law because the claim is untimely and the record is devoid of evidence to support all of the required elements of such a claim. To recover on a claim for tortious interference with contractual relations, Defendants must show the following: "1) the existence of a contract; 2)

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knowledge of the contract; 3) intentional procurement of its breach; 4) the absence of justification; and 5) resulting damages." *Eldeco, Inc. v. Charleston Cty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007). The statute of limitations for this claim is three years. S.C. Code Ann. § 15-3-530(5).

Defendants' sole allegation to support this claim is that they entered a listing contract with a real estate agent, from August 7, 2009 to October 4, 2009, to sell a portion of their property and that "Plaintiffs' son allegedly contacted the listing agent on or about August 19, 2009 and made threats or statements to the listing agents that [caused] the listing agent to cancel the listing contract and prevent a sale of the property." (*See* Answer to First Am. Compl. & Countercls. ¶¶ 46, 48; Ex. 13 to Mem. in Supp. of Pls.' Mot. for Summ. J. on Defs.' Countercls.). Defendants allege no conduct on the part of Plaintiffs and no agency relationship between Plaintiffs and their adult son. This claim is based on pure speculation and Defendants have not produced any evidence to support it despite having ample opportunity to do so. In any event, Defendants clearly knew of any potential claim when the conduct allegedly occurred in 2009, yet Defendants did not file a pleading asserting this claim until November 20, 2014, approximately five years later and well past the applicable three year statute of limitations.

Therefore, Defendants' counterclaim for tortious interference with a contractual relationship lacks evidentiary support and is barred by the statute of limitations, and Plaintiffs are entitled to judgment as a matter of law.

CONCLUSION

For all of the reasons stated above, Plaintiffs have established that there is no genuine issue of any fact material to Defendants' counterclaims, and Plaintiffs have an unrestricted right

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to use the easement road over Defendants' property to access their property. Therefore, Plaintiffs' Motion for Summary Judgment is **GRANTED.**

The parties, by stipulation of Counsel, agree Deed Book 43-G, Page 806; Deed Book 87-Z, Page 376; and Plat Book 72 at Pages 208-209 define the Easement that is the subject of this litigation. Defendants' Motion to Reconsider is DENIED.

IT IS SO ORDERED THIS _____ DAY OF _____, 2019.

_____
Honorable J. Derham Cole
Presiding Judge, Seventh Judicial Circuit

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Spartanburg Common Pleas

Case Caption: Manning L Williams , plaintiff, et al VS Cynthia W Norden , defendant, et al

Case Number: 2011CP4202079

Type: Order/Amend

IT IS SO ORDERED!

s/J. Derham Cole 2053

Electronically signed on 2019-04-24 14:18:41 page 11 of 11

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	Civil Action No.:_____
MANNING L. WILLIAMS and ELEANOR C. WILLIAMS, Plaintiffs,	)	COMPLAINT
vs.	)	
CYNTHIA W. NORDEN and RAYMOND A. NORDEN, Defendants.	)	

Plaintiffs Manning L. Williams and Eleanor C. Williams ("Plaintiffs"), by and through the undersigned counsel, would respectfully show unto this Court the following:

1. Plaintiff Manning L. Williams is a citizen and resident of the County of Spartanburg, State of South Carolina.

2. Plaintiff Eleanor C. Williams is a citizen and resident of the County of Spartanburg, State of South Carolina.

3. Defendant Cynthia W. Norden is, upon information and belief, a citizen and resident of the County of Spartanburg, State of South Carolina.

4. Defendant Raymond A. Norden is, upon information and belief, a citizen and resident of the County of Spartanburg, State of South Carolina.

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5. Plaintiffs are the fee simple owners of the following real property (the "Williams Property"):

> All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, northwest of Campobello and on the waters of the South Pacolet River, containing 14.17 acres, more or less, as shown upon the survey and plat made for J. Baker Gibson by Beeson Engineering

ROA Page 22

& Surveying dated October 2, 1975 and recorded in Plat Book 76 at page 491 in the R.M.C. Office for Spartanburg County. For a more complete and particular description reference is hereby made to the above referred to plat and the record thereof.
This being a portion of the property which was conveyed to J. Baker Gibson by deed recorded in Deed Book 20-C at page 484 in the R.M.C. Office for Spartanburg County.

6. A true and accurate copy of the Deed giving fee simple ownership of the Williams Property is attached hereto and incorporated herein as Exhibit A.

7. The Deed for the Williams Property also grants Plaintiffs the following easement:

Grantor herein conveys all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed.

8. Defendants are the fee simple owners of the following real property (the "Norden Property"):

All that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing 37.5 acres, more or less, and being shown and designated as Tract 3 upon plat of survey prepared for J. Baker Gibson by W.N. Willis, Engrs., dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209 in the Office of the Register of Deeds for Spartanburg County.
This Property being subject to a thirty (30') foot road easement as shown and designated upon plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209, aforesaid county records.
LESS AND EXCEPT HOWEVER:
All that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing 12.001 acres, more or less, and being shown upon plat of survey prepared for David P. Mullen & Sue A. Mullen by David R. Lavender, PLS, dated May 24, 2006 and recorded in Plat Book 159 at Page 925 in the Office of the Register of Deeds for Spartanburg County.
For a more complete and particular description, reference is hereby made to the above referred to plats and records thereof.
This being a portion of the same property conveyed to Jerry N. Hyder and Loretta B. Hyder by deed from Ruth W. Grossman, dated July 11, 1980 and recorded July 29, 1980 in Deed Book 47-P

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at Page 39 in the Office of the Register of Deeds for Spartanburg County. Jerry N. Hyder subsequently died testate on June 2, 1992 as is evidenced by the records filed in Spartanburg County Probate Case No. 92ES4200719. Reference is hereby made to said probate records and to the Deed of Distribution dated April 21, 1994 and recorded April 22, 1994 in Deed Book 61-G at Page 473, aforesaid county records.

This conveyance is made subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or on the premises, and to the following:

1. There shall be no mobile homes, chicken or hog farms.

9. A true and accurate copy of the Deed giving fee simple ownership of the Norden Property is attached hereto and incorporated herein as Exhibit B.

10. The Williams Property has an easement over the Norden Property according to the above described property descriptions (the "Williams Easement").

11. The Williams Easement is shown on a plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209 in the Office of the Register of Deeds for Spartanburg County. A true and accurate copy of Plat Book 72 at Pages 208-209 is attached hereto and incorporated herein as Exhibit C.

12. Upon information and belief, on or about April 29, 2011, Defendants wantonly, willfully, and recklessly blocked and denied access to the Williams Easement by changing the lock on a gate, installed by Plaintiffs, at the entrance to the Williams Easement.

13. Upon information and belief, on or about April 29, 2011, Defendants wantonly, willfully, and recklessly blocked and denied access to the Williams Easement by parking a pick up truck in front of the Williams Easement.

14. Plaintiffs have been unable to access their property as a result of Defendants wantonly, willfully, and recklessly blocking and denying access to the Williams Easement.

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15. Plaintiffs have been unable to move farm equipment from their property as a result of Defendants wantonly, willfully, and recklessly blocking and denying access to the Williams Easement.

16. Plaintiffs have been unable to sufficiently plant crops during the ideal planting time as a result of Defendants wantonly, willfully, and recklessly blocking access to the Williams Easement.

17. Plaintiffs have and continue to suffer other damages as a result of Defendants wantonly, willfully, and recklessly blocking access to the Williams Easement.

FOR A FIRST CAUSE OF ACTION
(Quiet Title)

18. Plaintiffs re-allege and reiterate each and every allegation as fully as if repeated verbatim herein.

19. Plaintiff's deed to the Williams Property grants Plaintiffs an unrestricted easement across the Norden Property.

20. Upon information and belief, the deed to the Norden Property reserves an unrestricted easement across the Norden Property to the owners of the Williams Property.

21. This Williams Easement is defined in Plat Book 72 at Pages 208-209, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit C.

22. Plaintiffs, therefore, respectfully request this Court to enter an order quieting title to the Williams Easement and to order Defendants to allow Plaintiffs unrestricted access for use of the Williams Easement.

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FOR A SECOND CAUSE OF ACTION
(Declaratory Judgment)

23. Plaintiffs re-allege and reiterate each and every allegation as fully as if repeated verbatim herein.

24. Plaintiff's deed to the Williams Property grants Plaintiffs an unrestricted easement across the Norden Property.

25. Upon information and belief, the deed to the Norden Property reserves an unrestricted easement across the Norden Property to the owners of the Williams Property.

26. This Williams Easement is defined in Plat Book 72 at Pages 208-209, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit C.

27. Plaintiffs, therefore, respectfully request this Court to declare Plaintiffs the rightful owners of the Williams Easement and to order Defendants to grant Plaintiffs unrestricted access for use of the Williams Easement.

FOR A THIRD CAUSE OF ACTION
(Trespass)

28. Plaintiffs re-allege and reiterate each and every allegation as fully as if repeated verbatim herein.

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29. Plaintiff's deed to the Williams Property grants Plaintiffs an unrestricted easement across the Norden Property.

30. Upon information and belief, the deed to the Norden Property reserves an unrestricted easement across the Norden Property to the owners of the Williams Property.

31. This Williams Easement is defined in Plat Book 72 at Pages 208-209, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit C.

ROA Page 26

32. Upon information and belief, Defendants voluntarily changed the lock to Plaintiffs' gate and voluntarily placed a pick-up truck to block access to the Williams Easement.

33. Upon information and belief, Plaintiffs have been denied access to the Williams Easement because Defendants voluntarily changed the lock to Plaintiffs' gate and voluntarily parked a pick-up truck to block access to the Williams Easement.

34. Defendants changed the lock to Plaintiffs' gate and parked the pick-up truck blocking the Williams Easement without the permission of Plaintiffs.

35. Defendants, upon information and belief, changed the lock to Plaintiffs' gate and parked the pick-up truck blocking the Williams Easement in wanton, willful, and in reckless disregard of Plaintiffs' rights to use the Williams Easement.

36. Plaintiffs have and continue to suffer damages as a result of the actions of Defendants, including but not limited to the loss of access to farm equipment and the loss of the ability to plant crops during the ideal planting time.

37. Plaintiffs respectfully request this Court to enter an order requiring Defendants to allow Plaintiffs unrestricted access for use of the Williams Easement and awarding Plaintiffs actual and punitive damages.

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WHEREFORE, Plaintiffs respectfully request this Court to enter an Order quieting title and declaring Plaintiffs the owners of the Williams Easement, requiring Defendants to allow Plaintiffs unrestricted access to the Williams Easement, awarding actual and punitive damages to Plaintiffs, and for such other relief as this Court deems necessary and just.

HARRISON, WHITE, SMITH, & COGGINS, P.C.
178 West Main Street (29306)
Post Office Box 3547
Spartanburg, South Carolina 29302
(864) 585-5100
(864) 591-0491 facsimile

John B. White, Jr. (S.C. Bar No.: 5996)
Griffin Littlejohn Lynch (S.C. Bar No.: 72518)

Attorneys for Plaintiffs

May 10, 2011

Spartanburg, South Carolina

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	Civil Action No.:_____
MANNING L. WILLIAMS and ELEANOR C. WILLIAMS, Plaintiffs,)	**VERIFICATION**
vs.)	
CYNTHIA W. NORDEN and RAYMOND A. NORDEN, Defendants.)	

The undersigned hereby certifies that they have reviewed the foregoing Complaint and the allegations contained therein, and that the allegations contained therein are true and accurate of their own knowledge, except those matters alleged on information and belief, and as to them, they believe them to be true and correct.

Manning L. Williams
Manning L. Williams

Eleanor C. Williams
Eleanor C. Williams

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SPARTANBURG COUNTY
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M. POPE BLACKLEY

SWORN to before me this 10th
Day of May, 2011.

Vicky Dwaddle
Notary Public for South Carolina
My commission expires 5-14-11

Exhibit A

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[redacted]

BOOK 1430 PAGE 806

TITLE TO REAL ESTATE — Form 14
The H. L. Byrne Company, Columbia, S. C.

State of South Carolina,

COUNTY OF SPARTANBURG

RECORDED
1975 NOV 26 PM 2:48
R.M.C.
SPARTANBURG, S.C.

[redacted]

Know All Men by These Presents, That I, J. Baker Gibson

[redacted]

In consideration of the

in the State aforesaid,

sum of Ten ($10.00) Dollars and other good and valuable considerations

to me paid by Manning L. Williams and Eleanor C. Williams

in the State aforesaid

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

Manning L. Williams and Eleanor C. Williams, their heirs and assigns forever

All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, northwest of Campobello and on the waters of South Pacolet River, containing 14.17 acres, more or less, as shown upon survey and plat made for J. Baker Gibson by Beeson Engineering & Surveying dated October 2, 1975 and recorded in Plat Book 76 at page 491 in the R.M.C. Office for Spartanburg County. For a more complete and particular description reference is hereby made to the above referred to plat and the record thereof.

This being a portion of the property which was conveyed to J. Baker Gibson by deed recorded in Deed Book 20-C at page 484 in the R.M.C. Office for Spartanburg County.

Grantor herein conveyes all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed.

DATE: MAY 02 2011

CERTIFIED TO BE A TRUE AND CORRECT COPY
OF DOCUMENT ON RECORD AND FILE IN THIS OFFICE

Dorothy Earle

REGISTER OF DEEDS
Spartanburg County, South Carolina

[redacted]

BOOK 436 PAGE 807

STATE OF SOUTH CAROLINA
County of Spartanburg

DEED

J. Baker Gibson (GRANTOR) } Manning L. Williams (GRANTEE)

Personally appeared before me Bob Newman who being duly sworn says that the true, full and complete consideration of the above stated deed is $ 20.00 and exchange of property valued at $ ..... and assumption of mortgage given to ....., the amount assumed by the purchaser being $ .....; recorded in Book ....., page .....; partition of property; love and affection.

Sworn to and subscribed before me this 8th day of November, 1975

Bob Newman
Grantor-Grantee

..... (Seal)
Notary Public for S. C.

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 premises before mentioned unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my *Hand and Seal this* 8th *day of* October *in the year of our Lord one thousand nine hundred and* Seventy-Five *and in the* ~~two~~ Two Hundredth *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF
Carolyn D. Kinard
Sherrie B. Gibson

J. Baker Gibson (SEAL)
(SEAL)

BK 43G PG 808

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

PERSONALLY appeared before me Carolyn P. Brown and made oath that she saw the within-named J. Baker Gibson sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that he, with Martha S. Jackson witnessed the execution thereof.

SWORN to before me this
8th day of October, 19 75.

Martha S Jackson (L.S.)
Notary Public of S. C.
My Commission expires: 10-11-83

Carolyn P. Brown

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

RENUNCIATION OF DOWER

I, Carolyn P. Brown, Notary Public for South Carolina, do hereby certify unto all whom it may concern, that Mrs. Harriet L. Gibson the wife of the within-named J. Baker Gibson did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named Manning L. Williams and Eleanor C. Williams,

their heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this
8th day of October
Anno Domini 19 75.

Carolyn P. Brown (L.S.)
Notary Public of S. C.
My Commission expires: 1-22-85

Harriet L. Gibson

Exhibit B

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M. HOPE BLACKLEY

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State of South Carolina)
)
County of Spartanburg)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS , that I, **Loretta B. Hyder**, Grantor, in consideration of the sum of **Six Hundred Twenty Eight Thousand and 00/100 Dollars ($628,000.00)**, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto **Cynthia W. Norden and Raymond A. Norden**, Grantees, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion, the following described property:

See attached Exhibit A.

Grantee's Address: 315 Gibson Road
Landrum, SC 29356

TMS No.: 1 19-00 p/o 031.02

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining;

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said **Cynthia W. Norden and Raymond A. Norden**, Grantees, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion.

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M. BLACKWELL

AND the Grantor herein does hereby bind himself and his Heirs and Assigns to warrant and forever defend all and singular the said premises unto the said **Cynthia W. Norden and Raymond A. Norden**, Grantees, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns, forever in fee simple, against the Grantor and the Grantor's Heirs and Assigns, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof, except as to restrictions and easements of record, if any.

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Recording Fee: $10.00 Documentary Stamps: $2,323.60
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register

DEED87--2PG377

WITNESS the Grantor's hand and seal this the 2nd day of March, 2007.

SIGNED, SEALED AND DELIVERED
in the presence of:

Loretta B. Hyder (Seal)
Loretta B. Hyder

State of South Carolina)
)
County of Spartanburg)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw the within-named Loretta B. Hyder sign, seal and as her act and deed deliver the within-written Title to Real Estate and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

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SPARTANBURG COUNTY
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R. HOPE BLACKLEY

SWORN to before me this
2nd day of March, 2007.

(SEAL)
Notary Public for South Carolina
My Commission Expires: 1/29/2017

DEED87 7 PG 378

EXHIBIT A

ALL that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing **37.5 acres**, more or less, and being shown and designated as **Tract 3** upon plat of survey prepared for J. Baker Gibson by W.N. Willis, Engrs., dated September 27, 1973 and recorded in **Plat Book 72** at **Pages 208-209** in the Office of the Register of Deeds for Spartanburg County.

THIS PROPERTY being subject to a thirty (30') foot road easement as shown and designated upon plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209, aforesaid county records.

LESS AND EXCEPT, HOWEVER:

ALL that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing **12.001 acres**, more or less, and being shown upon plat of survey prepared for David P. Mullen & Sue A. Mullen by David R. Lavender, PLS, dated May 24, 2006 and recorded in **Plat Book 159** at **Page 925** in the Office of the Register of Deeds for Spartanburg County.

For a more complete and particular description, reference is hereby made to the above referred to plats and records thereof.

THIS BEING a portion of the same property conveyed to Jerry N. Hyder and Loretta B. Hyder by deed from Ruth W. Gossman, dated July 11, 1980 and recorded July 29, 1980 in Deed Book 47-P at Page 39 in the Office of the Register of Deeds for Spartanburg County. Jerry N. Hyder subsequently died testate on June 2, 1992 as is evidenced by the records filed in Spartanburg County Probate Case No. 92ES4200719. Reference is hereby made to said probate records and to the Deed of Distribution dated April 21, 1994 and recorded April 22, 1994 in Deed Book 61-G at Page 473, aforesaid county records.

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2006 DEC 26 P 3:53

This conveyance is made subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or on the premises, and to the following:

1. There shall be no mobile homes, chicken or hog farms.

Loretta B Hyder

DEED87--2PG379

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Loretta B Hyder
Signature of Responsible Person Connected with the Transaction

Loretta B. Hyder
Print or Type Name Here

SWORN to before me this 2nd
day of March, 2007

(L.S.)
Notary Public for South Carolina
My Commission Expires: 5-9-2010

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitute a contract for the sale of timber to be cut;
(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
(12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
(13) transferring realty subject to a mortgage to the mortgagee whether by deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
(14) Transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivision to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operated or to take functional control of electric transmission assets as defined the Federal Power Act.

FILED FOR RECORD
01 MAR 07 PM 12:01
REGISTER OF DEEDS
GREENVILLE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
) AFFIDAVIT OF CONSIDERATION
COUNTY OF SPARTANBURG)

DEED 87--Z PG 380

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

1. I have read the information on the back of this affidavit and I understand such information.

2. The property being transferred is located 315 Gibson Road, Landrum, being a portion of property bearing Spartanburg County Tax Map Number 1 19-00 031.02, was transferred by Loretta B. Hyder to Cynthia W. Norden and Raymond A. Norden on March 2, 2007.

3. Check one of the following: The deed is

(a) X Subject to the deed recording fee as a transfer for consideration paid, or to be paid, in money or money's worth.

(b) ____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) ____ exempt from the deed recording fee because (See Information section of affidavit):

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ____ or No ____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) X The fee is computed on the consideration paid, or to be paid, in money or money's worth in the amount of $628,000.00

(b) ____ The fee is computed on the fair market value of the realty which is _____

(c) ____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 MAR 10 PM 3:53
MARION BLACKLEY

5. Check Yes ____ or No X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$628,000.00
(b) Place the amount listed in item 5 above here: (If no amount is listed, place zero here.)	0.00
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$628,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording, fee due is: $2,323.60

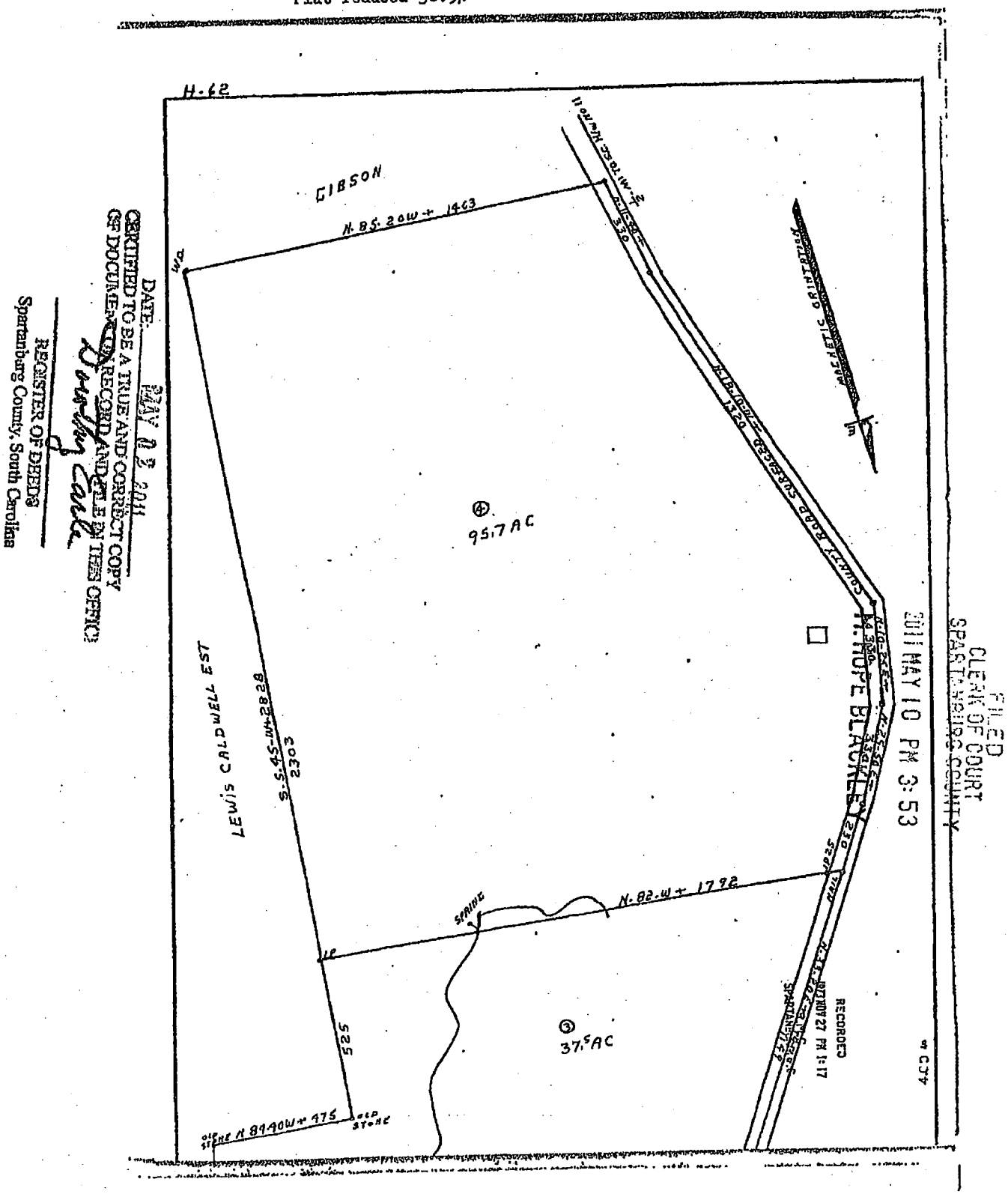
8. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor(s)

Exhibit C

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 MAY 10 PM 3:53
M. HOPE BLACKLEY

72-208

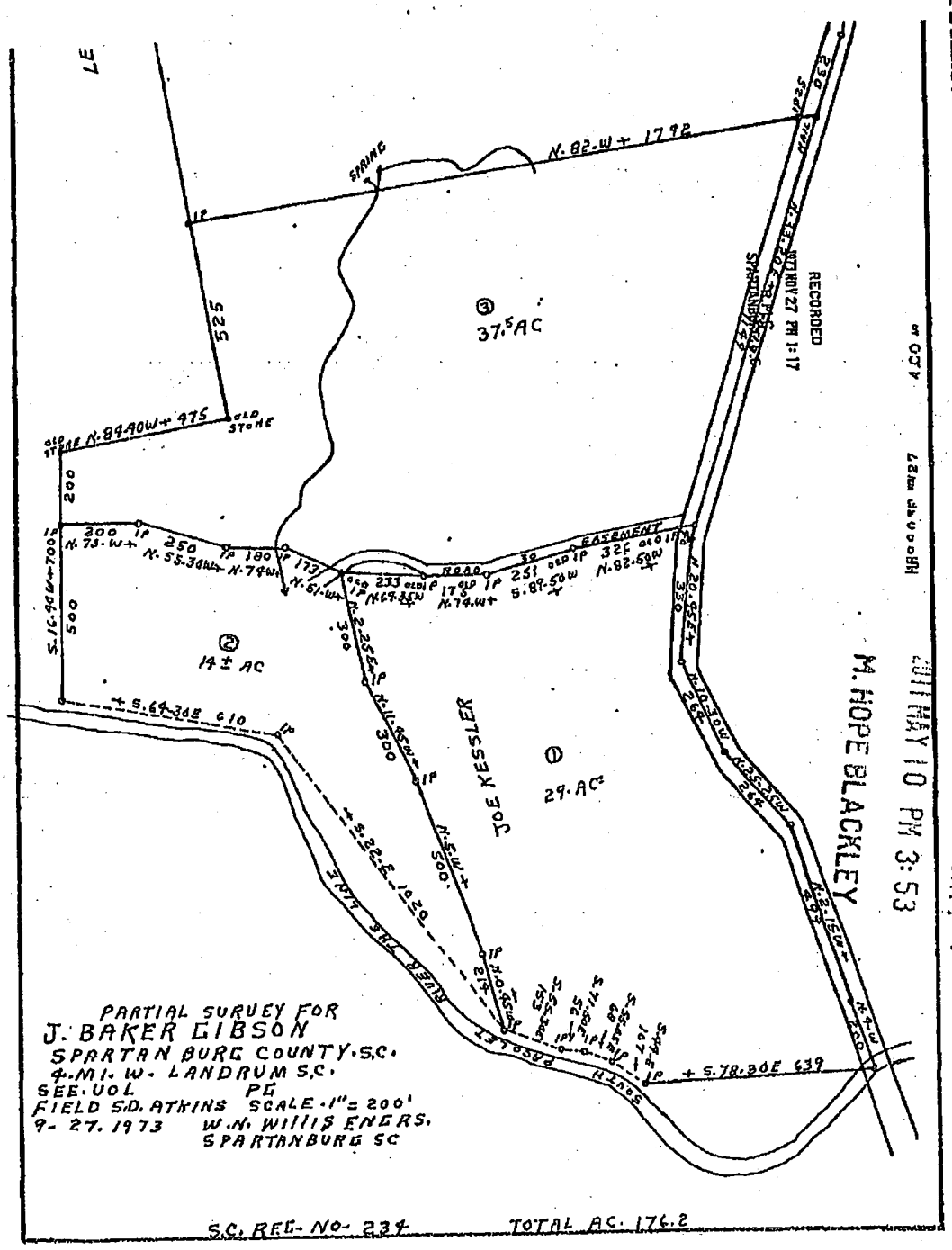
Plat reduced 38.5%



DATE: MAY 02 2011

CERTIFIED TO BE A TRUE AND CORRECT COPY OF DOCUMENT RECORDED AND FILE IN THIS OFFICE

REGISTER OF DEEDS
Spartanburg County, South Carolina



PARTIAL SURVEY FOR
J. BAKER GIBSON
SPARTAN BURG COUNTY. S.C.
4. MI. W. LANDRUM S.C.
SEE. VOL PG
FIELD S.D. ATKINS SCALE - 1" = 200'
9- 27. 1973 W.N. WILLIS ENGRS.
SPARTANBURG SC

S.C. REG- NO- 234 TOTAL AC. 176.2

72-209

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS C.A. NO.: 2011-CP-42-2079
Manning L. Williams and Eleanor C. Williams, Plaintiffs, v. Cynthia W. Norden and Raymond A. Norden, Defendants.	)	ANSWER

Defendants, in responding to the allegations set forth by Plaintiffs in their Complaint, respond as follows:

1. Lacking information, but assuming that the allegations set forth in paragraphs 1 and 2 are correct, they are admitted.

2. The allegations set forth in paragraphs 3, 4, 5 and 6 are admitted.

3. The allegations set forth in paragraphs 7 and 8 are admitted.

4. The copy of the Complaint served upon the Defendants does not have an Exhibit B attached. Consequently, the allegations set forth in paragraph 9 are denied.

5. It is admitted, as alleged in paragraph 10, that the Williams' property does have an easement over a portion of the Norden Property, but only for the purposes of "egress and ingress from public roads...."

6. The allegations set forth in paragraph 11 are admitted.

7. The allegations set forth in paragraph 12 are denied. Defendants did not

ROA Page 43

intend to deny Plaintiffs access to their property. In fact, the lock that was normally on the gate, a lock to which both Plaintiffs and Defendants had a key, was missing and the gate was open. The Defendants, in order to secure the gate, installed another lock. Within a short period of time, that lock had been destroyed/removed, and once again the gate had been left open. All other allegations set forth in paragraph 12 to the contrary are denied.

8. The allegations set forth in paragraph 13 are denied. When the gate was found by the Defendants to have been left open, on the morning of April 29, 2011, the gate was closed and the lock was secured. Within a couple of hours, the gate was again discovered by the Defendants to have been left open, and this time the lock had been removed. Defendants installed a new lock, intending to provide Plaintiffs with a key to the new lock. Thereafter, on the same day, the gate was again discovered in an opened position, and the lock that had been earlier installed to secure the gate was found destroyed. In order to secure the gate, and to prevent use of the right-of-way by those who had no right to use the right-of-way, a pickup truck belonging to the Defendants was parked against the gate, not to deny the Plaintiffs access to the easement, or to their property, but merely to secure the gate since there was no lock available.

9. The allegations set forth in paragraphs 14, 15, 16 and 17 are denied.

10. The allegations set forth in paragraph 18 are admitted and denied to the same extent heretofore admitted and denied.

11. The allegations set forth in paragraphs 19 and 20 are denied. In fact, the deeds involved clearly limit the easement in question to egress and ingress.

12. Lacking information as to what is meant by the word "defined", the allegations set forth in paragraph 21 are denied. However, it is admitted that portion of the plat recorded in Plat

ROA Page 44

Book 72 at Pages 208-209 does show the easement in questions.

13. The allegations set forth in paragraph 22 require no response. To the extent they do, they are denied. Once again, Plaintiffs, by virtue of the deed into them, are not granted "unrestricted access" to their property.

14. The allegations incorporated by reference into paragraphs 23 and 28 are admitted and denied to the same extent heretofore admitted and denied.

15. The allegations set forth in paragraph 24 are denied for the same reasons set forth above.

16. The allegations set forth in paragraph 25 are denied except to the extent reference is made to an easement in the deed from the former owner of the Norden Property, to the Defendants. That deed refers to a survey of record, and to "a thirty (30') foot road easement...."

17. Lacking information as to what is meant by the word "defined", the allegations set forth in paragraph 26 are denied. However, it is admitted that portion of the plat recorded in Plat Book 72 at page 209 does show the easement in question.

18. The allegations set forth in paragraphs 27 and 29 are denied.

19. The allegations set forth in paragraph 30 do reserve an easement, but not one that is "unrestricted", across a portion of the property owned by the Defendants.

20. The allegations set forth in paragraph 31 are denied. Once again, Defendants cannot respond because they do not understand the use of the word "defined" in paragraph 31.

21. The allegations set forth in paragraph 32 are admitted to the extent heretofore explained by the Defendants in this Answer. Once again, the lock was voluntarily changed by the Defendants only because the lock that should have been on the gate had been removed and was

ROA Page 45

missing. In order to secure the gate, the Defendants had no choice but to install a different lock. Efforts were made to contact the Plaintiffs and let them know that the lock had been changed and that a key to the new lock was available. With regard to the placement of a pickup truck, as indicated above, it was not "placed" to block access to the easement in question, but merely to secure the gate in a closed position since the lock earlier installed by the Defendants had been destroyed/removed.

22. The allegations set forth in paragraph 33 are denied. The Defendants did not "voluntarily" change the lock in question nor "voluntarily" park a pickup truck to block access, but only replace the missing lock with a different lock, and park the pickup to secure the gate so that the gate would remain closed.

23. The allegations set forth in paragraph 34 are denied. On all occasions, Defendants made every effort possible to contact the Plaintiffs, and to work with them jointly in terms of closing and locking the gate in question.

24. The allegations set forth in paragraph 35 are denied. On information and belief, the gate in question does not belong to the Plaintiffs, but belongs to both the Plaintiffs and the Defendants even though, possibly, initially installed by the Plaintiffs. That is why at the time Defendants purchased their property from the former owner, they were given a key to the lock with the understanding that the gate belonged to both the Plaintiffs and the Defendants. All other allegations set forth in paragraph 35 are denied.

25. The allegations set forth in paragraph 36 are denied.

26. The allegations set forth in paragraph 37 are denied. Specifically, the easement in question is not an unrestricted easement, and should not be construed to provide for

ROA Page 46

"unrestricted access" to the property owned by the Plaintiffs. Furthermore, neither compensatory nor punitive damages are appropriate under the circumstances.

27. All other allegations set forth by Plaintiffs in their Complaint not heretofore admitted or explained are denied.

FOR ADDITIONAL DEFENSES

28. In addition to the defenses set forth above, Defendants plead one or more of the following affirmative defenses:

(a) Estoppel.

(b) License.

(c) Waiver.

WHEREFORE, having fully answered all allegations set forth by Plaintiffs in their Complaint, Defendants pray that it be dismissed, for the costs of this action, and for such other and further relief as to this Court seems just and proper.

HENDERSON, BRANDT & VIETH, P.A.

By: _____

Matthew A. Henderson
S.C. Bar #03023
Attorneys for Defendants
360 E. Henry Street, Ste. 101
Spartanburg, SC 29302-2646
(864) 583-5099 FAX: (864) 582-2952

Spartanburg, SC
June 13, 2011

2011 JUN 14 AM 10:45

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	C.A. NO.: 2011-CP-42-2079
Manning L. Williams and Eleanor C. Williams,	)	
Plaintiffs,	)	
v.	)	VERIFICATION
Cynthia W. Norden and Raymond A. Norden,	)	
Defendants.	)	

The undersigned hereby certify that they have reviewed the foregoing Answer and the responses contained therein, and that the responses contained therein are true and accurate of their own knowledge, except those matters alleged on information and belief, and as to them, they believe them to be true and correct.

Cynthia W. Norden

Raymond A. Norden

2011 JUN 14 AM 10:45

SWORN to before me this 13th day of June, 2011.

(SEAL)

Notary Public for South Carolina
My Commission Expires: 1/24/17

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Manning L. Williams and
Eleanor C. Williams,
Plaintiffs,

vs.

Cynthia W. Norden and
Raymond A. Norden,
Defendants,

AMENDED
ANSWER AND COUNTERCLAIM

2011-CP-42-2079

CLERK OF COURT
SPARTANBURG COUNTY
M. HOPE CASTLEBERRY
2014 NOV 20 PM 2:17

To: John B. White, Jr., Attorney for the Plaintiffs

COMES NOW the Defendant, in answer to the Complaint filed on behalf of the Plaintiffs and complaining of the Plaintiffs will respectfully show unto this Honorable Court the following.

1. Unless admitted or otherwise explained, all allegations contained in the Complaint are specifically denied and strict proof demanded thereof.
2. As to paragraphs 1 and 2, lacking information, but assuming that the allegations set forth in paragraphs 1 and 2 are correct, they are admitted.
3. Paragraphs 3, 4, 5, 6, 7 and 8 are admitted.
4. The copy of the Complaint served upon the Defendants doe not have an Exhibit B attached. Consequently, the allegations set forth in paragraph 9 are denied.
5. It is admitted, as alleged in paragraph 10, the Williams' property does have an easement over a portion of the Norden property, but only for the purpose of "egress and ingress from public roads..."
6. Paragraph 11 is admitted.
7. Paragraph 12 is denied. Defendants did not intend to deny Plaintiffs access to their property. In fact, the lock that was normally on the gate, a lock to which both Plaintiffs and Defendants had a key, was missing and the gate was open. The Defendants, in order to secure the gate, installed another

lock. Within a short period of time, that lock had been destroyed/removed, and once again the gate the gate had been left open. All other allegations set forth in paragraph 12 to the contrary are denied.

8. Paragraph 13 is denied. When the gate was found by the Defendants to have been left open, on the morning of April 29, 2011, the gate was closed and the lock secured. Within a couple of hours, the gate was again discovered by the Defendants to have been left open, and this time the lock had been removed. Defendants installed a new lock, intending to provide Plaintiffs with a key to the new lock. Thereafter, on the same day, the gate was again discovered in an opened position, and the lock that had been earlier installed to secure the gate was found destroyed. In order to secure the gate, and prevent use of the easement by those who had no right to use the easement, a pick-up truck belonging to the Defendants was parked against the gate, not to deny the Plaintiffs access to the easement, or to their property, but merely to secure the gate since there was no lock available.

9. Paragraphs 14, 15, 16 and 17 are denied.

10. The allegations set forth in paragraph 18 are admitted and denied to the same extent heretofore admitted and denied.

11. Paragraphs 19 and 20 are denied. In fact, the deeds involved clearly limit the easement in question to egress and ingress.

12. Lacking information as to what is meant by the word "defined", the allegations set forth in paragraph 21 are denied. However, it is admitted that portion of the plat recorded in Plat book 72 at pages 208-209 does show the easement in question.

13. Paragraph 22 requires no response by the Defendants. To the extent that it does, it is denied. Once again, Plaintiffs, by virtue of the deed into them, (subject easement) are not granted "unrestricted access" to their property.

14. The allegations incorporated by reference into paragraphs 23 and 28 are admitted and denied to the same extent as heretofore admitted and/or denied.

H. HOPE
2014 NOV 20 PM 2:17
CLERK
SPARTANBURG

15. Paragraph 24 is denied for the same reasons as set forth above.
16. Paragraph 25 is denied except to the extent reference is made to an easement in the deed from the former owner of the Norden Property, to the Defendants. That deed refers to a survey of record, and to "a thirty (30') foot road easement..."
17. Lacking information as to what is meant by the word "defined", the allegations set for in paragraph 26 are denied. However, it is admitted that portion of the Plat recorded in Plat Book 72 at page 209 does show the subject easement.
18. Paragraphs 27 and 29 are denied.
19. The allegations in paragraph 30 do reserve an easement, but not one that is "unrestricted", across a portion of the property owned by the Defendants.
20. Paragraph 31 is denied. Once again, Defendants cannot respond because they do not understand the use of the word "defined" in paragraph 31.
21. The allegations contained in paragraph 32 are admitted to the extent heretofore explained by the Defendants in this answer. Once again, the lock was voluntarily changed by the Defendants only because the lock that should have been on the gate had been removed and was missing. In order to secure the gate, the Defendants had no choice but to install a different lock. Efforts were made to contact the Plaintiffs and let them know that the lock had been changed and that a key to the new lock was available. With regard to the placement of the pick-up truck, as indicated above, it was not placed to block access to the easement in question, but merely to secure the gate in a closed position since the lock installed earlier by the Defendants had been destroyed/removed.
22. The allegations set forth in paragraph 33 are denied. The Defendants sis not "voluntarily" change the lock in question nor "voluntarily" park a pick-up truck to block access, but only replace the missing lock with a different lock, and park the pick-up to secure the gate so that the gate would remain closed.

2014 NOV 20 PM 2:17

23. Paragraph 34 is denied. On all occasions, Defendant made every effort possible to contact the Plaintiffs, and to work with them jointly in terms of closing and locking the gate in question.

24. Paragraph 35 is denied. On information and belief, the gate in question does not belong to the Plaintiffs, but belongs to both the Plaintiffs and the Defendants even though, possibly, initially installed by the Plaintiffs. That is why at the time Defendants purchased their property from the former owner, they were given a key to the lock with the understanding that the gate belonged to both the Plaintiff s and the Defendants. All other allegations contained in paragraph 35 are denied.

25. Paragraph 36 is denied.

26. Paragraph 37 is denied. Specifically, the easement in question is not an unrestricted easement, and should not be construed to provide for "unrestricted access" to the property owned by the Plaintiffs. Furthermore, neither compensatory nor punitive damages are appropriate under these facts and circumstances.

27. All other allegations set forth by Plaintiffs in their Complaint not heretofore admitted or explained are denied.

CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 20 PM 2:17
M. HOPE BLACKWELL

FOR A SECOND DEFENSE BY WAY OF COUNTERCLAIM

TRESPASS

28. The above paragraphs are restated.

29. Defendants are the fee simple owners of property as described above.

30. The Deed to Defendant's property does include an easement to the Plaintiffs for "egress and ingress frm public roads..."

31. As shown on the Plat recorded in lat book 72 at page 209, the subject easement turns off of the Defendants' property to the left, into a wooded area.

32. Plaintiffs do not turn as the Plat indicates when using the subject easement and continue to cross over Defendants' property in violation of the description of the Plat.

33. Plaintiffs trespass on to and over the Defendants' property each and every time they access their property.

42. Defendants are in legal possession of their property.

43. Plaintiffs voluntarily enter on the property of the Defendants each time they access their property.

44. Plaintiffs entry on the property of the Defendants is without the Defendants permission.

45. Defendants have suffered damages as the direct result of the Plaintiffs' trespass.

FOR A THIRD DEFENSE, BY WAY OF COUNTERCLAIM

NUISANCE

46. The above paragraphs are restated.

47. Defendants are the fee simple owners of property in Spartanburg County, South Carolina, as described above.

48. Plaintiffs have an easement across Defendants' property for "egress and ingress from public roads..." for agricultural purposes.

49. Plaintiffs regularly allow others to use the subject easement for hunting and other firearms practices.

50. The individuals, including the Plaintiffs and their son, allowed by the Plaintiff to have access to the subject easement for hunting and other firearms practices are presenting an unreasonable interference with the Defendants quiet enjoyment of their property and the development of their business.

2014 NOV 20 PM 2:17

51. The nuisance caused by the Plaintiffs is the proximate cause of the Defendants inability to develop their business and enjoy their property.

52. Defendants have suffered damages as the direct and proximate cause of the nuisance created by the Plaintiffs.

FOR A FORTH CAUSE OF ACTION, BY WAY OF COUNTERCLAIM

INTERFERENCE WITH CONTRACTUAL RELATIONSHIP

53. The above paragraphs are restated.

54. Defendants are the fee simple owners of property in Spartanburg County, South Carolina, as described above.

55. Defendants entered into a contract d\for the listing for sale of a portion of their property.

56. After the signing of this listing contract, a real estate sign was posted on that portion of the Defendants' property that they intended to sell.

57. Upon information and belief, Plaintiffs' son contacted the listing agent and made threats or statements to the listing agent that led the listing agent to cancel the listing contract and prevent a sale of the property.

58. Defendants have suffered monetary damages as the direct and proximate cause of the Plaintiffs interference with this contractual relationship.

FOR ADDITIONAL DEFENSE

59. In addition to the defenses set forth above, Defendants plead one or more of the following affirmative defenses:

(a) Estoppel.

(b) License.

© Waiver.

WHEREFORE, having fully answered the Plaintiff's Complaint and setting forth claims of their own, the Defendanta prays for an Order of this Court granting the following relief:

CLERK OF COURT SPARTANBURG COUNTY, SC 2014 NOV 03 PM 2:17 H. HOWARD ANDERSON

1. Dismissing Plaintiffs' Complaint in full.

2. For the second defense, Trespass, Defendants seek actual damages in an amount determined by this Court as well as compensatory damages and punitive damages.

3. For the third defense, Nuisance, Defendants seeks actual damages in an amount determined by this Court, punitive damages as well as an injunction, preventing the Plaintiffs from further nuisance.

4. For the forth defense, Interference with contractual relationship, Defendants seek actual damages in an amount determined by this Court and punitive damages.

5. For such other and further relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED

N. Douglas Brannon (SC Bar # 68798)
Turnipseed Brannon & Kennedy
128 Magnolia Street
Spartanburg, South Carolina 29306
(864) 573-0048
Attorney for the Defendants

Dated: 11/19/2014
Spartanburg, South Carolina

FILED IN THE OFFICE OF THE CLERK OF COURT
SPARTANBURG COUNTY, S.C.
2014 NOV 20 PM 2:17

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SPARTANBURG)	Civil Action No.: 2011-CP-42-2079
MANNING L. WILLIAMS and)	
ELEANOR C. WILLIAMS,)	
)	
Plaintiffs,)	
)	
vs.)	**PLAINTIFF'S FIRST AMENDED COMPLAINT**
)	
CYNTHIA W. NORDEN and)	
RAYMOND A. NORDEN,)	
)	
Defendants.)	

M. HOPE BLACKLEY
2015 JAN 15 AM 8:42

Plaintiffs Manning L. Williams and Eleanor C. Williams ("Plaintiffs"), by and through the undersigned counsel, would respectfully show unto this Court the following:

1. Plaintiff Manning L. Williams is a citizen and resident of the County of Spartanburg, State of South Carolina.

2. Plaintiff Eleanor C. Williams is a citizen and resident of the County of Spartanburg, State of South Carolina.

3. Defendant Cynthia W. Norden is, upon information and belief, a citizen and resident of the County of Spartanburg, State of South Carolina.

4. Defendant Raymond A. Norden is, upon information and belief, a citizen and resident of the County of Spartanburg, State of South Carolina.

5. Plaintiffs are the fee simple owners of the following real property (the "Williams Property"):

> All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, northwest of Campobello and on the waters of the South Pacolet River, containing 14.17 acres, more or less, as shown upon the survey and plat made for J. Baker Gibson by Beeson Engineering & Surveying dated October 2, 1975 and recorded in Plat Book 76

ROA Page 56

at page 491 in the R.M.C. Office for Spartanburg County. For a more complete and particular description reference is hereby made to the above referred to plat and the record thereof.
This being a portion of the property which was conveyed to J. Baker Gibson by deed recorded in Deed Book 20-C at page 484 in the R.M.C. Office for Spartanburg County.

6. A true and accurate copy of the Deed giving fee simple ownership of the Williams Property is attached hereto and incorporated herein as Exhibit A.

7. The Deed for the Williams Property also grants Plaintiffs the following easement:

Grantor herein conveys all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed.

8. Defendants are the fee simple owners of the following real property (the "Norden Property"):

All that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing 37.5 acres, more or less, and being shown and designated as Tract 3 upon plat of survey prepared for J. Baker Gibson by W.N. Willis, Engrs., dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209 in the Office of the Register of Deeds for Spartanburg County.
This Property being subject to a thirty (30') foot road easement as shown and designated upon plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209, aforesaid county records.
LESS AND EXCEPT HOWEVER:
All that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing 12.001 acres, more or less, and being shown upon plat of survey prepared for David P. Mullen & Sue A. Mullen by David R. Lavender, PLS, dated May 24, 2006 and recorded in Plat Book 159 at Page 925 in the Office of the Register of Deeds for Spartanburg County.
For a more complete and particular description, reference is hereby made to the above referred to plats and records thereof.
This being a portion of the same property conveyed to Jerry N. Hyder and Loretta B. Hyder by deed from Ruth W. Grossman, dated July 11, 1980 and recorded July 29, 1980 in Deed Book 47-P at Page 39 in the Office of the Register of Deeds for Spartanburg

2015 JAN 15 AM 8:42
M. HOPE BLACKLEY

> County. Jerry N. Hyder subsequently died testate on June 2, 1992 as is evidenced by the records filed in Spartanburg County Probate Case No. 92ES4200719. Reference is hereby made to said probate records and to the Deed of Distribution dated April 21, 1994 and recorded April 22, 1994 in Deed Book 61-G at Page 473, aforesaid county records.
> This conveyance is made subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or on the premises, and to the following:
> 1. There shall be no mobile homes, chicken or hog farms.

9. A true and accurate copy of the Deed giving fee simple ownership of the Norden Property is attached hereto and incorporated herein as Exhibit B.

10. The Williams Property has an easement over the Norden Property according to the above described property descriptions (the "Williams Easement").

11. The Williams Easement is shown on a plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209 in the Office of the Register of Deeds for Spartanburg County. A true and accurate copy of Plat Book 72 at Pages 208-209 is attached hereto and incorporated herein as Exhibit C.

2015 JAN 1 AM 8:42
M. HOPE ASHLEY

12. Upon information and belief, on or about April 29, 2011, Defendants wantonly, willfully, and recklessly blocked and denied access to the Williams Easement by changing the lock on a gate, installed by Plaintiffs, at the entrance to the Williams Easement.

13. Upon information and belief, on or about April 29, 2011, Defendants wantonly, willfully, and recklessly blocked and denied access to the Williams Easement by parking a pick up truck in front of the Williams Easement.

14. Upon information and belief, on or about November 21, 2011, Defendant Cynthia Norden wantonly, willfully, and recklessly blocked and denied access to the Williams Easement by parking a sedan in front of the Williams Easement.

15. Upon information and belief, on or about May 14, 2013, Defendants wantonly, willfully and recklessly blocked and denied access to the Williams Easement by placing rebar and PVC pipes in front of the Williams Easement.

16. Plaintiffs have been unable to access their property as a result of Defendants wantonly, willfully, and recklessly blocking and denying access to the Williams Easement.

17. Plaintiffs have been unable to move farm equipment from their property as a result of Defendants wantonly, willfully, and recklessly blocking and denying access to the Williams Easement.

18. Plaintiffs have been unable to sufficiently plant crops during the ideal planting time as a result of Defendants wantonly, willfully, and recklessly blocking access to the Williams Easement.

19. Plaintiffs have and continue to suffer other damages as a result of Defendants wantonly, willfully, and recklessly blocking access to the Williams Easement.

FOR A FIRST CAUSE OF ACTION
(Quiet Title)

2015 JAN 15 AM 8:42
M. HOPE BLACKLEY

20. Plaintiffs re-allege and reiterate each and every allegation as fully as if repeated verbatim herein.

21. Plaintiff's deed to the Williams Property grants Plaintiffs an unrestricted easement across the Norden Property.

22. Upon information and belief, the deed to the Norden Property reserves an unrestricted easement across the Norden Property to the owners of the Williams Property.

23. This Williams Easement is defined in Plat Book 72 at Pages 208-209, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit C.

ROA Page 59

24. Plaintiffs, therefore, respectfully request this Court to enter an order quieting title to the Williams Easement and to order Defendants to allow Plaintiffs unrestricted access for use of the Williams Easement.

FOR A SECOND CAUSE OF ACTION
(Declaratory Judgment)

25. Plaintiffs re-allege and reiterate each and every allegation as fully as if repeated verbatim herein.

26. Plaintiff's deed to the Williams Property grants Plaintiffs an unrestricted easement across the Norden Property.

27. Upon information and belief, the deed to the Norden Property reserves an unrestricted easement across the Norden Property to the owners of the Williams Property.

28. This Williams Easement is defined in Plat Book 72 at Pages 208-209, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit C.

29. Plaintiffs, therefore, respectfully request this Court to declare Plaintiffs the rightful owners of the Williams Easement and to order Defendants to grant Plaintiffs unrestricted access for use of the Williams Easement.

2015 JAN 15 AM 8:42
M. HOPE BLACKLEY

FOR A THIRD CAUSE OF ACTION
(Trespass)

30. Plaintiffs re-allege and reiterate each and every allegation as fully as if repeated verbatim herein.

31. Plaintiff's deed to the Williams Property grants Plaintiffs an unrestricted easement across the Norden Property.

32. Upon information and belief, the deed to the Norden Property reserves an unrestricted easement across the Norden Property to the owners of the Williams Property.

33. This Williams Easement is defined in Plat Book 72 at Pages 208-209, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit C.

34. Upon information and belief, Defendants voluntarily changed the lock to Plaintiffs' gate and voluntarily placed a pick-up truck to block access to the Williams Easement.

35. Upon information and belief, Plaintiffs have been denied access to the Williams Easement because Defendants voluntarily changed the lock to Plaintiffs' gate and voluntarily parked a pick-up truck to block access to the Williams Easement.

36. Defendants changed the lock to Plaintiffs' gate and parked the pick-up truck blocking the Williams Easement without the permission of Plaintiffs.

37. Defendants, upon information and belief, changed the lock to Plaintiffs' gate and parked the pick-up truck blocking the Williams Easement in wanton, willful, and in reckless disregard of Plaintiffs' rights to use the Williams Easement.

38. Plaintiffs have and continue to suffer damages as a result of the actions of Defendants, including but not limited to the loss of access to farm equipment and the loss of the ability to plant crops during the ideal planting time.

39. Plaintiffs respectfully request this Court to enter an order requiring Defendants to allow Plaintiffs unrestricted access for use of the Williams Easement and awarding Plaintiffs actual and punitive damages.

2015 JAN 15 AM 8:43
M. HOPE BLACKLEY

WHEREFORE, Plaintiffs respectfully request this Court to enter an Order quieting title and declaring Plaintiffs the owners of the Williams Easement, requiring Defendants to allow Plaintiffs unrestricted access to the Williams Easement, awarding actual and punitive damages to Plaintiffs for all causes of action including trespass, awarding Plaintiff's attorneys fees and costs as to all causes of action, and for such other relief as this Court deems necessary and just.

HARRISON, WHITE, SMITH, & COGGINS, P.C.
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Post Office Box 3547
Spartanburg, South Carolina 29302
(864) 585-5100
(864) 591-0491 facsimile

John B. White, Jr. (S.C. Bar No.: 5996)

Attorneys for Plaintiffs

January 14, 2015
Spartanburg, South Carolina

SPARTANBURG COUNTY
2015 JAN 15 AM 8:43
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS
Manning L. Williams and Eleanor C. Williams, Plaintiffs, vs. Cynthia W. Norden and Raymond A. Norden, Defendants.	)	ANSWER TO FIRST AMENDED COMPLAINT AND COUNTERCLAIM 2011-CP-42-2079

2015 JAN 28 PM 3:01
M. HOPE BLACKLEY

COMES NOW the Defendants, in answer to the First Amended Complaint filed on behalf of the Plaintiffs and complaining of the Plaintiffs will respectfully show unto this Honorable Court the following:

1. Unless admitted or otherwise explained, all allegations contained in the First Amended Complaint are specifically denied and strict proof demanded thereof.

2. As to Paragraphs 1 and 2, lacking information, but assuming that the allegations set forth are correct, they are admitted.

3. Paragraphs 3, 4, 5, 6, 7, 8 and 9 are admitted.

4. It is admitted, as alleged in Paragraph 10, the Williams' property does have an easement over a portion of the Norden property, but only for the purpose of "egress and ingress from public roads ...".

5. Paragraph 11 is hereby admitted.

6. Paragraph 12 is denied. Defendants did not intend to deny Plaintiffs access to their property. In fact, the lock that we normally on the gate, a lock to which both Plaintiffs and

Defendants had a key, was missing and the gate was open. The Defendants, in order to secure the gate, installed another lock. Within a short period of time, that lock had been destroyed/removed, and once again the gate had been left open. All other allegations set forth in Paragraph 12 to the contrary are denied.

7. Paragraph 13 is denied. When the gate was found by the Defendants to have been left open on the morning of April 29, 2011, the gate was closed and the lock secured. Within a couple of hours, the gate was again discovered by the Defendants to have been left open, and this time the lock had been removed. Defendants installed a new lock, intending to provide Plaintiffs with a key to the new lock. Thereafter, on the same day, the gate was again discovered in an opened position, and the lock that had been earlier installed to secure the gate was found destroyed. In order to secure the gate, and prevent use of the easement by those who had no right to use the easement, a pick-up truck belonging to the Defendants was parked against the gate, not to deny the Plaintiffs access to the easement, or to their property, but merely to secure the gate since there was no lock available.

8. Paragraphs 14, 15, 16, 17, 18 and 19 are denied.

9. The allegations set forth in Paragraph 20 are admitted and denied to the same extent heretofore admitted and denied.

10. Paragraphs 21 and 22 are denied. In fact, the deeds involved clearly limit the easement in question to egress and ingress.

11. Lacking information as to what is meat by the word "defined", the allegations set forth in Paragraph 23 are denied. However, it is admitted that portion of the plat recorded in Plat Book 72 at Pages 208-209 does show the easement in question.

2015 JAN 28 PM 3:0
HOPE ACKLEY

12. Paragraph 24 requires no response by the Defendants. To the extent that it does, it is denied. Once again, Plaintiff, by virtue of the deed unto them, (subject easement) are not granted "unrestricted access" to their property.

13. The allegations incorporated by reference into Paragraphs 25 through 29 are admitted and denied to the same extent as heretofore admitted and/or denied.

14. Paragraph 26 is denied for the same reasons as set forth above.

15. Paragraph 27 is denied except to the extent reference is made to an easement in the deed from the former owner of the Norden Property, to the Defendants. That deed refers to a survey of record, and to "a thirty (30') foot road easement...".

16. Lacking information as to what is meant by the word "defined", the allegations set forth in Paragraph 28 are denied. However, it is admitted that a portion of the plat recorded in Plat Book 72 at Page 209 does show the subject easement.

17. Paragraphs 29 and 31 are denied.

18. The allegations in Paragraph 32 do reserve an easement, but not one that is "unrestricted", across a portion of the property owned by the Defendants.

19. Paragraph 33 is admitted.

20. The allegations contained in Paragraph 34 are admitted to the extent heretofore explained by the Defendants in this Answer. Once again, the lock was voluntarily changed by the Defendants only because the lock that should have been on the gate had been removed and was missing. In order to secure the gate, the Defendants had no choice but to install a different lock. Efforts were made to contact the Plaintiffs and let them know that the lock had been changed and that a key to the new lock was available. With regard to the placement of the pick-

2015 JAN 28 PM 3:01
H. HOPE BLACKLEY

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up truck, as indicated above, it was not placed to block access to the easement in question, but merely to secure the gate in a closed position since the lock installed earlier by the Defendants had been destroyed/removed.

21. The allegations set forth in Paragraph 35 are denied. The Defendants did not "voluntarily" change the lock in question nor "voluntarily" park a pick-up truck to block access, but only replace the missing lock with a different lock, and park the pick-up the secure the gate so that the gate would remain closed.

22. Paragraph 36 is denied. On all occasions, Defendants made every effort possible to contact the Plaintiffs and to work with them jointly in terms of closing and locking the gate in question.

23. Paragraph 37 is denied. On information and belief, the gate in question does not belong to the Plaintiffs, but belongs to both the Plaintiffs and the Defendants even though, possibly, initially installed by the Plaintiffs. That is why at the time Defendants purchased their property from the former owner, they were given a key to the lock with the understanding that the gate belonged to both the Plaintiffs and the Defendants. All other allegations contained in Paragraph 37 are denied.

2015 JAN 28 PM 3:51
M. HOPE CLARKE

24. Paragraph 38 is denied.

25. Paragraph 39 is denied. Specifically, the easement in question is not an unrestricted easement, and should not be construed to provide for "unrestricted access" to the property owned by the Plaintiffs. Furthermore, neither compensatory nor punitive damages are appropriate under these facts and circumstances.

ROA Page 66

26. All other allegations set forth by Plaintiffs in their First Amended Complaint not heretofore admitted or explained are denied.

FOR A SECOND DEFENSE BY WAY OF COUNTERCLAIM
(TRESPASS)

27. The above Paragraphs are restated.

28. Defendants are the fee simple owners of property as described above.

29. The Deed to Defendants' property does include an easement to the Plaintiffs for "egress and ingress from public roads..."

30. As shown on the plat recorded in Plat Book 72 at Page 209, the subject easement turns off of the Defendants' property to the left, into a wooded area.

31. Plaintiffs do not turn as the plat indicates when using the subject easement and continue to cross over Defendants' property in violation of the description of the plat.

32. Plaintiffs trespass on to and over the Defendants' property each and every time they access their property.

33. Defendants are in legal possession of their property.

34. Plaintiffs voluntarily enter on the property of the Defendants each time they access their property.

2015 JAN 23 PM 3:01
M. HOPE BLACKLEY

35. Plaintiffs entry on the property of the Defendants is without the Defendants permission.

36. Defendants have suffered damages as the direct result of the Plaintiffs' trespass.

FOR A THIRD DEFENSE, BY WAY OF COUNTERCLAIM
(NUISANCE)

37. The above Paragraphs are restated.

38. Defendants are the fee simple owners of property in Spartanburg County, South Carolina as described above.

39. Plaintiffs have an easement across Defendants' property for "egress and ingress from public roads..." for agricultural purposes.

40. Plaintiffs regularly allow others to use the subject easement for hunting and other firearms practices.

41. The individuals, including the Plaintiffs and their son, allowed by the Plaintiffs to have access to the subject easement for hunting and other firearms practices are presenting an unreasonable interference with the Defendants quiet enjoyment of their property and the development of their business.

42. The nuisance caused by the Plaintiffs is the proximate cause of the Defendants inability to develop their business and enjoy their property.

43. Defendants have suffered damages as the direct and proximate cause of the nuisance created by the Plaintiffs.

FOR A FOURTH CASE OF ACTION, BY WAY OF COUNTERCLAIM
(INTERFERENCE WITH CONTRACTUAL RELATIONSHIP)

2015 JAN 28 PM 3:01
M. HOPE BLACKLEY

44. The above Paragraphs are restated.

45. Defendants are the fee simple owners of property in Spartanburg County, South Carolina, as described above.

46. Defendants entered into a contract for the listing for sale of a portion of their property.

47. After the signing of this listing contract, a real estate sign was posted on that portion of the Defendants' property that they intended to sell.

48. Upon information and belief, Plaintiffs' son contacted the listing agent and made threats or statements to the listing agent that leg the listing agent to cancel the listing contract and prevent a sale of the property.

49. Defendants have suffered monetary damages as the direct and proximate cause of the Plaintiffs interference with this contractual relationship.

FOR ADDITIONAL DEFENSE

50. In addition to the defenses set forth above, Defendants plead one or more of the following affirmative defenses:

(a) Estoppel.

(b) License.

(c) Waiver.

WHEREFORE, having fully answered the Plaintiffs' First Amended Complaint and setting forth claims of their own, the Defendants prays for an Order of this Court granting the following relief.

2015 JAN 28 PM 3:01
N. HOPE BLACKLEY

1. Dismissing Plaintiffs' First Amended Complaint in full.

2. For the second defense, Trespass, the Defendants seek actual damages in an amount determined by this Court as well as compensatory damages and punitive damages.

3. For the third defense, Nuisance, Defendants seeks actual damages in an amount determined by this Court, punitive damages as well as an injunction preventing the Plaintiffs from further nuisance.

ROA Page 69

4. For the fourth defense, Interference With Contractual Relationship, Defendants seek actual damages in an amount determined by this Court and punitive damages.

5. For such other and further relief as the Court may deem just and proper.

KENNEDY & BRANNON, PA

By: _____

N. Douglas Brannon
PO Box 3254
Spartanburg, SC 29304
(864)707-2020
(864)707-7030

Spartanburg, SC

January 24, 2015

2015 JAN 28 PM 3:01
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SPARTANBURG)	Civil Action No.:2011-CP-42-2079
MANNING L. WILLIAMS and ELEANOR C. WILLIAMS,)	**MANNING L. WILLIAMS AND ELEANOR C. WILLIAMS' REPLY TO AMENDED COUNTERCLAIM OF DEFENDANTS**
Plaintiffs,)	
vs.)	
CYNTHIA W. NORDEN and RAYMOND A. NORDEN,)	
Defendants.)	

CLERK OF COURT SPARTANBURG COUNTY
2015 JAN 15 AM 8:42
HOPE BLACKLEY

Plaintiffs Manning L. Williams and Eleanor C. Williams (collectively "Plaintiffs" or the "Williams"), by and through the undersigned counsel, hereby answer the Counterclaim of Defendants Cynthia W. Norden ("Ms. Norden") and Raymond A. Norden ("Mr. Norden") (collectively the "Nordens") as follows:

1. Paragraphs 1 through 27 require no response from the Williams. To the extent a response may be required, the Williams lack knowledge or information sufficient to form a belief as to the truth of the allegations, and those allegations are, therefore, denied.

2. The allegations contained in Paragraph 28 are denied.

3. The allegations contained in Paragraph 29 are denied.

4. The allegations contained in Paragraph 30 are admitted to the extent that they are consistent with the public record.

5. The allegations contained in Paragraph 31 are admitted to the extent that they consistent with the public record. To the extent that the allegations of paragraph 31 are inconsistent with the recorded deed, the allegations are denied.

6. The allegations contained in Paragraph 32 are denied.

ROA Page 71

7. The allegations contained in Paragraph 33 are denied.

8. Paragraphs 34-41 in Defendant's Amended Answer and Counterclaim are missing and therefore require no response.

9. The allegations contained in Paragraph 42 are denied.

10. The allegations contained in Paragraph 43 are denied.

11. The allegations contained in Paragraph 44 are denied.

12. The allegations contained in Paragraph 45 are denied.

13. The allegations contained in Paragraph 46 are denied.

14. The allegations contained in Paragraph 47 are admitted to the extent that they are consistent with the public record. To the extent that these allegations are not consistent with the public record, they are denied.

15. The allegations contained in Paragraph 48 are denied.

16. The allegations contained in Paragraph 49 are denied.

17. The allegations contained in Paragraph 50 are denied.

18. The allegations contained in Paragraph 51 are denied.

19. The allegations contained in Paragraph 52 are denied.

20. The allegations contained in Paragraph 53 are denied.

21. The allegations contained in Paragraph 54 are admitted to the extent that they are consistent with the public record. To the extent that these allegations are not consistent with the public record, they are denied.

22. As to the allegations contained in Paragraph 55, the Williams are without sufficient information or knowledge to either admit or deny the allegations and as such, they are denied.

CLERK OF COURT
SPARTANBURG COUNTY
2015 JAN 15 AM 8:42
M. HOPE BLACKLEY

23. As to the allegations contained in Paragraph 56, the Williams are without sufficient knowledge to either admit or deny the allegations and as such, they are denied.

24. The allegations contained in Paragraph 57 are denied.

25. The allegations contained in Paragraph 58 are denied.

26. The allegations contained in Paragraph 59 are denied.

27. The Prayer for relief is denied. The Williams deny that the Defendants are entitled to what they seek.

FOR A SECOND DEFENSE

28. In addition to the defenses above, Plaintiffs plead one or more of the following affirmative defenses:

a. Estoppel

b. Waiver

c. Laches

2015 JAN 15 AM 8:42
M. HOPE BLACKLEY

FOR A THIRD DEFENSE

29. The Williams allege, upon information and belief, that the Defendant's Counterclaims of Trespass, Nuisance, and Interference with Contractual Relationship are barred by the applicable Statutes of Limitation and as such, should be dismissed.

FOR A FOURTH DEFENSE

30. The Williams allege that because the Norden's Amended Answer and Counterclaim is couched in conclusory terms, the Williams cannot fully anticipate all affirmative defenses that may be applicable to this action. Accordingly, the Williams reserve the right to assert additional affirmative defenses, if and to the extent that such affirmative defenses are applicable.

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John B. White, Jr. (S.C. Bar No.: 5996)

Attorneys for Manning L. Williams and Eleanor C. Williams

January 14, 2015
Spartanburg, South Carolina

2015 JAN 15 AM 8:42
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	Civil Action No.:2011-CP-42-2079
MANNING L. WILLIAMS and ELEANOR C. WILLIAMS,	)	**PLAINTIFFS' REPLY TO DEFENDANTS' COUNTERCLAIMS DATED JANUARY 26, 2015**
Plaintiffs,	)	
vs.	)	
CYNTHIA W. NORDEN and RAYMOND A. NORDEN,	)	
Defendants.	)	

2015 FEB 16 PM 2:38

Plaintiffs Manning L. Williams and Eleanor C. Williams (collectively "Plaintiffs" or the "Williams"), by and through the undersigned counsel, hereby answer the Counterclaim of Defendants Cynthia W. Norden ("Ms. Norden") and Raymond A. Norden ("Mr. Norden") (collectively the "Nordens") as follows:

1. Paragraphs 1 through 26 require no response from the Williams. To the extent a response may be required, the Williams lack knowledge or information sufficient to form a belief as to the truth of the allegations, and those allegations are, therefore, denied.

2. The allegations contained in Paragraph 27 are denied.

3. The allegations contained in Paragraph 28 are denied.

4. The allegations contained in Paragraph 29 are admitted to the extent that they are consistent with the public record.

5. The allegations contained in Paragraph 30 are admitted to the extent that they consistent with the public record. To the extent that the allegations of paragraph 31 are inconsistent with the recorded deed, the allegations are denied.

6. The allegations contained in Paragraph 31 are denied.

ROA Page 75

7. The allegations contained in Paragraph 32 are denied.

8. The allegations contained in Paragraph 33 are denied.

9. The allegations contained in Paragraph 34 are denied.

10. The allegations contained in Paragraph 35 are denied.

11. The allegations contained in Paragraph 36 are denied.

12. The allegations contained in Paragraph 37 are denied.

13. The allegations contained in Paragraph 38 are admitted to the extent that they are consistent with the public record. To the extent that these allegations are not consistent with the public record, they are denied.

14. The allegations contained in Paragraph 39 are denied.

15. The allegations contained in Paragraph 40 are denied.

16. The allegations contained in Paragraph 41 are denied.

17. The allegations contained in Paragraph 42 are denied.

18. The allegations contained in Paragraph 43 are denied.

19. The allegations contained in Paragraph 44 are denied.

20. The allegations contained in Paragraph 45 are admitted to the extent that they are consistent with the public record. To the extent that these allegations are not consistent with the public record, they are denied.

21. As to the allegations contained in Paragraph 46, the Williams are without sufficient information or knowledge to either admit or deny the allegations and as such, they are denied.

22. As to the allegations contained in Paragraph 47, the Williams are without sufficient knowledge to either admit or deny the allegations and as such, they are denied.

2015 FEB 16 PM 2:38

ROA Page 76

23. The allegations contained in Paragraph 48 are denied.

24. The allegations contained in Paragraph 49 are denied.

25. The allegations contained in Paragraph 50 are denied.

26. The Prayer for relief is denied. The Williams deny that the Defendants are entitled to what they seek.

FOR A SECOND DEFENSE

27. In addition to the defenses above, Plaintiffs plead one or more of the following affirmative defenses:

a. Estoppel

b. Waiver

c. Laches

2015 FEB 16 PM 2:38

FOR A THIRD DEFENSE

28. The Williams allege, upon information and belief, that the Defendant's Counterclaims of Trespass, Nuisance, and Interference with Contractual Relationship are barred by the applicable Statutes of Limitation and as such, should be dismissed.

FOR A FOURTH DEFENSE

29. The Williams allege that because the Norden's Amended Answer and Counterclaim is couched in conclusory terms, the Williams cannot fully anticipate all affirmative defenses that may be applicable to this action. Accordingly, the Williams reserve the right to assert additional affirmative defenses, if and to the extent that such affirmative defenses are applicable.

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John B. White, Jr. (S.C. Bar No.: 5996)

Attorneys for Manning L. Williams and Eleanor C. Williams

January 16, 2015
Spartanburg, South Carolina

2015 FEB 16 PM 2:38

ROA Page 78

STATE OF SOUTH CAROLINA	**IN THE COURT OF COMMON PLEAS**
COUNTY OF SPARTANBURG	Civil Action No.:2011-CP-42-2079
Manning Williams and Eleanor Williams, Plaintiffs, -vs- Cynthia Norden and Raymond Norden, Defendants.	**MOTION FOR SUMMARY JUDGMENT**

TO: N. DOUGLAS BRANNON, ATTORNEY FOR CYNTHIA NORDEN AND RAYMOND NORDEN, DEFENDANTS:

PLEASE TAKE NOTICE that the Plaintiffs, Manning and Eleanor Williams, by and through their undersigned attorneys, will move before the presiding judge of the Court of Common Pleas of Spartanburg County, at the Spartanburg County Courthouse, Spartanburg, South Carolina, on the tenth day after service hereof, or as soon thereafter as counsel may be heard, for an order granting summary judgment, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, on the grounds that there is no genuine issue of material fact, and Plaintiffs are entitled to summary judgment regarding Defendants counterclaims because they are untimely filed and therefore are barred by the South Carolina Statute of Limitations, S.C. Code Ann. § 15-3-530.

The grounds for this motion are based upon the pleadings, depositions, affidavits, applicable law, and a Memorandum in Support which will be submitted subsequently prior to the hearing on the motion.

2011 DEC 16 PM 3:29
M. HEATH BLACKLEY

Signature Page to Follow

HARRISON, WHITE, SMITH & COGGINS, PC

By: _____

John B. White, Jr., S.C. Bar No. 5996
Ryan F. McCarty, S.C. Bar No. 74198
PO Box 3547
Spartanburg, SC 29304
(864) 585-5100 Telephone
(864) 591-0491 Fax

December 16, 2015
Spartanburg, South Carolina

In accordance with Rule 11 (SCRCP), I certify that I am not required to consult with opposing counsel prior to filing the motion.

_____

John B. White, Jr.
Ryan F. McCarty

2015 DEC 16 PM 3:29
M. HOPE BLACKLEY

ELECTRONICALLY FILED - 2019 Jan 14 12:09 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
Manning L. Williams and Eleanor C. Williams,	)	
Plaintiff(s),	)	
vs.	)	**MOTION TO RECONSIDER**
	)	2011-CP-42-02079
Cynthia W. Norden and Raymond A. Norden,	)	
Defendant(s)	)	

YOU WILL PLEASE TAKE NOTICE that on the _____ day of _____, 2019 at _____ ____m, or as soon as this matter can be heard, Defendants will move before the Honorable J. Derham Cole, of the Court of Common Pleas, Seventh Judicial Circuit at the Spartanburg County Courthouse in Spartanburg, South Carolina, for an order amending or changing the Order issued on January 13, 2019 by the Honorable J. Derham Cole, by way of reconsideration (Rule 59E of the South Carolina Rules of Civil Procedure), in that the Order does not contemplate that the Plaintiffs for years traveled off of the designated easement against the wishes and demands of the Defendants, causing damage to the Defendants property and causing the Defendants monetary damages in the form of lost business revenues.

KENNEDY & BRANNON, LLC

By: s/N. Douglas Brannon

N. Douglas Brannon
PO Box 3254
Spartanburg, SC 29304
(864)707-2020
(864)707-7030

Spartanburg, SC

January 14, 2019

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2011-CP-42-02079
COUNTY OF SPARTANBURG	)	
	)	
	)	
	)	
	)	
	)	
MANNING L. WILLIAMS and	)	
ELEANOR C. WILLIAMS,	)	
PLAINTIFFS,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CYNTHIA W. NORDEN and	)	
RAYMOND A. NORDEN,	)	
DEFENDANTS.	)	
	)	

October 10, 2016
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, JUDGE

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

JOHN BELTON WHITE, JR., ESQ.
Attorney for the Plaintiff

N. DOUGLAS BRANNON, ESQ.
Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

INDEX

PAGE

Certificate of Reporter 36

EXHIBITS

NO	DESCRIPTION	ID	EVD

There were no exhibits introduced.

PROCEEDINGS

(WHEREUPON, proceedings commenced at 2:56 p.m.)

THE COURT: All right. This is Williams vs. Norden. This is plaintiff's motion for summary judgment as to counterclaims?

MR. WHITE: That's correct, Your Honor.

THE COURT: Okay. Mr. White?

MR. WHITE: Your Honor, may it please the Court. This is a motion for summary judgment on the counterclaim for the Norden's claim of trespass, nuisance, intentional and interference with contractual relations.

This case was initiated, Your Honor, over a piece of property that Mr. and Mrs. Williams own in the Campobello area. Their property is off Gibson Road. It's landlocked, and the only way to their 14 or so acres to the rear is by an easement.

The 14 acres, Your Honor, was purchased by the Williams in 1975. The defendants in this case bought their land from the Hyders in 2007. Both properties were subject to the easement. In your materials under Exhibit No. 5, you'll see the easement listed on plat book 72, pages 208 and 209. As the Court will note, this is not a metes and bounds easement.

In 1985, before they purchased the property in 2007,

the Williams and a co-neighbor installed a gate on the property that they needed to keep people from dumping trash along the easement. Once the Nordens purchased the property, they were given a key to the gate, and everybody had a key to the gate.

This litigation was started because the Nordens were blocking the easement. They took the position that when people entered the easement, that they had a legal duty to pull the gate back and lock the gate no matter how long they were going to be down on the 14 acres, which is used by farmland.

To give the Court a little procedural history, on May 10, 2011, we filed a lawsuit to quiet title and asked for a declaratory judgment regarding our client's right over the particular easement. We also, and I think it's interesting to note at that time, we alleged trespass, and we allege that the Nordens had unwarranted interference and obstructed our use of the easement. And then we moved for a temporary restraining order.

Now, Mr. Brannon was not a lawyer for the first several years of this case. He came in later, and in coming in later, is kind of where we are today in regards to the counterclaim and some of the reasons for our motion for summary judgment.

They filed an answer back in '11 by another lawyer.

They admitted the easement. They deny they intended to block the easement. And at that time, they asserted no affirmative defenses, and, in fact, in the discovery that was filed that they answered at that time with another firm, they admitted the easement. They said they claimed no damages, and they took no affirmative action against our client. They merely filed an answer.

On July 29, 2011, we were before the Court, and the Court ruled and enjoined them from blocking the access and found that, in fact, that they had blocked the access on April 29, 2011, June 2, 2011. The Court concluded that the status quo was necessary. There had been open access to this easement, and based on the language in both deeds and based on the plats, that they should be enjoined and restrained.

In July of 2011, we exchanged discovery. We've taken two sets of depositions. And on November 20, 2014, more than three years later, they filed an amended answer and a counterclaim. And in the amended answer and counterclaim at that time is when they alleged trespass, nuisance and interference of contractual relations.

We filed an amended complaint on January 15, 2015, and we added attorney fees, and they file the same amended answer and counterclaim.

This case, Your Honor, in the information that we've

given you, we have the affidavits under Tab 1 and 2 of Mr. and Ms. Williams. We have a copy of the deed where they received the property in 1975 that sets forth a 30-foot easement of ingress and egress. We have a copy of the Norden's deed from Ms. Hyder, and under Exhibit A, they bought it subject to the easement. We also have a copy of the plat that shows a meandering line of easement off of Gibson Road back to the rear of a 14-acre landlocked track. And then we have, as a part of the information that we provided to you, excerpts. We can provide you the entire depositions of Mr. Norden and Mrs. Norden. We've also given you, under Exhibit No. 9, a copy of the gate off Gibson Road. We also have a picture that occurred sometime in 2011 where they actually pull their truck up and block the road that caused the judgment. And then we have ultimate continuing problems along the easement line that are shown in Exhibits 11, 12 and 13.

Behind Exhibit No. 13 is an e-mail that talked about a listing agreement that was the interference of contractual relations, and I'll get to in a moment, but that happened August 7, 2009, through October of 2009. And even from their testimony, that was not the Williams. That was their son. Their son's 56 years old. Never been a party to this action, never been a cross-claim.

And that's the nuisance that they claim in regards to the cabin.

In their complaint, interesting enough, under paragraphs 40 -- or in their answer and counterclaim in their original complaint under paragraphs 40 and 41, they claim that the nuisance was these fine folks allowing people to come in and go hunting on the property. It's their property, and that's addressed in our information.

In going to the issue of the trespass, number one, Your Honor, and it's interesting in this case, it's not just our affidavits. The central basis for our motion for summary judgment in this case are excerpts from the depositions of the Nordens that have been taken on two different dates at two different times. And we used their testimony to support our action for trespass and the dismissal trespass.

Number one, we think trespass is barred because of the three-year statute of limitations. In their depositions, they said they had knowledge of it, they knew that it was there when they bought the property in 2007. We filed the action in 2011. We filed an action for trespass, they filed for no affirmative relief, and they knew it when they had the property in 2007.

The Hedgepath case, I think, is interesting in this respective because they say even if there was ongoing

trespass, which might be argued by my opponent in this case, says it doesn't matter. It's when you initially knew that there was a potential as to who had access, where it was. That's not a question of fact. And they didn't seek any -- they didn't seek any remedy from the Court in regards to a counterclaim at that time.

Secondly, Your Honor, we think it's barred by the ten-year statute of limitations, which one of my partners can kind of say is that's kind of a statute of repose that I don't remember from law school in 1975. But if she says that, it sounds good.

So what I would say to the Court there is they've invested in this property since 1985. No one has ever questioned the location of the easement and, in fact, in their pictures and our pictures, you can see that there is a well-traveled road that's been well traveled for more than 30 years, this purported easement. We have not conceded, nor is there any affidavits from any surveyor, even though it might be alluded to in their affidavit and a contractor about some architectural plans that have not been filed with the Court, that we've conceded that we don't have a prescriptive easement over the area that we say, but we do and we do not -- we do not give up. We do not give up that argument.

We also feel that the trespass should be dismissed

on the position of an expressed easement, prescriptive easement, and then equitable doctrines of laches and lathrop [phonetic]. In regards to that, we've covered the cases in our brief. I think the Hedgepath case is controlling. The defendants knew or should have known of their claim for more than three years. Mr. Norden testified that he and his wife had lived there since March of 2007, and they know they bought the property subject to an easement. I'm reading from excerpts of their depositions that are shown in our brief. The deed to their property said there was a 30-foot easement. They had copies of the plat. And significantly, Mr. Norden said in his deposition in 2012, he had a feeling that the plaintiffs use of the easement was not in the exact route.

We asked him, Well, did you do anything in 2007?

No.

Did you do anything in 2008?

No.

Did you do anything in 2009?

No.

Did you do anything in 2011?

No.

Four years, and then they bring this action in 2014. So I think it's undisputed that they are beyond the

statute of limitations just on the three-year statute of limitations. And I think that the Court could find that we're entitled to summary judgment on any of the other positions that we take that are shown in the brief that I know that the Court will review.

Now, the next thing they claim in their action is an action for nuisance. And this requires the land owner to demonstrate that the defendant has reasonably interfered with ownership and possession of the land. Nuisance is the substantial and unreasonable interference with claimant's use and enjoyment.

In their complaint, they say that the plaintiffs regularly allow others to use the easement for hunting and firearm practices. In their depositions, there is no evidence of any personal knowledge by these two fine people that our clients let anybody go hunting down there, gave them permission to go down there or anything else.

This case is that they have sued when they -- when we brought the action for quiet title, the other complaints that they have are not against the Williams. It's against other people that they should have cross-claimed against and they should have cross-claimed against before Mr. Brannon got in the case. That's simply where we are.

So what they do is they move from hunting, and then in the affidavit that they give the Court today, they say in the affidavit that our clients had her arrested twice. Had her arrested twice. Totally a fabrication. And that's part of the nuisance, that we had this nice lady arrested twice.

She was arrested by authorities one time. We don't have -- they didn't attach the incident report and didn't have a thing to do with the Williams signing anything. And then she was arrested by a recent daughter-in-law when she alleges that Ms. Norden tried to run over her with a riding lawnmower that we didn't have a thing to do with, didn't even know that Kim Williams was down there.

So what they're trying to do is they're trying to bring everything against these people who are only trying to assert their rights over property. It hadn't been pled. It's part of an affidavit to bring to the Court today. It's not a material issue of fact. It is not in their affidavit, as the Court will look and see.

You know, their affidavits are full of conjecture, hearsay and unsupported by anything that will even allow them to testify that at trial. And this is -- these are just causes of action that are not a part of this, and should not be a part of it, and there are no material facts.

They haven't pled agency. They haven't pled any of the other things that would even attach other people to this case.

And what they do is they show you a picture of some people standing out on Gibson Road. When they blocked the road, there was some people that came out on the road, and they had a protest about them blocking the road. And when they had a protest of them blocking the road, WSPA came out there and the Landrum leader came out there. They took pictures. They were standing in the road. They had every right in the world to be standing in the public road. They have a First Amendment right to protest that, and they're using that as a picture to say that they've created a nuisance. It's just not -- it's just not where it needs to be.

And then in regards to the hunting and the fishing, in their deposition, they said they had every right as long as they follow the game laws. And they've called the game wardens on the Williams, and the game wardens have come out there. I think, in fact, the game warden was one of the ones that made one of the original arrest warrants against her. It wasn't them. It was DNR. And it's well established, even though we don't say we've let anybody in there and they can't prove we let anybody go in there hunting, that they have a right to do that.

In regards to the interference of contractual relations, in their affidavit, they make mention of their Realtor. And here's what happened. These nice folks come up from Florida to retire or do horse business or whatever they're going to be doing in Campobello. And they have a Realtor. And the Realtor says, Oh, yeah, there's an easement down there. It's just for farm. Well, that's not true. So they bought the property from the Hyders. The Hyders told them that, and the other people told them that, and they bought the property. They ought to be suing, but they're past the statute of limitations on those people because they didn't bring the action soon enough. They shouldn't be suing us because we're not privity to the contract. It's admitted to in their affidavit.

The other thing they say is this. You've interfered with our contractual relations. They have a nice little cabin in the back of their property that they were going to try to section a portion off and sell. And in the information provided, that happened in 2009, they say that their son called the Realtor, the 56-year-old son, the one that doesn't have any title to this property, and he told the Realtor something. It's all hearsay. There's not been one affidavit from the Realtor saying who called, what he said, when they said they said it.

There's not one affidavit to any survey. There's not one affidavit, just any architectural drawing of a polo field because that's what they say we're going to put down there, a polo field. Polo -- polo in Campobello.

They're nice people. People have dreams. Polo in Campobello is not going to work.

MR. BRANNON: Objection.

MR. WHITE: They put the polo in their affidavit. I have an opportunity to argue that.

MR. BRANNON: But you have a basis for saying it's not going to work?

MR. WHITE: Well, okay. I'll withdraw it's not going to work. I draw the question mark. Polo in Campobello.

Now, so what they say is because allegedly their son, which they don't have personal knowledge of, we don't have an affidavit from anybody, it's hearsay, it's not going to get in in trial, that that's interference of contractual relations.

We don't bring summary judgments just to bring motions for summary judgment, Your Honor. In this particular case, not under the time period and not under the pen of Mr. Brannon, these actions fall way short of the law, the facts, their testimony and more, particularly, the statute of limitations. And that's why

the Court should grant our motion for summary judgment. Thank you.

THE COURT: Mr. Brannon?

MR. BRANNON: Thank you, Your Honor.

Summary judgment is a drastic measure, and I believe the case law states that if the nonmoving party can show one scintilla of evidence, then the case must go forward to the jury or to the Court.

Your Honor, my clients did buy this property in 2007, and they don't deny that there is an easement. Your Honor, I spent this past weekend looking at all of the case law in South Carolina about easements and gates. It's wonderful reading. The problem is, that all of the case law deals with the holder of the servient estate putting up the gate. And there's tons of case law about if you do that, you've got to show that it isn't an overly burdensome problem for the dominant estate holder. If it isn't, then you've got to give them a key or, you know, a garage door opener or whatever it is so that he can move freely back and forth on his easement.

In this case, though, Your Honor, it's the dominant estate who put the gate over the servient estate 20 years ago, 30 years ago. But what's really interesting, Your Honor, is my clients, who own the property, don't have a key to the gate. They don't have a key to the lock.

Now, there were times in the past when they did have a key, but they don't have a key today.

Your Honor, if you look at the information that I provided you, I give you in Exhibit A a copy of the plat. I give you in Exhibit B a copy of -- a picture of the gate.

And then, Your Honor, I give you in Exhibit C something that's even more interesting, Your Honor. It goes both to the nuisance and to the trespass. You're going to see a post that was cemented into my client's property. It's not on the easement. It was cemented into my client's property by that 56-year-old son that Mr. White keeps talking about. And the purpose of that post in Exhibit D -- Exhibit C is that's how they lock the gate back when they want to go into their 14 acres. They unlock it from its locked gate here at the road, and they swing it back to that post, and they lock it back there so that my clients can't close the gate.

Your Honor, my clients moved here from Florida, as Mr. White told you. They came here, they spent a large amount of money not only to buy this property, but to develop it as a horse farm, Your Honor. They did intend to, in fact, build a polo field and a covered riding ring. But before they got there, Your Honor, they built a barn and some pasture on their property. It was a

process. They were in the process from 2007 until this action began, got filed.

Your Honor, all of the case law says if you are the holder of the servient estate and you put the gate there, you have an obligation to make sure that the dominant holder, the holder of the easement, has access to its property. Your Honor, the converse has to be true. If you are the holder of the dominant estate and you're the one who put the gate there -- and they tell you they put it there in their affidavit in their motion today -- if you're the one who put it there, then you have an obligation to make sure that it stays closed for the protection that you alleged you needed the gate for in the first place. They put the gate there because they wanted to keep others off of that easement and to keep them from dumping. Now it's them who refuses to lock the gate. All my clients want to do is keep their gate locked. Your Honor, that has nothing to do with the trespass other than that post in Exhibit C.

If you now look at Exhibit A, the plat, Your Honor, if you look, it says "easement" almost directly in the middle of that plat. And you see that, Your Honor?

THE COURT: I do.

MR. BRANNON: If you get towards the end of the easement, you will see that it turns. It turns onto that

14-acre tract of land.

Your Honor, if you look at Exhibit -- let me get there. I'm sorry.

MR. WHITE: Your Honor, now I would object. If I'm not going to be able to talk about polo fields, I'm going to object to any argument where Mr. Brannon asserts himself as a surveyor or a witness in this case in regards to where the easement is.

THE COURT: I didn't say you couldn't talk about polo fields.

MR. BRANNON: And I'm not a surveyor, Your Honor.

THE COURT: I know.

MR. BRANNON: In the spring of 2014, Mr. White and I walked this easement with the 56-year-old son of the plaintiffs. We had a plat -- in fact, Your Honor, both the plaintiffs and the defendants in this case have hired surveyors to go and mark this easement. Mr. White and I and the 56-year-old ---

MR. WHITE: Your Honor, now, this is -- I object to this. This is outside -- what he and I did is not as a part nor pursuant to the rules on our motion for summary judgment. And what he's doing is he's supplementing it with information that's not appropriate under 56(c).

THE COURT: All right. Don't supplement it.

MR. BRANNON: And, Your Honor, I'm not. If you look

at the photographs in Exhibit ---

MR. WHITE: The only thing I ask him to do, Judge -- I object. The only thing I ask him to do is tie the photographs to what -- to the testimony of the Nordens in their affidavit. That's why we're here. That's what I got notice on today.

MR. BRANNON: I didn't submit their depositions, so I -- he's got notice of the affidavit and I'm following the affidavit almost explicitly.

THE COURT: Okay. Go ahead.

MR. BRANNON: Okay. The photographs in Exhibit F, Your Honor, they're taken June 20, 2014. Your Honor, those are photographs of a logging company hired by the plaintiffs to ---

MR. WHITE: There's nothing -- there is not anything in evidence that the logging company was hired by the plaintiffs. There's nothing in evidence on that.

MR. BRANNON: All right. So are you suing a company for stealing trees?

THE COURT: Right now we're just talking about -- we're talking about summary judgment between you two.

MR. BRANNON: That's correct.

Your Honor, after Mr. White and I ---

MR. WHITE: There's nothing in the record, Judge, that the Williams have hired any logging company.

THE COURT: Okay.

MR. WHITE: There's nothing there.

MR. BRANNON: Okay. In June of this year, the trees were cut, Your Honor, by a logging company, opening the property, opening the easement to the 14 acres owned by the plaintiffs. Now, Your Honor, they may not have paid this company to cut the trees down, but their farming equipment goes up and down that easement onto the newly cut pathway each and every time they go in to plant or to harvest their crops.

So, Your Honor, as to summary judgment for trespassing, the plaintiffs continue to trespass on my clients' property until 2014 when they cut the trees down or had the trees cut down.

Your Honor, Mr. White talks about a three-year or a ten-year statute of limitations. Your Honor, they were continuing to trespass after this -- for three years after this action was filed.

Additionally, Your Honor, he talks about a prescriptive easement. Your Honor, I remember a little bit of law school, and I remember shown the way you prove adverse possession or prescriptive easement. Your Honor, it has to be hostile. Their use of that property beyond the easement was not hostile until my clients purchased their property. It was by the direction of the previous

owners, and Mr. White says we don't know how we know that. The 56-year-old son told us that.

Your Honor, they continued to trespass on my clients' property beyond the date of filing in this matter. And we show you, Your Honor, also in Exhibit F, the photograph. There's a fence that was placed by my clients. That logging company is on the other side of that fence. That fence was placed there by my clients after the survey of the easement was made and Mr. White and I walked that property.

Your Honor, they continue. That road -- that fence, excuse me, blocks what Mr. White alleges is a well-beaten path that leaves the course of the easement and continues across my clients' property. That's where the trespass was, that's where it was from the date they bought their property, and that's where it continued until 2014, June of 2014.

Your Honor, their use of my clients' property beyond the point of the easement was not a prescriptive use. It was -- it was with the consent and permission of the previous owners, so it was not hostile, and therefore, it could never become a prescriptive easement unless it continued for 20 years after my clients purchased the property.

Your Honor, I move on now to nuisance. Your Honor,

I'm going to show you the picture.

THE COURT: Let me ask you one thing before you do that.

MR. BRANNON: Yes, sir.

THE COURT: On your plat, I see where your easement is. What are you talking about where the trespass is taking place?

MR. BRANNON: Your Honor, if you look at that picture where I'm talking about where the fence is ---

THE COURT: Well, I know, but the picture doesn't help me know where it is on this map -- plat.

MR. BRANNON: Well, I can show you exactly where it is on the plat, Your Honor.

THE COURT: That's what I'm talking about.

MR. BRANNON: May I approach, Your Honor?

THE COURT: Is this a highway? What's the highway over here on the right-hand side of that plat?

MR. WHITE: Gibson Road.

MR. BRANNON: Gibson Road, Your Honor.

THE COURT: Gibson. Okay.

MR. BRANNON: It's off of Highway 11.

THE COURT: All right.

MR. BRANNON: All right. May I approach, Your Honor?

THE COURT: Sure.

MR. BRANNON: I'll write on mine, Your Honor. That fence is right there (indicating). Okay?

THE COURT: At the spring?

MR. BRANNON: Well, the spring is here [indicating]. The spring is here.

THE COURT: I see that.

MR. BRANNON: Right. So what was happening is they were, we are alleging, leaving the easement, going here and turning in here. Well, actually, right there is where they were turning in (indicating throughout).

MR. WHITE: That's not -- that's not correct either because -- that's not -- that's not correct because that's a spring and a creek. They were not crossing the creek.

MR. BRANNON: No. My arrow is right before the creek, so they were crossing ---

MR. WHITE: The fence -- the fence was put back up in this area right here (indicating).

MR. BRANNON: The fence was put right there (indicating).

MR. WHITE: I disagree with that, Your Honor.

MR. BRANNON: Well ---

MR. WHITE: Well, now you're moving it even closer to where I said it was.

MR. BRANNON: So the trespass occurs where the

easement turns. They weren't turning.

I see your puzzled look. I don't know ---

THE COURT: Well, I mean, I don't know how you -- I mean, y'all can say that, but I -- I mean, I've got to have something to show me that, either testimony or photographs or a plat.

MR. BRANNON: And I think that I'm showing -- I mean, I've got ---

THE COURT: What I'm saying is a picture of a fence doesn't help me know where the fence is. The picture of a gate doesn't help me know where the gate is. I've got a plat here and I see where the easement is, so I'm trying to sort out where the -- well, two things: I want to know where the gate is and where the fence is that you're complaining about.

MR. BRANNON: Okay. Well, the gate, Your Honor, is at Gibson Road.

MR. WHITE: The gate's right at the entrance of Gibson Road.

MR. BRANNON: Yeah.

THE COURT: That's the gate that the ---

MR. BRANNON: That's correct.

THE COURT: --- that the plaintiffs put up?

MR. BRANNON: Yes.

MR. WHITE: Yes.

THE COURT: Okay. So the gate's up here (indicating).

MR. BRANNON: Correct.

MR. WHITE: Correct.

THE COURT: Okay.

MR. WHITE: And the fence was put up over a well-traveled area where we say the easement had been.

THE COURT: Where is that on the plat?

MR. WHITE: It's right -- it's right here (indicating), Judge. Right there where -- it's in yellow.

THE COURT: Well, I mean, that's all in yellow.

MR. WHITE: Okay. But I think it's down in this (indicating) area here.

THE COURT: You're saying it is on the easement?

MR. WHITE: Pardon me? I'm saying this fence blocks the easement.

MR. BRANNON: No. What you're saying is the fence blocks the road that your clients used. That -- I mean, that's ---

MR. WHITE: Okay. They're -- okay. We're here today not on the ultimate issue of the trial. We're here today on as a matter of law and fact based on the testimony whether or not they're within the statute of limitations, et cetera, et cetera.

THE COURT: Well, that's one of them. Yes.

MR. WHITE: Okay, okay.

THE COURT: That's one of them. But from what I'm understanding, when was the fence put up?

MR. WHITE: 2014.

MR. BRANNON: 2014.

THE COURT: All right. Well, how is that past the statute?

MR. WHITE: Well, we're not claiming the trespass there. Our trespass we were claiming was at the original gate where they blocked the gate with the truck. That's how this case started.

THE COURT: I thought you were moving for summary judgment on their claim of trespass.

MR. WHITE: No. No, I'm not. I'm moving for -- no, sir. I'm not moving for -- no, sir.

THE COURT: You aren't?

MR. WHITE: No, sir. I'm not.

THE COURT: Okay.

MR. WHITE: I'm not moving for -- I'm moving for summary judgment on their counterclaim for trespass.

THE COURT: Well, that's what I'm asking.

MR. WHITE: Okay. No, sir. That's what I'm moving for summary judgment on.

THE COURT: I know. So what I'm trying to determine

is when that trespass took place.

MR. WHITE: We say the trespass took place when we filed the lawsuit in 2011.

THE COURT: Okay.

MR. WHITE: And we got the preliminary injunction and restraining order in the July 29th order.

THE COURT: Okay.

MR. BRANNON: Your Honor, I understand the Court's questions, and it may be that in spite of the fact that my clients have taken probably thousands of pictures, maybe I didn't get the one that you need. But, Your Honor, I submit to the Court that the fact that you have a question leads to the ultimate situation where there's a question of fact that must be determined.

THE COURT: Well, that's not true. I mean, I'm just looking at what y'all are presenting, but I have a question about what you're presenting. That doesn't mean there's a question of fact. It just means y'all haven't clarified it for me.

MR. BRANNON: Well, and I think that it is -- my clients set forth in their affidavit that the plaintiffs continued on a regular basis to travel off of the course of the easement onto their property after they had been given notice that they were trespassing. And then after Mr. White and I visited the property is when they cut

down the trees and stopped trespassing.

MR. WHITE: No.

MR. BRANNON: Your Honor, moving onto the nuisance claim, I submit to the Court that I have three photos. Your Honor, the picketing that you see, it's in Exhibit G. It's the first photograph after the exhibit marker. Your Honor, this group of people, they're not on a public roadway. They're on my clients' property. Now, I would submit to the Court that they're on the easement, but, Your Honor, in the front holding one of the signs is one of the plaintiffs, Eleanor Williams. Your Honor, that is an example of the plaintiffs interfering with my clients' use and enjoyment of their property.

I take you back to Exhibit C. Their son, their 56-year-old son has installed a post that they can lock the gate open on. Your Honor, that's interfering with the use and enjoyment of their property. They didn't have the right to install that post, but they did it.

Your Honor, the second picture under Exhibit G, you see Mr. John Gibson approaching the camera. Your Honor, that's on that easement. You see it. You see the gate right there. Your Honor, that man was driving a truck we believe for the plaintiffs, and it was him who was the complainant ---

MR. WHITE: There's not been anything pled, sworn to

in depositions or in affidavits saying that my clients had anything to with the Gibsons.

THE COURT: Make sure we've got an affidavit to that effect.

MR. WHITE: No, it's not.

THE COURT: I can't just accept the statements of the lawyers on this motion. I've got to have affidavits or depositions.

MR. BRANNON: Your Honor, this is another example of my clients being -- their use and enjoyment being interfered with. And, Your Honor, this truck belongs to the plaintiffs.

The next photograph, the young lady with the camera, that's their daughter-in-law.

Your Honor, and then I did include one of the arrest warrants where my client, Cindy Norden, was charged.

Your Honor, they have regularly and continually interfered with the use and enjoyment of my clients' property, my clients' use and enjoyment of their property. I believe that we are entitled to a ruling in favor denying the plaintiff's motion for summary judgment as to trespass and as to nuisance.

Your Honor, as to interference with contractual relations, Your Honor, their 56-year-old son is the one who runs their farming business. He's the one who

communicates ---

MR. WHITE: There's -- there's -- Judge, there's nothing in the record as to who owns what. It's not their business.

THE COURT: I'm going to let you respond to everything.

MR. WHITE: Okay.

MR. BRANNON: 56-year-old son runs their business. He's the primary user of the easement. He's the one that informed my clients' Realtor that she could not sell or list that property, and as a result of his threats or direct statements, she refused, in fact, took the property off of the market. And we believe that -- set forth in the affidavit, Your Honor, we believe that we should be -- the plaintiff's motion for summary judgment as to interference of contractual relations should be denied as well.

Thank you.

THE COURT: Mr. White?

MR. WHITE: Let's go to the interference with contractual relations. It happened, if it happened, in 2009. The only thing that we've got in discovery is an e-mail from the Realtor to them that says when the listing agreement was available or in place.

The only thing we have in regards to anybody

interfering is their deposition where they say they were told it was his son, 2009. Action was brought in 2011. They knew about it in 2009. Surely, that's past the statute of limitations. And number two, if that happened, it was not these people. It was their son, who is an adult.

Number two, I'd ask the Court to take judicial notice of a case called Williams vs. Williams, and we can get you a copy. It's a Family Court case where I represented their son in a divorce action, and Williams Feed and Seed and Farming, LLC is owned by their son. They have no interest in that. My clients are not involved in the farming operation. That's their son. They sued the wrong people.

We brought an action to quiet title, and when we brought the action to quiet title, the Court granted a preliminary injunction. Since that time, we've got a rule to show cause that's still pending in this case where they continue to block the road.

The reason they don't have a key, Judge, is this. They went -- they had a key, but they went out, and they took the lock off that they had a key to and they put their own lock on it. And they have a key to the lock that's out there now. So they've got a key. The only time they didn't have a key is when they took the lock

off that everybody had a key to and wouldn't let them in for two days.

The problem that their son has, who is not a party to this action, is is when you've got to plant corn, you've got to plant corn, or you've got to fertilize it, you've got to fertilize it. And so what he did is a business decision is he cut another way through until this case was over. We haven't conceded anything in regards to that.

And I haven't been -- I've been out of law school a long time since Mr. Brannon, but I think the law is this on prescriptive easements. You've got to show its continued uninterrupted use for a period of 20 years, the identity of the thing enjoyed and the use or enjoyment was either adverse under a claim of right. They have a claim of right on their prescriptive easement since the time that they bought the property in 1985, more than 20 years. So I think that's the law on prescriptive easement.

If the Court -- and I know the Court will be kind enough and diligent enough to do this, but if the Court will look back at the other file with the affidavits, you will get a flavor of why we were granted the temporary injunction.

And where we are today is this. They waited too

long to bring their action. They were on notice when they bought the property in 2007, and as a result of that, all of these causes of action fall because of the statute of limitations. They were on notice. They didn't do anything, and as a result, and even based on the facts, under the law on our other substantive issues on trespass, we're entitled to a summary judgment on trespass.

The Hedgepath case I think is controlling in regards to any potential continuing use, and it says, by law, you go back to when the case originally was originated, and that's when -- that was in our deal.

I happened to look at the cases on dominant versus servient easements, and I had the understanding that maybe when you had that dominant versus servient, dominant would have been the Nordens and servient would have been the Williams. But that's exactly the opposite.

The cases that Mr. Brannon said he looked up but didn't tell us what the names were are these cases. There's a case of Ballington vs. Paxton. It's 327 S.C. 372. There's a case of Brown vs. Gaskins. It's 284 S.C. 30. There's a case of Davis vs. Epton, 317 S.C. 315. And there's a case of Judy vs. Kennedy, 398 S.C. 471. And there's a case of Plott vs. Justin Enterprises, 374 S.C. 504. And if he doesn't object, I'll get him copies

and I'll hand a copy to you.

MR. BRANNON: I don't object. I think I gave copies of most of those cases to Mr. White when I delivered my affidavit to him.

MR. WHITE: Those are instructive in regards to the paramount rights that people have that have easements. And it talks about their duties, and it does reverse a role.

Everything was going fine here until they blocked the gate, which they didn't have a right to do. And then everything was going fine until they violated that order and then over five years later on most of these causes of actions or four years or so, they bring these counterclaims that are not sufficient, nor do they have legal, factual or other standing, and there's no material question of fact in regards to that. We ask you to grant our relief.

MR. BRANNON: One point, Your Honor. I know that I did go to law school later than Mr. White, but he keeps talking about the answer and counterclaim that I filed being untimely or late.

MR. WHITE: No. I didn't say that.

MR. BRANNON: I believe it dates back to the date the original answer was filed, which puts it in 2011, Your Honor. So, I mean, I wasn't the original attorney

in this case, but my answer and counterclaim dates back to the date of -- the original date of filing of their answer that was filed by another lawyer.

That's the only point I want to make, Your Honor. Thank you.

MR. WHITE: Judge, we've looked at that. I don't think that's the law under the rules or case law. I think you've got to bring your actions within the time.

Thank you.

THE COURT: All right. I'll review the matter and issue an order.

MR. BRANNON: Thank you, Your Honor.

THE COURT: Thank you.

(WHEREUPON, proceedings concluded at 3:44 p.m.)

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

SEVENTH JUDICIAL CIRCUIT

Manning L. Williams and Eleanor C. Williams,

Plaintiffs,

v.

Cynthia W. Norden and Raymond A. Norden,

Defendants.

C.A. No. 2011-CP-42-2079

EXHIBITS TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Exhibit 1. Affidavit of Manning L. Williams

Exhibit 2. Affidavit of Eleanor C. Williams

Exhibit 3. Williams Deed

Exhibit 4. Norden Deed

Exhibit 5. Plat Book 072, Pages 208-209

Exhibit 6. Raymond Norden 2012 Deposition Excerpts

Exhibit 7. Raymond Norden 2015 Deposition Excerpts

Exhibit 8. Cynthia Norden 2015 Deposition Excerpts

Exhibit 9. Photographs of Easement Gate

Exhibit 10. Photographs of Defendants' Truck Blocking Easement

Exhibit 11. Photographs of PVC Pipes Installed by Defendants

Exhibit 12. Photograph of Fence Erected by Defendants

Exhibit 13. Copy of Email and Listing for Defendants' Log Cabin

Exhibit 14. Defendants' Responses to Plaintiffs' First Set of Interrogatories

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
Manning L. Williams and Eleanor C. Williams, Plaintiffs, v. Cynthia W. Norden and Raymond A. Norden, Defendants.	C.A. No. 2011-CP-42-2079 **AFFIDAVIT OF MANNING L. WILLIAMS**

PERSONALLY APPEARED BEFORE ME, Manning L. Williams, who being first duly sworn, deposes and says the following:

1. My name is Manning L. Williams, and I am over eighteen (18) years of age and competent to give this testimony.

2. Since 1975, my wife, Eleanor C. Williams, and I have been the fee simple owners of approximately 14.17 acres of property located off Gibson Road, in Spartanburg County, South Carolina. Our property is identified in Deed Book 43-G, Page 0806, as recorded in the RMC Office for the County of Spartanburg, South Carolina, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit A. We purchased our property from J. Baker Gibson in 1975.

3. We can only access our property via an easement over the Norden's property. This easement was granted to us by Mr. Gibson, as shown in the Deed attached herein as Exhibit A. Our deed contains the following language: "Grantor herein conveys all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed."

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

4. Since we purchased the property in 1975, we have used the easement without any problems for more than thirty years. Moreover, I used that same easement to farm the tract of land for many years before we purchased it 1975, and the easement has always been in the same place.

5. In or around 1985, we put a gate on the easement to prevent people from driving in and out of and to prevent people from dumping trash on it. The gate was paid for by us, the Smith Family who owned property adjacent to the easement, and the Hyder Family, who eventually sold their property to the Nordens.

6. We have never had to close the gate behind us every time we come onto or leave our property. When we are farming this property, having the gate closed is dangerous. If I or someone else is injured or suffers a heart attack, the ambulance will not be able to get to us because the gate is closed. Further, if I am driving our tractors while pulling equipment such as planters or discs, and the gate is closed, I am forced to stop in a manner which leaves that equipment obstructing Gibson Road because I have to get off the tractor and open the gate to get into the property.

7. The easement is our only means of accessing our property.

8. Our property does not have any frontage on Gibson Road or any other public road. The property is accessed via the easement, which is an unpaved road and has been in existence since before we purchased our property in 1975. This easement road has been in the same location and followed the same route from Gibson Road to our property since before the date of the plat recorded in 1973 in Plat Book 072, at pages 208–209. Many years ago, as I understand it, the County even used to scrape the easement road.

ROA Page 119

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

9. We did not ask or receive permission from the Nordens or any of the previous owners of their property to use the easement road. The deed to our property expressly grants us an easement to use the road for ingress and egress from public roads to our property.

10. Until the Nordens started blocking the gate to the easement in 2011 with their vehicles, we had used this same easement road for more than thirty years to access our property without any interruption and without any problems. Our use of the easement road was at all times open and obvious to the owners of the land over which it crosses over.

11. I have never done anything to interfere with the Nordens' ownership or possession of their land. The same, however, cannot be said for the Nordens. Mr. and Mrs. Norden have continued to interfere with our access to our property. The Nordens have continued to harass us by taking pictures of us as we travel over the easement, and they have forced us to incur costs and expenses to bring a lawsuit because of their actions.

12. My wife and I never knew of any contracts of Defendants for the listing for sale of any of their property until they brought it up in the context of this lawsuit. Neither of us have ever contacted any listing agent or agents of Defendants.

FURTHER YOUR AFFIANT SAYETH NOT.

Manning L. Williams

SWORN to and subscribed before me
this 30th day of September, 2016.

Margaret A. Hines
Notary Public for South Carolina
My Commission expires: 11-2-2020

ROA Page 120

136 806

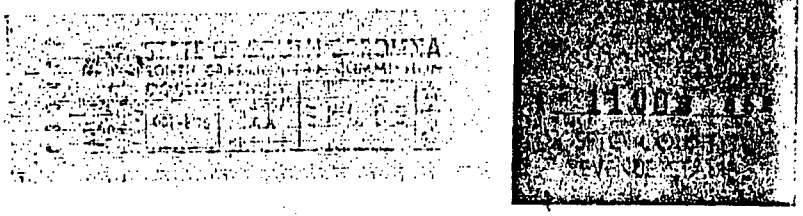
TITLE TO REAL ESTATE — Form 14
The H. L. Bryan Company, Columbia, S. C.

State of South Carolina,

COUNTY OF SPARTANBURG

RECORDED
1975 NOV 26 PM 2:48
R.M.C.
SPARTANBURG, S.C.

Know All Men by These Presents, That L.J. Baker Gibson



in the State aforesaid, in consideration of the sum of Ten ($10.00) Dollars and other good and valuable considerations to me paid by Manning L. Williams and Eleanor C. Williams in the State aforesaid have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

Manning L. Williams and Eleanor C. Williams, their heirs and assigns forever

All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, northwest of Campobello and on the waters of South Pacolet River, containing 14.17 acres, more or less, as shown upon survey and plat made for J. Baker Gibson by Beeson Engineering & Surveying dated October 2, 1975 and recorded in Plat Book 76 at page 491 in the R.M.C. Office for Spartanburg County. For a more complete and particular description reference is hereby made to the above referred to plat and the record thereof.

This being a portion of the property which was conveyed to J. Baker Gibson by deed recorded in Deed Book 20-C at page 484 in the R.M.C. Office for Spartanburg County.

Grantor herein conveyes all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed.

4.50

.50

DEED 436 PAGE 807

STATE OF SOUTH CAROLINA
County of Spartanburg

DEED

J. Baker Gibson (GRANTOR) } Manning L. Williams (GRANTEE)

Personally appeared before me Bob Hammett who being duly sworn says that the true, full and complete consideration of the above stated deed is $ 25.00 and exchange of property valued at $ ..... and assumption of mortgage given to ....., the amount assumed by the purchaser being $ .....; recorded in Book ....., page .....; partition of property; love and affection.

Sworn to and subscribed before me this 22 day of November, 1975

..... (Seal)
Notary Public for S. C.

Bob Hammett
Grantor - Grantee

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 premises before mentioned unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my *Hand and Seal this* 8th *day of* October *in the year of our Lord one thousand nine hundred and* Seventy-Five *and in the* ~~xxxxxxxxxx~~ Two Hundredth *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF
Carolyn P. Kinard
Marcia B. Gibson

J. Baker Gibson (SEAL)
(SEAL)

SPARTANBURG - COMMON
1956

DEE 436 PAGE 808

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

PERSONALLY appeared before me Carolyn P. Brown and made oath that she saw the within-named J. Baker Gibson sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that he, with Martha S. Jackson witnessed the execution thereof.

SWORN to before me this
8th *day of* October *19* 75.
Martha S Jackson (L. S.)
Notary Public of S. C.
My Commission expires: 10-11-83

Carolyn P Brown

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

RENUNCIATION OF DOWER

I, Carolyn P. Brown, Notary Public for South Carolina, do hereby certify unto all whom it may concern, that Mrs. Harriet L. Gibson the wife of the within-named J. Baker Gibson did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named Manning L. Williams and Eleanor C. Williams,

their heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this
8th *day of* October
Anno Domini 19 75.
Carolyn P Brown (L. S.)
Notary Public of S. C.
My Commission expires: 1-22-85

Harriet L. Gibson

SPARTANBURG COUNTY
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1975 OCT 10 PM 2:56

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Manning L. Williams and Eleanor C. Williams,

Plaintiffs,

v.

Cynthia W. Norden and Raymond A. Norden,

Defendants.

C.A. No. 2011-CP-42-2079

AFFIDAVIT OF ELEANOR C. WILLIAMS

PERSONALLY APPEARED BEFORE ME, Eleanor C. Williams, who being first duly sworn, deposes and says the following:

1. My name is Eleanor C. Williams, and I am over eighteen (18) years of age and competent to give this testimony.

2. Since 1975, my husband, Manning L. Williams, and I have been the fee simple owners of approximately 14.17 acres of property located off Gibson Road, in Spartanburg County, South Carolina. Our property is identified in Deed Book 43-G, Page 0806, as recorded in the RMC Office for the County of Spartanburg, South Carolina, a true and accurate copy of which is attached hereto and incorporated herein as Exhibit A. We purchased our property from J. Baker Gibson in 1975.

3. We can only access our property via an easement over the Norden's property. This easement was granted to us by Mr. Gibson, as shown in the Deed attached herein as Exhibit A. Our deed contains the following language: "Grantor herein conveys all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed."

4. My husband had farmed the land for several years before we purchased the property in 1975.

ROA Page 124

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

5. Our property does not have any frontage on Gibson Road or any other public road. The property is accessed via the easement, which is an unpaved road and has been in existence since before we purchased our property in 1975. This easement road has been in the same location and followed the same route from Gibson Road to our property since before the date of the plat recorded in 1973 in Plat Book 072, at pages 208–209. Many years ago, the County even used to scrape the easement road.

6. We did not ask or receive permission from the Nordens or any of the previous owners of their property to use the easement road. The deed to our property expressly grants us an easement to use the road for ingress and egress from public roads to our property.

7. We used this same easement road for more than thirty years to access our property without any interruption and without any problems. Our use of the easement road was at all times open and obvious to the owners of the land over which it crosses over.

8. Neither my husband nor I have ever done anything to unreasonably interfere with the Nordens' ownership or possession of their land. The same cannot be said for the Nordens. Mr. and Mrs. Norden have continued to interfere with our access to our property, harassed us, and forced us to incur costs and expenses associated with bringing this lawsuit.

9. Neither my husband nor I have any knowledge of any contracts of Defendants for the listing for sale of any of their property, nor have we ever contacted any listing agent or agents of Defendants.

FURTHER YOUR AFFIANT SAYETH NOT.

Eleanor C. Williams

Eleanor C. Williams

SWORN to and subscribed before me
this 30th day of September, 2016.

Margaret A. Hines

Notary Public for South Carolina
My Commission expires: 11-2-2020

ROA Page 125

436 806

TITLE TO REAL ESTATE — Form 16
The R. L. Bryan Company, Columbia, S. C.

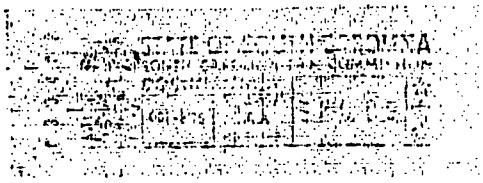
State of South Carolina,

COUNTY OF SPARTANBURG

RECORDED
1975 NOV 26 PM 2:48
R.M.C.
SPARTANBURG, S. C.

SPARTANBURG - COMMON
FEE
PAID
$5.50

Know All Men by These Presents, That I, J. Baker Gibson





in the State aforesaid, in consideration of the sum of Ten ($10.00) Dollars and other good and valuable considerations to me paid by Manning L. Williams and Eleanor C. Williams in the State aforesaid have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

Manning L. Williams and Eleanor C. Williams, their heirs and assigns forever

All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, northwest of Campobello and on the waters of South Pacolet River, containing 14.17 acres, more or less, as shown upon survey and plat made for J. Baker Gibson by Beeson Engineering & Surveying dated October 2, 1975 and recorded in Plat Book 76 at page 491 in the R.M.C. Office for Spartanburg County. For a more complete and particular description reference is hereby made to the above referred to plat and the record thereof.

This being a portion of the property which was conveyed to J. Baker Gibson by deed recorded in Deed Book 20-C at page 484 in the R.M.C. Office for Spartanburg County.

Grantor herein conveyes all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed.

4.50
.50

DEED 436 PAGE 807

STATE OF SOUTH CAROLINA
County of Spartanburg

DEED

J. Baker Gibson (GRANTOR) } Manning L. Williams (GRANTEE)

Personally appeared before me Bob Hammett who being duly sworn says that the true, full and complete consideration of the above stated deed is $ 20.00 and exchange of property valued at $ ..... and assumption of mortgage given to ....., the amount assumed by the purchaser being $ .....; recorded in Book ....., page .....; partition of property; love and affection.

Sworn to and subscribed before me this 22 day of November, 1975

..... (Seal)
Notary Public for S. C.

Bob Hammett
Grantor - Grantee

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 premises before mentioned unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my *Hand and Seal this* 8th *day of* October *in the year of our Lord one thousand nine hundred and* Seventy-Five *and in the* ~~xxxxxxxxxx~~ Two Hundredth *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF
Carolyn P. Hinson
Marsha B. Gibson

J. Baker Gibson (SEAL)
..... (SEAL)

SPARTANBURG - COMMON
1550

BOOK 43G PAGE 808

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

PERSONALLY appeared before me Carolyn P. Brown and made oath that she saw the within-named J. Baker Gibson sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that he, with Martha S. Jackson witnessed the execution thereof.

SWORN to before me this
8th *day of* October *,19* 75.
Martha S Jackson (L.S.)
Notary Public of S. C.
My Commission expires: 10-11-83

Carolyn P Brown

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

RENUNCIATION OF DOWER

I, Carolyn P. Brown, Notary Public for South Carolina, do hereby certify unto all whom it may concern, that Mrs. Harriet L. Gibson the wife of the within-named J. Baker Gibson did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named Manning L. Williams and Eleanor C. Williams, their heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this
8th *day of* October
Anno Domini 1975.
Carolyn P Brown (L.S.)
Notary Public of S. C.
My Commission expires: 1-22-85

Harriet L. Gibson

SPARTANBURG-COMMON
FILED
1975

436 866

TITLE TO REAL ESTATE — Form 14
The R. L. Bryan Company, Columbia, S. C.

State of South Carolina,

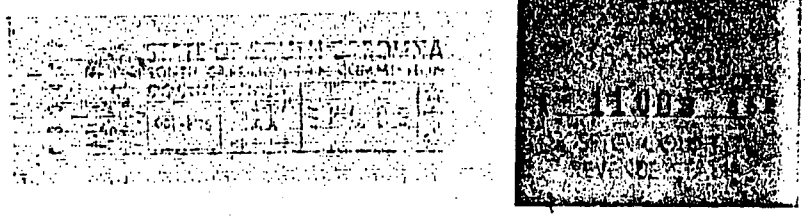
COUNTY OF SPARTANBURG

RECORDED
1975 NOV 26 PM 2:48
R.M.C.
SPARTANBURG, S. C.

5955

SPARTANBURG - COMMON

Know All Men by These Presents, That I, J. Baker Gibson



in the State aforesaid, in consideration of the sum of Ten ($10.00) Dollars and other good and valuable considerations to me paid by Manning L. Williams and Eleanor C. Williams in the State aforesaid have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

Manning L. Williams and Eleanor C. Williams, their heirs and assigns forever

All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, northwest of Campobello and on the waters of South Pacolet River, containing 14.17 acres, more or less, as shown upon survey and plat made for J. Baker Gibson by Beeson Engineering & Surveying dated October 2, 1975 and recorded in Plat Book 76 at page 491 in the R.M.C. Office for Spartanburg County. For a more complete and particular description reference is hereby made to the above referred to plat and the record thereof.

This being a portion of the property which was conveyed to J. Baker Gibson by deed recorded in Deed Book 20-C at page 484 in the R.M.C. Office for Spartanburg County.

Grantor herein conveyes all his right, title and interest in and to an easement thirty (30') feet in width for egress and ingress from public roads to the property herein conveyed.

DEED 436 PAGE 807

SPARTANBURG - COMMON
1556

STATE OF SOUTH CAROLINA
County of Spartanburg

DEED

J. Baker Gibson (GRANTOR) } Manning L. Williams (GRANTEE)

Personally appeared before me Bob Norman who being duly sworn says that the true, full and complete consideration of the above stated deed is $ 20 (NV) and exchange of property valued at $ ..... and assumption of mortgage given to ....., the amount assumed by the purchaser being $ .....; recorded in Book ....., page .....; partition of property; love and affection.

Sworn to and subscribed before me this 28 day of November, 1975

..... (Seal)
Notary Public for S. C.

Bob Norman
Grantor - Grantee

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 premises before mentioned unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

Manning L. Williams and Eleanor C. Williams, their

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my *Hand and Seal this* 8th *day of* October *in the year of our Lord one thousand nine hundred and* Seventy-Five *and in the* ~~xxxxxxxxxx~~ Two Hundredth *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Carolyn P. Kinney
Marcia B. Gibson

J. Baker Gibson (SEAL)

(SEAL)

BOOK 43G PAGE 808

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

PERSONALLY appeared before me Carolyn P. Brown and made oath that she saw the within-named J. Baker Gibson sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that he, with Martha S. Jackson witnessed the execution thereof.

SWORN to before me this
8th *day of* October, *19* 75.
Martha S Jackson (L. S.)
Notary Public of S. C.
My Commission expires: 10-11-83

Carolyn P Brown

STATE OF SOUTH CAROLINA,
Spartanburg COUNTY.

RENUNCIATION OF DOWER

I, Carolyn P. Brown, Notary Public for South Carolina, do hereby certify unto all whom it may concern, that Mrs. Harriet L. Gibson the wife of the within-named J. Baker Gibson did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named Manning L. Williams and Eleanor C. Williams,

their heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this
8th *day of* October
Anno Domini 19 75.
Carolyn P Brown (L. S.)
Notary Public of S. C.
My Commission expires: 1-22-85

Harriet L. Gibson

SPARTANBURG COUNTY
FILED
1975 OCT 10 PM 3:55
5666

DEED87--2PG376

State of South Carolina)
)
County of Spartanburg)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS , that I, **Loretta B. Hyder**, Grantor, in consideration of the sum of **Six Hundred Twenty Eight Thousand and 00/100 Dollars ($628,000.00)**, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto **Cynthia W. Norden and Raymond A. Norden,** Grantees, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion, the following described property:

See attached Exhibit A.

Grantee's Address: 315 Gibson Road
Landrum, SC 29356

TMS No.: 1 19-00 p/o 031.02

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining;

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said **Cynthia W. Norden and Raymond A. Norden,** Grantees, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion.

AND the Grantor herein does hereby bind himself and his Heirs and Assigns to warrant and forever defend all and singular the said premises unto the said **Cynthia W. Norden and Raymond A. Norden**, Grantees, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns, forever in fee simple, against the Grantor and the Grantor's Heirs and Assigns, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof, except as to restrictions and easements of record, if any.

DEE-2007-11060
Recorded 5 Pages on 3/6/2007 10:33:46 AM
Recording Fee: $10.00 Documentary Stamps: $2,323.60
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

DEED87--Z PG 377

WITNESS the Grantor's hand and seal this the 2nd day of March, 2007.

SIGNED, SEALED AND DELIVERED
in the presence of:

Loretta B. Hyder (Seal)
Loretta B. Hyder

State of South Carolina)
)
County of Spartanburg)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw the within-named Loretta B. Hyder sign, seal and as her act and deed deliver the within-written Title to Real Estate and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this
2nd day of March, 2007.

(SEAL)
Notary Public for South Carolina
My Commission Expires: 01/29/2017

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2016CP4200778

DEED87--7PG378

EXHIBIT A

ALL that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing **37.5 acres**, more or less, and being shown and designated as **Tract 3** upon plat of survey prepared for J. Baker Gibson by W.N. Willis, Engrs., dated September 27, 1973 and recorded in **Plat Book 72** at **Pages 208-209** in the Office of the Register of Deeds for Spartanburg County.

THIS PROPERTY being subject to a thirty (30') foot road easement as shown and designated upon plat dated September 27, 1973 and recorded in Plat Book 72 at Pages 208-209, aforesaid county records.

LESS AND EXCEPT, HOWEVER:

ALL that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, containing **12.001 acres**, more or less, and being shown upon plat of survey prepared for David P. Mullen & Sue A. Mullen by David R. Lavender, PLS, dated May 24, 2006 and recorded in **Plat Book 159** at **Page 925** in the Office of the Register of Deeds for Spartanburg County.

For a more complete and particular description, reference is hereby made to the above referred to plats and records thereof.

THIS BEING a portion of the same property conveyed to Jerry N. Hyder and Loretta B. Hyder by deed from Ruth W. Gossman, dated July 11, 1980 and recorded July 29, 1980 in Deed Book 47-P at Page 39 in the Office of the Register of Deeds for Spartanburg County. Jerry N. Hyder subsequently died testate on June 2, 1992 as is evidenced by the records filed in Spartanburg County Probate Case No. 92ES4200719. Reference is hereby made to said probate records and to the Deed of Distribution dated April 21, 1994 and recorded April 22, 1994 in Deed Book 61-G at Page 473, aforesaid county records.

This conveyance is made subject to any restrictions, reservations, zoning ordinances or easements that may appear of record on the recorded plats or on the premises, and to the following:

1. There shall be no mobile homes, chicken or hog farms.

Loretta B Hyder

DEED 87 - - Z PG 379

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9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Loretta B Hyder
Signature of Responsible Person Connected with the Transaction

Loretta B. Hyder
Print or Type Name Here

SWORN to before me this 2nd
day of March, 20 07

(L.S.)
Notary Public for South Carolina
My Commission Expires: 5-8-2010

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitute a contract for the sale of timer to be cut;
(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty in transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
(12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
(13) transferring realty subject to a mortgage to the mortgagee whether by deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
(14) Transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivision to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operated or to take functional control of electric transmission assets as defined the Federal Power Act.

ELECTRONICALLY FILED - 2016 Sep 30 4:47 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202078

DEED 87--Z PG 380

STATE OF SOUTH CAROLINA)
) AFFIDAVIT OF CONSIDERATION
COUNTY OF SPARTANBURG)

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

1. I have read the information on the back of this affidavit and I understand such information.

2. The property being transferred is located 315 Gibson Road, Landrum, being a portion of property bearing Spartanburg County Tax Map Number 1 19-00 031.02, was transferred by Loretta B. Hyder to Cynthia W. Norden and Raymond A. Norden on March 2, 2007.

3. Check one of the following: The deed is

(a) __X__ Subject to the deed recording fee as a transfer for consideration paid, or to be paid, in money or money's worth.

(b) ____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) ____ exempt from the deed recording fee because (See Information section of affidavit):

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ____ or No ____.

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) __X__ The fee is computed on the consideration paid, or to be paid, in money or money's worth in the amount of $628,000.00

(b) ____ The fee is computed on the fair market value of the realty which is _____

(c) ____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5. Check Yes ____ or No __X__ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:_____

6. The deed recording fee is computed as follows:

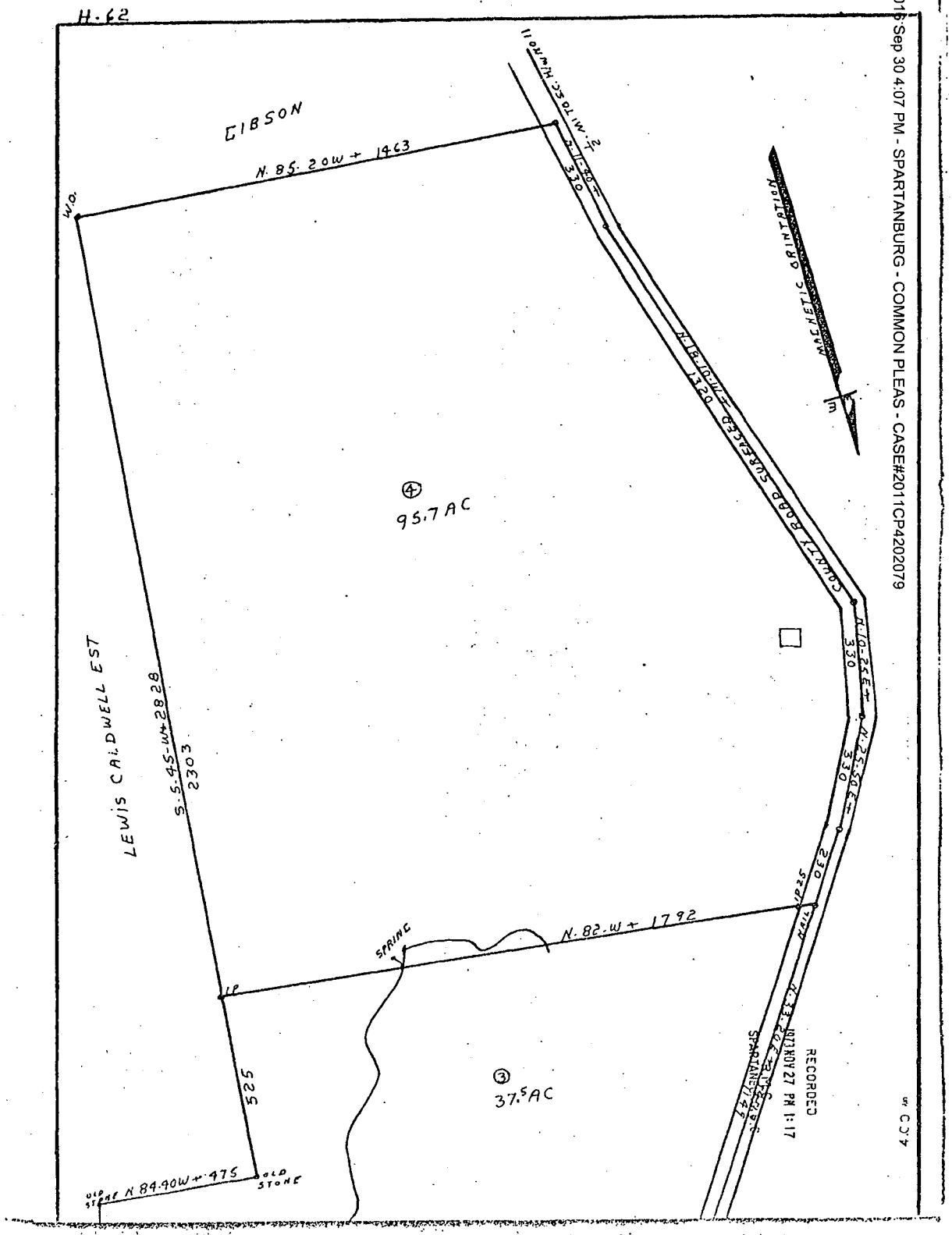
(a) Place the amount listed in item 4 above here:	$628,000.00
(b) Place the amount listed in item 5 above here: (If no amount is listed, place zero here.)	0.00
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$628,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording, fee due is: $2,323.60

8. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor(s)

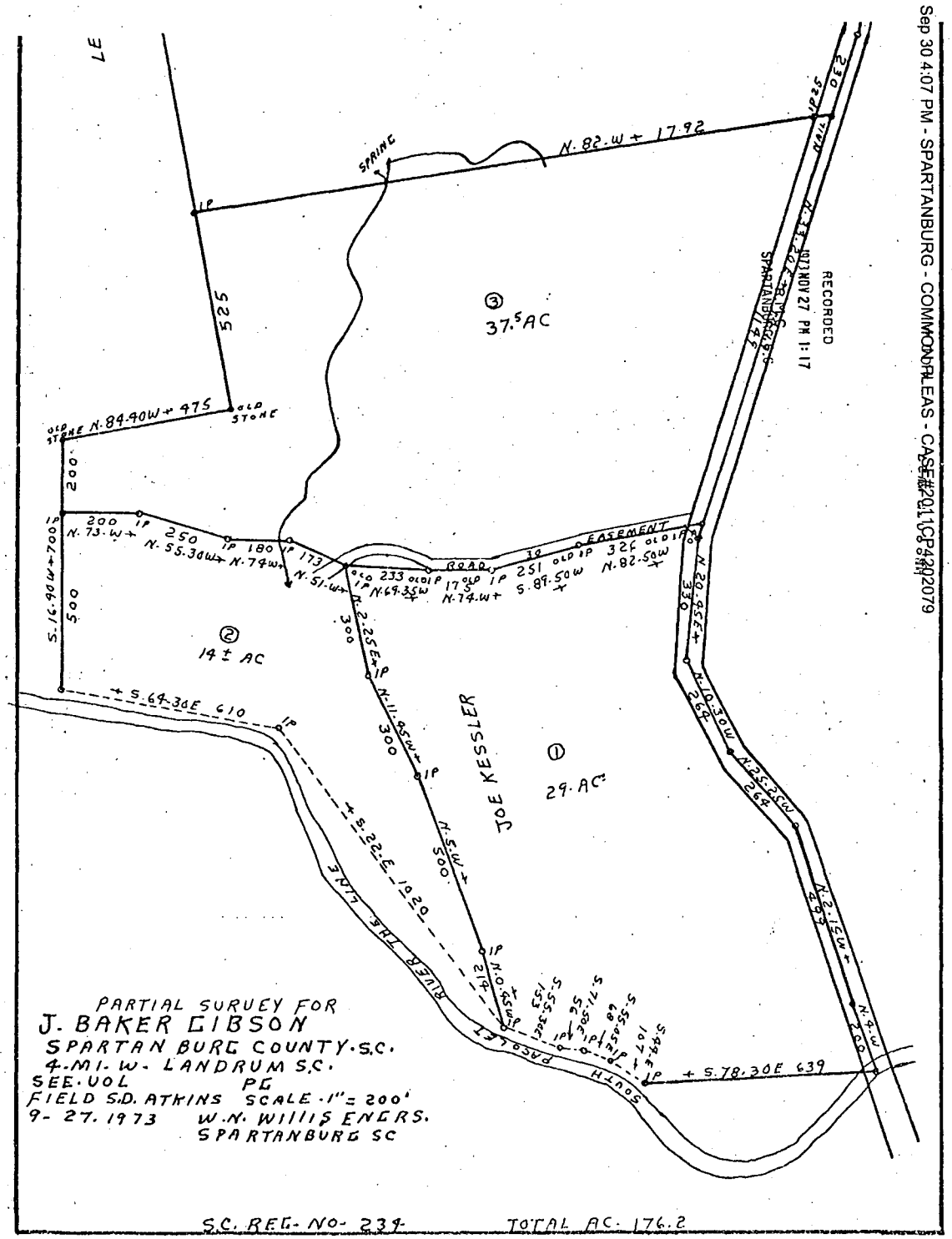
72-208

Plat reduced 38.5%



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ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079



PARTIAL SURVEY FOR
J. BAKER GIBSON
SPARTAN BURG COUNTY. S.C.
4. MI. W. LANDRUM S.C.
SEE. VOL PG
FIELD S.D. ATKINS SCALE. 1" = 200'
9-27. 1973 W.N. WILLIS ENGRS.
SPARTANBURG SC

S.C. REG. NO. 234 TOTAL AC. 176.2

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP420279

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG 2011-CP-42-2079
2011-LP-42-0734

****

MANNING L. WILLIAMS AND ELEANOR C. WILLIAMS,

PLAINTIFFS,

VERSUS

RAYMOND A. NORDEN AND CYNTHIA W. NORDEN,

DEFENDANTS.

****



DEPOSITION OF RAYMOND A. NORDEN

PURSUANT TO NOTICE AND/OR AGREEMENT, THE DEPOSITION OF **RAYMOND A. NORDEN** WAS CALLED BY THE PLAINTIFF ON THE 3RD DAY OF OCTOBER, 2012, COMMENCING AT THE HOUR OF 9:00 A.M., AT THE LAW OFFICES OF HENDERSON, BRANDT AND VIETH, 360 EAST HENRY STREET, SUITE 101, SPARTANBURG, SOUTH CAROLINA, ATTENDED BY COUNSEL AS FOLLOWS:

DIXY MOORE TURNER
CERTIFIED VERBATIM REPORTER

DIXY MOORE TURNER ASSOC., INC.
836 SHORESBROOK DRIVE
SPARTANBURG, S.C. 29301-6515
864-574-1313

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

APPEARANCES

GRIFFIN LITTLEJOHN LYNCH, ESQUIRE,
JOHN B. WHITE, JR., ESQUIRE, OF THE FIRM
HARRISON, WHITE, SMITH AND COGGINS
178 WEST MAIN STREET
POST OFFICE BOX 3547
SPARTANBURG, SOUTH CAROLINA 29304

ATTORNEYS FOR THE PLAINTIFF,

MATTHEW A. HENDERSON, ESQUIRE, OF THE FIRM
HENDERSON, BRANDT AND VIETH
360 EAST HENRY STREET, SUITE 101
SPARTANBURG, SOUTH CAROLINA 29304

ATTORNEY FOR THE DEFENDANT.

ALSO ATTENDING: MANNING WILLIAMS
ELEANOR WILLIAMS
CYNTHIA NORDEN

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EXHIBITS:

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PLAINTIFF'S EXHIBIT NUMBER TWO, MARKED, CONTRACT FOR SALE, ATTACHED.....	10
PLAINTIFF'S EXHIBIT NUMBER THREE, MARKED, TITLE TO REAL ESTATE, ATTACHED.....	12
PLAINTIFF'S EXHIBIT NUMBER FOUR, MARKED, PLAT, ATTACHED.....	14
PLAINTIFF'S EXHIBIT NUMBER FIVE, MARKED, WARRANTY DEED, ATTACHED.....	16

OBJECTIONS:

NONE

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PURSUANT TO NOTICE AND/OR AGREEMENT TO TAKE DEPOSITIONS, THE WITHIN DEPOSITION WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, BY CONSENT OF ALL PARTIES AT THE LAW OFFICES OF HENDERSON, BRANDT AND VIETH, SPARTANBURG, SOUTH CAROLINA.

* * * * * * * * * * * *

STIPULATIONS:

IT IS AGREED BY AND BETWEEN COUNSEL FOR THE PARTIES AS FOLLOWS:

1. THE DEPOSITION IS BEING TAKEN PURSUANT TO THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE.
2. THE READING AND SIGNING OF THE DEPOSITION TRANSCRIPT ARE **WAIVED** BY THE WITNESS AND THE PARTIES.

* * * * * * * * * * * *

THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH CONCERNING THE MATTER HEREIN:

* * * * * * * * * * * *

RAYMOND A. NORDEN,

BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

EXAMINATION BY MS. LYNCH:

Q. MR. NORDEN, MY NAME IS GRIFFIN LYNCH, AND WE REPRESENT THE WILLIAMS. AND YOU UNDERSTAND YOU'RE

HERE TODAY FOR A LAWSUIT THAT HAS BEEN FILED BY THE WILLIAMSES AGAINST THE NORDENS.

A. YES, I DO.

BY MS. NORDEN:

I HAVE PROBLEMS HEARING. I'M JUST GOING TO SAY THAT UP FRONT.

BY MS. LYNCH:

OKAY. WELL, THIS DEPOSITION IS FOR MR. NORDEN, NOT YOU. SO, IT REALLY DOESN'T MATTER IF YOU CAN HEAR OR NOT.

BY MS. NORDEN:

I DON'T AGREE WITH THAT.

BY MR. HENDERSON:

OKAY. WHY DON'T I PUT YOU RIGHT OVER HERE?

BY MS. NORDEN:

ESPECIALLY SINCE THE LAWSUIT IS AGAINST US.

BY MS. LYNCH:

YOU'LL HAVE YOUR OPPORTUNITY TO TALK WHEN WE DEPOSE YOU. NOW, I WANT TO MAKE SURE THAT IF SHE'S SITTING THERE THAT SHE'S NOT SPEAKING TO MR. NORDEN DURING THE DEPOSITION, AND IF NECESSARY, WE WILL ASK THAT SHE BE IN A SEPARATE ROOM.

BY MR. HENDERSON:

OKAY. WE'RE READY.

BY MS. LYNCH:

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AND THAT'S A DEPOSITION NOTICE. HAVE YOU SEEN THAT DOCUMENT BEFORE?

A. SECOND AMENDED. YES, I HAVE SEEN THIS DOCUMENT.

Q. AND YOU UNDERSTAND YOU'RE HERE TO GIVE TESTIMONY IN THAT LITIGATION?

A. YES.

Q. OKAY. HAVE YOU EVER BEEN INVOLVED IN ANY OTHER LITIGATION BEFORE, ANY OTHER LAWSUITS?

A. NO.

Q. OKAY. CAN YOU GIVE ME YOUR FULL NAME FOR THE RECORD?

A. RAYMOND ARTHUR NORDEN.

Q. AND WHAT'S YOUR ADDRESS?

A. 315 GIBSON ROAD, LANDRUM, SOUTH CAROLINA, 29356.

Q. AND HOW LONG HAVE YOU LIVED THERE?

A. SINCE MARCH 2ND OF 2007.

Q. AND WHO LIVES WITH YOU THERE?

A. MY WIFE AND MY MOTHER-IN-LAW.

Q. AND DO YOU HAVE ANY RELATIVES IN SPARTANBURG COUNTY THAT HAVE A DIFFERENT NAME BESIDES NORDEN? THE ONLY REASON I'M ASKING THAT IS IF THIS CASE GETS TRIED, WE'LL HAVE TO POOL A JURY AND WE WANT TO MAKE SURE THERE'S NO RELATIVES ON THE JURY.

A. NO. I HAVE NO KNOWN RELATIVES LIVING IN SPARTANBURG COUNTY.

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Q. OKAY. AND DID YOU GO TO HIGH SCHOOL?
A. YES.
Q. WHERE?
A. ST. PAUL SCHOOL IN GARDEN CITY, NEW YORK.
Q. AND WHEN DID YOU FINISH HIGH SCHOOL?
A. 1966.
Q. AND DID YOU GO TO COLLEGE?
A. YES.
Q. WHERE?
A. UNIVERSITY OF VIRGINIA. GRADUATED IN '71.
Q. OKAY. ANY POST-GRADUATE WORK?
A. WORKED ON A MASTERS IN LYLE, ILLINOIS, AT - WHAT WAS IT? SOUTH COLLEGE. NO. ILLINOIS BENEDICTINE COLLEGE.
Q. DID YOU GET A DEGREE?
A. NO.
Q. OKAY. WHAT HAVE YOU - WHAT'S YOUR EMPLOYMENT BEEN THE MAJORITY OF YOUR LIFE?
A. AN ACCOUNTANT, BOOKKEEPER, BANKER ---
Q. ARE YOU ---
A. PROFESSIONAL HORSEMAN.
Q. ARE YOU RETIRED NOW?
A. UNEMPLOYED NOW.
Q. WHAT WAS YOUR LAST JOB?
A. I WAS WORKING FOR THERMAL BELT OUTREACH MINISTRY IN

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COLUMBUS AS THE FINANCE COORDINATOR.

Q. AND WHEN DID YOU SEVER EMPLOYMENT THERE?

A. I STOPPED BEING A FULL-TIME EMPLOYEE IN JUNE.

Q. OF WHAT YEAR?

A. OF THIS YEAR. AND I'VE DONE SOME CONTRACT WORK FOR THEM SINCE THEN.

Q. OKAY. I'M GOING TO SHOW YOU WHAT WE'RE GOING TO MARK AS EXHIBIT TWO, I GUESS.

(COURT REPORTER MARKS PLAINTIFF'S EXHIBIT NUMBER TWO, CONTRACT FOR SALE, ATTACHED.)

EXAMINATION RESUMED BY MS. LYNCH:

Q. CAN YOU TELL ME WHAT THAT DOCUMENT IS?

A. IT APPEARS TO BE THE SALES CONTRACT FOR OUR HOUSE HERE, WHICH UNFORTUNATELY DOESN'T HAVE ALL OF THE SUPPORTING DOCUMENTS.

Q. WHAT DOCUMENTS IS IT MISSING?

A. YOU HAVE A MAIN RESIDENCE CONDITION DISCLOSURE REPORT, AND YOU'RE MISSING THE BRICK HOUSE AND THE LOG CABIN.

Q. OKAY. WHEN YOU PURCHASED THIS PROPERTY, WHAT DID YOU UNDERSTAND YOU WERE BUYING?

A. I WAS BUYING - WE WERE BUYING A HOUSE WITH TWO SEPARATE LIVING QUARTERS, BEING THE LOG CABIN AND THE BRICK HOUSE. AND IT HAD AN EASEMENT ON THE FAR END TO ALLOW A PERSON, THE OWNER OF THE BOTTOM LAND

TO FARM IT.

Q. OKAY.

A. THAT'S WHAT OUR CLOSING DOCUMENTS SAID.

Q. YOUR CLOSING DOCUMENTS SAID THAT THERE WAS AN EASEMENT FOR HIM TO FARM IT?

A. YES.

Q. I HAVEN'T BEEN PROVIDED A COPY OF YOUR CLOSING DOCUMENTS. CAN YOU PROVIDE ME WITH A COPY OF YOUR CLOSING DOCUMENTS?

A. YEAH.

BY MS. LYNCH:

AND AGAIN, MR. HENDERSON, I'M DEPOSING MR. NORDEN RIGHT NOW, NOT MRS. NORDEN, AND I WOULD APPRECIATE HER NOT SHAKING HER HEAD AND MAKING RESPONSES.

EXAMINATION RESUMED BY MS. LYNCH:

Q. I'M GOING TO SHOW YOU PAGE THREE OF FOUR OF THE CONTRACT TO PURCHASE THE MAIN HOUSE. AND CAN YOU JUST READ TO ME THAT PARAGRAPH RIGHT THERE, UNDERSTANDING THIS IS A CONTRACT TO PURCHASE?

A. EASEMENT ON LEFT SIDE FOR FARM ACCESS, NO TRAILERS, CHICKENS OR PIGS.

Q. OKAY. THANK YOU. SO, WHEN YOU BOUGHT THE PROPERTY, HOW MUCH DID YOU PAY FOR THE PROPERTY?

A. I THINK CONTRACT WAS 628.

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Q. AND YOU UNDERSTOOD YOU BOUGHT IT SUBJECT TO THAT EASEMENT?
A. RIGHT, AND AT THE CLOSING, WE CONFIRMED THAT IT WAS FOR THE OWNER TO FARM THE LAND.
Q. DO YOU ---
A. AND THAT WAS THE EXPRESS PURPOSE OF THE EASEMENT.
Q. AND YOU UNDERSTOOD THAT THE OWNER - WHEN YOU SAY THE OWNER, TO WHOM ARE YOU REFERRING?
A. THE WILLIAMSES.
Q. THE WILLIAMSES? ELEANOR AND MANNING WILLIAMS?
A. YES.
Q. OKAY.
A. THAT'S - I MEAN, WE DIDN'T KNOW WHO THE OWNER WAS AT THE TIME, BUT WE HAVE SUBSEQUENTLY LEARNED THAT.
Q. OKAY. I'M GOING TO SHOW YOU WHAT WE'RE GOING TO MARK AS EXHIBIT THREE.

(COURT REPORTER MARKS PLAINTIFF'S EXHIBIT NUMBER THREE, TITLE TO REAL ESTATE, ATTACHED.)

EXAMINATION RESUMED BY MS. LYNCH:

Q. AND CAN YOU TELL ME WHAT THAT DOCUMENT IS?
A. THAT LOOKS LIKE THE TITLE THAT THEY - SHE HAS TRANSFERRED TO US AT THE TIME THAT WE CLOSED ON FEBRUARY 2ND.
Q. IS THAT THE DEED TO THE PROPERTY YOU CURRENTLY OWN?
A. YES, IT IS.

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Q. OKAY. CAN YOU SHOW ME IN THERE WHERE IT RESERVES AN EASEMENT?
A. YOU MEAN THE ONE THAT'S HIGHLIGHTED AS YOU'VE IDENTIFIED?
Q. THAT IS WHERE I THINK THE EASEMENT IS RESERVED IN THAT DEED, BUT I WANT YOU TO READ THE DEED AND LET ME KNOW IF YOU SEE ANY OTHER EASEMENTS THAT ARE RESERVED.
A. ANY OTHER EASEMENTS? NO. THAT'S THE ONLY ONE.
Q. WILL YOU READ THE HIGHLIGHTED LANGUAGE FOR US, PLEASE?
A. THIS PROPERTY BEING SUBJECT TO A 30-FOOT ROAD EASEMENT AS SHOWN AND DESIGNATED UPON PLAT DATED SEPTEMBER 27, 1973, AND RECORDED IN PLAT BOOK 72 AT PAGES 208, 209 AFORESAID COUNTY RECORDS.
Q. OKAY. IS THERE ANY LANGUAGE IN THERE THAT SAYS THAT EASEMENT'S ONLY FOR FARMING?
A. NOT ON THAT.
Q. NOT IN YOUR DEED?
A. CORRECT.
Q. JUST SO WE HAVE A CLEAR RECORD, IS THERE ANY LANGUAGE IN THE EASEMENT YOU JUST READ THAT'S IN THE DEED TO YOUR PROPERTY THAT SAYS THE EASEMENT IS LIMITED TO FARMING?
A. NO, ONLY ON THE CONTRACT FOR SALE.

Q. BUT NOT IN THE DEED?
A. RIGHT.
Q. OKAY. AND I'M GOING TO SHOW YOU WHAT WE'RE GOING TO MARK AS EXHIBIT FOUR.

(COURT REPORTER MARKS PLAINTIFF'S EXHIBIT NUMBER FOUR, PLAT, ATTACHED.)

EXAMINATION RESUMED BY MS. LYNCH:

Q. AND CAN YOU IDENTIFY THAT DOCUMENT FOR ME?
A. YEAH, THAT'S 208 AND 209 OF THE PLAT, WHICH WAS ACTUALLY PART OF THE CONTRACT, I MEAN, PART OF ---
Q. THE DEED?
A. I THINK IT WAS THE DEED. NO, IT WAS IN THE CONTRACT, OR AT LEAST YOU HAVE IT ATTACHED TO THE CONTRACT. SAME ONE.
Q. OKAY.
A. YES, AND IT SHOWS - WELL, IT DOESN'T SHOW ANYTHING ON 208, OTHER THAN WHERE THERE USED TO BE - WELL, YES, AND IT SHOWS WHERE THAT ROAD EASEMENT GOES.
Q. AND YOU UNDERSTAND THAT'S THE EASEMENT OVER YOUR PROPERTY THAT THE WILLIAMSES ARE ALLOWED TO USE?
A. YES.
Q. OKAY. THANK YOU.
A. I NOTICE THAT IT EXITS OUR PROPERTY AT THE FIRST POINT OF WHERE THE WILLIAMSES' PROPERTY ADJOINS US. I JUST WANT TO PUT THAT ON RECORD, TOO.

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Q. OKAY. AND WHAT'S THE PURPOSE IN TELLING ME THAT?
A. JUST THAT THAT'S WHERE IT IS.
Q. OKAY. HAS THERE BEEN ANY ISSUE WITH Y'ALL THINKING IT BEING SOMEWHERE ELSE?
A. I HAVE A FEELING THAT'S NOT WHERE IT'S BEEN USED.
Q. AND WHY DO YOU HAVE THAT FEELING?
A. BECAUSE THEY ARE FOLLOWING A PATH DOWN TO THIS POINT.
Q. AND DO YOU HAVE ANY DOCUMENTATION THAT THEY'RE FOLLOWING A DIFFERENT PATH?
A. YEAH. I MEAN, I CAN SEE VEHICLES THAT THEY WERE USING THAT WAS ON, THAT WE ACTUALLY HAVE PICTURES OF THEM PROCEEDING BEYOND THAT.
Q. HAVE YOU PROVIDED ANY COPIES OF THOSE PICTURES TO YOUR ATTORNEY?
A. I DON'T KNOW IF I HAVE OR NOT.
Q. WE'VE SENT DISCOVERY IN THIS CASE, AND WE'VE ASKED FOR ALL DOCUMENTS THAT YOU HAVE THAT RELATE IN ANY WAY TO THIS EASEMENT OR THIS LITIGATION.
A. IT DOESN'T RELATE TO THE EASEMENT.
Q. IT DOES RELATE TO THIS LITIGATION, IF YOU'RE ALLEGING THAT THEY'RE NOT USING THE CORRECT EASEMENT.
A. WE WERE DISCUSSING, AS FAR AS I UNDERSTOOD, DID I KNOW WHERE THE EASEMENT WAS, AND I SAID YES. AND I

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MADE HER VERY SECURITY CONSCIOUS. AND ---

Q. AND AGAIN, I'M SORRY THOSE THINGS HAVE HAPPENED, BUT CAN ---

A. I HAVE BEEN UNABLE TO COMMUNICATE WITH THE WILLIAMSES TO VOICE THAT CONCERN AND ON NUMEROUS OCCASIONS I HAVE CALLED AND HAVE GOTTEN NO RESPONSE. AND THIS WAS ANOTHER EFFORT TO, YOU KNOW, WE NEED TO WORK SOMETHING OUT.

Q. AND WHY DO YOU THINK YOU NEED TO WORK SOMETHING OUT? I DON'T UNDERSTAND WHAT THE PROBLEM WAS. IF NOTHING IN YOUR DOCUMENT SAYS YOU HAVE A RIGHT TO BLOCK THE EASEMENT, THEN WHAT DID YOU NEED TO WORK OUT?

A. HOW WE CAN MAKE SURE THAT WE DON'T HAVE FOLKS TRESPASSING ON THE PROPERTY OR POTENTIALLY ROBBING IT WHEN WE CAN'T SEE WHAT'S GOING ON. AND THEY CAN'T SEE IF THEY HAPPEN TO BE DOWN THERE.

Q. AND HOW IS IT TRESPASSING IF PEOPLE ARE USING AN EASEMENT THAT'S CLEARLY GRANTED IN THE DEEDS AND RESERVED IN THE DEEDS TO GET TO PROPERTY THE WILLIAMSES OWN AND THE WILLIAMSES CAN ALLOW THE USE OF THEIR PROPERTY HOWEVER THEY SEE FIT, HOW IS THAT TRESPASSING?

A. IF A GATE IS OPENED AND SOMEBODY IS LOOKING TO STEAL, WHICH WITHIN THE LAST YEAR OR TWO, THERE HAS BEEN A LOT OF BURGLARIES, ROBBERIES IN THIS AREA. I

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HAD TWO FRIENDS HAVE THEIR PLACES, ONE WAS IN RUTHERFORDTON AND ONE WAS IN COLUMBUS. THEY HAD THEIR PLACE JUST RANSACKED AND ---

Q. HAVE YOU EVER BEEN ROBBED? IN LANDRUM, HAS YOUR PROPERTY IN LANDRUM EVER BEEN ROBBED?

A. NO, BUT OBVIOUSLY ---

Q. HAVE YOU EVER HAD ANYBODY ATTEMPT TO ROB YOU IN LANDRUM?

A. NO.

Q. HAVE ANY OF YOUR DIRECT NEIGHBORS, AND I MEAN PEOPLE WHO LIVE BEHIND YOU OR ON EITHER SIDE OF YOU OR ACROSS THE STREET FROM YOU, HAVE THEY EVER BEEN ROBBED IN LANDRUM?

A. I DON'T KNOW.

Q. OKAY.

A. OBVIOUSLY, BOTH THE WILLIAMSES AND HYDERS THOUGHT THAT IT MADE SENSE TO HAVE A GATE THAT WAS LOCKED PUT ON THAT EASEMENT ROAD.

Q. THE EASEMENT ROAD THAT GOES TO THEIR PROPERTY.

A. RIGHT.

Q. AND ---

A. AND THE FACT THAT THE HYDERS ACTUALLY INSTALLED IT TELLS ME THAT IT WAS IN THE HYDERS' INTEREST TO HAVE A GATE THERE TO KEEP PEOPLE OUT OF THEIR PROPERTY FROM A DIRECTION THAT THEY COULDN'T SEE.

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Q. DID EITHER OF THE HYDERS EVER SAY THAT TO YOU?
A. NO.
Q. OKAY. LET'S GO BACK TO WHEN YOU BLOCKED THE EASEMENT ON APRIL 29TH. WHAT HAPPENED THAT DAY?

BY MR. HENDERSON:

YOU SAID WHEN HE BOUGHT THE EASEMENT. YOU MEAN BOUGHT THE PROPERTY?

BY MS. LYNCH:

NO, NO. WHEN THEY BLOCKED THE EASEMENT. I'M SORRY.

BY MR. HENDERSON:

BLOCKED THE EASEMENT. I'M SORRY. I MISUNDERSTOOD. THANK YOU.

EXAMINATION RESUMED BY MS. LYNCH:

Q. WHEN YOU BLOCKED THE EASEMENT ON APRIL 29TH, TELL ME WHAT HAPPENED.
A. YOU MEAN IN ADDITION TO THE CLOSING AND LOCKING THE GATE, AN HOUR AND A HALF LATER ---
Q. I JUST WANT TO KNOW ---
A. --- FOUND IT OPEN?
Q. I WANT TO KNOW WHAT HAPPENED ON APRIL 29TH.
A. I - ALL RIGHT. MY WIFE SAW THE GATE OPEN, CLOSED IT AND LOCKED IT WITH THE LOCK THAT WAS THERE. THEN, AN HOUR AND A HALF, TWO HOURS LATER, SHE CAME BACK AND IT WAS OPEN AND THE LOCK WASN'T THERE. SO, SHE

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WENT UP TO THE HOUSE AND FOUND ANOTHER LOCK, WENT DOWN THERE, PUT A LOCK ON IT AND THEN TWO HOURS LATER, IT WAS GONE. THE LOCK - AND THE LOCK HAD BEEN BROKEN AND SET ASIDE AND THE GATE WAS OPEN AGAIN. SO, WHEN I GOT HOME, I WENT DOWN AND I SAW NATHAN OUT ON THE TRACTOR. AND I WAITED UNTIL HE FINISHED GOING DOWN THREE PROPERTIES' WORTH OF A ROW. AND AS HE CAME BACK, I WAVED, TRIED TO HAIL HIM DOWN AND SINCE I DIDN'T GET ANY RESPONSE, I PUT THE TRUCK UP AT THE GATE WITH A NOTE ON THE TAILGATE THAT SAID PLEASE CALL ME. I THEN PROCEEDED UP TO THE HOUSE, LEFT WORD AT MANNING WILLIAMS', SAYING LET'S NOT, OR AT LEAST I THINK I DID, AND LEFT A VOICEMAIL FOR HIM TO LET'S NOT LET THIS ESCALATE. PLEASE GIVE ME A CALL.

Q. HOW LONG DID YOU LEAVE THE TRUCK THERE?

A. OH, I DON'T REALLY KNOW. I KNOW IT WAS THERE WHEN CHANNEL FOUR NEWS DID THEIR REPORT, BUT I DON'T REALLY KNOW. I DON'T RECALL.

Q. WAS IT THERE MORE THAN ONE DAY?

A. YES.

Q. WAS IT THERE MORE THAN TWO DAYS?

A. YES, ALTHOUGH I DON'T THINK THE EQUIPMENT WAS, BECAUSE I REMEMBER IN THE ---

Q. WELL, I'M ASKING ABOUT THE TRUCK RIGHT NOW. YOUR

TRUCK, WAS IT PARKED THERE TWO DAYS?
A. YEAH.
Q. WAS IT PARKED THERE THREE DAYS?
A. YEAH, IF YOU KNOW WHEN THEY HAD THEIR PROTESTS ---
Q. I'M JUST ASKING ---
A. I KNOW IT WAS THERE THEN.
Q. WAS YOUR TRUCK PARKED THERE FOUR DAYS?
A. I REALLY DON'T KNOW.
Q. OKAY. I'M JUST ASKING ---
A. I MEAN ---
Q. --- FOR YOUR, AN APPROXIMATION. WE KNOW IT WAS PARKED THERE THREE DAYS. WAS IT PARKED THERE FIVE DAYS? CAN YOU GIVE ME A RANGE? DEFINITELY THREE, NO MORE THAN FIVE? WHAT DO YOU THINK?
A. IS THE ISSUE - I MEAN, I'M NOT QUITE SURE. I'M TRYING TO UNDERSTAND, BECAUSE THE INTENT WAS TO GET SOMEONE'S ATTENTION AND ALL I GOT WAS APPARENTLY ON - WELL, ON ---
Q. I'M JUST TRYING TO ---
A. SUNDAY, THE 12TH, I GET A LAWSUIT SERVED. NOW ---
Q. I'M JUST TRYING TO FIND OUT HOW LONG YOUR TRUCK WAS PARKED BLOCKING THIS EASEMENT. I DON'T WANT TO GET INTO ANYTHING ELSE. I JUST WANT TO KNOW THE NUMBER OF DAYS YOUR TRUCK WAS PARKED BLOCKING THE EASEMENT FROM APRIL 29TH, HOW MANY DAYS?

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A. I REALLY CAN'T REMEMBER. I KNOW THAT ---
Q. BUT DO YOU REMEMBER ---
A. I KNOW THAT THERE IS EVIDENCE THAT WHEN THEY, WHEN THE NEWS FOLKS WERE OUT THERE THAT THE TRUCK WAS THERE SO THAT I KNOW THAT IT WAS OVER FIVE DAYS.
Q. OKAY.
A. AFTER THAT, I COULDN'T TELL YOU.
Q. OKAY. THAT'S ALL I'M ASKING. WHY DID YOU FINALLY MOVE IT?
A. WHEN I ENDED UP TALKING TO LISA ANTHONY AND SHE SAID, OH, YOU CAN'T - YOU CAN'T BLOCK THAT. SO, I MOVED IT.
Q. DO YOU HAVE ANY RECORD OF THAT PHONE CALL?
A. I DON'T, BUT I - I'M SURE YOU CAN GET PHONE RECORDS AND FIND OUT.
Q. AND LISA ANTHONY WAS YOUR CLOSING ATTORNEY WHO HANDLED THE CLOSING WHEN YOU PURCHASED THE PROPERTY?
A. YES.
Q. AND SHE TOLD YOU THAT YOU COULD NOT BLOCK THE EASEMENT?
A. RIGHT. AND SO ---
Q. AND ---
A. I TALKED TO HER DURING THE DAY, AND WHEN I GOT HOME, I MOVED THE TRUCK.
Q. AND LISA ANTHONY IS AN ATTORNEY?

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A. YES, SHE WAS THE CLOSING ATTORNEY.
Q. OKAY.
A. AND THEN, THAT'S AT THAT POINT THAT SHE SAID, WELL, I CAN'T, YOU KNOW, I REALLY CAN'T DO ANYTHING BECAUSE THE WILLIAMSES ARE ALSO MY CLIENTS. SO, I CAN'T GET INVOLVED.
Q. OKAY. TELL ME ABOUT THE SECOND TIME YOU BLOCKED THE GATE.
A. I GOT A CALL FROM ONE OF THE NEIGHBORS, A DUSTIN HENSON, WHO THREATENED ME WITH A GUN ON THE PHONE. AND THIS WAS ON JUNE THE 1ST.
Q. WHAT DID HE SAY?
A. HE SAID, YOU KNOW, I'D BE CAREFUL DOWN THERE. STRAY BULLETS FROM HUNTING, IT COULD REALLY KILL YOU. AND I WOULDN'T PARK YOUR CAR ANYWHERE CLOSE, EITHER. SO, I CALLED ---
Q. DOWN WHERE? WHERE DID YOU THINK HE WAS TALKING ABOUT?
A. ON OUR PROPERTY.
Q. OKAY.
A. SO, I CALLED THE POLICE AND I - AND THEY INVESTIGATED AND FOUND OUT THAT IT WAS DUSTIN HENSON. AND SO I CALLED - WELL, I CALLED 911 ABOUT IT AND THEN I CALLED CINDY THAT WE HAD GOTTEN THIS PHONE CALL. AND THEN, THAT EVENING, THE GATE WAS

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CLOSED - NO, THE GATE WAS OPEN AND I THINK CINDY WENT DOWN THERE ---

Q. ABOUT WHAT TIME?

A. I GOT HOME AND IT WAS ABOUT 5:00 OR SOMETHING LIKE THAT.

Q. SO, STILL DURING THE WORK DAY?

A. WELL, I MEAN, WE QUIT AT 4:30, SO THAT'S WHY I'M USUALLY HOME AT ABOUT 5:00.

Q. BUT I MEAN, JUNE 1ST, IT'S LIGHT UNTIL 8:00, 8:00 OR 9:00 AT NIGHT ---

A. RIGHT.

Q. SO, SOMEBODY WOULD STILL BE WORKING.

A. DON'T KNOW. I MEAN, AGAIN ---

Q. BUT WOULD YOU HAVE ---

A. THE WAY IT'S CONFIGURED, THE WAY THE EASEMENT IS CONFIGURED AND WHERE THEIR PROPERTY IS, THEY CAN'T SEE AND WE CAN'T SEE THEM.

Q. SEPARATE AND ASIDE FROM THE EASEMENT OR ANY PROPERTY, IF YOU'RE A FARMER ON JUNE 1ST, IT'S LIGHT TO WHERE YOU CAN STILL BE WORKING AT 8:00 AT NIGHT, CORRECT? YOU COULD STILL BE WORKING OUTSIDE?

A. YOU'RE ---

Q. WHETHER YOU'RE PLANTING A FLOWERBED OR DOING FARMING OR ---

A. YES, YOU COULD BE.

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Q. OKAY. OKAY. SO, WHEN DID YOU PUT THE TRUCK OUT THERE ON JUNE 1ST TO BLOCK THE EASEMENT? WHAT TIME?
A. I WAS THINKING IT WAS IN THE EVENING. I HAVE TO - I DON'T REMEMBER WHEN.
Q. AND WHY DID YOU PUT - YOU PUT IT OUT THERE BECAUSE YOU HAD GOTTEN A PHONE CALL FROM DUSTIN HENSON.
A. YEAH.
Q. SO, YOU BLOCKED THE WILLIAMSES' EASEMENT BECAUSE YOU GOT A PHONE CALL FROM DUSTIN HENSON?
A. AND IT WAS OPEN.
Q. WILL YOU ANSWER MY QUESTION FIRST, PLEASE? YOU BLOCKED THE EASEMENT BECAUSE YOU HAD GOTTEN - YOU BLOCKED THE WILLIAMSES' EASEMENT BECAUSE YOU HAD GOTTEN A PHONE CALL FROM DUSTIN HENSON?
A. AND THE GATE WAS OPEN.
Q. I NEED YOU TO ANSWER THE FIRST QUESTION. YOU BLOCKED THE EASEMENT ---
A. I BLOCKED IT BECAUSE IT - BECAUSE I WAS CONCERNED FOR OUR SAFETY WHEN I'VE GOT SOME INDIVIDUAL MAKING THREATENING PHONE CALLS TO ME AND MY FAMILY AND I HAVE A GATE THAT'S WIDE OPEN. I GET A LITTLE NERVOUS.
Q. DID YOU GO AND BLOCK THE GATE TO YOUR FRONT DRIVEWAY ON JUNE 1ST AFTER YOU RECEIVED A PHONE CALL FROM DUSTIN HENSON?

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A. NO, BUT I'VE GOT SIX DOGS TO KEEP THAT TAKEN CARE OF.

BY MS. NORDEN:

NOT THEN.

BY MS. LYNCH:

EXCUSE ME. MS. NORDEN, MY QUESTIONS ARE DIRECTED TO MR. NORDEN AND IT'S NOT YOUR OPPORTUNITY TO SPEAK RIGHT NOW.

BY MS. NORDEN:

WHEN WILL IT BE MY OPPORTUNITY TO SPEAK?

BY MR. HENDERSON:

AFTER ---

BY MS. NORDEN:

SINCE MY NAME IS THE FIRST ONE ---

BY MR. HENDERSON:

DON'T SAY ANYTHING. DON'T SAY ANYTHING. SHE'S RIGHT AND YOU'RE WRONG, SO DON'T SAY ANYTHING, PLEASE.

BY MS. NORDEN:

OKAY.

BY MR. HENDERSON:

OKAY.

EXAMINATION RESUMED BY MS. LYNCH:

Q. WHAT TIME DID YOU PARK THE TRUCK BLOCKING THE EASEMENT ON JUNE 1ST?

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A. I HAVE NO IDEA. I KNOW IT WAS AFTER I GOT HOME AND WE HAD - WE HIRED - WE HAD ---

Q. LET'S GET THE TIME PERIOD ---

A. --- COMMISSIONED ---

Q. --- GOING FIRST. GO AHEAD.

A. SO, SOMETIME IN THE EVENING. I REALLY COULDN'T TELL YOU EXACTLY WHEN.

Q. AND I'M SORRY I INTERRUPTED YOU. YOU SAID - I THINK YOU WERE SAYING SOMETHING ABOUT COMMISSIONING.

A. YES. BACK WHEN WE RECEIVED THE LAWSUIT, WE HAD COMMISSIONED MATT TO REPRESENT US. THE DECISION TO BLOCK ON JUNE 1ST OCCURRED LATE IN THE AFTERNOON. SO, ON JUNE 2ND, I ENDED UP CALLING MATT TO LET HIM KNOW THAT, FOR ONE, I HAD GOTTEN A CALL FROM THE POLICE IDENTIFYING WHO IT WAS THAT THREATENED ME ON THE PHONE, AND TO TELL THEM THAT BECAUSE OF THIS SAFETY ISSUE, I HAD BLOCKED THE TRUCK OR I HAD PUT THE TRUCK IN FRONT OF THE GATE. AND HE SAID YOU CAN'T DO THAT. SO, WHEN I GOT HOME, I TOOK THE TRUCK OUT OF THERE.

Q. SO, YOU MOVED THE TRUCK ON JUNE 2ND?

A. YES.

Q. OKAY. HAVE THERE BEEN ANY OTHER INSTANCES WHERE THE EASEMENT WAS BLOCKED?

A. NOT BY US.

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Q. I DON'T REMEMBER SEEING ANY PICTURES OF THIS; I COULD BE WRONG, BUT IF YOU WOULD GIVE THOSE PICTURES TO YOUR ATTORNEY AGAIN TO MAKE SURE I HAVE THEM.

A. OKAY.

Q. AND YOU SAY YOU SAW EQUIPMENT, BUT DID YOU SEE HUMAN BEINGS ON YOUR PROPERTY?

A. WELL, FOR THEM TO GET TO IT, THEY HAD TO USE OUR PROPERTY. WELL, NO, I SHOULDN'T SAY THAT. THEY COULD COME IN FROM OTHER AREAS, THE SAME WAY THAT THEY GOT THEIR TRACTORS WHEN WE HAD LOCKED THE GATE.

Q. MY QUESTION IS, DID YOU WITH YOUR TWO EYES SEE ANY OF THE WILLIAMS ON YOUR PROPERTY?

A. NO. I HAVEN'T SEEN THE WILLIAMS ON THERE, NO.

Q. OKAY.

A. I MEAN, NOT IN 2012.

Q. HAVE YOU HAD ANY OTHER INSTANCES WHERE YOU KNOW PEOPLE HAVE BEEN ON YOUR PROPERTY IN 2012 WHO SHOULDN'T HAVE BEEN THERE?

A. WELL, IF YOU'LL NOTE IN THE WAY THE EASEMENT IS SET UP, IT DOESN'T EXTEND ALL THE WAY DOWN TO THE CREEK WHICH MEANS IF THEY WERE GOING TO FOLLOW THE EASEMENT, THEY WOULD ACTUALLY HAVE TO GO RIGHT INTO THEIR WOODS, WHICH THEY OBVIOUSLY DON'T DO.

Q. OKAY, HAVE YOU HAD ANY OTHER INSTANCES IN 2012 WHERE SOMEBODY YOU SAW ON YOUR PROPERTY YOU DIDN'T FEEL

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SHOULD BE THERE?

A. NOT TO MY RECOLLECTION.

Q. IN 2011 HAVE YOU EVER HAD ANYBODY WHOM YOU BELIEVE WAS TRESPASSING ON YOUR PROPERTY?

A. YEAH, THEY DECIDED TO HAVE A SKEET SHOOT ON THE WILLIAMS' PROPERTY ON NOVEMBER 26.

Q. WHO IS THEY?

A. JOHN GIBSON, DUSTIN HENSON AND I DON'T KNOW, ANOTHER TEN, TWELVE OTHER PEOPLE. A POLICE OFFICER THAT WE CALLED ON THE DATE IDENTIFIED SEVEN VEHICLES COMING OUT WHICH HAD TO BE USE OUR PROPERTY TO GET TO THE EASEMENT. THEY WERE ALL - AND ACTUALLY WE HAVE - WE MAY EVEN HAVE A PICTURE OF A VEHICLE DRIVING DOWN IT.

Q. I HAVEN'T SEEN THAT PICTURE. WOULD YOU PLEASE PRODUCE THAT PICTURE TO YOUR ATTORNEY TO GIVE TO ME.

A. YEAH.

Q. YOU JUST TOLD ME THERE WAS A SKEET SHOOT ON THE WILLIAMS' PROPERTY?

A. RIGHT.

Q. OKAY. SO THOSE PEOPLE WEREN'T SHOOTING SKEET ON YOUR PROPERTY?

A. NO, THEY WERE 20 FEET FROM IT.

Q. BUT THEY WEREN'T ON YOUR PROPERTY?

A. RIGHT.

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Q. AND THEY GOT TO THE WILLIAMS' PROPERTY BY GOING DOWN THE EASEMENT, CORRECT?
A. AND BY THE PART OF THE PROPERTY THAT WAS NOT ON THE EASEMENT, YES.
Q. HOW DO YOU KNOW THAT?
A. WOULD YOU LIKE TO LOOK AT THE EASEMENT AGAIN?

BY MRS. NORDEN:

WE HAVE PHOTOGRAPHS.

BY MS. LYNCH:

MRS. NORDEN, IF YOU SPEAK AGAIN, I'M GOING TO HAVE TO ASK THAT YOU LEAVE THE ROOM BECAUSE THIS IS NOT YOUR DEPOSITION.

BY MRS. NORDEN:

OKAY.

WITNESS CONTINUES:

A. THAT'S WHERE THEY ENTERED THE PROPERTY; THAT'S WHERE THEY ARE SUPPOSED TO ENTER IT. THEY'RE SUPPOSED TO ENTER IT RIGHT THERE.
Q. I'M JUST TRYING TO KEEP THE RECORD CLEAR. LET THE RECORD REFLECT THAT THE WITNESS HAS WRITTEN ON PAGE TWO OF EXHIBIT 4, TO DRAW WHERE HE BELIEVES THE EASEMENT IS ENTERING THE WILLIAMS' PROPERTY.
A. THAT'S WHERE IT'S SUPPOSED TO. RIGHT AT THE FIRST POINT WHERE THE PROPERTIES INTERSECT.
Q. HAVE YOU HAD YOUR PROPERTY RE-SURVEYED?

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SURVEY.

Q. AND I THINK WE JUST CLARIFIED WHAT OUR POSITION IS ON THAT. WE'LL GO BACK OVER IT. ACCORDING TO —

A. THIS SURVEY, THAT'S WHERE THE EASEMENT IS SUPPOSED TO BE.

Q. OKAY, AND WHEN YOU SAY "THIS SURVEY," YOU MEAN PAGE TWO OF EXHIBIT FOUR?

A. YES. PLAT BOOK 72, PAGE 209. IT SPECIFICALLY IDENTIFIES THAT THE EASEMENT IS SUPPOSED TO ENTER THE PROPERTY AT THE POINT WHERE THE PROPERTIES ADJOIN ONE ANOTHER.

Q. OKAY. IS THERE ANY OTHER INCIDENT IN 2011 WHEN YOU THINK YOUR PROPERTY WAS TRESPASSED?

A. BASED ON THE SURVEY, EVERY TIME SOMEBODY WENT DOWN TO THE WILLIAMS' PROPERTY, THEY ARE TECHNICALLY TRESPASSING.

Q. WERE THERE ANY INSTANCES IN 2010 WHEN YOU THINK YOUR PROPERTY WAS TRESPASSED?

A. ANY TIME SOMEONE WENT DOWN TO THE WILLIAMS' PROPERTY USING THAT EASEMENT. 2009, 2008 AND 2007.

Q. WHEN YOU PURCHASED THE PROPERTY?

A. CORRECT.

Q. WHO WERE THESE HUNTERS THAT YOU CLAIM WERE GOING TO USE THE WILLIAMS' PROPERTY?

A. YOU MEAN BESIDES JOHN GIBSON? I MEAN, DUSTIN

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HENSON I KNOW WAS ONE OF THE ONES THAT WERE SKEET SHOOTING. I DON'T KNOW NAMES OF THE OTHERS THAT WERE SKEET SHOOTING. I DON'T RECALL THE NAME OF THE PERSON IN 2009 WHEN WE CALLED THE POLICE ON TWO GUYS STROLLING DOWN THE EASEMENT WITH GUNS. CINDY WAS WALKING THE DOGS OUT ON THE PROPERTY.

Q. WHY DO YOU THINK IT'S ILLEGAL FOR HUNTERS TO HUNT ON THE WILLIAMS' PROPERTY?

A. STATE REGULATIONS REQUIRE THAT A HUNTING BLIND FOR GUESTS OF A PROPERTY OWNER, NOT A PROPERTY OWNER, BUT GUESTS, MUST BE AT LEAST 300 YARDS FROM A RESIDENCE, AND ACCORDING TO THE DNR THAT WROTE A DOCUMENT, HE CLAIMS THAT IT WAS 225 YARDS FROM THE LOG CABIN, WHICH MEANS THAT UNLESS THE WILLIAMS WERE GOING TO DO THE HUNTING, NOBODY ELSE CAN USE THAT HUNTING BLIND IS MY UNDERSTANDING OF THE GAME LAWS IN THIS STATE.

Q. OKAY. IF THAT BLIND WAS 300 YARDS FROM THE LOG CABIN, WOULD IT BE YOUR UNDERSTANDING THAT SOMEBODY COULD —

A. RIGHT. THAT A FRIEND COULD HUNT, YES. AND THE FACT THAT IT ALSO POINTS TOWARDS OUR PROPERTY GETS ME A LITTLE NERVOUS, BUT THAT'S ANOTHER ISSUE.

Q. BUT IS IT YOUR POSITION THAT YOU THINK IT'S ILLEGAL FOR THE PROPERTY TO BE HUNTED?

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A. NO. I DON'T.
Q. IF SOMEBODY HAD A HUNTING BLIND 300 YARDS FROM THE LOG CABIN, REGARDLESS OF THE DIRECTION IT POINTED, THEY COULD HUNT LEGALLY?
A. THAT'S WHAT THE LAW SAYS.
Q. IF THE WILLIAMS WERE TO AGREE TO KEEP THE GATE LOCKED EVERY TIME THEY WENT IN AND OUT OF THE EASEMENT, WOULD THAT SETTLE THIS LAWSUIT?
A. YEAH, THAT'S ALL WE WANTED WAS TO KEEP THE GATE CLOSED. I DON'T KNOW IF YOU'RE FAMILIAR WITH THE ACTUAL GATE LOCK. IF THERE IS A LOCK THAT IS PRESENT - IF YOU CLOSE THE GATE IT'LL LOOK LIKE IT'S LOCKED. I MEAN, WE HAVEN'T BEEN FOOLING WITH THE LOCK SINCE WE WERE - SINCE AFTER - WELL, SINCE WE STARTED WORKING WITH MATT. SO, ANYONE WHO HAS BEEN FOOLING WITH THE LOCK HAS NOT BEEN US. SO, IF - ALL WE'VE BEEN DOING IS CLOSING THE GATE. THAT WAS THE WHOLE PURPOSE IN WHAT WE DID IN BLOCKING THE TRUCK OR PUTTING THE TRUCK IN FRONT OF THE GATE. IT'S LIKE, HEY, WE WANT THE GATE CLOSED. WE FEEL A LOT SAFER. I JUST - IT SEEMS LIKE A PHONE CALL OR - I MEAN, WE WERE ALWAYS - IF IT WAS TRULY A SAFETY ISSUE, I COULD UNDERSTAND. I MEAN, RIGHT NOW THE WAY THAT GATE IS CONFIGURED, IF YOU ARE COMING FROM THE NORTH YOU WOULD HAVE 40 FEET. IF YOU ARE COMING

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In the Matter Of:

Williams, Manning L., et. al. v

Norden, Cynthia W., et. al.

Raymond A. Norden

May 15, 2015

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG

MANNING L. WILLIAMS and ELEANOR C. WILLIAMS,

Plaintiffs,

vs. CASE NO. 2011-CP-42-2079

CYNTHIA W. NORDEN and RAYMOND A. NORDEN,

Defendants.

DEPOSITION OF: RAYMOND A. NORDEN

DATE: May 15, 2015

TIME: 10:06 AM

LOCATION: Harrison, White, Smith & Coggins
178 West Main Street
Spartanburg, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: AMY R. COPE,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Manning Williams, Eleanor Williams,
and Cynthia Norden

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STIPULATION

It is stipulated by and among Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, Rule 30; that all objections as to Notice of this deposition are hereby waived; that all objections except as to form are reserved until the time of trial; and that the deponent waives reading and signing of this deposition.

* * * * * * * * * * *

RAYMOND A. NORDEN

being first duly sworn, testified as follows:

EXAMINATION

BY MR. WHITE:

Q. Mr. Norden, good morning.

A. Morning.

Q. My name is John White. We've met before. And I'm here to ask you some questions in regards to the litigation that you and your wife have with the Williams.

A. Yes.

Q. Okay. I will ask you a question, if I mumble or if you don't understand it, please let me know. If you need to stop at any time for a break, water, bathroom, or otherwise, let me know.

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Q. Okay. If we look at some of the documents -- and we're not going to pull those back out and pour over those in great detail today, but if we look at the documents that you were given in regards to maybe a limited use or access, all of that was provided in the -- by the Realtor; is that correct?

A. Yes. And we certainly had copies of the plat survey showing where the easement was supposed to go, yes.

Q. But if you look at the plat, and I think it's denoted page 208 and 209, nowhere on the plat does it say it's ingress and egress for only agriculture purposes, does it?

A. It just says road easement.

Q. Okay. So back in 2007 you were told by the Realtor; who represented both parties, the lawyer; who represented both parties, and the seller; who sold you the property, that it was an easement for agricultural purposes only, maybe to go down and grow some corn and come back out and nobody could use it for any other purpose; is that correct?

A. It was explained to us in the, I think it's the residential disclosure forms, that it was

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used for the owner to go down to plant corn and other crops. And that he used it four or five times a year.

Q. Okay.

A. That was -- and when we brought up the issue of hunting, Loretta and Lisa Anthony both said, oh, they don't even hunt, okay.

Q. Did you make any inspection of the bottom 14 acres visual or otherwise prior to purchasing your property?

A. Of their 14 acres?

Q. Yes, sir.

A. No.

Q. Never walked down there?

A. No. We walked down on our side on our property and looked at the property.

Q. Okay. In looking at your closing documents, you had title insurance?

A. Yes.

Q. Have you made any claim against your title insurance in regards to the misrepresentations by the Realtor, the seller, and/or any complaints that you might have in regards to the attorney?

A. I had contacted them, but at the time

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behalf, never, prior to you purchasing this property, made any representations to you as to how they could use the property or where they could use the property or anything else, did they?

A. No.

Q. Okay. Now, is it -- in July of 2008, you made some investigation in regards to a polo riding range?

A. Yes.

Q. Okay. And what happened with that?

A. This was, I think in the summer of 2008, if I recall -- yeah, and we realized that in order to put an arena down at the bottom, we would have to make sure that we've got the rest of the facility up and running.

And at that point, having gone through the drought in 2007, 2008 wasn't better, we had a lot of work to do on the property before we even considered getting a ring in, which is why we didn't bother preparing that area. And at that time we were also not -- hadn't really gotten to know our neighbors too well and so we weren't really going to be asking them that they really shouldn't be using land that wasn't part of the easement to access their property.

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Q. When did you first learn, in your opinion, that they were using land that was not part of their easement?

A. Well, I guess -- I guess my first knowledge of it would be when they were planting that 2007.

Q. Okay. So in 2007 you had your first knowledge that, in your opinion, they were not using the correct easement path; is that correct?

A. Right.

Q. Okay. Now, is it fair to say that it really didn't come to a head, even though there might have been discussions, until the gate closing incident in 2010?

A. No.

Q. Okay.

A. It was prior to that, it was --

Q. All right. What actions did you take in 2007 -- well, strike that question.

When you bought the property and you walked the easement, correct, before you purchased the property?

A. Yes, I walked the property.

Q. Okay. It started on the pavement road, through the gate, down adjacent to, you know, your

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property, in-between your property and on your property and the Hyder property, and it had a certain route, correct?

A. Right.

Q. And the route that it occupied was the route that it continued to occupy until there was some barriers put up, the plastic poles, the wooden fence by you; is that correct?

A. I'm not quite sure I follow it.

Q. Okay. Well, let me go back and do it in a couple of steps. When you bought the property you walked the easement?

A. Right.

Q. Okay. And the flow of the easement, the area that you could look at and see a path being used, was what was represented to you by the Hyder lady and your Realtor as the path of the easement; was it not?

A. Actually I didn't see anyone from the Hyder's Realtor, it was strictly my Realtor.

Q. Okay. Billie Lindsey?

A. Right.

Q. Did Billie Lindsey --

A. And she showed me -- we literally walked the property, we walked into the woods. She

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said, you know, there's an easement and if you look on it, you can see it's along the north side of the property. And so fine, I can see it. I can see the bottom land, there's enough room to put in an arena of some sort.

Q. Well, my question is: If you looked at the roadbed; if you want to call it that, the easement bed, it took a path and you walked that path when you purchased the property, correct?

A. Yeah, this would have been December, there probably was not a whole lot of traffic there. There also had been a garden down there, so I mean, I really wasn't paying attention to -- you could get traffic going down that easement to get to her vegetable garden, which was on that little section that we intended to put a ring.

Q. Okay. But there was an established path, a route from the top of the paved road through the gate down to where it entered into the Williams's property; was there not?

A. Yes.

Q. And that was there in 2007?

A. Yes.

Q. Okay. Now -- and you knew about it, you walked it?

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this litigation, correct?

A. The security issue was.

Q. That's right. So what started this litigation was the security issue in terms of y'all's disagreement over when the gate could be unlocked and opened and when it could not be unlocked and unopened; is that a fair statement?

A. Yes, since the road -- since the easement could not be viewed from their property, whether they were there or not there during the day, they could not monitor any traffic on that easement.

Q. Okay.

A. And therefore it was not secure and we couldn't see it either.

Q. From March of 2007 until May the 11th -- May the 10th, 2011, when they filed an action against you in regards to the gate, did you take any measure in those four years to stop the natural, usual, normal flow of the path in the easement?

MRS. NORDEN: Check your timeline.

THE WITNESS: Would you clarify that?

BY MR. WHITE:

Q. I'll repeat the question, all right.

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A. Thank you.

Q. You bought the property in March of 2007, correct?

A. Uh-huh.

Q. The gate issue, I said 2010, it was really 2011, really came to a head in the spring of 2011, correct?

A. No, I mean -- it came to a head, yes.

Q. Okay. And my question is a simple question: There was a path, there was a roadbed, there was a demonstrable, viewable lane of where they were using the easement, correct?

A. Yes.

Q. My question is: From March of 2007 until they filed the lawsuit against you on May the 10th, 2011, did you do anything -- not talking about the gate, but past the gate down to their bottom field that you blocked in any way, the flow of that easement by them?

A. No, we did not block.

Q. Okay. Didn't put up -- you didn't block it with cars, did you?

A. No.

Q. You didn't block it with posts, did you?

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A. No.
Q. Didn't block it with debris, did you?
A. No.
Q. Didn't block it with --
MR. BRANNON: Object to the form.
BY MR. WHITE:
Q. -- didn't block it with putting up any dirt, did you?
A. No.
Q. And didn't even put up any signs, did you?
A. I don't remember when we put the no trespassing sign up on the tree at the end of the easement as described in the survey.
Q. Okay. But that would be on your timeline?
A. Yeah.
Q. Okay. I'm going to show you what has been handed to me by my able law partner. And it's a copy of, I think, the Chicago Title insurance policy. And ask you if you can identify that?
A. Yes.
(NORDEN PLF. EXH. 2, Chicago Title insurance policy, was marked for identification.)
BY MR. WHITE:

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Q. When you purchased your property in South Carolina you gained title by a deed; is that correct?

A. Yes.

Q. Okay. And in that deed it refers to a plat, correct?

A. Yes.

Q. And if you look at Plaintiff's Exhibit Number 2, under paragraph 3 is the legal description of your property; is that correct?

A. Yes, it is.

Q. Okay. And under that legal description it says: This property is being subject to a 30-foot road easement as shown and designated upon a plat dated September the 27th, 1973, recorded in plat book 72 at 208 and 209; is that correct?

A. Yes.

Q. Okay. In July of 2008, you say on your timeline you talked to the Williams about their trespassing. July the 25th, 2008, Plaintiff's Exhibit Number 1.

A. I don't -- I'm sorry, I --

Q. Maybe I've got a different copy. That sentence right there, you see it, Mr. Norden? (Indicating).

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A. July -- yes. We will talk, we didn't get around to it.

Q. Okay. We will talk.

A. Yes, it wasn't that we talked.

Q. Okay. So did you talk to them about their trespass in 2007?

A. No.

Q. Did you talk to them about how they were using the defined path in 2007?

A. No.

Q. Did you talk to them in 2008 about how they were using the path of their trespass?

A. No.

Q. Did you talk to them in 2009 about their using of the roadbed easement and their trespass?

A. I don't recall if I talked to -- well, I didn't talk to them because by 2009 Manning wasn't showing up very often. And it was Nathan and he didn't want to talk to me at all.

Q. Okay. Well now, Nathan doesn't own the property, correct?

A. Correct.

Q. I'm asking you if you talked to Manning or Ms. Williams in 2009 about how they were using

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the path and their trespass?

A. I think the only thing we ended up doing in 2009 was calling the police about some hunters that came down our easement and was proceeding down our property. And there was an officer that came, for which we don't have a police report, and said that he was trespassing.

Q. Okay. Any indication from the officer that if -- well, if the officer said they were trespassing, the Williams didn't send them, right?

A. No, he said that the Williams had -- you know, he said they were the ones that allow him to go down there and hunt.

Q. Do you know who the man was?

A. No, I don't.

Q. Do you know who the officer was?

A. No, the tenant at the time called someone, they came and said, oh, they're usually pretty diligent about hunting. And consequently I don't think a report was written.

Q. Well, did you ask for someone to be charged?

A. I wasn't present at the time, so I can't really tell you what was going on.

Q. Did anybody, you or your wife, call the

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Williams about that incident?

A. I don't believe so.

Q. Okay.

A. I mean, we have -- you know, we tried to get along. We moved up there the beginning of 2007. We spent almost two years trying to get the house, the barn, the fencing, everything organized. The grasses growing so that it could accommodate a barn operation or a horse operation. And we really don't have time to worry about things that are not immediately pressing.

Q. Okay.

A. And alienating a neighbor by telling them they've got to go build something is not real high on my agenda at that time.

Q. Well, did you talk to them in 2010 about their use of the path that was viewable there and down to the property or their trespass?

A. No, I don't believe so.

Q. Up until they filed this litigation on May the 10th of 2011, had you ever talked to them about their use of the easement, where they were using it, and any trespass?

A. The actions of their employees or family towards our presence made it very clear to

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us that we were not welcome. And they really didn't want to have anything to do with us. We had made calls, they had not responded.

Q. Well, did you take any action by trying to get an action, a civil action for trespass, from when you purchased the property in 2007 until this lawsuit was filed in May of 2011, did you take any civil action against them?

A. I believe when there was some hunters that were going down our property and a police officer had said, oh, that's a civil matter, we don't get involved in that.

Q. Well then when they told you it was a civil matter, did you bring a lawsuit against them?

A. No, we still wanted to live here.

Q. Okay. Have you ever seen Mrs. Williams, the lady seated over there, trespass on your property? (Indicating).

A. No.

Q. So she's never trespassed on your property?

A. No, she doesn't go on the property.

Q. Okay. Has she ever created a nuisance on your property, Mrs. Williams?

A. I don't know if she was present for the

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picketing that was done on our property.

Q. Okay. Is that when WFY News came out?

A. Right.

Q. Were they out there on your property --

A. Well, actually, no, mostly the picketing was done the day before. The news company didn't show up until the next day.

Q. Okay. Did the people come back and picket again?

A. Not as many.

Q. But some did?

A. Yes. And as I say, I really don't know who all showed up. So I can't comment as to whether either one of them showed up.

Q. So as a result of her being out there at that time, did you bring a civil action against her for trespass or did you bring a criminal action against her for trespass?

A. They did not go through the gate because the truck was preventing vehicles from going down there --

Q. But you said they were on your property --

A. -- equipment -- well, right.

Q. -- you said they were on your property?

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A. Right. As -- there is, I believe, a 25-foot easement off of the road off of Gibson Road, I believe, on each side. So anything beyond 25 feet to the gate is technically trespassing. So if you park your vehicle in front of my easement gate, you are technically trespassing.

Q. All right. Well, let me ask you this specific question: Can you swear under oath today the day of the picket or the day that WFY Channel 4 came out there, she was within the 25-foot easement?

A. No, I cannot. I mean, that's...

Q. Did she park her vehicle there?

A. I don't know what her vehicle is, so I couldn't tell you.

Q. So as far as Mrs. Williams in this lawsuit, she's never trespassed, she's never created a nuisance, correct, that you know of?

A. I don't know. I know that -- I know that when they interviewed her, she made some comments. So whether she was interviewed at the location or at her home, you can tell me whether she ever was there.

Q. You have no knowledge of her being there or being in violation of the 25 foot, do you?

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A. No.

Q. So as far as Ms. Williams, you don't have any testimony that you can give that she's created a trespass, do you?

A. Not to my knowledge.

Q. Okay. Do you have any testimony in regards to her creating a nuisance?

A. I don't think so.

Q. Do you have any testimony that she has interfered with any contractual relationship that you have for listing for a sale of a portion of the property?

A. No.

Q. Okay. Now, Mr. Williams, do you have personal knowledge as to whether or not he has trespassed on your property after you've given him proper notice?

A. Yes.

Q. Okay. And when is that?

A. Oh, pick a day he went down to the bottom prior to 1914 -- I'm sorry --

Q. Unfortunately, I can't answer that. I wasn't there.

A. Okay. I remember back in a summer, whether it was last year or the year before,

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Mr. Williams coming out of the easement and asking me if I am the gate patrol person. That I have nothing to do other than close the gate after him because he left and did not close the gate, so I closed it.

Q. And that's Mr. Manning Williams?

A. Yes.

Q. And do you remember that time?

A. No, I just know it was during a summer or maybe it was spring planting, I don't --

Q. Was it before the gate incident or after the gate incident?

A. Well after the gate incident. And even after we informed you that they were trespassing.

Q. Well now, we didn't inform me anything. Your lawyer, Mr. Henderson might have, correct?

A. No, I informed you in the deposition.

Q. Okay. Well, Ms. Lynch was taking your deposition then. Do you remember the lady?

A. And Mr. Manning Williams was here.

Q. So after the deposition?

A. At the deposition he was informed.

Q. Tell me the nuisance he's created for you, Mr. Williams.

A. Failure to close the gate, making it

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very unsafe for us. Allowing other people to use it. I get a little nervous at 11 o'clock on a Saturday night when somebody goes driving up the easement. I don't know what kind of farming they're doing on May 2nd at 11 o'clock at night.

Who is he giving a key to to do nighttime work?

Q. My question is specifically: Can you give me the dates where you have personal knowledge that Mr. Manning Williams has created a nuisance that you've alleged in your counterclaim in this case?

A. Well, I write things down so I don't have to remember.

Q. Well, let me -- go ahead and answer that question.

A. How about parking, oh, let's see when was that? I'm sorry, I'm losing the question again.

Q. Let me go back and let me just withdraw that question and ask you some other questions, if I could, please.

Show me any legal document or any document that you have other than what the Realtors gave you and the listing agreement that restricts

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Williams name is on here?

A. An approval at --

Q. Is it?

A. No, it's not. Which is why I questioned why they're there. And if they have allowed them, then they are agents.

Q. Okay. Do you -- you can invite anybody to your property you want to, can't you?

A. Yes.

Q. Do you know of any restrictions on that 14 acres that wouldn't allow the Williams to invite anybody they wanted to to the property?

A. No.

Q. Okay.

A. But if -- my --

Q. What time does it get dark in May?

A. In May, oh, 8 o'clock.

Q. Okay.

A. Which is why 11 o'clock was a little late.

Q. So tell me -- you've already told me Mrs. Williams hadn't done anything to create a nuisance, correct?

MR. BRANNON: Object to the form.

BY MR. WHITE:

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Q. You've already told me that Mrs. Williams has not done anything to create a nuisance, correct?

A. Define nuisance.

Q. Well, it's in your lawsuit, you define it. In your lawsuit you've claimed that there's been a nuisance. So I'll go with your definition. And with your definition that you can tell us on the record: Has Mrs. Williams had anything to do with it?

A. I don't know if any inflammatory statements in a local paper might be considered a nuisance.

Q. Other than an inflammatory statement in a newspaper --

A. She's quoted us.

Q. -- can you tell us anything else that she has done?

A. I know she wrote a letter to us, which doesn't sound real neighborly.

Q. And was that letter written to you when?

A. Oh, I don't remember. I think it was before the suit.

Q. Was it an October the 11th, 2010 letter

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or was it an October the 26th, 2010 letter?

A. Yeah, that sounds like that would be the one.

Q. Okay. I'm going to show you this and ask you if that's the letter? And on the back of this is an envelope and ask you if that's your address? (Indicating).

A. Yeah, that's the one.

Q. Okay, let's mark this as Plaintiff's Number 3.

(NORDEN PLF. EXH. 3, Letter to Nordens from Eleanor Williams, dated 10/26/2010, was marked for identification.)

BY MR. WHITE:

Q. What's a nuisance or inflammatory about that letter?

A. Well, it pointed out that they purchased -- that the gate was paid for by Manning and Jerry put it up. They sent copies of their contract. We have never had trouble with a neighbor. This is...

Q. Well, what they do is they say: Dear Nordens, I'm enclosing our records on the Gibson property, correct?

We purchased our land in October of

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1975. Jerry Hyder purchased his land in July of '80. The easement was already in place. The gate was paid for by Manning, Jerry put it up. I've enclosed some of the copies. Please contact Attorney Anthony as to our rights. We've never had trouble with neighbors.

Is that the letter?

A. Yes.

Q. And when you contacted Lisa Anthony what did she tell you about their rights?

A. We understood the rights of an easement. The issue wasn't the easement, the issue was since they both decided that it was in both of their interests to have a gate and have it closed, that it was agreed that they have a lock for it.

Q. Okay.

A. And that's where we have some substantial issues. The Hyders hadn't been there for four years, from what we heard from folks after we moved in, was that during that four-year period there used to be a lot of partying going on. People would come in, they'd hunt, they'd fish, they'd do whatever on the Gibson property. And, you know, they ended up using that gate.

Q. Okay. Other than that letter and other

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than maybe her saying something in the Tryon newspaper, what else has she done to create a nuisance as you've alleged in your lawsuit?

MR. BRANNON: Object to the form.

THE WITNESS: I don't recall. I think my issue has generally been since Manning has not been present much over the last few years, that it has been his agents that have created the serious issues, the serious safety issues for us.

And whether it's Manning himself or Eleanor, they're on the title. They're the ones that are responsible for the actions of people that are doing it at their approval.

BY MR. WHITE:

Q. Do you have any personal knowledge of that?

A. Of what?

Q. Of her directing anyone there or Manning directing anyone there?

A. Whoever gets a key and can unlock a gate for which we haven't had a key since 2011, must have someone in ownership's capacity to give them a key.

Q. Is this --

A. So I do consider them responsible for

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the actions of their agents.

Q. I'm going to show you this letter. Do you recognize that?

A. Yes, I remember it.

Q. Did any -- was anything sent with that, do you remember?

A. I don't remember.

Q. Okay.

A. I mean, it -- I don't think that there was -- well, according to this, a copy of the survey of the property and the languages in South Carolina -- whatever, the disclosing statement.

Q. Is that what was sent with it?

A. Yeah.

Q. Is that the plat?

A. Yes.

Q. Okay. Was this exhibit --

A. And it actually shows where the thing is.

Q. And is that Exhibit A to your deed, was that sent with it?

A. Yeah.

(NORDEN PLF. EXH. 4, Letter sent to the Williams from Ray and Cindy Norden, dated October 11, 2010, was marked for identification.)

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Q. License tag?

A. I mean, I'm 300 yards away from them.

Q. Man or woman?

A. No.

Q. Camouflaged clothes?

A. I saw a white pickup truck that is SUV style, in other words, was raised. And from 300 yards that's about all I could see.

Q. Hear any shots?

A. No. And they left at 6 o'clock.

Q. From May the 5th of 2015, on your timeline, until October the 31st, tell me anything of your own knowledge that you've seen in regards to use of the easement that, in your opinion, would have been trespass, a nuisance, or any of the other Cause of Actions that you've alleged?

A. I don't have -- actually, if you will let me look at that timeline again, I will be able to hopefully tell you if there's anything happening. Because I can't even remember when they finally closed -- they finally put in their own entrance to the easement. Was that 2005? Is that also when you went down and inspected it with Nathan?

Q. Well, let's go at it one question at a

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time.

A. Okay.

Q. And remember, I can ask you the questions, you can't ask me the questions.

A. All right. Now, I'm going to have to go back and look because I can't see if 2014 was the year in which they created their own access to the easement or if that was '15.

Q. My question is more specific than that, my question is: Do you have testimony or personal knowledge in regards to anything Mr. and Mrs. Williams might have done that you've complained about in your lawsuit after May the 5th of 2015 to the present, except for you said somebody went down there Halloween; have they done anything?

A. My guess is that on -- whenever they were farming, they probably left the gates open.

Q. Okay.

A. But I don't remember writing it down, but --

Q. I guess my real question is: Has anything happened that would give rise to you adding it to your timeline after May the 5th, 2015?

MR. BRANNON: Object to the form. You

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have to answer.

THE WITNESS: I have not looked at that thing up until -- I read the first four pages of that yesterday and that is the extent of my reading since who knows when. So I really can't tell you -- I don't remember.

BY MR. WHITE:

Q. Well, let's forget about talking about Plaintiff's Exhibit Number 1. And let's just put this down. My question is: From what you've seen, heard, what you have personal knowledge of, have there been any acts on behalf of Mr. and Mrs. Williams since May the 5th of 2015 that would give rise to trespass, nuisance, or any of the other Cause of Actions that you've complained of in the Complaint?

MR. BRANNON: Object to the form. You have to answer the question.

THE WITNESS: I don't remember when they put in their access because prior to that time, they were continuing to use -- they were continuing to trespass. Whoever went down there was trespassing. And they were trespassing since we informed you October of 2012 and you were going down there a week and a half later with Griffin and

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didn't want us taking pictures.

So you were well-aware of that in 2012, it is now 2015. And I think it was not until 2015 that they actually fixed it, but I can't remember.

BY MR. WHITE:

Q. I'm going to show you a letter I received from your lawyer dated July the 29th, 2015.

A. Okay. Are you asking me if there's anything subsequent to this time?

Q. No, I'm just asking you if you recognize that? Have you seen it before today?

A. Yes.

Q. Okay.

A. Because we actually put it together.

Q. So that's my question. You put this together for your lawyer to send to me?

A. Yes.

(PLF. EXH. 15, Letter to John White from Doug Brannon with discovery documents attached, dated July 29, 2015, was marked for identification.)

MR. WHITE: We'll continue to retain the originals and make copies for everybody. We'll give you a copy when you come back.

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ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2016CP4202079

In the Matter Of:

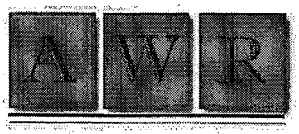
Williams, Manning L., et al v

Norden, Cynthia W., et al

Cynthia W. Norden

November 03, 2015

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG

MANNING L. WILLIAMS and ELEANOR C. WILLIAMS,

Plaintiffs,

vs. CASE NO. 2011-CP-42-2079

CYNTHIA W. NORDEN and RAYMOND A. NORDEN,

Defendants.

VIDEOTAPE
DEPOSITION OF: CYNTHIA W. NORDEN

DATE: November 3, 2015

TIME: 12:57 PM

LOCATION: Harrison, White, Smith & Coggins
178 West Main Street
Spartanburg, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: AMY R. COPE,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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APPEARANCES OF COUNSEL:

ATTORNEYS FOR THE PLAINTIFFS
MANNING L. WILLIAMS and
ELEANOR C. WILLIAMS:

HARRISON, WHITE, SMITH & COGGINS
BY: JOHN B. WHITE & RYAN McCARTY
178 West Main Street
Spartanburg, SC 29306
(864) 585-5100
jwhite@spartanlaw.com
rmccarty@spartanlaw.com

ATTORNEYS FOR THE DEFENDANTS
CYNTHIA W. NORDEN and
RAYMOND A. NORDEN:

KENNEDY & BRANNON
BY: N. DOUGLAS BRANNON
229 Magnolia Street
Spartanburg, SC 29304
(864) 707-2020
doug@kennedybrannon.com

ALSO PRESENT:

Manning Williams, Eleanor Williams,
and Raymond Norden

(INDEX AT REAR OF TRANSCRIPT)

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THE WITNESS: It's not a roadway, but it is -- it looks like, you know, where they've been driving.

BY MR. MCCARTY:

Q. Okay. So you would say that -- and when you say, they, who are we talking about?

A. The Williams and also other people that they have given permission to trespass.

Q. Okay. What permission -- what knowledge do you have that they've given somebody permission to trespass?

A. Well, I can only tell you that Kim Gibson Williams and Nathan have done it along with -- oh, gosh, we've got a list of names in that in there -- where they have come and they have hunted or they have driven through or they have parked on our property or they've sped out to get more skeet.

Q. And again, my question is: What personal knowledge do you have that the Williams granted anyone -- and when I say Williams, I'm talking about Manning and Eleanor --

A. Umm --

Q. -- what specific knowledge do you have --

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A. Okay.

Q. -- that they've given anyone permission to be there?

A. I only know that in -- when we moved in, it was either 2009 -- oh, no, they held the protest in 2011 and they had all the neighbors there, the Gibsons and the Hensons and a lot of other folks there with signs saying, go back to Florida, you're not wanted here.

Just a variance(sic) of harassing signs that made it clear that they were not happy that we had purchased the previous owner's house. And then when we saw -- I was walking, I had nine dogs, we were walking -- I was walking on the trails and ran into two hunters and they were -- I believe it was -- I can't say who it was because I didn't know. But they had rifles and I said -- and they were on our property.

And I said you're trespassing. And they said we have permission from the Williams to hunt. So someone told me, whether it be those people or the Williams, represented it that way. And if they said they didn't, well, that's between them.

Q. So you've spoken directly with Manning

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and Eleanor Williams and received that information from them?

A. Oh, no, Mrs. and Mr. Williams would not return our calls when we called.

Q. The fence that's in question in Plaintiff's Exhibit Number 22, you would agree with me that was erected after the preliminary injunction was in place; am I correct?

A. Sir, can you give me dates -- are you talking about this again? (Indicating).

Q. I am, the 2007 Order.

A. Okay. So we're back to the June 30th, 2011. What's your question?

Q. My question is: Would you agree with me that the fence was built after this Order was in place?

A. Yes, I did say that, I think.

Q. Okay. And the fence blocks the portion -- or I've termed it a roadway, how would you describe it?

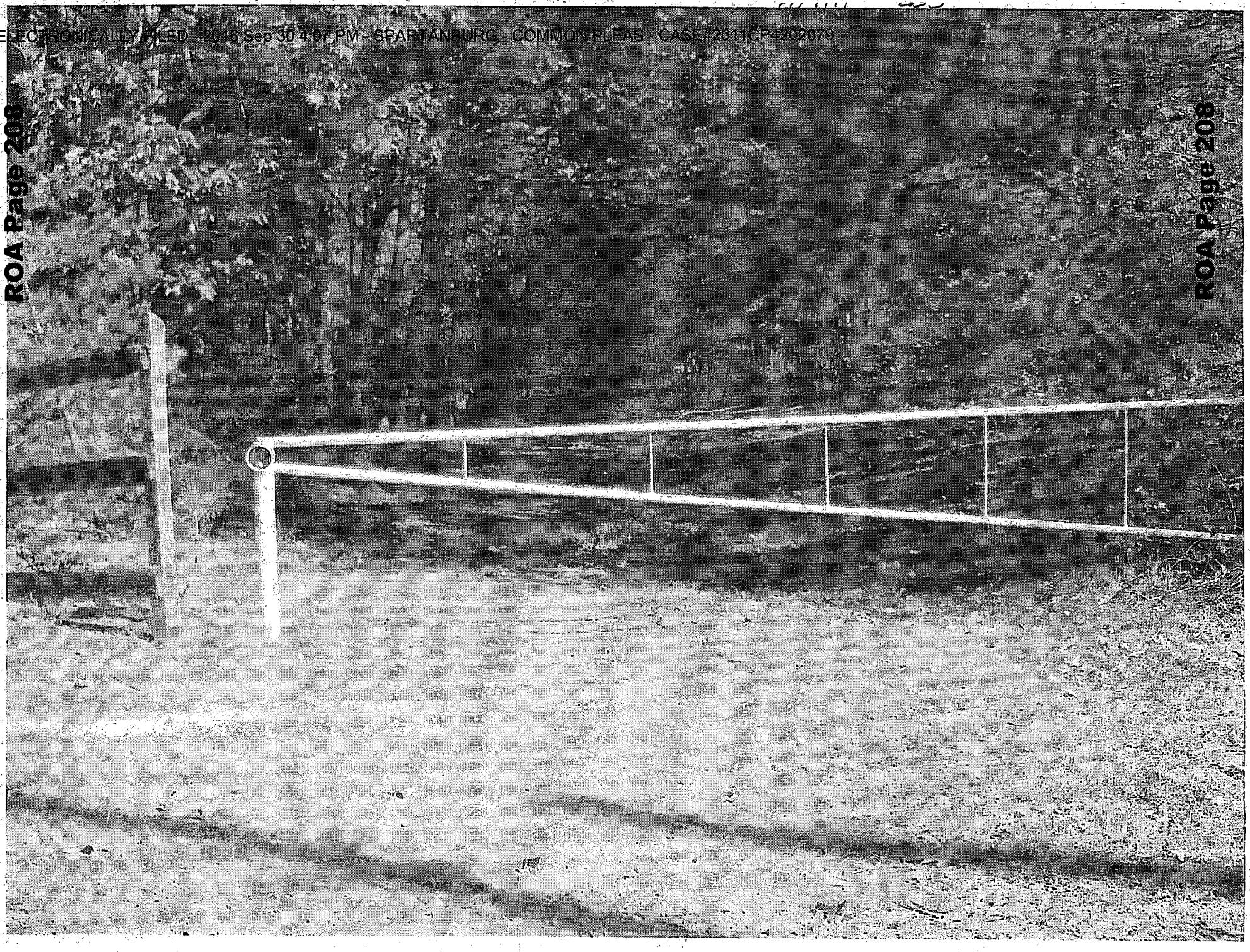
A. Well, a roadway, from what I understand from my very layman's use, in South Carolina must be 50 feet and a right-of-way, I think.

Q. Okay.

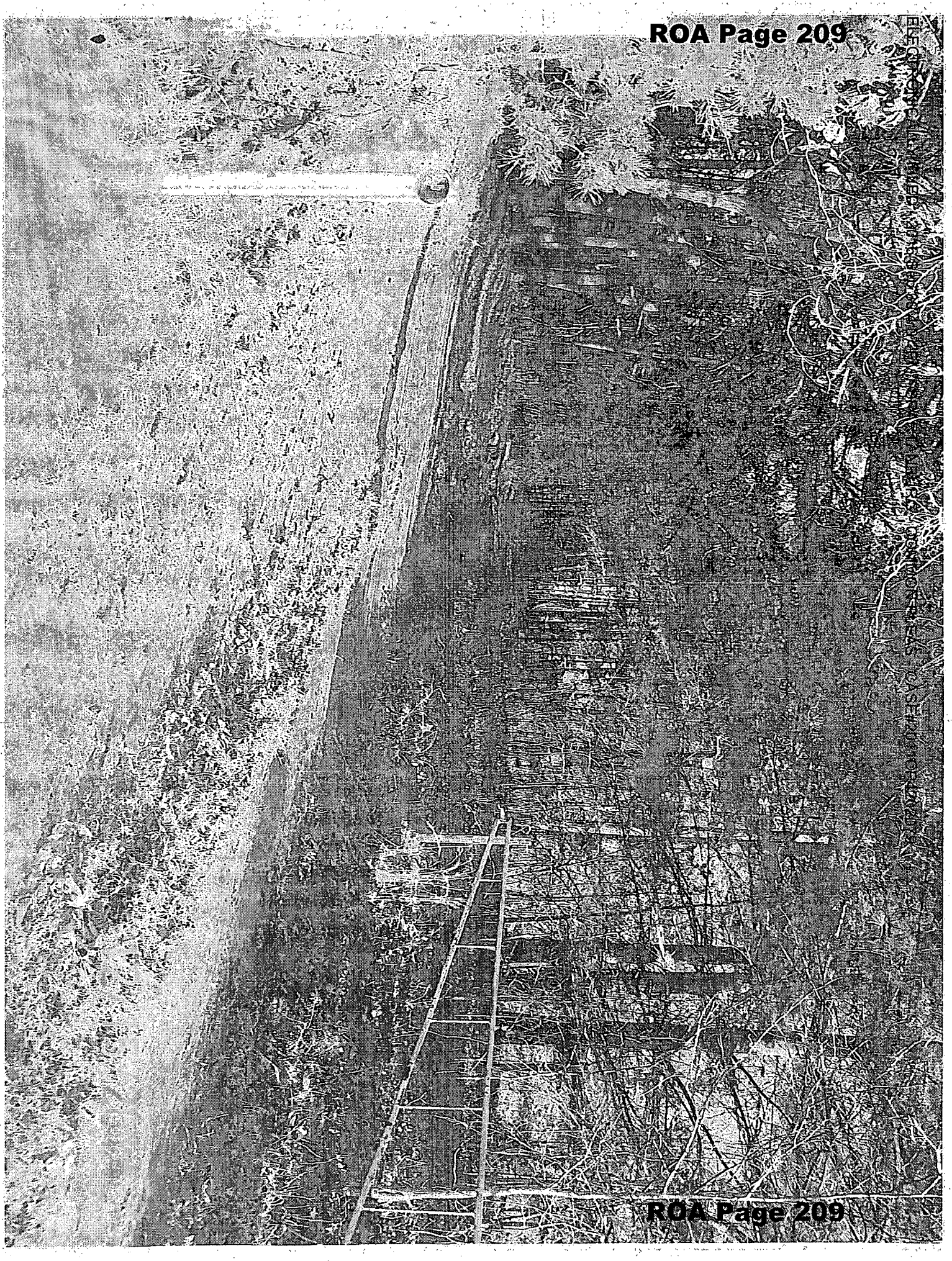
A. Now, this is what I understand -- oh,

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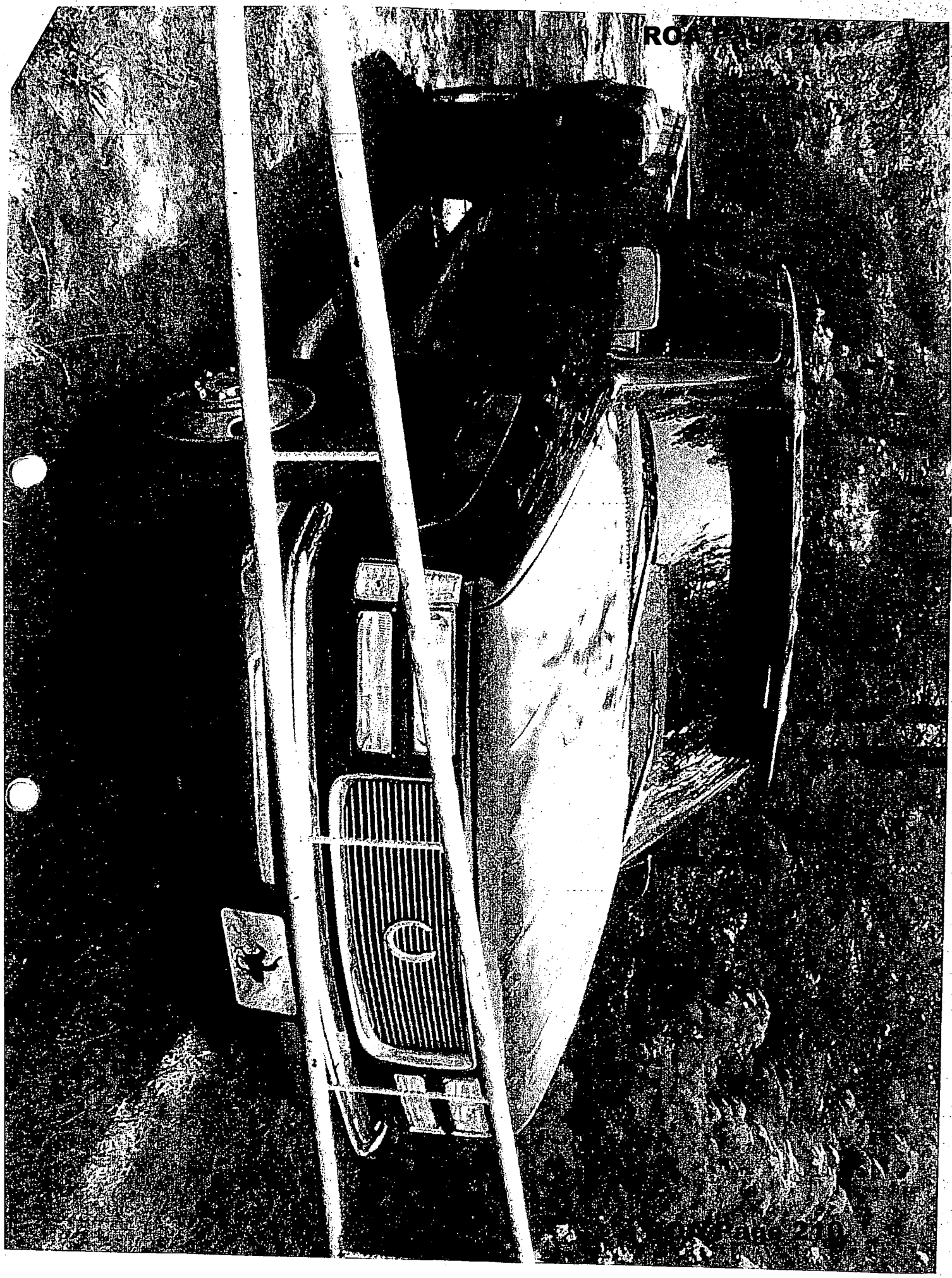
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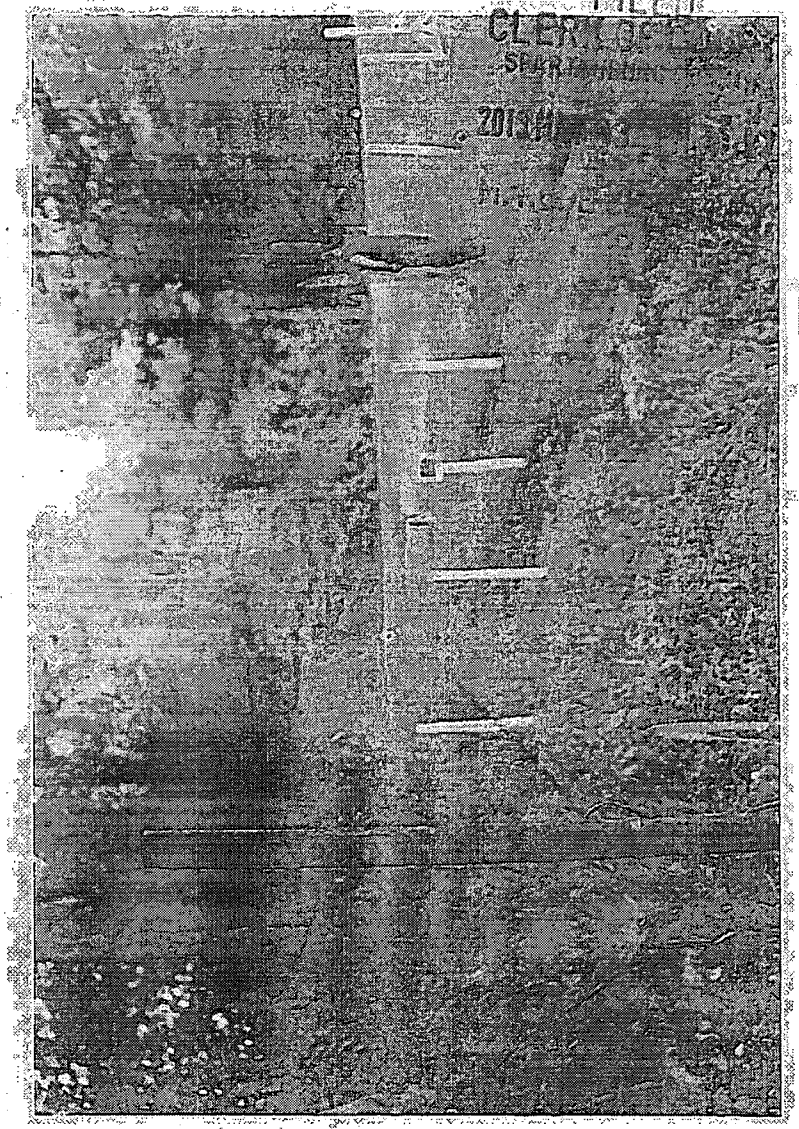
PLAINTIFF'S EXHIBIT 14
PLEASE CALL 800-631-6989

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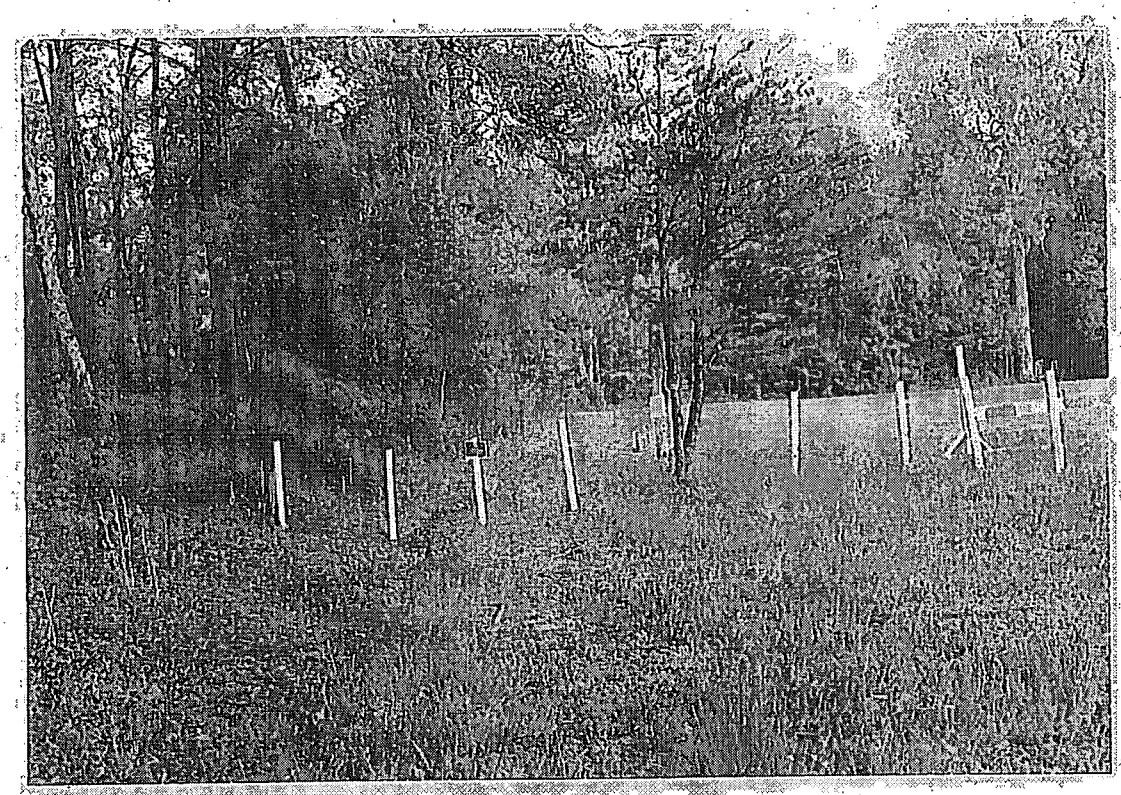
As a gesture of goodwill, the Nordens have temporarily fenced their property at the orange rock surreptitiously placed on Norden property by the easement owners, Manning and Eleanor Williams. The Nordens *do not* agree with the Williams' easement line preference. The Nordens do not accept any accuracy of this random point selected by the Williams and marked by their orange stone. Pending conclusive confirmation of an accurate property survey and the finality of the Williams' initiated civil suit against the Nordens, the Nordens choose a benevolent attitude over malicious reciprocity. Please comply with closing the farm gate upon each ingress and egress as per the original spirit in the necessary installation of the farm gate. The Nordens also requested a key two years ago to the Williams' newly installed lock. The Williams have not complied. The Nordens can not unlock the jointly-owned gate. Perhaps this provisional act of harmony by the Nordens will motivate the Williams to thoughtful cooperation. Jesus is never found at the end of an argument.

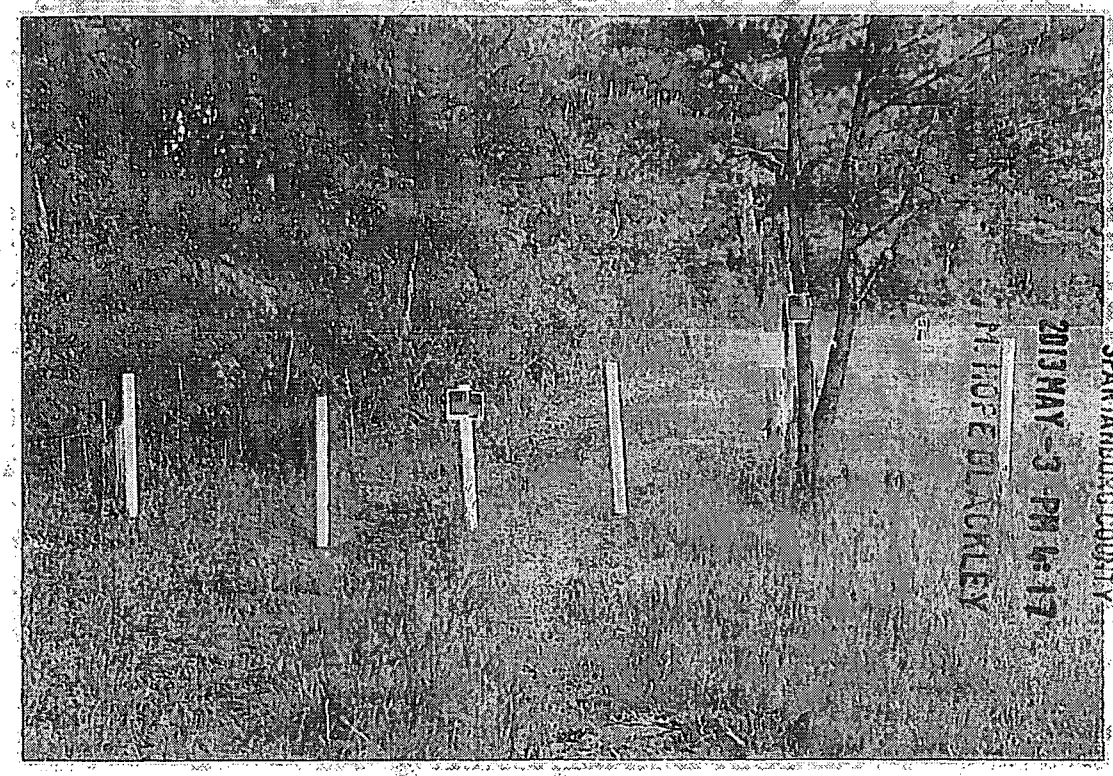
Please, Do Not Further Seize
Or Encroach On Our Property.

March 01, 2013

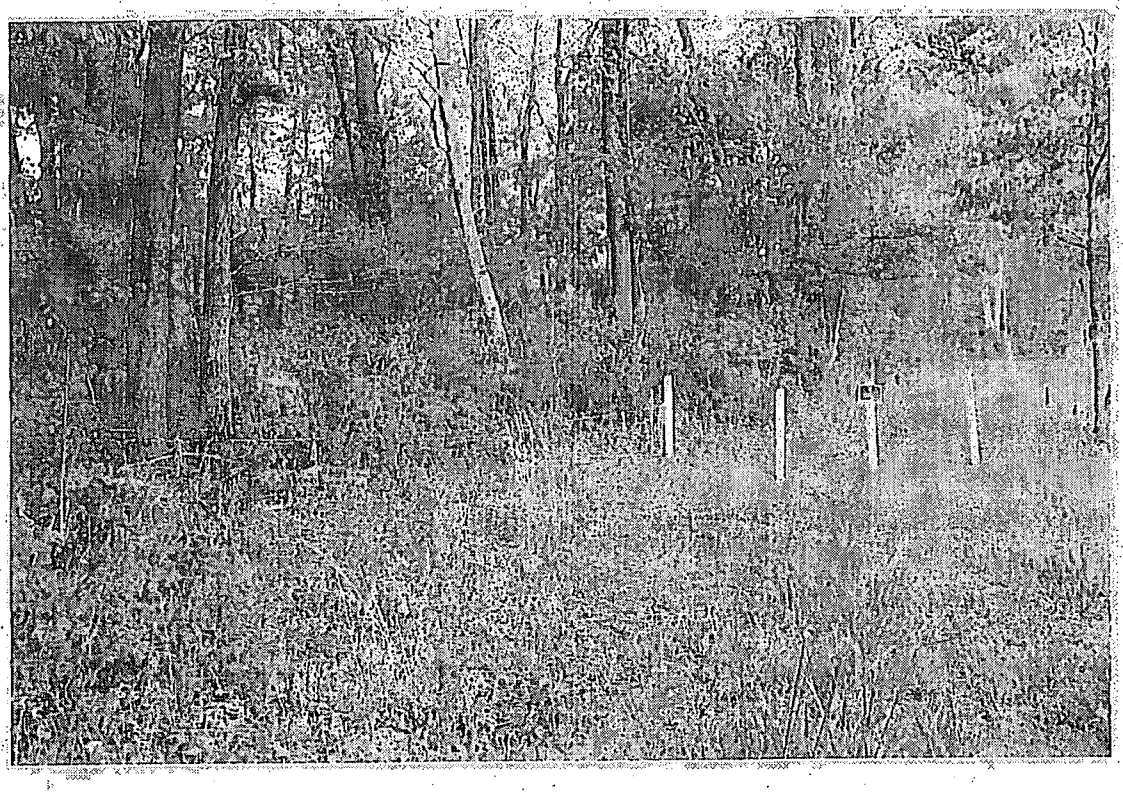


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M. HOPE BLACKLEY





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2013 MAY -3 PM 1:17

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317 Gibson Road

Kathy Toomey
To Cindy Norden

8/19/12
Reply

Hi Ray and Cindy,

The listing agreement on the log cabin ran from 8/7/2009 to 10/4/2009. I don't have the exact date when the neighbor called to say that the seller did not have a right to sell the property because they owned the right of way over the property.

Kathy

NEW VIEW REALTY

Kathy Toomey
Broker In Charge
285 N Trade Street **(New Location)**
Tryon, NC 28782
Cell (828) 817-0942 Fax (866) 256-5957
MailTo: Kathy@KathyToomey.com
Website: NewViewRealtyLLC.com

#2 August 24, 2009

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Vintage Log Cabin

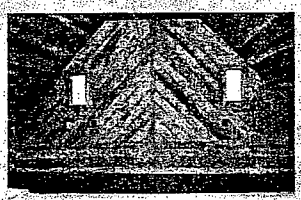
Kathy Toomey

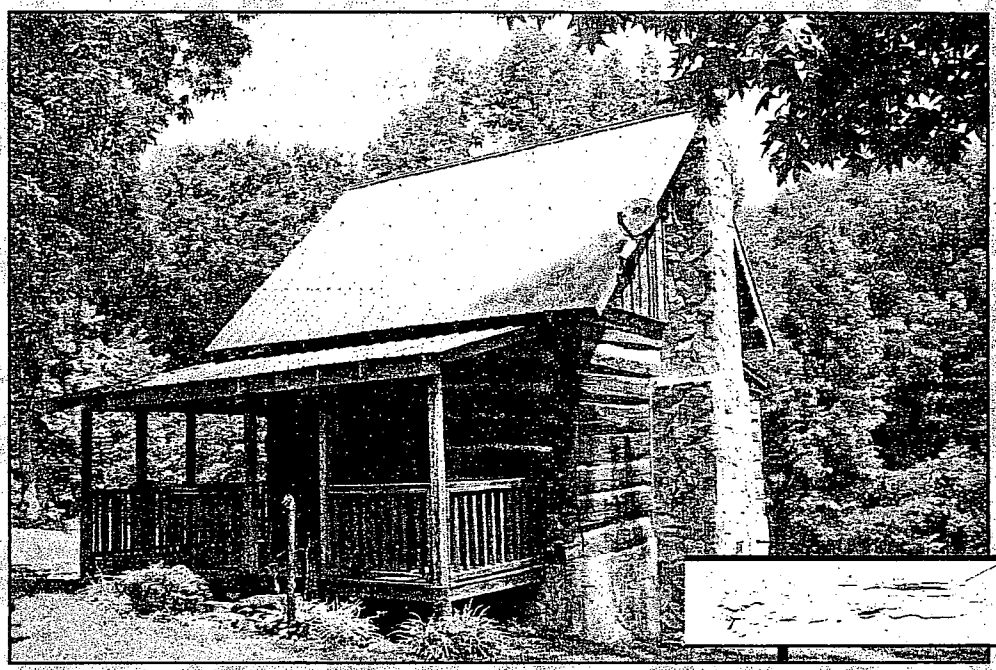


(828) 817-0942

Kathy@KathyToomey.com

~~Century 21~~
~~Tryon Real Estate~~
~~177 North Trade Street~~
~~Tryon, NC 28782~~

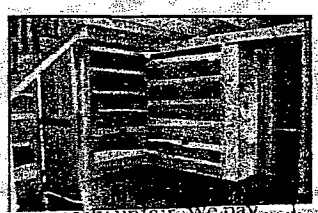


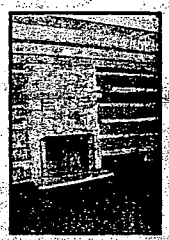


Features

317 Gibson Road | Landrum | SC | 29356

- One Bedroom
- One Bathroom
- Circa 1872
- Approximately 1 acre







This is grossly unfair. We pay

ly 1 acre. The cabin was relocated to it's present location
d with updated wiring and HVAC. Cabin features a rock
cozy upstairs bedroom. Located adjacent to a 25 acre
neighborhood trails and boarding. Perfect for a weekend
nd for overnight turn-out for 1 or 2 horses. Additional land

Nathan Called Lathy
Aug 19, 2009

MENT
's Smallest Daily Newspaper

23

Hunt box or weeke

ELECTRONICALLY FILED - 2016 Sep 30 4:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS C.A. NO.: 2011-CP-42-2079
Manning L. Williams and Eleanor C. Williams, Plaintiffs, v. Cynthia W. Norden and Raymond A. Norden, Defendants.	DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

TO: JOHN B. WHITE, JR., ESQ., ATTORNEY FOR PLAINTIFFS:

Pursuant to Rule 33 of the SCRCP, Defendants hereby respond to Plaintiffs' First Set of Interrogatories, reserving the right to supplement and/or amend. These responses are deemed to be continuing. The responses are as follows:

1. State the names and addresses of each and every person known to Defendants to be witnesses concerning the facts of the case, indicate whether a written or recorded statement has been taken from the witness, who has possession of such statements, and identify the facts about which such witness will testify.

ANSWER: Plaintiffs, their son, and Defendants. There are no known written or recorded statements.

2. Set forth a list of ALL photographs, plats, sketches, depositions, expert reports, pleadings, discovery requests and responses or other prepared documents in Defendants' possession that relate to the claims in the case.

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ANSWER: None at the present.

3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: Not applicable.

4. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

ANSWER: None.

5. Identify any expert witnesses whom Defendants propose to use as a witness at the trial of the case or have hired, including his/her name, address, a detailed summary of his/her qualifications, and a list of all cases in which the witness has been qualified by a court as an expert in any case, including the name of the case, civil action number, jurisdiction and trial date of all such cases.

ANSWER: None.

6. As to each expert, set forth a compete statement of all opinions to be expressed and the facts, documents, and circumstances supporting the opinion, the data or other materials considered in forming the opinion, any reports, including drafts, used to support the opinions, and the citation of any test, treatise, code or authority upon which the expert relied, and all prior depositions the expert has given that relate in any way to the subject matter of the opinions expressed in this case.

ANSWER: Not applicable.

7. Identify the basis for Defendants' belief that the easement that is the subject of this

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litigation does not provide unrestricted access to Plaintiffs to access Plaintiffs' property.

ANSWER: The deeds involved.

HENDERSON, BRANDT & VIETH, P.A.

By: _____

Matthew A. Henderson
S.C. Bar #03023
Attorneys for Defendants
360 E. Henry Street, Ste. 101
Spartanburg, SC 29302-2646
(864) 583-5099 FAX: (864) 582-2952

Spartanburg, SC
October 19, 2011

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ELECTRONICALLY FILED - 2016 Oct 06 2:08 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
Manning L. Williams and Eleanor C. Williams, Plaintiff(s) vs. Cynthia W. Norden and Raymond A. Norden, Defendant(s).	AFFIDAVIT OF DEFENDANTS 2007-CP-42-2158

PERSONALLY appeared before me, Cynthia W. Norden and Raymond A. Norden, who being duly sworn, deposes and says as follows:

We are the Defendants in the above captioned matter. We are citizens and residents of Spartanburg County, South Carolina. We purchased our home and property in Spartanburg County, South Carolina in 2007. It was our intent to come to South Carolina and start a horse farm/business. Our business would include boarding and training horses as well as teaching riders the art of riding and playing Polo. This is the business that we ran in the State of Florida and have significant experience in this industry. I, Raymond Norden was also a professional Polo player in my younger years. We put our life savings into this property and have been left penniless as the result of this dispute and lawsuit.

When we purchased our farm, we were made aware that there was a easement along one side of our property. This was an ingress and egress easement to allow the Plaintiff's access to their farm land behind and beside our property. Agin, we purchased our property in 2007. In the contract for the purchase of our property, it states "easement

ELECTRONICALLY FILED - 2016 Oct 06 2:08 PM - SPARTANBURG - COMMON PLEAS - CASE#2011CP4202079

for farming purposes only." We understand that the Plaintiffs are not parties to the contract for purchase of our land, but that language was significant in our discussions leading up to our purchase.

After the purchase of our farm, we had actual plans to build an indoor riding ring. These were architectural drawings. This riding ring was necessary for the success of our planned business. There is only one place on our property that this structure could be built.

We have attached a copy of a plat that show the subject easement. This plat is identified as exhibit A. It is important to note, the Plaintiffs installed a locked gate at the entrance of the easement. A phot of this gate is attached and marked as exhibit B. This gate was installed before we purchased our property. During the pendency of this action, the Plaintiffs installed another post. This new post was installed so that the Plaintiffs could open the gate and lock it to the new post to keep us from closing and locking the gate. A photo of this new post is attached as exhibit C. This action was filed by the Plaintiffs because of allegations concerning the gate at the entrance of the easement. Our counterclaims arise from the constant and persistent trespassing of the Plaintiffs at the end or terminating point of the easement.

We believed that the Plaintiffs were traveling off of the easement and therefore trespassing just they entered on to their property, but were not sure of this fact until we began the process of laying out the footprint of our indoor riding ring. When the potential builder and I/we took the plat and put stakes into the ground outlining the building is when I first actually realized the Plaintiffs were leaving the easement and trespassing. We then commissioned another survey of the property line and easement. When the court

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looks at the plat, exhibit A, you will see that the easement turns to the left at the property line. The dispute addressed in our counterclaims is a dispute over "which pin is which". In the fall of 2014, our attorney and Mr. White came to our property and walked the easement with the Plaintiff's son. It was at that time that the Plaintiffs learned or admitted that they were leaving the easement and traveling outside the scope of the easement. Shortly after that walk through, The Plaintiffs hired a logging company and opened the easement access point to their property. Photos of this logging process are attached as exhibit D. Not only had the Plaintiffs been regularly leaving the easement, they also parked farming equipment on our property, well off the easement path. This allegation is verified in the photos marked as exhibit E.

When a locked gate is installed on or over an easement, it obligates the parties to that easement to a higher standard. Our attorney will address the case law on this point.

Our counterclaim for trespass should not be barred by a statute of limitations. This action, or our counterclaim was filed well within either the three year or ten year statutes with the start date of that period being the date of our new survey of the property line and plat.

The Plaintiffs use of our property did exceed the scope of the express easement and this is shown in the photo marked as exhibit F and the photos in exhibit D. The Plaintiffs can not have right to use the easement/road under the doctrine of prescriptive easement. There use of the property prior to our ownership was by agreement and therefore not hostile to the previous owners property rights. It has not been Twenty years since we bought our property and we have been fighting to stop their use and or abuse of our property since this action was filed.

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Our action for trespass is not barred by Laches. The filing of our counterclaims was not delayed for an unreasonable period of time.

Our action for Nuisance is based on the Plaintiffs continued use of our property, outside the scope of the express easement, the parking of their farm equipment on our property, off of the easement, the Plaintiffs regularly allowing others to use the easement for non-farming purposes and for having me, Cynthia Norden arrested two times. The first time I was arrested, the charge was dismissed. The second time, the charge was dismissed at trial when our attorney made a Motion for directed verdict. The Plaintiffs' actions have deprived use of the quiet use and enjoyment of our property and have caused use to live in fear for our safety. See the photos attached as exhibit F.

Cynthia W. Norden

Raymond A. Norden

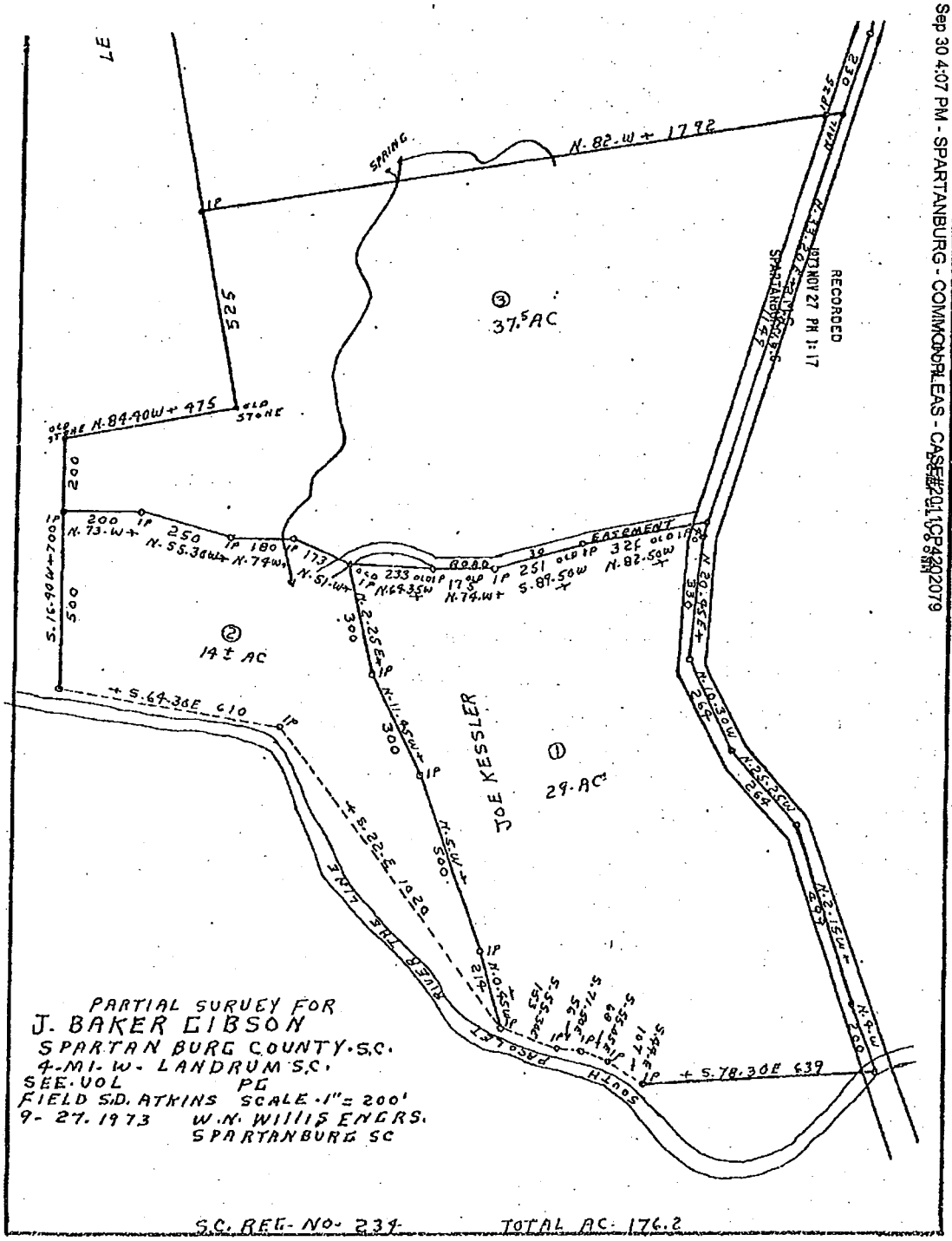
Sworn to before me this 5th
Day of October, 2016

Notary Public for South Carolina
My Commission Expires:

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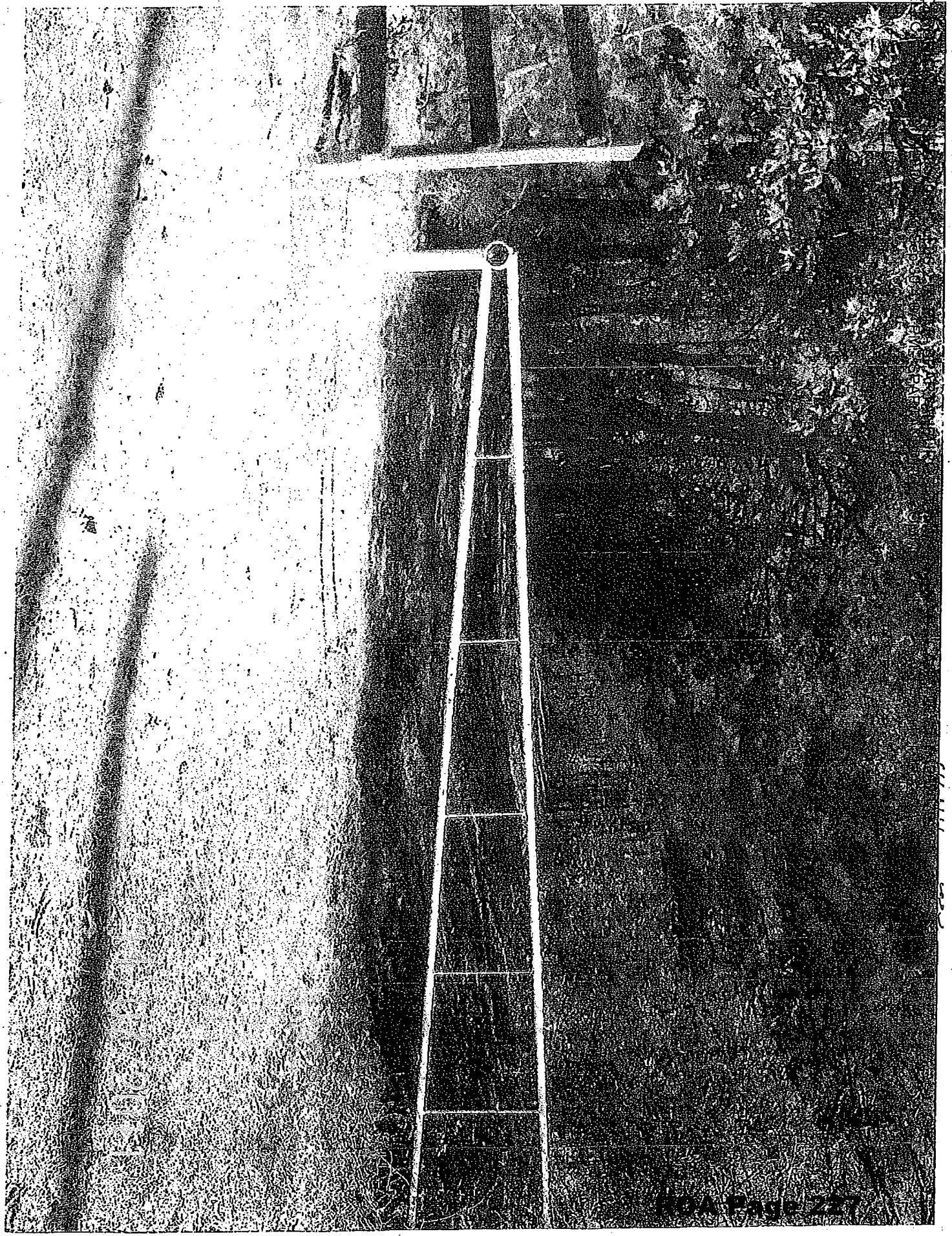
EXHIBIT A

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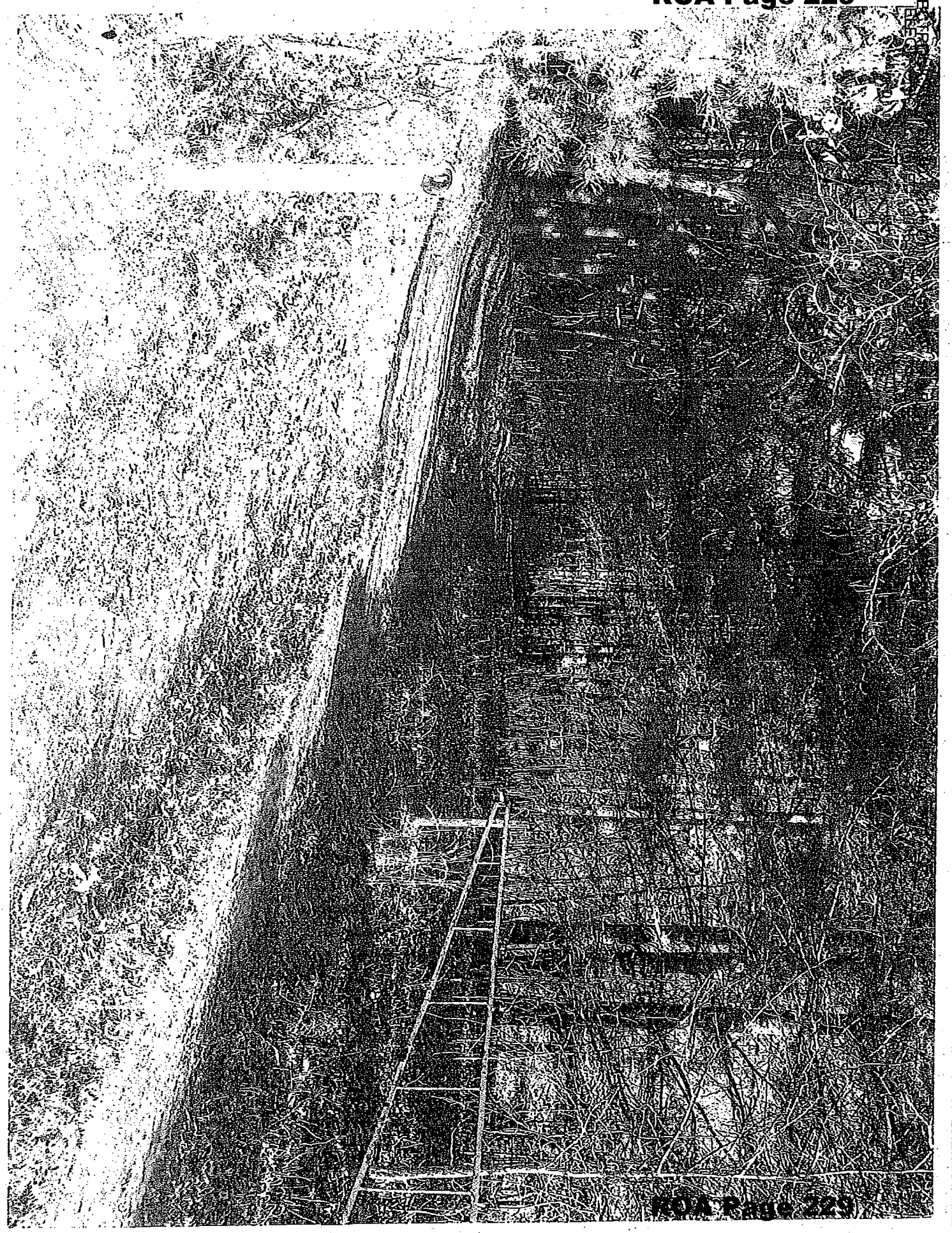
EXHIBIT B



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EXHIBIT C



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EXHIBIT D

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04/15/2012
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SUNDAY

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04/15/2012

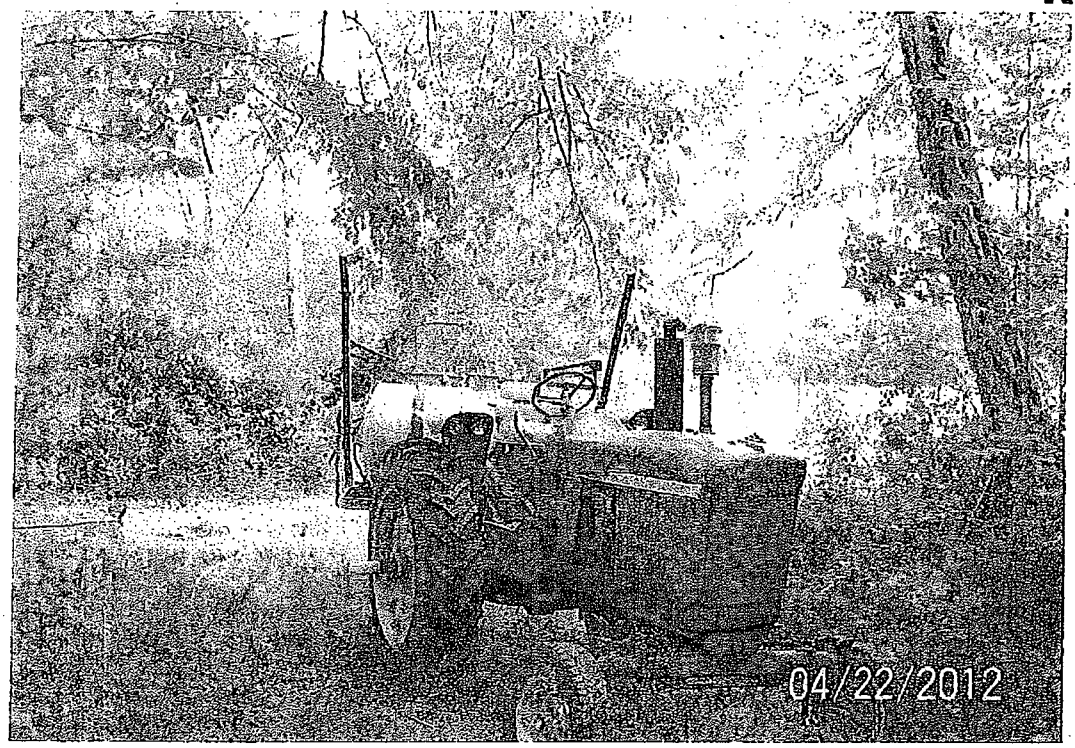
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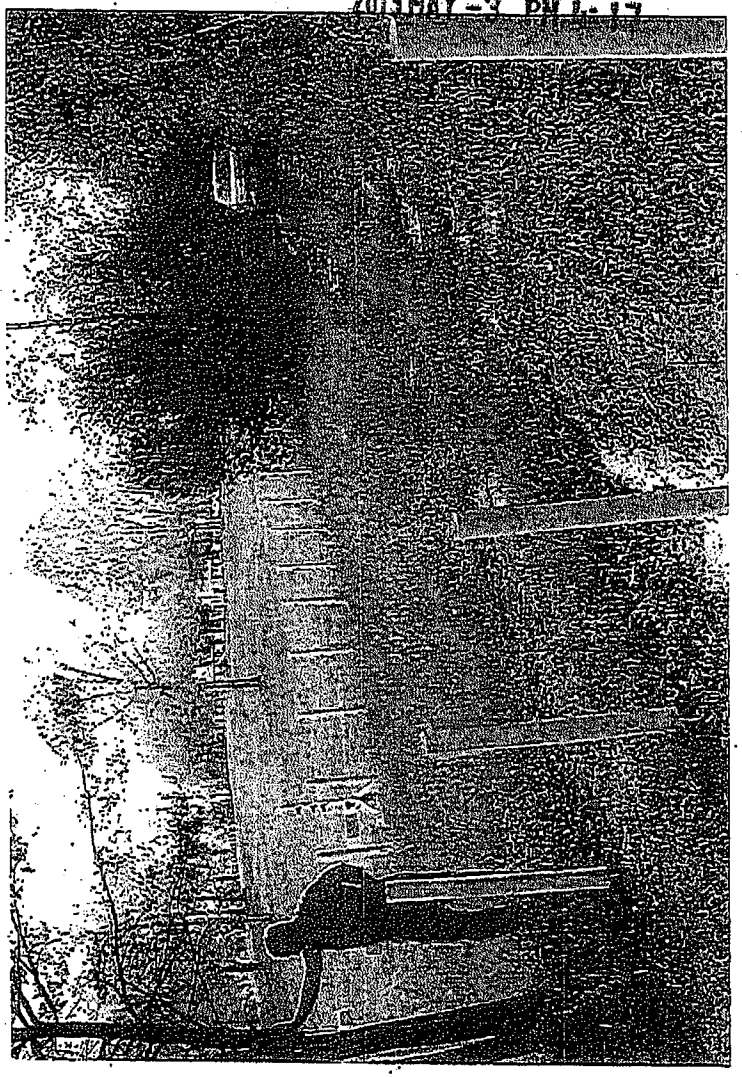
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EXHIBIT E

FILED
CLERK OF COURT
SPARTANBURG COUNTY
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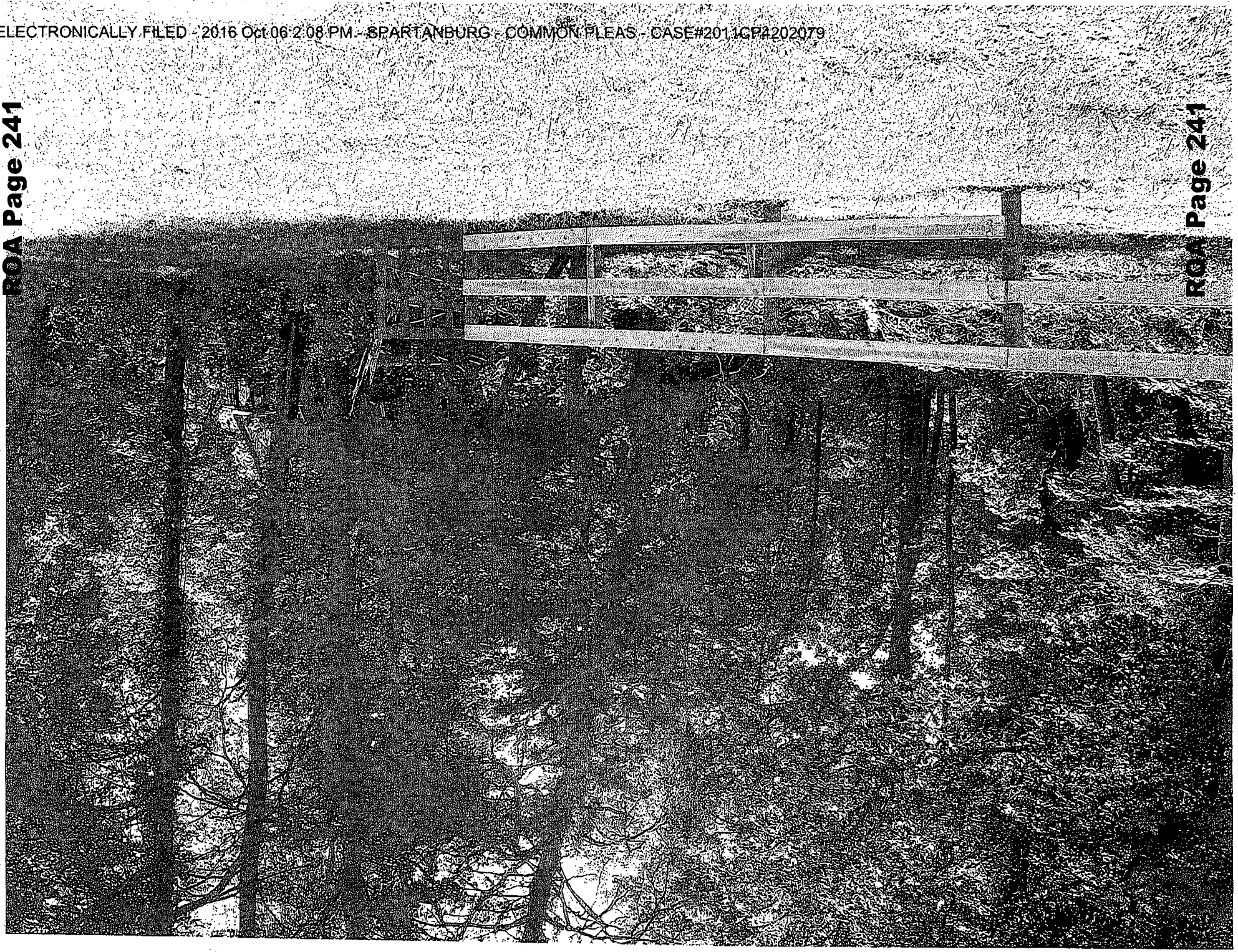
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EXHIBIT G



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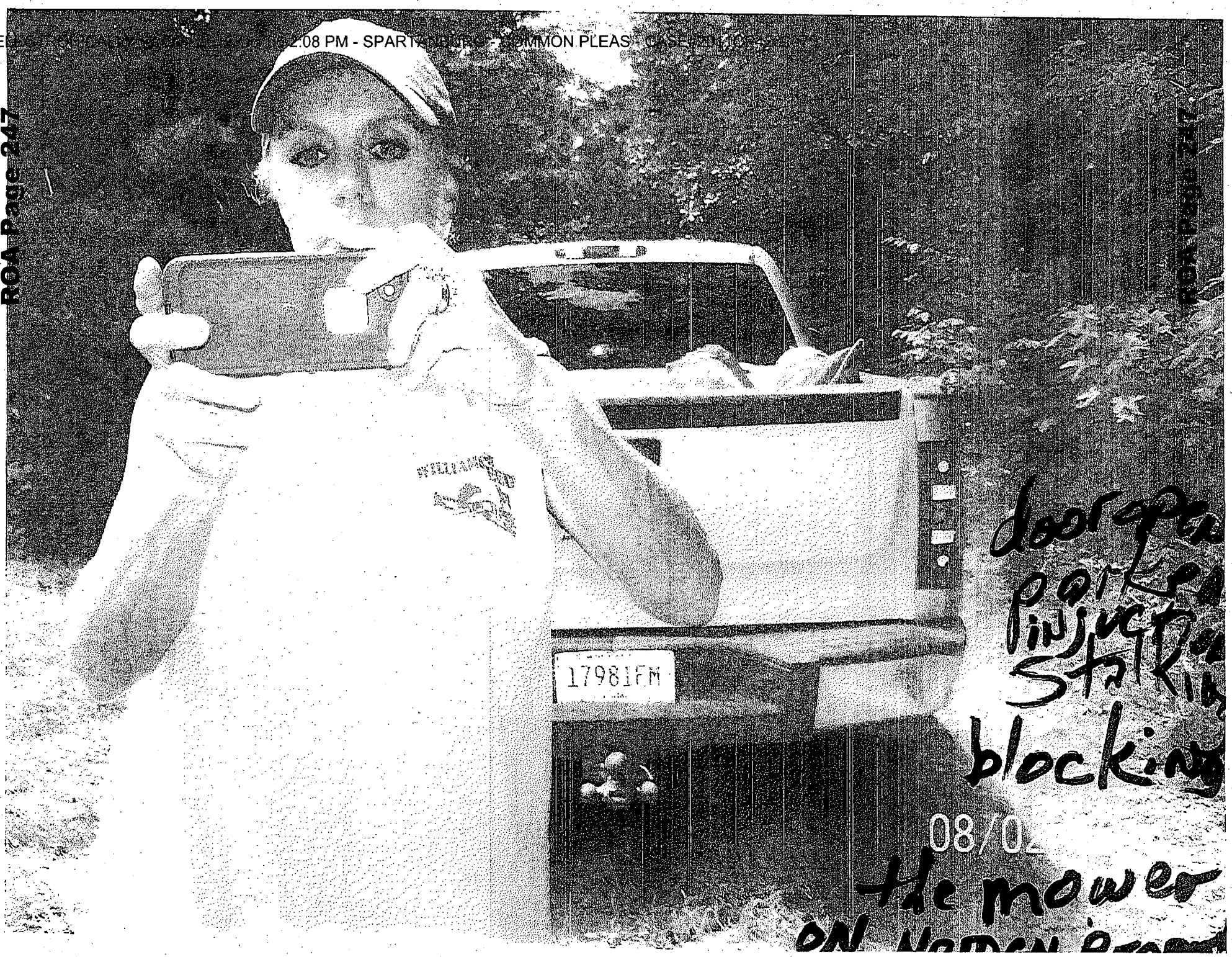
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ELECTRONICALLY FILED - 2021-10-12 12:08 PM - SPARTANBURG - COMMON PLEAS - CASE#2021CP4202

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ARREST WARRANT

2014A4210202470

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Spartanburg

THE STATE

against

Cynthia wilson Norden

Address: [redacted]

Pho[redacted]

Sex: [redacted]

DL St[redacted]

DOB: [redacted]

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: E Renneker - 0877

Offense: Assault / Assault & Battery 3rd degree

Offense Code: 3414

Code/Ordinance Sec: 16-03-0600(E)(1)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Cynthia wilson Norden 8-2-14

_____
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Spartanburg Magistrate
180 Magnolia Street
Spartanburg County Judicial Center
Spartanburg, SC 29306

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Spartanburg

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant E Renneker who being duly sworn deposes and says that defendant Cynthia wilson Norden did within this county and state on or about 8/2/2014 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Spartanburg) in the following particulars:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 3rd degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on August 2, 2014, in the county of Spartanburg, one Cynthia wilson Norden did intentionally commit battery upon victim, Kimberly Williams, by driving over the victim's foot with a lawn mower. Affiant's belief is based on police investigation. mw

_____
Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Spartanburg

Affiant's Address 8045 Howard Street
Spartanburg 29303-

Affiant's Telephone (864)503-4500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/2/2014 defendant Cynthia wilson Norden did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 3rd degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 8/2/2014

_____ (L.S.)
Signature of Issuing Judge

Nancy Collins Atkins

Judge Code: 5012

Judge's Address Spartanburg County Judicial Center
Spartanburg, SC 29306-2335

Judge's Telephone (864)596-3424

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

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ELECTRONICALLY FILED - 2014-AUG-20 09:45:29 - CASE #2014A4210202470

ELECTRONICALLY FILED - Columbiana County Court of Common Pleas - CASE#2011CP42020279

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Court of Common Pleas, Spartanburg County
Honorable J. Derham Cole, Circuit Judge
Circuit Court Case No. 2011-CP-42-02079

Appellate Case No. 2019-000852

The Revocable Trust Agreement of
Manning Lee Williams dated October 28, 2015, ... Respondent,

v.

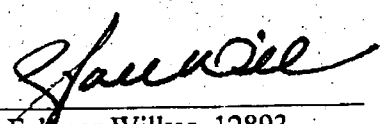
Cynthia Norden and Raymond Norden, ... Appellants.

CERTIFICATE OF COUNSEL

I certify that the record on appeal contains all of the matter designated by the parties except for those items that will be transported to the Court separately and no other matter.

I further certify that the record on appeal has been redacted in compliance with the Supreme Court's Order on redaction of records.

Respectfully submitted,



J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
jfalknerwilkes@gmail.com

Counsel for Appellants

January 2, 2020.